



Kenya Electricity Transmission Co. Ltd.

TENDER NO.: KETRACO/PT/04/2019

REQUEST FOR PROPOSAL OF CONSULTANCY SERVICE

FOR

**QMS (ISO 9001:2015), ISMS (ISO 27001:2013) AND OHSMS (ISO
45001:2018) CERTIFICATION**

MARCH 2019

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SECTION I – INVITATION TO TENDER

TENDER NO. TENDER NO.: KETRACO/PT/04/2019

REQUEST FOR PROPOSAL OF CONSULTANCY SERVICE FOR QMS (ISO 9001:2015), ISMS (ISO 27001:2013) AND OHSMS (ISO 45001:2018) CERTIFICATION

- 1.1 Kenya Electricity Transmission Company Limited (KETRACO) invites proposals from accredited certification Body (CB) to certify its Quality Management and Information Security Management Systems in accordance with the requirements of ISO 9001:2015 and ISO 27001:2013 Standards respectively and conduct certification audits of KETRACO QMS and ISMS systems in 2018/19 and repeat the same exercise in 2019/20 for ISO OHSMS 45001:2018.
- 1.2 A firm will be selected under Least Cost Selection Method and procedures.
- 1.3 Please note that:
 - a. The cost of preparing the proposal and negotiating the contract, including visits to the client etc are not reimbursable as a direct cost of the assignment and
 - b. The Client is not bound to accept any of the proposals submitted.
- 1.4 The RFP contains the following documents:
 - Section 1: Invitation to Tender
 - Section 2: Information to Consultants
 - Section 3: Technical Proposal (Standard Forms)
 - Section 4: Financial Proposal (Standard Forms)
 - Section 5: Terms of Reference
 - Section 6: Form of Contract for Consulting Services
- 1.5 Please confirm to us in writing using the address below that you are in possession of the Request for Proposal and provide an indication of your intention to bid.

**Management Representative,
Kenya Electricity Transmission Co. Ltd.
KAWI Complex, Block B, Popo Lane, off Red Cross Road, South C, P.O. Box 34942 -
00100 Nairobi, Kenya
Tel: +254 20 4956000
Email: skamau@ketraco.co.ke**
- 1.5 Eligible Tenderers may obtain further information from the same address during office hours 0730 – 1630 hours.
- 1.6 SCOPE: KETRACO has 300 staff at its Headquarter at KAWI House in South C.
- 1.7 Prices quoted shall be inclusive of any applicable taxes and shall remain valid for 120 days from the closing date of the tender.
- 1.8 Completed Tenders are to be enclosed in plain sealed envelopes marked with the Tender reference number and name and addressed to:

The Company Secretary,
Kenya Electricity Transmission Company Limited
KAWI House, Block B, 4th Floor,
Off Red Cross Road, South C
P.O Box 34942 -00100
Nairobi, Kenya
Tel: +254 20 4956000
Email: dmacharia@ketraco.co.ke

Or be deposited in the Tender Box located at KETRACO offices on second floor, KAWI House, Block B on or before **Wednesday, 27th March 2019 at 10:00 A.M local time.** Tenders will be opened promptly thereafter in the presence of the Tenderers or their representatives who choose to attend.

**Ag. SENIOR MANAGER, SUPPLY CHAIN
FOR: MANAGING DIRECTOR**

SECTION II: INSTRUCTION TO CONSULTANTS

2.0 General Terms and Conditions

2.1 Scope

The Invitation to Bid (RFP) document is for the procurement of consultancy services for “**ISO Certification**” as specified in the Appendix to Information to Consultants. Consultants must comply fully with the requirements set out in this document.

2.2 Eligibility

Participation in this tender process is through public bidding to organizations/institutions/firms and individuals from Kenya (Citizen Contractors) on equal terms, subject to restrictions and conditions outlined below.

2.2.1 Restrictions

Organizations or individuals who are prohibited from participation or who may have been suspended by KETRACO, on grounds of incompetence or non-delivery of services will not be considered.

If the information provided by the bidder to support an application, especially regarding past performance and references is falsified, such application will be disqualified from consideration.

Any organization in which KETRACO or any of its employees is involved or have ownership, directorship or vested interests, shall not be allowed to propose, submit bids or participate in any way.

Organizations or individuals may be excluded from the evaluation and award of contract if they;

- a. Are bankrupt, or are being wound up, or whose affairs are being administered by court, or who have entered into an arrangement with creditors, or who have suspended business activities or who are subject to an injunction against running business by a court of law;
- b. Are subject of proceedings for declaration of bankruptcy, or of an order for compulsory winding up or administration by court, or of an arrangement with creditors, or of any other similar proceedings;
- c. Have been convicted of an offence concerning their professional conduct by a court of law, or found guilty of grave professional misconduct; and
- d. Have not fulfilled obligations relating to payments of taxes or statutory contributions.

2.3 Conflict of Interest

Conflict of interest is described as;

Any event(s) influencing the capacity of a candidate, bidder or contractor to give an objective and impartial profession opinion or preventing him at any moment, from giving priority to interests of KETRACO or

Receipt or granting of any considerations relating to possible contracts in the future or conflict with other commitments, past, present, of a candidate, bidder or contractor, or any conflict with their own interests.

2.4 Request for Clarification

Any request for clarification must be received by KETRACO-Procurement Department In writing as specified in the Appendix to Information (clause 1.3). If KETRACO either on its own initiative or in or in response to a request from a bidder, provides additional information on the proposal document, such information will be sent in writing to all bidders.

2.5 Clarification and Amendment of RFP Documents

At any time prior to the deadline for submission of proposal, KETRACO may for any reason whether at its own initiative or in response to a clarification requested by prospective bidders modify the RFP documents by amendment.

All prospective bidders will be notified of the amendment in writing and it will be binding on them. KETRACO may, at its discretion, extend the deadline, if deemed necessary to allow bidders reasonable time to take the amendment into account.

2.6 Preparation of Proposals

2.6.1 Language

The proposal and all correspondence and documents, related to the proposal and exchanged by the bidder and KETRACO, must be written in the English Language.

2.7 Preparation of Technical Proposal

2.7.1 The Consultants proposal shall be written in English language

2.7.2 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.

2.7.3 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 Appendix ITC. The proposal shall however be based on the number of professional staff-time estimated by the firm.
- (iii) It is desirable that the majorities 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 ITC, 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.

2.7.4 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 (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 the assignment.
- (viii) Any additional information requested in Appendix ITC.

2.7.5 The Technical Proposal shall not include any financial information.

2.8 Preparation of Financial Proposal

- 2.8.1 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). 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.
- 2.8.2 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 ITC specifies otherwise.
- 2.8.3 Consultants shall express the price of their services in Kenya Shillings.
- 2.8.4 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.
- 2.8.5 The Proposal must remain valid for 120 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.

