



**TENDER NAME:
REQUEST FOR PROPOSAL (RFP) FOR PROVISION OF CONSULTANCY SERVICES FOR UPDATE
OF SUSWA GEOTHERMAL DRILLING PROJECT ESIA REPORT, PREPARATION OF
ENVIRONMENTAL & SOCIAL SAFEGUARD DOCUMENTATION (SEP, LACLRP, IPP & CDF) AS
PER THE IFC PERFORMANCE STANDARDS**

INVITATION TO SUBMIT THE PROPOSAL (RFP) NO: GDC/SHE/RFP/057/2023-2024

**TENDER CLOSING DATE AND TIME: 5TH APRIL 2024 AT 11.00AM (1100 HOURS EAST
AFRICAN TIME).**

**Geothermal Development Company Ltd
P.O. Box 100746-00101
NAIROBI
Tel: +254 719 037000; 020 2427516
Email: procurement@gdc.co.ke
Website: www.gdc.co.ke**

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DATE: 19TH MARCH 2024

REFERENCE NO.: GDC/SHE/RFP/057/2023-2024

NAME OF ASSIGNMENT: REQUEST FOR PROPOSAL (RFP) FOR PROVISION OF CONSULTANCY SERVICES FOR UPDATE OF SUSWA GEOTHERMAL DRILLING PROJECT ESIA REPORT, PREPARATION OF ENVIRONMENTAL & SOCIAL SAFEGUARD DOCUMENTATION (SEP, LACLRP, IPP & CDF) AS PER THE IFC PERFORMANCE STANDARDS- GDC/SHE/RFP/057/2023-2024

The Geothermal Development Company (GDC) request for provision of Consultancy Services for Update of Suswa Geothermal Drilling Project ESIA Report, Preparation of Environmental & Social Safeguard Documentation (SEP, LACLRP, IPP & CDF) as per the IFC Performance Standards.

GDC now invites you for proposal entitled "*Request for Proposal (RFP) for provision of Consultancy Services for UPDATE OF SUSWA GEOTHERMAL DRILLING PROJECT ESIA REPORT, PREPARATION OF ENVIRONMENTAL & SOCIAL SAFEGUARD DOCUMENTATION (SEP, LACLRP, IPP & CDF) AS PER THE IFC PERFORMANCE STANDARDS- GDC/SHE/RFP/057/2023-2024*". Technical, financial and other requirements are contained in Section 2B and Section 3

1. This Request for Proposal (RFP) is an Open Tender.
2. If a Bidder is in a Joint Venture (JV), the full name of the JV shall be used. The name and role of each firm in the JV shall be stated clearly.
3. It is not permissible to transfer this RFP to any other firm.
4. This document contains **confidential information as stated in the General Provisions**. It is **NOT permissible to share** any information whatsoever in any format contained herein with any third party or entity NOT involved in this process, during the process and after the process. Sharing of any information is therefore **strictly prohibited**.
5. This document has nine (9) sections
 - Section 1: Instructions to Consultants
 - Section 2: Data Sheet
 - Section 3: Mandatory and Technical Requirements
 - Section 4: Terms of Reference
 - Section 5: Tendering Forms
 - Section 6: General Conditions of Contract
 - Section 7: Special Conditions of Contract
 - Section 8: Contract Forms
6. Please inform us in writing at the E-mail procurement@gdc.co.ke and copied to; pkapto@gdc.co.ke, cofwona@gdc.co.ke, gwetangula@gdc.co.ke
 - a. That you have received this Request for Proposal; and
 - b. Whether you intend to submit a proposal as per the RFP document or there are changes to the initial firms/Consortium (where applicable).
7. Completed tenders are to be enclosed in plain sealed envelopes marked with tender name and tender reference number and be deposited in the Tender Box at GDC Kawi House Office Ground Floor, located at South C Bellevue ,off Mombasa Road, Red Cross

Road, or be addressed to;

**THE MANAGING DIRECTOR,
GEOTHERMAL DEVELOPMENT COMPANY LTD
P.O. BOX 100746 - 00101
NAIROBI, KENYA**

So as to be received on or before **5th April 2024 at 11.00am (1100Hrs East African Local Time)**.

8. Tenders will be opened immediately after the deadline date and time specified above

MANAGER, SUPPLY CHAIN

PART 1 TENDERING PROCEDURE

SECTION 1. INSTRUCTIONS TO BIDDERS

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 Bidder.
- b) "Applicable Law" means the laws and any other instruments having the force of law in Kenya.
- c) "Confidential Information" includes: -
Any information of whatever nature, communicated in writing, orally, through electronic means, or in any other form or medium relating to the Purpose or is otherwise acquired by the Receiving Party through discussions, deliberations, correspondences with the Disclosing Party or by observation while at the offices of the Disclosing Party and whether disclosed before or after, including information relating to business strategies, customer information, profits, intellectual property rights, license information, contract obligations, loan information, and all other information disclosed by the Disclosing party to the receiving party, whether or not marked as 'confidential', 'proprietary' or with any other legend indicating its proprietary nature;
- d) "GDC" means the entity that is carrying out the System Audit process and signs the Contract for the System Audit with the selected Bidder.
- e) "Bidder" means a legally-established firm/company or an entity that has expressed interest in undertaking the Information System Audit, hence the recipient of this RFP
- f) "Contract" means a legally binding written agreement signed between the GDC and the Bidder 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).
- 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) "Government" means the Government of the Republic of Kenya.
- i) "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 GDC with proof of receipt.
- j) "Consortium" means an association of companies/firms with or without a legal personality distinct from that of its members, of more than one company/firm where one firm has the authority to conduct all business for and on behalf of any and all the members of the consortium, and where the members of the consortium are jointly and severally liable to the GDC for the performance of the Contract.

- k) “ITB” (this Section 2 of the RFP) means the Instructions to Bidders that provides the Bidders with all information needed to prepare their Proposals.
- l) “Letter of RFP” means the letter of invitation being sent by GDC to the Bidders.
- m) “Proposal” means the Technical Proposal and the Financial Proposal of the Bidders.
- n) “Public Procurement Regulatory Authority (PPRA)” means the statutory authority of the Government of Kenya that mandated with the role of regulating and monitoring compliance with the public procurement law and regulations.
- o) “RFP” means this Request for Proposals.
- p) “Terms of Reference (TORs)” means the write-up that explains the objectives, scope of work, activities, and tasks to be performed, respective responsibilities of the GDC and the Bidder, and expected results and deliverables and timelines.

2. Introduction

- 2.1 GDC intends to engage the Bidders who were prequalified to undertake *“provision of Consultancy Services for UPDATE OF SUSWA GEOTHERMAL DRILLING PROJECT ESIA REPORT, PREPARATION OF ENVIRONMENTAL & SOCIAL SAFEGUARD DOCUMENTATION (SEP, LACLRP, IPP & CDF) AS PER THE IFC PERFORMANCE STANDARDS.*
- 2.2 The Bidders are invited to submit their detailed proposal for the Information System Audit as per sections 3 and 4. The Proposal will be the basis for evaluating the potential capability of the Bidder to undertake the Information System Audit.
- 2.3 The Bidders should familiarize themselves with the local conditions and take them into account in preparing their Proposals, including the proposed site location and terrain. Any bidder who intend to visit the proposed site for more details MUST contact GDC for logistical facilitation.
- 2.4 GDC will timely provide, at no cost to the Bidders, the inputs, relevant project data, and information required for the preparation of the Proposal as specified in the Data Sheet.

