



COUNTY GOVERNMENT OF KWALE
COUNTY DEPARTMENT OF ENVIRONMENT & NATURAL RESOURCES
P.O BOX 4-80403,
KWALE

TENDER NAME & DESCRIPTION:

**CONSULTANCY SERVICES FOR ENVIRONMENT AND SOCIAL
IMPACT ASSESSMENT (ESIA) FOR THE PROPOSED FLLOCA
PROJECTS IN KWALE COUNTY.**

TENDER REFERENCE NUMBER.:

2423889/2026/2027

Issued by:
Procurement Unit,

Approved by:
Chief Officer,
County Department of ENR,
P.O BOX 4-80403,
KWALE

To Be Submitted On or Before Monday 19TH October 2026, 10:30am

SECTION 1 (A) - REQUEST FOR PROPOSAL (RFP)

Date: Wednesday 19th, **October 2026**

Reference No.: **2423889/2026/2027**

Name of Assignment; **CONSULTANCY SERVICES FOR ENVIRONMENT AND SOCIAL IMPACT ASSESSMENT (ESIA) FOR THE PROPOSED FLLOCA PROJECTS IN KWALE COUNTY**

TO:

Dear Eligible Bidder_____

1. The County Government of Kwale has set aside funds in its budget or has received financing from..... *[select one source of funds]* toward the cost of the subject consulting services.
2. The Procuring Entity now invites proposals to provide the following consulting services (here in after called “the services”): More details on the Services are provided in Section 8 Terms of Reference.

This Request for Proposals (RFP **CONSULTANCY SERVICES FOR ENVIRONMENT AND SOCIAL IMPACT ASSESSMENT (ESIA) FOR THE PROPOSED FLLOCA PROJECTS IN KWALE COUNTY** has been published as an Open Tender to all eligible firms. iii

3. If a Consultant is a Joint Venture (JV), the full name of the JV shall be used and all members, starting with the name of the lead member. Where sub-consultants have been proposed, they shall be named. The maximum number of JV members shall be specified in the DS.
4. It is not permissible to transfer this RFP to any other firm.
5. A firm will be selected under Quality Cost Based method and in a format as described in this RFP, in accordance with the Public Procurement and Asset Disposal Act 2015, a copy of which is found at the following website: www.ppra.go.ke.
6. The: Section 1: Letter of Request for Proposals
Section 2: Instructions to Consultants and Data Sheet Section 3: Technical Proposal Standard Forms Section 4: Financial Proposal Standard Forms Section 5: Terms of Reference
Section 6: Standard Forms of Contract ([Select: Time-Based or Lump-Sum])
7. Please inform us by **[.....]**, in writing at the address below or by E-mail **[nsuya@kwale.go.ke]**:
 - a) That you have received this Request for Proposals; and
 - b) Whether you intend to submit a proposal alone or intend to enhance your experience by requesting permission to associate with other firm(s) (if permissible under Section 2, Instructions to Consultants (ITC), Data Sheet 14.1.1).
8. Details on the proposal's submission date, time and address are provided in the ITC 17.7 and ITC 17.9 of the Data Sheet.

Yours sincerely,

NEEMA SIHABA SUYA
CHIEF OFFICER, ENVIRONMENT AND NATURAL RESOURCES
3rd FLOOR, COUNTY HEAD QUARTERS
P.O BOX 4-80403,
KWALE

SECTION 2. INSTRUCTIONS TO CONSULTANTS AND DATA SHEET

Section 2(a). Instructions to Consultants (ITC)

A. GENERAL PROVISIONS

1. Meanings/Definitions

- a) “Affiliate(s)” means an individual or an entity that directly or indirectly controls, is controlled by, or is under common control with the Consultant.
- b) “Applicable Law” means the laws and any other instruments having the force of law in Kenya.
- c) “Procuring Entity” means the entity that is carrying out the consultant selection process and signs the Contract for the Services with the selected Consultant.
- d) “Consultant” means a legally-established professional consulting firm or an entity that may provide or provides the Services to the Procuring Entity under the Contract.
- e) “Contract” means a legally binding written agreement signed between the Procuring Entity and the Consultant and includes all the attached documents listed in its Clause 1 (the General Conditions of Contract (GCC), the Special Conditions of Contract (SCC), and the Appendices).
- f) “Data Sheet” means an integral part of the Instructions to Consultants (ITC) Section 2 that is used to reflect specific assignment conditions to supplement, but not to over-write, the provisions of the ITC.
- g) “Day” means a calendar day unless otherwise specified as "Business Day". A Business Day is any day that is an official working day in Kenya and excludes official public holidays.
- h) “Experts” means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, Sub-consultant or Joint Venture member(s).
- i) “Government” means the Government of the Republic of Kenya.
- j) “In writing” means communicated in written form such as by mail, e-mail, fax, including, if specified in the Data Sheet, distributed or received through the electronic-procurement system used by the Procuring Entity with proof of receipt.
- k) “Joint Venture (JV)” means an association with or without a legal personality distinct from that of its members, of more than one Consultant where one member has the authority to conduct all business for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Procuring Entity for the performance of the Contract.
- l) “Key Expert(s)” means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose CV is considered in the technical evaluation of the Consultant's proposal.
- m) “ITC” (this Section 2 of the RFP) means the Instructions to Consultants that provides the Consultants with all information needed to prepare their Proposals.
- n) “Letter of RFP” means the letter of invitation being sent by the Procuring Entity to the Consultants.
- o) “Non-Key Expert(s)” means an individual professional provided by the Consultant or its Sub-consultant and who is assigned to perform the Services or any part thereof under the Contract and whose CVs are not evaluated individually.
- p) “Proposal” means the Technical Proposal and the Financial Proposal of the Consultant.
- q) “Public Procurement Regulatory Authority (PPRA)” means the statutory authority of the Government of Kenya that is mandated with the role of regulating and monitoring compliance with the public procurement law and regulations.
- r) “RFP” means the Request for Proposals to be prepared by the Procuring Entity for the selection of Consultants.

- s) “Services” means the work to be performed by the Consultant pursuant to the Contract.
- t) “Sub-consultant” means an entity to whom the Consultant intends to subcontract any part of the Services while the Consultant remains responsible to the Procuring Entity during the whole performance of the Contract.
- v) “Terms of Reference (TORs)” means the Terms of Reference that explains the objectives, scope of work, activities, and tasks to be performed, respective responsibilities of the Procuring Entity and the Consultant, and expected results and deliverables of the assignment.

2. Introduction

- 2.1 The Procuring Entity named in the Data Sheet intends to select a Consultant from those listed in the Request for Proposals (RFP), in accordance with the method of selection specified in the Data Sheet.
- 2.2 The Consultant are invited to submit a Technical Proposal and a Financial Proposal, for consulting services required for the assignment named in the Data Sheet. The Proposal will be the basis for negotiating and ultimately signing the Contract with the selected Consultant.
- 2.3 The Consultants should familiarize themselves with the local conditions and take them into account in preparing their Proposals, including attending a pre-proposal conference if one is specified in the Data Sheet. Attending any such pre-proposal conference is optional and is at the Consultants' expense.
- 2.4 The Procuring Entity will timely provide, at no cost to the Consultants, the inputs, relevant project data, and reports required for the preparation of the Consultant's Proposal as specified in the Data Sheet.

3. Conflict of Interest

- 3.1 The Consultant is required to provide professional, objective, and impartial advice, always holding the Procuring Entity's interest's paramount, strictly avoiding conflicts with other assignments or its own corporate interests and acting without any consideration for future work.
- 3.2 The Consultant has an obligation to disclose to the Procuring Entity any situation of actual or potential conflict that impacts its capacity to serve the best interest of the Procuring Entity. Failure to disclose such situations may lead to the disqualification of the Consultant or the termination of its Contract.
- 3.3 Without limitation on the generality of the foregoing, and unless stated otherwise in the Data Sheet, the Consultants shall not be hired under the circumstances set forth below:
 - i) *Conflicting Activities*
Conflict between consulting activities and procurement of goods, works or non-consulting services: a firm that has been engaged by the Procuring Entity to provide goods, works, or non-consulting services for a project, or any of its Affiliates, shall be disqualified from providing consulting services resulting from or directly related to those goods, works, or non-consulting services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, or any of its Affiliates, shall be disqualified from subsequently providing goods or works or non-consulting services resulting from or directly related to the consulting services for such preparation or implementation.
 - ii) *Conflicting Assignments*
Conflict among consulting assignments: A Consultant (including its Experts and Sub-consultants) or any of its Affiliates shall not be hired for any assignment that, by its nature, may conflict with another assignment of the Consultant for the same or for another Procuring Entity.
 - (iii) *Conflicting Relationships*
Relationship with the Procuring Entity's staff: a Consultant (including its Experts and Sub-consultants) that has a close business or personal relationship with senior management or professional staff of the Procuring Entity who has the ability to influence the bidding process and: (i) are directly or indirectly involved in the preparation of the Terms of Reference for the assignment, (ii) the selection process for the Contract, or (iii) the supervision of the Contract, may not be awarded a Contract, unless the conflict stemming from such relationship has been resolved in a manner that determines there is no conflict to affect this selection process.
 - iv) *Others*
Any other types of conflicting relationships as indicated in the Data Sheet.

4. Unfair Competitive Advantage

- 4.1 Fairness and transparency in the selection process require that the Consultants or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to the assignment in question. To that end, the Procuring Entity shall indicate in the Data Sheet and make available to all Consultants together with this RFP all information that would in that respect give such Consultant any unfair competitive advantage over competing Consultants.

5. Corrupt and Fraudulent Practices

- 5.1 Consultant firms or any of its members shall not be involved in corrupt, coercive, obstructive, collusive or fraudulent practice. Consultant firms or any of its members that are proven to have been involved in any of these practices shall be automatically disqualified and would not be awarded a contract.

5.2 Collusive practices

- 5.2 The Procuring Entity requires compliance with the provisions of the Competition Act 2010, regarding collusive practices in contracting. Any Consultant found to have engaged in collusive conduct shall be disqualified and criminal and/or civil sanctions may be imposed. To this effect, Consultants shall be required to complete and sign the “Certificate of Independent Proposal Determination” annexed to the Proposal Form.
- 5.3 In further pursuance of this policy, Consultants shall permit and shall cause their agents (where declared or not), subcontractors, sub-consultants, service providers, suppliers, and their personnel, to permit the Government and its agencies to inspect all accounts, records and other documents relating to any short-listing process, Proposal submission, and contract performance (in the case of award), and to have them audited by auditors, investigators or compliance officers.

6. Eligibility

- 6.1 In selection of Consultants, short-listing shall be composed of firms or individuals who belong to the same line of professional business and who are almost of the same capability.
- 6.2 Unless otherwise specified in the Data Sheet, the Procuring Entity permits Consultants including proposed experts, joint ventures and individual members from all countries and categories to offer consulting services. The maximum number of members so far JV shall be specified in the TDS.
- 6.3 The Competition Act of Kenya requires that firms wishing to tender as Joint Venture undertakings which may prevent, distort or lessen competition in provision of services are prohibited unless they are exempt in accordance with the provisions of Section 25 of the Competition Act, 2010. JVs will be required to seek for exemption from the Competition Authority. Exemption shall not be a condition for submission of proposals, but it shall be a condition of contract award and signature. AJV tenderer shall be given opportunity to seek such exemption as a condition of award and signature of contract. Application for exemption from the Competition Authority of Kenya may be accessed from the website www.cak.go.ke
- 6.4 Public Officers of the Procuring Entity, their Spouses, Child, Parent, Brothers or Sister. Child, Parent, Brother or Sister of a Spouse, their business associates or agents and firms/organizations in which they have a substantial or controlling interest shall not be eligible to tender or be awarded a contract. Public Officers are also not allowed to participate in any procurement proceedings.
- 6.5 It is the Consultant's responsibility to ensure that it's Experts, joint venture members, Sub-consultants, agents (declared or not), sub-contractors, service providers, suppliers and/or their employees meet the eligibility requirements.
- 6.6 As an exception to the foregoing ITC 6.1 and 6.2 above:
- a) Sanctions-A firm or an individual that has been debarred from participating in public procurement shall be ineligible to be awarded a contract, or to benefit from the contract, financially or otherwise, during the debarment period. The list of debarred firms and individuals is available from the website of PPRA www.ppra.go.ke.
 - b) Prohibitions-Firms and individuals of a country or goods in a country maybe ineligible if:
 - i) As a matter of law or official regulations, Kenya prohibits commercial relations with that country; or
 - ii) By an act of compliance with a decision of the United Nations Security Council taken under Chapter

VII of the Charter of the United Nations, Kenya prohibits any import of goods or services from that country or any payments to any country, person, or entity in that country.

- c) Restrictions for Government-owned Enterprises-Government-owned enterprises or institutions in Kenya shall be eligible only if they can establish that they
 - i) Are legally and financially autonomous,
 - ii) Operate under commercial law, and
 - iii) That they are not dependent agencies of the Procuring Entity.
- d) Restrictions for public employees - Government officials and civil servants and employees of public institutions shall not be hired for consulting contracts.

6.7 Margin of Preference and Reservations-no margin of preference shall be allowed in the selection of consultants. Reservations may however be allowed to a specific group of businesses (these groups are Small and Medium Enterprises, Women Enterprises, Youth Enterprises and Enterprises of persons living with disability, as the case may be), and who are appropriately registered as such by the authority to be specified in the Data Sheets. A procuring entity shall ensure that the invitation to submit proposals specifically includes only businesses or firms belonging to one group.

B. Preparation of Proposals

7. General Considerations

7.1 In preparing the Proposal, the Consultant is expected to examine the RFP in detail. Material deficiencies in providing the information requested in the RFP may result in rejection of the Proposal.

8. Cost of Preparation of Proposal

8.1 The Consultant shall bear all costs associated with the preparation and submission of its Proposal, and the Procuring Entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the selection process. The Procuring Entity is not bound to accept any proposal and reserves the right to annul the selection process at any time prior to Contract award, without thereby incurring any liability to the Consultant.

9. Language

9.1 The Proposal, as well as all correspondence and documents relating to the Proposal exchanged between the Consultant and the Procuring Entity shall be written in the English language.

10. Documents Comprising the Proposal

10.1 The Proposal shall comprise the documents and forms listed in the Data Sheet.

10.2 The Consultant shall declare in the Financial Proposal Submission Form, that in competing for and executing a contract, it shall undertake to observe the laws of Kenya against fraud and corruption including bribery, as well as against anti-competitive practices including bid rigging.

10.3 The Consultant shall furnish information on commissions, gratuities and fees, if any, paid or to be paid to agents or any other party relating to this Proposal and, if awarded, Contract execution, as requested in the Financial Proposal Submission Form.

11. Only One Proposal

11.1 The Consultant (including the individual members of any Joint Venture) shall submit only one Proposal, either in its own name or as part of a Joint Venture in another Proposal. If a Consultant, including any Joint Venture member, submits or participates in more than one proposal, all such proposals shall be disqualified and rejected. This does not, however, preclude Sub-consultant, or the Consultant's staff from participating as Key Experts and Non-Key Experts in more than one Proposal when circumstances justify and if stated in the Data Sheet.

11.2 Members of a joint venture may not also make an individual Proposal, be a subcontractor in a separate proposal or be part of another joint venture for the purposes of the same Contract.

- 11.3 Should a Joint Venture subsequently win the Contract, it shall consider whether an application for exemption from the Competition Authority of Kenya is merited pursuant to Section 25 of the Competition Act 2010.

12 Proposal Validity

a. Proposal Validity Period

- 12.1 The Data Sheet indicates the period during which the Consultant's Proposal must remain valid after the Proposal submission deadline.
- 12.2 During this period, the Consultant shall maintain its original Proposal without any change, including the availability of the Key Experts, the proposed rates and the total price.
- 12.3 If it is established that any Key Expert nominated in the Consultant's Proposal was not available at the time of Proposal submission or was included in the Proposal without his/her confirmation, such Proposal shall be disqualified and rejected for further evaluation and may be subject to sanctions in accordance with IT C5.

b. Extension of Validity Period

- 12.4 The Procuring Entity will make its best effort to complete the negotiations within the proposal's validity period. However, should the need arise, the Procuring Entity may request, in writing, all Consultants who submitted Proposals prior to the submission deadline to extend the Proposals' validity.
- 12.5 If the Consultant agrees to extend the validity of its Proposal, it shall be done without any change in the original Proposal and with the confirmation of the availability of the Key Experts, except as provided in ITC 12.7.
- 12.6 The Consultant has the right to refuse to extend the validity of its Proposal in which case such Proposal will not be further evaluated.

b. Substitution of Key Experts at Validity Extension

- 12.7 If any of the Key Experts become unavailable for the extended validity period, the Consultant shall provide a written adequate justification and evidence satisfactory to the Procuring Entity together with the substitution request. In such case, a replacement Key Expert shall have equal or better qualifications and experience than those of the originally proposed Key Expert. The technical evaluations core, however, will remain to be based on the evaluation of the CV of the original Key Expert.
- 12.8 If the Consultant fails to provide a substitute Key Expert with equal or better qualifications, or if the provided reasons for the replacement or justification are unacceptable to the Procuring Entity, such Proposal will be rejected.

c. Sub-Contracting

- 12.9 The Consultant shall not subcontract the whole or part of the Services without reasonable justification and written approval of the Procuring Entity.

13 Clarification and Amendment of RFP

- 13.1 The Consultant may request a clarification of any part of the RFP during the period indicated in the Data Sheet before the Proposals' submission deadline. Any request for clarification must be sent in writing, or by standard electronic means, to the Procuring Entity's address indicated in the Data Sheet. The Procuring Entity will respond in writing, or by standard electronic means, and will send written copies of the response (including an explanation of the query but without identifying its source) to all Consultants. Should the Procuring Entity deem it necessary to amend the RFP as a result of a clarification, it shall do so following the procedure described below:
- 13.2 At any time before the proposal submission deadline, the Procuring Entity may amend the RFP by issuing an amendment in writing or by standard electronic means. The amendment shall be sent to all invited Consultants and will be binding on them. The Consultants shall acknowledge receipt of all amendments in

writing.

- 13.3 If the amendment is substantial, the Procuring Entity may extend the proposal submission deadline to give the Consultants reasonable time to take an amendment in to account in their Proposals.
- 13.4 The Consultant may submit a modified Proposal or a modification to any part of it at any time prior to the proposal submission deadline. No modifications to the Technical or Financial Proposal shall be accepted after the deadline.

14 Preparation of Proposals–Specific Considerations

- 14.1 While preparing the Proposal, the Consultant must give particular attention to the following:
- (a) If a Consultant considers that it may enhance its expertise for the assignment by associating with other consultants in the form of a Joint Venture or as Sub-consultants, it may do so on the basis of only one Proposal is submitted, in accordance with ITC 11. Above. A Consultant cannot associate with shortlisted Consultant(s). When associating with non-shortlisted/non-invited firms in the form of a joint venture or a sub-consultancy, the shortlisted/invited Consultant shall be a lead member. If shortlisted/invited Consultant associates with each other, any of them can be a lead member.
 - (b) The Procuring Entity may indicate in the Data Sheet the estimated amount or Key Experts' time input (expressed in person-month), or the Procuring Entity's estimated total cost of the assignment, but not both. This estimate is indicative and the Proposal shall be based on the Consultant's own estimates for the same. This clause shall not apply when using Fixed Budget selection method.
 - (c) For assignments under the Fixed-Budget selection method, the estimated Key Experts' time input shall not be disclosed. Total available budget, with an indication whether it is inclusive or exclusive of taxes, is given in the Data Sheet, and the Financial Proposal shall not exceed this budget.
 - d) Key Experts shall not appear in more than one proposal unless so allowed in the Data Sheet. Invited firms must confirm and ensure their Key experts do not appear in proposal of other invited firms, otherwise proposals with Key experts appearing in other proposals will be rejected.

15 Technical Proposal Format and Content

- 15.1 The Technical Proposal shall be prepared using the Standard Forms provided in Section 3 of the RFP and shall comprise the documents listed in the Data Sheet under ITC 10.1. The Technical Proposal shall not include any financial information. A Technical Proposal containing material financial information shall be declared non-responsive.
- 15.2 Consultant shall not propose alternative Key Experts. Only one CV shall be submitted for each Key Expert position. Failure to comply with this requirement will make the Proposal non-responsive.

16 Financial Proposal

- 16.1 The Financial Proposal shall be prepared using the Standard Forms provided in Section 4 of the RFP. It shall list all costs associated with the assignment, including (a) remuneration for Key Experts and Non-Key Experts, (b) reimbursable expenses indicated in the Data Sheet. Irrespective of the consultant selection method, any Consultant that does not submit itemized and priced financial proposal, or merely refers the Procuring Entity to other legal instruments for the applicable minimum remuneration fees shall be considered non-responsive.

a. Price Adjustment

- 16.2 For assignments with a duration exceeding 18 months, a price adjustment provision for foreign and/or local inflation for remuneration rates apply if so, stated in the Data Sheet.

b. Taxes

- 16.3 The Consultant and its Sub-consultants and Experts are responsible for meeting all tax liabilities arising out of the Contract unless stated otherwise in the Data Sheet. Information on taxes in Kenya is provided in the Data Sheet.

c. Currency of Proposal

- 16.4 The Consultant may express the price for its Services in the currency or currencies as stated in the Data

Sheet. If indicated in the Data Sheet, the portion of the price representing local cost shall be stated in Kenya Shillings.

d. Currency of Payment

- 16.5 Payment under the Contract shall be made in the currency or currencies in which the payment is requested in the Proposal.

C. SUBMISSION, OPENING AND EVALUATION

17. Submission, Sealing, and Marking of Proposals

- 17.1 The Consultant shall submit a signed and complete Proposal comprising the documents and forms in accordance with ITC 10 (Documents Comprising Proposal). Consultants shall mark as “CONFIDENTIAL” information in their Proposals which is confidential to their business. This may include proprietary information, trade secrets or commercial or financially sensitive information. The submission can be done by mail or by hand. If specified in the Data Sheet, the Consultant has the option of submitting its Proposals electronically.
- 17.2 An authorized representative of the Consultant shall sign the original submission letters in the required format for both the Technical Proposal and the Financial Proposals and shall initial all pages of both. The authorization shall be in the form of a written power of attorney attached to the Technical Proposal.
- 17.3 A Proposal submitted by a Joint Venture shall be signed by all members so as to be legally binding on all members, or by an authorized representative who has a written power of attorney signed by each member's authorized representative.
- 17.4 Any modifications, revisions, interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Proposal.
- 17.5 The signed Proposal shall be marked “ORIGINAL”, and its copies marked “COPY” as appropriate. The number of copies is indicated in the Data Sheet. All copies shall be made from the signed original. If there are discrepancies between the original and the copies, the original shall prevail.

18. Sealing and Marking of Proposals

- 18.1 The firm shall deliver the Proposals in a single sealed envelope, or in a single sealed package, or in a single sealed container bearing the name and Reference number of the assignment, addressed to the Procuring Entity and a warning “DO NOT OPEN BEFORE..... (The time and date for proposal opening date”. Within the single envelope, package or container, the Firm shall place the following separate, sealed envelopes:
- 18.2 In the single sealed envelope, or in a single sealed package, or in a single sealed container the following documents shall be closed and shall be addressed as follows:
- i) in an envelope or package or container marked “ORIGINAL”, all documents comprising the Technical Proposal, as described in ITC11;
 - ii) in an envelope or package or container marked “COPIES”, all required copies of the Technical Proposal;
 - iii) in an envelope or package or container marked “ORIGINAL”, all required copies of the Financial Proposal; and
- 18.3 The inner envelopes or packages or containers shall:
- i) Bear the name and address of the Procuring Entity.
 - ii) Bear the name and address of the Firm; and
 - iii) Bear the name and Reference number of the Assignment.
- 18.4 If an envelope or package or container is not sealed and marked as required, the *Procuring Entity* will assume no responsibility for the misplacement or premature opening of the proposal. Proposals that are misplaced or opened prematurely will not be accepted.
- 18.5 The Proposal or its modifications must be sent to the address indicated in the Data Sheet and received by the Procuring Entity no later than the deadline indicated in the Data Sheet, or any extension to this deadline. Any Proposal or its modification received by the Procuring Entity after the deadline shall be declared late and rejected, and promptly returned unopened.

19. Confidentiality/Canvassing

- 19.1 From the time the Proposals are opened to the time the Contract is awarded, the Consultant should not contact the Procuring Entity on any matter related to its Technical and/or Financial Proposal. Information relating to the evaluation of Proposals and award recommendations shall not be disclosed to the Consultants who submitted the Proposals or to any other party not officially concerned with the process, until the publication of the Contract award information.
- 19.2 Any attempt by Consultants or any one on behalf of the Consultant to influence improperly the Procuring Entity in the evaluation of the Proposals or Contract award decisions may result in the rejection of its Proposal and may be subject to the application of prevailing PPRA's debarment procedures.
- 19.3 Notwithstanding the above provisions, from the time of the Proposals' opening to the time of Contract award publication, if a Consultant wishes to contact the Procuring Entity on any matter related to the selection process, it should do so only in writing.

20. Opening of Technical Proposals

- 20.1 The Procuring Entity's opening committee shall conduct the opening of the Technical Proposals in the presence of the Consultants' authorized representatives who choose to attend (in person, or online if this option is offered in the Data Sheet). The opening date, time and the address are stated in the Data Sheet. The envelopes with the Financial Proposal shall remain sealed and shall be securely stored by the Procuring Entity or with a reputable public auditor or independent authority until they are opened in accordance with ITC 22.
- 20.2 At the opening of the Technical Proposals the following shall be read out: (i) the name and the country of the Consultant or, in case of a Joint Venture, the name of the Joint Venture, the name of the lead member and the names and the countries of all members; (ii) the presence or absence of a duly sealed envelope with the Financial Proposal; (iii) any modifications to the Proposal submitted prior to proposal submission deadline; and (iv) any other information deemed appropriate or as indicated in the Data Sheet.

21. Proposals Evaluation

- 21.1 Subject to provision of ITC 15.1, the valuers of the Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded and after the Procuring Entity notifies all the Consultants in accordance with ITC 22.1.
- 21.2 The Consultant is not permitted to alter or modify its Proposal in anyway after the proposal submission deadline except as permitted under ITC12.7. While evaluating the Proposals, the Evaluation Committee will conduct the evaluation solely on the basis of the submitted Technical and Financial Proposals.

22. Evaluation of Technical Proposals

- 22.1 The Procuring Entity's evaluation committee shall evaluate the Technical Proposals that have passed the eligibility and mandatory criteria, on the basis of their responsiveness to the Terms of Reference and the RFP. The eligibility and mandatory criteria shall include the following and any other that may include in the Data sheet.
- a) Firm has submitted the required number of copies of the Technical Proposals.
 - b) Firm has submitted a sealed financial proposal.
 - c) The Proposal is valid for the required number of days.
 - d) The Technical Proposal is signed by the person with power of attorney, without material deviation, reservation, or omission.
 - e) The Technical Proposal is complete with all the forms and required documentary evidence submitted.
 - f) A valid tax compliance certificate or tax exemption certificate issued by the Kenya Revenue Authority in accordance with ITT 3.14 for Kenyan firms.
 - g) Key Experts are from eligible countries.
 - h) Key Experts do not appear in more than one proposal, if so required.
 - i) A short-listed firm has not participated in more than one proposal, if so required.
 - j) The Consultant is not insolvent, in receivership, bankrupt or in the process of being wound up.
 - k) The Consultant, its sub-consultants and experts have not engaged in or been convicted of corrupt or fraudulent practices.

- l) The Consultant is neither precluded from entering into a Contract nor debarred by PPRA.
- m) The firm has not proposed employing public officials, civil servants and employees of public institutions.
- n) The Consultant, its sub-consultants and experts have no conflicts of interest.

22.2 Each responsive Proposal will be given a technical score. A Proposal shall be rejected at this stage if it does not respond to important aspects of the RFP or if it fails to achieve the minimum technical score indicated in the Data Sheet.

23 Public Opening of Financial Proposals

23.1 Unsuccessful Proposals

After the technical evaluation is completed, the Procuring Entity shall notify those Consultants whose Proposals were considered non-responsive to the RFP and TOR or did not meet the minimum qualifying technical score, advising them the following: (i) their Proposal was not responsive to the RFP and TOR or did not meet the minimum qualifying technical score; (ii) provide information relating to the Consultant's overall technical score, as well as scores obtained for each criterion and sub-criterion; (iii) their Financial Proposals will be returned unopened after completing the selection process and Contract signing; and (iv) notify them of the date, time and location of the public opening of the Financial Proposals and invite them to attend.

23.2 Financial Proposals for QBS, CQS and SSS

Following the ranking of the Technical Proposals, when the selection is based on QBS or CQS, the top-ranked Consultant is invited to negotiate the Contract. Only the Financial Proposal of the technically top-ranked Consultant is opened by the opening committee. All other Financial Proposals shall be returned unopened after the Contract negotiations are successfully concluded and the Contract is signed with the successful Consultant.

When the selection is based on the SSS method and if the invited Consultant meets the minimum technical score required passing, the financial proposal shall be opened and the Consultant invited to negotiate the contract.

23.3 Financial Proposals for QCBS, FBS, LCS

Following the ranking of the Technical Proposals, and after internal approvals, the Procuring Entity shall simultaneously notify in writing those Consultants whose Proposals were considered responsive to the RFP and TOR, and that have achieved the minimum qualifying technical score, advising them the following: (i) their Proposal was responsive to the RFP and TOR and met the minimum qualifying technical score; (ii) provide information relating to the Consultant's overall technical score, as well as scores obtained for each criterion and sub-criterion; (iii) their Financial Proposal will be opened at the public opening of Financial Proposals; and (iv) notify them of the date, time and location of the public opening and invite them for the opening of the Financial Proposals.

23.4 Opening of Financial Proposals

The opening date should allow the Consultants sufficient time to decide for attending the opening and shall be no less than five (5) Business Days from the date of notification of the results of the technical evaluation, described in ITC 22.1 and 22.2.

The Consultant's attendance at the opening of the Financial Proposals (in person, or online if such option is indicated in the Data Sheet) is optional and is at the Consultant's choice.

The Financial Proposals shall be opened publicly by the Procuring Entity's opening committee in the presence of the representatives of the Consultants and anyone else who chooses to attend. Any interested party who wishes to attend this public opening should contact the Procuring Entity as indicated in the Data Sheet. At the opening, the names of the Consultants, and the overall technical scores, including the breakdown by criterion, shall be read aloud. The Financial Proposals will then be inspected to confirm that they have remained sealed and unopened. These Financial Proposals shall be then opened, and the total prices read aloud and recorded. Copies of the record shall be sent to all Consultants who submitted Proposals.

24 Correction of Errors

- 24.1 Activities and items described in the Technical Proposal but not priced in the Financial Proposal, shall be assumed to be included in the prices of other activities or items, and no corrections are made to the Financial Proposal.
- 24.2 Time-Based Contracts-If a Time-Based contract form is included in the RFP, in case of discrepancy between (i) a partial amount(sub-total) and the total amount, or (ii)between the amount derived by multiplication of unit price with quantity and the total price, or (iii) between figures and words, the later will prevail. In case of discrepancy between the Technical and Financial Proposals in indicating quantities of input, the Technical Proposal prevails and the Procuring Entity's evaluation committee shall correct the quantification indicated in the Financial Proposal so as to make it consistent with that indicated in the Technical Proposal, apply the relevant unit price included in the Financial Proposal to the corrected quantity, and correct the total Proposal cost.
- 24.3 Lump-Sum Contracts - If a Lump-Sum contract form is included in the RFP, the Consultant is deemed to have included all prices in the Financial Proposal, so neither arithmetical correction nor price adjustments shall be made. The total price, net of taxes understood as per ITC 24 below, specified in the Financial Proposal (Form FIN-1) shall be considered as the offered price.

25. Taxes

- 25.1 Subject to ITC 24.2, all taxes are deemed to be included in the Consultant's financial proposal as separate items, and, therefore, considered in the evaluation.
- 25.2 All local identifiable taxes levied on the contract in voices (such as sales tax, VAT, excise tax, or any similar taxes or levies) and in come and withholding tax payable to Kenya on the remuneration of non-resident Experts for the services rendered in Kenya are dealt with in accordance with the instructions in the Data Sheet.

26. Conversion to Single Currency

- 26.1 For the evaluation purposes, prices shall be converted to a single currency using the selling rates of exchange, source and date indicated in the Data Sheet.

27. Abnormally Low Prices

- 27.1 An Abnormally Low Price is one where the financial price, in combination with other constituent elements of the proposal, appears unreasonably low to the extent that the price raises material concerns with the Procuring Entity as to the capability of the Consulting firm to perform the Contract for the offered price.
- 27.2 In the event of identification of a potentially Abnormally Low Price by the evaluation committee, the Procuring Entity shall seek written clarification from the firm, including a detailed price analyses of its price in relation to the subject matter of the contract, scope, delivery schedule, allocation of risk sand responsibilities and any other requirements of the RFP document.
- 27.3 After evaluation of the price analyses, if the Procuring Entity determines that the firm has failed to demonstrate its capability to perform the contract for the offered price, the Procuring Entity shall reject the firm's proposal.

28. Abnormally High Prices

- 28.1 An abnormally high price is one where the proposal price, in combination with other constituent elements of the proposal, appears unreasonably too high to the extent that the Procuring Entity is concerned that it (the Procuring Entity) may not be getting value for money or it may be paying too high a price for the contract compared with market prices or that genuine competition between Consultants is compromised.
- 28.2 In case of an abnormally high tender price, the Procuring Entity shall make a survey of the market prices, check if the estimated cost of the contract is correct, and review the RFP to check if the specifications, TOR, scope of work and conditions of contract are contributory to the abnormally high proposals. The Procuring Entity may also seek written clarification from the Consultants on the reason or the high proposal price. The Procuring Entity shall proceed as follows:
- If the proposal price is abnormally high based on wrong estimated cost of the contract, the Procuring Entity may accept or not accept the proposal depending on the Procuring Entity's budget considerations.
 - If specifications, TOR, scope of work and/or conditions of contract are contributory to the abnormally high proposal prices, the Procuring Entity shall reject all proposals and may re-invite for proposals for

the contract based on revised estimates, specifications, TOR, scope of work and conditions of contract.

- 28.3 If the Procuring Entity determines that the Proposal Price is abnormally too high because genuine competition between Consultants is compromised (*often due to collusion, corruption or other manipulations*), the Procuring Entity shall reject all Proposals and shall institute or cause competent Government Agencies to institute an investigation on the cause of the compromise, before re-inviting for proposals.

29. Combined Quality and Cost Evaluation

a. Quality and Cost Based Selection (QCBS) Method

- 29.1 In the case of Quality and Cost Based Selection (QCBS), the total score is calculated by weighting the technical and financial scores and adding them as per the formula and instructions in the Data Sheet. The Consultant that achieves the highest combined technical and financial score will be notified and invited for negotiations.

b. Fixed Budget Selection (FBS) Method

- 29.2 In the case of FBS, those Proposals that exceed the budget indicated in ITC 14.1.4 of the Data Sheet shall be rejected. The Procuring Entity's evaluation committee will select the Consultant with the highest-ranked Technical Proposal that does not exceed the budget indicated in the RFP, notify and invite such Consultant to negotiate the Contract.

c. Least Cost Selection (LCS) Method

- 29.3 In the case of Least-Cost Selection (LCS), the Procuring Entity's evaluation committee will select the Consultant whose Proposal is the lowest evaluated total price among those Proposals that achieve the minimum technical score required to pass, notify the Consultant and invite the Consultant to negotiate the Contract.

d. Combined Technical and Evaluation Report

- 29.4 The evaluation committee shall prepare a combined technical and financial evaluation report, with specific recommendations for award or otherwise and subject to the required approvals within the Procuring Entity prior to notifications and invitation of Consultant for negotiations.

30. Notification of Intention to enter into a Contract/Notification of Award

- 30.1 The Procuring Entity shall send to each Consultant (that has not already been notified that it has been unsuccessful) the Notification of Intention to Award the Contract to the successful Consultant. The **Notification of Intention to enter into a Contract / Notification of Award** shall contain, at a minimum, the following information:
- i) The name and address of the Consultant with whom the Procuring Entity successfully negotiated a contract;
 - ii) the contract price of the successful Proposal;
 - iii) a statement of the reasons why the recipient's Proposal was unsuccessful
 - iv) the expiry date of the Standstill Period, and
 - v) instructions on how to request a debriefing and/or submit a complaint during the standstill period;

31. Standstill Period

- 31.1 The Standstill Period shall be the number of days stated in the Data Sheet. The Standstill Period commences the day after the date the Procuring Entity has transmitted to each Consultant (that has not already been notified that it has been unsuccessful) the Notification of Intention to Award the Contract. The Contract shall not be signed earlier than the expiry of the Standstill Period. This period shall be allowed for aggrieved Consultants to lodge an appeal. The procedure for appeal and the authority to determine the appeal or complaint is as indicated in the Data Sheet.

D. NEGOTIATIONS AND AWARD

32. Negotiations

- 32.1 The negotiations will be held at the date and address indicated in the Data Sheet with the Consultant's

representative(s) who must have written power of attorney to negotiate and sign a Contract on behalf of the Consultant.

- 32.2 The evaluation committee shall prepare minutes of negotiations that are signed by the Accounting Officer and the Consultant's authorized representative.

32.3 Availability of Key Experts

The invited Consultant shall confirm the availability of all Key Experts included in the Proposal as a pre-requisite to the negotiations, or, if applicable, a replacement in accordance with ITC 12. Failure to confirm the Key Experts' availability may result in the rejection of the Consultant's Proposal and the Procuring Entity proceeding to negotiate the Contract with the next-ranked Consultant.

- 32.4 Notwithstanding the above, the substitution Key Experts at the negotiations may be considered if due solely to circumstances outside the reasonable control of and not foreseeable by the Consultant, including but not limited to death or medical incapacity. In such case, the Consultant shall offer a substitute Key Expert within the period of time specified in the letter of invitation to negotiate the Contract, who shall have equivalent or better qualifications and experience than the original candidate.

32.5 Technical negotiations

The technical negotiations include discussions of the Terms of Reference (TORs), the proposed methodology, the Procuring Entity's inputs, the special conditions of the Contract, and finalizing the "Description of Services" part of the Contract. These discussions shall not substantially alter the original scope of services under the TOR or the terms of the contract, lest the quality of the final product, its price, or the relevance of the initial evaluation be affected.

32.6 Financial negotiations

The financial negotiations include the clarification of the Consultant's tax liability in Kenya and how it should be reflected in the Contract. All applicable taxes shall be itemized separately and included in the contract price.

- 32.7 If the selection method included cost as a factor in the evaluation (that is QCBS, FBS, LCS), the unit rates and the total price stated in the Financial Proposal for a Lump-Sum contract shall not be negotiated.
- 32.8 Where QBS or CQS methods was used for a *Lump-sum Contract* as indicated in the RFP, the unit rates negotiations shall not take place, except when the offered Key Experts and Non-Key Experts' remuneration rates are much higher than the typically charged rates by consultants in similar contracts or the professional practice. In such case, the Procuring Entity may ask for clarifications and, if the fees are very high, ask to change the rates. The format for (i) providing information on remuneration rates in the case of QB and CQS; and (ii) clarifying remuneration rates' structure under this Clause, is provided in Appendix A to the Financial Form FIN-3: Financial Negotiations – Breakdown of Remuneration Rates. If after the clarifications, the price is still considered too high, the Procuring Entity may terminate the negotiation and invite the next ranked Consultant to open its financial proposal and negotiate the contract.
- 32.9 In the case of a *Time- Based contract*, negotiation of unit rates shall not take place, except when the offered Key Experts and Non-Key Experts' remuneration rates are much higher than the typically charged rates by consultants in similar contracts. In such case, the Procuring Entity may ask for clarifications and, if the fees are very high, ask to change the rates. The format for (i) providing information on remuneration rates in the case of QBS and CQS; and (ii) clarifying remuneration rates' structure under this Clause, is provided in Appendix A to the Financial Form FIN-3: Financial Negotiations-Breakdown of Remuneration Rates. If after the clarifications, the price is still considered too high, the Procuring Entity may terminate the negotiation and invite the next ranked Consultant for negotiations.
- 32.10 Where SSS method was used as indicated in the RFP, both the unit rates and total price shall be negotiated. If the negotiations fail, the Procuring Entity shall terminate the Consultant selection process. In that event, the Procuring Entity shall review the consultancy requirements and market conditions prior to deciding to use an appropriate selection method to again procure the consulting services.

33 Conclusion of Negotiations

- 33.1 The negotiations are concluded with a review of the finalized draft Contract, which then shall be initialed by the Accounting Officer and the Consultant's authorized representative and minutes prepared to record the outcome of the negotiations.
- 33.2 If the negotiations fail, the Procuring Entity shall inform the Consultant in writing of all pending issues and disagreements and provide a final opportunity to the Consultant to respond. If disagreement persists, the Procuring Entity shall terminate the negotiations informing the Consultant of the reasons for doing so. The

Procuring Entity will invite the next-ranked Consultant to negotiate a Contract. Once the Procuring Entity commences negotiations with the next-ranked Consultant, the Procuring Entity shall not reopen the earlier negotiations.

34 Letter of Award

- 34.1 Upon expiry of the Standstill Period, specified in ITC 28.1, after satisfactorily addressing any appeal that has been filed within the Standstill Period, and upon successful negotiations, the Procuring Entity shall send a Letter of Award to the successful Consultant. The letter shall confirm the Procuring Entity's award of Contract to the successful Consultant and requesting the Consultant to sign and return the draft negotiated Contract within Twenty-One (21) Days from the date of the Letter of Award.

35 Signing of Contract

- 35.1 The Contract shall be signed prior to the expiration of the Proposal Validity Period and promptly after expiry of the Standstill Period, specified in ITC 28.1 and upon satisfactorily addressing any complaint that has been filed within the Standstill Period.
- 35.2 The Consultant is expected to commence the assignment on the date and at the location specified in the Data Sheet.

36 Publication of Procurement Contract

- 36.1 Within the period specified in the Data Sheet, the Procuring Entity shall publish the awarded Contract which shall contain, at a minimum, the following information: (a) name and address of the Procuring Entity; (b) name and reference number of the contract being awarded, (c) the selection method used; (d) names of the consultants that submitted proposals; (e) names of all Consultants whose Proposals were rejected or were not evaluated; (f) the name of the successful consultant, the final total contract price, the contract duration and a summary of its scope.
- 36.2 Consider carefully the information on Consultants to be published, particularly evaluation by the Procuring Entity, to avoid disclosing information which can facilitate bid-rigging formation going forward. Suggest amendment as follows:
- 36.3 The awarded Contract shall be published on the Procuring Entity's website with free access if available and in the official procurement tender portal.

37 Procurement Related Complaint and Administrative Review

- 37.1 The procedures for making Procurement-related Complaints shall be specified in the **TDS**.
- 37.2 A request for administrative review shall be made in the form provided under contract forms.

SECTION 2 (B). DATA SHEET

Reference ITC Clause	to PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
A. General Provisions	
1(j)	Electronic procurement system shall be used: YES The Procuring Entity shall use the ifmis i-sourcing module system to manage this Request for Proposal process: [i-Sourcing (www.supplier.treasury.go.ke) The electronic-procurement system shall be used to manage the following part of the RFP process: RFP Advertisement, RFP Publishing, RFP Submission, RFP Opening and Evaluation, RFP Award approval and LSO Generation.
2.1	Name of the Procuring Entity: COUNTY GOVERNMENT OF KWALE through County Department of Environment & Natural Resources. The consultant selection method is: Quality and Cost Based Selection Method (QCBS) ☒ Quality Based Selection Method (QBS) ☐ Least Cost Selection Method (LCS) ☐ Consultant Qualification Selection Method (CQS) ☐ Fixed Budget Selection Method (FBS) ☐ Single Source Selection Method (SSS) ☐
2.2	Financial Proposal to be submitted together with Technical Proposal in separate envelopes: NO The name of the assignment is CONSULTANCY SERVICES FOR ENVIRONMENT AND SOCIAL IMPACT ASSESSMENT (ESIA) FOR THE PROPOSED FLLOCA PROJECTS IN KWALE COUNTY
2.3	A pre-proposal conference will be held: NO
2.4	The Procuring Entity will provide the following inputs, project data, reports, etc. to facilitate the preparation of the Proposals: N/A
3.3 (iv)	Insert any other conflicting relationships N/A
4.1	<i>[If “Unfair Competitive Advantage” applies to the selection, explain how it is mitigated, including listing the reports, information, documents, etc. and indicating the sources where these can be downloaded or obtained by the Consultants]-N/A</i>
6.2	Maximum number of members in the Joint Venture (JV) shall be: TWO.
6.6 (a)	The list of debarred firms and individuals is available at the PPRA’s website www.ppra.go.ke or email complaints@ppra.go.ke
6.7	The business will be registered with the Government of Kenya
B. Preparation of Proposals	
10.1	The Proposal shall comprise the following: Technical Proposal on letterhead:

Reference ITC Clause	to PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	Power of Attorney to sign the Proposal TECH-1: Technical Proposal Submission Form TECH-2: Consultant's Organization and Experience TECH-3: Comments and Suggestions TECH-4: Description of Approach, Methodology and Workplan TECH-5: Work Schedule and Planning for Deliverables TECH-6: Team Composition, Assignment, and Key Experts' Input TECH-7: Mandatory Documentary Evidence AND Financial Envelope with the Financial Proposal (Submitted in Hardcopy): (1) FIN-1: Financial Proposal Submission Form on letterhead (2) FIN-2: Summary of Costs (3) FIN-3: Breakdown of Remuneration (4) FIN-4: Breakdown of Reimbursable Expenses
11.1	Participation of Sub-consultants, and Key Experts in more than one Proposal is permissible: NO
12.1	Proposals must remain valid for 126 days after the proposal submission deadline.
13.1	Clarifications may be requested no later than NINE days prior to the submission deadline. The contact information for requesting clarifications is: _ E-mail: info@kwale.go.ke_
14 (b) (do not use for Fixed Budget method)	<i>[If not used, state "Not applicable". If used, insert the following:</i> Estimated input of Key Experts' time-input: N/A_____person-months. <i>[OR]</i> Estimated total cost of the assignment: ____N/A_____ <i>[Indicate only either time input (in person-month) or total cost, but not both!]</i>
14 (c) and 26.2 [use for Fixed Budget method]	<i>[If Fixed Budget Selection Method is <u>not</u> used, state "Not applicable". If Fixed Budget Selection method is used, insert the following:</i> The total available budget for this Fixed-Budget assignment is: _____ <i>[insert currency]</i> <i>(choose one: inclusive or exclusive of taxes). Proposals exceeding the total available budget will be rejected.</i> <i>[If inclusive, indicate tax estimates separately]</i>
14 (d)	Key Experts shall not appear in more than one proposal: NO
16.1(b)	The Financial Proposal will include (but not limited to) the following reimbursable expenses: (1) <i>a per diem allowance, including hotel, for experts for every day of absence from the home office for the purposes of the Services;</i> (2) <i>cost of travel by the most appropriate means of transport and the most direct practicable route;</i> (3) <i>cost of office accommodation, including overheads and back-stop support;</i> (4) <i>communications costs;</i> (5) <i>cost of purchase or rent or freight of any equipment required to be provided by the Consultants;</i> (6) <i>cost of reports production (including printing) and delivering to the Procuring Entity;</i> (7) <i>other allowances where applicable and provisional or fixed sums (if any)]</i> (8) <i>[insert relevant type of expenses, if/as applicable]</i>
16.2	A price adjustment provision applies to remuneration rates: Yes. <i>[The price adjustment applies to Time-Based contracts with a duration exceeding 18 months. In exceptional circumstances, price adjustment can also apply to Lump-Sum contracts assignments]</i>

Reference ITC Clause	to PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	<i>longer than 18 months in duration with prior agreement with the Procuring Entity- applies to local inflation]</i>
16.3	“Information on the Consultant’s tax obligations in the Procuring Entity’s country can be found on the Kenya Revenue Authority website: www.kra.go.ke Submission a capacity building levy of 0.03% of the total contract sum in line with the Public Procurement Capacity Building Levy Order LN206 2023. “Information on the Consultant’s tax obligations in the Procuring Entity’s country can be found on the Kenya Revenue Authority website: www.kra.go.ke and Public Procurement Regulatory Authority website : www.ppra.go.ke
16.4	The Financial Proposal shall be stated in the KENYA SHILLINGS
C. Submission, Opening and Evaluation	
17.1	The Consultants Shall submit their Proposals electronically. <i>Through www.supplier.treasury.go.ke</i>
17.5	The Consultant must submit: (a) Technical Proposal: one in soft copy (ifmis). (b) Financial Proposal: one (1) original.
18.5	The Proposals must be submitted no later than: Date: Monday 19th October 2026 Time:10:30am (East African Time) The Proposal submission address is: Att: Chief Officer, Environment & Natural Resources, 3rd Floor,County HQ P.O BOX 4-80430, KWALE
20.1	An online option of the opening of the Technical Proposals is offered: Yes <i>A minimum of three (3) members of the opening committee (unsealers) shall individually log in to unlock the submissions.</i> The opening shall take place at: Street Address: Kwale County Headquarters Floor Number: 3RD Floor Room number _____ City: KWALE _____ County: KWALE Country: KENYA Date: Monday 19TH October 2026 Time: 10:30am <i>East African Time</i>
20.2	In addition, the following information will be read aloud at the opening of the Technical Proposals NOT APPLICABLE
22.1	Other eligibility and mandatory criteria shall be: As Set Out in the Evaluation Criteria _____
22.2	The Criteria, sub-criteria, and point system for the evaluation of the Technical Proposals: <i>[Note to Procuring Entity: Allocation of points shall be within the range provided for each criteria and sub-criteria]</i> <u>Points</u>

Reference ITC Clause	to PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	(I) Specific experience of the Consultant, as a firm, relevant to the Assignment: [0 - 10] (ii) Adequacy and quality of the proposed methodology, and work plan in responding to the Terms of Reference (TORs): (a) Technical approach and methodology [Insert points] (b) Work plan [Insert points] (c) Organization and staffing [Insert points] Total points for criterion (ii): [20 - 50] <i>[Notes to Consultant: The Procuring Entity will assess whether the proposed methodology is clear, responds to the TORs, work plan is realistic and implementable; overall team composition is balanced and has an appropriate skill mix; and the work plan has right input of Experts]</i> (iii) Key Experts' qualifications and competence for the Assignment: <i>{Notes to Consultant: each position number corresponds to the same for the Key Experts in Form TECH-6 to be prepared by the Consultant}</i> (a) Position K-1: [Team Leader] [Insert points] (b) Position K-2: [Insert position title] [Insert points] (c) Position K-3: [Insert position title] [Insert points] ETC. Total points for criterion (iii): [30 - 60] The number of points to be assigned to each of the above Key Experts positions shall be determined considering the following three sub-criteria and relevant percentage weights: (1) General qualifications (general education, training, and experience): <i>[insert weight between 10 and 30 %]</i> (2) Adequacy for the Assignment (relevant education, training, experience in the sector or similar assignments): <i>[insert weight between 60 and 70%]</i> (3) Relevant experience in the Kenya (working level fluency in local language(s)/knowledge of local culture or administrative system, government organization, etc.): <i>[insert weight between 0 and 10 %]</i> Total weight: 100% (iv) Transfer of knowledge and training program (relevance of approach and methodology): <i>[Normally not to exceed 10 points.</i> <i>When transfer of knowledge is a particularly important component of the assignment, more than 10 points may be allocated; the following sub-criteria may be provided]</i> (a) Relevance of training program [Insert points] (b) Training approach and methodology [Insert points] (c) Qualifications of experts and trainers [Insert points] Total points for criterion (iv): [0 – 10] (v) Participation by Kenya citizens among proposed Key Experts [0 – 10] <i>[not to exceed 10 points] [Sub-criteria shall not be provided. Calculated as a ratio of the Kenyan Key Experts' time-input (in person-months) to the total number of Key Experts' time-input (in person-months) in the Consultant's Technical Proposal]</i>

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	Total points for the five criteria: 100 The minimum technical score (St) required to pass is: _____[Insert number] <i>[Notes to Procuring Entity: the indicative range for the minimum technical score required to pass is 70 to 85 on a scale of 1 to 100]</i>
23.4	An online option of the opening of the Financial Proposals is offered: NO.
25.2	For the evaluation, the Procuring Entity will include separate items of: (a) all local identifiable indirect taxes such as sales tax, excise tax, VAT, or similar taxes levied on the contract's invoices; and (b) all additional local indirect tax on the remuneration of services rendered by experts. If a Contract is awarded, at Contract negotiations, all such taxes will be discussed, finalized using the itemized list and included in the Contract amount as a separate line, also indicating which taxes shall be paid by the Consultant and which taxes are withheld and paid by the Procuring Entity on behalf of the Consultant.
26.1	The single currency for the conversion of all prices expressed in various currencies into a single one is: _____[indicate Kenya Shillings or another fully convertible foreign currency] The official source of the selling exchange rate is: CBK The date of the exchange rate is: _____ <i>[The date may be the same as the that for deadline for submission of proposals, or a date that is five business days prior to the submission deadline]</i>
29.1 (QCBS only)	The lowest evaluated Financial Proposal (Fm) is given the maximum financial score (Sf) of 100. The formula for determining the financial scores (Sf) of all other Proposals is calculated as following: $Sf = 100 \times Fm / F$, in which "Sf" is the financial score, "Fm" is the lowest price, and "F" the price of the proposal under consideration. The weights given to the Technical (T) and Financial (P) Proposals are: T = ____ [Insert weight between 0.70 and 0.85], and P = _____ [Insert weight between 0.15 and 0.30] Proposals are 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) as following: $S = St \times T\% + Sf \times P\%$.
31	The Standstill Period shall be: 10 Working Days The procedures for making a procurement related complaint are detailed in the Public Procurement and Asset Disposal Act and Regulations. If a Consultant wishes to make a procurement related complaint or appeal, the Consultant shall submit its complaint to the Public Procurement Administrative Review Board.
D. Negotiations and Award	
32.1	Expected date and address for contract negotiations: Date: Address: County Department of Environment & Natural Resources _____
35.2	Expected date for the commencement of the Services: Date:.....,KWALE
36.1	The publication of the contract award information following the completion of the contract negotiations and contract signing will be done as following: The publication will be done within 28 days after the contract signing [15th day of the subsequent month)

Reference ITC Clause	to PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
37.1	The procedures for making a Procurement-related Complaints are detailed in the “Regulations” available from the PPRA Website www.ppra.go.ke or email complaints@ppra.go.ke. If a Tenderer wishes to make a Procurement-related Complaint, the Tenderer should submit its complaint following these procedures, in writing (by the quickest means available, that is either by hand delivery or email to: For the attention: NEEMA SIHABA SUYA Title/position: CHIEF OFFICER Procuring Entity: COUNTY DEPARTMENT OF ENVIRONMENT & NATURAL RESOURCES Email address: info@kwale.go.ke In summary, a Procurement-related Complaint may challenge any of the following: (i) the terms of the Tender Documents; and (ii) the Procuring Entity’s decision to award the contract.