2.9 Submission, Receipt, and Opening of Proposals

- 2.9.1 The original proposal (Technical Proposal and, if required, Financial Proposal; see para. 1.2) shall be prepared in indelible ink. It shall contain no 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.

- 2.9.2 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.
- 2.9.3 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.**”
- 2.9.4 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.
- 2.9.5 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.

2.10 **Proposal Evaluation General**

- 2.10.1 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.
- 2.10.2 Evaluators of Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded.

2.11 **Evaluation of Technical Proposal**

- 2.11.1 The evaluation committee appointed by the Client shall evaluate the proposals on the basis of their responsiveness to the Terms of Reference.

Appendix to Information to Consultants

Notes on the Appendix to Information to Consultants

1. The Appendix to information to consultant is intended to assist the procuring entity in providing specific information in relation to corresponding claims in the information to consultants included in Section II and the appendix has to be prepared for each specific consultancy.
2. The procuring entity should specify in the appendix information and requirements specific to the circumstances of the procuring entity, the assignment of the consultancy and the proposals evaluation criteria that will apply to the RFP Consultancy.
3. In preparing the appendix the following aspects should be taken into consideration.
 - (a) The information that specifies or complements provisions of Section II to be incorporated.

- (b) Amendments of Section II as necessitated by the circumstances of the specific consultancy to be also incorporated
- (c) Section II should remain unchanged and any changes or amendments should be introduced through the appendix.

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.

Clause Ref:	Appendix to Information
1.1	<p>1 Name of Client: The procuring entity is KETRACO</p> <p>2.Recipient: The Services shall be delivered to KETRACO</p> <p>3.Method of Selection: Least Cost Selection Method</p>
1.2	<p>The name and reference number of the Invitation to Bid is Tender No:KETRACO/TEND/RFP/007/2018-2019, REQUEST FOR PROPOSAL OF CONSULTANCY SERVICE FOR QMS (ISO 9001:2015), ISMS (ISO 27001:2013) AND OHSMS (ISO 45001:2018) CERTIFICATION</p>
1.3	<p>Clarifications</p> <p>1. Requests for clarification quoting the tender number and title must be received by 19th March 2019 12.00 p.m. East African time. Clarification requests received after this date and time shall not be responded to. Response to queries are expected to have been sent out to all bidders by 21st March 2019.</p> <p>2. Clarifications on any aspect of this RFP including the detailed terms of reference must be addressed and submitted to the KETRACO-Supply Chain Department on official letterhead only by registered mail or hand delivered to the address and contacts below.</p> <p>3.The address and contact for submitting proposal and requesting clarifications is as follows:-</p> <p style="text-align: center;">The Managing Director Kenya Electricity Transmission Company Ltd, KAWI Complex, Block B, Popo Lane, Off Red Cross Road, south C, P.O. Box 34942-00100 Nairobi-Kenya</p>
1.4	<p>The address to send information to the Client is: The Management Representative, Kenya Electricity Transmission Company Ltd, P.O Box 34942 00100 Nairobi. Email: skamau@ketraco.co.ke</p>
	2.0 Preparation of Proposal
2.1	The currency specified for this proposal is Kenya shillings
2.2	The proposal(s) must remain valid for 120 days from the date of submission
2.3	The bidder shall submit one (1) original and one (4) copies of its proposal
	3.0 Submission of Proposal
3.1	Proposals must be received deposited in the tender box before 12.00 noon East African Time(GMT +3) on Wednesday, 27th March 2019 at 10:00 A.M local time. at the address indicated in 1.3
3.2	Bidders must submit the original and copy of the technical proposal as well as the original of the Financial proposal and copy. In both cases the proposal must be printed

	in indelible ink and clearly bound. The original copy must be clearly marked “Original” and copy marked clearly as “Copy”
3.3	Submission of proposal by electronic mail is not allowed
3.4	<p>Opening of technical and financial proposals</p> <p>1. Opening of technical proposal shall be undertaken immediately following the proposal submission. Bidders or their authorized representatives are allowed to attend and observe the technical proposal opening if they so choose. The bidders or their representatives shall sign a register of attendance.</p> <p>2. The bidder’s names and the presence or absence of Bidder’s Declaration integrity pact and other such details as KETRACO, at its discretion, may consider appropriate will be announced at the opening.</p> <p>3 The opening of financial proposals shall be undertaken only for bidders whose technical proposals meet the minimum technical score as detailed in clause 4.2 below.</p> <p>4 Bidders who do not meet the minimum technical score shall not proceed to the financial evaluation stage and shall have their unopened financial proposal returned to them.</p>
	4.0 Evaluation and comparison of Proposals
4.1	Currency: The currency for evaluation process will be Kenyan Shillings
4.2	<p>Proposal evaluation and criteria and process</p> <p>In assessing the proposals submitted, the tender evaluation committee shall use a two stage criteria. Technical proposal shall be evaluated out of 80% and Financial out of 20%. Least Cost Method shall be used to evaluate financial proposal.</p> <p>1.Mandatory</p> <p>Firms must provide all the mandatory requirements. Only firms that meet all mandatory requirements proceed to technical evaluation</p> <p>Tenderers are required to submit copies of the following MANDATORY DOCUMENTS which will be used during Preliminary Examination to determine responsiveness:</p> <ol style="list-style-type: none"> 1. Copy of certificate of Registration/Incorporation. 2. Copy of Valid Tax Compliance certificate. 3. Copy of Valid Business Permit/Trade License. 4. Audited Financial Statements 2015, 2016 & 2017. 5. ACCREDITATION CERTIFICATE (ISO/IEC17021 UKAS, JAB,) for ISO 9001 and 27001 certifications. (Proof required.). 6. Completed the attached Confidential Business Questionnaire 7. Must complete, sign & Stamp the Self declaration that the bidder/person will not engage in any corrupt or fraudulent practice. 8. Must complete, sign & Stamp the Self declaration that the bidder/person is not debarred in the matter of public procurement. 9. The Bid documents must be bound & serialized. 10. Bidders must submit an original and four copies of the bid documents. <p>2.Technical evaluation</p> <p>(a) The technical evaluation will be on a scoring system marked out of a maximum of 80 marks. Only proposals that score at least 80% in this technical evaluation will be deemed to be technically responsive and eligible for Stage 2. Marks will be awarded according to the following matrix</p>

Item	Criterion Total
1. Company Profile <ul style="list-style-type: none"> • Ownership • Financial Performance :-Profitability index & Liquidity Ratio 	5
2. Capacity Minimum of 10 years' experience of certifying organizations to ISO 9001 and audit experience in related industry like KETRACO	10
Demonstrate Accreditation by a body recognized by the International Accreditation Forum (IAF)	5
Experience in Similar assignments at least five projects - (Proof of assignments by attachments of contracts, letter recommendation)	10
Qualification and experience of key staff -Team leader - -3 other Team members -	10
3. Understanding & Interpretation of TOR,s	15
5.Methodology & Approach	15
6.Work plan & work schedule	10
Total technical Score	80

The minimum technical score (ST) required to pass is :80 points. The weight given to the Technical and Financial proposals (P) are:

T= 80%
P = 20%

2.12 Public Opening and Evaluation of Financial Proposal

- 2.12.1 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.
- 2.12.2 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.
- 2.12.3 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.