3. Conflict of Interest

- 3.1 The Bidder is required to provide professional, objective, and impartial communication, always holding the GDC's interest's paramount, strictly avoiding conflicts with other assignments or its own corporate interests.
- 3.2 A Bidder has an obligation to disclose to GDC any situation of actual or potential conflict that impacts its capacity to undertake the works satisfactorily for the best interest of GDC. Failure to disclose such situations may lead to termination of its Contract.
- 3.3 Without limitation on the generality of the foregoing, and unless stated otherwise in the Data Sheet, the Bidders shall not be engaged under the circumstances set forth below:

- i) *Conflicting Activities*
Conflict between proposed works and procurement of goods, works or non-consulting services: a firm that has been engaged by GDC to provide goods, works, or consulting services for a project, or any of its Affiliates, shall be disqualified from providing 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 assignments: A Bidder (including its Experts and Sub-Bidders) or any of its affiliates shall not be hired for any assignment that, by its nature, may conflict with another assignment of the Bidder for the same or another activity done for or on behalf of GDC.
- iii) *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 requires that the Bidders or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided services related to the assignment in question. To that end, GDC shall indicate in the Data Sheet and make available to all Bidders together with this RFP all information that would in that respect give such Bidder any unfair competitive advantage over competing Bidders.

5. Corrupt and Fraudulent Practices

- 5.1 Bidder firms or any of its members shall not be involved in corrupt, coercive, obstructive, collusive or fraudulent practice. Bidder firms or any of its members that are proven to have been involved in any of these practices shall be automatically disqualified from this process.

6. Collusive practices

- 6.1 GDC requires compliance with the provisions of the Competition Act 2010, regarding collusive practices in contracting. Any Bidder found to have engaged in collusive conduct shall be disqualified and criminal and/or civil sanctions may be imposed. To this effect, Bidders shall be required to complete and sign the "Certificate of Independent Proposal Determination" annexed to the Proposal Form.
- 6.2 In further pursuance of this policy, Bidders shall permit and shall cause their agents (where declared or not), subcontractors, sub-Bidders, 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.

7. Eligibility

- 7.1 The Responsive Bidder will be selected through an Open Competitive Bidding process.

- 7.2 Unless otherwise specified in the Data Sheet, GDC permits Bidders including proposed experts, joint ventures and individual members from all countries and categories to undertake the UPDATE OF SUSWA GEOTHERMAL DRILLING PROJECT ESIA REPORT, PREPARATION OF ENVIRONMENTAL & SOCIAL SAFEGUARD DOCUMENTATION (SEP, LACLRP, IPP & CDF) AS PER THE IFC PERFORMANCE STANDARDS.
- 7.3 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 and Information System Audit 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. A JV 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
- 7.4 It is the Bidder's responsibility to ensure that its Experts, joint venture members, Sub-Bidders, agents (declared or not), sub-contractors, service providers, suppliers and/or their employees meet the eligibility requirements.
- 7.5 As an exception to the foregoing ITI 7.3 and 7.4 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, 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 GDC.
- 7.6 Margin of Preference and Reservations: - No margin of preference has been allowed in the selection of Bidders.

8 Non-disclosure

- 8.1 This document contains confidential information as stated in the General Provisions. **It is NOT permissible to share** any information whatsoever in any format contained herein with any third party or entity NOT involved in this process during the process and after the process. Sharing of any information is therefore strictly prohibited.
- 8.2 The Bidders should clearly share this clause with the members of their joint

venture

B. PREPARATION OF PROPOSALS

9. General Considerations

- 9.1 In preparing the Proposal, the Bidder 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.

10. Cost of Preparation of Proposal

- 10.1 The Bidder shall bear all costs associated with the preparation and submission of its Proposal, and GDC shall not be responsible or liable for those costs, regardless of the conduct or outcome of the process. GDC is not bound to accept any proposal and reserves the right to annul the process at any time prior to Contract award, without there-by incurring any liability to the Bidder.

11. Language

- 11.1 The Proposal, as well as all correspondence and documents relating to the Proposal exchanged between the Bidder and GDC shall be written in the English language.

12. Documents Comprising the Proposal

- 12.1 The Proposal shall comprise the documents and forms listed in the Data Sheet, Information Sheet and Proposal Forms of Contract.
- 12.2 The Bidder shall declare in the Financial Proposal Submission Form, that in submitting the proposal, they shall undertake to observe the laws of Kenya against fraud and corruption including bribery, as well as against anti-competitive practices.

13. Only One Proposal

- 13.1 The Bidder (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 Bidder, 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-Bidder, or the Bidder'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.
- 13.2 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.

14. Proposal Validity

- 14.1 The Data Sheet indicates the period during which the Bidder's Proposal must remain valid after the Proposal submission deadline.
- 14.2 During this period, the Bidder shall maintain its original Proposal without any change.
- 14.3 GDC will make its best effort to complete the process within the proposal's

validity period. However, should the need arise, GDC may request, in writing, all Bidders who submitted Proposals prior to the submission deadline to extend the Proposals' validity.

- 14.4 If the Bidder agrees to extend the validity of its Proposal, it shall be done without any change in the original Proposal
- 14.5 The Bidder has the right to refuse to extend the validity of its Proposal in which case such Proposal will not be further evaluated.

15. Clarification and Amendment of RFP

- 15.1 The Bidder 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 GDC's address indicated in the Data Sheet. GDC 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 Bidders. Should GDC deem it necessary to amend the RFP as a result of a clarification, it shall do so following the procedure described below:
- 15.2 At any time before the proposal submission deadline, GDC may amend the RFP by issuing an amendment in writing or by standard electronic means. The amendment shall be sent to all invited Bidders and will be binding on them. The Bidders shall acknowledge receipt of all amendments in writing.
- 15.3 If the amendment is substantial, GDC may extend the proposal submission deadline to give the Bidders reasonable time to take an amendment in to account in their Proposals.
- 15.4 The Bidder 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.

16. Preparation of Proposals-Specific Considerations

- 16.1 While preparing the Proposal, the Bidder must give particular attention to the following:
- 16.2 If a Bidder considers that it may enhance their expertise in their UPDATE OF SUSWA GEOTHERMAL DRILLING PROJECT ESIA REPORT, PREPARATION OF ENVIRONMENTAL & SOCIAL SAFEGUARD DOCUMENTATION (SEP, LA CLR P, IPP & CDF) AS PER THE IFC PERFORMANCE STANDARDS by associating with other Bidders in the form of a Joint Venture or as Sub-investments, they may do so but only one Proposal is submitted, in accordance with ITI 12. Above. A Bidder cannot associate with shortlisted Bidder(s). When associating with non-shortlisted/non-invited firms in the form of a joint venture or a sub-investment, the shortlisted/invited Bidder shall be a lead member. If shortlisted/invited Bidders associates with each other, any of them can be a lead member.
- 16.3 Technical Proposal Format and Content
- 16.4 The Technical Proposal shall be prepared using the Standard forms provided in Section 3 of the RFP and shall comprise the documents listed under ITI 11.1.