SECTION 3. TECHNICAL PROPOSAL – STANDARD FORMS

{Notes to Consultant shown in brackets {} throughout Section 3 provide guidance to the Consultant to prepare the Technical Proposal; **they should not appear on the Proposals to be submitted.**}

1 FORMTECH-1: TECHNICAL PROPOSAL SUBMISSION FORM

{Location, Date}

To: [Name and address of Procuring Entity]

Dear Sirs:

We, the undersigned, offer to provide the consulting services for [Insert title of assignment] in accordance with your RFP dated [Insert Date] and our Proposal. We are hereby submitting our Proposal, which includes this Technical Proposal and a Financial Proposal sealed in a separate envelope.

{If the Consultant is a joint venture, insert the following: We are submitting our Proposal in association/as a consortium/as a joint venture with: {Insert a list with full name and the legal address of each member, and indicate the lead member}. We have attached a copy {insert: "of our letter of intent to form a joint venture" or, if a JV is already formed, "of the JV agreement"} signed by every participating member, which details the likely legal structure of and the confirmation of joint and severable liability of the members of the said joint venture.

OR

{If the Consultant's Proposal includes Sub-consultants, insert the following :} We are submitting our Proposal with the following firms as Sub-consultants: {insert a list with full name and address of each Sub-consultant.}

We hereby declare that:

- a) All the information and statements made in this Proposal are true and we accept that any misinterpretation or misrepresentation contained in this Proposal may lead to our disqualification by the Procuring Entity or maybe sanctioned by the PPRA.
- b) Our Proposal shall be valid and remain binding upon us for the period of time specified in the Data Sheet, Clause 12.1.
- c) We have no conflict of interest in accordance with ITC3.
- d) We meet the eligibility requirements as stated in ITC6, and we confirm our understanding of our obligation to abide by the Government's policy in regard to corrupt, fraudulent and prohibited practices as per ITC5.
- e) In competing for (and, if the award is made to us, in executing) the Contract, we undertake to observe the laws against fraud and corruption, including bribery, as well as laws against anti-competitive practices, including bid rigging in force in Kenya; we hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption or anti-competitive practices.
- f) We confirm that we are not insolvent, in receivership, bankrupt or on the process of being of being wound up.
- g) The Consultant shall declare in the Technical Proposal Submission Form, that in competing for and executing a contract, it shall undertake to observe the laws of Kenya against fraud and corruption including bribery, as well as against anti-competitive practices including bid-rigging.

- (h) We are not guilty of any serious violation of fair employment laws and practices. We undertake to observe the laws of Kenya against fraud and corruption including bribery, as well as against collusive and anti-competitive practices, including bid rigging. To this effect we have signed the “Certificate of Independent Proposal Determination” attached below. We also undertake to adhere by the Code of Ethics for persons participating in Public Procurement and Asset Disposal Activities in Kenya, copy available from____(*specify website*) during the procurement process and the execution of any resulting contract.
- (l) We, along with any of our sub-consultants are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the PPRA.
- (e) Except as stated in the ITC12 and Data Sheet, we undertake to negotiate a Contract on the basis of the proposed Key Experts. We accept that the substitution of Key Experts for reasons other than those stated in ITC Clause12 andITCClause29.3 and 29.4 may lead to the termination of Contract negotiations.
- (j) Our Proposal is binding upon us and subject to any modifications resulting from the Contract negotiations.
- (k) We understand that the Procuring Entity is not bound to accept any Proposal that it receives.

We undertake, if our Proposal is accepted and the Contract is signed, to initiate the Services related to the assignment no later than the date indicated in Clause 32.2 of the Data Sheet.

We remain,

Yours sincerely,

Authorized Signature *{In full and initials}*: Name and Title of Signatory:
Name of Consultant (*company's name or JV's name*):
Contact information (*phone and e-mail*):

{For a joint venture, either all members shall sign or only the lead member, in which case the power of attorney to sign on behalf of all members shall be attached}

2 CERTIFICATE OF INDEPENDENT PROPOSAL DETERMINATION

I, the undersigned, in submitting the accompanying TECHNICAL PROPOSAL SUBMISSION FORM to the _____
_____*[Name of Procuring Entity]*

for: _____*[Name and number of tender]* in response to the
request for tenders made by: _____*[Name of Tenderer]* do hereby make the
following statements that I certify to be true and complete in every respect:

I certify, on behalf of _____*[Name of Tenderer]* that:

1. I have read and I understand the contents of this Certificate;
2. I understand that the Tender will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am the authorized representative of the Tenderer with authority to sign this Certificate, and to submit the Tender on behalf of the Tenderer;
4. For the purposes of this Certificate and the Tender, I understand that the word “competitor” shall include any individual or organization, other than the Tenderer, whether or not affiliated with the Tenderer, who:
 - Has been requested to submit a Tender in response to this request for tenders;
 - could potentially submit a tender in response to this request for tenders, based on their qualifications, abilities or experience;
5. The Tenderer discloses that [check one of the following, as applicable]:
 - The Tenderer has arrived at the Tender independently from, and without consultation, communication, agreement or arrangement with, any competitor;
 - The Tenderer has entered into consultations, communications, agreements or arrangements with one or more competitors regarding this request for tenders, and the Tenderer discloses, in the attached document(s), complete details thereof, including the names of the competitors and the nature of, and reasons for, such consultations, communications, agreements or arrangements;
6. In particular, without limiting the generality of paragraphs(5)(a) or (5) (b) above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - prices;
 - methods, factors or formulas used to calculate prices;
 - the intention or decision to submit, or not to submit, a proposal; or
 - the submission of a proposal which does not meet the specifications of the request for proposals; except as specifically disclosed pursuant to paragraph(5)(b) above;
7. In addition, there has been no consultation, communication, agreement or arrangement with any competitor regarding the quality, quantity, specifications or delivery particulars of the works or services to which this RFP relates, except as specifically authorized by the procuring authority or as specifically disclosed pursuant to paragraph(5)(b) above;
8. The terms of the RFP have not been, and will not be, knowingly disclosed by the Consultant, directly or indirectly, to any competitor, prior to the date and time of the official proposed opening, or of the awarding of the Contract, whichever ever comes first, unless otherwise required by law or as specifically disclosed pursuant to paragraph(5)(b) above.

Name _____

Title _____

Date _____

[Name, title and signature of authorized agent of Consultant and Date]

3. APPENDIX TO FORM OF PROPOSAL ON FRAUD AND CORRUPTION CLAUSE (for information)

(Appendix shall not be modified)

Purpose

the government of Kenya's Anti-Corruption and Economic Crime laws and their sanction's policies and procedures, Public Procurement and Asset Disposal Act (*no. 33 of 2015*) and its Regulation, and any other Kenya's Acts or Regulations related to Fraud and Corruption, and similar offences, shall apply with respect to Public Procurement Processes and Contracts that are governed by the laws of Kenya.

Requirements

The Government of Kenya requires that all parties including Procuring Entities, Tenderers, (applicants/proposers), Consultants, Contractors and Suppliers; any Sub-contractors, Sub-consultants, Service providers or Suppliers; any Agents (whether declared or not); and any of their Personnel, involved and engaged in procurement under Kenya's Laws and Regulation, observe the highest standard of ethics during the procurement process, selection and contract execution of all contracts ,and refrain from Fraud and Corruption and fully comply with Kenya's laws and Regulations as per paragraphs 1.1 above.

Kenya's public procurement and asset disposal act (*no.33 of 2015*) under Section 66 describes rules to be followed and actions to be taken in dealing with Corrupt, Coercive, Obstructive, Collusive or Fraudulent practices, and Conflicts of Interest in procurement including consequences for offences committed. A few of the provisions noted below highlight Kenya's policy of no tolerance for such practices and behavior:

- (1) a person to whom this Act applies shall not be involved in any corrupt, coercive, obstructive, collusive or fraudulent practice; or conflicts of interest in any procurement or asset disposal proceeding;
- (2) A person referred to under sub section (1) who contravenes the provisions of that sub-section commits an offence;
- (3) Without limiting the generality of the subsection (1) and (2), the person shall be: -
 - a) disqualified from entering into a contract for a procurement or asset disposal proceeding; or
 - b) if a contract has already been entered into with the person, the contract shall be avoidable;
- (4) The voiding of a contract by the procuring entity under subsection (7) does not limit any legal remedy the procuring entity may have;
- (5) An employee or agent of the procuring entity or a member of the Board or committee of the procuring entity who has a conflict of interest with respect to a procurement—
 - i) Shall not take part in the procurement proceedings;
 - ii) shall not, after a procurement contract has been entered into, take part in any decision relating to the procurement or contract; and
 - iii) Shall not be a sub-contractor for the tender to whom was awarded contract, or a member of the group of tenderers to whom the contract was awarded, but the sub-contractor appointed shall meet all the requirements of this Act.
- (6) An employee, agent or member described in subsection (1) who refrains from doing anything prohibited under that subsection, but for that subsection, would have been within his or her duties shall disclose the conflict of interest to the procuring entity;
- (7) If a person contravenes sub section (1) with respect to a conflict of interest described in subsection (5)(a) and the contract is awarded to the person or his relative or to another person in whom one of them had a direct or indirect pecuniary interest, the contract shall be terminated and all costs incurred by the public entity shall be made good by the awarding officer.
- (8) Incompliance with Kenya's laws, regulations and policies mentioned above, the Procuring Entity:
 - a) Defines broadly, for the purposes of the above provisions, the terms set forth below as follows:
 - i) “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
 - ii) “fraudulent practice” is any act or omission, including misrepresentation, that knowingly or

- recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
- iii) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - iv) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - v) “obstructive practice” is:
 - i) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede investigation by Public Procurement Regulatory Authority (PPRA) or any other appropriate authority appointed by Government of Kenya into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
 - ii) Acts intended to materially impede the exercise of the PPRA's or the appointed authority's inspection and audit rights provided for under paragraph 2.3e. below.
- b) Defines more specifically, in accordance with the above procurement Act provisions set forth for fraudulent and collusive practices as follows:
- “fraudulent practice” includes a misrepresentation of fact in order to influence a procurement or disposal process or the exercise of a contract to the detriment of the procuring entity or the tenderer or the contractor, and includes collusive practices amongst tenderers prior to or after tender submission designed to establish tender prices at artificial non-competitive levels and to deprive the procuring entity of the benefits of free and open competition.
- c) Rejects a proposal or award¹ of a contract if PPRA determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
 - d) Pursuant to the Kenya's above stated Acts and Regulations, may sanction or debar or recommend to appropriate authority (ies) for sanctioning and debarment of a firm or individual, as applicable under the Acts and Regulations;
 - e) Requires that a clause be included in Tender documents and Request for Proposal documents requiring (i) Tenderers (applicants/proposers), Consultants, Contractors, and Suppliers and their Sub-contractors, Sub-consultants, Service providers, Suppliers, Agents personnel, permit the PPRA or any other appropriate authority appointed by Government of Kenya to inspect² all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the PPRA or any other appropriate authority appointed by Government of Kenya; and
 - f) Pursuant to Section 62 of the above Act, requires Applicants/Tenderers to submit along with their Applications/Tenders/Proposals a “Self-Declaration Form” as included in the procurement document declaring that they and all parties involved in the procurement process and contract execution have not engaged/will not engage in any corrupt or fraudulent practices.

¹For the avoidance of doubt, a party's ineligibility to be awarded a contract shall include, without limitation, (i) applying for pre-qualification, expressing interest in

A consultancy, and tendering, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract.

² Inspections in this context usually are investigative (i.e., forensic) in nature. They involve fact-finding activities undertaken by the Investigating Authority or persons appointed by the Procuring Entity to address specific matters related to investigations/audits, such as evaluating the veracity of an allegation of possible Fraud and Corruption, through the appropriate mechanisms. Such activity includes but is not limited to: accessing and examining a firm's or individual's financial records and information, and making copies thereof as relevant; accessing and examining any other documents, data and information (whether in hard copy or electronic format) deemed relevant for the investigation/audit, and making copies thereof as relevant; interviewing staff and other relevant individuals; performing physical

3. FORM TECH-2: CONSULTANT'S ORGANIZATION AND EXPERIENCE

Form TECH-2: a brief description of the Consultant's organization and an outline of the recent experience of the Consultant that is most relevant to the assignment. In the case of a joint venture, information on similar assignments shall be provided for each partner. For each assignment, the outline should indicate the names of the Consultant's Key Experts and Sub-consultants who participated, the duration of the assignment, the contract amount (total and, if it was done in a form of a joint venture or a sub-consultancy, the amount paid to the Consultant), and the Consultant's role/involvement.

A - Consultant's Organization

Provide here a brief description of the background and organization of your company, and-in case of a joint venture-of each member for this assignment.

B - Consultant's Experience

1. List only previous similar assignments successfully completed in the last [.....] years.
2. List only those assignments for which the Consultant was legally contracted by the Procuring Entity as a company or was one of the joint venture partners. Assignments completed by the Consultant's individual experts working privately or through other consulting firms cannot be claimed as the relevant experience of the Consultant, or that of the Consultant's partners or sub-consultants, but can be claimed by the Experts themselves in their Curriculum Vitae (CV).
3. The Consultant shall substantiate their claimed experience by presenting copies of relevant documents such as the form of contract (not the whole contract), purchase order, service order, performance certificate, etc.; which shall be included in the proposal as part of *Form Tech 7 Mandatory Documentary Evidence*.

Assignment name:	Approx. value of the contract [KES, US\$ etc.]:
Country:	Duration of assignment (months):
Name of Procuring Entity:	Total N° of staff-months of the assignment:
Contact Address: Email:	Approx. value of the services provided by your firm under the contract:
Start date (month/year): Completion date:	N° of professional staff-months provided by associated Consultants:
Role on Assignment: (E.g. Lead Member in ABC JV, or Sole Consultant):	Name of senior professional staff of your firm involved and functions performed:
Narrative description of Assignment:	
Description of actual services provided by your staff within the assignment:	
Name of Consulting Firm:	Name and Title of Signatory:

3 FORMTECH-3: COMMENT SAND SUGGESTIONS

Form TECH-3: The Consultant to provide comments and suggestions on the Terms of Reference, counterpart staff and facilities to be provided by the Procuring Entity that could improve the quality/effectiveness of the assignment; and on requirements for counterpart staff and facilities, which are provided by the Procuring Entity, including: administrative support, office space, local transportation, equipment, data, etc.

A - On the Terms of Reference

{Improvements to the Terms of Reference, if any}

B - On Counterpart Staff and Facilities

{Include comments on counterpart staff and facilities to be provided by the Procuring Entity. For example, administrative support, office space, local transportation, equipment, data, background reports, etc., if any}

4 FORMTECH-4: DESCRIPTION OF APPROACH, METHODOLOGY, AND WORK PLAN

Form TECH-4: a description of the approach, methodology and work plan in responding to the terms of reference for performing the assignment, including a detailed description of the proposed methodology and staffing for training, if the Terms of Reference specify training as a specific component of the assignment.

{The structure of your Technical Proposal:

a) Technical Approach and Methodology

b) Work Plan

c) Organization and Staffing}

- i) Technical Approach and Methodology. *{Please explain your understanding of the objectives of the assignment as outlined in the Terms of Reference (TORs), the technical approach, and the methodology you would adopt for implementing the tasks to deliver the expected output(s), and the degree of detail of such output. Please do not repeat/copy the TOR sin here.}*
- ii) Work Plan. *{Please outline the plan for the implementation of the main activities/tasks of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the Procuring Entity), and tentative delivery dates of their ports. The proposed work plan should be consistent with the technical approach and methodology, showing your understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents (including reports) to be delivered as final output(s)should be included here. The work plan should be consistent with the Work Schedule Form.}*
- iii) Organization and Staffing. *{Please describe the structure and composition of your team, including the list of the Key Experts, Non-Key Experts and relevant technical and administrative support staff.}*

5 FORM TECH-5: WORK SCHEDULE AND PLANNING FOR DELIVERABLES

N°	Deliverables ¹ (D-..)	Months											
		1	2	3	4	5	6	7	8	9		n	TOTAL
D-1	{e.g., Deliverable #1: Report A												
	1) data collection												
	2) drafting												
	3) inception report												
	4) incorporating comments												
	5)												
	6) delivery of final report to Procuring Entity}												
D-2	{e.g., Deliverable #2:.....}												
N													

- 1 List the deliverables with the breakdown for activities required to produce them and other benchmarks such as the Procuring Entity's approvals. For phased assignments, indicate the activities, delivery of reports, and benchmarks separately for each phase.
- 2 Duration of activities shall be indicated in a form of a bar chart.
3. Include a legend, if necessary, to help read the chart.

6. FORMT ECH- 6A: TEAM COMPOSITION, ASSIGNMENT, AND KEY EXPERTS' INPUTS

N°	Name	Expert's input (in person/month) per each Deliverable (listed in TECH-5)										Total time-input (in Months)			
		Position		D-1		D-2		D-3		D-...			Home	Field	Total
KEY EXPERTS															
K-1	{e.g., Mr. Abbbb}	[Team Leader]	[Home] [Field]	[2 month] [0.5 m]		[1.0] [2.5]		[1.0] [0]							
K-2															
K-3															
N															
										Subtotal					
NON-KEY EXPERTS															
N-1			[Home] [Field]												
N-2															
N															
										Subtotal					
										Total					

1.For Key Experts, the input should be indicated individually for the same positions as required under the ITC Data Sheet 21.2

2.Months are counted from the start of the assignment/mobilization. One (1) month equals twenty-two (22) working (billable) days. One working (billable) day shall be not less than eight (8) working (billable) hours.

3“Home” means work in the office in the expert’s country of residence. “Field” work means work carried out in Kenya, or outside the normal residence of the Expert in Kenya or any other country outside the expert’s country of residence.



Full time input



Part time input

7. FORM TECH-6B: CURRICULUM VITAE (CV)

Position Title and No.	{e.g., K-1, Team Leader}
Name of Expert:	{Insert full name}
Date of Birth:	{day/month/year}
Country of Citizenship	

Education: {List college/university or other specialized education, giving names of educational institutions, dates attended, degree(s)/diploma(s) obtained}

Employment record relevant to the assignment: {Starting with present position, list in reverse order. Please provide dates, name of employing organization, titles of positions held, types of activities performed and location of the assignment, and contact information of previous Procuring Entity's and employing organization(s) who can be contacted for references. Past employment that is not relevant to the assignment does not need to be included.}

Period	Employing organization and your title/position. Contact Infor for references	Country	Summary of activities performed relevant to the Assignment
[e.g., May 2011-present]	[e.g., Ministry of, advisor/consultant to... For references: Tel...../e-mail.....; Mr. Bbbbbb, deputy manager]		

Membership in Professional Associations and Publications: _____

Language Skills (indicate only languages in which you can work): _____

Adequacy for the Assignment:

Detailed Tasks Assigned on Consultant's Team of Experts:	Reference to Prior Work/Assignments that Best Illustrates Capability to Handle the Assigned Tasks
{List all deliverables/tasks as in TECH- 5 in which the Expert will be involved}	

Expert's contact information : (e-mail.....
phone.....) Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience, and I am available to undertake the assignment in case of an award. I understand that any misstatement or misrepresentation described herein may lead to my disqualification or dismissal by the Procuring Entity, and/or sanctions by the PPRA.

Name of Expert _____ Signature _____ Date _____
{day / month/year}

Name of authorized _____ Signature _____ Date _____

Representative of the

Consultant (the same who signs

the Proposal

8. FORMTECH-7: MANDATORY SUPPORT DOCUMENTS

[The Consultant shall use this form to submit all the required support documentary evidence as required in the RFP, especially the mandatory and eligibility criteria specified in the Data Sheet ITC 21.1]

a) Certificate of Incorporation/Certificate of Registration

{Insert here a copy of certificate of incorporation or registration}

b) Tax Compliance Certificate

{Consultant to insert a copy of the tax compliance certificate from Kenya Revenue Authority or similar body in the case of foreign consulting firms}

c) Practice License or Certificate for the Firm

{If required, Consultant to insert a copy of the firm's practice license or registration certificate issued by the professional body specified under Data Sheet ITC 21.1}

d) Similar Consulting Assignments Experience

{Consultant to insert here copies of the form of contract, purchase order, service order, and performance certificate or similar evidence of similar assignments carried out by the firm. The assignments shall be the same as those provided under FORM TECH 2B}

e) Academic Certificates

{Consultant to insert copies of the required relevant academic certificates relevant to the assignment for all the key experts}

f) Professional Certificates

{Consultant to insert copies of professional certificates and relevant short-term trainings to demonstrate professional qualifications for all the key experts}

g) Professional Membership of Key Experts

{If applicable, Consultant to insert copies of professional membership certificate for its key experts}

h) Certificate of Independent Proposal Determination

(The Form is available on Tech FORM TECH-1: TECHNICAL PROPOSAL SUBMISSION FORM).

FORM TECH - 8: SELF-DECLARATION FORMS

FORM SD1

SELF DECLARATION THAT THE PERSON/TENDERER IS NOT DEBARRED IN THE MATTER OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL ACT 2015.

I,, of Post Office Box being a resident of in the Republic of do hereby make a statement as follows: -

1. THAT I am the Company Secretary/Chief Executive/Managing Director/Principal Officer/Director of (Insert name of the Company) who is a Bidder in respect of **Tender No.** for (Insert tender title/description) for (*Insert name of the Procuring entity*) and duly authorized and competent to make this statement.
2. THAT the aforesaid Bidder, its Directors and subcontractors have not been debarred from participating in procurement proceeding under Part IV of the Act.
3. THAT what is deponed to here in above is true to the best of my knowledge, information and belief.

.....
(Title)

.....
(Signature)

.....
(Date)

Bidder Official Stamp

FORM SD2

SELF DECLARATION THAT THE PERSON/TENDERER WILL NOT ENGAGE IN ANY CORRUPT OR FRAUDULENT PRACTICE.

I, of P. O. Box.....being a resident of
..... in the Republic of do hereby make a statement as follows: -

1. THAT I am the Chief Executive/Managing Director/Principal Officer/Director of.....
..... (*insert name of the Company*) who is a Bidder in respect of **Tender No.**
..... for (*insert tender title/description*)
for (*insert name of the Procuring entity*) and duly authorized and
competent to make this statement.
2. THAT the aforesaid Bidder, its servants and/or agents /subcontractors will not engage in any corrupt or
fraudulent practice and has not been requested to pay any inducement to any member of the Board,
Management, Staff and/or employees and/ or agents of..... (*insert name of the Procuring*
entity) which is the procuring entity.
3. THAT the aforesaid Bidder, its servants and/or agents /subcontractors have not offered any inducement to
any member of the Board, Management, Staff and/or employees and/or agents of..... (*name*
of the procuring entity).
4. THAT the aforesaid Bidder will not engage /has not engaged in any corrosive practice with other bidders
participating in the subject tender.
5. THAT what is deponed to herein above is true to the best of my knowledge information and belief.

.....
(Title)

.....
(Signature)

.....
(Date)

Bidder Official Stamp

DECLARATION AND COMMITMENT TO THE CODE OF ETHICS

I (person) on behalf of (***Name of the Business/ Company/Firm***) declare that I have read and fully understood the contents of the Public Procurement & Asset Disposal Act, 2015, Regulations and the Code of Ethics for persons participating in Public Procurement and Asset Disposal Activities in Kenya and my responsibilities under the Code.

I do hereby commit to abide by the provisions of the Code of Ethics for persons participating in Public Procurement and Asset Disposal.

Name of Authorized signatory.....

Sign.....

Position.....

Office address..... Telephone.....

E-mail.....

Name of the Firm/Company.....

Date.....

(Company Seal/ Rubber Stamp where applicable)

Witness

Name

Sign.....

Date.....

FORM TECH - 9: TENDER-SECURING DECLARATION FORM {r 46 and 155(2)}

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

Date:.....[insert date (as day, month and year) of Tender Submission]

Tender No.:.....[insert number of tendering process]

To:.....[insert complete name of Purchaser]

I/We, the undersigned, declare that:

1. I / We understand that, according to your conditions, bids must be supported by a Tender-Securing Declaration.
2. I /We accept that I/we will automatically be suspended from being eligible for tendering in any contract with the Purchaser or the period of time of [insert number of months or years] starting on [insert date], if we are in breach of our obligation (s) under the bid conditions, because we—(a) have withdrawn our tender during the period of tender validity specified by us in the Tendering Data Sheet; or (b) having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the instructions to tenders.
3. I / We understand that this Tender Securing Declaration shall expire if we are not the successful Tenderer (s), upon the earlier of:
 - a) Our receipt of a copy of your notification of the name of the successful Tenderer; or
 - b) Thirty days after the expiration of our Tender.
4. I/We understand that if I am /we are/in a Joint Venture, the Tender Securing Declaration must be in the name of the Joint Venture that submits the bid, and the Joint Venture has not been legally constituted at the time of bidding, the Tender Securing Declaration shall be in the names of all future partners as named in the letter of intent.

Signed:

Capacity / title (director or partner or sole proprietor, etc.)

Name:

Duly authorized to sign the bid for and on behalf of:[insert complete name of Tenderer]

Dated on day of [Insert date of signing]

Seal or stamp

SECTION 4. FINANCIAL PROPOSAL - STANDARD FORMS

*{Notes to Consultant shown in brackets {...} provide guidance to the Consultant to prepare the Financial Proposals; **they should not appear on the Financial Proposals to be submitted.**}*

Financial Proposal Standard Forms shall be used for the preparation of the Financial Proposal according to the instructions provided in Section 2.

FIN-1 Financial Proposal Submission Form

FIN-2 Summary of Costs

FIN-3 Breakdown of Remuneration

FIN-4 Reimbursable expenses

FORM FIN-1: FINANCIAL PROPOSAL SUBMISSION FORM

FORM FIN-1: FINANCIAL PROPOSAL SUBMISSION FORM (Amended and issued pursuant to PPRA CIRCULAR No. 02/2022)

..... {Location, Date}
To: [Name and address of Procuring Entity]

Dear Sirs:

We, the undersigned, offer to provide the consulting services for..... [Insert title of assignment]
in accordance with your Request for Proposal dated..... [Insert Date] and our Technical Proposal.

Our attached Financial Proposal is for the amount of..... {Indicate the corresponding to the
amount currency} {Insert amounts in words and figures}, including of all taxes in accordance with ITC24.2 in the
Data Sheet. The estimated amount of local taxes is..... {Insert currency} {Insert amount in words and
figures}.

{Please note that all amounts shall be the same as in Form FIN-2}.

Our Financial Proposal shall be valid and remain binding upon us, subject to the modifications resulting from
Contract negotiations, for the period of time specified in the ITC12.1 Datasheet.

We commit to provide to the procuring entity the Beneficial Ownership Information in conformity with the
Beneficial Ownership Disclosure Form upon receipt of notification of intention to enter into a contract in the event
we are the successful tenderer in this subject procurement proceeding.

Commissions and gratuities paid or to be paid by us to an agent or any third party relating to preparation or
submission of this Proposal and Contract execution, paid if we are awarded the Contract, are listed below:

Name and Address, Amount and Purpose of Commission of Agents, Currency or Gratuity

{If no payments are made or promised, add the following statement: "No commissions or gratuities have been or
are to be paid by us to agents or any third party relating to this Proposal and Contract execution."}

We understand you are not bound to accept any Proposal you
receive. We remain,
Yours sincerely,

Signature..... (of Consultant's authorized representative) {In full and initials}: Full name:
{insert full name of authorized representative} Title: {insert title/ position of authorized
representative}
Name of Consultant..... (company's name or JV's name): Capacity: {insert the person's
capacity to sign for the Consultant} Physical Address: {insert the authorized representative's
address}
Phone: {insert the authorized representative's phone and fax number, if applicable} Email:
..... {insert the authorized representative's email address}

{For a joint venture, either all members shall sign or only the lead member/consultant, in which case the power
of attorney to sign on behalf of all members shall be attached}

FORM FIN-2: SUMMARY OF COSTS

Item	Cost			
	{Consultant must state the proposed Costs in accordance with ITC 16.4 of the Data Sheet; delete columns which are not used}			
	{Insert Foreign Currency # 1}	{Insert Foreign Currency # 2, if used}	{Insert Foreign Currency # 3, if used}	{Insert Local Currency, if used and/or}
Cost of the Financial Proposal				
Including:				
(1) Remuneration				
(2) Reimbursables				
Subtotal [Remuneration + Reimbursables]				
Taxes:				
{insert type of tax: e.g., VAT or sales tax}				
{e.g., withholding tax on experts' remuneration}				
ADD 0.03% PPRA CAPACITY BUILDING LEVY				
Total Taxes				
Total Cost of the Financial Proposal: {Should match the amount in Form FIN-1}				

FORM FIN-3A: BREAKDOWN OF REMUNERATION

When used for Lump-Sum contract assignment, information to be provided in this Form shall only be used to demonstrate the basis for the calculation of the Contract's ceiling amount; to calculate applicable taxes at contract negotiations; and, if needed, to establish payments to the Consultant for possible additional services requested by the Procuring Entity. This Form shall not be used as a basis for payments under Lump-Sum contracts.

A. Remuneration _____								
No	Name	Position (as in TECH- 6)	Person-month Remuneration Rate	Time Input in Person/Month (from TECH-6)	{Currency # 1- as in FIN-2}	{Currency # 2- as in FIN-2}	{Currency# 3- as in FIN-2}	{Local Currency- as in FIN- 2}
Key Experts								
K-1			[Home]					
			[Field]					
K-2								
Non-Key Experts								
N-1			[Home]					
N-2			[Field]					
	Total Costs							

FORM FIN 3B: CONSULTANT'S REPRESENTATIONS REGARDING COSTS AND CHARGES

{This Form FIN 3B shall be used for Time-Based contracts only. If Lumpsum Contract is used, the Procuring Entity shall delete the FORMFIN-3B, FORM FIN-3C and FORM FIN-3D from the RFP before issuance to Consultants}

Consultant:Country:

Assignment:Date:

We hereby confirm that:

- a) The basic fees indicated in the attached table are taken from the firm's pay roll records and reflect the current rates of the Experts listed which have not been raised other than within the normal annual pay increase policy as applied to all the Consultant's Experts;
- b) attached are true copies of the latest pay slips of the Experts listed;
- c) the away-from-home office allowances indicated below are those that the Consultant has agreed to pay for this assignment to the Experts listed;
- d) the factors listed in the attached table for social charges and overhead are based on the firm's average cost experiences for the latest three years as represented by the firm's financial statements; and
- e) said factors for overhead and social charges do not include any bonuses or other means of profit-sharing.

..... [Name of Consultant]

Signature of Authorized Representative

Name:

Title:

Date:

FORM 3C: FORM FOR CONSULTANT'S REPRESENTATIONS REGARDING COSTS AND CHARGES

{This Form FIN 3C shall be used for Time-Based contracts only}

(Expressed in {insert name of currency*})

Personnel		1	2	3	4	5	6	7	8
Name	Position	Basic Remuneration Rate per Working Month/Day/Year	Social Charges ¹	Overhead ¹	Subtotal	Profit ²	Away from Home Office Allowance	Proposed Fixed Rate per Working Month/Day/Hour	Proposed Fixed Rate per Working Month/Day/Hour ¹
Home Office									
Procuring Entity's Country									

{* If more than one currency is used, use additional table(s), one for each currency}

1. Expressed as percentage of 1
2. Expressed as percentage of 4

FORM FIN 3D: BREAKDOWN OF REMUNERATION RATES [FOR TIME BASED CONTRACTS ONLY]

1. Review of Remuneration Rates

- 1.1 The remuneration rates are made up of salary or base fee, social costs, overheads, profit, and any premium or allowance that may be paid for assignments away from headquarters or a home office. Form FIN3 C can be used to provide a breakdown of rates.
- 1.2 The Form FIN 3C shall be completed and attached to the Financial Form-3. As agreed at the negotiations, breakdown sheets shall form part of the negotiated Contract and included in its Appendix D or C.
- 1.3 At the negotiations the firm shall be prepared to disclose its audited financial statements for the last three years, to substantiate its rates, and accept that its proposed rates and other financial matters are subject to scrutiny. The Procuring Entity is charged with the custody of government funds and is expected to exercise prudence in the expenditure of these funds.

2. Rate details are discussed below:

- (i) Salary is the gross regular cash salary or fee paid to the individual in the firm's home office. It shall not contain any premium for work away from headquarters or bonus, except where these are included bylaw or government regulations.
- (ii) Bonuses are normally paid out of profits. To avoid double counting, any bonuses shall not normally be included in the "Salary" and should be shown separately. Where the Consultant's accounting system is such that the percentages of social costs and overheads are based on total revenue, including bonuses, those percentages shall be adjusted downward accordingly. Where national policy requires that 13 months' pay be given for 12 months' work, the profit element need not be adjusted downward. Any discussions on bonuses shall be supported by audited documentation, which shall be treated as confidential.
- (iii) Social Charges are the costs of non-monetary benefits and may include, inter alia, social security (including pension, medical, and life insurance costs) and the cost of a paid sick and/or annual leave. In this regard, a paid leave during public holidays or an annual leave taken during an assignment if no Expert's replacement has been provided is not considered social charges.
- (iv) Cost of Leave The principles of calculating the cost of total days leave per annum as a percentage of basic salary is normally calculated as follows:

$$\text{Leave cost as percentage of salary} = \frac{\text{total days leave} \times 100}{[365 - w - ph - v - s]}$$

Where w = weekends, ph = public holidays, v = vacation, and s = sick leave.

Please note that leave can be considered as a social cost only if the Procuring Entity is not charged for the leave taken.

- (v) Overheads are the Consultant's business costs that are not directly related to the execution of the assignment and shall not be reimbursed as separate items under the Contract. Typical items are home office costs (non-billable time, time of senior Consultant's staff monitoring the project, rent of headquarters' office, support staff, research, staff training, marketing, etc.), the cost of Consultant's personnel not currently employed on revenue-earning projects, taxes on business activities, and business promotion costs. During negotiations, audited financial statements, certified as correct by an independent auditor and supporting the last three years' overheads, shall be available for discussion, together with detailed lists of items making up the overheads and the percentage by which each relates to basic salary. The Procuring Entity does not accept an add-on margin for social charges, overhead expenses, etc. for Experts who are not permanent employees of the Consultant. In such case, the Consultant shall be entitled only to administrative costs and a fee on the monthly payments charged for sub-contracted Experts.
- (vi) Profit is normally based on the sum of the Salary, Social costs, and Overheads. If any bonuses paid on a regular basis are listed, a corresponding reduction shall be made in the profit amount. Profit shall not be allowed on travel or any other reimbursable expenses.
- (vii) Away from Home Office Allowance or Premium or Subsistence Allowances Some Consultants pay allowances to Experts working away from headquarters or outside of the home office. Such allowances are calculated as a percentage of salary (or a fee) and shall not draw overheads or profit. Sometimes, by law, such allowances may draw social costs. In this case, the amount of this social cost shall still be shown under social costs, with the net allowance shown separately.

FORM FIN-4 BREAKDOWN OF REIMBURSABLE

When used for Lump-Sum contract assignment, information to be provided in this Form shall only be used to demonstrate the basis for calculation of the Contract ceiling amount, to calculate applicable taxes at contract negotiations and, if needed, to establish payments to the Consultant for possible additional services requested by the Procuring Entity. This form shall not be used as a basis for payments under Lump-Sum contracts. This form shall be filled for Time-Based Contracts to form the basis of contract negotiations.

B. Reimbursable Expenses_____								
N°	Type of Reimbursable Expenses	Unit	Unit Cost	Quantity	{Currency # 1- as in FIN-2}	{Currency # 2- as in FIN-2}	{Currency# 3- as in FIN-2}	{Local Currency- as in FIN-2}
	{e.g., Per diem	{Day}						
	{e.g., International flights}	{Ticket}						
	{e.g., In/out airport transportation}	{Trip}						
	{e.g., Communication costs between Insert place and Insert place}							
	{ e.g., reproduction of							
	{e.g., Office rent}							
								
	{Training of the Procuring Entity's personnel – if required in TOR}							
Total Costs								

Legend:

“Per diem allowance” is paid for each night the expert is required by the Contract to be away from his/her usual place of residence. Procuring Entity can set up a ceiling.

SECTION 5. TERMS OF REFERENCE

[Sample outline:

1. *Background*_____
2. *Objective(s) of the Assignment*_____
3. *Scope of Services, Tasks (Components) and Expected Deliverables*

Brief outline [indicate if downstream work is required]

[indicate if training is a specific component of the assignment] Etc.

4. *Team Composition & Qualification Requirements for the Key Experts (and any other requirements which will be used for evaluating the Key Experts under Data Sheet 21.2 of the ITC). Please make sure that the specific key positions are clearly identified and the minimum academic education, professional qualification, training, experience and professional memberships are articulated for each position.*

PositionK-1: Team Leader/Lead

Consultant: Position K-2: [Insert position

title] Position K-3: [Insert position title]

PositionK-4: [Insert position title], Etc.

5. *Reporting Requirements and Time Schedule for Deliverables*

[At a minimum, list the following:

format, frequency, and contents of reports; number of copies, and requirements to electronic submission. Final reports shall be delivered in soft copy in addition to the specified number of hardcopies; dates of submission; persons (indicate names, titles, submission address) to receive them; etc.

6. *Procuring Entity's Input and Counterpart Personnel*

a) *Services, facilities and property to be made available to the Consultant by the Procuring Entity:*
_____ *[List / specify]*

b) *Professional and support counterpart personnel to be assigned by the Procuring Entity to the Consultant's team:* _____ *[list/specify]*

SECTION 6. CONDITIONS OF CONTRACT AND CONTRACT FORMS

Preface

1. This Section includes two types of standard contract forms for: A Lump-Sum Contract and a Time-Based Contract. Each type includes General Conditions of Contract (“GCC”) that shall not be modified, and Special Conditions of Contract (“SCC”). The SCC includes clauses specific to each contract to supplement, but not over- write or otherwise contradict, the General Conditions of Contract.
2. Lump-Sum Contract. This type of contract is used mainly for assignments in which the scope and the duration of the Services and the required output of the Consultant are clearly defined. Payments are linked to outputs (deliverables) such as draft or final reports, drawings, bill of quantities, bidding documents, or software programs. Lump-sum contracts are easier to administer because they operate on the principle of a fixed price for a fixed scope, and payments are due on clearly specified out puts and milestones. Never the less, quality control of the Consultant's outputs by the Procuring Entity s paramount.
3. Time-Based Contract. This type of contract is appropriate when it is difficult to define or fix the scope and the duration of the services, either because they are related to activities carried out by others for which the completion period may vary, or because the input of the consultants required for attaining the objectives of the assignment is difficult to assess. In time-based contracts the Consultant provides services on a timed basis according to quality specifications, and Consultant's remuneration is determined on the basis of the time actually spent by the Consultant in carrying out the Services and is based on (i) agreed upon unit rates for the Consultant's experts multiplied by the actual time spent by the experts in executing the assignment, and (ii) reimbursable expenses using actual expenses and/or agreed unit prices. This type of contract requires the Procuring Entity to closely supervise the Consultant and to be involved in the daily execution of the assignment.
4. The templates are designed for use in assignments with consulting firms and shall not be used for contracting of individual experts. In some consultancy assignments such as design and construction supervision, both Lump- Sum and Time-Based Contracts are used and signed with the Consultant. In that case, the Lump-Sum Contract would apply for the design part of the Services while the construction supervision part would be based on a Time- Based Contract. In such event, both types of contracts shall be signed at the same time.

CONTRACT FOR CONSULTANT'S SERVICES

Lump-Sum Contract

Consulting Services for:

Contract No.: _____

Contract Description: _____

Between

_____ *[Name of the Procuring Entity]*

and

_____ *[Name of the Consultant]*

Date:

I. FORM OF CONTRACT - LUMP-SUM

(Text in brackets [] is optional; all notes should be deleted in the final text)

This CONTRACT (herein after called the “Contract”) is made the [number] day of the month of [month], [year], between, on the one hand, [name of Procuring Entity] (herein after called the “Procuring Entity”) and, on the other hand, [name of Consultant] (herein after called the “Consultant”).

[If the Consultant consists of more than one entity, the above should be partially amended to read as follows: “... (hereinafter called the “Procuring Entity”) and, on the other hand, a Joint Venture (name of the JV) consisting of the following entities, each member of which will be jointly and severally liable to the Procuring Entity for all the Consultant's obligations under this Contract, namely, [name of member] and [name of member] (herein after called the “Consultant”).]

WHEREAS

- a) The Procuring Entity has requested the Consultant to provide certain consulting services as defined in this Contract (herein after called the “Services”);
 - b) the Consultant, having represented to the Procuring Entity that it has the required professional skills, expertise and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract;
 - c) the Procuring Entity has set aside a budget and funds toward the cost of the Services and intends to apply a portion of these funds towards payments under this Contract;
- NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached here to shall be deemed to form an integral part of this Contract:
 - a) The General Conditions of Contract;
 - b) The Special Conditions of Contract;
 - c) Appendices:
 - Appendix A: Terms of Reference
 - Appendix B: Key Experts
 - Appendix C: Breakdown of Contract Price
 - Appendix D: Form of Advance Payments Guarantee

In the event of any inconsistency between the documents, the following order of precedence shall prevail: The Special Conditions of Contract; the General Conditions of Contract; Appendix A; Appendix B; Appendix C; Appendix D. Any reference to this Contract shall include, where the context permits, a reference to its Appendices.

2. The mutual rights and obligations of the Procuring Entity and the Consultant 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 Procuring Entity shall make payments to the Consultant in accordance with the provisions of the Contract.

IN WITNESS WHERE OF, the Parties here to 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 Procuring Entity]
[Authorized Representative of the Procuring Entity—name, title and signature]

For and on behalf of..... [Name of Consultant or Name of a Joint Venture]
[Authorized Representative of the Consultant—name and signature]

[Note: For a joint venture, either all members shall sign or only the lead member, in which case the power of attorney to sign on behalf of all members shall be attached.]

For and on behalf of each of the members of the Consultant..... [Insert the Name of the Joint Venture]
[Name of the lead member]

[Authorized Representative on behalf of a Joint Venture] [Add signature blocks for each member if all are signing]

SECTION 7: GENERAL CONDITIONS OF CONTRACT

A. General Provisions

1. Definitions

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

- a) “Applicable Law” means the laws and any other instruments having the force of law in Kenya.
- b) “Consultant” means a legally-established professional consulting firm or entity selected by the Procuring Entity to provide the Services under the signed Contract.
- c) “Contract” means the legally binding written agreement signed between the Procuring Entity and the Consultant and which includes all the attached documents listed in its paragraph 1 of the Form of Contract (the General Conditions (GCC), the Special Conditions (SCC), and the Appendices).
- d) “Procuring Entity” means the Procuring Entity that signs the Contract for the Services with the selected Consultant.
- e) “Day” means a working day unless indicated otherwise.
- f) “Effective Date” means the date on which this Contract comes into force and effect pursuant to Clause GCC 11.
- g) “Experts” means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, Sub-consultant or JV member(s) assigned by the Consultant to perform the Services or any part thereof under the Contract.
- h) “Foreign Currency” means any currency other than the currency of Kenya.
- i) “GCC” means these General Conditions of Contract.
- j) “Government” means the government of Kenya.
- k) “Joint Venture (JV)” means an association with or without a legal personality distinct from that of its members, of more than one entity where one member has the authority to conduct all businesses for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Procuring Entity for the performance of the Contract.
- l) “Key Expert(s)” means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose Curricula Vitae (CV) was taken into account in the technical evaluation of the Consultant's proposal.
- m) “Local Currency” means the Kenya Shillings, the currency of Kenya.
- n) “Non-Key Expert(s)” means an individual professional provided by the Consultant or its Sub-consultant to perform the Services or any part here of under the Contract.
- o) “Party” means the Procuring Entity or the Consultant, as the case may be, and “Parties” means both of them.
- p) “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented but not over-written.
- q) “Services” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A hereto.
- r) “Sub-consultants” means an entity to whom/which the Consultant subcontracts any part of the Services while remaining solely liable for the execution of the Contract.

- (t) “Third Party “means any person or entity other than the Government, the Procuring Entity, the Consultant or a Sub-consultant.

2. Relationship between the Parties

- 2.1 Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the Procuring Entity and the Consultant. The Consultant, subject to this Contract, has complete charge of the Experts and Sub-consultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

3. Law Governing Contract

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

4. Language

- 4.1 This Contract has been executed in the English language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

5. Headings

- 5.1 The headings shall not limit, alter or affect the meaning of this Contract.

6. Communications

- 6.1 Any communication required or permitted to be given or made pursuant to this Contract shall be in writing in the English Language. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the SCC.
- 6.2 A Party may change its address for notice here under by giving the other Party any communication of such change to the address specified in the SCC.

7. Location

- 7.1 The Services shall be performed at such locations as are specified in Appendix A hereto and, where the location of a particular task is not so specified, at such locations, whether in Kenya or elsewhere, as the Procuring Entity may approve.

8. Authority of Member in Charge

- 8.1 In case the Consultant is a Joint Venture, the members hereby authorize them ember specified in the SCC to act on their behalf in exercising all the Consultant's rights and obligations towards the Procuring Entity under this Contract, including without limitation the receiving of instructions and payments from the Procuring Entity.

9. Authorized Representatives

- 9.1 Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Procuring Entity or the Consultant may be taken or executed by the officials specified in the SCC.

10. Corrupt and Fraudulent Practices

- 10.1 The government requires compliance with its policy regarding corrupt and fraudulent/prohibited practices as set forth in its laws and policies.
- 10.2 **Commissions and Fees**-The Procuring Entity requires the Consultant to disclose any commissions, gratuities or fees that may have been paid or are to be paid to a gents or any other party with respect to the selection process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee. Failure to disclose such commissions, gratuities or fees may result in termination of the Contract by the Procuring Entity and/or sanctions by the PPRA.

B. Commencement, Completion, Modification and Termination of Contract

11 Effectiveness of Contract

- 11.1 This Contract shall come into force and effect on the date (the “Effective Date”) of the Procuring Entity’s notice to the Consultant instructing the Consultant to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, listed in the SCC have been met.

12 Termination of Contract for Failure to Become Effective

- 12.1 If this Contract has not become effective within such time period after the date of Contract signature as specified in the SCC, either Party may, by not less than twenty-two (22) days written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect there to.

13 Commencement of Services

- 13.1 The Consultant shall confirm availability of Key Experts and begins carrying out the Services not later than the number of days after the Effective Date specified in the SCC.

14 Expiration of Contract

- 14.1 Unless terminated earlier pursuant to Clause GCC19hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the SCC.

15 Entire Agreement

- 15.1 This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.

16 Modifications or Variations

- 16.1 Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposals for modification or variation made by the other Party.