- 2.12.4 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.
- 2.12.5 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.
- 2.12.6 The combined technical and financial score, S, is calculated as follows:- $S = St \times T \% + Sfx P \%$. The firm achieving the highest combined technical and financial score will be invited for negotiations.
- 2.12.7 The tender evaluation committee shall evaluate the tender within 30 days of from the date of opening the tender.
- 2.12.8 Contract price variations shall not be allowed for contracts not exceeding one year (12 months).
- 2.12.9 Where contract price variation is allowed, the variation shall not exceed 10% of the original contract price
- 2.12.10 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.

2.13 Negotiations

- 2.13.1 Negotiations will be held at the same address as "address to send information to the Client" indicated in the Appendix to "ITC". The aim is to reach agreement on all points and sign a contract.
- 2.13.2 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.
- 2.13.3 Unless there are exceptional reasons, the financial negotiations will not involve the remuneration rates for staff (no breakdown of fees).
- 2.13.4 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.

2.13.5 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.

2.13.6 The procuring entity shall appoint a team for the purpose of the negotiations.

2.14 Award of Contract

2.14.1 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.

2.14.2 The selected firm is expected to commence the assignment on the date and at the location specified in Appendix ITC.

2.14.3 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.

2.14.4 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.

2.14.5 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.

2.14.6 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.

2.15 Confidentiality

2.15.1 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.

2.16 Corrupt or fraudulent practices

2.16.1 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.

2.16.2 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.

2.16.3 Further a consultant who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.

2.17 Performance Security

2.17.1 Within fourteen (14) days of the contract signature date of, the successful Tenderer shall furnish KETRACO with a Performance Security which shall be an original Bank Guarantee that is strictly in the form and content as prescribed in the Performance Security Form (Bank Guarantee) in the Tender Document.

2.17.2 The Performance Security shall be issued by a commercial bank licensed by the Central Bank of Kenya. The bank must be located in Kenya.

2.17.3 The Performance Security shall be the sum of ten percent (10%) of the contract value. It shall be in the currency of the contract price.

2.17.4 KETRACO shall seek authentication of the Performance Security from the issuing bank. It is the responsibility of the successful Tenderer to sensitize its issuing bank on the need to respond directly and expeditiously to queries from KETRACO. The period for response shall not exceed three (3) days from the date of KETRACO's query. Should there be no conclusive response by the Bank within this period, such successful Tenderer's Performance Security may be deemed as invalid.

2.17.5 Failure of the successful Tenderer to furnish an authentic Performance Security, the award shall be annulled and the Tender Security forfeited, in which event KETRACO may notify the next lowest evaluated Tenderer that its Tender has been accepted

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.

Table of Contents

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

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. 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

Months (in the Form of a Bar Chart)

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	13 th
Activity (Work)													

(b). Completion and Submission of Reports

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

SECTION IV - FINANCIAL PROPOSAL

Notes on preparation of Financial Proposal

- 4.1 The Financial proposal prepared by the consultant should list the costs associated with the assignment. These costs normally cover remuneration for staff, subsistence, transportation, services and equipment, printing of documents, surveys etc as may be applicable. The costs should be broken down to be clearly understood by the procuring entity.
- 4.2 The financial proposal shall be in Kenya Shillings or any other currency allowed in the request for proposal and shall take into account the tax liability and cost of insurances specified in the request for proposal.
- 4.3 The financial proposal should be prepared using the Standard forms provided in this part

SECTION IV - FINANCIAL PROPOSAL STANDARD FORMS

Table of Contents

1. Financial Proposal Submission Form
2. Summary of Costs
3. Breakdown of Price/per Activity
4. Breakdown of remuneration per activity
5. Reimbursable per Activity
6. Miscellaneous Expenses

1. FINANCIAL 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. 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)
Subtotal		
Taxes		
Total Amount of Financial Proposal		

3. BREAKDOWN OF PRICE PER ACTIVITY

Activity No.: _____	Description: _____
Price Component	Amount(s)
Remuneration	
Reimbursable	
Miscellaneous Expenses	
Subtotal	

4. BREAKDOWN OF REMUNERATION PER ACTIVITY

Activity No. _____ Name: _____				
Names	Position	Input (Staff months, days or hours as appropriate.)	Remuneration Rate	Amount
Regular staff				
(i)				
(ii)				
Consultants				
Grand Total				

5. REIMBURSABLES PER ACTIVITY

Activity No: _____

Name: _____

No	Description	Unit	Quantity	Unit Price	Total Amount
1.	Air travel	Trip			
2.	Road travel	Kms			
3.	Rail travel	Kms			
4.	Subsistence Allowance	Day			
	Grand Total				

6. MISCELLANEOUS EXPENSES

Activity No. _____ Activity Name: _____

No.	Description	Unit	Quantity	Unit Price	Total Amount
1.	Communication costs _____ (telephone, telegram, telex)				
2.	Drafting, reproduction of reports				
3.	Equipment: computers etc.				
4.	Software				
	Grand Total				

SECTION V - TERMS OF REFERENCE

TERMS OF REFERENCE FOR THE ENGAGEMENT OF SERVICES OF A CERTIFICATION BODY TO CONDUCT CERTIFICATION AND SURVEILLANCE AUDITS OF THE QUALITY MANGEMENT SYSTRMS (ISO 9001:2015) AND INFORMATION SECURITY MANAGEMENT SYSTEMS (ISO 27001:2013) QUALITY MANAGEMENT STANDARD REQUIREMENTS

5.1 INTRODUCTION

KETRACO was incorporated in December 2008 under the Company's Act Cap 486 as a state corporation wholly-owned by the Government. The Company was established to plan, design, construct, own, operate and maintain high voltage (132kV and above) electricity transmission grid and regional power interconnectors, in line with Kenya Vision 2030. This is aimed at increasing electricity access by expanding the transmission network, strengthening the national grid and protecting electricity consumers from high retail tariffs.

Our Vision

To be a world-class electricity transmission company and the leading interconnector in Africa.

Our Mission

To provide reliable, efficient and effective electricity transmission and promote power trade for sustainable socio-economic development.