17. Financial Proposal

The financial proposal will be submitted in form of a financial quote in a separate envelop (envelop 2) and summarized in the finance forms FORM FIN-1 to FORM FIN-5 (section 9) of this contract. Envelop 2 will be clearly marked ***“DO NOT OPEN UNTIL THE TECHNICAL EVALUATION IS COMPLETED”***

18. Taxes

18.1 The Bidder and its Sub-Bidders 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.

19. Currency of Proposal

19.1 The Bidder may express the price 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.

20. Currency of Payment

20.1 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

21. Submission, Sealing, and Marking of Proposals

- 21.1 The Bidder shall submit a signed and complete Proposal comprising the documents and forms in accordance with ITI 11 (Documents Comprising Proposal). Bidders 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 Bidder has the option of submitting its Proposals electronically.
- 21.2 An authorized representative of the Bidder shall sign the original submission letters in the required format. The authorization shall be in the form of a written power of attorney attached to the Technical Proposal.
- 21.3 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.
- 21.4 Any modifications, revisions, interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Proposal.
- 21.5 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.

22. Sealing and Marking of Proposals

- 22.1 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 GDC and a warning “DO NOT OPEN BEFORE the tender closing date of **5th April 2024 at 11:00am (1100Hrs East African Time)** (The time and date for proposal opening date”. Within the single envelope, package or container.
- 22.2 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 ITI 11;
 - ii) in an envelope or package or container marked “COPIES”, all required copies of the Technical Proposal.
- 22.3 The envelopes or packages or containers shall:
- i) Bear the name and address of the GDC.
 - ii) Bear the name and address of the Firm; and
 - iii) Bear the name and Reference number of the Assignment.
- 22.4 If an envelope or package or container is not sealed and marked as required, GDC will assume no responsibility for the misplacement or premature opening of the proposal. Proposals that are misplaced or opened prematurely will not be accepted.
- 22.5 The Proposal or its modifications must be sent to the address indicated in the Data Sheet and received by GDC no later than the deadline indicated in the Data Sheet, or any extension to this deadline. Any Proposal or its modification received by GDC after the deadline shall be declared late and rejected, and promptly returned unopened.

23. Confidentiality/Canvassing

- 23.1 From the time the Proposals are opened to the time the Contract is awarded, the Bidder should not contact the GDC on any matter related to the Proposal. Information relating to the evaluation of Proposals and award recommendations shall not be disclosed to the Bidders who submitted the Proposals or to any other party not officially concerned with the process, until the publication of the Contract award information.
- 23.2 Any attempt by Bidders or any one on behalf of the Bidder to influence improperly GDC 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.
- 23.3 Notwithstanding the above provisions, from the time of the Proposals' opening to the time of Contract award publication, if a Bidder wishes to contact GDC on any matter related to the selection process, it should do so only in writing.

24. Opening of Proposals

- 24.1 GDC's opening committee shall conduct the opening of the Proposals in the presence of the Bidders' 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.

- 24.2 At the opening of the Technical Proposals the following shall be read out: (i) the name and the country of the Bidder 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) any modifications to the Proposal submitted prior to proposal submission deadline; and (iii) any other information deemed appropriate or as indicated in the Data Sheet.

25. Proposals Evaluation

- 25.1 The Bidder is not permitted to alter or modify its Proposal in anyway after the proposal submission deadline except as permitted under ITI 14.1. While evaluating the Proposals, the Evaluation Committee will conduct the evaluation solely on the basis of the submitted information.
- 25.2 GDC's evaluation committee shall evaluate the Proposals as per the Bidder Information and Data Sheet (Section 3).

26. Taxes

- 26.1 The Bidder is deemed to have considered all Taxes in their Environmental and Social Documentation Update financial proposal.

27. Conversion to Single Currency

- 27.1 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.

28. Inability to undertake Preparation of Environmental and Social Documentation Update

- 28.1 If GDC determines that the firm has failed to demonstrate its capability to undertake Preparation of Environmental and Social Documentation Update, GDC shall reject the firm's proposal.

29. Standstill Period

- 29.1 The Standstill Period shall be the number of days stated in the Data Sheet. The Standstill Period commences the day after the date GDC has transmitted to each Bidder (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 Bidders 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

30. Negotiations

- 30.1 The negotiations will be held at the date and address indicated in the Data Sheet with the Bidder's representative(s) who must have written power of attorney to negotiate and sign a Contract on behalf of the Bidder.
- 30.2 The evaluation committee shall prepare minutes of negotiations that are signed by the Accounting Officer and the Bidder's authorized representative.

31. Technical negotiations

- 31.1 The technical negotiations shall not substantially alter the original scope of the Preparation of Environmental and Social Documentation Update but will be intended to clarify technical issues between GDC and the Bidder

32. Financial negotiations

- 32.1 The financial negotiations NOT applicable

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 Bidder's authorized representative and minutes prepared to record the outcome of the negotiations.
- 33.2 If the negotiations fail, GDC shall inform the Bidder in writing of all pending issues and disagreements and provide a final opportunity to the Bidder to respond. If disagreement persists, GDC shall terminate the negotiations informing the Bidder of the reasons for doing so.

34. Letter of Award

- 34.1 Upon expiry of the Standstill Period, specified in ITI 29.1, after satisfactorily addressing any appeal that has been filed within the Standstill Period, and upon successful negotiations, GDC shall send a Letter of Award to Bidders. The letter shall confirm GDC's award of Contract to the Bidder and requesting the Bidder 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 ITI 29.1 and upon satisfactorily addressing any complaint that has been filed within the Standstill Period.
- 35.2 The Bidder is expected to commence the assignment on the date and at the location specified in the Data Sheet and/or Bidder Information and Data Sheet (section 3).

SECTION 2. DATA SHEET

Reference to ITI	A. General
2.1	Electronic Procurement System shall be used: NO
2.1	The name of GDC: Geothermal Development Company (GDC) The Bidder Selection Method is: Quality and Cost Based – Considers mandatory, technical and financial proposal. (QCBS) – quality & cost based selection method. The reference number of the Invitation for Proposal is: GDC/SHE/RFP/057/2023-2024
2.3	No site visit required
6.1	A list of debarred firms and individuals is available on the PPRA’s website: www.ppra.go.ke
7	The maximum number of members in the joint ventures (JV) is: Two (2)
	B. Preparation of Proposals
13.1	Proposals must remain valid for 120 days after the Proposal submission deadline.
13.1	Clarification may be requested no later than five (5) days prior to the submission deadline. For purposes of enquiries, bidders may notify GDC in writing (email in PDF format or by facsimile) at the following address: One copy to: - Manager, Supply Chain Geothermal Development Company Limited, Kawi House, South C, Bellevue Off Mombasa Road, Red Cross Road P.O. Box 100746 – 00101 NAIROBI, KENYA E-mail: pkapto@gdc.co.ke & procurement@gdc.co.ke And copy to: - Manager, Safety Health & Environment Geothermal Development Company Ltd, P.O Box 100746 – 00101, Nairobi-Kenya E-mail: gwetangula@gdc.co.ke GDC will respond in writing (e-mail in PDF format) to any request received at least five (5) days prior to the deadline for the submission of tender’s. Any request for clarification must be in the Bidder’s letterhead and signed and must be in reference to the specific sections of the tender document properly numbered.
17.1	The Financial quote will be in a separate envelop as per clause 17 and summarized in FORM-FIN (section 9) with statement ‘ DO NOT OPEN’
18.1	Information on the Bidders tax obligations in the GDC’s country can be found on the Kenya Revenue Authority website: www.kra.go.ke