17 Force Majeure

a. Definition

- 17.1 For the purposes of this Contract, “Force Majeure” means event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and makes a Party’s performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible under the circumstances, and subject to those requirements, includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action confiscation or any other action by Government agencies.
- 17.2 Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party’s Experts, Sub-consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Contract and avoid or overcome in the carrying out of its obligations here under.
- 17.3 Force Majeure shall not include insufficiency of funds or failure to make any payment required here under.

b. No Breach of Contract

- 17.4 The failure of a Party to fulfill any of its obligations here under shall not be considered to be a breach of, or default under, this Contract in so far as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

c. Measures to be taken

- 17.5 A party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.
- 17.6 A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) calendar days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.
- a) 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.
 - b) During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the Procuring Entity, shall either:
 - c) demobilize, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Procuring Entity, in reactivating the Services; or
 - d) Continue with the Services to the extent reasonably possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.
- 17.7 In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clauses GCC 44 & 45.

18 Suspension

- 18.1 The Procuring Entity may, by written notice of suspension to the Consultant, suspend all payments to the Consultant here under if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) Shall request the Consultant to remedy such failure within a period not exceeding thirty (30) calendar days after receipt by the Consultant of such notice of suspension.

19 Termination

- 19.1 This Contract may be terminated by either Party as per provisions set up below:

a. By the Procuring Entity

- 19.1.1 The Procuring Entity may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause. In such an occurrence, the Procuring Entity shall give at least thirty (30) calendar days' written notice of termination to the Consultant in case of the events referred to in (a) through (d); at least sixty (60) calendar days' written notice in case of the event referred to in (e); and at least five (5) calendar days' written notice in case of the event referred to in (f):
- a If the Consultant fails to remedy a failure in the performance of its obligations here under, as specified in a notice of suspension pursuant to Clause GCC 18;
 - b If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go in to liquidation or receivership whether compulsory or voluntary;
 - c If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC 45.1;
 - d If, as the 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) calendar days;
 - e If the Procuring Entity, in its sole discretion and for any reason whatsoever, decides to terminate this Contract;
 - f If the Consultant fails to confirm availability of Key Experts as required in Clause GCC 13.

19.1.2 Furthermore, if the Procuring Entity determines that the Consultant has engaged in corrupt, fraudulent, collusive, coercive [or obstructive] practices, in competing for or in executing the Contract, then the Procuring Entity may, after giving fourteen (14) calendar days written notice to the Consultant, terminate the Consultant's employment under the Contract.

b. By the Consultant

- a) The Consultant may terminate this Contract, by not less than thirty (30) calendar days' written notice to the Procuring Entity, in case of the occurrence of any of the events specified in paragraphs(a)through(d)of this Clause.
- b) If the Procuring Entity fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause GCC45.1withinforty-five (45) calendar days after receiving written notice from the Consultant that such payment is overdue.
- c) If, as the 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) calendar days.
- d) If the Procuring Entity fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCC45.1.
- e) If the Procuring Entity is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Consultant may have subsequently approved in writing) following the receipt by the Procuring Entity of the Consultant's notice specifying such breach.

c. Cessation of Rights and Obligations

19.1.4 Upon termination of this Contract pursuant to Clauses GCC 12 or GCC 19 hereof, or upon expiration of this Contract pursuant to Clause GCC14, all rights and obligations of the Parties here under shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in Clause GCC22, (iii) the Consultant's obligation to permit in section, copying and auditing of their accounts and records set forth in Clause GCC25, and (iv) any right which a Party may have under the Applicable Law.

d. Cessation of Services

19.1.5. Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GCC 19a or GCC 19b, the Consultant shall immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Procuring Entity, the Consultant shall proceed as provided, respectively, by Clauses GCC27or GCC28.

e. Payment up on Termination

19.1.6 Up on termination of this Contract, the Procuring Entity shall make the following payments to the Consultant:

- a) Payment or Services satisfactorily performed prior to the effective date of termination; and
- b) In the case of termination pursuant to paragraphs (d) and (e) of Clause GCC 19.1.1, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract, including the cost of the return travel of the Experts.

C. Obligation s of the Consultant

16. General

a. Standard of Performance

20.1 The Consultant shall perform the Services and carry out the Services with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as a faithful adviser to the Procuring Entity, and shall at all times support and safeguard the Procuring Entity's legitimate interests in any dealings with the third parties.

- 20.2 The Consultant shall employ and provide such qualified and experienced Experts and Sub-consultants as are required to carry out the Services.
- 20.3 The Consultant may subcontract part of the Services to an extent and with such Key Experts and Sub-consultants as may be approved in advance by the Procuring Entity. Notwithstanding such approval, the Consultant shall retain full responsibility for the Services.

b. Law Applicable to Services

- 20.4. The Consultant shall perform the Services in accordance with the Contract and the Applicable Law and shall take all practicable steps to ensure that any of its Experts and Sub-consultants, comply with the Applicable Law.
- 20.5 Throughout the execution of the Contract, the Consultants shall comply with the import of goods and services prohibitions in Kenya when
- a As a matter of law or official regulations, Kenya prohibits commercial relations with that country; or
 - b by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods from that country or any payments to any country, person, or entity in that country.
- 20.6. The Procuring Entity shall notify the Consultant in writing of relevant local customs, and the Consultant shall, after such notification, respect such customs.

21 Conflict of Interests

- 21.1 The Consultant shall hold the Procuring Entity's interest paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.

a Consultant Not to Benefit from Commissions, Discounts, etc.

21.1.1 The payment of the Consultant pursuant to GCC F (Clauses GCC 38 through 42) shall constitute the Consultant's only payment in connection with this Contract and, subject to Clause GCC 21.1.3, the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations here under, and the Consultant shall use its best efforts to ensure that any Sub-consultants, as well as the Experts and agents of either of them, similarly shall not receive any such additional payment.

21.1.2 Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the Procuring Entity on the procurement of goods, works or services, the Consultant shall at all times exercise such responsibility in the best interest of the Procuring Entity. Any discounts or commissions obtained by the Consultant in the exercise of such procurement responsibility shall be for the account of the Procuring Entity.

b Consultant and Affiliates Not to Engage in Certain Activities

21.1.3 The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-consultants and any entity affiliated with such Sub-consultants, shall be disqualified from providing goods, works or non-consulting services resulting from or directly related to the Consultant's Services for the preparation or implementation of the project.

c Prohibition of Conflicting Activities

21.1.4 The Consultant shall not engage and shall cause its Experts as well as its Sub-consultants not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.

d Strict Duty to Disclose Conflicting Activities

21.1.5 The Consultant has an obligation and shall ensure that its Experts and Sub-consultants shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their Procuring Entity, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.

22 Confidentiality

- 22.1 Except with the prior written consent of the Procuring Entity, the Consultant and the Experts shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Experts make public the recommendations formulated in the course of, or because of, the Services.

23 Liability of the Consultant

- 23.1 Subject to additional provisions, if any, set for in the SCC, the Consultant's liability under this Contract shall be as determined under the Applicable Law.

24 Insurance to be taken out by the Consultant

- 24.1 The Consultant (i) shall take out and maintain and shall cause any Sub-consultants to take out and maintain, at its (or the Sub-consultants', as the case may be) own cost but on terms and conditions approved by the Procuring Entity, insurance against the risks, and for the coverage specified in the SCC, and (ii) at the Procuring Entity's request, shall provide evidence to the Procuring Entity showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid. The Consultant shall ensure that such insurance is in place prior to commencing the Services as stated in Clause GCC13.

25 Accounting, Inspection and Auditing

- 25.1 The Consultant shall keep and shall make all reasonable efforts to cause its Sub-consultants to keep, accurate and systematic accounts and records in respect of the Services and in such form and detail as will clearly identify relevant time changes and costs.
- 25.2 The Consultant shall permit and shall cause its Sub-consultants to permit, the PPRA and/ or persons appointed by the PPRA to inspect the Site and /or all accounts and records relating to the performance of the Contract and the submission of the Proposal to provide the Services, and to have such accounts and records audited by auditors appointed by the PPRA if requested by the PPRA. The Consultant's attention is drawn to Clause GCC10 which provides, interlaid, that acts intended to materially impede the exercise of the PPRA's inspection and audit rights provided for under this ClauseGCC25.2 constitute a prohibited practice subject to contract termination (as well as to a determination of in eligibility under the PPRA's prevailing sanctions procedures.)

26 Reporting Obligations

- 26.1 The Consultant shall submit to the Procuring Entity the reports and documents specified in Appendix A, in the form, in the numbers and within the time periods set forth in the said Appendix.

27 Proprietary Rights of the Procuring Entity in Reports and Records

- 27.1 Unless otherwise indicated in the SCC, all reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, supporting records or material compiled or prepared by the Consultant for the Procuring Entity in the course of the Services shall be confidential and become and remain the absolute property of the Procuring Entity. The Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Procuring Entity, together with a detailed inventory thereof. The Consultant may retain a copy of such documents, data and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the Procuring Entity.
- 27.2 If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of the plans, drawings, specifications, designs, databases, other documents and software, the Consultant shall obtain the Procuring Entity's prior written approval to such agreements, and the Procuring Entity shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, shall be specified in the SCC.

28 Equipment, Vehicles and Materials

- 28.1 Equipment, vehicles and materials made available to the Consultant by the Procuring Entity or purchased by

the Consultant wholly or partly with funds provided by the Procuring Entity, shall be the property of the Procuring Entity and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the Procuring Entity an inventory of such equipment, vehicles and materials and shall dispose of such equipment, vehicles and materials in accordance with the Procuring Entity's instructions. While in possession of such equipment, vehicles and materials, the Consultant, unless otherwise instructed by the Procuring Entity in writing, shall insure them at the expense of the Procuring Entity in an amount equal to their full replacement value.

- 28.2 Any equipment or materials brought by the Consultant or its Experts into Kenya for the use either for the project or personal use shall remain the property of the Consultant or the Experts concerned, as applicable.

D. Consultant's Experts and Sub-consultants

29 Description of Key Experts

- 29.1 The title, agreed job description, minimum qualification and estimated period of engagement to carry out the Services of each of the Consultant's Key Experts are described in Appendix B.

30 Replacement of Key Experts

- 30.1 Except as the Procuring Entity may otherwise agree in writing, no changes shall be made in the Key Experts.
- 30.2 Notwithstanding the above, the substitution of Key Experts during Contract execution may be considered only based on the Consultant's written request and due to circumstances outside the reasonable control of the Consultant, including but not limited to death or medical incapacity. In such case, the Consultant shall forthwith provide as a replacement, a person of equivalent or better qualifications and experience, and at the same rate of remuneration.

31 Removal of Experts or Sub-consultants

- 31.1 If the Procuring Entity finds that any of the Experts or Sub-consultant has committed serious misconduct or has been charged with having committed a criminal action, or shall the Procuring Entity determine that Consultant's Expert or Sub-consultant have engaged in corrupt, fraudulent, collusive, coercive [or obstructive] practice while performing the Services, the Consultant shall, at the Procuring Entity's written request, provide a replacement.
- 31.2 In the event that any of Key Experts, Non-Key Experts or Sub-consultants is found by the Procuring Entity to be incompetent or incapable in discharging assigned duties, the Procuring Entity, specifying the grounds therefore, may request the Consultant to provide a replacement.
- 31.3 Any replacement of the removed Experts or Sub-consultants shall possess better qualifications and experience and shall be acceptable to the Procuring Entity.
- 31.4 The Consultant shall bear all costs arising out of or incidental to any removal and/or replacement of such Experts.

E. Obligations of the Procuring Entity

32 Assistance and Exemptions

- 32.1 Unless otherwise specified in the SCC, the Procuring Entity shall use its best efforts to:
- Assist the Consultant with obtaining work permits and such other documents as shall be necessary to enable the Consultant to perform the Services.
 - Assist the Consultant with promptly obtaining, for the Experts and, if appropriate, their eligible dependents, all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in Kenya while carrying out the Services under the Contract.
 - Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Expert and their eligible dependents.
 - Issue to officials, agents and representatives of the Government all such instructions and information as may be necessary or appropriate for the prompt and effective implementation of the Services.
 - Assist the Consultant and the Experts and any Sub-consultants employed by the Consultant for the

Services with obtaining exemption from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity in Kenya according to the applicable law in Kenya

- f Assist the Consultant, any Sub-consultants and the Experts of either of them with obtaining the privilege, pursuant to the applicable law in Kenya, of bringing in to Kenya reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Experts and of withdrawing any such amounts as may be earned therein by the Experts in the execution of the Services.
- g Provide to the Consultant any such other assistance as may be specified in the SCC.

33 Access to Project Site

- 33.1 The Procuring Entity warrants that the Consultant shall have, free of charge, unimpeded access to the project site in respect of which access is required for the performance of the Services. The Procuring Entity will be responsible for any damage to the project site or any property thereon resulting from such access and will indemnify the Consultant and each of the experts in respect of liability for any such damage, unless such damage is caused by the willful default or negligence of the Consultant or any Sub-consultants or the Experts of either of them.

34 Change in the Applicable Law Related to Taxes and Duties

- 34.1 If, after the date of this Contract, there is any change in the applicable law in Kenya with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, 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 hereto, and corresponding adjustments shall be made to the Contract price amount specified in Clause GCC 39.1

35 Services, Facilities and Property of the Procuring Entity

- 35.1 The Procuring Entity shall make available to the Consultant and the Experts, for the purposes of the Services and free of any charge, the services, facilities and property described in the Terms of Reference (Appendix A) at the times and in the manner specified in said Appendix A.

36 Counterpart Personnel

- 36.1 The Procuring Entity shall make available to the Consultant free of charge such professional and support counterpart personnel, to be nominated by the Procuring Entity with the Consultant's advice, if specified in Appendix A.
- 36.2 Professional and support counterpart personnel, excluding Procuring Entity's liaison personnel, shall work under the exclusive direction of the Consultant. If any member of the counterpart personnel fails to perform adequately any work as signed to such member by the Consultant that is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the Procuring Entity shall not unreasonably refuse to act upon such request.

37 Payment Obligation

- 37.1 In consideration of the Services performed by the Consultant under this Contract, the Procuring Entity shall make such payments to the Consultant for the deliverables specified in Appendix A and in such manner as is provided by GCCF below.

F. Payments to the Consultant

38 Contract Price

- 38.1 The Contract price is fixed and is set forth in the SCC. The Contract price breakdown is provided in Appendix C.
- 38.2 Any change to the Contract price specified in Clause 38.1 can be made only if the Parties have agreed to the revised scope of Services pursuant to Clause GCC 16 and have amended in writing the Terms of Reference in Appendix A.

39 Taxes and Duties

- 39.1 The Consultant, Sub-consultants and Experts are responsible for meeting any and all tax liabilities arising out of the Contract unless it is stated otherwise in the SCC.Currency of Payment
- 39.2 Any payment under this Contract shall be made in the currency (ies) of the Contract.

40 Mode of Billing and Payment

- 40.1 The total payments under this Contract shall not exceed the Contract price set forth in Clause GCC 38.1.
- 40.2 The payments under this Contract shall be made in lump-sum installments against deliverables specified in Appendix A. The payments will be made according to the payment schedule stated in the SCC.
- 40.2.1 Advance payment: Unless otherwise indicated in the SCC, an advance payment shall be made against an advance payment bank guarantee acceptable to the Procuring Entity in an amount (or amounts) and in a currency (or currencies) specified in the SCC. Such guarantee (I) is to remain effective until the advance payment has been fully set off, and (ii) is to be in the form set forth in Appendix D, or in such other form as the Procuring Entity shall have approved in writing. The advance payments will be set off by the Procuring Entity in equal portions against the lump-sum installments specified in the SCC until said advance payments have been fully set off.
- 40.2.2 The Lump-Sum Installment Payments. The Procuring Entity shall pay the Consultant within sixty (60) days after the receipt by the Procuring Entity of the deliverable(s) and the cover invoice for the related lump-sum installment payment. The payment can be withheld if the Procuring Entity does not approve the submitted deliverable(s) as satisfactory in which case the Procuring Entity shall provide comments to the Consultant within the same sixty (60) days period. The Consultant shall thereupon promptly make any necessary corrections, and there after the fore going process shall be repeated.
- 40.2.3 The Final Payment: The final payment under this Clause shall be made only after the final report has been submitted by the Consultant and approved as satisfactory by the Procuring Entity. The Services shall then be deemed completed and finally accepted by the Procuring Entity. The last lump-sum installment shall be deemed approved for payment by the Procuring Entity within ninety (90) calendar days after receipt of the final report by the Procuring Entity unless the Procuring Entity, within such ninety (90) calendar day period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report. The Consultant shall thereupon promptly make any necessary corrections, and there after the fore going process shall be repeated.
- 40.2.4 All payments under this Contract shall be made to the accounts of the Consultant specified in the SCC.
- 40.2.5 With the exception of the final payment under 40.2.3 above, payments do not constitute acceptance of the whole Services nor relieve the Consultant of any obligations here under.

41 Interest on Delayed Payments

- 41.1 If the Procuring Entity had delayed payments beyond thirty (30) days after the due date stated in Clause GCC 41.2.2, interest shall be paid to the Consultant on any amount due by, not paid on, such due date for each day of delay at the annual rate stated in the SCC.

G. Fairness and Good Faith

42 Good Faith

- 42.1 The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

H. Settlement of Disputes

43 Amicable Settlement

- 43.1.2 The Parties shall seek to resolve any dispute amicably by mutual consultation.
- 43.1.3 If either Party objects to any action or in action of the other Party, the objecting Party may file a written Notice of Dispute to the other Party providing in detail the basis of the dispute. The Party receiving the

Notice of Dispute will consider it and respond in writing within fourteen (14) days after receipt. If that Party fails to respond within fourteen (14) days, or the dispute cannot be amicably settled within fourteen (14) days following the response of that Party, Clause GCC 45.1 shall apply.

44 Dispute Resolution

44.1.2 Any dispute between the Parties arising under or related to this Contract that cannot be settled amicably may be referred to by either Party to the adjudication/arbitration in accordance with the provisions specified in the SCC.

SECTION 8: SPECIAL CONDITIONS OF CONTRACT

[Notes in brackets are for guidance purposes only and should be deleted in the final text of the signed contract]

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
1.1(a)	The Contract shall be construed in accordance with the law of Kenya <i>[Where the Parties may designate the law of another country, in which case the name of the respective country should be inserted, and the name of Kenya should be removed.]</i>
4.1	The language is: English
6.1 and 6.2	The addresses are <i>[fill in at negotiations with the selected firm]</i> : Procuring Entity: _____ Attention: _____ Facsimile: _____ E-mail: _____ Consultant: _____ Attention: _____ Facsimile: _____ E-mail: _____
8.1	<i>[If the Consultant consists only of one entity, state "N/A";</i> <i>OR</i> <i>If the Consultant is a Joint Venture consisting of more than one entity, the name of the JV member whose address is specified in Clause SCC6.1 should be inserted here.]</i> The Lead Member on behalf of the JV is _____ <i>[insert name of the member]</i>
9.1	The Authorized Representatives are: For the Procuring Entity: _____ <i>[name, title]</i> ____ For the Consultant: _____ <i>[name, title]</i> ____
11.1	The effectiveness conditions are the following: <i>[Note: If there are no effectiveness conditions, state "N/A"]</i> <i>OR</i> <i>List here any conditions of effectiveness of the Contract, e.g., receipt by the Consultant of an advance payment, and by the Procuring Entity of an advance payment guarantee (see Clause SCC45.1(a)), etc.]</i>
12.1	Termination of Contract for Failure to Become Effective: The time period shall be _____ <i>[insert time period, e.g.: four months]</i> .
13.1	Commencement of Services: The number of days shall be _____ <i>[e.g.: ten]</i> . Confirmation of Key Experts' availability to start the Assignment shall be submitted to the Procuring Entity in writing as a written statement signed by each Key Expert.
14.1	Expiration of Contract:

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	The time period shall be ____ <i>[insert time period, e.g.: twelve months]</i> .
21.1.3.	The Procuring Entity reserves the right to determine on a case-by-case basis whether the Consultant should be disqualified from providing goods, works or non-consulting services due to a conflict of a nature described in Clause GCC 21.1.3 Yes: ____ No: ____
23.1	No additional provisions. <i>[OR</i> The following limitation of the Consultant's Liability towards the Procuring Entity can be subject to the Contract's negotiations: "Limitation of the Consultant's Liability towards the Procuring Entity: (a) Except in the case of gross negligence or willful misconduct on the part of the Consultant or on the part of any person or a firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused by the Consultant to the Procuring Entity's property, shall not be liable to the Procuring Entity: (i) for any indirect or consequential loss or damage; and (ii) for any direct loss or damage that exceeds two times the total value of the Contract; (b) This limitation of liability shall not (i) affect the Consultant's liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services; (ii) be construed as providing the Consultant with any limitation or exclusion from liability which is prohibited by the Applicable Law. <i>[Notes to the Procuring Entity and the Consultant:</i> <i>Any suggestions made by the Consultant in the Proposal to introduce exclusions/limitations of the Consultant's liability under the Contract should be carefully scrutinized by the Procuring Entity prior to accepting any changes to what was included in the issued RFP.</i> <i>To be acceptable to the Procuring Entity, any limitation of the Consultant's liability should at the very least be reasonably related to (a) the damage the Consultant might potentially cause to the Procuring Entity, and (b) the Consultant's ability to pay compensation using its own assets and reasonably obtainable insurance coverage. The Consultant's liability shall not be limited to less than a multiplier of the total payments to the Consultant under the Contract for remuneration and reimbursable expenses. <u>A statement to the effect that the Consultant is liable only for the re-performance of faulty Services is not acceptable to the Procuring Entity.</u> Also, the Consultant's liability should never be limited for loss or damage caused by the Consultant's gross negligence or willful misconduct.</i> <i>The Procuring Entity does not accept a provision to the effect that the Procuring Entity shall indemnify and hold harmless the Consultant against Third Party claims, except, of course, if a claim is based on loss or damage caused by a default or wrongful act of the Procuring Entity to the extent permissible by the law applicable in Kenya.]</i>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
24.1	The insurance coverage against the risks shall be as follows: <i>[Delete what is not applicable except (a)].</i> (a) Professional liability insurance, with a minimum coverage of _____ <i>[insert amount and currency which should be not less than the total ceiling amount of the Contract]</i>; (b) Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Procuring Entity's country by the Consultant or its Experts or Sub-consultants, with a minimum coverage of <i>[insert amount and currency or state "in accordance with the applicable law in the Procuring Entity's country"]</i>; (c) Third Party liability insurance, with a minimum coverage of <i>[insert amount and currency or state "in accordance with the applicable law in Kenya"]</i>; (d) employer's liability and workers' compensation insurance in respect of the experts and Sub-consultants in accordance with the relevant provisions of the Applicable Law in Kenya, as well as, with respect to such Experts, any such life, health, accident, travel or other insurance as may be appropriate; and (e) insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultant's property used in the performance of the Services, and (iii) any documents prepared by the Consultant in the performance of the Services.
27.1	The additional rights to the use of the documents are: <i>[If applicable, insert any exceptions to proprietary rights provisions]</i>
27.2	<i>[If there is to be no restriction on the future use of these documents by either Party, this Clause SCC 27.2 should be indicated as Not Applicable.</i> <i>If the Parties wish to restrict such use, any of the following options, or any other option agreed to by the Parties, could be used:</i> <i>[The Consultant shall not use these [insert what applies..... documents and software....] for purposes unrelated to this Contract without the prior written approval of the Procuring Entity.]</i> <i>[OR]</i> <i>[The Procuring Entity shall not use these [insert what applies..... documents and software.....] for purposes unrelated to this Contract without the prior written approval of the Consultant.]</i> <i>[OR]</i> <i>[Neither Party shall use these [insert what applies..... documents and software.....] for purposes unrelated to this Contract without the prior written approval of the other Party.]</i>
32.1 (a) through (f)	<i>[List here any changes or additions to Clause GCC 32.1. If there are no such changes or additions, indicate Not Applicable.]</i>
32.1(g)	<i>[List here any other assistance to be provided by the Procuring Entity. If there is no such other assistance, indicate Not Applicable for this Clause SCC 32.1(g).]</i>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
38.1	The Contract price is: _____ <i>[insert amount and currency for each currency as applicable]</i> <i>[indicate: inclusive or exclusive]</i> of local taxes. Any local taxes chargeable in respect of this Contract for the Services provided by the Consultant shall <i>[insert as appropriate: “be paid” or “reimbursed”]</i> by the Procuring Entity <i>[insert as appropriate: “for “or “to”]</i> the Consultant. The amount of such taxes is _____ <i>[insert the amount as finalized at the Contract’s negotiations on the basis of the tax amounts provided by the Consultant in Form FIN-2 of the Consultant’s Financial Proposal.</i>
39.1 and 39.2	<i>[The Procuring Entity, depending on the source of funds and tax exemptions already granted by the Government, shall decide whether the Consultant (i) should be exempted from local tax, or (ii) should be reimbursed by the Procuring Entity for any such tax they might have to pay (or that the Procuring Entity would pay such tax on behalf of the Consultant)]</i> The Procuring Entity warrants that <i>[choose one applicable option consistent with the ITC 16.3 and the outcome of the Contract’s negotiations (Form FIN-2)]</i> <i>If ITC16.3 indicates a tax exemption status, include the following: “the Consultant, the Sub-consultants and the Experts shall be exempt from”</i> <i>OR</i> <i>If ITC16.3 does not indicate the exemption and, depending on whether the Procuring Entity shall pay the withholding tax or the Consultant has to pay, include the following:</i> <i>“the Procuring Entity shall pay on behalf of the Consultant, the Sub-consultants and the Experts,” OR “the Procuring Entity shall reimburse the Consultant, the Sub-consultants and the Experts”]</i> any taxes, duties, fees, levies and other impositions imposed, under the applicable law in the Procuring Entity’s country, on the Consultant, the Sub-consultants and the Experts in respect of: (a) any payments whatsoever made to the Consultant, Sub-consultants and the Experts (other than nationals or permanent residents of Kenya), in connection with the carrying out of the Services; (b) any equipment, materials and supplies brought into Kenya by the Consultant or Sub-consultants for the purpose of carrying out the Services and which, after having been brought into such territories, will be subsequently withdrawn by them; (c) any equipment imported for the purpose of carrying out the Services and paid for out of funds provided by the Procuring Entity and which is treated as property of the Procuring Entity; (d) any property brought into Kenya by the Consultant, any Sub-consultants or the Experts (other than nationals or permanent residents of Kenya), or the eligible dependents of such experts for their personal use and which will subsequently be withdrawn by them upon their respective departure from the Procuring Entity’s country, provided that: (i) the Consultant, Sub-consultants and experts shall follow the usual customs procedures of Kenya in importing property into Kenya; and (ii) if the Consultant, Sub-consultants or Experts do not withdraw but dispose of any property in the Procuring Entity’s country upon which customs duties and taxes have been exempted, the Consultant, Sub-consultants or Experts, as the case may be, (a) shall bear such customs duties and taxes in conformity with the regulations of Kenya, or (b) shall reimburse them to the Procuring Entity if they were paid by the Procuring Entity at the time the property in question was brought into the Procuring Entity’s country.
40.2	The payment schedule: <i>[Payment of installments shall be linked to the deliverables specified in the Terms of Reference in Appendix A]</i> 1st payment: <i>[insert the amount of the installment, percentage of the total Contract price, and the currency. If the first payment is an advance payment, it shall be made against the bank</i>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	<i>guarantee for the same amount as per GCC 41.2.1]. E.g. "Twenty (20) percent of the lumpsum contract price shall be paid upon submission and approval of the Inception Report</i> 2nd payment: Example: Sixty (60) percent of the lumpsum Contract Price shall be paid upon submission of an acceptable Draft Report. 3rd and Final Payment: Example: Twenty (20) percent of the lumpsum Contract Price shall be paid upon submission and approval of the Final Report. <i>[Total sum of all installments shall not exceed the Contract price set up in SCC38.1. Every Payment shall be subject to (i) submission to the Procuring Entity of the prerequisite Report and/or payment request documents, and, (ii) approval and acceptance of the said reports and documents by the Procuring Entity]</i>
40.2.1	<i>[The advance payment could be in either the foreign currency, or the local currency, or both; select the correct wording in the Clause here below. The advance bank payment guarantee should be in the same currency(ies)]</i> The following provisions shall apply to the advance payment and the advance bank payment guarantee: (1) An advance payment [of <i>[insert amount]</i> in foreign currency] [and of <i>[insert amount]</i> in Kenya Shillings] shall be made within <i>[insert number]</i> days after the receipt of an advance bank payment guarantee by the Procuring Entity. The advance payment will be set off by the Procuring Entity in equal portions against [list the payments against which the advance is offset]. (2) The advance bank payment guarantee shall be in the amount and in the currency of the currency (ies) of the advance payment. (3) The bank guarantee will be released when the advance payment has been fully set off.
40.2.4	The accounts are: for foreign currency: <i>[insert account]</i>. for local currency: <i>[insert account]</i>.
41.1	The interest rate is: <i>[insert rate]</i>.
44.1	Disputes shall be settled by arbitration in accordance with the following provisions: 1. <u>Selection of Arbitrators.</u> Each dispute submitted by a Party to arbitration shall be heard by a sole arbitrator or an arbitration panel composed of three (3) arbitrators, in accordance with the following provisions: (a) Where the Parties agree that the dispute concerns a technical matter, they may agree to appoint a sole arbitrator or, failing agreement on the identity of such sole arbitrator within thirty (30) days after receipt by the other Party of the proposal of a name for such an appointment by the Party who initiated the proceedings, either Party may apply to <i>[name an appropriate international professional body, e.g., the Federation Internationale des Ingenieurs-Conseil (FIDIC) of Lausanne, Switzerland]</i> for a list of not fewer than five (5) nominees and, on receipt of such list, the Parties shall alternately strike names therefrom, and the last remaining nominee on the list shall be the sole arbitrator for the matter in dispute. If the last remaining nominee has not been determined in this manner within sixty (60) days of the date of the list, <i>[insert the name of the same professional body as above]</i> shall appoint, upon the request of either Party and from such list or otherwise, a sole arbitrator for the matter in dispute.

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	(b) Where the Parties do not agree that the dispute concerns a technical matter, the Procuring Entity and the Consultant shall each appoint one (1) arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within thirty (30) days after the latter of the two (2) arbitrators named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by <i>[name an appropriate international appointing authority, e.g., the Secretary General of the Permanent Court of Arbitration, The Hague; the Secretary General of the International Centre for Settlement of Investment Disputes, Washington, D.C.; the International Chamber of Commerce, Paris; etc.]</i>. (c) If, in a dispute subject to paragraph (b) above, one Party fails to appoint its arbitrator within thirty (30) days after the other Party has appointed its arbitrator, the Party which has named an arbitrator may apply to the <i>[name the same appointing authority as in said paragraph (b)]</i> to appoint a sole arbitrator for the matter in dispute, and the arbitrator appointed pursuant to such application shall be the sole arbitrator for that dispute.
	2. <u>Rules of Procedure.</u> Except as otherwise stated herein, arbitration proceedings shall be conducted in accordance with the rules of procedure for arbitration of the United Nations Commission on International Trade Law (UNCITRAL) as in force on the date of this Contract. 3. <u>Substitute Arbitrators.</u> If for any reason an arbitrator is unable to perform his/her function, a substitute shall be appointed in the same manner as the original arbitrator. 4. <u>Nationality and Qualifications of Arbitrators.</u> The sole arbitrator or the third arbitrator appointed pursuant to paragraphs 1(a) through 1(c) above shall be an internationally recognized legal or technical expert with extensive experience in relation to the matter in dispute and shall not be a national of the Consultant's home country <i>[If the Consultant consists of more than one entity, add: or of the home country of any of their members or Parties]</i> or of the Government's country. For the purposes of this Clause, "home country" means any of: (a) the country of incorporation of the Consultant <i>[If the Consultant consists of more than one entity, add: or of any of their members or Parties];</i> or (b) the country in which the Consultant's [or any of their members' or Parties'] principal place of business is located; or (c) the country of nationality of a majority of the Consultant's [or of any members' or Parties'] shareholders; or (d) the country of nationality of the Sub-consultants concerned, where the dispute involves a subcontract.
	5. <u>Miscellaneous.</u> In any arbitration proceeding hereunder: (a) proceedings shall, unless otherwise agreed by the Parties, be held in <i>[select a country which is neither the Procuring Entity's country nor the Consultant's country];</i> (b) the <i>[type of language]</i> language shall be the official language for all purposes; and (c) the decision of the sole arbitrator or of a majority of the arbitrators (or of the third arbitrator if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.

SECTION 9: APPENDICES

Appendix A – Terms of Reference

[Note: This Appendix shall include the final Terms of Reference (TORs) worked out by the Procuring Entity and the Consultant during the negotiations; dates for completion of various tasks; location of performance for different tasks; detailed reporting requirements and list of deliverables against which the payments to the Consultant will be made; Procuring Entity's input, including counterpart personnel assigned by the Procuring Entity to work on the Consultant's team; specific tasks or actions that require prior approval by the Procuring Entity.

Insert the text based on the Section 5 (Terms of Reference) of the ITC in the RFP and modified based on the Forms TECH-1 through TECH-5 of the Consultant's Proposal. Highlight the changes to Section 5 of the RFP]

.....

Appendix B - Key Experts

[Insert a table based on Form TECH-6 of the Consultant's Technical Proposal and finalized at the Contract's negotiations. Attach the CVs (updated and signed by the respective Key Experts) demonstrating the qualifications of Key Experts.]

.....

Appendix C – Breakdown of Contract Price

{Insert the table with the unit rates to arrive at the breakdown of the lump-sum price. The table shall be based on [Form FIN-3 and FIN-4] of the Consultant's Proposal and reflect any changes agreed at the Contract negotiations, if any. The footnote shall list such changes made to [Form FIN-3 and FIN-4] at the negotiations or state that none has been made.}

Appendix D - Form of Advance Payment Guarantee

[Note: See Clause GCC 41.2.1 and SCC 41.2.1]

Bank Guarantee for Advance Payment _____ [Bank's Name and Address of Issuing Branch or Office]
Beneficiary: _____ [Name and Address of Procuring Entity]
Date: _____

ADVANCE PAYMENT GUARANTEE No.: _____

We have been informed that _____ [name of Consultant or a name of the Joint Venture, same as appears on the signed Contract] (herein after called "the Consultant") has entered into Contract No. _____ [reference number of the contract] dated _____ with you, for the provision of _____ [brief description of Services] (herein after called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum of _____ [amount in figures] () [amount in words] is to be made against an advance payment guarantee.

At the request of the Consultant, we _____ [name of bank] here by irrevocably undertake to pay you any sum or sums not exceeding in total an amount of _____ [amount in figures] () [amount in words]¹ upon receipt by us of your first demand in writing accompanied by a written statement stating that the Consultant are in breach of their obligation under the Contract because the Consultant have used the advance payment for purposes other than toward providing the Services under the Contract.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Consultant on their account number _____ at _____ [name and address of bank].

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Consultant as indicated in copies of certified monthly statements which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of the monthly payment certificate indicating that the Consultant has made

Full repayment of the amount of the advance payment, or on the day of _____,² whichever is earlier.

Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

[Signature]

Note: *All italicized text is for indicative purposes only to assist in preparing this form and shall be deleted from the final product.*

PREFACE

This Section includes a Time-Based Contract. It includes General Conditions of Contract (“GCC”) that shall not be modified, and Special Conditions of Contract (“SCC”). The SCC include clauses specific to each contract to supplement, but not over-write or otherwise contradict, the General Conditions of Contract.

Time-Based Contract. This type of contract is appropriate when it is difficult to define or fix the scope and the duration of the services, either because they are related to activities carried out by others for which the completion period may vary, or because the input of the consultants required for attaining the objectives of the assignment is difficult to assess. In time-based contracts the Consultant provides services on a timed basis according to quality specifications, and Consultant's remuneration is determined on the basis of the time actually spent by the Consultant in carrying out the Services and is based on (i) agreed upon unit rates for the Consultant's experts multiplied by the actual time spent by the experts in executing the assignment, and (ii) reimbursable expenses using actual expenses and/or agreed unit prices. This type of contract requires the Procuring Entity to closely supervise the Consultant and to be involved in the daily execution of the assignment.

The template is designed for use in assignments with consulting firms and shall not be used for contracting of individual experts. In some consultancy assignments such as design and construction supervision, both Lump-Sum and Time- Based Contracts are used and signed with the Consultant. In that case, the Lump-Sum Contract would apply for the design part of the Services while the construction supervision part would be based on a Time-Based Contract. In such event; both types of contracts shall be signed at the same time.

In case a Time-Based Contract is not used, please delete the contract template for time-based contract before issuance of the RFP to Consultants.

¹The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency (ies) of the advance payment as Specified in the Contract, or in a freely convertible currency acceptable to the Procuring Entity.

²Insert the expected expiration date. In the event of an extension of the time for completion of the Contract the Procuring Entity would need to request an extension of This guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Procuring Entity might consider adding the following text to the form, at the end of the pen ultimate paragraph: “The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Procuring Entity's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.”

CONTRACT FOR CONSULTANT'S SERVICES

II. TIME-BASED CONTRACT

Consulting Services for:

Contract No.: _____

Contract Description: _____

between

[Name of the Procuring

Entity] and

[Name of the Consultant]

Date:

II: FORM OF CONTRACT-TIME-BASED

(Text in brackets [] is optional; all notes should be deleted in the final text)

This CONTRACT (hereinafter called the “Contract”) is made the [number] day of the month of [month], [year], between, on the one hand, [name of Procuring Entity] (herein after called the “Procuring Entity”) and, on the other hand, [name of Consultant] (hereinafter called the “Consultant”).

[Note: If the Consultant consist of more than one entity, the above should be partially amended to read as follows: “... (herein after called the “Procuring Entity”) and, on the other hand, a Joint Venture (name of the JV) consisting of the following entities, each member of which will be jointly and severally liable to the Procuring Entity for all the Consultant's obligations under this Contract, namely, [name of member] and [name of member] (hereinafter called the “Consultant”).]

WHEREAS

- a) the Procuring Entity has requested the Consultant to provide certain consulting services as defined in this Contract (hereinafter called the “Services”);
- b) the Consultant, having represented to the Procuring Entity that it has the required professional skills, expertise and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract;
- c) The Procuring Entity has set aside a budget and funds towards the cost of the services and intends to apply a portion of the funds to eligible payments under the Contract.

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached here to shall be deemed to form an integral part of this Contract:

- a) The General Conditions of Contract;
- b) The Special Conditions of Contract;
- c) Appendices:
 - Appendix A: Terms of Reference
 - Appendix B: Key Experts
 - Appendix C: Remuneration Cost Estimates
 - Appendix D: Reimbursable Cost Estimates
 - Appendix E: Form of Advance Payments Guarantee

In the event of any inconsistency between the documents, the following order of precedence shall prevail: The Special Conditions of Contract; the General Conditions of Contract; Appendix A; Appendix B; Appendix C and Appendix D; Appendix E. Any reference to this Contract shall include, where the context permits, a reference to its Appendices.

2. The mutual rights and obligations of the Procuring Entity and the Consultant 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 Procuring Entity shall make payments to the Consultant in accordance with the provisions of the Contract.

IN WITNESS WHERE OF, the Parties here to 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 Procuring Entity] [Authorized Representative of the Procuring Entity—name title and signature]

For and on behalf of _____ [Name of Consultant or Name of a Joint Venture] [Authorized Representative of the Consultant—name and signature]

[Note: For a joint venture, either all members shall sign or only the lead member, in which case the power of attorney to sign on behalf of all members shall be attached.]

For and on behalf of each of the members of the Consultant..... [insert the name of the Joint Venture]
[Name of the lead member]
[Authorized Representative on behalf of a Joint Venture] [add signature blocks for each member if all are signing]

Section 8: General Conditions of Contract

A. GENERAL PROVISIONS

1. Definitions

- 1.1 Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:
- a) “Applicable Law” means the laws and any other instruments having the force of law in Kenya.
 - b) “Procuring Entity” means the Procuring Entity that signs the Contract for the Services with the Selected Consultant.
 - c) “Consultant” means a legally - established professional consulting firm or entity selected by the Procuring Entity to provide the Services under the signed Contract.
 - d) “Contract” means the legally binding written agreement signed between the Procuring Entity and the Consultant and which includes all the attached documents listed in its paragraph 1 of the Form of Contract (the General Conditions (GCC), the Special Conditions (SCC), and the Appendices).
 - e) “Day” means a working day unless indicated otherwise.
 - f) “Effective Date” means the date on which this Contract comes into force and effect pursuant to Clause GCC11.
 - g) “Experts” means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, Sub-consultant or JV member(s) assigned by the Consultant to perform the Services or any part thereof under the Contract.
 - h) “Foreign Currency” means any currency other than the Kenya Shilling.
 - i) “GCC” means these General Conditions of Contract.
 - j) “Government” means the government of Kenya.
 - k) “Joint Venture (JV)” means an association with or without a legal personality distinct from that of its members, of more than one entity where one member has the authority to conduct all businesses for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Procuring Entity for the performance of the Contract.
 - l) “Key Expert(s)” means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose Curricula Vitae (CV) was taken in to account in the technical evaluation of the Consultant's proposal.
 - m) “Local Currency” means the Kenya Shilling.
 - n) “Non-Key Expert(s)” means an individual professional provided by the Consultant or its Sub-consultant to perform the Services or any part thereof under the Contract.
 - o) “Party” means the Procuring Entity or the Consultant, as the case may be, and “Parties” means both.
 - p) “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented but not over-written.
 - q) “Services” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A hereto.
 - r) “Sub-consultants” means an entity to whom/which the Consultant subcontracts any part of the Services while remaining solely liable for the execution of the Contract.
 - s) “Third Party” means any person or entity other than the Government, the Procuring Entity, the Consultant or a Sub-consultant.

2. Relationship between the Parties

- 2.3 Nothing contained here in shall be construed as establishing a relationship of master and servant or of principal and agent as between the Procuring Entity and the Consultant. The Consultant, subject to this Contract, has complete charge of the Experts and Sub-consultants, if any, performing the Services and shall be fully responsible for the Services performed by the moron their behalf here under.

3. Law Governing Contract

- 3.1 This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.

4 Language

- 4.1 This Contract has been executed in the language specified in the SCC, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

5 Headings

- 5.1 The headings shall not limit, alter or affect the meaning of this Contract.

6 Communications

- 6.1 Any communication required or permitted to be given or made pursuant to this Contract shall be in writing in the language specified in Clause GCC4. Any such notice, request or consent shall be deemed to have been given nor made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the SCC.
- 6.2 A party may change its address for notice hereunder by giving the other Party any communication of such change to the address specified in the SCC.

7 Location

- 7.1. The Services shall be performed at such locations as are specified in Appendix A here to and, where the location of a particular task is not so specified, at such locations, whether in Kenya or elsewhere, as the Procuring Entity may approve.

8 Authority of Member in Charge

- 8.1 In case the Consultant is a Joint Venture, the members hereby authorize the member specified in the SCC to act on their behalf in exercising all the Consultant's rights and obligations towards the Procuring Entity under this Contract, including without limitation the receiving of instructions and payments from the Procuring Entity.

9. Authorized Representatives

- 9.1 Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Procuring Entity or the Consultant may be taken or executed by the officials specified in the SCC.

10 Corrupt and Fraudulent Practices

- 10.1 The Government requires compliance with its policy and laws in regard to corrupt and fraudulent or prohibited practices as set forth in its laws and policies.

a. Commissions and Fees

- 10.2 The Procuring Entity requires the Consultant to disclose any commissions, gratuities or fees that may have been paid or are to be paid to agents or any other party with respect to the selection process or execution of the Contract. The information disclosed must include at least the name and address of the agent or the other party, the amount and currency, and the purpose of the commission, gratuity or fee. Failure to disclose such commissions, gratuities or fees may result in termination of the Contract by the Procuring Entity and/or sanctions by the PPRA.

Commencement, Completion, Modification and Termination of Contract.

11 Effectiveness of Contract

- 11.1 This Contract shall come into force and effect on the date (the "Effective Date") of the Procuring Entity's notice to the Consultant instructing the Consultant to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, listed in the SCC have been met.

12 Termination of Contract for Failure to Become Effective

- 12.1 If this Contract has not become effective within such time period after the date of Contract signature as specified in the SCC, either Party may, by not less than twenty-two (22) days written notice to the other Party, declare this contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

13 Commencement of Services

- 13.1 The Consultant shall confirm availability of Key Experts and begin carrying out the Services not later than the number of days after the Effective Date specified in the SCC.

14. Expiration of Contract

- 14.1 Unless terminated earlier pursuant to Clause GCC 19 hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the SCC.

15. Entire Agreement

- 15.1 This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.

16. Modifications or Variations

- 16.1 Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposals for modification or variation made by the other Party.

- 16.2 **In cases of substantial modifications or variations.**

17. Force Majeure

a. Definition

- 17.1 For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and makes a Party's performance of its obligations here under impossible or so impractical as reasonably to be considered impossible under the circumstances, and subject to those requirements, includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action confiscation or any other action by Government agencies.
- 17.2 Force Majeure shall not include (i) any event which is caused by then negligence or intentional action of a Party or such Party's Experts, Sub-consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Contract and avoid or overcome in the carrying out of its obligations here under.
- 17.3 Force Majeure shall not include in sufficiency of funds or failure to make any payment required here under.

b. No Breach of Contract

- 17.4 The failure of a Party to fulfill any of its obligations here under shall not be considered to be a breach of, or default under, this Contract in so far as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

c. Measures to be taken

- 17.5 A party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.
- 17.6 A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) calendar days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.
- 17.7 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.
- 17.8 During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the Procuring Entity, shall either:
- a demobilize, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Procuring Entity, in reactivating the Services; or

- b Continue with the Services to the extent reasonably possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.

17.9 In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clauses GCC 47 & 48.

18 Suspension

18.1 The Procuring Entity may, by written notice of suspension to the Consultant, suspend all payments to the Consultant here under if the Consultant fails to perform for many of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultant to remedy such failure within a period not exceeding thirty (30) calendar days after receipt by the Consultant of such notice of suspension.

19 Termination

19.1 This Contract may be terminated by either Party as per provisions set up below:

a By the Procuring Entity

19.1.1 The Procuring Entity may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause. In such an occurrence, the Procuring Entity shall give at least thirty (30) calendar days' written notice of termination to the Consultant in case of the events referred to in (a) through (d); at least sixty (60) calendar days' written notice in case of the event referred to in (e); and at least five (5) calendar days' written notice in case of the event referred to in (f):

- a If the Consultant fails to remedy a failure in the performance of its obligations here under, as specified in a notice of suspension pursuant to Clause GCC 18;
- b If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;
- c If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC 48.1;
- d If, as the 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) calendar days;
- e If the Procuring Entity, in its sole discretion and for any reason whatsoever, decides to terminate this Contract;
- f If the Consultant fails to confirm availability of Key Experts as required in Clause GCC 13.

19.1.2 Furthermore, if the Procuring Entity determines that the Consultant has engaged in corrupt, fraudulent, collusive, coercive [or obstructive] practices, in competing for or in executing the Contract, then the Procuring Entity may, after giving fourteen (14) calendar days written notice to the Consultant, terminate the Consultant's employment under the Contract.

b By the Consultant

19.1.3 The Consultant may terminate this Contract, by not less than thirty (30) calendar days' written notice to the Procuring Entity, in case of the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause.

- a If the Procuring Entity fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clauses GCC 48.1 within forty-five (45) calendar days after receiving written notice from the Consultant that such payment is overdue.
- b If, as the 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) calendar days.
- c If the Procuring Entity fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCC 48.1.
- d If the Procuring Entity is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Consultant may have subsequently approved in writing) following the receipt by the Procuring Entity of the Consultant's notice specifying such breach.

c Cessation of Rights and Obligations

19.1.4 Upon termination of this Contract pursuant to Clauses GCC 12 or GCC 19 hereof, or upon expiration of this Contract pursuant to Clause GCC 14, all rights and obligations of the Parties here under shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in Clause GCC 22, (iii) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GCC 25, and (iv) any right which a Party may have under the Applicable Law.

d Cessation of Services

19.1.5 Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GCC 19a or GCC 19b, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Procuring Entity, the Consultant shall proceed as provided, respectively, by Clauses GCC 27 or GCC 28.

e Payment upon Termination

19.1.6 Upon termination of this Contract, the Procuring Entity shall make the following payments to the Consultant:

- a remuneration for Services satisfactorily performed prior to the effective date of termination, and reimbursable expenditures for expenditures actually incurred prior to the effective date of termination; and pursuant to Clause 42;
- b In the case of termination pursuant to paragraphs (d) and (e) of Clause GCC 19.1.1, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract, including the cost of the return travel of the Experts.

C. OBLIGATIONS OF THE CONSULTANT

20 General

a. Standard of Performance

20.1 The Consultant shall perform the Services and carry out the Services with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as a faithful adviser to the Procuring Entity, and shall at all times support and safeguard the Procuring Entity's legitimate interests in any dealings with the third parties.

20.2 The Consultant shall employ and provide such qualified and experienced Experts and Sub-consultants as are required to carry out the Services.

20.3 The Consultant may subcontract part of the Services to an extent and with such Key Experts and Sub-consultants as may be approved in advance by the Procuring Entity. Notwithstanding such approval, the Consultant shall retain full responsibility for the Services.

b. Law Applicable to Services

20.4 The Consultant shall perform the Services in accordance with the Contract and the Applicable Law and shall take all practicable steps to ensure that any of its Experts and Sub-consultants, comply with the Applicable Law.

20.5 Throughout the execution of the Contract, the Consultant shall comply with the import of goods and services prohibitions in Kenya when

- a As a matter of law or official regulations, Kenya prohibits commercial relations with that country; or
- b by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations,

20.6 The Procuring Entity shall notify the Consultant in writing of relevant local customs, and the Consultant

shall, after such notification, respect such customs.

21 Conflict of Interests

21.1 The Consultant shall hold the Procuring Entity's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.

a Consultant Not to Benefit from Commissions, Discounts, etc.

21.1.1 The payment of the Consultant pursuant to GCC F (Clauses GCC 41 through 46) shall constitute the Consultant's only payment in connection with this Contract and, subject to Clause GCC 21.1.3, the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations here under, and the Consultant shall use its best efforts to ensure that any Sub-consultants, as well as the Experts and agents of either of them, similarly shall not receive any such additional payment.

21.1.2 Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the Procuring Entity on the procurement of goods, works or services, shall at all times exercise such responsibility in the best interest of the Procuring Entity. Any discounts or commissions obtained by the Consultant in the exercise of such procurement responsibility shall be for the account of the Procuring Entity.

b Consultant and Affiliates Not to Engage in Certain Activities

21.1.3 The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-consultants and any entity affiliated with such Sub-consultants, shall be disqualified from providing goods, works or non-consulting services resulting from or directly related to the Consultant's Services for the preparation or implementation of the project.

c Prohibition of Conflicting Activities

21.1.4 The Consultant shall not engage and shall cause its Experts as well as its Sub-consultants not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.

d Strict Duty to Disclose Conflicting Activities

21.1.5 The Consultant has an obligation and shall ensure that its Experts and Sub-consultants shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their Procuring Entity, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.

22 Confidentiality

22.1 Except with the prior written consent of the Procuring Entity, the Consultant and the Experts shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Experts make public the recommendations formulated in the course of, or because of, the Services.