Our Mandate

KETRACO's mandate is to plan, design, construct, own, operate and maintain high voltage electricity transmission grid and regional power interconnectors. In carrying out this mandate, the Company aims at developing a robust grid system in order to:

- a) Improve quality, reliability and safety of electricity supply throughout the country;
- b) Transmit electricity to areas that are currently not supplied from the national grid;
- c) Evacuate power from the planned generation plants;
- d) Provide a link with the neighbouring countries in order to facilitate power exchange and trade in the East African region;
- e) Reduce electricity transmission losses hence reduce the cost to the economy; and
- f) Protect electricity consumers from high cost of power by absorbing the capital cost of transmission infrastructure.

Our Core Functions

Arising from the mandate, the Company's core functions include:

- a) Planning the National Electricity Transmission Grid;
- b) Financial resource mobilization for operations and financial sustainability;
- c) Design of power transmission infrastructure;
- d) Construction of power transmission infrastructure;
- e) Operation of the transmission system;

- f) Maintenance of power transmission infrastructure;
- g) Power management and trade

Our Core Values

a) Customer focus, b) Integrity, c) Team work, d) Innovation, e) Sustainability, f) Equity, g) Professionalism, h) and i) safety

Purpose

KETRACO is implementing Quality Management Systems (QMS 9001:2015) and ISO 27001:2013 – Information Security Management System (ISMS 27001:2013). The Company wishes to engage the services of a certification body to carryout audits and Certification service of three Standards. The third Standard – Occupational Health and Safety Management System (OHSMS 45001:2018) will implemented in 2019/20. The services shall be rendered for (3) three years for the three standards renewable for another three years based on performance.

SCOPE OF WORK

KETRACO would like to appoint an accredited Certification Body (CB) to certify its Quality Management, Information Security Management Systems and Occupational Health and Safety Management Systems in accordance with the requirements of ISO 9001:2015, ISO 27001:2013 and ISO 45001:2018 Standards respectively.

The Certification and Surveillance Audits shall cover the Company’s entire QMS, ISMS and OHSMS at the head office including data centers and records warehouses within Nairobi. It is expected that the said Third Party Certification Audit shall involve the following activities:

1. Conduct Certification Audits of the Company’s QMS, ISMS and OHSMS as follows:
 - a. Stage 1 Audit – Check adequacy and readiness review; and
 - b. Stage 2 Audit – implementation audit.
2. Issue Certificate to KETRACO upon satisfactory compliance to the Standard and Certification requirements;
3. Conduct at least TWO surveillance audits every year i.e one every six months for two consecutive years after the issuance of Certificate to in order maintain the Company’s Certification Status.

Activity		Details
1.	Readiness Assessment (June 2019)	<ul style="list-style-type: none"> • Determine possible gaps of KETRACO QMS and ISMS
2.	Certification Audit (June 2019)	<ul style="list-style-type: none"> • Conduct full audit covering all documented processes under scope
3.	Issuance of ISO 9001:2015 and ISO 27001:2013 Certificates	<ul style="list-style-type: none"> • Ascertain how well the management systems are maintained and implemented

Activity		Details
	valid for three (3) years	
4.	Conduct 5 Surveillance Audits after every six months (1 day for each of the systems)	<ul style="list-style-type: none"> Ascertain how well the management systems are maintained and implemented

Note: OHSMS certification audit will be conducted between Jan – June 2020 and thereafter 2 surveillance Audits will follow, once every 6 months for 2 years after issuance of certificate.

A. REPORTING REQUIREMENTS

KETRACO shall submit to the CB all the documents needed for the desk top certification readiness review within one week after contract negotiation or after agreed time. The CB shall submit the certification audit reports, and any other past certification reports within two weeks after audit.

RESPONSIBILITIES OF THE CERTIFICATION BODY

1. At least one (1) auditor of the initial team should participate in all audits of the three-year audit cycle.
2. The certification body shall provide KETRACO with its company profile highlighting related projects, scope of work and implementation methodology. Curriculum vitae of the proposed certification team shall also be submitted.
3. The certification body audit team shall abide with the auditing principles, terminologies and guidelines as specified in the ISO 19011:2018 – Guidelines for Quality Management Systems Auditing.

2.4 QUALIFICATION AND EXPERIENCE

To achieve the above objectives, the CB will have the following core competences:

- Company incorporated within Kenya and Proven relevant experience of at least 5 years
- Tax registration and compliance
- Evidence of at least 5 key competent staff to be dedicated to this assignment
- The lead consultant must have a Master’s degree in relevant field with at least 10 years of relevant experience
- Recommendation from at least 5 firms where the certification body has provided similar services. This also calls for practical hands-on experience in similar assignments preferably in public sector.
- Accredited by international bodies preferably UKAS or JAB

2.5 RESPONSIBILITY AND CONTRACT SUPERVISION

KETRACO shall provide liaison person for this purpose.

2.6 CONFIDENTIALITY

The successful Consultant and KETRACO shall keep confidential any information, documents, specifications supplied in the course of this exercise.

2.7 IMPROVEMENT OF TERMS OF REFERENCE

The Consultant may offer suggestions and improvements in the Terms of Reference which he/she considers would result in better implementation of the project. Such proposals if accepted will form part of the Terms of Reference of the assignment. The effect on time and cost estimates given under the above clause shall be clearly identified.

2.8 CLARIFICATIONS

Questions for clarifications may be submitted to skamau@ketraco.co.ke.

2.9 EXPENSES TO BE PAID

KETRACO will meet the following expenses as relates directly to this consultancy:

- Consultant's fee including accreditation fees
- Cost associated with scheduled audits i.e travel and accommodation in case the scope is expanded beyond Nairobi.

SECTION VI - STANDARD FORMS OF CONTRACT

CONTRACT FOR THE PROVISION OF CONSULTANCY SERVICE FOR

QMS (ISO 9001:2015), ISMS (ISO 27001:2013) AND OHSMS (ISO 45001:2018) CERTIFICATION

(CONTRACT NO. KETRACO/PT/04/2019)

BETWEEN

KENYA ELECTRICITY TRANSMISSION COMPANY LTD

AND

XYZ COMPANY LTD

DATED: _____

“ This agreement is made the day of, 2019 between **KENYA ELECTRICITY TRANSMISSION COMPANY LIMITED**, a state corporation incorporated under the Companies Act, Chapter 486 of the Laws of Kenya having its principal place of business at Kawi Complex, Block B, Popo Lane, Off Red Cross Road, South C, Nairobi, P.O. Box 34942-00100, Nairobi (hereinafter referred to as “KETRACO”) and **XYZ**, a company incorporated under the Companies Act, Chapter 486 of the Laws of Kenya having its offices at (hereafter referred to as “the Consultant”)

WHEREAS;

Vide an *Invitation to Tender* No: **KETRACO/PT/04/2019** for “TENDER FOR PROVISION OF CONSULTANCY SERVICE FOR QMS (ISO 9001:2015), ISMS (ISO 27001:2013) AND OHSMS (ISO 45001:2018) CERTIFICATION.