	C. Submission, Opening & Evaluation
21.1	The Bidder shall NOT have the option of submitting their proposal electronically.
21.2	<p>The Proposal shall comprise the following;</p> <p>TWO (2) Envelopes</p> <p>The Technical and Financial proposal to be <u>submitted separately (different envelopes cleared marked 'Technical Proposal/Financial Proposal')</u>. The technical proposal will be opened during the tender opening/closing date and <u>financial proposal will be unopened</u> until the technical evaluation is completed.</p> <p>The Financial Proposal shall be stated/quoted in <i>Kenya Shillings (Ksh)</i></p>
21 & 22	<p>The Bidders Must submit; One (1) original and one (1) copy of each proposal marked</p> <p>“Do Not Open, Except in Presence of the Opening Committee.”</p> <p>(a) To be addressed to the Employer at the following address: Managing Director & CEO Geothermal Development Company Limited Kawi House, South C, Bellevue, Off Mombasa Road, Red Cross Road P. O. Box 100746-00101 NAIROBI, KENYA.</p> <p>The completed tenders shall be deposited in the tender box located at GDC Kawi House, Ground Floor. Marked, “Request for Proposal (RFP) for provision of Consultancy Services for UPDATE OF SUSWA GEOTHERMAL DRILLING PROJECT ESIA REPORT, PREPARATION OF ENVIRONMENTAL & SOCIAL SAFEGUARD DOCUMENTATION (SEP, LACLRP, IPP & CDF) AS PER THE IFC PERFORMANCE STANDARDS-GDC/SHE/RFP/057/2023-2024 “Do Not Open Before 5th April 2024” at 11:00am</p>
22.5	<p>The Proposal must be submitted not later than: 5th April 2024” at 11:00am (1100 Hours East Africa local Time).</p> <p>The Proposal Submission Address is: Geothermal Development Company Limited Kawi House, South C, Bellevue, Off Mombasa Road, Red Cross Road P. O. Box 100746-00101 NAIROBI, KENYA.</p> <p>Proposals to be dropped at Tender Box at GDC Kawi House Office Ground Floor, located at South C Bellevue, Off Mombasa Road, Red Cross Road on or before closing time.</p>
24.1	The Opening shall take place at: GDC Kawi House Office Ground Floor Boardroom located at South C Bellevue, Off Mombasa Road, Red Cross Road on 5th April 2024” at 11:00am (1100 Hours East Africa Time).
25	<p>Evaluation Criteria. As stipulated in Section 5</p>

30	<p>AWARD CRITERIA</p> <p>NB: The consultant who passes the mandatory criteria and attains the pass mark of 80 marks & above at the technical evaluation stage will have <u>their financial proposal opened.</u></p> <p>NB: At the financial evaluation stage – The firm that achieves the <u>highest combined technical and financial score</u> will be notified and invited for negotiations.</p>
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SECTION 3. MANDATORY AND TECHNICAL REQUIREMENTS

4.1 Mandatory Requirement,

- i. Contact details
 - physical address
 - Email addresses
- ii. Certificate of Incorporation/ Registration in Kenya **certified by an advocate** or equivalent for foreign firms Notary Public for foreign firms.
- iii. Tax Compliance or equivalent for foreign countries valid at the time of opening. The validity of the Tax certificate shall be confirmed from KRA Tax Checker or equivalent for foreign firms Notary Public for foreign firms.
- iv. Certificate of Confirmation of Directors and Shareholding (CR12) or equivalent for foreign firms Notary Public for foreign firms.
- v. Evidence that the firm/consortium satisfy all relevant licensing (NEMA Registration as Firm of Experts) with Current Practicing License and / or registration bodies in their domicile countries.

NB: Bidders that fail to provide the above requirements will not be considered for Technical evaluation.

4.2 TECHNICAL REQUIREMENTS

4.2	The number of points to be given under each of the evaluation criteria are:	
		Points
4.2.1	Concept and methodology	
4.2.1.1	Clarity and completeness of the tender	2
4.2.1.2	Critical analysis of the project objectives and the Terms of Reference (TOR)	3
4.2.1.3	Methodology - Conceptual and methodological approach (7 pts.); Working programme / working schedule (5 pts.); Staffing schedule and task assignment descriptions (5 pts.); Work organisation, backup services, quality control, logistics (3 pts.)	20
4.2.2	Qualifications of proposed staff	
4.2.2.1	Team leader / project manager Education (3 pts.); Professional experience (12 pts.); Leadership experience (7 pts.); Regional experience (3 pts.).	25
4.2.2.2	ESIA expert for environmental & OSH issues Education (2 pt.); Professional experience (5 pts.); Donor experience (1 pt.); Regional experience (1 pt.).	9
4.2.2.3	ESIA expert for social and gender issues and stakeholder engagement Education (2 pt.); Professional experience (5 pts.); Donor experience (1 pt.); Regional experience (1 pt.).	9
4.2.2.4	Key expert for indigenous peoples Education (2 pt.); Professional experience (5 pts.); Donor experience (1 pt.); Regional experience (1 pt.).	9

4.2.2.5	Expert for land acquisition, resettlement, and livelihood restoration Education (2 pt.); Professional experience (5 pts.); Donor experience (1 pt.); Regional experience (1 pt.).	9
4.2.2.6	Expert for biodiversity assessments/critical habitat assessment and development of Biodiversity Action Plan Education (1 pt.); Professional experience (5 pts.); Donor experience (1 pt.); Regional experience (1 pt.).	7
4.2.2.7	Expert in the geothermal sector and in working experience Kenya Education (1 pt.); Professional experience (5 pts.); Donor experience (1 pt.); Regional experience (1 pt.).	7
	Total Points	100
	The weights given to the Technical (T) and Financial (F) Proposals are as WT = 80 % and WF = 20 %.	
	The minimum technical score (St) required to pass is: 80 Points	

NB:

- i) Tenders will have their Financial Evaluation opened and evaluated only if they attain over 80% pass mark.**
- ii) The firm must provide an expert for each of the specializations highlighted above.**

Table 3: Financial Requirements

FINANCIAL REQUIREMENTS
<ol style="list-style-type: none"> i) All bidders will have a separate envelop for the financial quotation/PROPOSAL ii) The formular for calculating the financial score is as shown in the evaluation criteria section is shown below iii) Financial proposal shall be presented in the format of FORM FIN 1 and FORM FIN 2

Financial Proposal Evaluation

Financial evaluation will be carried out as outlined using the formula below;

$$S_f = 100 \times FM / F, \text{ in}$$

- Sf is the financial score,
- FM is the lowest price
- F, the price of the proposal under consideration.

The ratio of Technical & Financial Proposals are

- T:P = 80:20

Where

- T = weight given to the Technical score
- P = weight given to the Financial score,

Thus T + P = 100

The combined technical and financial score, S, is calculated as follows: - $S = S_t \times T \% + S_f \times P \%$.

Where:

- St is the technical score

NB: The firms achieving the highest combined score at technical and financial will be recommended for award & contract negotiation.

SECTION 5: TERMS OF REFERENCE

TERMS OF REFERENCE FOR UPDATE OF SUSWA GEOTHERMAL DRILLING PROJECT ESIA REPORT, PREPARATION OF ENVIRONMENTAL & SOCIAL SAFEGUARD DOCUMENTATION (SEP, LACLR, IPP & CDF) AS PER THE IFC PERFORMANCE STANDARDS

5.1 Introduction and Background

Suswa Geothermal Prospect resource area is approximated to be about 750 km² which extends between Northings (986000-9885000) and Eastings (195000-225000) on UTM Zone 36°S and Arc 1960 Datum. It extends West to Narok County, South to Kajiado County and Nakuru County to the North. The prospect is located about 20 km southwest of Longonot volcano in the southern Kenya Rift (Figures 5.1).