23 Liability of the Consultant

23.1 Subject to additional provisions, if any, set forth in the SCC, the Consultant's liability under this Contract shall be as determined under the Applicable Law.

24 Insurance to be taken out by the Consultant

24.1 The Consultant (I) shall take out and maintain and shall cause any Sub-consultants to take out and maintain, at its (or the Sub-consultants', as the case may be) own cost but on terms and conditions approved by the Procuring Entity, insurance against the risks, and for the coverage specified in the SCC, and (ii) at the Procuring Entity's request, shall provide evidence to the Procuring Entity showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid. The Consultant shall ensure that such insurance is in place prior to commencing the Services as stated in Clause GCC 13.

25 Accounting, Inspection and Auditing

25.1 The Consultant shall keep and shall make all reasonable effort to cause its Sub-consultants to keep, accurate and

systematic accounts and records in respect of the Services and in such form and detail as will clearly identify relevant time changes and costs.

- 25.2. The Consultant shall permit and shall cause its Sub-consultants to permit, the PPRA and/or persons appointed by the PPRA to inspect the Site and /or all accounts and records relating to the performance of the Contract and the submission of the Proposal to provide the Services, and to have such accounts and records audited by auditors appointed by the PPRA if requested by the PPRA. The Consultant's attention is drawn to Clause GCC10 which provides, inter alia, that acts intended to materially impede the exercise of the PPRA's inspection and audit rights provided for under this Clause GCC25.2 constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility under the PPRA's prevailing sanctions procedures.)

26 Reporting Obligations

- 26.1 The Consultant shall submit to the Procuring Entity the reports and documents specified in Appendix A, in the form, in the numbers and within the time periods set forth in the said Appendix.

27 Proprietary Rights of the Procuring Entity in Reports and Records

- 27.1 Unless otherwise indicated in the SCC, all reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, supporting records or material compiled or prepared by the Consultant for the Procuring Entity in the course of the Services shall be confidential and become and remain the absolute property of the Procuring Entity. The Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Procuring Entity, together with a detailed inventory thereof. The Consultant may retain a copy of such documents, data and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the Procuring Entity.
- 27.2 If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of the plans, drawings, specifications, designs, databases, other documents and software, the Consultant shall obtain the Procuring Entity's prior written approval to such agreements, and the Procuring Entity shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, shall be specified in the SCC.

28 Equipment, Vehicles and Materials

- 28.1 Equipment, vehicles and materials made available to the Consultant by the Procuring Entity, or purchased by the Consultant wholly or partly with funds provided by the Procuring Entity, shall be the property of the Procuring Entity and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the Procuring Entity an inventory of such equipment, vehicles and materials and shall dispose of such equipment, vehicles and materials in accordance with the Procuring Entity's instructions. While in possession of such equipment, vehicles and materials, the Consultant, unless otherwise instructed by the Procuring Entity in writing, shall insure the material at the expense of the Procuring Entity in an amount equal to their full replacement value.
- 28.2 Any equipment or materials brought by the Consultant or its Experts into, as applicable.

D. CONSULTANT'S EXPERTS AND SUB-CONSULTANTS

29 Description of Key Experts

- 29.1 The title, agreed job description, minimum qualification and time-input estimates to carry out the Services of each of the Consultant's Key Experts are described in Appendix B.
- 29.2 If required to comply with the provisions of Clause GCC 20 a, adjustments with respect to the estimated time- input of Key Experts set forth in Appendix B may be made by the Consultant by a written notice to the Procuring Entity, provided (i) that such adjustments shall not alter the original time-input estimates for any individual by more than 10% or one week, whichever is larger; and (ii) that the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in Clause GCC41.2.
- 29.3 If additional work is required beyond the scope of the Services specified in Appendix A, the estimated time-input for the Key Experts may be increased by agreement in writing between the Procuring Entity and the Consultant. In case where payments under this Contract exceed the ceilings set forth in Clause GCC41.1, the Parties shall sign a Contract amendment.

30 Replacement of Key Experts

- 30.1 Except as the Procuring Entity may otherwise agree in writing, no changes shall be made in the Key Experts.
- 30.2 Notwithstanding the above, the substitution of Key Experts during Contract execution may be considered only based on the Consultant's written request and due to circumstances outside the reasonable control of the Consultant, including but not limited to death or medical incapacity. In such case, the Consultant shall forthwith provide as a replacement, a person of equivalent or better qualifications and experience, and at the same rate of remuneration.

31 Approval of Additional Key Experts

- 31.1 If during execution of the Contract, additional Key Experts are required to carry out the Services, the Consultant shall submit to the Procuring Entity for review and approval a copy of their Curricula Vitae (CVs). If the Procuring Entity does not object in writing (stating the reasons for the objection) within twenty-two (22) days from the date of receipt of such CVs, such additional Key Experts shall be deemed to have been approved by the Procuring Entity.

32 Removal of Experts or Sub-consultants

- 32.1 If the Procuring Entity finds that any of the Experts or Sub-consultant has committed serious misconduct or has been charged with having committed a criminal action, or shall the Procuring Entity determine that Consultant's Expert or Sub-consultant has engaged in corrupt, fraudulent, collusive, coercive, or obstructive practice while performing the Services, the Consultant shall, at the Procuring Entity's written request, provide a replacement.
- 32.2 In the event that any of Key Experts, Non-Key Experts or Sub-consultants is found by the Procuring Entity to be incompetent or incapable in discharging assigned duties, the Procuring Entity, specifying the grounds therefore, may request the Consultant to provide a replacement.
- 32.3 Any replacement of the removed Experts or Sub-consultants shall possess better qualifications and experience and shall be acceptable to the Procuring Entity.

33 Replacement/ Removal of Experts–Impact on Payments

- 33.1 Except as the Procuring Entity may otherwise agree, (i) the Consultant shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement, and (ii) the remuneration to be paid for any of the Experts provided as a replacement shall not exceed the remuneration which would have been payable to the Experts replaced or removed.

34 Working Hours, Overtime, Leave, etc.

- 34.1 Working hours and holidays for Experts are set forth in Appendix B. To account for travel time to/from Kenya, experts carrying out Services inside Kenya shall be deemed to have commenced or finished work in respect of the Services such number of days before their arrival in, or after their departure from, Kenya as is specified in Appendix B.
- 34.2 The Experts shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in Appendix B, and the Consultant's remuneration shall be deemed to cover these items.
- 34.3 Any taking of leave by Key Experts shall be subject to the prior approval by the Consultant who shall ensure that absence for leave purposes will not delay the progress and or impact adequate supervision of the Services.

E. Obligations of the Procuring Entity

35 Assistance and Exemptions

- 35.1 Unless otherwise specified in the SCC, the Procuring Entity shall use its best efforts to:
- Assist the Consultant with obtaining work permits and such other documents as shall be necessary to enable the Consultant to perform the Services.
 - Assist the Consultant with promptly obtaining, for the Experts and, if appropriate, their eligible dependents, all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in Kenya while carrying out the Services under the Contract.
 - Facilitate prompt clearance through customs of any property required for the Services and of the

personal effects of the Experts and their eligible dependents.

- d Issue to officials, agents and representatives of the Government all such instructions and information as may be necessary or appropriate for the prompt and effective implementation of the Services.
- e Assist the Consultant and the Experts and any Sub-consultants employed by the Consultant for the Services with obtaining exemption from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity in Kenya according to the applicable law in Kenya.
- f Assist the Consultant, any Sub-consultants and the Experts of either of them with obtaining the privilege, pursuant to the applicable law in Kenya, of bringing into Kenya reasonable amounts of foreign currency for the purposes of the services or for the personal use of the Experts and of withdrawing any such amounts as may be earned there in by the Experts in the execution of the Services.
- g Provide to the Consultant any such other assistance as may be specified in the SCC.

36 Access to Project Site

- 36.1 The Procuring Entity warrants that the Consultant shall have, free of charge, unimpeded access to the project site in respect of which access is required for the performance of the Services. The Procuring Entity will be responsible for any damage to the project site or any property thereon resulting from such access and will indemnify the Consultant and each of the experts in respect of liability for any such damage, unless such damage is caused by the willful default or negligence of the Consultant or any Sub-consultants or the Experts of either of them.

37 Change in the Applicable Law Related to Taxes and Duties

- 37.1 If, after the date of this Contract, there is any change in the applicable law in Kenya with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, 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 hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Clause GCC41.1

38 Services, Facilities and Property of the Procuring Entity

- 38.1 The Procuring Entity shall make available to the Consultant and the Experts, for the purposes of the Services and free of any charge, the services, facilities and property described in the Terms of Reference (Appendix A) at the times and in the manner specified in said Appendix A.
- 38.2 In case that such services, facilities and property shall not be made available to the Consultant as and when specified in Appendix A, the Parties shall agree on (i) any time extension that it may be appropriate to grant to the Consultant for the performance of the Services, (ii) the manner in which the Consultant shall procure any such services, facilities and property from other sources, and (iii) the additional payments, if any, to be made to the Consultant as a result thereof pursuant to Clause GCC 41.3.

39 Counterpart Personnel

- 39.1 The Procuring Entity shall make available to the Consultant free of charge such professional and support counterpart personnel, to be nominated by the Procuring Entity with the Consultant's advice, if specified in Appendix A.
- 39.2 If counterpart personnel are not provided by the Procuring Entity to the Consultant as and when specified in Appendix A, the Procuring Entity and the Consultants shall agree on (i) how the affected part of the Services shall be carried out, and (ii) the additional payments, if any, to be made by the Procuring Entity to the Consultant as a result thereof pursuant to Clause GCC 41.3.
- 39.3 Professional and support counterpart personnel, excluding Procuring Entity's liaison personnel, shall work under the exclusive direction of the Consultant. If any member of the counterpart personnel fails to perform adequately any work assigned to such member by the Consultant that is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the Procuring Entity shall not unreasonably refuse to act upon such request.

40 Payment Obligation

- 40.1 In consideration of the Services performed by the Consultant under this Contract, the Procuring Entity shall make such payments to the Consultant and in such manner as is provided by GCCF below.

A. PAYMENTS TO THE CONSULTANT

41 Ceiling Amount

- 41.1 An estimate of the cost of the Services is set forth in Appendix C (Remuneration) and Appendix D ([Reimbursable expenses]).
- 41.2 Payments under this Contract shall not exceed the ceilings in foreign currency and in local currency specified in the SCC.
- 41.3 For any payments in excess of the ceilings specified in GCC 41.2, an amendment to the Contract shall be signed by the Parties referring to the provision of this Contract that evokes such amendment.

42 Remuneration and Reimbursable Expenses

- 42.1 The Procuring Entity shall pay to the Consultant
- (i) remuneration that shall be determined on the basis of time actually spent by each Expert in the performance of the Services after the date of commencing of Services or such other date as the Parties shall agree in writing; and
 - (ii) reimbursable expenses that are actually and reasonably incurred by the Consultant in the performance of the Services.
- 42.2 All payments shall be at the rates set forth in Appendix C and Appendix D.
- 42.3 Unless the SCC provides for the price adjustment of the remuneration rates, said remuneration shall be fixed for the duration of the Contract.
- 42.4 The remuneration rates shall cover:
- (i) such salaries and allowances as the Consultant shall have agreed to pay to the Experts as well as factors for social charges and overheads (bonuses or other means of profit-sharing shall not be allowed as an element of overheads),
 - (ii) the cost of backstopping by home office staff not included in the Experts' list in Appendix B,
 - (iii) the Consultant's profit, and
 - (iv) any other items as specified in the SCC.
- 42.5 Any rates specified for Experts not yet appointed shall be provisional and shall be subject to revision, with the written approval of the Procuring Entity, once the applicable remuneration rates and allowances are known.

43 Taxes and Duties

- 43.1 The Consultant, Sub-consultants and Experts are responsible for meeting any and all tax liabilities arising out of the Contract unless it is stated otherwise in the SCC.

44 Currency of Payment

- 44.1 Any payment under this Contract shall be made in the currency or currencies specified in the SCC.

45 Mode of Billing and Payment

- 45.1 Billing and payments in respect of the Services shall be made as follows:
- a Advance payment. Within the number of days after the Effective Date, the Procuring Entity shall pay to the Consultant an advance payment as specified in the SCC. Unless otherwise indicated in the SCC, an

advance payment shall be made against an advance payment bank guarantee acceptable to the Procuring Entity in an amount (or amounts) and in a currency (or currencies) specified in the SCC. Such guarantee (i) is to remain effective until the advance payment has been fully set off, and (ii) is to be in the form set forth in Appendix E. The advance payments will be set off by the Procuring Entity in equal installments against the statements for the number of months of the Services specified in the SCC until said advance payments have been fully setoff.

- b *The Itemized Invoices.* As soon as practicable and not later than fifteen (15) days after the end of each calendar month during the period of the Services, or after the end of each time interval otherwise indicated in the SCC, the Consultant shall submit to the Procuring Entity, in duplicate, itemized invoices, accompanied by the receipts or other appropriate supporting documents, of the amounts payable pursuant to Clauses GCC 44 and GCC 45 for such interval, or any other period indicated in the SCC. Separate invoices shall be submitted for expenses incurred in foreign currency and in local currency. Each invoice shall show remuneration and reimbursable expenses separately.
- c *The Procuring Entity shall pay the Consultant's invoices* within sixty (60) days after the receipt by the Procuring Entity of such itemized invoices with supporting documents. Only such portion of an invoice that is not satisfactorily supported may be withheld from payment. Should any discrepancy be found to exist between actual payment and costs authorized to be incurred by the Consultant, the Procuring Entity may add or subtract the difference from any subsequent payments.
- d *The Final Payment:* The final payment under this Clause shall be made only after the final report and a final invoice, identified as such, shall have been submitted by the Consultant and approved as satisfactory by the Procuring Entity. The Services shall be deemed completed and finally accepted by the Procuring Entity and the final report and final invoice shall be deemed approved by the Procuring Entity as satisfactory ninety (90) calendar days after receipt of the final report and final invoice by the Procuring Entity unless the Procuring Entity, within such ninety (90) calendar day period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report or final invoice. The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated. Any amount that the Procuring Entity has paid or has caused to be paid in accordance with this Clause in excess of the amounts payable in accordance with the provisions of this Contract shall be reimbursed by the Consultant to the Procuring Entity within thirty (30) days after receipt by the Consultant of notice thereof. Any such claim by the Procuring Entity for reimbursement must be made within twelve (12) Calendar months after receipt by the Procuring Entity of a final report and a final invoice approved by the Procuring Entity in accordance with the above.
- e All payments under this Contract shall be made to the accounts of the Consultant specified in the SCC.
- f With the exception of the final payment under (d) above, payments do not constitute acceptance of the Services nor relieve the Consultant of any obligations here under.

46 Interest on Delayed Payments

- 46.1 If the Procuring Entity had delayed payments beyond thirty (30) days after the due date stated in Clause GCC 45.1(c), interest shall be paid to the Consultant on any amount due by, not paid on, such due date for each day of delay at the annual rate stated in the SCC.

G. Fairness and Good Faith

47 Good Faith

- 47.1 The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

H. Settlement of Disputes

48 Amicable Settlement

- 48.1 The Parties shall seek to resolve any dispute amicably by mutual consultation.
- 48.2 If either Party objects to any action or inaction of the other Party, the objecting Party may file a written Notice of Dispute to the other Party providing in detail the basis of the dispute. The Party receiving the Notice of Dispute will considerate and responds in writing within fourteen (14) days after receipt. If that Party fails to respond within fourteen (14) days, or the dispute cannot be amicably settled within fourteen (14) days following the response of that Party, Clause GCC 49.1 shall apply.

49 Dispute Resolution

49.1 Any dispute between the Parties arising under or related to this Contract that cannot be settled amicably may be referred to either Party to the adjudication/arbitration in accordance with the provisions in the SCC.

SECTION 8: SPECIAL CONDITIONS OF CONTRACT

[Notes in brackets are for guidance purposes only and should be deleted in the final text of the signed contract]

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
1.1(a)	The Contract shall be construed in accordance with the law of Kenya
4.1	The language is English
6.1 and 6.2	The addresses are <i>[fill in at negotiations with the selected firm]</i>: Procuring Entity: _____ Attention: _____ Facsimile: _____ E-mail: _____ Consultant: _____ Attention: _____ Facsimile: _____ E-mail: _____
8.1	<i>[Note: If the Consultant consists only of one entity, state “Not Applicable”;</i> OR <i>If the Consultant is a Joint Venture consisting of more than one entity, the name of the JV member whose address is specified in Clause SCC6.1 should be inserted here.]</i> The Lead Member on behalf of the JV is _____ <i>[insert name of the member]</i>
9.1	The Authorized Representatives are: For the Procuring Entity: _____ <i>[name, title]</i>_____ For the Consultant: _____ <i>[name, title]</i>_____
11.1	The effectiveness conditions are the following: <i>[insert “Not Applicable” or list the conditions]</i>
12.1	Termination of Contract for Failure to Become Effective: The period shall be _____ <i>[insert period, e.g.: four months]</i>.
13.1	Commencement of Services: The number of days shall be _____ <i>[e.g.: ten]</i>. Confirmation of Key Experts’ availability to start the Assignment shall be submitted to the Procuring Entity in writing as a written statement signed by each Key Expert.
14.1	Expiration of Contract: The period shall be _____ <i>[insert time period, e.g.: twelve months]</i>.
23.1	No additional provisions. <i>[OR:</i> The following limitation of the Consultant’s Liability towards the Procuring Entity can be subject to

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	the Contract's negotiations: "Limitation of the Consultant's Liability towards the Procuring Entity: (a) Except in the case of gross negligence or willful misconduct on the part of the Consultant or on the part of any person or a firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused by the Consultant to the Procuring Entity's property, shall not be liable to the Procuring Entity: (i) for any indirect or consequential loss or damage; and (ii) for any direct loss or damage that exceeds [insert a multiplier, e.g.: one, two, three] times the total value of the Contract; (b) This limitation of liability shall not (i) affect the Consultant's liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services; (ii) be construed as providing the Consultant with any limitation or exclusion from liability which is prohibited by the Applicable Law.
24.1	The insurance coverage against the risks shall be as follows: <i>[Note: Delete what is not applicable except (a)].</i> (a) Professional liability insurance, with a minimum coverage of _____ <i>[insert amount and currency which should be not less than the total ceiling amount of the Contract];</i> (b) Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Procuring Entity's country by the Consultant or its Experts or Sub-consultants, with a minimum coverage of <i>in accordance with the applicable law in Kenya</i> (c) Third Party liability insurance, with a minimum coverage of <i>in accordance with the applicable law in the Procuring Entity's country.</i> (d) employer's liability and workers' compensation insurance in respect of the experts and Sub-consultants in accordance with the relevant provisions of the applicable law in the Procuring Entity's country, as well as, with respect to such Experts, any such life, health, accident, travel or other insurance as may be appropriate; and (e) insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultant's property used in the performance of the Services, and (iii) any documents prepared by the Consultant in the performance of the Services.
27.1	<i>[If applicable, insert any exceptions to proprietary rights provision_____]</i>
27.2	<i>[If there is to be no restriction on the future use of these documents by either Party, this Clause SCC 27.2 should be indicated "Not Applicable". If the Parties wish to restrict such use, any of the following options, or any other option agreed to by the Parties, could be used:</i> <i>[The Consultant shall not use these [insert what applies..... documents and software.....] for purposes unrelated to this Contract without the prior written approval of the Procuring Entity.]</i> OR <i>[The Procuring Entity shall not use these [insert what applies..... documents and software.....] for purposes unrelated to this Contract without the prior written approval of the Consultant.]</i> OR <i>[Neither Party shall use these [insert what applies..... documents and software.....] for purposes unrelated to this Contract without the prior written approval of the other Party.]</i>
35.1 (a) through	<i>[List here any changes or additions to Clause GCC 35.1. If there are no such changes or additions, indicate "Not Applicable"]</i>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
(f)	
35.1(g)	<i>[List here any other assistance to be provided by the Procuring Entity. If there is no such other assistance, indicate “Not Applicable” for this Clause SCC 35.1(g).]</i>
41.2	The ceiling in foreign currency is: _____ <i>[insert amount and currency]</i> <i>[indicate: inclusive or exclusive]</i> of local indirect taxes. The ceiling in local currency is: _____ <i>[insert amount and currency]</i> <i>[indicate: inclusive or exclusive]</i> of local indirect taxes. Any local taxes chargeable in respect of this Contract for the Services provided by the Consultant shall <i>[insert as appropriate: “be paid” or “reimbursed”]</i> by the Procuring Entity <i>[insert as appropriate: “for” or “to”]</i> the Consultant. The amount of such taxes is _____ <i>[insert the amount as finalized at the Contract’s negotiations on the basis of the amounts provided by the Consultant in Form FIN-2 of the Consultant’s Financial Proposal.]</i>
42.3	Price adjustment on the remuneration <i>[insert “applies” or “does not apply”]</i> <i>If the price adjustment applies, indicate the formula and procedure to be used for the adjustments.</i>
42.4(iv)	The other remuneration items are: _____
43.1	<i>[The Procuring Entity shall decide whether the Consultant (i) should be exempted from local tax, or (ii) should be reimbursed by the Procuring Entity for any such tax they might have to pay (or that the Procuring Entity would pay such tax on behalf of the Consultant)]</i> The Procuring Entity warrants that <i>[choose one applicable option consistent with the ITC 16.3 and the outcome of the Contract’s negotiations (Form FIN-2, part B “Local Taxes”):</i> <i>If ITC 16.3 indicates a tax exemption status, include the following: “the Consultant, the Sub-consultants and the Experts shall be exempt from”</i> OR <i>If ITC16.3 does not indicate the exemption and, depending on whether the Procuring Entity shall pay the withholding tax or the Consultant has to pay, include the following:</i> <i>“the Procuring Entity shall pay on behalf of the Consultant, the Sub-consultants and the Experts,” OR</i> <i>“the Procuring Entity shall reimburse the Consultant, the Sub-consultants and the Experts”]</i> Any taxes, duties, fees, levies and other impositions imposed, under the Applicable Law in Kenya, on the Consultant, the Sub-consultants and the Experts
44.1	The currency or currencies of payment shall be the following: <i>[list currency(ies) which should be the same as in the Financial Proposal, Form FIN-2]</i>
45.1(a)	<i>[The advance payment could be in either the foreign currency, or the local currency, or both; select the correct wording in the Clause here below. The advance bank payment guarantee should be in the same currency(ies)]</i> The following provisions shall apply to the advance payment and the advance bank payment guarantee: (1) An advance payment [of <i>[insert amount]</i> in foreign currency] [and of <i>[insert amount]</i> in local currency] shall be made within <i>[insert number]</i> days after the Effective Date. The advance payment will be set off by the Procuring Entity in equal installments against the statements for the first <i>[insert number]</i> months of the Services until the advance payment has been fully set off. (2) The advance bank payment guarantee shall be in the amount and in the currency of the currency (ies) of the advance payment.
45.1(b)	<i>[Indicate “Not Applicable” for this Clause SCC 45.1(b) if the Consultant shall have to submit its itemized statements monthly. Otherwise, the following text can be used to indicate the required</i>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	<i>intervals:</i> The Consultant shall submit to the Procuring Entity itemized statements at time intervals of _____ [e.g. “every quarter”, “every six months”, “every two weeks”, etc.].
45.1(e)	The accounts are: for foreign currency: <i>[insert account]</i>. for local currency: <i>[insert account]</i>.
46.1	The interest rate is: <i>[insert rate]</i> .
49	Disputes shall be settled by arbitration by the Nairobi Centre for International Arbitrations.

SECTION 9: APPENDICES

Appendix A – Terms of Reference

TERMS OF REFERENCE (ToR) FOR ENVIRONMENTAL IMPACT ASSESSMENT (EIA) FOR FLLoCA PROJECTS (CCRIG III) IN KWALE COUNTY

1. Background

The Financing Locally-Led Climate Action (FLLoCA) Program is a Government of Kenya initiative aimed at strengthening local resilience to climate change impacts through community-driven investments. In Kwale County, FLLoCA supports projects such as water infrastructure, afforestation, climate-smart agriculture, and sustainable natural resource management.

In compliance with the National Environment Management Authority (NEMA) requirements and the Environmental Management and Coordination Act (EMCA), all projects likely to have environmental and social impacts must undergo Environmental Impact Assessment (EIA) prior to implementation.

This ToR provides guidance for conducting EIAs for FLLoCA-funded projects in Kwale County.

2. Objectives of the EIA

2.1 General Objective

To identify, predict, and evaluate potential environmental and social impacts of proposed FLLoCA projects and recommend appropriate mitigation measures.

2.2 Specific Objectives

- To assess baseline environmental and social conditions of project areas.
- To identify potential positive and negative impacts of the projects.
- To propose mitigation and enhancement measures.
- To ensure compliance with national environmental laws and policies.
- To facilitate informed decision-making by stakeholders.

3. Scope of Work

The EIA study shall cover, but not be limited to, the following components:

3.1 Project Description

- Nature, objectives, and justification of the project
- Location and site layout (maps, GPS coordinates)
- Project design, size, capacity, and technologies
- Construction, operation, and decommissioning phases

3.2 Policy, Legal, and Institutional Framework

- Review of relevant national laws, regulations, and policies
- County Government policies and by-laws
- International conventions applicable to climate and environment

3.3 Baseline Environmental Conditions

- **Physical Environment:** climate, geology, soils, hydrology, air quality
- **Biological Environment:** flora, fauna, ecosystems, biodiversity status
- **Socio-economic Environment:** population, livelihoods, land use, cultural heritage

3.4 Analysis of Project Alternatives

- Site alternatives
- Design and technology alternatives
- “No project” alternative

3.5 Impact Assessment

- Identification and evaluation of potential impacts:
- Environmental impacts (soil erosion, water pollution, biodiversity loss)
- Social impacts (livelihood disruption, land conflicts, public health)
- Climate risks and resilience considerations
- Assessment of cumulative and indirect impacts

3.6 Mitigation Measures

- Measures to avoid, minimize, or compensate adverse impacts
- Enhancement measures for positive impacts

3.7 Environmental and Social Management Plan (ESMP)

- Mitigation measures matrix
- Monitoring indicators and frequency
- Institutional responsibilities
- Cost estimates for implementation

3.8 Public Participation and Stakeholder Engagement

- Identification of stakeholders
- Documentation of consultations and concerns raised
- Incorporation of stakeholder inputs

3.9 Occupational Health and Safety

- Identification of risks to workers and communities
- Proposed safety measures

3.10 Climate Change Considerations

- Climate vulnerability assessment
- Adaptation and mitigation strategies aligned with FLLoCA objectives

4. Methodology

The EIA shall adopt a participatory and multidisciplinary approach, including:

- Desk review of relevant documents
- Field surveys and site investigations
- Stakeholder consultations (public meetings, interviews, FGDs)
- Use of GIS and mapping tools
- Impact prediction models and matrices

5. Expected Outputs/Deliverables

- Inception Report;
- Draft EIA Report (both hard and soft copies);
- Final EIA Report (both hard and soft copies) incorporating stakeholder and authority comments;
- Environmental and Social Management Plan (ESMP);
- Public participation report;
- Submission of EIA report to NEMA for licensing; and
- NEMA Licence for:
 1. Construction of kabuyuni water pan in mackinon ward
 2. Rehabilitation of Ngangari Water Pan in Chanzou II village in Samburu/Chengoni Ward
 3. Rehabilitation of Mkulung'ombe water pan in Mtaa village unit in Kasemeni ward
 4. Drilling of borehole and construction of Desalination plant in kibuyuni ,Pongwe /Kikoneni ward
 5. Rehabilitation of Chanyiro water pan in Mkongani
 6. Construction of treatment plant and distribution of water at Umoja dam in Mwereni ward
 7. Ecotourism project: Enhancing Community Livelihoods through construction of Eco-Restaurant, Boardwalk, resting bandas and reception structure at Munje mangrove ecosystem in Ramisi ward
 8. Construction of a slab drift with Culverts across the River at Mulungunipa–Vukani access road in Gombato/Bongwe ward
 9. Land (Quarry) reclamation demo: Through tree growing , borehole rehabilitation and fencing at Chai Primary School in Tiwi ward
 10. Enhancing Fish Post-Harvest Management, Value Addition and Community Livelihoods through construction of Mwakamba BMU office installed with Ice Plant facility at ABSA Beach Access Road in Ukunda ward

6. Institutional Arrangements

- **Client:** Kwale County Government / FLLoCA Program Implementation Unit
- **Regulatory Authority:** National Environment Management Authority (NEMA)
- **Consultant:** Registered and licensed EIA/EA expert(s)

7. Qualifications and Experience of the Consultant

The EIA shall be undertaken by experts registered with NEMA, with:

- Proven experience in EIA/EA studies
- Expertise in environmental science, social sciences, or related fields
- Experience in climate change and community-based projects
- Knowledge of Kenyan environmental laws and procedures

8. Reporting Requirements

- Reports shall be prepared in accordance with NEMA EIA/EA Regulations
- Submission of both hard and electronic copies
- Inclusion of executive summary and non-technical summary

9. Budget

The cost of the EIA study shall be determined based on:

- Project size and complexity
- Scope of fieldwork and consultations
- Logistical requirements

10. Conclusion

This ToR provides a structured framework for conducting Environmental Impact Assessments for FLLoCA projects in Kwale County. Proper implementation will ensure that projects are environmentally sustainable, socially acceptable, and compliant with regulatory requirements, thereby contributing to climate resilience and sustainable development.

1. CONSTRUCTION OF KABUYUNI WATER PAN IN MACKINON WARD

TERMS OF REFERENCE (ToR) FOR ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT (ESIA) FOR THE PROPOSED CONSTRUCTION OF KABUYUNI WATER PAN IN MACKINON WARD, KWALE COUNTY

1.0 INTRODUCTION AND BACKGROUND

The County Government of Kwale, through the Department of Environment, Natural Resources, Energy and Climate Change, intends to implement the proposed construction of Kabuyuni Water Pan in Mackinon Ward under the Financing Locally-Led Climate Action (FLLoCA) programme.

The project is designed to enhance community resilience to climate change impacts, particularly recurrent drought, water scarcity, declining agricultural productivity, and inadequate access to reliable water for domestic and livestock use.

The proposed intervention will involve the construction of a water storage reservoir, associated water supply

infrastructure, installation of a solar-powered pumping system, establishment of micro-irrigation facilities, and environmental conservation measures.

The project is expected to improve water availability, support climate-smart agriculture, enhance livestock productivity, promote environmental conservation, and strengthen community livelihoods.

However, the proposed construction and operation activities may result in environmental and social impacts, including vegetation clearance, soil erosion, alteration of natural drainage, sedimentation, occupational health and safety risks, potential water contamination, land-use conflicts, and community safety concerns.

In compliance with the Environmental Management and Coordination Act (EMCA), 1999, as amended, and the Environmental (Impact Assessment and Audit) Regulations, 2003, as amended, the project proponent intends to engage a qualified environmental assessment consultant to undertake the required assessment and prepare an appropriate Environmental and Social Management Plan (ESMP).

2.0 PROJECT DESCRIPTION

The proposed project will comprise the following major components:

No.	Project Component	Description
1	Excavation of water reservoir	Excavation and shaping of the water pan to achieve the required water storage capacity.
2	Construction of embankment	Construction and compaction of earth embankments to retain water and ensure structural stability.
3	Fencing	Installation of perimeter fencing to control access and enhance public and livestock safety.
4	Auxiliary water facilities	Construction of water treatment facilities, community water points, and livestock watering troughs.
5	Buffer planting	Establishment of vegetation around designated sections of the water pan to control erosion and improve ecological conditions.
6	Micro-irrigation	Development of a one-acre micro-irrigation demonstration unit to support climate-smart agricultural production.
7	Solar-powered pumping system	Installation of solar panels, pumping equipment, storage and distribution infrastructure for water supply.

The consultant shall verify the project design, land ownership and availability, proposed water abstraction arrangements, site boundaries, and technical specifications before undertaking the assessment.

3.0 OBJECTIVES OF THE ASSIGNMENT

3.1 Overall Objective

The overall objective is to undertake an Environmental and Social Impact Assessment (ESIA) for the proposed construction of Kabuyuni Water Pan and prepare an appropriate Environmental and Social Management Plan (ESMP) to ensure that the project is implemented in an environmentally sustainable, socially acceptable, and climate-resilient manner.

3.2 Specific Objectives

The specific objectives shall be to:

1. Establish the existing environmental and socio-economic baseline conditions of the proposed project site and its area of influence.
2. Identify and assess potential positive and negative environmental and social impacts associated with project planning, construction, operation, and decommissioning.
3. Assess potential impacts on soil, water resources, biodiversity, vegetation, public health, livelihoods, and community safety.
4. Examine potential risks associated with excavation, embankment construction, water storage, pumping, and water distribution.
5. Assess climate change risks and the resilience of the proposed infrastructure to droughts, floods, extreme rainfall, and other climate-related hazards.
6. Identify feasible mitigation and enhancement measures for the anticipated impacts.
7. Develop a comprehensive Environmental and Social Management Plan with clear responsibilities, timelines, monitoring indicators, and estimated implementation costs.
8. Undertake stakeholder consultations and document community views, concerns, recommendations, and project acceptance.
9. Assess compliance with applicable environmental, water resource, occupational safety, public health, and social safeguards requirements.
10. Prepare and submit an ESIA report suitable for review by NEMA and other relevant authorities.

4.0 SCOPE OF WORK

The consultant shall undertake the following tasks:

4.1 Review of Project Documentation

The consultant shall review all relevant project documents, including:

- Project concept note and approved proposal.
- Project designs, drawings, and technical specifications.

- Bills of Quantities (BoQs).
- Land ownership or site-use documentation.
- Relevant County Integrated Development Plan (CIDP).
- Kwale County Climate Change Action Plan.
- FLLoCA Environmental and Social Safeguards instruments.
- Applicable national environmental and social legislation.
- Relevant water resource management and climate resilience policies.

4.2 Project Site Assessment

The consultant shall undertake a detailed field assessment to:

- Confirm the proposed location and geographical coordinates.
- Establish the project footprint and surrounding land uses.
- Assess the physical characteristics and suitability of the site.
- Identify nearby settlements, schools, roads, farms, water sources, and other sensitive receptors.
- Examine existing drainage patterns and catchment characteristics.
- Identify environmentally sensitive areas and potential constraints.
- Assess land ownership, access rights, and potential land-use conflicts.

4.3 Environmental Baseline Assessment

The assessment shall cover the following environmental parameters:

a) Physical Environment

- Topography and landscape characteristics.
- Soil types, soil stability, and erosion susceptibility.
- Geology and hydrogeological conditions.
- Surface water and groundwater characteristics.
- Existing drainage patterns and flood risks.
- Climate conditions, including rainfall variability and drought exposure.
- Ambient air quality and noise levels.
- Existing waste management practices.

b) Biological Environment

- Existing vegetation and flora.
- Fauna and livestock populations.
- Ecologically sensitive habitats.

- Existing biodiversity and ecosystem services.
- Potential impacts on indigenous vegetation and natural habitats.
- Opportunities for restoration through buffer planting.

c) Socio-Economic Environment

- Population and settlement patterns.
- Existing water access and availability.
- Main livelihood activities.
- Agricultural and livestock production systems.
- Community land-use practices.
- Vulnerable and marginalized groups.
- Gender-related considerations.
- Existing water-related conflicts.
- Community health and sanitation conditions.
- Cultural, historical, and archaeological resources, where applicable.

5.0 ASSESSMENT OF PROJECT ACTIVITIES AND POTENTIAL IMPACTS

The consultant shall identify, predict, and evaluate environmental and social impacts associated with each project component.

5.1 Excavation of Water Reservoir

The assessment shall examine:

- Vegetation clearance and loss of topsoil.
- Soil erosion and sedimentation.
- Generation and disposal of excavated materials.
- Dust and noise from excavation machinery.
- Potential alteration of natural drainage.
- Risk of excavation collapse and worker injuries.
- Potential effects on groundwater and nearby water sources.
- Formation of stagnant water and associated public health risks.
- Safety risks to children, livestock, and community members.

5.2 Construction of Embankment

The consultant shall assess:

- Embankment stability and potential failure.
- Soil compaction and erosion.
- Surface runoff and downstream impacts.
- Flooding risks during extreme rainfall.
- Siltation and sediment accumulation.
- Occupational safety risks during earthworks.
- Adequacy of spillway and drainage arrangements.

5.3 Fencing

The assessment shall examine:

- Land access restrictions.
- Potential interference with livestock movement.
- Community access to water facilities.
- Safety risks associated with fencing materials.
- Potential impacts on wildlife movement.
- Maintenance and sustainability requirements.

5.4 Auxiliary Water Facilities

The assessment shall cover:

- Water quality and treatment requirements.
- Risks of contamination at community water points.
- Wastewater and drainage management.
- Livestock access and sanitation.
- Potential conflicts between domestic and livestock water users.
- Accessibility for women, children, elderly persons, and persons with disabilities.
- Public health risks arising from unsafe water handling.

5.5 Buffer Planting

The consultant shall examine:

- Suitability of proposed tree and vegetation species.
- Potential introduction of invasive species.
- Soil stabilization and erosion control benefits.
- Water requirements for seedling establishment.
- Survival rates and maintenance arrangements.

- Community participation in vegetation management.

5.6 One-Acre Micro-Irrigation System

The assessment shall cover:

- Sustainable water abstraction and allocation.
- Efficient water use and conservation.
- Potential soil salinity and waterlogging.
- Agrochemical use and runoff.
- Agricultural waste management.
- Crop selection and climate suitability.
- Impacts on downstream water users.
- Inclusion of vulnerable farmers and equitable access to irrigation benefits.

5.7 Solar-Powered Water Pumping System

The consultant shall assess:

- Site suitability for solar infrastructure.
- Electrical and occupational safety risks.
- Potential glare and land-use impacts.
- Security and vandalism risks.
- Safe installation and maintenance of solar equipment.
- Battery management and end-of-life disposal, where batteries are used.
- Sustainable pumping rates and water resource availability.
- Opportunities for renewable energy use and greenhouse gas emission reduction.

6.0 CLIMATE CHANGE AND DISASTER RISK ASSESSMENT

Given the project's implementation under FLLoCA, the consultant shall undertake a climate risk and vulnerability assessment addressing:

1. Historical and projected rainfall variability.
2. Drought frequency and severity.
3. Extreme rainfall and flood risks.
4. Catchment degradation and sedimentation.
5. Climate-related risks to embankment stability.
6. Water availability under changing climatic conditions.
7. Potential impacts on agricultural productivity.

8. Climate resilience of the solar pumping system.
9. Appropriate adaptation measures and disaster preparedness arrangements.

The consultant shall recommend climate-resilient design and operational measures, including catchment conservation, erosion control, water-use efficiency, and emergency response procedures.

7.0 STAKEHOLDER ENGAGEMENT AND PUBLIC PARTICIPATION

The consultant shall undertake meaningful consultations with relevant stakeholders to ensure transparency, community participation, and social acceptability.

Stakeholders shall include, but not be limited to:

- County Government of Kwale.
- Mackinon Ward and relevant local administrative representatives.
- Kabuyuni community members.
- Water users and community water management representatives.
- Farmers and livestock keepers.
- Women and youth groups.
- Vulnerable and marginalized persons.
- National Environment Management Authority (NEMA).
- Water Resources Authority (WRA).
- Kenya Forest Service (KFS), where relevant.
- Relevant public health and agricultural officers.
- Other relevant government agencies and civil society organizations.

The consultant shall:

- Conduct stakeholder consultation meetings.
- Explain the proposed project and its anticipated impacts.
- Document stakeholder concerns, recommendations, and expectations.
- Identify potential conflicts and propose resolution measures.
- Ensure participation of women, youth, and vulnerable groups.
- Maintain consultation records, attendance lists, photographs, and minutes.

8.0 ENVIRONMENTAL AND SOCIAL MANAGEMENT PLAN

The consultant shall prepare a comprehensive ESMP covering the pre-construction, construction, operation, and decommissioning phases.

The ESMP shall include the following:

Environmental/Social Aspect	Potential Impact	Proposed Mitigation Measures	Monitoring Indicators
Vegetation clearance	Loss of vegetation	Restrict clearance to approved project footprint and undertake restoration	Area cleared and number of trees planted
Soil erosion	Soil loss and sedimentation	Install erosion control structures and stabilize exposed surfaces	Visible erosion and sediment accumulation
Excavation	Safety risks	Provide barriers, warning signs, PPE, and safe excavation procedures	Number of incidents and compliance records
Embankment	Structural failure	Ensure appropriate engineering design, compaction, and inspection	Embankment inspection reports
Water quality	Contamination	Provide appropriate treatment, protect water points, and conduct periodic testing	Water quality test results
Public health	Waterborne diseases and mosquito breeding	Maintain drainage, prevent stagnant water, and implement health awareness	Reported cases and inspection records
Livestock watering	Water contamination and access conflicts	Provide designated troughs and appropriate drainage	Trough functionality and water quality
Micro-irrigation	Water wastage and soil degradation	Apply efficient irrigation and suitable crop management	Water-use efficiency and soil condition
Solar system	Electrical and equipment hazards	Install protective systems and undertake regular maintenance	Maintenance records and incidents
Solid waste	Pollution	Provide waste collection, segregation, and approved disposal	Waste disposal records
Community safety	Accidents and unauthorized access	Install secure fencing, signage, and controlled access	Safety inspections and incidents
Gender and inclusion	Unequal access to benefits	Ensure inclusive consultations and equitable water allocation	Participation and beneficiary records

The ESMP shall also include:

- Institutional responsibilities.
- Implementation schedule.
- Monitoring and evaluation framework.
- Estimated mitigation costs.
- Environmental reporting requirements.
- Emergency preparedness and response plan.
- Grievance Redress Mechanism (GRM).
- Occupational Health and Safety (OHS) measures.
- Community health and safety measures.
- Contractor environmental and social obligations.
- Operation and maintenance arrangements.

9.0 ENVIRONMENTAL AND SOCIAL SAFEGUARDS REQUIREMENTS

The assessment shall be guided by applicable Kenyan legislation and relevant FLLoCA safeguards requirements, including:

1. Constitution of Kenya, 2010.
2. Environmental Management and Coordination Act, 1999, as amended.
3. Environmental (Impact Assessment and Audit) Regulations, 2003, as amended.
4. Water Act, 2016.
5. Occupational Safety and Health Act, 2007.
6. Public Health Act, Cap. 242.
7. Physical and Land Use Planning Act, 2019.
8. Climate Change Act, 2016, as amended.
9. Forest Conservation and Management Act, 2016.
10. Sustainable Waste Management Act, 2022.
11. Applicable Water Resources Regulations.
12. Relevant FLLoCA Environmental and Social Safeguards instruments and procedures.

The consultant shall identify all applicable permits, licences, approvals, and institutional requirements necessary for project implementation.

10.0 GRIEVANCE REDRESS MECHANISM

The consultant shall develop or integrate a project-specific GRM consistent with the County Government and FLLoCA grievance management procedures.

The GRM shall provide accessible channels for receiving, recording, addressing, and resolving complaints related to:

- Land and access issues.
- Water allocation and use.
- Construction-related disturbances.
- Labour-related grievances.
- Community safety.
- Environmental pollution.
- Exclusion of vulnerable groups.
- Sexual exploitation, abuse, and sexual harassment (SEA/SH), with confidential and survivor-centred referral arrangements.

The mechanism shall specify complaint-handling responsibilities, timelines, escalation procedures, documentation, and reporting requirements.

11.0 EXPECTED DELIVERABLES

The consultant shall submit the following deliverables:

No.	Deliverable	Description
1	Inception Report	Methodology, work plan, stakeholder engagement strategy, and assessment tools
2	Environmental and Social Baseline Report	Findings from site investigations and baseline assessments
3	Draft ESIA Report	Project description, impact assessment, stakeholder consultations, and proposed mitigation measures
4	Environmental and Social Management Plan	Detailed mitigation, monitoring, institutional responsibilities, budget, and implementation schedule
5	Stakeholder Consultation Report	Consultation minutes, attendance lists, photographs, concerns, and responses
6	Final ESIA Report	Revised report incorporating comments from the project proponent and relevant review authorities
7	NEMA Submission Support	Assistance with submission, responses to review comments, and required revisions

All reports shall be submitted in both hard and electronic copies, including editable formats.

12.0 CONSULTANT QUALIFICATIONS AND EXPERIENCE

The assignment shall be undertaken by a qualified environmental assessment expert or consultancy firm registered and licensed by NEMA for the applicable assessment category.

The consultant shall possess:

- A degree in Environmental Science, Environmental Planning, Natural Resources Management, or a related discipline.
- Valid NEMA registration and practising licence appropriate to the assignment.
- Demonstrated experience in ESIA for water infrastructure, water pans, dams, irrigation, or related development projects.
- Knowledge of Kenyan environmental legislation and FLLoCA safeguards requirements.
- Experience in stakeholder engagement and preparation of ESMPs.
- Competence in environmental risk assessment, climate change adaptation, and occupational health and safety.

The consultant may engage additional specialists in hydrology, civil engineering, water quality, social safeguards, and occupational health and safety where necessary.

13.0 DURATION OF THE ASSIGNMENT

The assignment is expected to be completed within **21 working days** from the date of commencement, subject to the availability of project information, site access, stakeholder participation, and review requirements.

The proposed schedule is as follows:

Activity	Duration
Document review and inception	3 days
Site visits and baseline assessment	5 days
Stakeholder consultations	3 days
Impact assessment and ESMP preparation	6 days
Draft report submission	2 days
Review, finalization, and submission	2 days
Total	21 working days

The schedule shall be adjusted where additional investigations or regulatory requirements are necessary.

14.0 REPORTING AND SUPERVISION

The consultant shall report to the County Government of Kwale through the Department of Environment, Natural Resources, Energy and Climate Change, in coordination with the FLLOCA County Climate Unit (CCU).

The consultant shall work closely with the County Environmental Safeguards Officer, project engineers, relevant technical officers, and community representatives.

All deliverables shall be reviewed and approved by the project proponent before final submission to the relevant regulatory authority.

15.0 CONCLUSION

The Environmental and Social Impact Assessment for the proposed construction of Kabuyuni Water Pan is intended to ensure that the project delivers its anticipated climate resilience, water security, agricultural, and livelihood benefits while minimizing adverse environmental and social impacts.

The consultant shall provide practical, technically sound, and cost-effective recommendations to guide sustainable project implementation, operation, maintenance, and long-term community ownership.

2. REHABILITATION OF NGANGARI WATER PAN IN CHANZOU II VILLAGE IN SAMBURU/CHENGONI WARD

TERMS OF REFERENCE (ToR) FOR ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT (ESIA) FOR THE PROPOSED REHABILITATION OF NGANGARI WATER PAN IN CHANZOU II VILLAGE, SAMBURU/CHENGONI WARD, KWALE COUNTY

1.0 INTRODUCTION AND BACKGROUND

The County Government of Kwale, through the Department of Environment, Natural Resources, Energy and Climate Change, intends to implement the proposed rehabilitation of Ngangari Water Pan situated in Chanzou II Village, Samburu/Chengoni Ward, Kwale County, under the Financing Locally-Led Climate Action (FLLOCA) programme.

The project aims to improve water availability, strengthen community resilience to climate variability, support livestock production, promote climate-smart agriculture, and enhance sustainable management of

local water resources.

The existing water pan has experienced embankment deterioration and washing away, compromising its water storage capacity, structural integrity, and reliability as a community water source.

The proposed intervention will involve rehabilitation of the washed embankment, installation of fencing, construction of animal watering troughs and a Community Water Point (CWP), establishment of buffer vegetation, installation of a solar-powered pumping system, construction of water storage facilities, and establishment of micro-irrigation infrastructure.

Given the nature of the proposed activities, an Environmental and Social Impact Assessment (ESIA) will be undertaken to identify potential environmental and social risks and impacts, recommend appropriate mitigation measures, and develop an Environmental and Social Management Plan (ESMP).

The assessment shall be undertaken by a NEMA-registered and licensed ESIA expert in accordance with applicable Kenyan environmental legislation, FLLOCA Environmental and Social Safeguards requirements, and relevant good environmental and social practices.

2.0 OBJECTIVES OF THE ASSIGNMENT

2.1 Overall Objective

To undertake an Environmental and Social Impact Assessment of the proposed rehabilitation of Ngangari Water Pan and develop appropriate environmental and social mitigation measures to ensure that the project is implemented in an environmentally sustainable, socially acceptable, and climate-resilient manner.

2.2 Specific Objectives

The specific objectives of the assignment shall be to:

1. Establish the existing environmental and socio-economic conditions within the project site and its area of influence.
2. Identify and assess potential positive and negative environmental and social impacts associated with the proposed project activities.
3. Assess the structural and environmental implications of rehabilitating the washed embankment.
4. Evaluate potential impacts on surface water quality, soil stability, drainage, biodiversity, and downstream users.
5. Assess occupational health and safety risks, community health and safety concerns, and risks associated with construction activities.
6. Identify potential land ownership, access, resource-use, and community conflict issues.

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7. Assess the sustainability and environmental implications of the proposed solar-powered water pumping system and micro-irrigation activities.
 8. Recommend practical measures for avoiding, minimizing, mitigating, and managing identified adverse impacts.
 9. Develop a comprehensive Environmental and Social Management Plan (ESMP), including monitoring indicators, institutional responsibilities, implementation timelines, and estimated costs.
 10. Undertake meaningful stakeholder and community consultations and document their views, concerns, and recommendations.
 11. Establish appropriate grievance redress and community feedback mechanisms.
 12. Prepare and submit an ESIA report compliant with NEMA requirements and applicable FLLOCA safeguards standards.

3.0 PROJECT DESCRIPTION AND SCOPE OF WORKS

The proposed project shall comprise the following major components:

3.1 Rehabilitation of the Washed Embankment

The activity shall involve:

- Site clearing and preparation.
- Excavation and removal of unsuitable materials.
- Reinstatement and compaction of the washed embankment.
- Placement of suitable earth materials.
- Construction or rehabilitation of erosion protection structures.
- Improvement of drainage and spillway arrangements, where required.
- Stabilization of the embankment through appropriate engineering and vegetation measures.

The ESIA expert shall assess the risk of embankment failure, soil erosion, downstream flooding, sedimentation, and potential impacts on adjacent properties and communities.

3.2 Fencing

The project shall involve installation of a suitable fence around designated sections of the water pan to:

- Protect the water infrastructure from unauthorized access.
- Reduce contamination and physical damage.

- Manage livestock access.
- Improve community safety.

The assessment shall examine potential restrictions on existing access routes, community resource use, livestock movement, and public safety.

3.3 Construction of Animal Watering Troughs

The project shall provide designated livestock watering facilities to improve livestock access to water and reduce direct entry into the water reservoir.

The ESIA shall assess:

- Livestock concentration and sanitation risks.
- Potential contamination from animal waste.
- Drainage of wastewater from troughs.
- Soil erosion around watering points.
- Livestock and human safety.

3.4 Construction of Community Water Point (CWP)

The project shall establish a designated community water collection point to improve access to water for domestic and other approved community uses.