- A. ” dated XXX, KETRACO invited tenders for the procurement of consultancy service for QMS (ISO 9001:2015), ISMS (ISO 27001:2013) and OHSMS (ISO 45001:2018) certification.
- B. KETRACO has accepted the Consultant’s tender dated XXX 2019 for provision of consultancy service for QMS (ISO 9001:2015), ISMS (ISO 27001:2013) and OHSMS (ISO 45001:2018) certification for a consideration of the sum of **Kenya Shillings xxxxxx**
- C. The consultancy shall be implemented in two phase as follows:

Phase 1: Certification and surveillance audits for QMS 9001:2015 and ISMS 27001:2013 for three years starting June 2019 with a possibility of renewal for another three years based on performance.

Phase 2: Certification and surveillance audits for OHSMS 45001:2018 for three years starting June 2020 with a possibility of renewal for another three years based on performance.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS: -

1. DEFINITIONS AND INTERPRETATION

Expressions defined in this Agreement shall, unless the context otherwise requires, have the same meaning as defined in the Invitation to Tender dated xxx, 2019 and in the event of discrepancy, the definitions in this Agreement shall prevail.

- 1.1 In this Agreement, unless the context otherwise requires, the following expressions shall have the following meanings:

“**Agreement**” means this document of contract.

“**Act**” means an Act of Parliament and any statutory extension, amendment, modification, re-amendment or replacement of such Act and any rule, regulation or order made thereunder.

“**Commencement Date**” means the xxx 2019

“**Contract Price**” means the price payable to the Consultant under the Contract for the full and proper performance of the Services, being **Kenya Shillings xxxxxx** which amount is inclusive of taxes.

“**Kick – Off Meeting**” means a meeting to be held between the representatives of the Consultant and KETRACO to establish protocols of communication that shall be used during the Contract’s implementation, (b) to develop and / or refine a work plan /

delivery schedule and (c) To agree on the form and submission of reports that shall be required from the Consultant during the Contract's implementation.

“Services” means the provision of consultancy service for QMS (ISO 9001:2015), ISMS (ISO 27001:2013) and OHSMS (ISO 45001: 2018) certification and surveillance audits.

“Signature Date” means the date on which the last of the Parties executes this Agreement which date shall be indicated heretofore and on the cover page of this Agreement.

“Term” means the term of the Contract as defined in Clause 2

- 1.2 Words importing the masculine gender only shall where the context so requires import the feminine gender or (as the case may be) the neutral gender.
- 1.3 The headings and table of contents are for convenience only and may be ignored in construing this Agreement.
- 1.4 Except where the context determines otherwise, the singular includes the plural and vice versa.
- 1.5 References to Clauses, recitals and Schedules are, unless otherwise specified, references to Clauses of, and Schedules and recitals to this Agreement.
- 1.6 The words “include,” “including,” and “in particular” are used by way of illustration only, and shall not be construed as, nor shall they have the effect of, limiting the generality of the preceding words;
- 1.7 References to a Party are references to a party to this Agreement, including that Party's assigns or transferees permitted in accordance with the terms of this Agreement and its successors in title;
- 1.8 The schedules form part of this Agreement, and capitalized terms and abbreviations used in the schedules which are not defined therein shall have the meanings given to them in this Agreement and in the event of any conflict between this Agreement and Annexures, this Agreement shall prevail.
- 1.9 Words indicating persons or parties includes corporations and other legal entities, except where the context requires otherwise.

2. TERM

This Agreement shall come into force and effect on the Signature Date and shall continue in full force and effect for 36 Months unless earlier terminated or extended by Parties' agreement in writing.

3. THE CONTRACT

The following documents shall comprise the Contract and each shall be read and construed as an integral part of the Contract;

- a) This Agreement
- b) The Invitation to Tender dated XXX 2019

- c) The Consultant's tender dated XXX 2019
- d) The Notification of Award dated XXX 2019
- e) The Consultant's acceptance dated XXX 2019

4. ORDER OF PRECEDENCE

In the event of any discrepancy the documents listed in Clause 3 above, the order of precedence shall be the order in which the documents are listed in Clause 3.

5. DELIVERY OF SERVICES

- 5.1 In consideration of the Contract Price being paid by KETRACO to the Consultant, the Consultant hereby covenants to deliver the Services for the duration of the Term.
- 5.2 The Commencement Date shall be xxxx, 2019 where after the Consultant shall commence Delivery of the services provided that on or before the Commencement Date, the Consultant shall have provided KETRACO with a valid Performance Security in the manner and form prescribed in Clause 7.
- 5.3 Services shall be delivered in accordance with Schedule 2 – Agreed Work Plan which Schedule may be amended or varied at the Kick-Off Meeting.
- 5.4 The Services shall be performed as set out in Schedule 2 or as otherwise agreed between the Parties.

6. WARRANTIES

The Consultant warrants that:

- 6.1 it will provide the Services in a proper and professional manner at all times;
- 6.2 it will exercise the reasonable standards of skill, care and diligence in the performance of the Services;
- 6.3 it will retain a sufficient number of personnel with the expertise required to provide the Services; and
- 6.4 its personnel possess the required skills and experience required to provide the Services.

KETRACO warrants that:

- 6.5 it shall demonstrate commitment to implementation of requirements of the standards under the scope of this agreement
- 6.6 it shall provide the requisite resources including availing of staff for purposes of auditing of the systems
- 6.7 it shall adhere to the payment obligations as per clause 8 of this agreement

7. PERFORMANCE SECURITY

- 7.1 No later than five (5) days after the Signature Date, the Consultant shall furnish KETRACO with a Performance Security which shall be an irrevocable on-demand

Guarantee in the form contained in Schedule 3, issued by a Bank licensed by the Central Bank of Kenya and acceptable to KETRACO.

- 7.2 The Performance Security shall be for a sum equivalent to ten percent (10%) of the Contract Price.
- 7.3 The proceeds of the Performance Security shall be payable to KETRACO as compensation for any loss resulting from the Consultant's failure to deliver the Services in accordance with the Contract without KETRACO being required to demonstrate the loss it has suffered.
- 7.4 The Performance Security shall be valid for a minimum of Sixty (60) days after effluxion of the Term.
- 7.5 KETRACO shall seek authentication of the Performance Security from the issuing bank. It shall be the responsibility of the Consultant to ensure its issuing bank is aware of the need to respond directly and expeditiously to communication from KETRACO on the security. The Consultant shall ensure that the issuing bank responds to such communication within five (5) days failing which the security may be deemed as invalid and the Contract nullified.
- 7.6 It shall be the responsibility of the Consultant to ensure that its Performance Security is valid at all times during the period of the Contract, and is equivalent to 10% of the Contract Price.
- 7.7 The Performance Security if not hitherto enforced shall be discharged by KETRACO and returned to the Consultant not more than Sixty (60) days after effluxion of the Term of the Contract.