The Project developer is the Geothermal Development Company Limited (GDC), one of the key organizations entrusted with power sector promotions in Kenya by accelerating development of geothermal resources to support development of at least 5,000 MW by the year 2030 in line with the Kenyan Government's Vision 2030. GDC is 100% Government owned and receives its funding from Treasury and from international partners. The mandate of GDC includes surface exploration studies, appraisal and production drilling of geothermal wells which are then leased to public and private power generation firms.

The project is supported/is intended to be supported by different Development Finance Institutions (DFIs) and by the Government of Kenya.

As the proposed project is likely to cause diverse and partly significant environmental and social impacts, Kenyan legislation requires the preparation of Environmental Impact Assessments, including Environmental Management Plans. The original ESIA was prepared in 2013 and requires an update because of fundamental shortcomings and time that has lapsed since the ESIA hence so many changes have occurred. The current version of the ESIA and the ESMP was reviewed against the environmental and social safeguards requirements of different Environmental and social performance standards. The review resulted in the need for an overall update and alignment of the projects' environmental and social documentation in order to achieve full alignment with international E&S safeguard requirements.

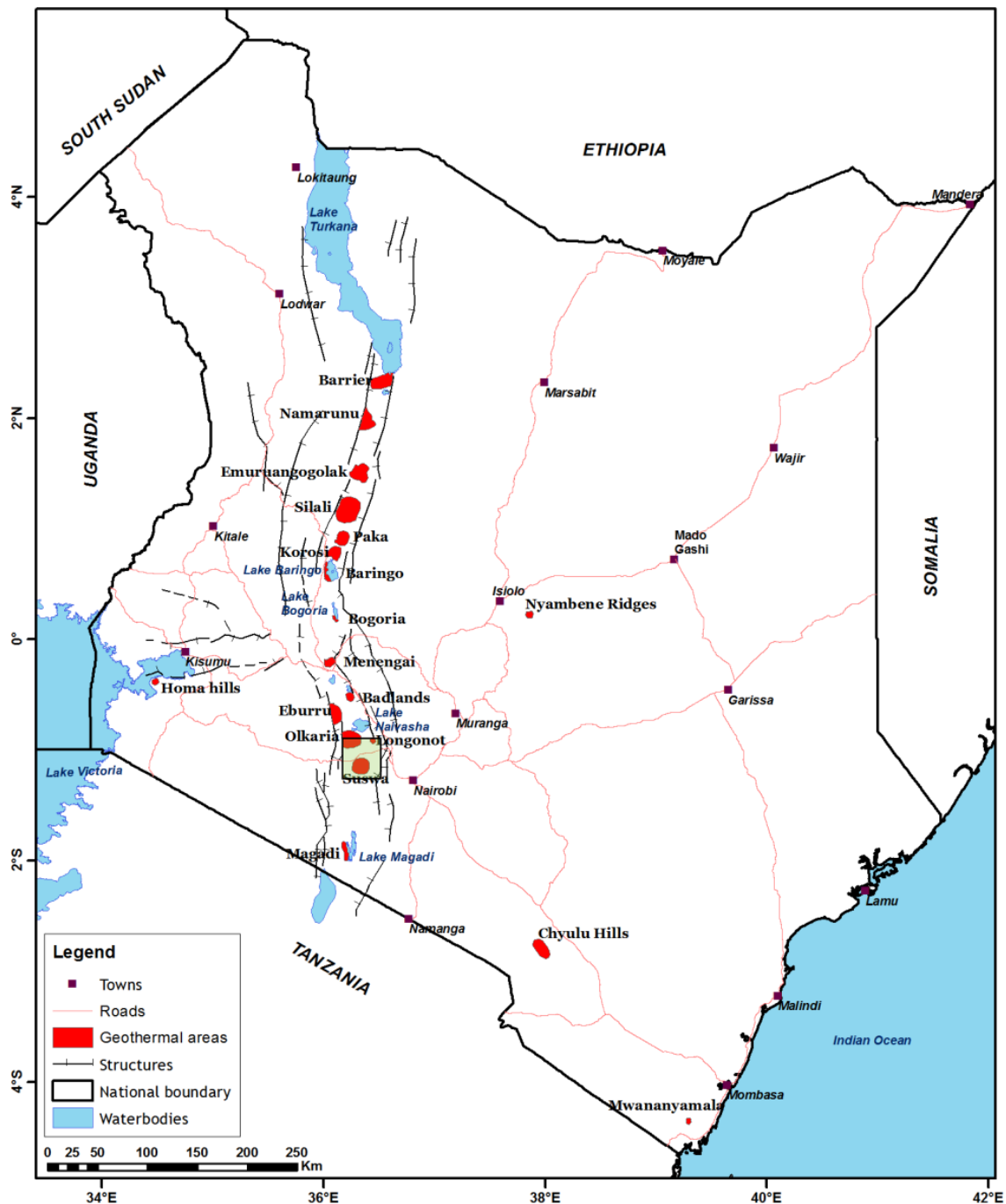


Figure 5.1: Map of the Kenya rift showing the location of Suswa geothermal prospect

5.2 Project Description

Suswa is about 80 km by road from the capital city of Nairobi. A 32 km length of a standard width of 6.5m road will be used to access the project area. The main road is expected to branch from Mai Mahiu – Narok Road (B3) at a place called Mtaro, a distance of 12 km from Suswa shopping centre in the direction of Mai Mahiu. The road is expected to traverse the Akira plains to the Mt. Suswa Conservancy signpost covering a distance of 11 km. From the Suswa Conservancy Signpost, the road will cover a distance of 5 km to climb to the concession boundary and cover another 6 km to reach the rim of the outer - caldera. Thereafter, the road can traverse the outer caldera floor to serve the proposed well sites. The outer caldera has a diameter of 10 km; this being the longest straight distance the road can traverse across the outer caldera where most of the geothermal development activities are expected to take place. This is the basis of the estimation of 32 km as maximum total length of the main access road that the concessioner will build to reach the project area and anticipated geothermal power plant. Feeder roads will branch from this access road to well pads.

Based on the results from the Survey, Suswa geothermal prospect has a resource that warrants further exploratory. Drilling of four exploratory wells will help to determine if the area is capable of commercial geothermal power production. The target structure, expected to be at about 2100m depth must have good permeability and high temperature in order for a geothermal resource to be present. The exploratory wells are drilled continuously, 24 hours per day and one well is expected to take between 45 and 60 days to complete. The drilling of four exploratory wells should take about 6 months.

Our exploration wells have been proposed to be drilled during this first phase in the sites shown in Figure 5.2. Each well pad will occupy an area of about 50 m by 80 m. A water storage reservoir that measures 30.0 m (length), 10.0m (width), and 3.0 m (depth) will be used. The water storage will be designed to minimize space. Location of the proposed wells are Exploration well 1 (SW-01) Northings 9868534 Eastings 204196; Exploration well 2 (SW-02) Northings 9874476 Eastings 208591; Exploration well 3 (SW-03) Northings 9873804 Eastings 201954 and Exploration well 4 (SW-04) Northings 9877644 N Eastings 204168.

If these first exploration wells are successful, step-out/appraisal wells will be drilled to target fractures and other geological structures and to expand the productive area of the geothermal reservoir as shown in Figure 5.1.