The assessment shall consider:

- Water quality and public health risks.
- Safe access for women, children, older persons, and persons with disabilities.
- Water collection congestion and equitable access.
- Potential contamination from human and animal activities.
- Water allocation and management arrangements.

3.5 Buffer Planting

The project shall establish appropriate indigenous and locally adapted vegetation around designated sections of the water pan.

The assessment shall identify suitable plant species and assess their potential contribution to:

- Soil stabilization.
- Erosion and sedimentation control.

- 
- Biodiversity enhancement.
 - Improvement of the local microclimate.
 - Protection of the water reservoir.

The assessment shall also consider species suitability, water requirements, and maintenance arrangements.

3.6 Installation of a Solar-Powered Pumping System

The proposed system shall comprise solar panels, pumping equipment, supporting structures, control units, and associated water conveyance infrastructure.

The ESIA shall assess:

- Potential impacts associated with installation and operation.
- Electrical and mechanical safety.
- Security and vandalism risks.
- Disposal of damaged solar panels, batteries, and electronic components.
- Sustainable water abstraction and pumping capacity.
- Potential over-extraction and competition among users.

3.7 Construction of Water Storage Facilities

The project shall provide suitable water storage infrastructure to support community water supply and irrigation activities.

The assessment shall consider:

- Structural safety.
- Water quality protection.
- Leakage and water losses.
- Drainage and overflow management.
- Public access and safety.
- Maintenance and operational requirements.

3.8 Establishment of Micro-Irrigation Infrastructure

The project shall establish micro-irrigation facilities to support climate-smart agricultural production and improve efficient water utilization.

The assessment shall examine:

- Sustainable water availability.
- Soil suitability and drainage.
- Potential waterlogging and salinity.
- Fertilizer and pesticide management.
- Crop selection and water demand.
- Equitable allocation of irrigation water.
- Long-term operation and maintenance arrangements.

4.0 SCOPE OF THE ESIA ASSIGNMENT

The ESIA consultant shall undertake the following tasks:

4.1 Preliminary Assessment and Project Familiarization

The consultant shall:

- Review available project documents, designs, drawings, and Bills of Materials (BoMs).
- Undertake a reconnaissance visit to the project site.
- Establish the project boundaries and area of influence.
- Identify environmentally and socially sensitive receptors.
- Review existing land ownership and access arrangements.
- Identify relevant regulatory and institutional requirements.

4.2 Baseline Environmental Assessment

The consultant shall establish baseline information on the following environmental parameters:

a) Physical Environment

- Topography and landforms.
- Soil characteristics and erosion susceptibility.
- Surface water availability and quality.
- Drainage patterns and flood risks.
- Local climatic conditions.
- Existing land use and vegetation cover.
- Existing sources of pollution.

b) Biological Environment

- Existing vegetation and plant species.
- Presence of sensitive habitats.

- Wildlife and livestock interactions.
- Ecological sensitivity of the project site.
- Potential impacts on biodiversity.

c) Socio-Economic Environment

- Population and settlement characteristics.
- Existing water sources and utilization patterns.
- Livestock ownership and livestock production activities.
- Agricultural activities and livelihoods.
- Land tenure and resource access.
- Vulnerable and disadvantaged groups.
- Community health and sanitation conditions.
- Existing community institutions and water management arrangements.

4.3 Environmental and Social Impact Identification

The consultant shall identify, predict, and evaluate impacts during the following project phases:

1. Pre-construction phase.
2. Construction and rehabilitation phase.
3. Operation and maintenance phase.
4. Decommissioning phase, where applicable.

Impact assessment shall consider magnitude, duration, geographical extent, likelihood, reversibility, and significance.

4.4 Assessment of Alternatives

The consultant shall assess feasible alternatives, including:

- The no-project alternative.
- Alternative embankment rehabilitation approaches.
- Alternative fencing and water access arrangements.
- Alternative solar pumping and storage configurations.
- Alternative micro-irrigation technologies.
- Alternative locations for ancillary facilities, where applicable.

The preferred options shall be evaluated based on environmental sustainability, social acceptability, technical feasibility, climate resilience, and cost considerations.

5.0 KEY ENVIRONMENTAL AND SOCIAL ISSUES TO BE INVESTIGATED

The ESIA shall specifically examine the following issues:

5.1 Environmental Issues

- Soil erosion and embankment instability.
- Sedimentation and reduction of reservoir capacity.
- Surface water contamination.
- Alteration of natural drainage patterns.
- Downstream flooding and safety risks.
- Loss of vegetation during construction.
- Improper disposal of excavated materials.
- Construction dust, noise, and vibration.
- Water abstraction and resource sustainability.
- Waterlogging and soil salinity associated with irrigation.
- Waste generation and disposal.
- Impacts on biodiversity and ecological habitats.
- Climate change vulnerability and resilience.

5.2 Social Issues

- Community access to water resources.
- Potential conflicts between domestic, livestock, and irrigation water users.
- Land ownership and access restrictions.
- Occupational health and safety.
- Community health and safety.
- Risks of drowning and accidental falls into the water pan.
- Gender inclusion and equitable benefit sharing.
- Child protection and prevention of child labour.
- Sexual Exploitation, Abuse and Sexual Harassment (SEA/SH) risks.
- Potential labour-related grievances.
- Public safety during construction.
- Grievance Redress Mechanism (GRM).
- Sustainability of community management structures.

6.0 ENVIRONMENTAL AND SOCIAL MANAGEMENT PLAN

The consultant shall prepare a comprehensive ESMP detailing the mitigation and management measures for



identified impacts.

The ESMP shall include:

1. Identified environmental and social risks.
2. Proposed mitigation measures.
3. Environmental and social monitoring indicators.
4. Monitoring methods and frequency.
5. Responsible implementing institutions.
6. Estimated implementation costs.
7. Reporting and compliance requirements.
8. Emergency response and incident reporting arrangements.
9. Institutional capacity-building requirements.
10. Operation and maintenance responsibilities.

The ESMP shall cover pre-construction, construction, operation, and maintenance phases.

7.0 STAKEHOLDER ENGAGEMENT AND PUBLIC PARTICIPATION

The consultant shall undertake meaningful consultations with relevant stakeholders, including:

- County Government of Kwale.
- Department of Environment, Natural Resources, Energy and Climate Change.
- Department of Water and Sanitation.
- Department of Agriculture and Livestock.
- National Environment Management Authority (NEMA).
- National and County Government administrative representatives.
- Local community leadership.
- Water users and livestock owners.
- Women and youth representatives.
- Persons with disabilities and other vulnerable groups.
- Community-based organizations.
- Relevant technical agencies.

The consultant shall:

- Conduct stakeholder meetings and community consultations.
- Explain the project scope, objectives, anticipated benefits, and potential risks.
- Document stakeholder concerns, recommendations, and proposed mitigation measures.
- Ensure inclusive participation of women, youth, and vulnerable groups.

- Establish or identify suitable grievance reporting channels.
- Prepare stakeholder consultation records, attendance lists, and photographic evidence, subject to consent.

8.0 LEGAL, POLICY AND INSTITUTIONAL FRAMEWORK

The consultant shall review and assess compliance with relevant Kenyan laws, regulations, policies, and applicable FLLOCA safeguards requirements, including but not limited to:

1. Constitution of Kenya, 2010.
2. Environmental Management and Co-ordination Act, 1999, as amended.
3. Environmental (Impact Assessment and Audit) Regulations and applicable amendments.
4. Water Act, 2016.
5. Occupational Safety and Health Act, 2007.
6. Employment Act, 2007.
7. Public Health Act, Cap. 242.
8. Physical and Land Use Planning Act, 2019.
9. Climate Change Act, 2016, as amended.
10. Sustainable Waste Management Act, 2022.
11. National Construction Authority Act and applicable construction requirements.
12. Applicable water quality and water resources regulations.
13. Relevant County Government legislation and policies.
14. FLLOCA Environmental and Social Safeguards Framework and applicable operational requirements.
15. Relevant provisions on community health and safety, gender, labour management, and grievance redress.

The consultant shall identify relevant statutory approvals, permits, and compliance obligations required before project implementation.

9.0 OCCUPATIONAL HEALTH, SAFETY AND COMMUNITY SAFETY

The consultant shall assess potential occupational and community safety risks and recommend appropriate measures, including:

- Provision and use of personal protective equipment (PPE).
- Safe excavation and embankment rehabilitation procedures.
- Barricading and warning signage.
- Safe handling of construction machinery.

- Emergency preparedness and response.
- First aid arrangements.
- Prevention of unauthorized access to hazardous construction areas.
- Safety measures around the water reservoir and storage facilities.
- Safe installation and operation of solar-powered equipment.
- Contractor code of conduct.
- Prevention of child labour, SEA/SH, and other forms of exploitation.

10.0 CLIMATE CHANGE AND RESILIENCE ASSESSMENT

The consultant shall assess the vulnerability of the proposed project to climate-related hazards, including:

- Prolonged drought.
- Intense rainfall.
- Flash floods.
- Soil erosion.
- Extreme temperatures.
- Water scarcity.

The assessment shall recommend appropriate climate-resilient design and management measures, including embankment protection, improved drainage, water conservation, buffer planting, and efficient irrigation technologies.

11.0 METHODOLOGY

The consultant shall adopt a participatory and multidisciplinary approach comprising:

11.1 Desk Review

Review of project designs, technical documents, relevant legislation, safeguards instruments, and available environmental and socio-economic information.

11.2 Field Investigations

Physical inspection of the water pan, embankment, drainage systems, surrounding land, proposed ancillary facilities, and irrigation areas.

11.3 Environmental Sampling

Where necessary, undertake water and soil quality analysis through an appropriately qualified laboratory.

Water quality parameters may include:

- pH.
- Turbidity.
- Electrical conductivity.
- Total dissolved solids.
- Nitrates.
- Phosphates.
- Total coliforms and E. coli.
- Other parameters based on intended water use and applicable standards.

11.4 Stakeholder Consultations

Conduct key informant interviews, community meetings, and focused group discussions.

11.5 Impact Assessment

Use appropriate qualitative and quantitative methods, including impact significance matrices, risk assessment, and analysis of project alternatives.

11.6 ESMP Development

Develop practical mitigation, monitoring, reporting, and institutional implementation measures.

12.0 EXPECTED DELIVERABLES

The consultant shall submit the following outputs:

No. Deliverable	Description
1 Inception Report	Methodology, workplan, assessment tools, and consultation schedule
2 Environmental and Social Baseline Report	Findings on the existing environmental and socio-economic conditions
3 Stakeholder Consultation Report	Consultation proceedings, attendance records, issues raised, and responses
4 Draft ESIA Report	Impact assessment, alternatives, mitigation measures, and draft

		ESMP
5	Final ESIA Study Report	Incorporation of County Government and relevant stakeholder comments
6	ESMP	Environmental and social management, monitoring, responsibilities, and budget
7	NEMA Submission Package	Final documentation and supporting annexes required for regulatory review

All reports shall be submitted in both editable electronic and PDF formats, together with relevant supporting documentation.

13.0 PROPOSED IMPLEMENTATION SCHEDULE

The assignment is expected to take approximately 14 working days.

Activity	Duration
Desk review and inception	2 days
Site reconnaissance and field assessment	3 days
Environmental and social baseline investigations	2 days
Stakeholder consultations	2 days
Impact analysis and ESMP preparation	3 days
Draft report preparation and submission	1 day
Finalization and submission	1 day
Total	14 working days

The schedule shall be agreed upon with the County Government and adjusted where additional investigations or regulatory requirements arise.

14.0 QUALIFICATIONS AND EXPERIENCE OF THE ESIA CONSULTANT

The assignment shall be undertaken by an individual ESIA Lead Expert or a firm of experts registered and licensed by NEMA.

The consultant shall demonstrate:

- Relevant academic qualifications in Environmental Science, Environmental Management, Natural Resources Management, Engineering, Social Sciences, or related disciplines.
- Valid NEMA registration and practising licence.

- Experience in conducting ESIA studies for water pans, water supply infrastructure, irrigation, or related projects.
- Knowledge of Kenyan environmental legislation and FLLOCA safeguards requirements.
- Experience in stakeholder engagement and participatory assessment.
- Competence in environmental and social risk assessment and ESMP preparation.
- Experience in preparing reports for submission to NEMA.

Where necessary, the Lead Expert shall engage specialists in civil/water engineering, hydrology, water quality, social safeguards, occupational health and safety, and other relevant disciplines.

15.0 RESPONSIBILITIES OF THE COUNTY GOVERNMENT

The County Government of Kwale shall:

1. Provide available project designs, technical information, and relevant documents.
2. Facilitate access to the proposed project site.
3. Coordinate engagement with relevant County departments and local administration.
4. Facilitate stakeholder identification and community consultations.
5. Provide available land ownership and project site documentation.
6. Review and provide comments on submitted reports.
7. Facilitate the necessary administrative processes for project implementation.
8. Ensure that project implementation is undertaken in accordance with applicable environmental and social safeguards requirements.

16.0 RESPONSIBILITIES OF THE ESIA CONSULTANT

The consultant shall:

1. Undertake the assessment independently and professionally.
2. Comply with applicable legal and regulatory requirements.
3. Conduct adequate field investigations and stakeholder consultations.
4. Identify and assess all material environmental and social risks.
5. Develop practical and costed mitigation measures.
6. Prepare a comprehensive ESMP with clearly assigned responsibilities.
7. Address comments from the County Government and relevant stakeholders.
8. Prepare the required NEMA submission documentation.
9. Maintain accurate records of consultations, investigations, and findings.
10. Submit all deliverables within the agreed assignment period.

17.0 REPORTING AND APPROVAL

The consultant shall report to the County Government of Kwale through the Department of Environment, Natural Resources, Energy and Climate Change or its designated FLLOCA Coordinating Unit.

The draft ESIA report shall be reviewed by the County Government before finalization.

The final report shall be submitted for the applicable NEMA review and approval process. Project implementation shall be subject to the necessary environmental approval and licensing requirements.

18.0 CONCLUSION

The ESIA assignment is intended to ensure that the proposed rehabilitation of Ngangari Water Pan is implemented in a manner that safeguards environmental integrity, promotes community health and safety, supports equitable access to water, and enhances climate resilience.

The resulting ESIA report and ESMP shall provide the County Government of Kwale with a practical framework for managing environmental and social risks throughout the project cycle while maximizing the project's benefits to the residents of Chanzou II Village and the wider Samburu/Chengoni Ward.

3. REHABILITATION OF MKULUNG'OMBE WATER PAN IN MTAA VILLAGE UNIT IN KASEMENI WARD

TERMS OF REFERENCE (TOR) FOR ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT (ESIA) FOR THE PROPOSED REHABILITATION OF MKULUNG'OMBE WATER PAN IN MTAA VILLAGE UNIT, KASEMENI WARD, KWALE COUNTY

1. Background and Project Justification

The County Government of Kwale, through the Department of Environment, Natural Resources, Energy and Climate Change, proposes to rehabilitate Mkulung'ombe Water Pan in Mtaa Village Unit, Kasemeni Ward, under the Financing Locally-Led Climate Action (FLLOCA) programme.

The project aims to enhance water harvesting and storage capacity, improve access to water for domestic and livestock use, and promote climate-resilient agricultural production through micro-irrigation.

The rehabilitation will involve excavation and desilting of the existing water pan, reconstruction and strengthening of the embankment, installation of fencing, construction of community water points and animal troughs, buffer zone planting, establishment of a one-acre micro-irrigation demonstration unit, and installation of a solar-powered water pumping system.

The project is expected to contribute to drought resilience, food security, improved livelihoods, environmental conservation, and sustainable community water management.

However, construction and operation activities may generate environmental and social risks, including soil erosion, sedimentation, water contamination, occupational safety hazards, community health and safety concerns, conflicts over water use, and potential impacts on downstream users.

An ESIA is therefore required to identify, assess, and provide appropriate mitigation measures for the anticipated impacts.

2. Project Goal and Objectives

2.1 Overall Goal

To improve climate resilience, water security, and sustainable livelihoods among communities in Mtaa Village Unit through rehabilitation and sustainable management of Mkulung’ombe Water Pan.

2.2 Specific Objectives

The ESIA shall:

1. Establish the existing environmental and social conditions within the proposed project site and its surrounding area.
2. Identify and assess potential positive and negative environmental and social impacts associated with the project.
3. Examine the environmental and social implications of the proposed project activities throughout construction, operation, maintenance, and decommissioning.
4. Identify appropriate measures to avoid, minimize, mitigate, or compensate for adverse impacts.
5. Develop a comprehensive Environmental and Social Management Plan (ESMP).
6. Undertake meaningful stakeholder and community consultations to incorporate local concerns and recommendations.
7. Assess potential risks relating to water quality, dam safety, occupational health and safety, community health, gender inclusion, and resource-use conflicts.
8. Recommend appropriate institutional arrangements for implementation, monitoring, and reporting of environmental and social safeguards.
9. Ensure compliance with applicable Kenyan environmental legislation and FLLOCA environmental and social safeguards requirements.

3. Project Description and Scope of Works

The proposed project will comprise the following components:

No.	Project component	Description
1	Excavation and desilting	Removal of accumulated silt, excavation, reshaping, and restoration of water storage capacity.

2	Embankment construction	Rehabilitation, raising where technically justified, compaction, and stabilization of the embankment.
3	Fencing	Installation of protective fencing to regulate access and enhance safety.
4	Community water points	Construction of designated water collection points for community use.
5	Animal troughs	Construction of livestock watering facilities to minimize direct animal access to the reservoir.
6	Buffer planting	Establishment of suitable indigenous vegetation around the water pan to control erosion and protect water quality.
7	Micro-irrigation	Establishment of a one-acre climate-smart agricultural demonstration unit using water-efficient irrigation technology.
8	Solar-powered pumping system	Installation of solar panels, pump, control equipment, pipelines, and associated fittings.

The consultant shall verify the project design, proposed land requirements, water balance, excavation volumes, reservoir capacity, and engineering specifications during the assessment.

4. Scope of the ESIA Assignment

The consultant shall undertake a comprehensive environmental and social assessment covering the following tasks.

4.1 Project Site Reconnaissance

The consultant shall:

- Visit and inspect the proposed project site.
- Establish the geographical location and boundaries of the project area.
- Identify existing land uses and adjoining properties.
- Assess the current condition of the water pan, embankment, catchment, and drainage systems.
- Identify settlements, farms, public facilities, grazing areas, and other sensitive receptors.
- Assess access roads, construction material sources, and proposed construction areas.
- Identify any existing environmental degradation or social concerns.

4.2 Environmental and Social Baseline Assessment

The consultant shall establish baseline information on the following:

a) Physical environment

- Topography, geology, and soil characteristics.

- Rainfall patterns, drought exposure, and climate variability.
- Surface water and groundwater conditions.
- Existing water quality and potential pollution sources.
- Drainage patterns and catchment characteristics.
- Soil erosion and sedimentation risks.
- Ambient air quality and noise levels.

b) Biological environment

- Existing vegetation and biodiversity.
- Presence of indigenous trees and other important plant species.
- Wildlife and livestock interactions with the water pan.
- Aquatic habitats and potential ecological sensitivities.
- Existing invasive species and opportunities for ecological restoration.

c) Socio-economic environment

- Population and demographic characteristics of beneficiary communities.
- Existing water access and utilization patterns.
- Livelihoods and agricultural production systems.
- Livestock ownership and grazing practices.
- Land ownership, tenure, and access rights.
- Vulnerable and marginalized groups.
- Gender roles in water collection and agricultural production.
- Existing community institutions and water management arrangements.

4.3 Policy, Legal and Institutional Framework

The consultant shall review the applicable national and county legislation, policies, regulations, and FLLOCA safeguards instruments.

The assessment shall particularly consider:

- Environmental Management and Co-ordination Act, 1999, as amended.
- Environmental Management and Co-ordination (Strategic and Integrated Environmental Assessments and Environmental Audits) Regulations, 2025, and applicable transitional provisions.
- Water Act, 2016.
- Occupational Safety and Health Act, 2007.
- Public Health Act, Cap. 242.
- Land Act, 2012.
- Community Land Act, 2016.
- Climate Change Act, 2016, as amended.
- Physical and Land Use Planning Act, 2019.
- National Construction Authority Act and applicable construction requirements.
- Applicable water resources, biodiversity, waste management, air quality, and noise regulations.

- FLLOCA Environmental and Social Management Framework and relevant safeguards instruments.
- County environmental, climate change, water, and development policies.

The consultant shall identify the relevant regulatory approvals, permits, and institutional responsibilities. The applicable ESIA submission pathway shall be confirmed with NEMA, which administers environmental assessment and licensing in Kenya.

5. Assessment of Potential Environmental and Social Impacts

The consultant shall identify, predict, and evaluate impacts during the pre-construction, construction, operational, and decommissioning phases.

5.1 Potential Positive Impacts

The assessment shall consider:

- Increased water storage and availability.
- Improved access to water for domestic and livestock use.
- Enhanced drought resilience and climate adaptation.
- Increased agricultural production through micro-irrigation.
- Improved household food security and livelihoods.
- Temporary employment and income-generating opportunities.
- Improved livestock health and productivity.
- Reduced distance and time spent collecting water.
- Improved vegetation cover and catchment restoration.
- Strengthened community participation in natural resource management.

5.2 Potential Negative Impacts

Project activity	Potential environmental and social impacts
Excavation and desilting	Soil disturbance, erosion, dust, noise, disposal of excavated material, and possible exposure to unsafe ground conditions.
Embankment rehabilitation	Structural failure risks, downstream flooding, soil erosion, and worker safety hazards.
Fencing	Restricted access to traditional water points, grazing routes, or community resources if access arrangements are not agreed.
Community water points	Water contamination, crowding, poor drainage, and unequal access.
Animal troughs	Wastewater accumulation, localized erosion, and livestock-related sanitation risks.

Buffer planting	Competition for water, inappropriate species selection, and maintenance requirements.
Micro-irrigation	Over-abstraction, water-use conflicts, soil salinity or waterlogging, and agrochemical pollution.
Solar pumping	Electrical hazards, theft or vandalism, e-waste, and unsafe installation.
Construction activities	Occupational injuries, traffic risks, noise, dust, waste generation, and potential labour-related grievances.
Water pan operation	Waterborne diseases, drowning, mosquito breeding, and conflicts over water allocation.

The consultant shall assess the significance of each impact using an appropriate methodology considering magnitude, duration, extent, likelihood, reversibility, and receptor sensitivity.

6. Specific Environmental and Social Assessment Requirements

6.1 Water Resources and Water Quality Assessment

The consultant shall:

- Assess the existing water quality of Mkulung'ombe Water Pan.
- Undertake appropriate water sampling and laboratory analysis.
- Evaluate the potential impacts of excavation and construction on water quality.
- Assess the water balance and sustainability of the proposed abstraction.
- Examine the adequacy of water allocation for domestic, livestock, and irrigation uses.
- Recommend water quality monitoring and protection measures.
- Assess drainage and wastewater management at community water points and animal troughs.

Water quality parameters should include, as appropriate, pH, turbidity, electrical conductivity, total dissolved solids, nitrates, phosphates, and microbiological indicators such as E. coli.

6.2 Embankment Stability and Dam Safety

The consultant shall assess:

- Existing embankment condition and stability.
- Potential seepage, piping, erosion, and overtopping.
- Adequacy of spillway and drainage arrangements.
- Risks of embankment failure and downstream flooding.
- Structural suitability of the proposed rehabilitation design.
- Emergency preparedness and response arrangements.

A qualified water or civil engineer shall contribute to the technical assessment and recommend appropriate safety measures.

6.3 Occupational Health and Safety

The assessment shall identify risks associated with:

- Excavation and earth-moving machinery.
- Working near water and unstable embankments.
- Manual handling and construction activities.
- Electrical installations and solar equipment.
- Heat stress and dehydration.
- Traffic and movement of construction machinery.
- Working at heights, where applicable.

The consultant shall develop appropriate occupational health and safety measures, including provision of PPE, first aid, emergency response, safety induction, and incident reporting.

6.4 Community Health and Safety

The assessment shall examine:

- Risk of drowning and unauthorized access.
- Waterborne diseases and vector breeding.
- Safety of children and livestock around the reservoir.
- Construction traffic and public access.
- Potential conflicts arising from water allocation.
- Community exposure to dust, noise, and construction hazards.

The ESMP shall include suitable fencing, warning signage, safe access arrangements, drainage, sanitation, and community awareness measures.

6.5 Gender, Social Inclusion and Vulnerable Groups

The consultant shall:

- Assess the participation of women, youth, persons with disabilities, and vulnerable households.
- Examine equitable access to water and irrigation benefits.
- Identify potential exclusion arising from user fees, access rules, or water allocation.
- Recommend inclusive community management arrangements.
- Ensure stakeholder consultations are accessible and culturally appropriate.

6.6 Land Acquisition and Resettlement Screening

The consultant shall establish whether the project will require:

- Acquisition of additional land.
- Temporary occupation of private or community land.
- Restriction of existing access or livelihood activities.
- Relocation of structures or economic activities.

Where applicable, the consultant shall recommend the necessary land access, compensation, or resettlement safeguards instruments before implementation.

6.7 Labour Management and Grievance Redress Mechanism

The consultant shall recommend measures to address:

- Fair and transparent recruitment of local labour.
- Prohibition of child labour and forced labour.
- Equal employment opportunities.
- Prevention of sexual exploitation, abuse and harassment (SEA/SH).
- Worker grievance management.
- Community grievance reporting and resolution.
- Confidential reporting and referral procedures for sensitive complaints.

The project shall integrate the applicable FLLOCA Grievance Redress Mechanism (GRM).

7. Analysis of Project Alternatives

The consultant shall assess reasonable alternatives, including:

1. **No-project alternative:** Continuation of the existing water pan condition.
2. **Alternative rehabilitation designs:** Different excavation, embankment stabilization, and spillway options.
3. **Alternative water supply arrangements:** Different configurations for community water points and livestock troughs.
4. **Alternative pumping systems:** Solar-powered pumping options and efficient water distribution arrangements.
5. **Alternative irrigation technologies:** Drip irrigation and other water-efficient systems.
6. **Alternative buffer planting species:** Indigenous, drought-tolerant, and non-invasive species.
7. **Alternative construction methods:** Options that minimize environmental disturbance and community disruption.

The consultant shall recommend technically feasible alternatives based on environmental, social, economic, and climate resilience considerations.

8. Stakeholder Engagement and Public Participation

The consultant shall undertake meaningful consultations with affected communities and relevant stakeholders.

Stakeholders shall include, but not be limited to:

- County Government of Kwale.
- Department of Environment, Natural Resources, Energy and Climate Change.
- Department of Water and relevant water service institutions.
- National Environment Management Authority (NEMA).
- Water Resources Authority (WRA), where applicable.
- Kenya Forest Service (KFS).
- National Government administrative officers.
- Kasemeni Ward leadership.

- Mtaa Village Unit leadership.
- Community members and proposed water pan beneficiaries.
- Women, youth, and vulnerable groups.
- Farmers and livestock keepers.
- Community water management representatives.
- Relevant civil society organizations.

The consultant shall:

- Conduct stakeholder identification and mapping.
- Hold community consultation meetings.
- Document concerns, suggestions, and recommendations.
- Maintain attendance registers and photographic evidence, with appropriate consent.
- Prepare stakeholder engagement records.
- Demonstrate how community concerns have been incorporated into the ESIA and ESMP.

The public participation process shall comply with applicable Kenyan requirements and NEMA directions.

9. Development of the Environmental and Social Management Plan (ESMP)

The consultant shall prepare a comprehensive ESMP containing:

- Identified environmental and social impacts.
- Proposed mitigation and enhancement measures.
- Responsible implementing institutions.
- Monitoring indicators.
- Monitoring frequency.
- Estimated mitigation costs.
- Reporting requirements.
- Corrective action procedures.
- Institutional capacity-building requirements.

Indicative ESMP Matrix

Potential impact	Proposed mitigation measures	Monitoring indicators
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Soil erosion	Stabilize embankments, establish vegetation, and provide appropriate drainage.	Evidence of erosion; condition of embankment.
Water pollution	Control sediment runoff, manage waste, and prevent fuel/oil spills.	Water quality results; spill incidents.
Dust and noise	Apply water for dust suppression and maintain machinery.	Dust complaints; noise incidents.
Occupational injuries	Enforce PPE, safety induction, and site supervision.	PPE compliance; accident records.
Drowning risks	Install secure fencing, warning signs, and controlled access points.	Fence condition; reported incidents.
Water-use conflicts	Develop inclusive water allocation and management rules.	Complaints received and resolved.
Livestock contamination	Provide designated animal troughs and proper wastewater drainage.	Trough functionality; sanitation condition.
Irrigation-related impacts	Apply efficient irrigation and sustainable abstraction controls.	Water abstraction records; soil condition.
Biodiversity impacts	Plant appropriate indigenous species and protect sensitive habitats.	Survival rate of planted trees.
Labour and social risks	Apply labour management procedures and operationalize GRM.	Labour records; grievance resolution rate.

10. Environmental and Social Monitoring Plan

The consultant shall develop a monitoring framework covering:

Parameter	Monitoring frequency	Responsible party
Embankment stability	During construction and periodically during operation, including after heavy rainfall	County Engineer / Water Engineer

Water quality	Before construction, after rehabilitation, and periodically during operation	County Water Department / designated laboratory
Soil erosion	Monthly during construction and after major rainfall events	Environmental Officer / Contractor
Occupational safety	Routine daily site inspections	Contractor / OSH Officer
Community safety	Monthly and following reported incidents	Project Management Committee / County safeguards team
Tree survival	Quarterly during establishment	Environment Department / Community
Water abstraction	Monthly during operation	Water Pan Management Committee
GRM performance	Continuous recording and quarterly review	GRM Focal Person
Micro-irrigation performance	Monthly during the growing season	Agriculture Department / Beneficiary Group

The monitoring plan shall specify baseline values, performance targets, corrective actions, reporting responsibilities, and associated costs.

11. Institutional and Implementation Arrangements

The consultant shall define the roles and responsibilities of:

County Government of Kwale

- Overall project oversight.
- Provision of technical and institutional support.
- Coordination of safeguards implementation.
- Monitoring and reporting.

Department of Environment, Natural Resources, Energy and Climate Change

- Environmental safeguards coordination.
- Monitoring of ESMP implementation.
- Environmental awareness and buffer planting supervision.
- FLLOCA safeguards reporting.

County Water and Engineering Departments

- Technical review of water pan design.
- Embankment safety and water infrastructure supervision.
- Water quality and water use monitoring.

Project Contractor

- Implementation of construction-phase mitigation measures.
- Occupational health and safety compliance.
- Waste management and site restoration.
- Incident reporting and corrective action.

Community Water Pan Management Committee

- Routine operation and maintenance.
- Regulation of access and water allocation.
- Maintenance of fencing, troughs, and water points.
- Community grievance handling and reporting.

NEMA

- Review of the applicable environmental assessment submission.
- Environmental licensing and regulatory oversight.

12. Expected Deliverables

The consultant shall submit the following deliverables:

No.	Deliverable	Description
1	Inception Report	Understanding of assignment, methodology, workplan, and assessment tools.
2	ESIA Scoping Report / TOR	Assessment scope, key issues, stakeholder mapping, and methodology, as applicable.
3	Baseline Assessment Report	Environmental and social baseline findings, including relevant water quality data.
4	Stakeholder Consultation Report	Consultation records, attendance lists, concerns, and responses.
5	Draft ESIA Report	Impact assessment, alternatives analysis, safeguards screening, and proposed ESMP.
6	Final ESIA Report	Revised report incorporating County Government and relevant

review comments.

7	Environmental and Social Management Plan	Detailed mitigation, monitoring, implementation responsibilities, and cost estimates.
8	NEMA Submission Documentation	Applicable application forms, report, supporting documents, and responses to review comments.

The consultant shall facilitate the applicable NEMA review and licensing process. The final project implementation schedule shall take account of the required environmental approvals.

13. Proposed ESIA Study Methodology

The consultant shall apply a combination of qualitative and quantitative methods, including:

- Desk review of project documents, engineering designs, and safeguards instruments.
- Site reconnaissance and physical observations.
- Environmental and social baseline surveys.
- Water sampling and laboratory analysis.
- Key informant interviews.
- Focus group discussions.
- Public participation meetings.
- Geographical and photographic documentation.
- Impact identification and significance evaluation.
- Risk assessment and alternatives analysis.
- Development of mitigation and monitoring measures.

The assessment shall be participatory, evidence-based, and proportionate to the project's identified risks.

14. Proposed Duration of the Assignment

The ESIA study is expected to take approximately **21 working days**, excluding statutory review and licensing timelines.

Activity	Indicative duration
Inception and desk review	2 days
Site reconnaissance and baseline assessment	4 days
Stakeholder consultations	3 days

Environmental and social impact assessment	4 days
ESMP preparation	3 days
Draft report preparation and submission	3 days
Review, corrections, and final report submission	2 days
Total	21 working days

The consultant shall propose a detailed work schedule in the inception report.

15. Qualifications and Experience of the Consultant

The assignment shall be undertaken by an individual ESIA expert or firm of experts registered and appropriately licensed by NEMA.

The team should possess relevant qualifications and experience in:

- Environmental Science or Environmental Management.
- Water Resources or Civil Engineering.
- Social Safeguards and Community Development.
- Occupational Health and Safety.
- Biodiversity and natural resource management.
- Stakeholder engagement and public participation.

Experience in water pan rehabilitation, community water projects, irrigation, climate resilience, and FLLOCA safeguards implementation will be an added advantage.

16. Reporting and Coordination

The consultant shall report to the County Government of Kwale through the Department of Environment, Natural Resources, Energy and Climate Change, in coordination with the County Climate Change Unit (CCU).

All reports shall be submitted in English, in editable electronic format and signed hard copies as may be required.

The consultant shall incorporate comments from the County Government, relevant technical departments, and NEMA.

17. Conclusion

The ESIA assignment shall provide a comprehensive assessment of the environmental and social implications of rehabilitating Mkulung'ombe Water Pan and establish practical safeguards measures to ensure that the project delivers sustainable climate resilience, improved water security, agricultural

productivity, and community livelihood benefits.

The final ESIA report shall provide an actionable ESMP with clear mitigation measures, institutional responsibilities, monitoring indicators, implementation timelines, and budget estimates.

4. DRILLING OF BOREHOLE AND CONSTRUCTION OF DESALINATION PLANT IN KIBUYUNI, PONGWE /KIKONENI WARD

TERMS OF REFERENCE (TOR) FOR ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT (ESIA) FOR THE PROPOSED FLLOCA PROJECT: DRILLING OF BOREHOLE AND CONSTRUCTION OF A DESALINATION PLANT AT KIBUYUNI, PONGWE/KIKONENI WARD, KWALE COUNTY

1. INTRODUCTION AND BACKGROUND

The County Government of Kwale, through the Department responsible for Environment, Natural Resources, Energy and Climate Change, is implementing climate resilience interventions under the Financing Locally-Led Climate Action (FLLOCA) Programme.

The programme seeks to strengthen the capacity of communities to respond to climate change impacts, particularly water scarcity, prolonged droughts, declining water availability, and increasing pressure on existing water resources.

Kibuyuni area in Pongwe/Kikoneni Ward experiences challenges associated with reliable access to safe and adequate water for domestic and other livelihood needs. The proposed project aims to improve water security through the drilling of a borehole, construction of a desalination plant, and installation of a solar-powered water pumping system.

Given the potential environmental and social risks associated with groundwater abstraction, desalination processes, construction activities, energy systems, and management of desalination reject brine, an Environmental and Social Impact Assessment (ESIA) is required to identify potential impacts and recommend appropriate mitigation and management measures.

These Terms of Reference (TOR) define the scope, objectives, methodology, deliverables, and reporting requirements for undertaking the ESIA in accordance with applicable Kenyan environmental legislation, National Environment Management Authority (NEMA) requirements, and FLLOCA Environmental and Social Safeguards requirements.

2. PROJECT DESCRIPTION

2.1 Project Title

Drilling of Borehole and Construction of Desalination Plant at Kibuyuni, Pongwe/Kikoneni Ward, Kwale County.

2.2 Project Location

- County: Kwale
- Sub-County: Lunga Lunga
- Ward: Pongwe/Kikoneni
- Village/Locality: Kibuyuni
- Implementing Agency: County Government of Kwale
- Programme: Financing Locally-Led Climate Action (FLLOCA)

2.3 Project Objectives

The overall objective is to enhance access to reliable, safe, and climate-resilient water supply for the residents of Kibuyuni and surrounding communities.

Specific objectives are to:

1. Drill and equip a borehole to provide a sustainable source of groundwater.
2. Establish a desalination plant to improve the quality of saline or brackish groundwater, subject to hydrogeological and water quality investigations.
3. Install a solar-powered pumping system to reduce reliance on conventional energy sources and operational costs.
4. Strengthen community resilience to drought and water scarcity.
5. Promote sustainable groundwater abstraction and environmentally sound management of desalination waste streams.

2.4 Proposed Project Activities

The ESIA shall assess the environmental and social implications of the following activities:

No.	Project Component	Key Activities
1	Borehole drilling	Site preparation, drilling, casing, gravel packing, well development, pump testing and water quality analysis
2	Desalination plant construction	Site clearance, foundation works, construction of plant structures, installation of treatment equipment, water storage and associated plumbing
3	Solar-powered pumping system	Installation of solar panels, mounting structures, electrical connections, pumping equipment and control systems
4	Ancillary facilities	Water storage, drainage, access arrangements, waste management and

associated safety infrastructure

5	Operation and maintenance	Groundwater abstraction, desalination, distribution, brine management, equipment servicing and monitoring
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The ESIA consultant shall verify the final project design, land requirements, borehole yield, treatment capacity, water storage arrangements, and proposed brine disposal method before finalizing the assessment.

3. OBJECTIVES OF THE ESIA STUDY

3.1 Overall Objective

To undertake a comprehensive Environmental and Social Impact Assessment of the proposed project and develop appropriate measures for avoiding, minimizing, mitigating, and managing adverse environmental and social impacts while enhancing positive project outcomes.

3.2 Specific Objectives

The consultant shall:

1. Establish the existing environmental and social baseline conditions within the project site and its area of influence.
2. Identify and assess potential environmental, social, occupational health and safety, and community health risks associated with project implementation.
3. Assess the hydrogeological characteristics of the proposed borehole site, including groundwater availability, quality, recharge potential, and sustainable abstraction limits.
4. Evaluate potential impacts of desalination processes, particularly the generation, handling, storage, and disposal of concentrated brine.
5. Assess the potential impacts of solar panel installation, electrical systems, pumping equipment, and associated infrastructure.
6. Undertake stakeholder consultations and document community concerns, expectations, and recommendations.
7. Identify applicable environmental, water resource, public health, labour, and social safeguards legislation and institutional requirements.
8. Develop an Environmental and Social Management Plan (ESMP) with mitigation measures, monitoring indicators, responsibilities, timelines, and estimated costs.
9. Develop appropriate occupational health and safety, community health and safety, waste management, emergency response, and grievance redress measures.
10. Recommend measures to enhance project sustainability, climate resilience, and equitable access to water.

4. SCOPE OF THE ESIA STUDY

The consultant shall undertake the following activities.

4.1 Project Description and Analysis of Alternatives

The consultant shall:

- Describe the project location, design, scope, capacity, and implementation arrangements.
- Review borehole drilling designs, anticipated depth, casing specifications, pump capacity, and anticipated yield.
- Review the proposed desalination technology, treatment capacity, energy requirements, and water storage arrangements.
- Assess alternative project sites, technologies, water supply options, and the no-project alternative.
- Examine the feasibility of alternative brine management and disposal options.
- Identify land ownership, access rights, wayleaves, and any potential land acquisition or restrictions on land use.

4.2 Baseline Environmental Assessment

The consultant shall establish baseline conditions covering:

a) Physical environment

- Topography, geology, soils, and land characteristics.
- Climate, rainfall patterns, drought exposure, and climate variability.
- Surface water and groundwater resources.
- Groundwater recharge characteristics and potential saline intrusion.
- Existing drainage patterns and flood risks.
- Ambient air quality and noise levels.
- Existing land use and surrounding infrastructure.

b) Biological environment

- Existing vegetation and terrestrial habitats.
- Presence of sensitive ecological areas and biodiversity.
- Potential impacts on vegetation during site clearance.
- Identification of any protected or ecologically sensitive receptors.

c) Socio-economic environment

- Population and settlement characteristics.
- Existing water sources and water access challenges.
- Livelihoods and economic activities.
- Public health and sanitation conditions.
- Vulnerable and disadvantaged groups.
- Gender-related considerations and accessibility of water services.
- Existing land use, community facilities, and cultural heritage.
- Community perceptions and expectations regarding the proposed project.

4.3 Hydrogeological and Groundwater Assessment

The consultant shall undertake or review appropriate technical investigations to:

1. Establish groundwater occurrence, aquifer characteristics, and anticipated borehole yield.
2. Assess groundwater quality, including salinity, electrical conductivity, total dissolved solids (TDS), pH, and other relevant physical, chemical, and microbiological parameters.
3. Evaluate the potential for over-abstraction and interference with neighbouring boreholes and water sources.
4. Assess the risk of saline intrusion or deterioration of groundwater quality.
5. Recommend sustainable abstraction limits and groundwater monitoring arrangements.
6. Determine the suitability of the raw water for the proposed desalination technology.

The study shall incorporate available hydrogeological information and relevant investigations undertaken by qualified professionals.

4.4 Assessment of Desalination Plant Impacts

The consultant shall examine:

- Potential environmental impacts of plant construction and operation.
- Generation and management of desalination concentrate/brine.
- Potential salinization of soil and groundwater.
- Impacts associated with chemical storage, handling, and use.
- Management of membrane cleaning solutions and spent filters.
- Disposal of rejected water and other treatment residues.
- Energy efficiency and operational sustainability.
- Water quality and public health risks.
- Noise and vibration from pumps and treatment equipment.
- Potential leakage, spills, and accidental releases.

The consultant shall recommend a technically feasible and environmentally acceptable brine management system. Uncontrolled discharge of concentrated brine onto land, into drainage channels, or into the marine environment shall not be assumed acceptable.

4.5 Assessment of Solar-Powered Pumping System

The assessment shall cover:

- Land requirements for solar panel installation.
- Vegetation clearance and soil disturbance.
- Electrical and fire safety risks.
- Structural stability of solar mounting systems.
- Theft, vandalism, and security risks.
- Disposal and recycling of damaged solar panels, batteries, and electronic components, where applicable.
- Energy efficiency and system maintenance.
- Safe access to solar and pumping installations.

4.6 Environmental and Social Impact Identification

The consultant shall identify and assess impacts across the project lifecycle.

Project Phase	Potential Environmental and Social Impacts
Planning and mobilization	Land access conflicts, stakeholder concerns, and disturbance of existing land uses
Borehole drilling	Noise, dust, drilling waste, groundwater contamination, and occupational hazards
Plant construction	Soil erosion, vegetation loss, construction waste, noise, and worker safety risks
Solar installation	Electrical hazards, fire risks, land disturbance, and equipment security
Operation	Groundwater depletion, brine disposal impacts, chemical handling risks, and water quality concerns
Decommissioning	Waste generation, abandoned borehole risks, and disposal of obsolete equipment

The assessment shall also consider positive impacts, including improved access to safe water, reduced time spent collecting water, enhanced public health, livelihood support, and increased drought resilience.

5. LEGAL, POLICY AND INSTITUTIONAL FRAMEWORK

The consultant shall review and assess compliance with applicable Kenyan legal and policy instruments, including:

1. Constitution of Kenya, 2010.
2. Environmental Management and Coordination Act (EMCA), 1999, as amended.
3. Environmental (Impact Assessment and Audit) Regulations and applicable amendments.
4. Environmental Management and Coordination (Water Quality) Regulations, 2024, and other applicable requirements.
5. Water Act, 2016.
6. Applicable Water Resources Regulations and Water Resources Authority requirements.
7. Occupational Safety and Health Act, 2007.
8. Employment Act, 2007.
9. Public Health Act, Cap. 242.
10. Climate Change Act, 2016, as amended.
11. Physical and Land Use Planning Act, 2019.
12. National Construction Authority requirements, where applicable.

13. Sustainable Waste Management Act, 2022.

14. Applicable county environmental and development policies.

15. FLLOCA Environmental and Social Management Framework (ESMF), Environmental and Social Commitment Plan (ESCP), and relevant safeguards instruments.

The consultant shall identify all applicable approvals, permits, and licences, including NEMA environmental approval, WRA borehole development and water abstraction authorizations, and any required approvals for wastewater or brine discharge.

6. STAKEHOLDER ENGAGEMENT AND PUBLIC PARTICIPATION

The consultant shall conduct meaningful consultations with relevant stakeholders to ensure that community concerns are integrated into project planning and implementation.

6.1 Key Stakeholders

These shall include:

- County Government of Kwale.
- Department of Environment, Natural Resources, Energy and Climate Change.
- Department responsible for Water Services.
- Pongwe/Kikoneni Ward administration.
- Kibuyuni village leadership.
- Ward and County Climate Change Planning Committees.
- Community members and water users.
- Women, youth, persons with disabilities, and vulnerable households.
- Water Resources Authority.
- National Environment Management Authority.
- Relevant water service providers.
- FLLOCA County Climate Change Unit.
- Community-based organizations and other relevant stakeholders.

6.2 Consultation Methods

The consultant shall employ:

- Public consultation meetings.
- Key informant interviews.
- Focus group discussions.
- Site visits and participatory observations.
- Community questionnaires where appropriate.
- Stakeholder disclosure of project information.

The consultant shall prepare a Stakeholder Engagement Report documenting participants, issues raised, responses, and how concerns have been addressed.

7. ENVIRONMENTAL AND SOCIAL MANAGEMENT PLAN (ESMP)

The consultant shall prepare a comprehensive ESMP addressing identified risks and impacts.

The ESMP shall include the following:

Environmental/Social Aspect	Required Management Measures
Groundwater depletion	Sustainable abstraction limits, monitoring of water levels, and periodic pump testing
Groundwater contamination	Proper borehole casing, sanitary seals, drainage, and protection zones
Brine management	Characterization, safe containment, treatment or approved disposal, and monitoring
Construction waste	Waste segregation, reuse, recycling, and disposal through authorized facilities
Soil erosion	Site drainage, controlled excavation, and rehabilitation of disturbed areas
Dust and noise	Dust suppression, equipment maintenance, and appropriate working hours
Occupational safety	PPE, safety training, first aid, risk assessments, and emergency procedures
Community safety	Site fencing, warning signs, controlled access, and public safety awareness
Chemical handling	Safe storage, labelling, spill control, and safety data sheets
Solar equipment	Electrical safety, secure mounting, fire prevention, and end-of-life management
Water quality	Routine laboratory testing and compliance with applicable drinking water standards
Labour and social risks	Fair labour practices, prevention of child and forced labour, and worker grievance mechanisms
Gender and inclusion	Equitable access, participation, and consideration of vulnerable water users

Grievances	Accessible project grievance redress mechanism and timely resolution of complaints
Climate resilience	Drought preparedness, efficient pumping, and climate-resilient infrastructure design

The ESMP shall specify:

- Identified impact or risk.
- Mitigation and enhancement measures.
- Monitoring indicators.
- Implementation responsibility.
- Monitoring frequency.
- Estimated mitigation costs.
- Reporting and corrective action procedures.

8. OCCUPATIONAL HEALTH, COMMUNITY HEALTH AND SAFETY

The consultant shall prepare recommendations addressing:

- Borehole drilling equipment and machinery safety.
- Electrical hazards associated with solar pumping systems.
- Working at heights during solar panel installation.
- Safe storage and handling of water treatment chemicals.
- Emergency response for fire, spills, and accidents.
- First aid and availability of emergency contacts.
- Public access restrictions around construction areas.
- Traffic and transportation safety.
- Prevention of sexual exploitation, abuse and harassment (SEA/SH).
- Labour influx and community interaction risks.
- Safe water handling and prevention of contamination.

9. CLIMATE CHANGE AND DISASTER RISK ASSESSMENT

The consultant shall assess the project's exposure and vulnerability to:

- Prolonged droughts and declining groundwater recharge.
- Rising temperatures and increased evaporation.
- Flooding and stormwater damage.
- Saline intrusion and groundwater quality deterioration.
- Extreme weather impacts on solar installations.
- Operational disruptions arising from climate-related hazards.

Appropriate climate adaptation measures shall be incorporated into the project design and ESMP.

10. GRIEVANCE REDRESS MECHANISM (GRM)

The consultant shall develop or recommend a project-specific GRM aligned with the FLLOCA framework.

The GRM shall:

1. Provide accessible channels for receiving complaints.
2. Establish clear procedures for registration, assessment, resolution, and closure.
3. Protect complainant confidentiality.
4. Provide appropriate referral mechanisms for SEA/SH-related complaints.
5. Ensure that vulnerable groups can access the mechanism.
6. Include documentation, reporting, and monitoring arrangements.

11. ESIA STUDY METHODOLOGY

The consultant shall apply a combination of qualitative and quantitative methods, including:

11.1 Desktop Review

Review relevant project documents, technical designs, environmental legislation, hydrogeological data, land records, and FLLOCA safeguards instruments.

11.2 Field Assessment

Conduct physical inspection of the proposed borehole and desalination plant site, surrounding settlements, existing water sources, drainage systems, and sensitive environmental receptors.

11.3 Environmental Sampling

Where appropriate, undertake baseline water, soil, and noise assessments using qualified personnel and accredited laboratories.

11.4 Impact Assessment

Identify and evaluate impacts based on their:

- Magnitude.
- Duration.
- Extent.
- Probability.
- Reversibility.
- Sensitivity of affected receptors.
- Significance before and after mitigation.

11.5 Stakeholder Consultation

Conduct documented consultations with affected communities, institutions, and relevant government agencies.

11.6 ESMP Preparation

Develop practical and costed mitigation, monitoring, and institutional arrangements.

12. EXPECTED DELIVERABLES

The consultant shall submit the following deliverables:

No.	Deliverable	Description
1	Inception Report	Understanding of assignment, methodology, workplan, and consultation strategy
2	Baseline Assessment Report	Environmental, social, hydrogeological, and water quality baseline findings
3	Stakeholder Consultation Report	Consultation records, concerns, responses, and recommendations
4	Draft ESIA Report	Assessment of impacts, alternatives, legal compliance, and proposed mitigation
5	Environmental and Social Management Plan	Costed mitigation and monitoring framework
6	Final ESIA Study Report	Revised report incorporating County Government, FLLOCA, and relevant stakeholder comments
7	NEMA Submission Package	Final documentation required for regulatory review and licensing

The final report shall be submitted in both hard and electronic copies, in accordance with the County Government's requirements and applicable NEMA procedures.

13. PROPOSED ESIA REPORT STRUCTURE

The ESIA Study Report shall contain, at a minimum:

1. Executive Summary.
2. Introduction and Background.
3. Project Description.
4. Policy, Legal and Institutional Framework.
5. Project Alternatives.
6. Baseline Environmental and Social Conditions.
7. Stakeholder Engagement and Public Participation.