8. PAYMENT FOR SERVICES

- 8.1 Payments shall be made promptly by KETRACO and shall not be more than Forty-Five (45) days from completion of satisfactory performance evidenced by supporting reports as per agreed milestones detailed in Clause 8.3 and issuance of supporting reports and submission of invoice which shall conform with the following requirements;

An invoice for the Services shall be dated and shall bear:

- i. Correct company name, PIN and address of KETRACO and the Consultant
 - ii. Breakdown of value added tax
 - iii. The Consultant's bank account
- a) KETRACO shall not later than 15 days after receipt of an invoice either certify the same as accurate and payable, or return it to the Consultant with reasons for rejecting the same.
 - b) Not more than 30 days after the invoice has been certified as accurate and payable by KETRACO Representative, an installment shall be transferred to the Consultant's bank account in Kenya Shillings.

- 8.2 Payment shall primarily be through KETRACO's cheque or Real Time Gross Settlement (RTGS) or telegraphic transfer.
- 8.3 Payments shall be made against completion of the agreed milestones detailed below:-

TIMELINE	MILESTONE/DELIVERABLE	% CONTRACT SUM	AMOUNT (Incl. VAT)
TOTAL			Kshs.

- 8.4 KETRACO will have ten (10) business days after receipt of any Deliverable (or portion of Deliverable, if such Deliverable is to be delivered in milestones as set forth in the Schedule 1 and 2) to review such Deliverable. If a Deliverable does not comply with the specifications for such Deliverable, the Employer may reject such Deliverable, in its sole discretion, by written notice of rejection to the Consultant. The Consultant will correct any material deficiencies and provide the Customer with a revised Deliverable as soon as practicable. KETRACO will have the right to accept or reject the corrected Deliverable in accordance with this Section. If the Consultant does not correct a material deficiency, KETRACO may elect to terminate this Agreement in its entirety. Upon any such termination, KETRACO shall be entitled to a refund of all amounts paid to the Consultant under this Agreement.
- 8.5 Where KETRACO has required the Consultant to remedy a defect in the provision of services, KETRACO shall be entitled to reject an invoice that includes the services until the defect is rectified.

9. PRICES

- 9.1 Subject to Clause 10 herein below, prices charged by the Consultant for services delivered under the contract shall be fixed for the period of the contract with no variations.
- 9.2 The Consultant's total remuneration shall not exceed the Contract Price and shall cover all staff costs, printing, communications, travel and any other costs incurred by the Consultant in carrying out any services described therein.
- 9.3 The agreement price is payable in Kenya Shillings

9.4 Unless otherwise specified in the agreement, the Consultant shall pay such other taxes, duties, fees and other impositions as may be levied under the applicable law, the amount of which is deemed to have been included in the Contract Price.

10. VARIATION OF CONTRACT

10.1 In the event circumstances should arise so as to necessitate a variation of this Agreement with respect to the Contract Price, KETRACO and the Consultant may vary the contract only in accordance with the following:

- a) the quantity variation for services shall not exceed 10% of the original contract sum
- b) the variation must be executed within the period of the contract.

10.2 Any other modification of the terms and conditions of this Agreement including the modification of the scope of services shall only be made by a mutually consented written agreement between the parties.

11. AUTHORISED REPRESENTATIVES

Any action required or permitted to be taken and any document required or permitted to be executed under this Contract by KETRACO or the Consultant may be taken or executed by the officials specified hereunder;

For KETRACO: Dr. Samson Kamau
P.O Box 34942, 00100, Nairobi.
Tel: xxxxx
Email: skamau@ketraco.co.ke

For the Consultant: xxxxx
P.O Box xxxxx
Tel: xxxxx
Email: xxxxx

12. PERSONNEL

12.1 The Consultant represents that it has, or will secure at its own expense, all personnel required in performing all of the services required under this Agreement. Such personnel shall not be employees or have any contractual relationships with KETRACO.

12.2 The Consultant shall assign such person or persons (Project Personnel or Key Personnel), as it deems appropriate to perform the Services required under this Agreement.

- 12.3 KETRACO has the right to approve or reject the Project Personnel proposed by the Consultant at any time. Furthermore, the Consultant shall provide the individuals designated as Key Personnel in Table 1 below. These individuals will be dedicated to perform the services under this Agreement for the duration of this Agreement unless the individual becomes unavailable to perform as a result of death, illness, disability, termination of his or her employment relationship with the Consultant or KETRACO elects to reduce staff levels or change designated Key Personnel.
- 12.4 If an individual designated as Key Personnel becomes unavailable for one of the reasons specified herein, The Consultant shall provide KETRACO with other similar qualified Project Personnel.
- 12.5 KETRACO shall have the right to require removal of any Project Personnel and/or Key Personnel from the Consultant's Project team upon delivery of written notice thereof to the Consultant.
- 12.6 The Consultant agrees that any employee, personnel or agent, having access to KETRACO's premises or to any records or information relating, pertaining to or included in this Agreement shall be required to provide his or her name, and a copy of his or her National Identity number.

13. ASSIGNMENT

The Consultant shall not assign in whole or in part any of its obligations to perform under the Contract, except with KETRACO's prior written consent.

14. CONFIDENTIALITY

- 14.1 The Consultant shall maintain the confidentiality of all Confidential Information disclosed to it and shall take all necessary precautions against unauthorized disclosure of the Confidential Information. The Consultant shall not directly or indirectly disclose, allow access to, transmit or transfer any Confidential Information to any third party without the prior written consent of KETRACO. The Consultant shall not use or copy any Confidential Information except as may be reasonably required to perform the Services.
- 14.2 The Consultant acknowledges that KETRACO has received and in the future may receive from third parties their confidential or proprietary information subject to a duty on the part of KETRACO to maintain the confidentiality of such information and to use it only for certain limited purposes. The Consultant shall hold all such confidential or proprietary information in the strictest confidence and shall not disclose it to any person, firm or corporation or use it except as necessary in providing the Services hereunder in a manner consistent with KETRACO's agreement with such third party.
- 14.3 The Consultant shall ensure that each employee and Consultant who is provided access to KETRACO Confidential Information executes a confidentiality agreement pursuant to which such employee or Consultant is obligated to protect KETRACO Confidential

Information to the same extent as the Consultant is required to protect such information hereunder. The Consultant shall provide copies of such executed documents to KETRACO upon request.