The Government established, and continues to support and fund, GDC so as to manage the geothermal exploration risk and attract investors. GDC has the mandate to develop and implement a rigorous monitoring and evaluation framework for the Geothermal Development Plan of drilling an estimated 1,130 wells to provide steam for the planned 5,000MW to meet projected capacity by 2030. Suswa Geothermal Drilling project is one of the series of these wells that GDC plans to implement. GDC will carry out drilling works and accommodate a small team of about 60 workers in a temporary and portable living camp within the Project Site. The space occupied by the drilling works shall be minimized to avoid infringing on private property and any settled areas.

During the operational stage of the project, the workforce is expected to adopt a normal drilling work shift system of two shifts of 12 hours each. After completion of the first well and subsequent wells, well testing will take place to determine the steam production levels and thus the electricity rates that may be produced from the geothermal field. Results of the well surveys and tests may confirm the quantity and quality of the geothermal resource and together with results of the earlier investigations; a more defined conceptual model shall be developed. The resource analysis and assessment of development potential, field development and steam production and resource management will be undertaken after the confirmation of the exploitable size of the resource. After the exploratory and appraisal wells, GDC will encourage public private partnership to do further production drilling.

5.3 Available documentation

- Proposed Suswa Geothermal Drilling Project – Narok County, Environmental and Social Impact Assessment Project Report – Prepared by G. N Wetang’ula, November 2012.
- Feasibility Study for Exploration and Appraisal Drilling in Suswa Geothermal Prospect-Geothermal Resource Feasibility Project Report. GDC March 2013. Compiled by John Lagat and Sylvia Malimo.
- Environmental and Social Impact Assessment (ESIA) Study Report. Suswa Geothermal Development Project in Narok and Kajiado Counties. March 2013. Prepared by Research on Environment and Development Planning (REDPLAN) Consultants Ltd.
- GDC Environmental Policy, October 2012
- GDC Community Relations Policy, March 2020
- GDC Community Engagement Strategy (CES). Prepared by USAID/Power Africa. East Africa Energy Program (EAEP), April 2022
- GDC Corporate Social Responsibility Policy, June 2020.
- GDC Policy for Land Acquisition

5.4 Environmental and Social Safeguard Requirements (Applicable Standards)

All Projects supported by DFIs, have to comply with the relevant national environmental-, social-, occupational health and safety- and labour legislation.

In addition, compliance with International Environmental and Social Safeguards is required:

- IFC Environmental and Social Performance Standards (PS) including
 - PS1: Social and Environmental Assessment and Management Systems
 - PS2: Labor and Working Conditions and ILO Core Labour Standards
 - PS3: Pollution Prevention and Abatement
 - PS4: Community Health, Safety and Security
 - PS5: Land Acquisition and Involuntary Resettlement
 - PS6: Biodiversity Conservation and Sustainable Natural Resource Management
 - PS7: Indigenous Peoples
 - PS8: Cultural Heritage
- World Bank Group's Environmental and Health (EHS) and Safety Guidelines including:
 - General EHS Guidelines
 - EHS Guidelines for Geothermal Power Generation
 - EHS Guidelines for Onshore Oil and Gas Development (for the management of naturally occurring radioactive materials (NORM))
 - World Bank Group's EHS Guidelines for Toll Roads (regarding abnormal load transports)
 - WBG EHS Guideline on Power Transmission and Distribution
 - UN Basic Principles and Guidelines on Development-based Evictions and Displacement
 - BMZ Guidelines on human rights in bilateral German Technical and Financial Cooperation

Kenyan National Legislation and the International Applicable Standards are together referred to as **the *Applicable Standards***.

This assignment has to be carried out in line with the requirements of the Applicable Standards.

5.5 Objective of the Assignment

The objective of the assignment is to align the existing ESIA documentation for the Suswa Geothermal Drilling Project respectively with the requirements of the Applicable Standards. Update will be established in the format of a project specific ESIA Addendum for Suswa Project. The updated ESMP will comprise site specific E&S Management Sub-Plans.

The Consultant will also prepare a Stakeholder Engagement Plan, including an Indigenous Peoples Plan, as well as an overall Land Acquisition and Compensation Framework and project specific Land Acquisition Compensation and Livelihood Restoration Plan.

The Consultant will also prepare a Community Development Framework, comprising GDC's approach as well as outlines of feasible support measures for local communities in the Project Area.

NOTE:

Regarding the preparation of the updated ESIA documentation, the Consultant will prepare Suswa ESIA Addendum Report

Regarding the preparation of the updated ESMP, including all necessary sub-plans, the following additional plans should be prepared for the project
Occupational Health and Safety Plan

Training Plan for implementation of ESMP and other management plans
Worker Management Plan including provisions for worker camps
Community Health, Safety and Security Plan including provisions for HIV/ AIDS and other communicable diseases as well as emergency response and management/ training of security personal
Chance Find Procedure for cultural heritage
Any other plan as identified in ESIA Update Addendum

Regarding the preparation of the Stakeholder Engagement Plan (including Indigenous Peoples Plan), this plan will be prepared with specificity to Suswa Project area with no generalities

Regarding the preparation of the Land Acquisition and Compensation Framework (LACF), the framework will cover the general provisions for entire area, the Land Acquisition Compensation and Livelihood Restoration Plans (LACLRP) then have to be prepared to cover the specific sites for acquisition.

5.6 Key findings of the Gap Analysis

The Gap Analysis revealed that the ESIA shows some shortcomings with respect to the Applicable Standards. Main shortcomings are as follows:

- Lack of appropriate and readable maps for e.g. biodiversity and socio-economic receptors
- Lack of assessment of topics such as cumulative impacts on water resources, land requirements and associated impacts on the livelihoods of local communities, impacts on the Indigenous Peoples, RAMSAR site at Lake Naivasha etc
- Prepare an update ESIA Addendum with a focus on baseline. It should be noted that collection of baseline data is a fundamental part of risk management and should be done in their own interest
- Based on the existing ESIA and ESMP and, prepare a robust updated ESMP
- Prepare specific Management Plans

5.7 Scope of Work

The sections below describe the scope of work for the assignment. In the scope of the assignment, the Consultant shall conduct the following tasks:

5.7.1 Task 1 - Preparation Phase: Familiarization with available Documentation, Work Plan

The Consultant shall get familiar with the available documentation and with the Applicable Standards as described above.

Based on the preparatory information analysis, the Consultant shall set up a work plan for this assignment, including necessary field work. Field work will be organized with the objective to maximise synergies between all necessary field work efforts for the proposed project and for the different tasks. Due to the limited time frame for the assignment (3 months period for completion of tasks) efforts for the different tasks will have to be organized very meaningful, in order to draw maximum benefits from synergies and interfaces between the different tasks.

The work plan shall comprise the approach and methodology for undertaking the tasks described below, consisting of, but may not be limited to

- Structured approach to conduct field work to complete baseline data as well as to undertake community consultations as required for the project
- Structured approach to integrate GDC's existing policies and related existing documentation/performed activities, i.e. those for community relations and for land acquisition and compensation, into the development of the Stakeholder Engagement Plan and the Land Acquisition Compensation and Livelihood Restoration Framework/-plans
- Structured approach to integrate GDCs activities for community development into the community development framework

- Structured approach to integrate GDCs existing Environmental and Social Management System and respective standard procedures and existing E&S management plans into the updated ESMPs for the Project
- Schedule of work and work team to conduct the assignment

The Consultant shall, following the submission of the work plan, participate in a kick-off meeting with GDC for the discussion of the work plan, including approach and methodology. Task 1 will be desk based.

Deliverables Task 1

- Work Plan for assignment;
- Participation in a kick off meeting;
- Minutes of the kick off meeting including any changes to the work outlined in these ToR.