8. Identification and Evaluation of Environmental and Social Impacts.
9. Environmental and Social Mitigation Measures.
10. Environmental and Social Management Plan.
11. Occupational and Community Health and Safety Plan.
12. Climate Change and Disaster Risk Assessment.
13. Grievance Redress Mechanism.
14. Conclusions and Recommendations.
15. References.
16. Appendices, including consultation records, photographs, relevant technical reports, attendance lists, and professional licences.

14. CONSULTANT QUALIFICATIONS AND EXPERTISE

The assignment shall be undertaken by a NEMA-registered Lead Expert, supported by relevant specialists.
 The proposed team shall include:

Specialist	Required Expertise
ESIA Lead Expert	Environmental assessment, safeguards, and ESMP preparation
Hydrogeologist	Groundwater assessment, borehole development, and sustainable abstraction
Water Treatment Specialist	Desalination technology, water quality, and brine management
Social Safeguards Specialist	Stakeholder engagement, social risk assessment, and GRM
Occupational Health and Safety Specialist	Construction and operational safety
Environmental Specialist	Pollution prevention, waste management, and environmental monitoring

The consultant shall demonstrate experience in water supply infrastructure, borehole development, desalination systems, and donor-funded environmental and social safeguards assignments.

15. DURATION OF THE ASSIGNMENT

The proposed ESIA assignment shall be undertaken within **21 working days**, subject to site accessibility, availability of technical information, laboratory testing requirements, and review timelines.

Activity	Proposed Duration
Inception and document review	3 days
Field assessment and baseline data collection	5 days
Stakeholder consultations	3 days
Impact assessment and ESMP preparation	5 days
Draft report preparation and submission	3 days
Review and finalization	2 days
Total	21 working days

Regulatory review and approval timelines shall be treated separately from the consultant's assignment period.

16. REPORTING AND SUPERVISION

The consultant shall report to the County Government of Kwale through the Department responsible for Environment, Natural Resources, Energy and Climate Change, working in coordination with the County Climate Change Unit (CCU), relevant technical departments, and FLLOCA safeguards personnel.

The consultant shall:

- Maintain regular communication with the County project team.
- Submit deliverables within agreed timelines.
- Incorporate technical and safeguards review comments.
- Ensure that the final report meets applicable NEMA and FLLOCA requirements.
- Provide clarification or technical support during the review process, where required.

17. CONFIDENTIALITY AND OWNERSHIP OF REPORTS

All reports, data, maps, photographs, consultation records, and other outputs generated under the assignment shall remain the property of the County Government of Kwale.

The consultant shall ensure confidentiality of sensitive stakeholder information and comply with applicable data protection requirements.

18. CONCLUSION

The ESIA shall provide a comprehensive assessment of the environmental and social implications of the proposed drilling of a borehole, construction of a desalination plant, and installation of a solar-powered pumping system at Kibuyuni, Pongwe/Kikoneni Ward.

Particular attention shall be given to groundwater sustainability, protection of water quality, management of

desalination brine, occupational and community safety, and equitable access to water services.

The findings and recommendations shall guide project design, implementation, operation, and monitoring to ensure compliance with applicable Kenyan legislation, NEMA requirements, and FLLOCA Environmental and Social Safeguards.

5. CONSTRUCTION OF TREATMENT PLANT AND DISTRIBUTION OF WATER AT

UMOJA DAM IN MWERENI WARD

TERMS OF REFERENCE (TOR) FOR ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT (ESIA) FOR THE PROPOSED FLLOCA PROJECT: CONSTRUCTION OF WATER TREATMENT PLANT AND WATER DISTRIBUTION SYSTEM AT UMOJA DAM IN MWERENI WARD, KWALE COUNTY

1. INTRODUCTION AND BACKGROUND

The County Government of Kwale, through the Financing Locally-Led Climate Action (FLLOCA) Programme, proposes to implement the project titled Construction of Treatment Plant and Distribution of Water at Umoja Dam in Mwereni Ward.

The project aims to improve access to safe and reliable water for domestic and livestock use while strengthening community resilience to climate change, particularly recurrent droughts, water scarcity and degradation of natural resources.

The proposed interventions will involve construction of a water treatment plant, installation of a solar-powered water pumping system, development of a water distribution network, construction of animal watering troughs, establishment of terraces for soil and water conservation, and tree growing around designated project areas.

Although the project is expected to generate significant environmental, social and economic benefits, its implementation may result in potential adverse impacts, including vegetation clearance, soil erosion, construction-related pollution, occupational health and safety risks, water resource management challenges, and community health and safety concerns.

Consequently, an Environmental and Social Impact Assessment (ESIA) is required to identify, predict and evaluate potential environmental and social impacts and recommend appropriate mitigation measures in accordance with applicable Kenyan environmental legislation, NEMA requirements and FLLOCA Environmental and Social Safeguards (ESS) provisions.

These Terms of Reference (TOR) provide the framework for undertaking the ESIA study and preparing an Environmental and Social Management Plan (ESMP) to guide project implementation, monitoring and operation.

2. PROJECT DESCRIPTION

2.1 Project Title

Construction of Treatment Plant and Distribution of Water at Umoja Dam in Mwereni Ward.

2.2 Project Location

- County: Kwale
- Sub-County: To be confirmed during site assessment
- Ward: Mwereni
- Project Site: Umoja Dam and associated water treatment and distribution infrastructure.

2.3 Project Proponent

County Government of Kwale

Department of Environment, Natural Resources, Energy and Climate Change, in collaboration with the relevant Water and Irrigation sector departments and FLLOCA implementing structures.

2.4 Project Components and Proposed Activities

The ESIA shall assess the environmental and social implications of the following project components:

No.	Project component	Proposed activities
1	Water treatment plant	Site preparation, civil works, construction of treatment units, installation of treatment equipment, storage and associated facilities.
2	Solar-powered pumping system	Installation of solar panels, pump, control systems, electrical connections and water abstraction infrastructure.
3	Water distribution network	Laying of pipelines, construction of water kiosks or distribution points, valves, storage facilities and household/community connections where applicable.
4	Animal watering troughs	Construction of livestock drinking troughs, water conveyance connections and drainage facilities.
5	Terracing	Construction of terraces and associated soil and water conservation structures to control runoff and soil erosion.
6	Tree growing	Establishment of suitable indigenous and other ecologically appropriate tree species around designated project areas and distribution infrastructure.

The ESIA shall consider the entire project cycle, including site preparation, construction, commissioning, operation, maintenance and eventual decommissioning.

3. OBJECTIVES OF THE ESIA STUDY

3.1 Overall Objective

The overall objective of the ESIA is to identify, assess and propose appropriate mitigation measures for potential environmental and social impacts associated with the construction, operation and maintenance of

the proposed water treatment and distribution infrastructure at Umoja Dam.

3.2 Specific Objectives

The ESIA study shall:

1. Establish the existing environmental and social baseline conditions within the project site and its area of influence.
2. Identify and assess potential positive and negative environmental and social impacts associated with the proposed project activities.
3. Assess potential impacts on water quality, water availability, aquatic ecosystems, soil stability, vegetation and biodiversity.
4. Evaluate potential risks associated with water abstraction, treatment processes, chemical handling and disposal of treatment residuals.
5. Assess occupational health and safety risks during construction, installation and operation.
6. Examine potential community health, safety and security risks associated with construction works, water distribution infrastructure and livestock watering facilities.
7. Undertake stakeholder consultations and document community concerns, expectations and recommendations.
8. Assess climate change risks and the project's contribution to climate resilience.
9. Develop an Environmental and Social Management Plan (ESMP), including mitigation measures, responsibilities, monitoring indicators, timelines and estimated costs.
10. Recommend measures for sustainable operation, maintenance and management of the water supply infrastructure.
11. Ensure compliance with applicable Kenyan environmental and social safeguards requirements and FLLOCA programme provisions.

4. SCOPE OF THE ESIA STUDY

The ESIA expert shall undertake a comprehensive assessment covering the following areas.

4.1 Project Description and Alternatives Analysis

The consultant shall:

- Provide a detailed description of the proposed project and its components.
- Examine the suitability of the proposed treatment plant location.
- Assess alternative water treatment technologies and configurations.
- Evaluate alternative solar pumping and water distribution arrangements.
- Assess alternative pipeline routes and locations of animal troughs.
- Examine the no-project alternative.
- Identify the preferred alternatives based on environmental, social, technical and economic considerations.

4.2 Environmental Baseline Assessment

The consultant shall establish baseline environmental conditions covering:

a) Physical Environment

- Topography, geology and soil characteristics.
- Climate, rainfall patterns, temperature and drought vulnerability.
- Existing drainage patterns and surface runoff.
- Water quality and quantity at Umoja Dam.
- Existing land use and land ownership.
- Existing sources of pollution and environmental degradation.
- Soil erosion and sedimentation risks.

b) Biological Environment

- Existing vegetation and tree cover.
- Identification of indigenous, threatened or protected species, where present.
- Aquatic ecosystems and associated biodiversity.
- Wildlife and livestock interactions.
- Ecologically sensitive areas within the project influence zone.

c) Water Resources Assessment

The consultant shall specifically:

- Establish the existing water quality of Umoja Dam.
- Assess water availability and seasonal variations.
- Examine the sustainability of proposed water abstraction.
- Determine the suitability of raw water for the proposed treatment technology.
- Assess potential impacts of abstraction on downstream users, livestock and ecological functions.
- Identify appropriate water quality monitoring requirements.

4.3 Social Baseline Assessment

The consultant shall examine:

- Population and demographic characteristics of the project beneficiaries.
- Existing water supply sources and access challenges.
- Current domestic and livestock water demand.
- Community livelihoods and economic activities.
- Land ownership, access rights and potential land-use conflicts.
- Vulnerable and marginalized groups, including women, children, older persons and persons with disabilities.
- Existing community water management structures.
- Potential impacts on public health and sanitation.
- Gender-related barriers to water access.
- Existing community grievance redress mechanisms.

4.4 Assessment of Environmental and Social Impacts

The consultant shall identify, predict and evaluate impacts during the pre-construction, construction, operational and decommissioning phases.

A. Construction Phase Impacts

The assessment shall cover:

1. Vegetation clearance and habitat disturbance.
2. Soil erosion and sedimentation arising from excavation and pipeline trenching.
3. Dust emissions and noise from construction equipment.
4. Generation and disposal of construction waste.
5. Potential contamination from fuel, lubricants, cement and construction materials.
6. Occupational accidents and injuries.
7. Community safety risks associated with open trenches and construction machinery.
8. Labour influx and potential social conflicts.
9. Child labour, forced labour and other labour-related risks.
10. Sexual exploitation, abuse and harassment (SEA/SH), including risks involving workers and community members.
11. Temporary disruption of access routes and existing land uses.
12. Potential damage to existing infrastructure and utility services.

B. Water Treatment Plant Impacts

The consultant shall assess:

- Risks associated with treatment chemicals, including storage, handling and accidental spills.
- Generation and disposal of sludge and other treatment residuals.
- Potential contamination of soil and water resources.
- Noise and occupational risks associated with treatment equipment.
- Water quality compliance and public health protection.
- Safe handling and disposal of used chemical containers.
- Operational energy and maintenance requirements.

C. Solar-Powered Pumping System Impacts

The study shall examine:

- Land requirements for solar panel installation.
- Potential vegetation clearance.
- Electrical and mechanical safety risks.
- Potential theft or vandalism of solar equipment.
- Management and end-of-life disposal of solar panels, batteries and electronic components, where applicable.
- Sustainability of water abstraction and pumping operations.

D. Water Distribution Network Impacts

The assessment shall cover:

- Soil disturbance during pipeline excavation.
- Disruption of roads, paths and existing utilities.
- Water leakage and wastage.
- Potential contamination of distributed water.

- Equitable access to water distribution points.
- Public safety around storage tanks, kiosks and pipeline infrastructure.
- Operation and maintenance requirements.

E. Animal Watering Troughs

The consultant shall assess:

- Livestock concentration and potential overgrazing.
- Soil erosion and formation of muddy areas.
- Animal and human health risks.
- Wastewater drainage and stagnation.
- Potential contamination of nearby water resources.
- Human-livestock conflict and access management.

F. Terracing and Tree Growing

The study shall examine:

- Suitability of proposed sites for terracing.
- Potential changes to surface runoff and drainage.
- Soil conservation and erosion control benefits.
- Selection of appropriate indigenous and drought-tolerant tree species.
- Potential competition for water between trees and other uses.
- Tree survival, maintenance and community participation.
- Long-term ecosystem restoration benefits.

5. CLIMATE CHANGE AND DISASTER RISK ASSESSMENT

The ESIA shall incorporate climate risk screening consistent with FLLOCA objectives.

The consultant shall assess:

- Drought and prolonged dry spells affecting water availability.
- Extreme rainfall and flash flood risks affecting the dam, treatment plant and distribution infrastructure.
- Dam embankment and drainage stability.
- Climate-related variations in raw water quality.
- Potential damage to solar equipment and pipelines from extreme weather.
- Measures for water conservation, efficient pumping and sustainable resource utilization.
- Nature-based solutions, including tree growing and soil conservation.

The study shall recommend appropriate climate adaptation and disaster risk reduction measures to enhance project sustainability.

6. STAKEHOLDER ENGAGEMENT AND PUBLIC PARTICIPATION

The consultant shall undertake meaningful consultations with affected and interested stakeholders in accordance with applicable Kenyan requirements and FLLOCA safeguards.

6.1 Key Stakeholders

The consultations shall include:

- County Government of Kwale.
- Department responsible for Environment, Natural Resources, Energy and Climate Change.
- Relevant Water and Irrigation sector departments.
- County Climate Change Unit (CCU).
- Ward Climate Change Planning Committee (WCCPC).
- Mwereni Ward administration.
- Village administrators and community representatives.
- Beneficiary households.
- Women and youth groups.
- Persons with disabilities and other vulnerable groups.
- Livestock keepers and farmers.
- Water user associations or proposed water management committees.
- Relevant national government agencies.
- NEMA and other relevant regulatory institutions.

6.2 Public Participation Activities

The consultant shall:

1. Conduct stakeholder identification and mapping.
2. Hold public consultation meetings at accessible locations.
3. Explain project objectives, proposed activities, anticipated benefits and potential risks.
4. Document stakeholder concerns, expectations and recommendations.
5. Ensure meaningful participation of women, youth and vulnerable groups.
6. Maintain attendance registers, photographs and consultation minutes.
7. Prepare a Stakeholder Engagement Report.
8. Establish or strengthen a project-level Grievance Redress Mechanism (GRM).

The consultant shall comply with applicable NEMA public participation requirements, including the prescribed consultation process.

7. LEGAL, POLICY AND INSTITUTIONAL FRAMEWORK

The consultant shall review and assess compliance with relevant Kenyan legislation, regulations, policies and institutional requirements, including:

Legal/policy instrument	Relevance to the project
Constitution of Kenya, 2010	Environmental rights, public participation and access to water.

Environmental Management and Coordination Act, 1999, as amended	Environmental assessment, management and licensing.
Environmental (Impact Assessment and Audit) Regulations and applicable amendments	ESIA procedures, reporting and approval.
Water Act, 2016	Water resource management and water service provision.
Environmental Management and Coordination (Water Quality) Regulations	Protection of water quality and pollution prevention.
Environmental Management and Coordination (Waste Management) Regulations	Construction waste and treatment residual management.
Occupational Safety and Health Act, 2007	Worker health and safety.
Employment Act, 2007	Labour rights and working conditions.
Sexual Offences Act, 2006	Protection against sexual offences and exploitation.
Children Act, 2022	Protection of children and prevention of child labour.
Persons with Disabilities Act, 2025	Accessibility and inclusion.
Climate Change Act, 2016, as amended	Climate adaptation and resilience.
Physical and Land Use Planning Act, 2019	Land use and development planning.
Public Health Act	Public health and sanitation requirements.
County Government Act, 2012	County-level governance and public participation.
FLLOCA Environmental and Social Safeguards Framework	Environmental and social risk management.

The consultant shall verify the applicable current legislation, standards, permits and institutional

requirements at the time of the study. The legal review should include the relevant water resource and environmental regulatory authorities.

8. ENVIRONMENTAL AND SOCIAL MANAGEMENT PLAN (ESMP)

The consultant shall prepare a comprehensive ESMP identifying mitigation measures, implementation responsibilities, monitoring indicators, timelines and estimated costs.

The ESMP shall include, but not be limited to, the following:

Potential impact	Proposed mitigation measures
Soil erosion	Install erosion control structures, stabilize disturbed areas and rehabilitate excavated sites.
Water pollution	Prevent direct discharge of wastes, oils and chemicals into Umoja Dam.
Construction waste	Segregate, collect and dispose of waste through authorized channels.
Dust and noise	Apply dust suppression, maintain machinery and restrict noisy works to approved hours.
Occupational accidents	Provide PPE, safety training, first aid and safe working procedures.
Community safety	Fence hazardous work areas, provide warning signs and reinstate trenches promptly.
Treatment chemical	

The ESMP shall include a detailed monitoring budget and a clear assignment of responsibilities to the County Government, contractor, supervising engineer, water management committee and other relevant institutions.

9. OCCUPATIONAL HEALTH, SAFETY AND COMMUNITY SAFETY

The consultant shall prepare recommendations for a project-specific Occupational Health and Safety Plan addressing:

- Safe excavation and trench management.
- Electrical safety for solar pumping installations.
- Safe handling of construction materials and treatment chemicals.
- Provision and use of personal protective equipment.
- First aid and emergency response.
- Fire prevention and control.
- Traffic and pedestrian safety.
- Safe access to the treatment plant and water storage facilities.
- Prevention of drowning and accidental falls near water infrastructure.
- Emergency response to chemical spills and equipment failures.

10. GRIEVANCE REDRESS MECHANISM

The consultant shall develop or recommend a project-specific GRM that:

1. Provides accessible channels for submitting complaints.
2. Establishes clear procedures for receiving, recording and resolving grievances.
3. Provides confidential reporting channels for SEA/SH-related complaints.
4. Ensures timely response and feedback to complainants.
5. Provides an appeal mechanism for unresolved grievances.
6. Protects complainants against retaliation.
7. Maintains a grievance register and periodic reporting arrangements.

11. ESIA STUDY METHODOLOGY

The consultant shall employ a combination of qualitative and quantitative approaches, including:

11.1 Desk Review

Review relevant documents, including:

- Project concept note and technical designs.
- Bills of Quantities (BoQs).
- Project site maps and layouts.
- FLLOCA safeguards instruments.
- Relevant environmental and water resource legislation.
- Existing water quality and hydrological information.
- County development and climate change plans.

11.2 Site Reconnaissance

Conduct physical inspections of:

- Umoja Dam.
- Proposed water treatment plant site.
- Solar pumping installation area.
- Proposed water distribution routes.
- Animal trough locations.
- Proposed terracing areas.
- Proposed tree planting sites.

11.3 Environmental Sampling and Analysis

Where necessary, undertake water quality testing for relevant parameters, including:

- pH.
- Turbidity.
- Electrical conductivity.
- Total dissolved solids.
- Microbiological contamination, including E. coli.
- Other relevant physical, chemical and bacteriological parameters.

Testing shall be undertaken by a competent laboratory, and the results shall inform treatment requirements and operational monitoring.

11.4 Stakeholder Consultations

Use key informant interviews, focus group discussions, public meetings and household consultations as appropriate.

11.5 Impact Evaluation

Apply recognized environmental and social impact assessment techniques, including impact significance evaluation based on:

- Magnitude.
- Extent.
- Duration.
- Reversibility.
- Likelihood.
- Sensitivity of affected receptors.

11.6 Development of Mitigation Measures

Recommend measures following the mitigation hierarchy:

1. Avoid.
2. Minimize.
3. Restore or rehabilitate.
4. Compensate or offset where applicable and legally appropriate.

12. EXPECTED DELIVERABLES

The consultant shall submit the following outputs:

No.	Deliverable	Description
1	Inception Report	Study methodology, workplan, stakeholder mapping and assessment tools.
2	Environmental and Social Baseline Report	Existing physical, biological and socioeconomic conditions.
3	Stakeholder Engagement Report	Consultation records, concerns and recommendations.
4	Draft ESIA Report	Detailed assessment of impacts, alternatives and mitigation measures.
5	Environmental and Social Management Plan	Mitigation measures, responsibilities, monitoring framework and budget.
6	Grievance Redress Recommendations	Project-specific grievance handling arrangements.
7	Final ESIA Study Report	Revised report incorporating stakeholder and County Government comments.
8	NEMA Submission Documentation	Required documentation for review and environmental licensing.

13. PROPOSED ESIA REPORT STRUCTURE

The final ESIA report shall contain the following chapters:

1. Executive Summary.
2. Introduction and Background.
3. Project Description.
4. Policy, Legal and Institutional Framework.
5. ESIA Methodology.
6. Environmental and Social Baseline Conditions.
7. Stakeholder Engagement and Public Participation.
8. Analysis of Project Alternatives.
9. Environmental and Social Impact Identification and Evaluation.
10. Climate Change and Disaster Risk Assessment.
11. Environmental and Social Management Plan.
12. Occupational Health, Safety and Community Safety.
13. Grievance Redress Mechanism.

14. Environmental and Social Monitoring Plan.
15. Conclusions and Recommendations.
16. References.
17. Appendices.

The appendices shall include, where applicable, consultation attendance sheets, photographs, water quality results, maps, expert licences, screening tools and other supporting documentation.

14. CONSULTANT QUALIFICATIONS AND EXPERIENCE

The ESIA shall be undertaken by a NEMA-registered and duly licensed environmental assessment expert or firm, with demonstrated experience in water supply, water treatment, irrigation or related infrastructure projects.

The team should comprise expertise in:

- Environmental assessment and management.
- Water resources engineering or hydrology.
- Water treatment technology.
- Social safeguards and stakeholder engagement.
- Occupational health and safety.
- Biodiversity and natural resource management.
- Climate change adaptation.
- GIS and environmental mapping, where necessary.

15. DURATION OF THE ASSIGNMENT

The proposed duration for the ESIA assignment shall be approximately 21 working days, subject to the complexity of the project, availability of technical information, consultation requirements and NEMA review procedures.

Activity	Proposed duration
Inception and document review	3 days
Site reconnaissance and baseline assessment	4 days
Stakeholder consultations	4 days
Impact assessment and ESMP preparation	5 days
Draft report preparation and submission	3 days

Review and finalization	2 days
Total	21 working days

The above duration covers the consultant's assignment and does not include the time required for statutory review, public notice or licensing by NEMA.

16. INSTITUTIONAL RESPONSIBILITIES

16.1 County Government of Kwale

The County Government shall:

- Provide project designs, BoQs and relevant technical information.
- Facilitate access to project sites.
- Coordinate stakeholder participation.
- Review and provide comments on submitted reports.
- Facilitate implementation of the approved ESMP.
- Ensure that construction does not commence before the required environmental approvals are obtained.

16.2 ESIA Consultant

The consultant shall:

- Undertake the assessment professionally and independently.
- Conduct meaningful stakeholder engagement.
- Identify environmental and social risks.
- Prepare a comprehensive ESIA report and ESMP.
- Incorporate review comments.
- Support the proponent in addressing NEMA requirements.

16.3 Project Contractor

The contractor shall:

- Implement the approved ESMP and relevant safeguards instruments.
- Prepare site-specific environmental, health and safety plans.
- Comply with environmental and labour requirements.
- Maintain records of environmental and social performance.
- Report incidents and implement corrective measures.

17. CONCLUSION

The ESIA for the proposed Construction of Treatment Plant and Distribution of Water at Umoja Dam in Mwereni Ward shall provide a comprehensive assessment of environmental and social risks and opportunities associated with the proposed interventions.

Particular attention shall be given to sustainable water abstraction, water treatment and quality assurance, solar pumping safety, equitable water distribution, livestock management, soil conservation, tree growing and climate resilience.

The assessment shall culminate in a practical and costed ESMP that will guide the County Government of Kwale, contractors, project management structures and community beneficiaries in ensuring environmentally sound, socially inclusive and sustainable implementation of the FLLOCA project.

The final ESIA report shall be submitted to NEMA for review and the applicable environmental approval obtained before commencement of project implementation.

6. REHABILITATION OF CHANYIRO WATER PAN IN MKONGANI

TERMS OF REFERENCE (TOR) FOR ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT (ESIA) FOR THE PROPOSED REHABILITATION OF CHANYIRO WATER PAN IN MKONGANI WARD, KWALE COUNTY

1.0 INTRODUCTION AND BACKGROUND

The County Government of Kwale, through the Department responsible for Environment, Natural Resources, Energy and Climate Change, proposes to undertake the rehabilitation of Chanyiro Water Pan in Mkongani Ward under the Financing Locally-Led Climate Action (FLLOCA) Programme.

The project aims to improve water availability, enhance community resilience to climate variability, support livestock production, promote climate-smart agriculture and strengthen sustainable management of local water resources.

The proposed rehabilitation will involve excavation, desilting and expansion of the existing water pan, rehabilitation of the embankment and spillway, installation of fencing, construction of community water points and animal troughs, buffer tree planting, establishment of a one-acre micro-irrigation demonstration area and installation of a solar-powered water pumping system.

The proposed interventions are expected to improve water storage capacity, reduce water losses, enhance access to water and promote sustainable livelihoods among beneficiary communities.

However, the construction and operation of the proposed facilities may result in environmental and social



impacts, including soil disturbance, erosion, sedimentation, occupational health and safety risks, community safety concerns, water quality deterioration, vegetation loss and potential conflicts over water access. Consequently, an Environmental and Social Impact Assessment (ESIA) is required to identify, assess and provide appropriate mitigation measures for the anticipated environmental and social risks and impacts in accordance with applicable Kenyan legislation, National Environment Management Authority (NEMA) requirements and relevant FLLOCA Environmental and Social Safeguards requirements.

2.0 PROJECT DESCRIPTION

2.1 Project Title

Rehabilitation of Chanyiro Water Pan in Mkongani Ward, Kwale County.

2.2 Project Goal

To enhance climate resilience, water security and sustainable livelihoods through rehabilitation and improvement of Chanyiro Water Pan and associated water infrastructure.

2.3 Specific Objectives

The project seeks to:

- Increase the water storage capacity and functionality of the existing water pan.
- Improve the structural integrity and safety of the embankment and spillway.
- Improve access to water for domestic livestock and other approved community uses.
- Promote sustainable water resource management and conservation.
- Support climate-smart agricultural production through one acre of micro-irrigation.
- Enhance catchment protection through buffer planting.
- Reduce vulnerability to drought and climate-related water shortages.
- Strengthen community participation in water infrastructure management and maintenance.

2.4 Proposed Project Components and Activities

No.	Project component	Description of activities
1	Excavation	Excavation and reshaping of the water reservoir to improve storage capacity.

2	Desilting and expansion	Removal of accumulated silt, sediments and debris, followed by expansion of the existing water pan.
3	Embankment rehabilitation	Repair, compaction, reshaping and stabilization of the existing embankment.
4	Spillway rehabilitation	Repair and improvement of the spillway to safely convey excess water and prevent overtopping and erosion.
5	Fencing	Installation of fencing to control access, enhance safety and protect the water pan.
6	Auxiliary facilities	Construction of community water points and livestock watering troughs.
7	Buffer planting	Planting of suitable indigenous and drought-tolerant trees and vegetation around designated buffer areas.
8	Micro-irrigation	Establishment of a one-acre climate-smart micro-irrigation demonstration plot.
9	Solar-powered water system	Installation of solar panels, water pump, pipelines, storage and associated distribution infrastructure.

The ESIA consultant shall verify the proposed project design, technical specifications, land requirements, construction methods and operational arrangements during the assessment.

3.0 OBJECTIVES OF THE ESIA STUDY

The overall objective of the ESIA study is to identify, predict, evaluate and propose mitigation measures for potential environmental and social impacts associated with the proposed rehabilitation of Chanyiro Water Pan.

3.1 Specific Objectives

The consultant shall:

1. Establish the existing environmental and socio-economic baseline conditions within the project area.
2. Identify actual and potential environmental and social risks associated with the proposed project activities.
3. Assess impacts during project planning, construction, operation, maintenance and decommissioning.

- 
4. Evaluate alternatives, including the no-project alternative, alternative construction methods and water distribution arrangements.
 5. Assess potential impacts on surface water, groundwater, soil, vegetation, biodiversity and surrounding land uses.
 6. Evaluate occupational health and safety risks to workers and community health and safety risks.
 7. Assess potential social risks, including land access disputes, exclusion of vulnerable groups, gender-related concerns and conflicts over water use.
 8. Develop appropriate environmental and social mitigation measures.
 9. Prepare an Environmental and Social Management and Monitoring Plan (ESMMP).
 10. Undertake meaningful stakeholder consultations and public participation.
 11. Recommend institutional arrangements, implementation responsibilities and budgetary provisions for environmental and social safeguards.
 12. Prepare an ESIA Study Report for submission to NEMA and relevant FLLOCA institutions.

4.0 SCOPE OF THE ESIA STUDY

The consultant shall undertake a comprehensive assessment covering the following areas.

4.1 Project Description and Technical Assessment

The consultant shall:

- Review available project designs, drawings, technical specifications and Bills of Quantities.
- Establish the project footprint, land ownership and access arrangements.
- Determine the proposed water pan dimensions, storage capacity and anticipated water yield.
- Assess the technical suitability of excavation and desilting methods.
- Examine embankment stability, compaction and erosion protection requirements.
- Assess the adequacy of the proposed spillway and drainage arrangements.
- Review the proposed fencing design and safety provisions.
- Assess the location and design of community water points and animal troughs.
- Examine the solar-powered pumping system, water storage and distribution arrangements.
- Assess the proposed one-acre micro-irrigation system and water demand.
- Identify material sources, equipment requirements, construction camps and temporary access routes.

4.2 Environmental Baseline Assessment

The consultant shall establish baseline conditions relating to:

a) Physical environment

- Topography, geology and soil characteristics.
- Rainfall patterns, temperature and climatic conditions.
- Surface water and groundwater characteristics.
- Existing drainage patterns and flood risks.
- Soil erosion and sedimentation.
- Ambient air quality, dust and noise levels.

- Existing land use and land ownership.

b) Biological environment

- Existing vegetation and tree cover.
- Terrestrial and aquatic biodiversity.
- Presence of sensitive habitats and protected species.
- Potential impacts on local flora and fauna.
- Opportunities for indigenous tree planting and ecosystem restoration.

c) Socio-economic environment

- Population and settlement characteristics.
- Existing sources of water for domestic, livestock and agricultural use.
- Livelihood activities and household economic conditions.
- Land tenure and resource-use arrangements.
- Vulnerable and marginalized groups.
- Gender roles in water collection and management.
- Existing community institutions and water management arrangements.
- Cultural, historical or archaeological features.

4.3 Assessment of Environmental and Social Impacts

The consultant shall identify and assess positive and negative impacts associated with each project component.

The assessment shall cover:

- Direct, indirect and cumulative impacts.
- Short-term and long-term impacts.
- Reversible and irreversible impacts.
- Construction and operational impacts.
- Climate change risks and resilience benefits.
- Potential environmental and social risks arising from project failure or inadequate maintenance.

5.0 SPECIFIC ENVIRONMENTAL AND SOCIAL ISSUES TO BE ASSESSED

5.1 Excavation, Desilting and Expansion

The assessment shall examine:

- Soil erosion and sediment runoff.
- Generation and disposal of excavated materials and silt.
- Dust emissions and noise from machinery.
- Disturbance of existing vegetation and habitats.
- Potential contamination of water from fuel and lubricants.
- Worker exposure to excavation hazards.
- Risk of accidental falls into excavated areas.

- Stability of excavation slopes.
- Potential impacts on neighboring properties and access routes.

5.2 Embankment Rehabilitation

The consultant shall assess:

- Structural integrity and stability of the embankment.
- Risk of seepage, piping and erosion.
- Potential embankment failure and downstream flooding.
- Suitability of fill materials and compaction procedures.
- Surface water drainage and erosion control.
- Safety of workers and surrounding communities.

5.3 Spillway Rehabilitation

The assessment shall address:

- Adequacy of spillway capacity.
- Flood conveyance and downstream drainage.
- Scouring and erosion at the spillway outlet.
- Potential flooding of neighboring land.
- Structural integrity and maintenance requirements.
- Climate-related extreme rainfall and flood risks.

5.4 Fencing and Auxiliary Facilities

The consultant shall assess:

- Land requirements and potential access restrictions.
- Community access to water resources.
- Safety of water collection points.
- Separation of human and livestock watering areas.
- Wastewater and runoff from animal troughs.
- Potential water contamination from livestock.
- Accessibility for women, children, older persons and persons with disabilities.

5.5 Buffer Planting

The assessment shall determine:

- Suitability of proposed tree species.
- Potential effects on existing vegetation.
- Soil and water conservation benefits.
- Risk of introducing invasive species.
- Tree survival and maintenance requirements.
- Community participation in tree management.

Priority should be given to appropriate indigenous and drought-tolerant species.

5.6 One-Acre Micro-Irrigation

The consultant shall assess:

- Water demand and sustainability of abstraction.
- Potential competition between irrigation, livestock and domestic water uses.
- Soil suitability and salinity risks.
- Irrigation drainage and waterlogging.
- Fertilizer and pesticide management.
- Crop selection and climate suitability.
- Equitable participation of beneficiary households.

5.7 Solar-Powered Water Pumping System

The assessment shall address:

- Sustainability of the proposed water abstraction.
- Water quality and treatment requirements for intended uses.
- Solar panel installation and electrical safety.
- Management of batteries and electronic waste, where applicable.
- Pump and pipeline maintenance.
- Water storage and distribution efficiency.
- Potential impacts on groundwater or other water users, where relevant.

6.0 POLICY, LEGAL AND INSTITUTIONAL FRAMEWORK

The consultant shall review and demonstrate compliance with applicable Kenyan environmental, social, water, occupational safety and public participation requirements.

The review shall include, but not be limited to:

Legal/policy instrument	Relevance to the project
Constitution of Kenya, 2010	Environmental rights, public participation and access to water.
Environmental Management and Co-ordination Act, Cap. 387	Environmental assessment, protection and pollution control.
Environmental (Impact Assessment and Audit) Regulations, 2003, as amended	ESIA procedures, reporting and licensing.
Environmental Management and Co-ordination (Water Quality) Regulations, 2006, as applicable	Protection of water quality.
Water Act, 2016	Water resource management and regulation.

Water (Harvesting and Storage) Regulations, 2025	Applicable requirements for water pans and water storage infrastructure.
Occupational Safety and Health Act, 2007	Worker safety and construction site health requirements.
Employment Act, 2007	Labour rights and employment conditions.
Public Health Act, Cap. 242	Public health and sanitation.
Physical and Land Use Planning Act, 2019	Land use and development planning.
Land Act, 2012	Land access, tenure and applicable land rights.
Community Land Act, 2016	Community land rights, where applicable.
Climate Change Act, 2016, as amended	Climate change adaptation and resilience.
National Gender and Equality Commission Act, 2011	Inclusion and protection against discrimination.
Children Act, 2022	Child protection and safeguarding.
Persons with Disabilities Act, 2025	Accessibility and inclusion requirements.
Relevant FLLOCA Environmental and Social Safeguards instruments	Environmental and social risk management throughout the project cycle.

The consultant shall also identify the relevant approvals, permits and institutional responsibilities, including NEMA and Water Resources Authority requirements where applicable.

The assessment and licensing process shall be undertaken by appropriately registered and licensed NEMA environmental assessment experts.

7.0 ENVIRONMENTAL AND SOCIAL MANAGEMENT AND MONITORING PLAN

The consultant shall prepare a comprehensive ESMMP identifying anticipated impacts, mitigation measures, monitoring indicators, responsible institutions, implementation timelines and estimated costs.

The plan shall cover the following areas:

Potential impact/risk	Proposed mitigation measures	Monitoring indicators
Soil erosion	Provide erosion-control structures, stabilize disturbed surfaces and undertake progressive rehabilitation.	Evidence of erosion, sedimentation and stabilization measures.
Excavated material	Identify approved disposal or reuse areas and prevent obstruction of drainage channels.	Volume reused or disposed of appropriately.
Dust and noise	Apply water spraying, maintain equipment and restrict noisy activities to appropriate working hours.	Dust complaints and equipment maintenance records.
Water contamination	Provide proper sanitation, spill prevention and safe fuel storage.	Water quality results and spill incident records.
Embankment failure	Implement approved engineering designs, compaction and routine inspections.	Embankment integrity and inspection records.
Spillway erosion	Install appropriate erosion protection and maintain unobstructed flow paths.	Spillway condition and evidence of scouring.
Occupational accidents	Provide PPE, safety induction, warning signs, first aid and emergency response procedures.	Accident records, PPE compliance and toolbox talks.
Community safety	Secure excavation areas, control access and install warning signage.	Safety inspections and reported incidents.
Livestock-related contamination	Provide designated troughs and appropriate drainage.	Water quality and trough cleanliness.
Vegetation loss	Minimize clearing and undertake compensatory planting where necessary.	Number of trees planted and survival rate.
Water-use conflicts	Establish transparent water allocation and community grievance mechanisms.	Complaints received and resolved.

Gender and social exclusion	Ensure inclusive consultations and equitable access to project benefits.	Participation records disaggregated by sex and vulnerability.
Irrigation-related impacts	Promote efficient irrigation and responsible agrochemical use.	Water-use records and soil condition.
Solar equipment waste	Establish arrangements for safe collection, storage and authorized disposal of damaged batteries and electronic components.	Waste inventory and disposal records.

The ESMMP shall include a dedicated Grievance Redress Mechanism (GRM), emergency preparedness and response plan, and operation and maintenance arrangements.

8.0 CLIMATE CHANGE AND DISASTER RISK ASSESSMENT

Given the project's FLLOCA context, the consultant shall undertake a climate risk and resilience assessment focusing on:

- Drought frequency and prolonged dry spells.
- Extreme rainfall and flash floods.
- Embankment overtopping and potential failure.
- Catchment degradation and sedimentation.
- Climate-related water demand fluctuations.
- Water storage efficiency and conservation.
- Climate-smart agricultural opportunities.
- Long-term sustainability of the water pan.

The consultant shall recommend adaptation measures to improve the resilience and sustainability of the infrastructure.

9.0 STAKEHOLDER ENGAGEMENT AND PUBLIC PARTICIPATION

The consultant shall conduct meaningful stakeholder consultations throughout the ESIA process.

9.1 Key Stakeholders

The consultations shall involve:

- County Government of Kwale.
- Mkongani Ward administration.
- Relevant village and community leadership.
- Community members and direct beneficiaries.
- Women, youth and vulnerable groups.
- Livestock keepers and farmers.
- Water resource management institutions.
- Relevant environmental and social safeguards officers.

- Relevant national government departments.
- Civil society organizations, where applicable.

9.2 Public Participation Activities

The consultant shall:

1. Conduct stakeholder identification and mapping.
2. Hold community consultation meetings.
3. Explain project activities, expected benefits and potential risks.
4. Document community concerns, recommendations and expectations.
5. Assess potential land access and resource-use conflicts.
6. Ensure participation of women, youth and vulnerable groups.
7. Establish or review the project grievance redress arrangements.
8. Prepare attendance registers, photographs, consultation minutes and a stakeholder engagement report.

Public participation shall comply with applicable NEMA requirements and relevant FLLOCA safeguards procedures.

10.0 ESIA STUDY METHODOLOGY

The consultant shall apply a combination of qualitative and quantitative methods, including:

10.1 Desk Review

Review relevant documents, including:

- Project concept note.
- Engineering designs and drawings.
- Bills of Quantities.
- Project implementation plans.
- Existing environmental and social safeguards instruments.
- Applicable legislation and policies.
- Available climate and hydrological information.

10.2 Field Investigations

Undertake site visits to establish the environmental and social baseline and verify project conditions.

10.3 Environmental Sampling and Analysis

Where necessary, conduct water and soil sampling through appropriately qualified personnel and laboratories.

Water quality parameters should be selected based on intended use and may include pH, turbidity, electrical conductivity, total dissolved solids, nitrates and microbiological parameters.

10.4 Stakeholder Consultations

Conduct interviews, focus group discussions and community meetings.

10.5 Impact Assessment

Apply recognized impact identification and evaluation techniques, including impact matrices, risk

assessment and significance ranking.

10.6 Development of Mitigation Measures

Recommend practical, technically feasible and costed measures consistent with the mitigation hierarchy:

- Avoid.
- Minimize.
- Restore.
- Compensate, where applicable.

11.0 EXPECTED DELIVERABLES

The consultant shall submit the following deliverables:

No.	Deliverable	Description
1	Inception Report	Understanding of the assignment, methodology, workplan and stakeholder engagement strategy.
2	Baseline Assessment Report	Findings from field investigations and environmental and socio-economic baseline assessment.
3	Stakeholder Engagement Report	Consultation proceedings, issues raised and responses.
4	Draft ESIA Study Report	Comprehensive assessment of impacts, alternatives and proposed mitigation measures.
5	Environmental and Social Management and Monitoring Plan	Detailed mitigation measures, monitoring indicators, institutional responsibilities and costs.
6	Final ESIA Study Report	Revised report incorporating comments from the County Government and relevant stakeholders.
7	NEMA Submission Documentation	Final documents and supporting information required for regulatory review and licensing.

All reports shall be submitted in editable electronic format and PDF, together with hard copies where required by the procuring entity or regulator.

12.0 PROPOSED ESIA REPORT STRUCTURE

The final ESIA Study Report shall contain, at a minimum:

1. Executive Summary.
2. Introduction and Background.
3. Project Description.

4. Policy, Legal and Institutional Framework.
5. ESIA Methodology.
6. Project Alternatives Analysis.
7. Environmental and Socio-Economic Baseline.
8. Stakeholder Engagement and Public Participation.
9. Identification and Assessment of Environmental and Social Impacts.
10. Climate Change and Disaster Risk Assessment.
11. Environmental and Social Mitigation Measures.
12. Environmental and Social Management and Monitoring Plan.
13. Grievance Redress Mechanism.
14. Occupational Health and Safety Plan.
15. Emergency Preparedness and Response Plan.
16. Conclusions and Recommendations.
17. References.
18. Appendices, including consultation records, photographs, maps, technical designs and relevant supporting documents.

13.0 CONSULTANT QUALIFICATIONS AND EXPERIENCE

The assignment shall be undertaken by a NEMA-registered and licensed Environmental Assessment Expert or firm of experts.

The consulting team shall possess relevant expertise in:

- Environmental assessment and management.
- Water resources engineering or hydrology.
- Civil or structural engineering.
- Social safeguards and community engagement.
- Occupational health and safety.
- Climate change adaptation and resilience.
- Biodiversity and natural resource management.

The consultant shall demonstrate relevant experience in water pan rehabilitation, water infrastructure development, environmental safeguards and community-based climate resilience projects.

14.0 DURATION OF THE ASSIGNMENT

The proposed assignment shall be undertaken within **21 calendar days**, subject to the availability of project information, access to the site and timely stakeholder participation.

Activity	Proposed duration
Inception and document review	2 days

Site visits and baseline data collection	5 days
Stakeholder consultations	3 days
Impact assessment and preparation of draft ESIA	7 days
Review and incorporation of comments	2 days
Submission of final ESIA report	2 days
Total	21 days

The schedule may be adjusted in consultation with the County Government to accommodate regulatory requirements and the nature of the assessment.

15.0 REPORTING AND COORDINATION

The consultant shall report to the County Government of Kwale through the Department responsible for Environment, Natural Resources, Energy and Climate Change, working in coordination with the FLLOCA County Climate Change Unit (CCU) and relevant technical officers.

The consultant shall:

- Maintain regular communication with the County project team.
- Share progress updates.
- Present the draft ESIA findings for review.
- Incorporate consolidated comments.
- Submit the final report for acceptance and regulatory processing.

16.0 CONFIDENTIALITY AND OWNERSHIP OF REPORTS

All data, information, maps, photographs and reports generated during the assignment shall remain the property of the County Government of Kwale.

The consultant shall not disclose or reproduce project information without prior written authorization from the County Government.

17.0 CONCLUSION

The ESIA for the proposed rehabilitation of Chanyiro Water Pan shall provide a systematic assessment of the environmental and social implications of the proposed interventions and establish appropriate safeguards for sustainable implementation.

The assessment shall ensure that the anticipated benefits of improved water storage, livestock production, climate-smart agriculture, ecosystem restoration and community resilience are achieved while minimizing adverse environmental and social impacts.

The consultant shall ensure that the final ESIA report complies with applicable Kenyan legal requirements, NEMA procedures and FLLOCA Environmental and Social Safeguards requirements. Project

implementation shall proceed only after the necessary environmental approvals and other applicable authorizations have been obtained.

7. ECOTOURISM PROJECT: ENHANCING COMMUNITY LIVELIHOODS THROUGH CONSTRUCTION OF ECO-RESTAURANT, BOARDWALK, RESTING BANDAS AND RECEPTION STRUCTURE AT MUNJE MANGROVE ECOSYSTEM IN RAMISI WARD

TERMS OF REFERENCE (TOR) FOR ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT (ESIA) FOR THE PROPOSED ECOTOURISM PROJECT: ENHANCING COMMUNITY LIVELIHOODS THROUGH CONSTRUCTION OF ECO-RESTAURANT, BOARDWALK, RESTING BANDAS AND RECEPTION STRUCTURE AT MUNJE MANGROVE ECOSYSTEM IN RAMISI WARD, KWALE COUNTY

1. Introduction and Background

The County Government of Kwale, through the Department of Environment, Natural Resources, Energy and Climate Change, intends to implement an ecotourism project at the Munje Mangrove Ecosystem in Ramisi Ward under the Financing Locally-Led Climate Action (FLLoCA) Programme.

The project aims to enhance community livelihoods through sustainable ecotourism infrastructure development while promoting mangrove conservation, ecosystem restoration, climate resilience, and nature-based economic opportunities.

The proposed project will involve construction of a boardwalk, eco-restaurant, resting bandas, and reception structure, alongside mangrove tree growing and ecosystem enhancement activities.

Given the ecological sensitivity of mangrove ecosystems, the proposed development requires an Environmental and Social Impact Assessment (ESIA) to identify potential environmental and social risks, assess alternatives, recommend mitigation measures, and develop an Environmental and Social Management and Monitoring Plan (ESMMP).

The ESIA shall be undertaken in accordance with applicable Kenyan environmental legislation, National Environment Management Authority (NEMA) requirements, and relevant FLLoCA Environmental and Social Safeguards requirements.

2. Project Objectives

2.1 Overall Objective

To undertake an Environmental and Social Impact Assessment for the proposed Munje Mangrove Ecotourism Project and develop appropriate measures to ensure that project implementation is environmentally sustainable, socially inclusive, climate-resilient, and economically beneficial to the local community.

2.2 Specific Objectives

The specific objectives of the ESIA are to:

- 
1. Establish the existing environmental and social baseline conditions within the proposed project site and its zone of influence.
 2. Identify and assess potential positive and negative environmental and social impacts associated with project construction, operation, and decommissioning.
 3. Assess potential impacts on mangrove vegetation, biodiversity, coastal and marine ecosystems, water quality, soil stability, and ecosystem services.
 4. Examine potential occupational health and safety risks, community health and safety concerns, and labour-related risks.
 5. Assess land ownership, land use, access rights, resource use, and potential restrictions affecting local communities.
 6. Identify climate-related risks, including sea-level rise, coastal flooding, erosion, and extreme weather events.
 7. Recommend appropriate mitigation, enhancement, restoration, and monitoring measures.
 8. Prepare an Environmental and Social Management and Monitoring Plan (ESMMP), including institutional responsibilities, implementation schedules, and indicative costs.
 9. Undertake meaningful stakeholder consultations and document community views, concerns, and recommendations.
 10. Ensure compliance with applicable national environmental and social safeguards requirements and FLLoCA Environmental and Social Risk Management provisions.

3. Project Description and Scope of Works

The ESIA consultant shall assess the following proposed project components:

3.1 Construction of Boardwalk

The assessment shall cover:

- Site surveying, setting out, and identification of the boardwalk alignment.
- Construction of elevated pedestrian walkways within the mangrove ecosystem.
- Installation of supporting foundations, decking, handrails, and safety barriers.
- Construction of access points and designated visitor viewing areas.
- Installation of directional signs and environmental interpretation boards.
- Management of construction materials and temporary access routes.

The assessment shall particularly examine potential disturbance to mangrove roots, tidal channels, aquatic habitats, sediment movement, and wildlife.

3.2 Construction of Eco-Restaurant

The assessment shall cover:

- Site preparation and foundation works.
- Construction of an environmentally sensitive restaurant structure.
- Installation of kitchen equipment, water supply, and sanitation facilities.
- Installation of appropriate wastewater treatment and disposal systems.
- Provision of solid waste collection and temporary storage facilities.

- Energy supply, preferably incorporating renewable energy technologies.
- Landscaping using indigenous coastal vegetation.

3.3 Construction of Resting Bandas and Reception Structure

The assessment shall cover:

- Construction of resting bandas using environmentally appropriate materials.
- Construction of a reception and visitor information structure.
- Installation of visitor amenities, lighting, and safety facilities.
- Provision of accessible pedestrian pathways.
- Installation of appropriate sanitation and waste management facilities.
- Integration of the structures into the natural landscape.

3.4 Mangrove Tree Growing and Ecosystem Restoration

The assessment shall cover:

- Assessment of existing mangrove vegetation and degraded areas.
- Identification of appropriate indigenous mangrove species.
- Community-led mangrove seedling propagation and planting.
- Protection of planted seedlings from trampling, cutting, and other disturbances.
- Monitoring of seedling survival and natural regeneration.
- Restoration of disturbed areas using appropriate ecological methods.
- Community awareness and participation in mangrove conservation.

Mangrove planting shall be guided by ecological suitability, tidal hydrology, and natural regeneration requirements. The consultant shall assess whether the proposed infrastructure could affect tidal flows or existing mangrove habitats.

4. Scope of the ESIA Consultancy

The consultant shall undertake a comprehensive assessment covering the following areas:

4.1 Environmental and Social Baseline Assessment

The consultant shall establish baseline conditions relating to:

Physical environment

- Topography, geology, soils, and sediment characteristics.
- Tidal patterns, hydrology, and drainage.
- Surface water and groundwater quality.
- Climate conditions, rainfall, temperature, and wind patterns.
- Coastal erosion, flooding, and potential sea-level rise.
- Existing noise and air quality conditions.

Biological environment

- Mangrove species composition, distribution, and condition.
- Flora and fauna within the project area.
- Birds, fish, crustaceans, and other associated aquatic organisms.

- Ecologically sensitive habitats and biodiversity hotspots.
- Ecosystem services and the role of mangroves in carbon sequestration and shoreline protection.

Socio-economic environment

- Population and demographic characteristics of surrounding communities.
- Existing livelihoods, including fishing, mangrove-related activities, and tourism.
- Land tenure, ownership, and access rights.
- Community dependence on mangrove ecosystem resources.
- Existing tourism activities and economic opportunities.
- Vulnerable groups, including women, youth, and persons with disabilities.
- Cultural, historical, and heritage resources.