- 14.4 Upon the request of KETRACO, and in any event upon the termination or expiration of this Agreement, the Consultant shall immediately return to KETRACO all materials, including all copies in whatever form, containing any Confidential Information which are in the Consultant's possession or under its control.
- 14.5 The Consultant acknowledges and agrees that monetary damages may not be an adequate remedy to compensate KETRACO for any breach of the Consultant's obligations hereunder in respect of Confidential Information. Accordingly, Consultant agrees that, in addition to any and all other remedies available to KETRACO under this Agreement or at law or in equity, KETRACO shall be entitled to obtain relief by way of a temporary or permanent injunction to enforce such obligations.
- 14.6 The Consultant represents and warrants to KETRACO that (i) its performance hereunder shall not breach any agreement or other obligation to keep confidential the proprietary information of any prior employer or client of the Consultant or any other third party, and (ii) it will not bring to KETRACO, and shall not use in the performance of its work with KETRACO, any trade secrets, confidential information and other proprietary information of any prior employer or client of the Consultant or any other third party.

15. INDEMNITY AND LIABILITY

- 15.1 Each Party ("the First Party") shall indemnify and holds the other Party ("the Non-breaching Party"), its affiliates and employees harmless from and against any direct costs or damages that may be incurred by the Non-breaching Party as a result of claims for negligence or breach by the First Party of any of its obligations in terms of this Agreement and such indemnity shall extend to the reasonable cost that may be incurred by the Non-breaching Party in defending any action instituted against it subject to Clause 11.2.
- 15.2 The total liability under this Clause shall not exceed the Contract Price. Liability in any case of fraud, deliberate default or reckless misconduct shall however not be limited.

16. TERMINATION OF CONTRACT

16.1 TERMINATION BY KETRACO

KETRACO may terminate this Contract by not less than thirty (30) days' written notice to the Consultant to be given after the occurrence of any of the events specified in this Clause: -

- a) If the Consultant fails to provide a Performance Security, or the issuing bank fails to confirm the Performance Security's authenticity as stipulated in this Agreement.
- b) If the Consultant fails to render the Services within the time frame stipulated in Clause 5 of this Agreement.
- c) If the Consultant does not remedy a failure in the Delivery of the Services within ten (10) days after being notified; or any other period as demanded by KETRACO.
- d) If the Consultant becomes bankrupt.
- e) If KETRACO in its sole discretion decides to terminate this contract.
- f) If the Consultant, in the judgment of KETRACO has engaged in corrupt or fraudulent practices in competing for or in executing the Agreement. 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 Agreement execution. "**fraudulent practice**" means a misrepresentation of facts in order to influence a selection process or the execution of an Agreement to the detriment of KETRACO, and includes collusive practice among Suppliers (prior to or after submission of the Tender document) designed to establish prices at artificial non-competitive levels and to deprive KETRACO of the benefits of free and open competition.
- g) If, as a result of Force Majeure, the Consultant is unable to perform the services for a period of more than ten (10) days.

In the event that KETRACO terminates the contract in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, the services of another Supplier to render the Services.

16.2 TERMINATION BY THE CONSULTANT

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

- a) If KETRACO fails to convene a Kick-Off Meeting for more than fourteen (14) days after the Signature Date,
- b) if KETRACO fails to pay any monies due to the Consultant pursuant to this Agreement and not subject to dispute within forty-five (45) days after receiving written notice from the Consultant that such payment is overdue; or
- c) If, as a result of Force Majeure, the Consultant is unable to perform the Services for a period of more than ten (10) days.

16.3 CONSEQUENCES OF TERMINATION

In the event of termination and the Consultant has delivered the Services in accordance with the Contract, then KETRACO shall pay the Consultant the Contract Price for the Services delivered in accordance with the provisions of the Contract prior to the termination.

16.4 LIQUIDATED DAMAGES

Notwithstanding and without prejudice to any other provisions of the contract, if the Consultant fails to perform any or all of the services within the period specified in the contract, KETRACO shall, without prejudice to its other remedies under the contract, deduct from the Contract Price, liquidated damages sum equivalent to 0.5% of the contract price per week of delay of the delayed due services up to a maximum of ten percent (10%) of the performance price of the delayed due services

17. DELAYS IN THE CONSULTANT'S PERFORMANCE

17.1 Performance of services shall be made by the Consultant in accordance with **Schedule 2 – Work Plan**

17.2 If at any time during performance of the contract, the Consultant should encounter conditions impeding timely delivery of services, the Consultant shall promptly notify KETRACO in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Consultant's notice, KETRACO shall evaluate the situation and may at its discretion extend the Consultant's time for performance, with or without liquidated damages, in which case the extension shall be ratified by the parties by amendment of the contract.

17.3 Except as provided for in the contract, a delay by the Consultant in the performance of its delivery obligations shall render the Consultant liable to the imposition of liquidated damages, unless an extension of time is agreed upon without the application of liquidated damages

18. RESOLUTION OF DISPUTES

18.1 Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Agreement or its interpretation.

18.2 Neither Party shall have any right to commence or maintain any legal proceeding concerning a Dispute until the Dispute has been resolved in accordance with this Clause 15 and then only to enforce or execute the award or determination under such procedure.

18.3 MEDIATION

(i) Where Parties are unable to settle a dispute amicably by negotiation within ten (10) days after receipt by one party of the other party's request for such negotiation,

Parties shall appoint a mediator (hereafter the “Mediator”) an independent person with relevant experience and willing to act, agreed between the Parties (in the Special Conditions / at the commencement of Dispute)

- (ii) Each Party may make such written submissions as it wishes to the Mediator within 10 days of the Mediator’s appointment. The submitting Party (hereafter the “Complainant”) shall simultaneously provide a copy to the other Party (hereafter the “Respondent”). At the end of such ten (10) day period the Respondent shall have a further ten (10) days to make counter-submissions to the Mediator (with a simultaneous copy to the Complainant) in reply to the Complainant’s written submissions provided that where the Respondent raises or refer to, any new matters not raised or referred to in the first submission, the Complainant shall have ten (10) days to make to make a rejoinder to the Mediator (with a simultaneous copy to the Respondent) on the new matters. At the end of the twenty (20) or thirty (30) days; as the case may be and no later than ten (10) days thereafter, either Party may, with the consent of the Mediator and at a time and place decided by the Mediator, make an oral presentation to the Mediator in the presence of the other Party commenting on or explaining matters previously submitted to the Mediator in writing.
- (iii) The Mediator shall render his / her determination in writing within ten (10) days of the completion of the oral presentation given in accordance with Clause (ii) above or where no oral presentation is made within ten (10) days of the twenty (20) or thirty (30) days’ period referred to in paragraph (i) above and give reasonable details of the reasons for his determination;
- (iv) The Mediator shall act as a Mediator and not as an Arbitrator; and shall at all times be independent and neutral and exhibit the expertise to assist Parties reach a negotiated settlement.
- (v) The costs of the Mediator shall be borne as determined by the Mediator or, in default of such determination, equally by the Parties.
- (vi) Any Party Dissatisfied with the decision of a Mediator may refer the matter to Arbitration;