5.7.2 Task 2: Preparation of ESIA Update for Suswa Geothermal Drilling Project

Suswa Project, a site specific ESIA Update will be developed, in line with the Applicable Standards.

The Consultant will undertake the necessary fieldwork in order to entirely fill the following gaps. The ESIA update should present details for:

- Definition and visualization of Project Area of Influence AoI (including associated facilities such as roads and water pipelines). Provide more detailed maps at appropriate scale on water extraction points and closest communities/other water users.
- Provide a list of the permits and licenses obtained and a list of licenses and permits yet to be obtained
- Cumulative Impact Assessment of the project in relation to other developments in the area, especially regarding water abstraction. Include access to water for communities as an issue in cumulative impact assessment for water use.
- Verify if the baseline data collected in 2013 is still accurate and if the closest receptors and sensitive receptors are still the same.
- Conduct Ecosystem Services Assessment, especially with regard to freshwater resources.
- Compile site specific data for flora and fauna including impact assessment and mitigation measures for new/additional sites which will be affected (eg. water pipeline, laydown areas, new well pads).
- Consider habitat classification according to IFC PS 6 and evaluate whether Suswa Conservancy qualifies as Natural Habitat or as Critical habitat. Translate results in the corresponding mitigation scheme of the updated ESMP.
- Assess the impacts on indigenous people (Maasai) and the need for Free Prior and Informed Consent (FPIC).
- Prepare and provide a map of cultural sites identified through the stakeholder engagement activities to provide to GDC for the further planning.

Deliverables Task 2

Draft ESIA Update for Suswa Geothermal Drilling Project

After review and no objection: Final ESIA Update for Suswa geothermal drilling project

5.7.3 Task 3 - Preparation of updated and Suswa project specific ESMPs

Each ESMP shall

- provide Project Description and define area of influence of the project,
- list proposed management plans (based on existing ESMP)
- provide information on GDC ESMS (policies, training, roles & responsibilities, monitoring provisions, information on contractors and contractor management etc.)
- establish Monitoring & Review requirements
- present GDC Planning and Design rules
- describe clear responsibilities between Proponent and Contractor.

NOTE:

Should the ESIA update identify the need for further management plans, these need to be added to the scope of this assignment correspondingly.

Currently, the ESAPs require site specific management plans as listed below:

- Water Management Plan (including results of Cumulative Impact Assessment)
- Mitigation for noise emissions (if needed) to be developed in a Noise Management and Monitoring Plan.
- Air Quality and Dust Management Plan
- Training Plan for implementation of ESMP and other management plans
- Occupational Health and Safety Plan
- Worker Management Plan including provisions for worker camps
- Community Health, Safety and Security Plan including provisions for HIV/ AIDS and other communicable diseases as well as emergency response and management/ training of security personal
- Chance Find Procedure for cultural heritage
- Any other plan as identified in ESIA Addendum

Other Management Plans to be developed under different tasks (see below):

- Stakeholder Engagement Plan with Grievance Mechanism based on the GDC Community Relations Policy (see under Task 4 below)
- Land Acquisition and Compensation Framework (LACF) to align the land acquisition, compensation, livelihood restoration and resettlement activities with the Applicable Standards, integration of GDC Land Acquisition Policy
- Land Acquisition Compensation and Livelihood Restoration Plan based on the LACF
- If indigenous peoples are expected to be affected by the project, prepare an IP Management Plan (or equivalent document) or incorporate special considerations for IPs into the Community Development Framework. Then also the SEP then needs to include provisions for FPIC. A Commitments Register may help to manage expectations and responsibilities towards GDC and other governmental agencies

Deliverables Task 3

Draft updated ESMP Suswa Project (site specific and joint management plans)

After review and no objection: Final updated ESMP for Suswa project

5.7.4 Task 4: Land Acquisition and Compensation Framework (LACF) and project specific Land Acquisition Compensation and Livelihood Restoration Plan

Land Acquisition and Compensation Framework

The Consultant will develop a Land Acquisition and Compensation Framework (it is not expected that the Suswa Project will result in physical displacement, however, the LACF will contain provisions to address physical displacement) for covering project area to address potential land acquisition or related issues in line with IFC PS 5 requirements and those of Kenyan legislation as well as under integration of GDC's land acquisition and compensation policy.

NOTE: The LACF will mainly serve for the preparation of the LACLRP for the Project, but will be prepared with a view to the management of displacement impacts from geothermal projects undertaken/planned to be undertaken by GDC in general.

The LACF should include screening criteria, eligibility criteria, implementation procedures, institutional arrangements, overview on valuation methods, entitlement matrix, grievance and monitoring mechanisms, expected budget and capacity development plan (where necessary). The LACF shall include procedures to develop a Land Acquisition Compensation and Livelihood Restoration Plans/Resettlement Action Plans (where applicable).

The LACF should be organized along, but may not be limited to the following contents

- Introduction
 - ✓ Objectives of the LACF
- Institutional and Legal Framework
 - ✓ Assessment of relevant Kenyan legislation, gap analysis of National Law and Applicable Standards, measures to close gaps
- Stakeholder Engagement
 - ✓ Develop this section of the LACF specifically for stakeholder engagement in the displacement context, but with close reference to the Stakeholder Engagement Plan, including any national legal requirements for public information and -disclosure of the Draft LACF and the project specific LACLRPs; include plan for stakeholder engagement for the preparation of the LACLRPs on the project level;
- Baseline Information
 - ✓ Overall baseline information of the project area)
 - ✓ Process for the establishment of baseline information for LACLRPs on the project level
- Overview on Potential Displacement Impacts from Geothermal Developments
- Principles and Objectives Governing Land Acquisition, Compensation Livelihood Restoration (and Resettlement) Preparation and -Implementation

Principles and resulting provisions, will contain but may not be limited to:

- ✓ Avoid or at least minimize involuntary displacement
- ✓ Inform Affected People about their options and rights pertaining to involuntary displacement
- ✓ Mitigate adverse social and economic impacts from land acquisition by: (i) providing compensation for loss of assets at replacement cost; and (ii) ensuring that resettlement activities are implemented with appropriate disclosure of information, consultation, and the informed participation of those affected, and
- ✓ Improve or at least restore the livelihoods and standards of living of affected people.
- ✓ Provide additional targeted assistance (e.g., credit facilities, training, or job opportunities) and opportunities to improve or at least restore their income-earning capacity, production levels, and standards of living to economically displaced persons whose livelihoods or income levels are adversely affected;
- ✓ Provide transitional support to affected people, as necessary, based on a reasonable estimate of the time required to restore their income earning capacity, production levels, and standards of living.
- ✓ Assist PAP in restoring their affected livelihoods and provide transitional assistance in order to restore livelihoods to at least their previous level
- ✓ Turn PAP to Project beneficiaries; implementation of targeted livelihood restoration programs
- ✓ Land Acquisition Compensation and Livelihood Restoration Plan/Resettlement Action Plan implementation and –outcomes will be monitored and evaluated as part of a transparent process
- Guidance for Compensation Framework and Assistance
 - ✓ General Principles, Eligibility Criteria, Entitlements (including a Generic Entitlements Matrix)
 - ✓ Outline of household sign-off (and moves) procedures, including, (a) Ongoing Public Consultation with affected households, (b) Identification and Notification of land- and asset holders, (c) Documentation of Holdings and Assets, (d) Agreement on Compensation and Preparation of Contracts, (e) Compensation Payments, (f) Moves and (g) Follow Up
 - ✓ Assistance for Vulnerable Groups