4.2 Legal, Policy, and Institutional Framework

The consultant shall review applicable legal and policy instruments, including:

1. Constitution of Kenya, 2010.
2. Environmental Management and Co-ordination Act, 1999, as amended.
3. Environmental (Impact Assessment and Audit) Regulations and applicable amendments.
4. Forest Conservation and Management Act, 2016.
5. Climate Change Act, 2016, as amended.
6. Water Act, 2016.
7. Wildlife Conservation and Management Act, 2013.
8. Occupational Safety and Health Act, 2007.
9. Public Health Act, Cap. 242.
10. Physical and Land Use Planning Act, 2019.
11. Sustainable Waste Management Act, 2022.
12. Employment Act, 2007.
13. Persons with Disabilities Act, 2003, and applicable current amendments.
14. Relevant county laws, policies, and development plans.
15. Applicable FLLoCA Environmental and Social Safeguards instruments.

The consultant shall also identify required approvals, permits, and institutional responsibilities, including those of NEMA, Kenya Forest Service, Kenya Wildlife Service where applicable, relevant water and public health authorities, and the County Government.

The applicable regulatory framework shall be verified against current legal requirements at the time of the study.

4.3 Assessment of Environmental and Social Impacts

The consultant shall identify, predict, and evaluate potential impacts during the construction, operation, and decommissioning phases.

The assessment shall include, but not be limited to:

Project activity	Potential environmental and social impacts
Boardwalk construction	Mangrove root disturbance, habitat fragmentation, sediment disturbance, tidal flow obstruction, occupational accidents
Eco-restaurant construction	Vegetation clearance, construction waste, noise, dust, wastewater generation, resource consumption
Resting bandas	Habitat disturbance, visual impacts, visitor safety risks, increased pressure on natural resources
Reception structure	Land use changes, construction impacts, increased visitor traffic
Mangrove tree growing	Improved biodiversity, carbon sequestration, shoreline protection, community participation
Ecotourism operations	Increased income, employment, littering, noise, wastewater, disturbance to wildlife
Increased visitor access	Community livelihood opportunities, cultural impacts, resource use conflicts, visitor safety concerns

The consultant shall assess both direct and indirect impacts, cumulative impacts, and potential impacts on ecosystem services.

4.4 Analysis of Project Alternatives

The consultant shall evaluate:

- The no-project alternative.
- Alternative project sites and infrastructure layouts.
- Alternative boardwalk alignments that minimize disturbance to mangrove vegetation.
- Alternative construction materials and technologies.
- Alternative sanitation and wastewater treatment systems.
- Alternative energy supply options.
- Alternative mangrove restoration approaches.

The preferred alternative shall demonstrate environmental sustainability, technical feasibility, social acceptability, and economic viability.

5. Specific Environmental and Social Issues Requiring Detailed Assessment

Given the ecological sensitivity of the Munje mangrove ecosystem, the consultant shall give particular attention to the following:

5.1 Mangrove Ecosystem Protection

- Avoidance of unnecessary mangrove clearance.
- Protection of existing mangrove root systems.
- Maintenance of natural tidal circulation.
- Prevention of sedimentation and pollution.
- Protection of aquatic breeding and nursery habitats.
- Prevention of disturbance to sensitive wildlife.
- Establishment of appropriate ecological buffer zones.

5.2 Wastewater and Sanitation Management

The consultant shall assess:

- Restaurant wastewater generation and treatment.
- Management of kitchen grease and oils.
- Visitor toilet facilities.
- Sewage containment and safe disposal.
- Prevention of untreated effluent discharge into mangrove channels.
- Water conservation and reuse opportunities.

5.3 Solid Waste Management

The consultant shall develop appropriate measures for:

- Segregation of biodegradable and non-biodegradable waste.
- Safe storage and collection of waste.
- Composting of suitable organic waste.
- Recycling and responsible disposal.
- Prevention of plastic litter entering tidal waters.

5.4 Occupational Health and Safety

The assessment shall address:

- Construction-site safety.
- Working over water and in tidal environments.
- Use of personal protective equipment.
- Emergency response and rescue arrangements.
- Fire prevention and control.
- Safe handling of construction materials and equipment.
- Contractor worker welfare and sanitation.

5.5 Community Health, Safety, and Security

The consultant shall assess:

- Visitor safety along the boardwalk.
- Structural stability and handrail safety.
- Emergency evacuation arrangements.

- Fire and other disaster risks.
- Public health risks associated with restaurant operations.
- Security and safeguarding of visitors and workers.
- Prevention of sexual exploitation, abuse and harassment (SEA/SH).
- Child protection and prevention of child labour.

5.6 Land Tenure and Community Resource Access

The consultant shall establish:

- Legal ownership and management status of the proposed site.
- Existing community access and resource-use rights.
- Potential restrictions on fishing, harvesting, or other livelihood activities.
- Potential economic or physical displacement.
- Appropriate measures to prevent or address livelihood impacts.

Where restrictions on access or involuntary resettlement risks are identified, the consultant shall recommend additional safeguards instruments as required.

5.7 Climate Change and Disaster Risk Assessment

The consultant shall evaluate:

- Sea-level rise and coastal inundation.
- Tidal flooding and storm surges.
- Coastal erosion.
- Extreme rainfall and associated flooding.
- Climate resilience of proposed structures.
- Opportunities for nature-based climate adaptation.

6. Stakeholder Engagement and Public Participation

The consultant shall undertake meaningful stakeholder consultations throughout the ESIA process.

Stakeholders shall include:

- County Government of Kwale technical departments.
- Ramisi Ward and relevant local administration.
- Munje community representatives.
- Community forest associations and mangrove conservation groups.
- Women, youth, and vulnerable groups.
- Local tourism operators and small-scale entrepreneurs.
- Fishers and other natural resource users.
- Kenya Forest Service.
- National Environment Management Authority.
- Relevant environmental and tourism institutions.
- Civil society organizations and development partners.

The consultant shall:

1. Conduct stakeholder identification and mapping.
2. Hold community consultation meetings.
3. Explain project objectives, activities, and anticipated impacts.
4. Document concerns, suggestions, and expectations.
5. Assess community support and potential conflicts.
6. Identify opportunities for local employment and benefit sharing.
7. Establish recommendations for continued engagement.
8. Prepare a stakeholder consultation report with attendance records, photographs, issues raised, and responses.

7. Environmental and Social Management and Monitoring Plan (ESMMP)

The consultant shall prepare a comprehensive ESMMP containing:

- Identified environmental and social risks and impacts.
- Proposed mitigation and enhancement measures.
- Environmental and social monitoring indicators.
- Responsible implementing institutions.
- Monitoring frequency.
- Implementation timelines.
- Estimated mitigation costs.
- Reporting and compliance mechanisms.
- Corrective action procedures.

Indicative ESMMP Framework

Environmental/social aspect	Proposed mitigation measure	Monitoring indicator
Mangrove vegetation	Avoid unnecessary clearing and establish protected zones	Area of mangrove vegetation disturbed
Mangrove restoration	Undertake indigenous mangrove planting and aftercare	Number of seedlings planted and survival rate
Water quality	Prevent discharge of untreated wastewater	Water quality test results
Solid waste	Provide segregated waste collection facilities	Waste generated, collected, and disposed of
Soil and sediment	Control erosion and sediment disturbance	Evidence of erosion or sedimentation

Occupational safety	Implement contractor OHS plan	Number of incidents and compliance inspections
Community safety	Provide signage, handrails, and emergency arrangements	Safety inspection records
Community livelihoods	Promote local employment and enterprise participation	Number of local people engaged
SEA/SH and GBV	Implement a code of conduct and confidential referral mechanism	Awareness sessions and reported cases managed through approved procedures
Climate resilience	Incorporate climate-resilient designs	Compliance with approved design measures

8. Grievance Redress Mechanism (GRM)

The consultant shall establish or integrate a project-level Grievance Redress Mechanism consistent with FLLoCA requirements.

The GRM shall:

- Provide accessible channels for submitting complaints.
- Identify grievance-handling responsibilities.
- Establish procedures for receiving, recording, investigating, and resolving complaints.
- Provide confidential reporting arrangements for SEA/SH-related grievances.
- Ensure non-retaliation against complainants.
- Provide an escalation and appeal mechanism.
- Maintain a grievance register and periodic reporting arrangements.

9. Methodology

The consultant shall employ a combination of qualitative and quantitative approaches, including:

9.1 Desk Review

Review relevant project documents, planning reports, environmental legislation, ecological studies, maps, designs, and applicable safeguards instruments.

9.2 Site Reconnaissance

Undertake physical inspection of the proposed site to establish baseline conditions, identify sensitive ecological areas, and verify proposed infrastructure locations.

9.3 Ecological Surveys

Conduct appropriate mangrove vegetation assessments, biodiversity observations, and habitat sensitivity assessments.

9.4 Environmental Sampling and Analysis

Where necessary, undertake water, soil, sediment, and other environmental sampling through appropriately qualified personnel and laboratories.

9.5 Socio-economic Surveys

Use interviews, focus group discussions, household or user surveys where appropriate, and key informant interviews.

9.6 Impact Assessment

Apply recognized impact assessment methods, including impact significance matrices, risk assessment, and evaluation of impact magnitude, duration, extent, reversibility, and receptor sensitivity.

9.7 Stakeholder Consultation

Conduct public participation and document stakeholder concerns, proposed mitigation measures, and community recommendations.

9.8 Preparation of ESIA Report

Consolidate findings into a comprehensive ESIA report, including an ESMMP and supporting technical appendices.

10. Expected Deliverables

The consultant shall submit the following deliverables:

No.	Deliverable	Description
1	Inception Report	Understanding of the assignment, methodology, workplan, and stakeholder engagement strategy
2	Baseline Assessment Report	Environmental, ecological, and socio-economic baseline findings
3	Stakeholder Consultation Report	Consultation proceedings, concerns, recommendations, and attendance records
4	Draft ESIA Report	Comprehensive assessment of impacts, alternatives, and mitigation measures
5	Environmental and Social Management and Monitoring Plan	Detailed mitigation, monitoring, responsibilities, timelines, and cost estimates
6	Final ESIA Report	Revised report incorporating County and stakeholder comments

7	NEMA Submission Package	Final documentation and supporting materials for regulatory review and approval
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The consultant shall also support the project proponent in responding to NEMA review comments and addressing additional information requirements, where included in the consultancy agreement.

11. Consultancy Duration

The assignment is expected to take approximately **30 calendar days**, subject to site accessibility, ecological survey requirements, stakeholder consultation schedules, and regulatory review timelines.

Indicative Work Schedule

Activity	Duration
Inception and document review	2days
Site reconnaissance and baseline surveys	4 days
Stakeholder consultations	3 days
Impact assessment and alternatives analysis	4 days
Preparation of draft ESIA report and ESMMP	4 days
Review, validation, and final report submission	4 days
Total	21 days

The timeline shall be adjusted where seasonal ecological observations, tidal conditions, or additional regulatory requirements necessitate further assessment.

12. Required Consultant Qualifications

The assignment shall be undertaken by an individual EIA/EA expert or firm registered and licensed by NEMA in the appropriate category.

The consultant or consulting team shall demonstrate:

- Relevant academic qualifications in environmental science, environmental planning, natural resource management, ecology, forestry, or related disciplines.
- Demonstrated experience in ESIA studies for tourism, infrastructure, coastal, wetland, or ecosystem restoration projects.

- Knowledge of Kenyan environmental legislation and NEMA approval procedures.
- Experience in environmental and social safeguards, preferably under FLLoCA or comparable development programmes.
- Competence in biodiversity assessment, stakeholder engagement, and environmental management planning.

The team should include expertise in:

- Environmental assessment and management.
- Mangrove ecology and coastal ecosystems.
- Social safeguards and community development.
- Occupational health and safety.
- Climate change and disaster risk assessment.
- Water quality and sanitation, where required.

13. Roles and Responsibilities

13.1 County Government of Kwale

The County Government shall:

- Provide project documents, preliminary designs, and relevant site information.
- Facilitate access to the proposed project site.
- Support stakeholder identification and mobilization.
- Review and provide comments on deliverables.
- Facilitate coordination with relevant county departments and agencies.
- Support submission of the ESIA documentation to NEMA.

13.2 ESIA Consultant

The consultant shall:

- Undertake the assessment independently and professionally.
- Conduct site investigations and stakeholder consultations.
- Identify and evaluate environmental and social risks.
- Recommend feasible mitigation and enhancement measures.
- Prepare the ESMMP and final ESIA report.
- Ensure technical quality and compliance with applicable safeguards requirements.
- Maintain proper records of fieldwork, consultations, and assessment findings.

14. Reporting and Coordination

The consultant shall report to the County Department responsible for Environment, Natural Resources, Energy and Climate Change, through the designated project coordinator or County Climate Change Unit.

All reports shall be submitted in editable electronic format and PDF, together with relevant maps, photographs, consultation records, and technical appendices.

The consultant shall present the draft findings to the County technical team and incorporate consolidated comments before final submission.

15. Expected Outcomes

The assignment is expected to achieve the following outcomes:

1. A comprehensive understanding of the environmental and social baseline conditions of the Munje mangrove ecosystem.
2. Identification and assessment of potential environmental and social impacts associated with the proposed ecotourism infrastructure.
3. Practical measures for protecting mangrove biodiversity and maintaining ecosystem integrity.
4. An actionable ESMMP with clear responsibilities, monitoring indicators, timelines, and costs.
5. Improved community participation and consideration of local livelihood interests.
6. Identification of climate resilience and sustainable tourism opportunities.
7. A regulatory-ready ESIA report to guide project implementation and NEMA review.

16. Conclusion

The proposed Munje Mangrove Ecotourism Project presents an opportunity to link mangrove conservation with sustainable community livelihoods through nature-based tourism. However, the proposed infrastructure must be carefully planned and implemented to avoid adverse impacts on mangrove vegetation, tidal hydrology, biodiversity, and community resource-use rights.

The ESIA shall therefore provide the environmental, social, technical, and management framework necessary to ensure that the project contributes to climate resilience, ecosystem restoration, inclusive economic development, and sustainable tourism in Ramisi Ward.

8. CONSTRUCTION OF A SLAB DRIFT WITH CULVERTS ACROSS THE RIVER AT MULUNGUNIPA–VUKANI ACCESS ROAD IN GOMBATO/BONGWE WARD

TERMS OF REFERENCE (TOR) FOR ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT (ESIA) FOR THE PROPOSED CONSTRUCTION OF A SLAB DRIFT WITH CULVERTS ACROSS THE RIVER AT MULUNGUNIPA–VUKANI ACCESS ROAD IN GOMBATO/BONGWE WARD, KWALE COUNTY

1.0 INTRODUCTION AND BACKGROUND

The County Government of Kwale, through the Financing Locally-Led Climate Action (FLLoCA) Programme, intends to undertake the construction of a slab drift with culverts across the river along the Mulungunipa–Vukani access road in Gombato/Bongwe Ward.

The proposed project aims to improve accessibility, strengthen climate resilience of rural road infrastructure, facilitate movement of people and goods, and enhance access to essential services, markets, schools, health facilities, and other socioeconomic amenities.

The river crossing currently presents potential accessibility challenges, particularly during periods of heavy rainfall and increased river flows. The proposed slab drift and culvert installation will provide a structured crossing that facilitates controlled passage of surface water while maintaining road connectivity.



However, construction activities within or adjacent to a river environment may generate environmental and social risks, including disturbance of the riverbed and banks, sedimentation, temporary alteration of water flows, occupational health and safety hazards, construction waste, and potential disruption of community access.

Consequently, an Environmental and Social Impact Assessment (ESIA) shall be undertaken in accordance with applicable Kenyan environmental legislation, National Environment Management Authority (NEMA) requirements, and the environmental and social safeguards provisions applicable to FLLoCA-supported investments.

The ESIA will identify, assess, and recommend measures to avoid, minimize, mitigate, and manage adverse environmental and social impacts while enhancing the project's positive outcomes.

2.0 PROJECT DESCRIPTION

2.1 Project Title

Construction of a Slab Drift with Culverts Across the River at Mulungunipa–Vukani Access Road in Gombato/Bongwe Ward.

2.2 Project Goal

To improve all-weather accessibility and strengthen the climate resilience of the Mulungunipa–Vukani access road through the construction of a structurally sound slab drift incorporating culverts for effective river crossing and drainage management.

2.3 Project Objectives

The specific objectives are to:

- Improve safe and reliable movement across the river along the Mulungunipa–Vukani access road.
- Enhance the resilience of road infrastructure against flooding, stormwater runoff, and erosion.
- Facilitate access to markets, schools, health facilities, and other essential services.
- Improve transportation of agricultural produce, livestock, and other goods.
- Reduce travel delays and disruptions during rainy seasons.
- Promote environmentally sound and socially inclusive infrastructure development.

2.4 Main Project Activities

The ESIA shall cover the following principal activity:

Construction of a slab drift and installation of culverts, comprising the following anticipated tasks:

- Site clearance and setting out.
- Establishment of temporary construction facilities.
- Excavation and preparation of the river crossing foundation.
- Diversion or temporary management of river flows, where necessary and approved.
- Preparation and stabilization of the foundation.
- Construction of concrete or reinforced concrete slab drift.
- Supply and installation of appropriately sized culverts.
- Construction of inlet and outlet protection structures.

- Construction of approach roads and transition sections.
- Installation of erosion and scour protection measures.
- Backfilling, compaction, and finishing works.
- Site reinstatement, landscaping, and rehabilitation of disturbed areas.

The final design, dimensions, culvert numbers, materials, and construction methodology shall be confirmed through engineering investigations and detailed designs.

3.0 OBJECTIVES OF THE ESIA STUDY

The overall objective of the ESIA is to identify, predict, evaluate, and propose appropriate mitigation measures for potential environmental and social impacts associated with the construction and operation of the proposed slab drift and culverts.

The specific objectives shall be to:

1. Establish the environmental and social baseline conditions of the proposed project site and surrounding areas.
2. Identify potential environmental and social risks associated with construction activities within and around the river.
3. Assess the potential effects of the project on river hydrology, water quality, drainage patterns, riverbanks, and aquatic ecosystems.
4. Evaluate the project's vulnerability to climate change, particularly floods, extreme rainfall, erosion, and changing river flows.
5. Identify occupational health and safety risks to construction workers and community members.
6. Assess potential socioeconomic impacts, including temporary disruption of access, livelihoods, and movement of people and goods.
7. Identify risks associated with construction materials sourcing, waste generation, traffic management, and site rehabilitation.
8. Undertake meaningful stakeholder consultations and incorporate community concerns into project planning.
9. Develop an Environmental and Social Management Plan (ESMP), including mitigation measures, monitoring indicators, responsibilities, timelines, and budget estimates.
10. Recommend measures for enhancing positive environmental, social, and climate resilience benefits.

4.0 SCOPE OF THE ESIA STUDY

The ESIA consultant shall undertake a comprehensive assessment covering the project planning, construction, operation, maintenance, and eventual decommissioning phases.

4.1 Project Description and Design Review

The consultant shall:

- Review the proposed engineering designs, drawings, specifications, and Bills of Materials.
- Establish the precise project location, coordinates, and project footprint.

- Determine the proposed slab drift dimensions, culvert sizes, number, alignment, and installation arrangements.
- Examine construction materials, machinery, equipment, and construction methods.
- Identify temporary construction facilities, material storage areas, access routes, and spoil disposal locations.
- Review proposed drainage, riverbank protection, and erosion control measures.
- Assess the adequacy of the proposed design in addressing flood risks and anticipated river flows.

4.2 Environmental Baseline Assessment

The consultant shall establish baseline environmental conditions, including:

a) Physical environment

- Topography, geology, and soil characteristics.
- River morphology, flow characteristics, and seasonal variations.
- Existing drainage patterns and flood-prone sections.
- Surface water quality and potential pollution sources.
- Soil erosion and sedimentation conditions.
- Ambient air quality and noise levels.
- Existing land use and vegetation cover.

b) Biological environment

- Existing vegetation along the riverbanks.
- Aquatic and terrestrial habitats.
- Presence of sensitive, threatened, or protected species, where applicable.
- Potential impacts on aquatic organisms and ecological connectivity.
- Existing ecosystem services provided by the river and riparian zone.

c) Socioeconomic environment

- Population and settlement characteristics of the project influence area.
- Existing road and river-crossing conditions.
- Community access to schools, health facilities, markets, and other services.
- Land ownership and potential land acquisition requirements.
- Existing livelihood activities and economic uses of the river.
- Vulnerable and marginalized groups, including women, children, older persons, and persons with disabilities.
- Existing community safety concerns and grievance management arrangements.

4.3 Assessment of Environmental and Social Impacts

The consultant shall identify and assess both positive and negative impacts during the various project phases.

A. Construction Phase

The assessment shall cover:

- Vegetation clearance and disturbance of riverbank habitats.
- Excavation and disturbance of the riverbed.

- Increased turbidity and sedimentation from construction activities.
- Potential contamination of river water from cement, fuel, oils, and construction waste.
- Temporary alteration or obstruction of natural river flows.
- Soil erosion and destabilization of riverbanks.
- Noise, dust, and emissions from construction machinery.
- Generation and disposal of excavated materials and construction debris.
- Occupational accidents involving machinery, excavation, and working near water.
- Risks of drowning, falls, and injuries.
- Community safety risks arising from open excavations and construction equipment.
- Temporary interruption of road access and movement across the river.
- Potential conflicts relating to employment opportunities and labor management.
- Risks of child labor, sexual exploitation and abuse, sexual harassment, and gender-based violence.
- Potential damage to existing utilities or community infrastructure.
- Increased demand for construction water and other local resources.

B. Operational and Maintenance Phase

The assessment shall examine:

- Improved accessibility and reduced travel disruptions.
- Increased safety and reliability of river crossing.
- Potential obstruction of water flow by debris accumulated around culverts.
- Risk of flooding due to inadequate culvert capacity or blockage.
- Scouring and erosion at culvert inlets, outlets, and riverbanks.
- Structural deterioration due to floods and heavy traffic.
- Road safety risks to pedestrians, cyclists, motorcyclists, and vehicles.
- Maintenance requirements and institutional responsibilities.
- Potential changes in community mobility, economic activities, and access to services.

C. Climate Change and Disaster Risk Assessment

The consultant shall undertake a climate risk and vulnerability assessment focusing on:

- Flood frequency, magnitude, and potential impacts.
- Extreme rainfall and flash flood events.
- Riverbank erosion and scouring.
- Culvert blockage by sediment, vegetation, and debris.
- Structural vulnerability of the slab drift.
- Climate-related disruptions to access and community livelihoods.

The assessment shall recommend climate-resilient design and maintenance measures, including appropriate hydraulic capacity, erosion protection, adequate drainage, and routine inspection.

5.0 ANALYSIS OF PROJECT ALTERNATIVES

The consultant shall examine reasonable alternatives, including:

5.1 No-Project Alternative

Assessment of the environmental, social, economic, and accessibility implications of not implementing the proposed intervention.

5.2 Alternative River-Crossing Designs

Comparison of technically feasible options, including:

- Slab drift with culverts.
- Alternative culvert configurations.
- Other suitable river-crossing structures, subject to engineering feasibility.

The analysis shall consider environmental impacts, construction costs, hydraulic performance, safety, durability, and climate resilience.

5.3 Alternative Construction Methods

Assessment of alternative construction methods that minimize disturbance to river flows, riverbanks, aquatic habitats, and surrounding communities.

.4 Preferred Alternative

The consultant shall document the rationale for the preferred alternative based on technical feasibility, environmental and social acceptability, climate resilience, and lifecycle sustainability.

6.0 STAKEHOLDER ENGAGEMENT AND PUBLIC PARTICIPATION

The consultant shall undertake meaningful stakeholder consultations in accordance with applicable Kenyan requirements and FLLoCA safeguards provisions.

Stakeholders shall include:

- County Government of Kwale departments responsible for Environment, Roads, Water, and Climate Change.
- Gombato/Bongwe Ward administration.
- Mulungunipa and Vukani community representatives.
- Project-affected persons and households.
- Community elders and local leaders.
- Women, youth, and persons with disabilities.
- Road users, traders, farmers, and transport operators.
- Relevant environmental and water resource institutions.
- Other relevant government agencies and civil society organizations.

The consultation process shall:

1. Inform stakeholders about the proposed project, scope, design, and anticipated implementation arrangements.
2. Identify community concerns, expectations, and potential adverse impacts.

3. Document views on river safety, flood risks, access disruption, and environmental protection.
4. Establish appropriate grievance reporting and resolution mechanisms.
5. Ensure inclusion of vulnerable and marginalized groups.
6. Incorporate stakeholder recommendations into the ESIA and ESMP.

The consultant shall maintain attendance registers, consultation minutes, photographs where appropriate, and a stakeholder engagement record.

7.0 LEGAL, POLICY AND INSTITUTIONAL FRAMEWORK

The consultant shall review and establish the applicability of relevant Kenyan environmental, social, occupational safety, water resources, infrastructure, and climate change legislation.

The framework shall include, as applicable:

- Constitution of Kenya, 2010.
- Environmental Management and Co-ordination Act, 1999, as amended.
- Environmental (Impact Assessment and Audit) Regulations and applicable amendments.
- Water Act, 2016.
- Climate Change Act, 2016, as amended.
- Occupational Safety and Health Act, 2007.
- Employment Act, 2007.
- Work Injury Benefits Act, 2007.
- Public Health Act, Cap. 242.
- Physical and Land Use Planning Act, 2019.
- Land Act, 2012.
- National Construction Authority Act, 2011.
- Traffic Act, Cap. 403.
- Sexual Offences Act, 2006.
- Children Act, 2022.
- Relevant water quality, waste management, air quality, noise, and biodiversity regulations.
- Applicable FLLoCA Environmental and Social Safeguards instruments and procedures.

The consultant shall identify the relevant regulatory approvals, permits, and institutional responsibilities, including those of NEMA and relevant water resources authorities.

The assessment and licensing process shall be undertaken in accordance with the applicable NEMA requirements.

8.0 DEVELOPMENT OF ENVIRONMENTAL AND SOCIAL MANAGEMENT PLAN (ESMP)

The consultant shall prepare a practical ESMP covering the construction and operational phases.

The ESMP shall specify:

- Identified environmental and social risks.
- Proposed mitigation and enhancement measures.

- Monitoring indicators and performance targets.
- Implementation responsibilities.
- Monitoring frequency.
- Estimated mitigation and monitoring costs.
- Reporting and corrective action procedures.

8.1 Indicative ESMP Matrix

Potential impact	Proposed mitigation measures	Monitoring indicators
River water pollution	Prohibit direct discharge of cement slurry, oils, fuels, and waste into the river; provide designated storage areas and spill response materials.	Water quality observations; spill incidents; compliance records.
Increased sedimentation	Minimize in-stream works; use temporary sediment barriers where appropriate; stabilize disturbed areas.	Visible sediment plumes; erosion control measures installed.
River flow obstruction	Maintain adequate temporary water passage and undertake works during suitable low-flow periods where feasible.	Unobstructed flow; approved diversion arrangements.
Riverbank erosion	Install suitable scour protection, gabions, riprap, or other engineered measures as specified in the design.	Condition of riverbanks and protection structures.
Construction waste	Segregate, collect, transport, and dispose of waste at approved facilities.	Waste disposal records; housekeeping inspections.
Dust and noise	Suppress dust, maintain machinery, and restrict noisy works to appropriate working hours.	Dust observations; noise complaints; equipment maintenance records.
Occupational accidents	Provide PPE, safety training, warning signs, safe excavation practices, and emergency response arrangements.	PPE compliance; toolbox talks; incident records.

Community safety	Install barricades, warning signs, safe pedestrian passages, and temporary crossing arrangements where feasible.	Safety inspections; recorded community incidents.
Access disruption	Develop a traffic and access management plan and communicate temporary diversions to affected communities.	Access complaints; diversion signage; community notifications.
GBV/SEA/SH risks	Implement a worker code of conduct, awareness training, confidential reporting, and survivor-centered referral procedures.	Training records; functional confidential reporting channels.
Flooding and structural damage	Ensure hydraulic adequacy, culvert maintenance, debris removal, and routine post-flood inspections.	Inspection reports; culvert blockage records; maintenance actions.
Disturbed vegetation	Restrict clearance to the approved footprint and rehabilitate disturbed areas with suitable indigenous vegetation.	Area rehabilitated; vegetation establishment and survival.

9.0 OCCUPATIONAL HEALTH, SAFETY AND COMMUNITY SAFETY

The consultant shall prepare recommendations for a project-specific Occupational Health and Safety Plan and Community Health and Safety Plan.

These shall address:

- Safe excavation and foundation preparation.
- Working near and within flowing water.
- Drowning prevention and emergency rescue arrangements.
- Machinery and equipment safety.
- Traffic and pedestrian management.
- Provision and use of appropriate PPE.
- First aid and emergency response.
- Safe storage of construction materials and fuels.
- Public warning signs and temporary barriers.
- Worker welfare and sanitation facilities.
- Incident reporting and investigation.
- Worker grievance management and code of conduct.

10.0 CLIMATE CHANGE ADAPTATION AND RESILIENCE MEASURES



Given the project's location across a river, the consultant shall prioritize climate resilience in the assessment and proposed mitigation measures.

The study shall:

- Review historical flood occurrences and community knowledge of river behavior.
- Assess the adequacy of proposed culvert capacity and hydraulic design.
- Recommend measures to minimize erosion and scour.
- Assess the potential effects of extreme rainfall and changing runoff patterns.
- Recommend appropriate foundation protection and riverbank stabilization.
- Propose a flood preparedness and emergency response arrangement.
- Develop a routine drainage and culvert maintenance schedule.
- Identify opportunities for nature-based solutions, including vegetation restoration along disturbed riverbanks.

11.0 GRIEVANCE REDRESS MECHANISM (GRM)

The consultant shall establish or recommend a project-level grievance redress mechanism consistent with the FLLoCA GRM framework.

The mechanism shall provide accessible channels for reporting and resolving complaints related to:

- Construction-related disturbances.
- Employment and labor disputes.
- Damage to property or community assets.
- Public safety incidents.
- Access restrictions.
- Environmental pollution.
- SEA/SH and other sensitive complaints through confidential, survivor-centered channels.

The consultant shall recommend a grievance register, designated focal persons, referral procedures, resolution timelines, and reporting arrangements.

12.0 ESIA STUDY METHODOLOGY

The consultant shall employ a combination of qualitative and quantitative methods, including:

12.1 Desk Review

Review of:

- Project concept note and proposal.
- Engineering designs and drawings.
- Bills of Quantities.
- County development and climate action plans.
- Existing environmental and social safeguards documents.
- Applicable laws, policies, regulations, and standards.

12.2 Site Reconnaissance

Physical inspection of the proposed river crossing and surrounding areas to establish:

- Existing river and road conditions.
- Riverbank stability.
- Flooding and erosion risks.
- Existing drainage arrangements.
- Settlement and livelihood characteristics.
- Sensitive environmental and social receptors.

12.3 Environmental Measurements

Where appropriate, undertake:

- Surface water quality sampling and laboratory analysis.
- Soil assessment.
- Noise measurements.
- Baseline photographic documentation.
- Hydrological and drainage observations.

12.4 Stakeholder Consultations

Conduct key informant interviews, community meetings, focus group discussions, and consultations with relevant institutions.

12.5 Impact Assessment

Use appropriate impact assessment techniques, including impact matrices, risk ranking, significance assessment, and evaluation of mitigation measures.

12.6 Preparation of ESIA Report

Compile the findings, mitigation measures, ESMP, stakeholder consultation records, and recommendations into a comprehensive ESIA report.

13.0 EXPECTED DELIVERABLES

The consultant shall submit the following deliverables to the County Government of Kwale:

No.	Deliverable	Description
1	Inception Report	Understanding of the assignment, methodology, workplan, and data requirements.
2	ESIA Scoping Report / TOR	Identified key environmental and social issues and proposed assessment approach, for submission to NEMA where applicable.
3	Stakeholder Consultation Report	Consultation records, attendance lists, issues raised, and responses.
4	Draft ESIA Report	Comprehensive assessment of baseline conditions, impacts,

alternatives, and proposed mitigation measures.

5	Environmental and Social Management Plan	Detailed mitigation, monitoring, institutional responsibilities, and budget.
6	Final ESIA Report	Revised report incorporating County Government and relevant stakeholder comments.
7	NEMA Submission and Licensing Documentation	Required documentation and professional support for the regulatory review and licensing process.

14.0 PROPOSED ESIA REPORT STRUCTURE

The final ESIA report shall contain, at a minimum:

1. Executive Summary.
2. Introduction and Background.
3. Project Description.
4. Policy, Legal, and Institutional Framework.
5. ESIA Methodology.
6. Baseline Environmental and Social Conditions.
7. Stakeholder Engagement and Public Participation.
8. Analysis of Project Alternatives.
9. Environmental and Social Impact Assessment.
10. Climate Change Risk and Vulnerability Assessment.
11. Environmental and Social Management Plan.
12. Occupational Health, Safety, and Community Safety Measures.
13. Grievance Redress Mechanism.
14. Environmental and Social Monitoring and Reporting Plan.
15. Conclusions and Recommendations.
16. References.
17. Appendices, including consultation records, photographs, relevant designs, and specialist reports.

15.0 CONSULTANT QUALIFICATIONS AND EXPERIENCE

The assignment shall be undertaken by a qualified and NEMA-registered EIA/EA expert or firm of experts, with relevant multidisciplinary expertise.

The team should comprise, as appropriate:

- Lead Environmental Assessment Expert.
- Environmental Scientist or Environmental Engineer.
- Civil/Structural Engineer.
- Hydrologist or Water Resources Specialist.

- Sociologist or Social Safeguards Specialist.
- Occupational Health and Safety Specialist.
- GIS or Environmental Planning Specialist.

The team shall demonstrate experience in environmental and social assessment of road infrastructure, river crossings, drainage structures, water resources, and climate-resilient infrastructure projects.

16.0 DURATION OF THE ASSIGNMENT

The ESIA assignment is expected to be completed within **21 calendar days** from the date of commencement, subject to timely access to project information, stakeholder availability, and applicable regulatory review requirements.

Activity	Proposed duration
Desk review and inception	3 days
Site assessment and baseline data collection	4 days
Stakeholder consultations	3 days
Impact assessment and ESMP preparation	5 days
Draft report preparation and submission	4 days
Review and final report submission	2 days
Total	21 days

The duration for NEMA review and licensing shall be governed by the applicable regulatory process and is not necessarily included in the consultant's 21-day assignment.

17.0 REPORTING AND SUPERVISION

The consultant shall report to the County Government of Kwale through the department responsible for Environment and Climate Change, in collaboration with the FLLoCA County Climate Change Unit (CCU) and relevant technical departments.

The consultant shall work closely with:

- County Environmental Safeguards Officer.
- County Social Safeguards Officer.
- County Engineer.
- County Climate Change Unit.

- Relevant Ward Administration.
- Project Management and Monitoring Teams.

All reports shall be submitted in electronic and printed formats as agreed with the procuring entity.

18.0 CONCLUSION

The ESIA for the proposed construction of a slab drift with culverts across the river at Mulungunipa–Vukani access road shall provide a systematic assessment of environmental, social, occupational health and safety, and climate-related risks associated with the proposed investment.

Particular attention shall be given to river hydrology, flood management, erosion control, water quality protection, community safety, and the sustainability of the proposed infrastructure.

The resulting ESIA report and ESMP shall guide the County Government of Kwale, contractors, supervising engineers, and community stakeholders in implementing the project in an environmentally responsible, socially inclusive, and climate-resilient manner.

The project shall not commence until the applicable environmental assessment and licensing requirements have been fulfilled and the required approvals obtained from NEMA and other relevant authorities

9. LAND (QUARRY) RECLAMATION DEMO: THROUGH TREE GROWING , BOREHOLE REHABILITATION AND FENCING AT CHAI PRIMARY SCHOOL IN TIWI WARD

TERMS OF REFERENCE (TOR) FOR ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT (ESIA) FOR THE PROPOSED LAND (QUARRY) RECLAMATION DEMONSTRATION THROUGH TREE GROWING, BOREHOLE REHABILITATION AND FENCING AT CHAI PRIMARY SCHOOL, TIWI WARD, KWALE COUNTY

1. INTRODUCTION AND BACKGROUND

The County Government of Kwale, through the Department of Environment, Natural Resources, Energy and Climate Change, intends to implement a land reclamation demonstration project at Chai Primary School in Tiwi Ward under the Financing Locally-Led Climate Action (FLLoCA) Programme.

The project seeks to rehabilitate degraded land previously subjected to quarrying activities, restore ecological functions, improve vegetation cover, enhance water availability through borehole rehabilitation, and demonstrate sustainable land management practices through tree growing and one-acre micro-irrigation. Quarrying activities can result in extensive land degradation, soil erosion, loss of vegetation, landscape alteration, unsafe excavations, and disruption of natural drainage systems. Such degraded areas may also pose safety risks to pupils, school staff, neighbouring communities, livestock and other land users.

The proposed intervention will integrate physical land reclamation, borehole rehabilitation, site fencing, tree establishment and micro-irrigation to restore the ecological and productive value of the site while strengthening local climate resilience.

In accordance with applicable environmental and social safeguards requirements, an ESIA will be undertaken to identify potential environmental and social impacts, assess associated risks, and develop appropriate mitigation and management measures before project implementation.

The ESIA shall also consider the project's implications for school safety, community access, water resource sustainability, occupational health and safety, biodiversity conservation, and long-term operation and maintenance.

2. PROJECT DESCRIPTION

The proposed project will comprise the following key sub-activities:

2.1 Land Reclamation

- Site assessment and mapping of degraded quarry land.
- Clearing of unsafe debris and unsuitable materials.
- Backfilling and levelling of abandoned quarry pits where technically appropriate.
- Stabilization of eroded surfaces and exposed slopes.
- Soil improvement through the application of suitable organic matter and topsoil.
- Restoration of natural drainage patterns and installation of erosion-control measures.
- Rehabilitation of degraded surfaces for tree planting and agricultural demonstration.
- Identification and safe management of any unstable excavations or hazardous areas.

2.2 Borehole Rehabilitation

- Technical assessment of the existing borehole and associated infrastructure.
- Borehole cleaning, flushing and desilting, where necessary.
- Rehabilitation or replacement of damaged borehole components.
- Pump testing and assessment of sustainable water yield.
- Installation or rehabilitation of pumping equipment and associated pipework, as required.
- Water quality testing to determine suitability for the intended uses.
- Installation of appropriate water storage and distribution arrangements, subject to the approved design.

2.3 Fencing

- Surveying and demarcation of the project site.
- Installation of suitable perimeter fencing.
- Provision of controlled access gates.
- Protection of restored areas, trees, irrigation facilities and borehole infrastructure.
- Installation of appropriate safety signage and warning notices.

2.4 Tree Growing

- Identification of suitable indigenous, climate-resilient and locally adapted tree species.
- Preparation of planting holes and soil improvement.
- Procurement and planting of quality seedlings.
- Application of mulching and appropriate soil and moisture conservation measures.
- Establishment of tree protection structures where necessary.

- Watering, replacement of dead seedlings and maintenance.
- Community and school-based environmental education and tree management.

2.5 Establishment of One-Acre Micro-Irrigation Demonstration

- Preparation and demarcation of the one-acre demonstration plot.
- Installation of micro-irrigation infrastructure, such as drip irrigation, subject to the approved design.
- Installation of water conveyance and distribution systems.
- Establishment of suitable climate-smart crops or tree-based production systems.
- Soil and water conservation measures.
- Training of designated school and community beneficiaries on efficient water use.
- Development of an operation and maintenance arrangement.

The final project design, quantities, site layout, water abstraction arrangements and construction methods shall be confirmed during the ESIA and engineering assessment.

3. OBJECTIVES OF THE ESIA

3.1 Overall Objective

To undertake a comprehensive Environmental and Social Impact Assessment of the proposed quarry land reclamation demonstration project and develop appropriate mitigation, management and monitoring measures to ensure environmentally sound, socially inclusive and climate-resilient implementation.

3.2 Specific Objectives

The ESIA shall:

1. Establish the environmental and socio-economic baseline conditions of the project site and its surroundings.
2. Identify and assess potential positive and negative environmental and social impacts associated with the proposed activities.
3. Examine risks associated with abandoned quarry pits, unstable ground, soil erosion and site rehabilitation.
4. Assess the technical and environmental feasibility of rehabilitating the existing borehole.
5. Evaluate potential impacts of groundwater abstraction on water availability and sustainability.
6. Assess potential impacts of fencing on community access, movement and existing land uses.
7. Determine appropriate tree species and land restoration techniques suitable for the local ecological conditions.
8. Assess the environmental and social implications of establishing a one-acre micro-irrigation demonstration plot.
9. Identify occupational health and safety risks, including risks to pupils and school personnel.
10. Undertake stakeholder consultations and document community concerns, recommendations and expectations.
11. Develop an Environmental and Social Management Plan (ESMP), including mitigation measures, monitoring indicators, responsibilities, timelines and estimated costs.
12. Establish a Grievance Redress Mechanism (GRM) for receiving and resolving project-related complaints.

13. Recommend measures for sustainability, operation and maintenance of the rehabilitated site and associated infrastructure.
14. Ensure compliance with applicable Kenyan environmental legislation and FLLoCA environmental and social safeguards requirements.

4. SCOPE OF THE ESIA ASSIGNMENT

The ESIA consultant shall undertake the following tasks:

4.1 Review of Project Documentation

Review all relevant project documents, including:

- Project concept note and proposal.
- Project designs, technical drawings and Bills of Materials (BoMs).
- Site ownership, land allocation and access documentation.
- Borehole records and available hydrogeological information.
- Proposed tree planting and micro-irrigation plans.
- Relevant County Government and FLLoCA safeguards documents.
- Applicable environmental legislation, regulations and policies.

4.2 Baseline Environmental Assessment

The consultant shall establish baseline conditions covering the following:

a) Physical Environment

- Topography, geology and soil characteristics.
- Existing quarry pits, excavations and unstable slopes.
- Soil erosion and land degradation.
- Surface drainage and stormwater flow patterns.
- Groundwater conditions and borehole status.
- Local climatic conditions and climate-related hazards.
- Existing sources of dust, noise and pollution.

b) Biological Environment

- Existing vegetation and tree cover.
- Presence of indigenous and invasive species.
- Ecological value of the degraded site.
- Potential habitats for birds, reptiles and small mammals.
- Suitability of the site for ecological restoration.

c) Socio-Economic Environment

- Land ownership and current land use.
- School population and existing school infrastructure.
- Community access and livelihood activities.
- Existing water use and demand.
- Vulnerable groups, including children, persons with disabilities and other disadvantaged groups.

- Community expectations and potential social risks.

4.3 Assessment of Project Alternatives

The consultant shall evaluate:

- The proposed project versus the no-project alternative.
- Alternative land reclamation techniques.
- Alternative borehole rehabilitation options.
- Alternative fencing materials and designs.
- Alternative tree species and planting arrangements.
- Alternative irrigation technologies.
- Alternative water sources and water-use arrangements.

The assessment shall consider environmental sustainability, technical feasibility, cost implications, safety and long-term maintenance.

5. ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT

The consultant shall identify, predict and evaluate impacts associated with the planning, implementation, operation and eventual decommissioning of the project.

5.1 Potential Positive Impacts

The assessment shall examine anticipated benefits, including:

- Restoration of degraded quarry land.
- Reduction of soil erosion and land degradation.
- Increased vegetation cover and carbon sequestration.
- Improved groundwater access, subject to sustainable yield.
- Enhanced environmental safety through fencing and rehabilitation of hazardous areas.
- Improved climate resilience and demonstration of climate-smart land management.
- Creation of temporary employment opportunities.
- Improved environmental awareness among pupils and community members.
- Enhanced opportunities for school-based agricultural learning.
- Improved food production and livelihood opportunities through micro-irrigation.
- Strengthened community participation in natural resource management.

5.2 Potential Negative Impacts

The consultant shall assess, at minimum, the following:

Project activity	Potential environmental and social impacts
Land reclamation	Dust, noise, soil disturbance, erosion, unstable slopes and improper disposal of quarry waste
Borehole	Groundwater depletion, contamination, worker safety risks and generation of waste

rehabilitation	materials
Fencing	Restricted access, disputes over boundaries, injury risks and obstruction of movement
Tree growing	Introduction of unsuitable species, competition for water and seedling mortality
Micro-irrigation	Excessive water abstraction, waterlogging, soil salinity, fertilizer runoff and waste from irrigation materials
Construction activities	Occupational accidents, solid waste, noise, dust and community disturbance
School environment	Accidental entry into work zones, exposure to machinery and interference with learning activities

The assessment shall also examine cumulative impacts, climate-related risks and any potential adverse impacts on neighbouring land users.

6. ENVIRONMENTAL AND SOCIAL MANAGEMENT PLAN

The consultant shall prepare a comprehensive ESMP addressing the identified risks and impacts.

The ESMP shall include:

- Identified environmental and social impacts.
- Proposed mitigation measures.
- Environmental and social monitoring indicators.
- Implementation responsibilities.
- Monitoring frequency.
- Estimated mitigation costs.
- Reporting and compliance arrangements.
- Emergency response procedures.
- GRM implementation arrangements.
- Site restoration and maintenance requirements.

6.1 Indicative ESMP Requirements

Impact/Risk	Proposed mitigation measure	Monitoring indicator
Soil erosion	Stabilize slopes, provide drainage and establish ground cover	Evidence of erosion and slope stability

Dust generation	Water exposed surfaces and control vehicle movement	Dust observations and complaints
Unsafe quarry excavations	Backfill or secure hazardous pits and restrict access during works	Number of unsafe pits secured
Borehole contamination	Protect the borehole head and undertake water quality testing	Water quality test results
Excessive abstraction	Confirm sustainable yield and regulate pumping	Abstraction records and water levels
Occupational accidents	Provide PPE, safe working procedures and first aid	Accident and incident records
Risks to pupils	Secure work zones, provide warning signs and coordinate works with school management	Safety inspection records
Poor tree survival	Use suitable species, mulch and provide adequate watering	Seedling survival rate
Irrigation-related soil degradation	Apply efficient irrigation scheduling and monitor soil conditions	Soil moisture and salinity observations
Community grievances	Establish accessible GRM and document resolution	Number and status of grievances

7. STAKEHOLDER ENGAGEMENT AND PUBLIC PARTICIPATION

The consultant shall undertake meaningful consultations with stakeholders likely to be affected by or interested in the project.

7.1 Key Stakeholders

These shall include:

- County Government of Kwale.
- Department of Environment, Natural Resources, Energy and Climate Change.
- Chai Primary School management and Board of Management.
- Teachers, non-teaching staff and parent representatives.
- Tiwi Ward Climate Change Planning Committee.
- Local community members and neighbouring land users.

- Relevant village and ward administrators.
- Water resource and public health authorities.
- Relevant environmental and safeguards officers.
- FLLoCA County Climate Change Unit.
- Other relevant government agencies and community-based organizations.

7.2 Consultation Requirements

The consultant shall:

1. Conduct stakeholder identification and analysis.
2. Hold community and institutional consultation meetings.
3. Explain project objectives, activities, anticipated benefits and potential risks.
4. Obtain views regarding land reclamation, fencing, water use and agricultural demonstration.
5. Identify vulnerable groups and ensure inclusive participation.
6. Document concerns, recommendations and proposed mitigation measures.
7. Maintain attendance registers, consultation minutes and photographic evidence, subject to consent.
8. Establish appropriate grievance reporting and resolution procedures.

Special attention shall be given to child safeguarding and ensuring that consultations involving pupils are age-appropriate and conducted through appropriate school safeguarding arrangements.

8. LEGAL AND INSTITUTIONAL FRAMEWORK

The consultant shall review and demonstrate compliance with applicable Kenyan laws, regulations, standards and FLLoCA safeguards requirements, including but not limited to:

1. Constitution of Kenya, 2010.
2. Environmental Management and Co-ordination Act, Cap. 387.
3. Environmental (Impact Assessment and Audit) Regulations, 2003, as amended.
4. Environmental Management and Co-ordination (Water Quality) Regulations, 2024.
5. Water Act, 2016.
6. Occupational Safety and Health Act, 2007.
7. Work Injury Benefits Act, 2007.
8. Public Health Act, Cap. 242.
9. Physical and Land Use Planning Act, 2019.
10. Climate Change Act, 2016, as amended.
11. Sustainable Waste Management Act, 2022.
12. Children Act, 2022.
13. Relevant county environmental and planning legislation.
14. Applicable FLLoCA Environmental and Social Safeguards instruments and procedures.

The consultant shall identify relevant permits, approvals and regulatory requirements, including NEMA environmental approval and applicable water resource authorizations.

9. OCCUPATIONAL HEALTH, SAFETY AND COMMUNITY SAFETY

The ESIA shall develop appropriate measures to address:

- Safe operation of earth-moving equipment.
- Protection of workers during excavation and backfilling.
- Prevention of falls into open pits and excavations.
- Safe handling of fencing materials and construction tools.
- Electrical and mechanical safety during borehole rehabilitation.
- Safe storage and handling of fuels and lubricants.
- Provision of appropriate personal protective equipment.
- Emergency preparedness and first aid.
- Fire prevention and response.
- School child protection and restricted access to work areas.
- Safe movement of construction vehicles.
- Contractor worker conduct and prevention of harassment and exploitation.

A site-specific Occupational Health and Safety Plan and emergency response procedure shall be recommended where necessary.

10. CLIMATE CHANGE AND RESILIENCE ASSESSMENT

Given the project's FLLoCA financing, the consultant shall assess its contribution to climate change adaptation and mitigation.

The assessment shall consider:

- Exposure to drought, intense rainfall and flooding.
- Resilience of reclaimed land to erosion.
- Drought tolerance of proposed tree species.
- Water-use efficiency of the irrigation system.
- Sustainable groundwater management.
- Potential carbon sequestration from tree establishment.
- Climate-resilient land restoration practices.
- Long-term sustainability of the demonstration site.

The consultant shall recommend measurable indicators for tracking climate resilience outcomes.

11. GRIEVANCE REDRESS MECHANISM

The consultant shall establish or recommend a project-specific GRM consistent with FLLoCA requirements.

The mechanism shall provide accessible channels for reporting complaints related to:

- Land boundaries and access.
- Construction-related disturbance.
- Employment and labour matters.
- Occupational and community safety.
- Water use and distribution.

- Damage to property.
- Environmental pollution.
- Gender-based violence, sexual exploitation and abuse, and sexual harassment.

The GRM shall provide confidential reporting arrangements for sensitive complaints, prohibit retaliation and establish clear referral pathways.

12. ESIA METHODOLOGY

The consultant shall apply a combination of qualitative and quantitative approaches, including:

12.1 Desk Review

Review project documentation, maps, applicable legislation, environmental records and relevant safeguards instruments.

12.2 Site Reconnaissance

Undertake physical inspection of the project site to identify environmental conditions, existing quarry hazards, borehole status, land uses and sensitive receptors.

12.3 Environmental Sampling and Testing

Where necessary, undertake:

- Soil quality and suitability assessment.
- Borehole water quality analysis.
- Groundwater yield and sustainability assessment.
- Assessment of drainage and erosion conditions.

12.4 Stakeholder Consultations

Conduct interviews, focus group discussions and public consultation meetings with relevant stakeholders.