18.4 **ARBITRATION**

- (i) Any dispute or difference of any kind between the Parties in connection with or arising out of this Agreement including the interpretation of this Agreement, its validity and any purported breach or termination shall be finally settled by arbitration under the Rules of Arbitration of the Nairobi Center for International Arbitration (hereafter the “Center”) which Rules are deemed to be incorporated by reference into this Clause 15.
- (ii) It is hereby agreed that:

- (a) the seat of the arbitration shall be Nairobi, Kenya;
- (b) there shall be three arbitrators;
- (c) the language of the arbitration shall be English;
- (d) the award rendered shall apportion the costs of the arbitration;
- (e) the award shall be in writing and shall set forth in reasonable detail the facts of the Dispute and the reasons for the tribunal's decision; and
- (f) Each Party will appoint an arbitrator within ten (10) days of the date of the request to initiate arbitration and two appointed arbitrators shall then jointly appoint a third arbitrator to act as Chairman within ten (10) Days of the date of the appointment of the second arbitrator, and no arbitrator shall have any existing or prior relationship with either Party. Arbitrators not appointed within the time limits set forth in the preceding sentence shall be appointed by the Center.
- (g) If there is a conflict between this Agreement and the said Rules, this Agreement shall prevail.

19. FORCE MAJEURE

- 19.1 Force majeure means any circumstances beyond the control of the parties, including but not limited to:
- (i) war and other hostilities (whether war be declared or not), invasion, act of foreign enemies, mobilization, requisition or embargo;
 - (ii) ionizing radiation or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosives or other hazardous properties of any explosive nuclear assembly or nuclear components thereof;
 - (iii) rebellion, revolution, insurrection, military or usurped power & civil war;
 - (iv) earthquake, landslide, volcanic activity, fire, flood or inundation, tidal wave, typhoon or cyclone, hurricane, storm, lightning, or other inclement weather condition, nuclear and pressure waves or other natural or physical disaster
- 19.2 Notwithstanding the provisions of the Agreement, neither party shall be considered to be in default nor in breach of its obligations under the Agreement to the extent that performance of such obligations is prevented by any circumstances of force majeure is which arise after the Agreement entered into by the parties.
- 19.3 If either party considers that any circumstances of force majeure are occurring or have occurred which may affect Delivery, it shall promptly notify the other party and provide reasonable proof of such circumstances.
- 19.4 Upon the occurrence of any circumstances of force majeure, the Consultant shall endeavor to continue to perform its obligations under the Agreement so far as is reasonably practicable. The Consultant shall notify KETRACO of the steps it

proposes to take including any reasonable alternative means for Delivery, which is not prevented by force majeure. the Consultant shall not take any such steps unless directed so to do by KETRACO.

19.5 If circumstances of force majeure have occurred and shall continue for a period of 10 days then, notwithstanding that the Consultant may by reason thereof have been granted an extension of time for Delivery, either Party shall be entitled to serve upon the other five (5) days' notice to terminate the Agreement. If at the expiry of the said period the force majeure event shall still continue, the Agreement shall terminate.

20. SEVERABILITY

The invalidity, illegality or unenforceability in whole or in part of any of the provisions of this Agreement shall not affect the validity, legality and enforceability of the remaining part or provisions of this Agreement

21. INTEGRATION/WHOLE AGREEMENT

This Contract and the documents incorporated by Clause 3 constitutes the whole Agreement between the Parties and no additional or different oral representation, promise or agreement shall be binding on any of the parties hereto with respect to the subject matter of this instrument.

22. COUNTERPARTS

This Contract may be executed in two (2) or more counterparts.

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

SIGNED and SEALED with the COMMON)
SEAL of KENYA ELECTRICITY)
TRANSMISSION COMPANY LIMITED)
)
Managing Director)
)
)
)
.....)
In the presence of: -)
Director/Secretary)

.....

SIGNED and SEALED with the COMMON)
SEAL of the Consultant)
xxxx LTD)
Chief Executive Officer)

.....)
In the presence of: -)
Director/Secretary)
.....)

SCHEDULES

- (i) Schedule 1 – Description of Services
- (ii) Schedule 2 – Agreed Work Plan and Schedule, Response times
- (iii) Schedule 3 – Form of Performance Guarantee
- (iv) Schedule 4 – List of Experts
- (v) The Invitation to Tender dated xxxx, 2019
- (vi) The Consultant's tender dated xxxx, 2019
- (vii) The Notification of Award dated xxxxx, 2019
- (viii) The Consultant's acceptance dated xxxx, 2019

CONFIDENTIAL BUSINESS QUESTIONNAIRE

You are requested to give the particulars indicated in Part 1 and either Part 2 (a), 2(b) or 2(c) whichever applied to your type of business.

You are advised that it is a serious offence to give false information on this form.

Part 1 General

Business Name

Location of Business Premises

Plot No,Street/Road

Postal addressTel No.Fax Email

.....

Nature of Business

Registration Certificate No.

Maximum value of business which you can handle at any one time – Kshs.

Name of your bankers

.....

Branch

Part 2 (a) – Sole Proprietor

Your name in full.....Age.....

Nationality.....Country of Origin.....

Citizenship details

Part 2 (b) – Partnership

Given details of partners as follows

Name	Nationality	Citizenship details	Shares
1.
2.
3.
4.

Part 2 (c) – Registered Company

Private or Public

State the nominal and issued capital of company

Nominal Kshs.....

Issued Kshs.....

Given details of all directors as follows

Name	Nationality	Citizenship details	Shares
1.
2.
3.
4.

Date..... Signature of Candidate.....

APPENDICES

APPENDIX A: - THE TERMS OF REFERENCE AND SCOPE OF SERVICE

Give detailed description 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: - 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 C: - REPORTING OBLIGATIONS

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 D: - BREAKDOWN OF CONTRACT PRICE IN LOCAL CURRENCY

List the elements of cost used to arrive at the breakdown of the lump-sum price.

- 1. Monthly rate for Personnel (Key personnel and other personnel)*
- 2. Reimbursable expenditure*

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

APPENDIX E: - SERVICES AND FACILITIES PROVIDED BY THE CLIENT