12.5 Impact Evaluation

Use appropriate impact assessment methods to evaluate the magnitude, extent, duration, reversibility and significance of potential impacts.

12.6 Preparation of ESMP

Develop mitigation, monitoring and institutional arrangements with indicative implementation costs.

13. EXPECTED DELIVERABLES

The consultant shall submit the following deliverables:

No.	Deliverable	Description
1	Inception Report	Understanding of assignment, methodology, workplan and stakeholder engagement strategy
2	ESIA Study Report	Baseline assessment, project description, legal review, alternatives and impact assessment

3	Stakeholder Consultation Report	Consultation records, issues raised and responses
4	Environmental and Social Management Plan	Mitigation measures, monitoring indicators, responsibilities and budget
5	Final ESIA Report	Revised report incorporating comments from the County Government and relevant reviewing authorities
6	NEMA Submission and Approval Documentation	Support for submission, review and response to comments, as applicable

The final ESIA report shall include an executive summary, non-technical summary, maps, photographs, consultation records, relevant technical assessment results and annexes.

14. PROPOSED ESIA WORKPLAN

The assignment is expected to take approximately 15 working days, subject to the complexity of the site, availability of technical information and regulatory review timelines.

Activity	Indicative duration
Desk review and inception	2 days
Site reconnaissance and baseline assessment	3 days
Stakeholder consultations	2 days
Environmental and social impact analysis	3 days
ESMP preparation	3 days
Draft report preparation and submission	1 day
Finalization following County review	1 day
Total	15 working days

This is the consultant's assignment period and does not include the time required for NEMA review, approval or licensing.

15. QUALIFICATIONS AND EXPERIENCE OF THE ESIA CONSULTANT

The assignment shall be undertaken by an individual EIA/EA expert or firm duly registered and licensed by NEMA.

The consultant or team shall possess:

- Relevant academic qualifications in Environmental Science, Environmental Planning, Natural Resources Management, Engineering, Ecology, Sociology or related disciplines.
- Demonstrable experience in conducting ESIA studies.
- Knowledge of Kenyan environmental legislation and regulatory procedures.
- Experience in FLLoCA or other environmental and social safeguards assignments.
- Knowledge of land reclamation, groundwater systems, ecological restoration and climate-resilient agriculture.
- Experience in stakeholder engagement and preparation of ESMPs.
- Demonstrable competence in occupational health and safety and community safeguards.

The team should include relevant environmental, social, water/hydrogeological and occupational safety expertise, as warranted by the assessment.

16. REPORTING AND COORDINATION ARRANGEMENTS

The consultant shall report to the County Government of Kwale through the Department of Environment, Natural Resources, Energy and Climate Change, in coordination with the FLLoCA County Climate Change Unit.

The County Government shall:

- Provide available project documentation.
- Facilitate access to the project site.
- Support stakeholder mobilization.
- Review and provide comments on submitted reports.
- Coordinate relevant technical departments and project stakeholders.
- Facilitate regulatory engagement where necessary.

The consultant shall remain responsible for the technical quality, completeness and accuracy of the ESIA deliverables.

17. CONCLUSION

The ESIA shall provide a sound environmental and social basis for implementing the proposed quarry land reclamation demonstration at Chai Primary School in Tiwi Ward.

The assessment shall ensure that land rehabilitation, borehole restoration, fencing, tree growing and one-acre micro-irrigation are undertaken in a manner that safeguards the school community, protects environmental resources, promotes sustainable water use and enhances climate resilience.

The consultant shall ensure that all significant environmental and social risks are identified and addressed through a practical, costed and implementable ESMP.

Important regulatory note: These TOR are intended as a basis for commissioning the ESIA study. The appointed NEMA-licensed expert should confirm the appropriate assessment instrument and obtain any required NEMA approval of the TOR or study process before proceeding, as applicable. Project implementation should commence only after the required environmental authorization has been obtained.



10. ENHANCING FISH POST-HARVEST MANAGEMENT, VALUE ADDITION AND COMMUNITY LIVELIHOODS THROUGH CONSTRUCTION OF MWAKAMBA BMU OFFICE INSTALLED WITH ICE PLANT FACILITY AT ABSA BEACH ACCESS ROAD IN UKUNDA WARD

TERMS OF REFERENCE FOR ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT (ESIA) FOR THE PROPOSED “ENHANCING FISH POST-HARVEST MANAGEMENT, VALUE ADDITION AND COMMUNITY LIVELIHOODS THROUGH CONSTRUCTION OF MWAKAMBA BMU OFFICE INSTALLED WITH ICE PLANT FACILITY AT ABSA BEACH ACCESS ROAD IN UKUNDA WARD”

1.0 INTRODUCTION

The County Government of Kwale, through the Financing Locally-Led Climate Action (FLLOCA) programme, proposes to implement the project titled “Enhancing Fish Post-Harvest Management, Value Addition and Community Livelihoods through Construction of Mwakamba BMU Office Installed with Ice Plant Facility at ABSA Beach Access Road in Ukunda Ward.”

The project is intended to improve fish post-harvest handling, reduce fish spoilage and post-harvest losses, enhance the quality and marketability of fish products, and strengthen the livelihoods and resilience of fishing communities.

The proposed development will involve construction of a functional BMU office and installation of an ice-making facility to provide accessible cold-chain infrastructure for fishers and fish traders. The facility is expected to improve fish preservation from landing through transportation and marketing.

Because the project involves construction activities and installation and operation of an industrial-type refrigeration/ice-making system, potential environmental and social impacts may arise during construction, installation, operation, maintenance and eventual decommissioning. An ESIA is therefore required to identify these impacts and establish appropriate mitigation and management measures.

NEMA identifies EIA as a tool for identifying environmental impacts, predicting changes, evaluating alternatives, establishing baseline information and developing mitigation measures.

2.0 PROJECT OBJECTIVES

The overall objective of the project is to **enhance fish post-harvest management, value addition, climate resilience and livelihoods of fishing communities through improved cold-chain infrastructure and institutional facilities.**

Specific objectives include:

- To construct a functional Mwakamba BMU office.
- To establish an ice production and storage facility.
- To reduce fish spoilage and post-harvest losses.
- To improve fish quality and hygiene.
- To enhance fishers' access to cold-chain facilities.
- To improve fish marketing and value addition.
- To create opportunities for local employment and income generation.
- To strengthen the capacity of the BMU to manage fisheries-related activities.
- To improve resilience of fishing communities to climate-related stresses.
- To ensure that the project is implemented in an environmentally and socially sustainable manner.

3.0 SCOPE OF THE PROPOSED PROJECT

The ESIA shall assess all project activities throughout the project life cycle.

3.1 Office Construction

The office construction component is expected to include:

- Site preparation and setting out;
- Clearing of limited vegetation where necessary;
- Excavation and foundation works;
- Construction of foundations;
- Construction of walls;
- Roofing;
- Installation of doors and windows;
- Plastering and painting;
- Electrical and plumbing installations;
- Construction of sanitation facilities;
- Drainage works;
- Installation of water supply facilities;
- Construction of access and circulation areas;
- Landscaping and reinstatement of disturbed areas.

3.2 Installation of Ice Plant Facility

The ice plant component may include:

- Delivery of ice-making equipment;
- Construction/preparation of equipment foundation or housing;
- Installation of ice-making machinery;
- Installation of refrigeration systems;
- Installation of electrical systems;
- Installation of water supply systems;
- Installation of ice storage facilities;
- Installation of drainage systems;
- Installation of appropriate safety systems;
- Testing and commissioning;
- Routine operation and maintenance.

The ESIA shall confirm the exact ice-production capacity, technology, refrigerant type, energy requirements, water demand, waste streams, noise levels and associated infrastructure during the assessment.

4.0 OBJECTIVES OF THE ESIA

The specific objectives of the ESIA study shall be to:

1. Establish the environmental and social baseline conditions of the project site and its surroundings.
2. Identify potential positive and negative environmental and social impacts.
3. Assess the magnitude, significance, duration and spatial extent of identified impacts.
4. Examine reasonable project alternatives.
5. Develop appropriate mitigation measures for adverse impacts.
6. Develop measures for enhancing positive project impacts.
7. Assess occupational health and safety risks.
8. Assess community health and safety risks.
9. Assess risks associated with ice plant operation, including refrigeration and electrical systems.
10. Assess water demand and wastewater generation.
11. Assess energy requirements and opportunities for energy efficiency and renewable energy.
12. Assess solid waste and hazardous waste generation.
13. Assess potential impacts on the coastal and fisheries environment.
14. Undertake meaningful stakeholder and community consultation.
15. Develop an Environmental and Social Management Plan (ESMP).
16. Develop an Environmental and Social Monitoring Plan.

17. Develop an appropriate Grievance Redress Mechanism (GRM).
18. Provide recommendations for sustainable operation and maintenance of the facility.
19. Ensure compliance with applicable Kenyan environmental, social, occupational health and safety and fisheries legislation.
20. Prepare and submit the appropriate ESIA documentation to NEMA for review and approval.

5.0 KEY ENVIRONMENTAL AND SOCIAL ISSUES TO BE INVESTIGATED

The ESIA consultant shall specifically investigate, but not be limited to, the following issues.

5.1 Physical Environment

a) Land and Soil

The assessment shall consider:

- Existing land use;
- Soil characteristics;
- Site stability;
- Soil erosion;
- Soil compaction;
- Excavated material;
- Potential soil contamination;
- Construction material storage;
- Site reinstatement.

b) Water Resources

The assessment shall determine:

- Existing water sources;
- Water availability;
- Water quality;
- Estimated water requirements for construction and ice production;
- Potential effects on local water sources;
- Wastewater generation;
- Stormwater management;
- Drainage requirements;
- Potential contamination from wastewater or oils.



Particular attention shall be given to preventing contaminated water from entering drainage channels or the marine environment.

c) Air Quality

The study shall assess:

- Dust generated during construction;
- Exhaust emissions from machinery and vehicles;
- Vehicle movement;
- Emissions associated with the ice plant, where applicable;
- Measures for dust and emission control.

d) Noise and Vibration

The assessment shall examine:

- Construction noise;
- Noise from generators;
- Noise from ice-making equipment;
- Compressor noise;
- Vehicle noise;
- Potential effects on nearby residents, businesses and beach users.

6.0 BIOLOGICAL ENVIRONMENT

The ESIA shall establish the biological baseline and assess potential impacts on:

- Terrestrial vegetation;
- Coastal vegetation;
- Marine and aquatic ecosystems where relevant;
- Fish resources;
- Marine organisms;
- Birds;
- Sensitive habitats;
- Biodiversity;
- Ecosystem services.

The assessment shall particularly determine whether the proposed site is close to sensitive coastal, marine, mangrove, wetland or other ecologically important areas.

7.0 FISHERIES AND MARINE ENVIRONMENT

Given the nature of the project, the ESIA shall include a specific assessment of fisheries-related issues, including:

- Existing fishing activities;
- Fish landing and handling practices;
- Fish species handled;
- Existing post-harvest losses;
- Fish preservation practices;
- Existing cold-chain infrastructure;
- Fish marketing arrangements;
- Potential effects on fish quality;
- Potential benefits to fishers and traders;
- Potential impacts on coastal water quality;
- Management of wastewater and wash-water;
- Management of fish waste;
- Measures to prevent contamination of marine ecosystems.

The assessment shall also consider how the project can support sustainable fisheries and climate-resilient livelihoods without increasing pressure on fish stocks.

8.0 CLIMATE CHANGE AND CLIMATE RESILIENCE

The ESIA shall assess the relationship between the project and climate change.

The study shall consider:

- Sea-level rise;
- Coastal flooding;
- Storm surges;
- Extreme rainfall;
- High temperatures;
- Coastal erosion;
- Saltwater intrusion;
- Climate-related disruption of fishing activities;
- Energy consumption of the ice plant;
- Greenhouse gas emissions;
- Energy-efficient technologies;

- Solar/renewable energy options where feasible.

The project design shall incorporate climate-resilient measures appropriate to the coastal location.

9.0 SOCIAL ENVIRONMENT

The ESIA shall assess potential effects on:

9.1 Local Livelihoods

Particular attention shall be given to:

- Fishers;
- Fish traders;
- Fish processors;
- BMU members;
- Women involved in fish marketing;
- Youth;
- Vulnerable households;
- Persons with disabilities;
- Other businesses operating around the beach access area.

9.2 Employment

The study shall identify opportunities for:

- Local employment;
- Skilled and semi-skilled employment;
- Youth employment;
- Women participation;
- Local procurement of goods and services.

The project should promote fair and transparent recruitment and avoid discrimination.

9.3 Gender and Social Inclusion

The ESIA shall assess:

- Participation of women in project benefits;
- Access to ice services;
- Participation in BMU decision-making;

- Gender-based barriers;
- Risks of sexual exploitation, abuse and harassment;
- Sexual harassment in the workplace;
- Inclusion of youth and vulnerable groups.

10.0 OCCUPATIONAL HEALTH AND SAFETY

The assessment shall identify occupational risks associated with:

Construction

- Excavation;
- Working at height;
- Falling objects;
- Construction machinery;
- Electrical works;
- Manual handling;
- Cement and chemical exposure;
- Dust;
- Noise;
- Welding;
- Traffic and vehicle movement.

Ice Plant Operation

Special attention shall be given to:

- Electrical hazards;
- Refrigeration equipment;
- Refrigerant exposure;
- High-pressure systems;
- Moving machinery;
- Cold-related hazards;
- Slips and falls;
- Mechanical failures;
- Fire risks;
- Emergency shutdown;
- Equipment maintenance;
- Generator operation, if applicable.

The ESIA shall recommend appropriate PPE, training, signage, emergency procedures, fire protection, first



aid and routine equipment inspection.

11.0 COMMUNITY HEALTH AND SAFETY

The assessment shall examine risks to surrounding communities arising from:

- Construction traffic;
- Open excavations;
- Construction materials;
- Noise;
- Dust;
- Electrical installations;
- Ice plant machinery;
- Refrigerants;
- Fire;
- Waste;
- Increased movement of fishers and traders;
- Potential conflicts over access to the facility.

Appropriate community health and safety measures shall be incorporated into the ESMP.

12.0 WASTE MANAGEMENT

The ESIA shall develop a waste management framework covering:

Construction Waste

- Excavated soil;
- Concrete waste;
- Scrap metal;
- Timber;
- Packaging materials;
- Plastic;
- Paint containers;
- Used oils;
- Electrical waste.

Operational Waste

- Fish waste;
- Packaging materials;

- Wastewater;
- Sludge where applicable;
- Used oils;
- Maintenance waste;
- Refrigeration equipment waste;
- Electronic/electrical waste.

The study shall promote waste reduction, reuse, recycling and environmentally sound disposal.

13.0 ICE PLANT-SPECIFIC ENVIRONMENTAL ASSESSMENT

The consultant shall undertake a detailed assessment of the proposed ice plant technology.

The assessment shall establish:

- Ice production capacity;
- Type of ice produced;
- Water requirements;
- Source and quality of water;
- Electricity demand;
- Backup power requirements;
- Refrigeration technology;
- Refrigerant type;
- Refrigerant quantity;
- Refrigerant leakage risks;
- Equipment noise;
- Heat generation;
- Condensate;
- Wastewater;
- Maintenance requirements;
- Equipment lifespan;
- Emergency response requirements.

The study shall assess environmentally preferable and energy-efficient alternatives.

14.0 PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT

The ESIA shall undertake meaningful stakeholder engagement with relevant stakeholders, including:

- Mwakamba BMU;

- Local fishing communities;
- Fish traders;
- Fish processors;
- Beach management stakeholders;
- Ukunda Ward administration;
- Kwale County Government departments;
- Department responsible for Fisheries;
- Department responsible for Environment and Climate Change;
- Department responsible for Public Health;
- NEMA;
- Kenya Fisheries Service;
- Local administration;
- Nearby residents and businesses;
- Women and youth groups;
- Persons with disabilities;
- Relevant community-based organizations;
- Other relevant government agencies.

The consultation process shall identify:

- Stakeholder concerns;
- Expected project benefits;
- Potential risks;
- Suggested mitigation measures;
- Community expectations;
- Access and management arrangements;
- Grievance mechanisms.

NEMA's EIA framework requires consideration of views of persons who may be affected by the proposed project.

15.0 ANALYSIS OF PROJECT ALTERNATIVES

The consultant shall assess reasonable alternatives, including:

15.1 No-Project Alternative

Assess the consequences of not implementing the project.

15.2 Alternative Site

Where practical, assess alternative locations for the BMU office and ice plant.

15.3 Alternative Design

Assess alternative building designs and layouts.

15.4 Alternative Ice Plant Technology

Compare available technologies based on:

- Energy efficiency;
- Water consumption;
- Safety;
- Maintenance requirements;
- Environmental performance;
- Cost;
- Reliability.

15.5 Alternative Energy Sources

Assess:

- Grid electricity;
- Solar power;
- Solar-grid hybrid systems;
- Generator backup.

15.6 Alternative Wastewater Management

Assess appropriate options for managing wastewater and wash-water without causing pollution.

16.0 ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT

The consultant shall identify and evaluate impacts for:

Pre-construction phase

- Site selection;
- Land-use issues;
- Stakeholder concerns;

- Site preparation.

Construction phase

- Vegetation disturbance;
- Soil erosion;
- Dust;
- Noise;
- Waste;
- Occupational accidents;
- Community safety;
- Traffic;
- Employment;
- Local economic opportunities.

Installation and commissioning phase

- Transportation of equipment;
- Electrical installation;
- Refrigeration installation;
- Testing and commissioning;
- Worker safety;
- Equipment noise.

Operation phase

- Energy consumption;
- Water consumption;
- Wastewater;
- Fish waste;
- Refrigerant risks;
- Noise;
- Fire;
- Occupational safety;
- Fish quality and food hygiene;
- Livelihood improvement;
- Employment;
- Improved fish marketing;
- Reduction in post-harvest losses.

Decommissioning phase

- Removal of equipment;
- Disposal/recycling of machinery;
- Management of refrigerants;
- Demolition waste;
- Site restoration.
-

17.0 ENVIRONMENTAL AND SOCIAL MANAGEMENT PLAN

The ESIA consultant shall develop a detailed **Environmental and Social Management Plan (ESMP)** covering the entire project life cycle.

The ESMP shall include:

Impact/Risk	Mitigation Measure	Responsibility	Monitoring Indicator	Frequency	Estimated Cost
Dust generation	Water spraying and covering of materials	Contractor	Dust levels/complaints	Daily	To be determined
Construction waste	Segregation, reuse and approved disposal	Contractor	Waste records	Weekly	To be determined
Noise	Maintain equipment and restrict noisy activities	Contractor	Noise/complaints	Regularly	To be determined
Occupational accidents	PPE, training and site safety procedures	Contractor	Accidents/PPE compliance	Daily	To be determined
Electrical hazards	Qualified electricians and safe installations	Contractor/Operator	Inspection records	Regularly	To be determined
Refrigerant leakage	Proper installation, maintenance and leak detection	Ice plant operator	Leakage incidents	Regularly	To be determined
Water pollution	Proper drainage and wastewater management	Contractor/Operator	Water quality/complaints	Monthly	To be determined

Impact/Risk	Mitigation Measure	Responsibility	Monitoring Indicator	Frequency	Estimated Cost
Fish waste	Proper collection and approved disposal/reuse	BMU/Operator	Waste records	Daily	To be determined
Fire	Fire extinguishers, alarms and emergency procedures	BMU/Operator	Equipment inspection	Monthly	To be determined
Community conflicts	Stakeholder engagement and GRM	Proponent/BMU	Complaints resolved	Monthly	To be determined
Code of conduct, Gender-based awareness and referral risks mechanisms Contractor/Proponent Reported cases/training To be Continuous determined					

18.0 ENVIRONMENTAL AND SOCIAL MONITORING PLAN

The consultant shall establish measurable indicators for:

- Air quality;
- Noise;
- Water quality;
- Waste generation;
- Waste disposal;
- Occupational accidents;
- PPE compliance;
- Community grievances;
- Employment;
- Gender participation;
- Energy consumption;
- Water consumption;
- Refrigerant management;
- Fish hygiene;
- Facility cleanliness;
- Fire safety;

- Emergency preparedness.

The monitoring programme shall clearly identify:

- Indicator;
- Baseline;
- Target;
- Monitoring location;
- Frequency;
- Responsible institution;
- Reporting mechanism;
- Corrective action.

19.0 GRIEVANCE REDRESS MECHANISM

The ESIA shall establish a project-specific GRM accessible to:

- BMU members;
- Fishers;
- Fish traders;
- Workers;
- Community members;
- Women;
- Youth;
- Vulnerable groups;
- Persons with disabilities.

The GRM shall provide mechanisms for:

1. Submission of complaints;
2. Registration;
3. Acknowledgement;
4. Investigation;
5. Resolution;
6. Feedback;
7. Appeal/escalation;
8. Documentation and reporting.

Confidential mechanisms shall be provided for sensitive complaints, including sexual harassment and GBV-related grievances.

20.0 INSTITUTIONAL AND LEGAL FRAMEWORK

The ESIA shall review applicable legislation, policies, regulations and institutional requirements, including, as applicable:

- Constitution of Kenya, 2010;
- Environmental Management and Co-ordination Act (EMCA), Cap. 387;
- Environmental (Impact Assessment and Audit) Regulations;
- Water Act;
- Occupational Safety and Health Act;
- Public Health Act;
- Fisheries Management and Development Act;
- Waste Management Regulations;
- Noise and Excessive Vibration Pollution Control Regulations;
- Air Quality Regulations;
- Climate Change Act;
- Physical and Land Use Planning legislation;
- Employment and labour legislation;
- Sexual and Gender-Based Violence-related legislation;
- Persons with Disabilities legislation;
- County Government legislation;
- Relevant fisheries and food safety requirements;
- Applicable FLLOCA Environmental and Social Safeguards instruments;
- Relevant World Bank Environmental and Social Standards applicable to FLLOCA.

NEMA's current guidance confirms that environmental assessment requirements apply to projects falling within the applicable risk and project categories and that low- and medium-risk projects may be subject to the Summary Project Report process, depending on NEMA's screening and classification.

The consultant shall therefore confirm the appropriate assessment instrument and NEMA approval pathway during screening rather than assuming in advance that a full ESIA Study Report will be required.

21.0 INSTITUTIONAL FRAMEWORK

The study shall define the roles and responsibilities of:

- Kwale County Government;
- FLLOCA County Climate Change Unit;
- FLLOCA County Project Coordination structures;
- Mwakamba BMU;
- Contractor;
- Ice plant operator;
- NEMA;
- Kenya Fisheries Service;
- County Department responsible for Fisheries;
- County Department responsible for Environment and Climate Change;
- County Public Health Department;
- County Occupational Safety and Health structures;
- Local administration;
- Community representatives.

22.0 EMERGENCY PREPAREDNESS AND RESPONSE PLAN

The ESIA shall prepare an emergency response framework addressing:

- Fire;
- Electrical shock;
- Refrigerant leakage;
- Equipment failure;
- Chemical exposure;
- Injury;
- Severe weather;
- Flooding;
- Coastal hazards;
- Fuel/oil spills;
- Structural failure;
- Emergency evacuation.

The plan shall identify emergency contacts, evacuation routes, assembly points, firefighting equipment, first-aid arrangements and reporting procedures.

23.0 FOOD SAFETY AND HYGIENE



Because the facility will support fish handling and preservation, the ESIA shall assess:

- Source and quality of water used for ice production;
- Ice production hygiene;
- Cleanliness of equipment;
- Fish handling areas;
- Drainage;
- Waste management;
- Pest control;
- Worker hygiene;
- Storage conditions;
- Cross-contamination risks;
- Cleaning and sanitation procedures.

The design and operation of the facility should ensure that ice intended for fish preservation is produced, handled and stored under appropriate hygienic conditions.

24.0 PROJECT BENEFITS

The ESIA shall document potential positive impacts, including:

- Reduced fish post-harvest losses;
- Improved fish quality;
- Increased fish shelf life;
- Improved fish marketability;
- Increased incomes;
- Improved livelihoods;
- Employment opportunities;
- Increased local economic activity;
- Improved BMU institutional capacity;
- Enhanced climate resilience;
- Improved food security;
- Improved access to cold-chain infrastructure;
- Increased opportunities for women and youth in fisheries value chains.

25.0 ESIA DELIVERABLES

The consultant shall produce the following:

1. Inception report;

2. Screening report;
3. Approved TOR where applicable;
4. Baseline environmental and social assessment;
5. Stakeholder engagement records;
6. Impact assessment;
7. Alternatives analysis;
8. Environmental and Social Management Plan;
9. Environmental and Social Monitoring Plan;
10. Occupational Health and Safety Plan;
11. Waste Management Plan;
12. Emergency Response Plan;
13. Grievance Redress Mechanism;
14. Climate risk and resilience assessment;
15. Final ESIA/appropriate NEMA assessment report;
16. Non-technical executive summary;
17. NEMA submission documentation;
18. Responses to comments raised by NEMA and other review agencies.

26.0 CONSULTANCY TEAM

The ESIA shall be undertaken by appropriately qualified and **NEMA-registered/licensed environmental assessment experts**, supported where necessary by specialists in:

- Environmental assessment;
- Fisheries/marine ecology;
- Occupational health and safety;
- Social development;
- Gender and social inclusion;
- Public health;
- Civil/structural engineering;
- Electrical/refrigeration engineering;
- Water and sanitation;
- Climate change and resilience.

NEMA states that EIA studies are to be undertaken by registered and licensed EIA/EA experts.

27.0 DURATION OF THE ASSIGNMENT

The ESIA assignment is expected to take approximately **21 working days**, subject to:

- Availability of project designs;
- Availability of baseline information;
- Stakeholder consultation requirements;
- Site conditions;
- NEMA screening requirements;
- Availability of relevant technical information.

The consultant shall provide a detailed work programme indicating activities, timelines and deliverables.

28.0 PROPOSED ESIA REPORT STRUCTURE

The final report shall, as applicable, contain:

1. Executive Summary
2. Introduction
3. Project Background
4. Project Description
5. Policy, Legal and Institutional Framework
6. Project Alternatives
7. Baseline Environmental and Social Conditions
8. Stakeholder Engagement and Public Participation
9. Environmental and Social Impact Identification and Assessment
10. Climate Change and Climate Risk Assessment
11. Occupational Health and Safety Assessment
12. Community Health and Safety Assessment
13. Fisheries and Marine Environment Assessment
14. Waste Management Assessment
15. Ice Plant Environmental and Safety Assessment
16. Mitigation Measures
17. Environmental and Social Management Plan
18. Environmental and Social Monitoring Plan
19. Grievance Redress Mechanism
20. Emergency Preparedness and Response Plan
21. Decommissioning and Site Restoration Plan
22. Conclusion and Recommendations
23. References
24. Appendices.

29.0 KEY EXPECTED OUTCOME

The ESIA should provide the project proponent with a clear environmental and social safeguards framework that will enable the proposed Mwakamba BMU office and ice plant to be implemented and operated while:

- Protecting the coastal and marine environment;
- Safeguarding workers and community members;
- Ensuring hygienic fish handling and preservation;
- Minimizing pollution and waste;
- Promoting energy and water efficiency;
- Managing refrigeration-related risks;
- Enhancing inclusion of women, youth and vulnerable groups;
- Strengthening climate resilience;
- Reducing fish post-harvest losses; and
- Improving sustainable livelihoods of the local fishing community.

The final assessment shall be submitted to NEMA for screening/review and the applicable environmental approval before commencement of project activities, in accordance with

Appendix B - Key Experts

[Insert a table based on Form TECH-6 of the Consultant's Technical Proposal and finalized at the Contract's negotiations. Attach the CVs (updated and signed by the respective Key Experts) demonstrating the qualifications of Key Experts.]

[Specify Hours of Work for Key Experts: List here the hours of work for Key Experts; travel time to/ from Kenya; entitlement, if any, to leave pay; public holidays in Kenya that may affect Consultant's work; etc. Make sure there is consistency with Form TECH-6. In particular: one month equals twenty-two (22) working (billable) days. One working (billable) day shall be not less than eight (8) working (billable) hours.]

Appendix C – Remuneration Cost Estimates

1. Monthly rates for the Experts:

[Insert the table with the remuneration rates. The table shall be based on [Form FIN-3] of the Consultant's Proposal and reflect any changes agreed at the Contract negotiations, if any. The footnote shall list such changes made to [Form FIN-3] at the negotiations or state that none has been made.]

2. *[When the Consultant has been selected under Quality-Based Selection method, or the Procuring Entity has requested the Consultant to clarify the breakdown of very high remuneration rates at the Contract's negotiations also add the following:*

“The agreed remuneration rates shall be stated in the attached Form: Breakdown of Agreed Fixed Rates in Consultant's Contract. This form shall be prepared on the basis of Appendix A to Form FIN-3 of the RFP “Consultants' Representations regarding Costs and Charges” submitted by the Consultant to the Procuring Entity prior to the Contract's negotiations.

Should these representations be found by the Procuring Entity (either through inspections or audits pursuant to Clause GCC 25.2 or through other means) to be materially in complete or in accurate, the Procuring Entity shall be entitled to introduce appropriate modifications in the remuneration rates affected by such materially in complete or inaccurate representations. Any such modification shall have retroactive effect and, in case remuneration has already been paid by the Procuring Entity before any such modification, (i) the Procuring Entity shall be entitled to offset any excess payment against the next monthly payment to the Consultants, or (ii) if there are no further payments to be made by the Procuring Entity to the Consultants, the Consultants shall reimburse to the Procuring Entity any excess payment within thirty (30) days of receipt of a written claim of the Procuring Entity. Any such claim by the Procuring Entity for reimbursement must be made within twelve (12) calendar months after receipt by the Procuring Entity of a final report and a final statement approved by the Procuring Entity in accordance with Clause GCC45. 1(d) of this Contract.”

BREAKDOWN OF AGREED FIXED RATES IN CONSULTANT'S CONTRACT

We hereby confirm that we have agreed to pay to the Experts listed, who will be involved in performing the Services, the basic fees and away from the home office allowances (if applicable) indicated below:

(Expressed in [insert name of currency]) *

Experts		1	2	3	4	5	6	7	8
Name	Position	Basic Remuneration rate per Working Month/Day/Year	Social Charges ¹	Overhead ¹	Subtotal	Profit ²	Away from Home Office Allowance	Agreed Fixed Rate per Working Month/Day/Hour	Agreed Fixed Rate per Working Month/Day/Hour ¹
Home Office									
Work in Kenya									

Expressed as percentage of 1

1 Expressed as percentage of 4

* If more than one currency, add a table

Signature _____ Date _____

Name and Title: _____

APPENDIX D: REIMBURSABLE EXPENSES COST ESTIMATES

1. {Insert the table with the Reimbursable Expenses rates. The table shall be based on [Form FIN-4] of the Consultant's Proposal and reflect any changes agreed at the Contract negotiations, if any. The foot note shall list such changes made to [FormFIN-4] at the negotiations or state that none has been made.]
2. All reimbursable expenses shall be reimbursed at actual cost, unless otherwise explicitly provided in this Appendix, and in no event shall reimbursement be made in excess of the Contract amount.

APPENDIX E: FORM OF ADVANCE PAYMENTS GUARANTEE

[Note: See Clause GCC 41.2 and

SCC41.2] Bank Guarantee for Advance

Payment

_____ [Bank's Name and Address of Issuing Branch or Office]

Beneficiary: _____ [Name and Address of Procuring

Entity] Date: _____

ADVANCE PAYMENT GUARANTEE No. _____

We have been informed that _____ [name of Consultant or a name of the Joint Venture, same as appears on the signed Contract] (herein after called "the Consultant") has entered into Contract No. _____

_____ [Reference number of the contract] dated _____ with you, for the provision of _____ [brief description of Services] (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum of _____ [Amount in figures] () [amount in words] is to be made against an advance payment guarantee.

At the request of the Consultant, we _____ [name of bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of _____ [amount in figures] () [amount in words]¹ upon receipt by us of your first demand in writing accompanied by a written statement stating that the Consultant are in breach of their obligation under the Contract because the Consultant have used the advance payment for purposes other than toward providing the Services under the Contract.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Consultant on their account number _____ at _____ [name and address of bank].

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Consultant as indicated in copies of certified monthly statements which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of the monthly payment certificate indicating that the Consultant has made

full repayment of the amount of the advance payment, or on the day of _____, 2nd,² whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that

date. This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No.758.

[Signature (s)]

Note: All italicized text is for indicative purposes only to assist in preparing this form and shall be deleted from the final product.

¹The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency (ies) of the advance payment as Specified in the Contract, or in a freely convertible currency acceptable to the Procuring Entity.

²Insert the expected expiration dates. In the event of an extension of the time for completion of the Contract, the Procuring Entity would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the procuring Entity might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Procuring Entity's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

SECTION 10. NOTIFICATION FORMS

1 NOTIFICATION OF INTENTION TO AWARD

Procuring Entity: _____ *[insert the name of the Entity]*

Contract title: _____ *[insert the name of the*

contract] RFP No: _____ *[insert RF Preference number]*

This Notification of Intention to Award (Notification) notifies you of our decision to award the above contract. The transmission of this Notification begins the Standstill Period. During the Standstill Period you may:

- a) Request a debriefing in relation to the evaluation of your Proposal, and/or
- b) Submit a Procurement-related Complaint in relation to the decision to award the contract.

The successful Consultant

Name:	<i>[insert name of successful Consultant]</i>
Address:	<i>[insert address of the successful Consultant]</i>
Contract price:	<i>[insert contract price of the successful Consultant]</i>

i) Short listed Consultants

[INSTRUCTIONS: insert names of all short-listed Consultants and indicate which Consultant submitted Proposals. Where the selection method requires it, state the price offered by each Consultant as readout, and as evaluated. Include overall technical scores and scores assigned for each criterion and sub-criterion.]

	Submitted Proposal	Overall technical score	Financial Proposal Price	Evaluated Financial Proposal Price (If applicable)	Combined Score and ranking (if applicable)
[insert name]	[yes/no]	Criterion (i): [insert score] Criterion (ii): [insert score] Criterion (iii): [insert score] <u>Sub-criterion a:</u> 1: [insert score] 2: [insert score] 3: [insert score] <u>Sub-criterion b:</u> 1: [insert score] 2: [insert score] 3: [insert score] <u>Sub-criterion c:</u>etc. Criterion (iv): [insert score] Criterion (v): [insert score] Total score: [insert score]	[Proposal price]	[evaluated price]	<u>Combined Score:</u> [combined score] <u>Ranking:</u> [ranking]
[insert name]	[yes/no]	Criterion (i): [insert score] Criterion (ii): [insert score] Criterion (iii): [insert score] <u>Sub-criterion a:</u> 1: [insert score] 2: [insert score] 3: [insert score] <u>Sub-criterion b:</u> 1: [insert score] 2: [insert score] 3: [insert score] <u>Sub-criterion c:</u>etc. Criterion (iv): [insert score] Criterion (v): [insert score] Total score: [insert score]	[Proposal price]	[evaluated price]	<u>Combined Score:</u> [combined score] <u>Ranking:</u> [ranking]
[insert name]	[yes/no]	Criterion (i): [insert score] Criterion (ii): [insert score] Criterion (iii): [insert score] <u>Sub-criterion a:</u> 1: [insert score] 2: [insert score] 3: [insert score] <u>Sub-criterion b:</u> 1: [insert score] 2: [insert score] 3: [insert score] <u>Sub-criterion c:</u>etc. Criterion (iv): [insert score] Criterion (v): [insert score] Total score: [insert score]	[Proposal price]	[evaluated price]	<u>Combined Score:</u> [combined score] <u>Ranking:</u> [ranking]
[insert name]					

- (ii) **Reason/s why your Proposal was unsuccessful** *[Delete if the combined score already reveals the reason].*

[INSTRUCTIONS; State the reason/s why this Consultant's Proposal was unsuccessful. Do NOT include: (a) a point by point comparison with another Consultant's Proposal or (b) information that is marked confidential by the Consultant in its Proposal.]

- iii) **How to request a debriefing** *[This applies only if your proposal was unsuccessful as stated under point (3) above].*

DEADLINE: The deadline to request a debriefing expires at midnight on *[insert date]* (local time).

You may request a debriefing in relation to the results of the evaluation of your Proposal. If you decide to request a debriefing your written request must be made within five (5) Business Days of receipt of this Notification of Intention to Award.

Provide the contract name, reference number, name of the Consultant, contact details; and address the request for debriefing as follows:

Attention: *[insert full name of person, if applicable]*

Title/position: *[insert title/position]*

Agency: *[insert name of Procuring Entity]*

Email address: *[insert email address]*

Fax number: *[insert fax number] delete if not used*

If your request for a debriefing is received within the 5 Business Days deadline, we will provide the debriefing within five (5) Business Days of receipt of your request. If we are unable to provide the debriefing within this period, the Standstill Period shall be extended by five (5) Business Days after the date that the debriefing is provided. If this happens, we will notify you and confirm the date that the extended Standstill Period will end.

The debriefing may be in writing, by phone, video conference call or in person. We shall promptly advise you in writing how the debriefing will take place and confirm the date and time.

If the deadline to request a debriefing has expired, you may still request a debriefing. In this case, we will provide the debriefing as soon as practicable, and normally no later than fourteen (14) Business Days from the date of publication of the Contract Award Notice.

(iv) How to Make a Complaint

DEADLINE: The deadline for submitting a Procurement-related Complaint challenging the decision to award the contract expires on midnight, *[insert date]* (local time).

Provide the contract name, reference number, name of the Consultant, contact details; and address the Procurement-related Complaint as follows:

Attention: *[insert full name of person, if applicable]*

Title/position: *[insert title/position]*

Agency: *[insert name of Procuring Entity]*

Email address: *[insert email address]*

Fax number: *[insert fax number] delete if not used*

[At this point in the procurement process] [Upon receipt of this notification] you may submit a Procurement-related Complaint challenging the decision to award the contract. You do not need to have requested, or received, a debriefing before making this complaint. Your complaint must be submitted within the Standstill Period and received by us before the Standstill Period ends.

In summary, there are four essential requirements:

You must be an 'interested party'. In this case, that means a Consultant who has submitted a Proposal in this selection process and is the recipient of a Notification of Intention to Award.

The complaint can only challenge the decision to award the contract.

You must submit the complaint within the deadline stated above.

You must include, in your complaint, all of the information required by the Procuring Entity.

(v) Standstill Period

DEADLINE: The Standstill Period is due to end at midnight on *[insert date]* (local time).

The Standstill Period lasts ---- (specify the number of business days as per Data Sheet 30.1) Business Days as specified

in the Data Sheet after the date of transmission of this Notification of Intention to Award.

The Standstill Period may be extended. This may happen where we are unable to provide a debriefing within the five (5) Business Day deadline. If this happens, we will notify you of the extension.

If you have any questions regarding this Notification, please do not hesitate to contact us.

On behalf of _____ *[insert the name of the Procuring Entity]:*

Signature: _____

Name: _____

Title/position: _____

Telephone: _____

Email: _____

2 REQUEST FOR REVIEW

FORM FOR REVIEW(r.203(1))

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

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

BETWEEN

.....APPLICANT

AND

.....RESPONDENT (Procuring Entity)

Request for review of the decision of the..... (Name of the Procuring Entity ofdated the...day of20.....in the matter of Tender No.....of20..... for(Tender description).

REQUEST FOR REVIEW

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

- 1.
- 2.

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

- 1.
- 2.

SIGNED(Applicant) Dated on.....day of/...20.....

FOR OFFICIAL USE ONLY Lodged with the Secretary Public Procurement Administrative Review Board on.....day of20.....

SIGNED

Board Secretary

3 LETTER OF AWARD

[use letterhead paper of the Procuring Entity] [date] _____ To: _____ [name and address of the winning

Consultant] Subject: *Notification of Award Contract No.....*

This is to notify you that your Proposal dated _____ [insert date] for consulting services for [name of the assignment] as negotiated with you on _____ for the contract amount of _____ [Insert amount in numbers and words and name of currency] is here by accepted by our agency.

You are requested to: (i) sign and return the draft negotiated Contract attached here with within eight (8) Business Days from the date of receipt of this notification; and (ii) furnish the additional information on beneficial ownership in accordance with the Data Sheet of ITC 32.1 within eight (8) days using the Beneficial Ownership Disclosure Form, included in Section 7 of the Request of Proposals.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Agency: _____

Attachment: *Draft Negotiated Contract*

4 BENEFICIAL OWNERSHIP DISCLOSURE FORM

(Amended and issued pursuant to PPRA CIRCULAR No. 02/2022)

INSTRUCTIONS TO TENDERERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE FORM

This Beneficial Ownership Disclosure Form ("Form") is to be completed by the successful tenderer pursuant to Regulation 13 (2A) and 13 (6) of the Companies (Beneficial Ownership Information) Regulations, 2020. In case of joint venture, the tenderer must submit a separate Form for each member. The beneficial ownership information to be submitted in this Form shall be current as of the date of its submission.

For the purposes of this Form, a Beneficial Owner of a Tenderer is any natural person who ultimately owns or controls the legal person (tenderer) or arrangements or a natural person on whose behalf a transaction is conducted, and includes those persons who exercise ultimate effective control over a legal person (Tenderer) or arrangement.

Tender Reference No.: _____ [insert identification no]
Name of the Tender Title/Description: _____ [insert name of the assignment] to: _____ [insert complete name of Procuring Entity]

In response to the requirement in your notification of award dated ____ [insert date of notification of award] to furnish additional information on beneficial ownership: _____ [select one option as applicable and delete the options that are not applicable]

I) We hereby provide the following beneficial ownership information.

Details of beneficial ownership

	Details of all Beneficial Owners		% of shares a person holds in the company Directly or indirectly	% of voting rights a person holds in the company	Whether a person directly or indirectly holds a right to appoint or remove a member of the board of directors of the company or an equivalent governing body of the Tenderer (Yes / No)	Whether a person directly or indirectly exercises significant influence or control over the Company (tenderer) (Yes / No)
1.	Full Name		Directly----- ----- % of shares Indirectly---- ----- % of shares	Directly.....% of voting rights Indirectly----- % of voting rights	1. Having the right to appoint a majority of the board of the directors or an equivalent governing body of the Tenderer: Yes -----No---- 2. Is this right held directly or indirectly?: Direct..... Indirect.....	1. Exercises significant influence or control over the Company body of the Company (tenderer) (Yes -----No-- -- 2. Is this influence or control exercised directly or indirectly? Direct..... Indirect..... ...
	National identity card number or Passport number					
	Personal Identification Number (where applicable)					
	Nationality					
	Date of birth [dd/mm/yyyy]					
	Postal address					
	Residential address					
	Telephone number					
	Email address					
	Occupation or profession					

	Details of all Beneficial Owners		% of shares a person holds in the company Directly or indirectly	% of voting rights a person holds in the company	Whether a person directly or indirectly holds a right to appoint or remove a member of the board of directors of the company or an equivalent governing body of the Tenderer (Yes / No)	Whether a person directly or indirectly exercises significant influence or control over the Company (tenderer) (Yes / No)
2.	Full Name		Directly----- ----- % of shares Indirectly---- ----- % of shares	Directly.....% of voting rights Indirectly----- % of voting rights	1. Having the right to appoint a majority of the board of the directors or an equivalent governing body of the Tenderer: Yes -----No----- 2. Is this right held directly or indirectly?: Direct..... Indirect.....	1. Exercises significant influence or control over the Company body of the Company (tenderer) Yes -----No-- -- 2. Is this influence or control exercised directly or indirectly? Direct..... Indirect..... ...
	National identity card number or Passport number					
	Personal Identification Number (where applicable)					
	Nationality(ies)					
	Date of birth [dd/mm/yyyy]					
	Postal address					
	Residential address					
	Telephone number					
	Email address					
	Occupation or profession					
3. e.t .c						

II) Am fully aware that beneficial ownership information above shall be reported to the Public Procurement Regulatory Authority together with other details in relation to contract awards and shall be maintained in the Government Portal, published and made publicly available pursuant to Regulation 13(5) of the Companies (Beneficial Ownership Information) Regulations, 2020.(Notwithstanding this paragraph Personally Identifiable Information in line with the Data Protection Act shall not be published or made public). *Note that Personally Identifiable Information (PII) is defined as any information that can be used to distinguish one person from another and can be used to deanonymize previously anonymous data. This information includes National identity card number or Passport number, Personal Identification Number, Date of birth, Residential address, email address and Telephone number.*

III) In determining who meets the threshold of who a beneficial owner is, the Tenderer must consider a natural person who in relation to the company:

- (a) holds at least ten percent of the issued shares in the company either directly or indirectly;
- (b) exercises at least ten percent of the voting rights in the company either directly or indirectly;
- (c) holds a right, directly or indirectly, to appoint or remove a director of the company; or
- (d) exercises significant influence or control, directly or indirectly, over the company.

IV) What is stated to herein above is true to the best of my knowledge, information and belief.

Name of the Tenderer:*[insert complete name of the Tenderer]_____

Name of the person duly authorized to sign the Tender on behalf of the Tenderer: ** [insert complete name of person duly authorized to sign the Tender]

Designation of the person signing the Tender: [insert complete title of the person signing the Tender]

Signature of the person named above: [insert signature of person whose name and capacity are shown above]

Date this [insert date of signing] day of..... [Insert month], [insert year]

Bidder Official Stamp

Request for Proposal Reference No.:_____ [insert identification no]
Name of the Assignment:_____ [insert name of the assignment] to:
_____ [insert complete name of Procuring Entity]

In response to your notification of award dated_____ [insert date of notification of award] to furnish additional information on beneficial ownership:_____ [select one option as applicable and delete the options that are not applicable]

V) We here by provide the following beneficial ownership information.

Details of beneficial ownership

Identity of Beneficial Owner	Directly or indirectly holding 25% or more of the shares (Yes / No)	Directly or indirectly holding 25 % or more of the Voting Rights (Yes / No)	Directly or indirectly having the right to appoint a majority of the board of the directors or an equivalent governing body of the Consultant (Yes / No)
[include full name (last, middle, first), nationality, country of residence]			

OR

- ii) We declare that there is no Beneficial Owner meeting one or more of the following conditions: directly or indirectly holding 25% or more of the shares. Directly or indirectly holding 25% or more of the voting rights. Directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Consultant.

OR

- iii) *We declare that we are unable to identify any Beneficial Owner meeting one or more of the following conditions. [If this option is selected, the Consultant shall provide explanation on why it is unable to identify any Beneficial Owner]*

Directly or indirectly holding 25% or more of the shares. Directly or indirectly holding 25% or more of the voting rights.

Directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Consultant] ”

Name of the Consultant:*[insert complete name of the Consultant]_____

Name of the person duly authorized to sign the Proposal on behalf of the Consultant: ** [insert complete name of person duly authorized to sign the Proposal]

Title of the person signing the Proposal: [insert complete title of the person signing the Proposal]

Signature of the person named above: [insert signature of person whose name and capacity are shown above]

Date signed [insert date of signing] day of..... [Insert month], [insert year]

*In the case of the Proposal submitted by a Joint Venture specify the name of the Joint Venture as Consultant. In the event that the Consultant is a Joint venture, each reference to “Consultant” in the Beneficial Ownership Disclosure Form (including this Introduction there to) shall be read to refer to the joint venture member.

**Person signing the Proposal shall have the power of attorney given by the Consultant. The power of attorney shall be attached with the Proposal Schedules.

APPENDIX TO INSTRUCTIONS TO CONSULTANTS EVALUATION CRITERIA

STATUTORY REQUIREMENTS

1	2	3
Item No.	Qualification Subject	Requirement
1	Company Registration	Copy of a Valid Certificate of Incorporation with CR12 document dated NOT earlier than September 30th 2026 alongside clear color copy certified national identity cards/passports of the directors.(both sides)
2	Tax Obligations for Kenyan Tenderers.	Attach valid Tax Compliance Certificate
3	Completeness of bid document (forms)	Completeness of tender document:. Dully filled bid document that require bidder's literature. Submission is strictly on PDF. Use of links other than that of ifmis supplier.treasury.go.ke SHALL NOT be allowed. Bidders must Conform to the instructions provided in the standard tender document - All declarations MUST be witnessed by magistrate or commissioner for oath. NOTE: Only submit pages with bidder's literature and not the whole document.-
5	Litigation History	Sworn affidavit on the bidders litigation history or status to be signed and stamped by advocate
6	Trade License	Valid Single Business permit relevant to the tender under consideration
7.	Fraud & Corrupt practices	Sworn affidavit by the bidder for not engaging in corrupt & fraudulent practices to be signed and stamped by advocate

TECHNICAL REQUIREMENTS – Out of 80 – Pass mark 60/80

1	2	3	4
Item No.	Technical Subject	Qualification Requirement	Requirement to be Met-Scores
1.	Methodology	Demonstrate how you shall execute the services under consideration, through an elaborate understanding of the terms of reference by providing methodology and work plan on how you are going to carry out the assignment	Presented on company letter head, signed & stamped (20Marks)
2.	Comments on Terms of Reference	Provide your comments (additions, critic) on the TORs either from your past experience or through market dynamics.	Client's letterhead (20Marks)
3.	Similar Services	. 2 No. Proof of undertaking a similar assignment. As a proof attach;	Award Notification Letters, LSO/LPO

1	2	3	4
Item No.	Technical Subject	Qualification Requirement	Requirement to be Met-Scores
		a) Valid Award Notification Letter. b) Local Service Order(LSO)/LPO Client Certificate of Successful Completion/Final Acceptance report signed by the client.. Marks SHALL only be awarded to a complete set.	Completion Certificate or it's equivalent (20Marks)
4	CVs of key personnel	TEAM COMPOSITION (20 Marks) i. Lead consultant; Environmental specialist Registered & Licensed by NEMA (5 Marks) a) should have a Bachelor's degree in environmental science or a related field from a recognized institution with at least 5 years of professional work experience (3mks) b) less than 5 years relevant experience (2) c) Less than 5 years (0 Marks) ii. Soil scientist (5Marks) a) with at least a Bachelor's degree in urban and regional planning, urban development, regional development, or urban design, with at least five years of professional work experience > 5mks b) Less than 5yrs> 2mks v) GIS Specialist (5 Marks) vi) Bachelor's degree in GIS in geomatic engineering, geospatial engineering, or a relevant degree from a recognized institution, with at least five years of professional experience. > (5 Marks) b) Less than 5yrs >2mks vii) Forester(2mks) a) minimum five years of relevant work experience, (2mks) b.) 5 or less years' of experience (1) .	

NOTE; The successful bidder must score a minimum of Sixty (60) in order to proceed to financial evaluation stage. Bidders who fail at the Technical evaluation stage, shall automatically be non-responsive and disqualified, will have their financial proposal envelopes returned to them unopened.

- The successful firm shall at least score sixty (60) by combining Technical and Financial scores ($\frac{x}{60} +$

y/20

NOTE; DO NOT SUBMIT THE ENTIRE TENDER DOCUMENT ONLY ATTACHMENTS AND ALL FORMS

- Bidders who pass the minimum score, shall be invited to submit their financial bids
- **DO NOT** fill the financial section, i.e tender sum in the technical stage , **PUT `1`** as your tender sum in the system/lines.