- Livelihood Restoration Strategies
 - ✓ Overall rationale and objective of livelihood restoration
 - ✓ Relevant requirements of Applicable Standards and objectives of the LACF in the context of livelihood restoration;
 - ✓ Guidance for the establishment of detailed livelihood restoration plans as part of Land Acquisition Compensation and Livelihood Restoration Plans;
- Transitional Hardship and Vulnerability
 - ✓ Guidance for identification of vulnerable groups in the course of LACLRP
 - ✓ Examples for development of detailed measures under the LACLRPs
- Protection of Cultural Heritage
 - ✓ Guidance for protection of cultural heritage, where appropriate
- Grievance Procedures
 - ✓ Reference to ESMPs and SEP
 - ✓ Guidance to develop accessible and transparent, culturally appropriate grievance mechanisms on project level.
- Monitoring, Evaluation and Reporting, Completion Audits
 - ✓ Overall requirements of monitoring, evaluation and LACLRP completion audits
 - ✓ Guidance for the preparation of project specific provisions in the LACLRPs
- Organizational Framework
 - ✓ Overall outline of roles and responsibilities for the development of project specific LACLRPs
 - ✓ Overall guidance for LACLRP implementation, monitoring, evaluation, completion audit and reporting
- Detailed Process for the Development of Land Acquisition Compensation and Livelihood Restoration Plans/Resettlement Action Plans
 - ✓ Screening process to determine necessity of development of LACLRPs/RAPs and/or Livelihood Restoration Plans for individual projects
 - ✓ Procedures for the development and implementation of LACLRPs/RAPs in line with the provisions of the LACF, including tasks and responsibilities and provisions for public disclosure
- Capacity Building for LACLRP/RAP development and –implementation
 - ✓ Overview on capacity building measures to enable GDC and involved institutions and stakeholders to implement the LACLRP
- Expected Budget for Implementation of LACLRP

Project Specific Land Acquisition Compensation and Livelihood Restoration Plans

Based on the provisions of the LACF the Consultant shall develop project specific Land Acquisition Compensation and Livelihood Restoration Plan for the Suswa Project.

NOTE

Activities to be undertaken for the preparation of the LACF and the project specific LACLRP shall be planned and implemented simultaneously and in a way that maximises synergies and makes use of interfaces so that much of the LACF provisions can be used directly and jointly for the project specific LACLRP.

Deliverables Task 4

- ✓ Draft Land Acquisition and Compensation Framework
- ✓ Draft Suswa Project Specific Land Acquisition Compensation and Livelihood Restoration Plan
- ✓ After review and no objection and after public disclosure as per LACF: Final versions of LACF and LACLRP

NOTE

The Consultant shall support GDC with the public disclosure of the LACF/LACLRP (documents may be disclosed within one joint process in the project area).

5.7.5 Task 5: Stakeholder Engagement Plan and Indigenous Peoples Plan

The Consultant shall develop a **Stakeholder Engagement Plan (SEP)**, for the project area, under due consideration of relevant national legal requirements and of existing GDC Community relations policy and of activities already undertaken by GDC in this context. The SEP shall be established in line with the Applicable Standards.

For the preparation of the Stakeholder Engagement Plan, guidance may be obtained from [IFC's "Stakeholder Engagement: A Good Practice Handbook for Companies Doing Business in Emerging Markets"](#).

As key element of Stakeholder Engagement, the timely disclosure of relevant project information enables stakeholders to understand the project's risks, impacts and opportunities. The SEP will provide for disclosure of information to stakeholders in local language(s) (if applicable) and in a manner that is timely, accessible and culturally appropriate. Any vulnerable or minority groups and/or indigenous groups will be meaningfully taken into account in order to secure their equitable representation and for due consideration of their rights, views and interests.

The SEP will provide for meaningful consultation in a manner that provides the affected parties with opportunities to identify and express their views on project risks, impacts, and mitigation measures.

The SEP will comprise, but may not be limited to the following elements:

- Introduction
 - ✓ Project Description
 - ✓ Public Consultation and Project Design, Construction and Operations
 - ✓ Project Purpose and Objectives
- Public Consultation Regulations and Requirements
 - ✓ National Regulations and Requirements
 - ✓ International Standards and International Best Practice
- Previous Public Consultation and Disclosure Activities
 - ✓ Summarize all public consultation and information disclosure activities to date. This should include the types of information disseminated, the locations and dates of meetings, descriptions of those individuals/groups involved
 - ✓ An overview of issues discussed, how they were responded to and how they were communicated back to the concerned publics
- Stakeholders
 - ✓ Provide an inventory of key stakeholder groups who will be informed and consulted about the project.
 - ✓ Account for inter- and intra- social dynamics across all stakeholders, identifying under-represented and vulnerable groups.
- Stakeholder Engagement Plan
 - ✓ Goals of the Plan
 - ✓ Methods for Information Dissemination and Public Consultation
 - ✓ Information Disclosure and Public Consultation
- Schedule and Timetable
 - ✓ Provide a schedule detailing when public consultation and information disclosure will

occur, with which stakeholder groups, at what stages of the project's process/project cycle, and through what formats.

- Resources and Responsibilities
 - ✓ Indicate budgets allocated to the realization of all activities foreseen in the Plan
 - ✓ Indicate management and expert staff devoted to, and responsible for, the public consultation and disclosure program.

Establishment of a Grievance Redress Mechanism (GRM)

The GRM shall be based on existing grievance management mechanisms; the Consultant shall undertake a review and validation of the existing GRM including necessary adjustments and improvements to ensure that the GRM is accessible, transparent, and culturally appropriate. Validation will be undertaken with GDC and with local communities (as part of engagement activities). The GRM shall comprise protected avenues for survivors of GBV/SEAH. The Consultant, jointly with GDC and local communities, will develop local "entry points" for the submission of grievances in the different communities. The Consultant shall also develop clear ToR/SOP for the different tasks and responsibilities under the GRM as well as detailed training and capacity building plans for the different stakeholders involved and awareness raising programs for local community members regarding the GRM. The requirements for minimum contents of SEP are given in Annex 2.

It is expected that Indigenous Groups will be affected by the Suswa Project.

The Consultant will develop an **Indigenous Peoples Plan** in line with the Applicable Standards, for the project, but with meaningful reference to the respective indigenous groups and any specific requirements for consultation. The IPP will be developed with meaningful cross reference to the SEP (to avoid duplications) and will also refer to specific support measures for Indigenous Groups as described in the Community Development Framework (see below).

The IPP will include, but may not be limited to the following provisions:

- Introduction
 - Legal and Institutional Framework
 - Relevant regional/local organizations in the Indigenous Peoples Context, reference to the Stakeholder Engagement Plan (stakeholder mapping)
 - Specific stakeholder engagement requirements and -formats (if applicable) for the different IP groups in the three project areas
 - Requirements in the context of the Free, Prior and Informed Consent (FPIC) Process with affected IP communities, guidance to apply FPIC on the project level.
 - Grievance mechanism (jointly with SEP)
 - Monitoring Plan
 - Capacity Building to implement IPP
 - Provisions for public disclosure of Indigenous Peoples Plan
 - Cost Estimates for implementation of the IPP

Deliverables Task 5

- Draft SEP
- Draft IPP
- after review and no objection and after public disclosure: Final versions of SEP and IPP

5.7.6 Task 6 Community Development Framework (CDF)

The Consultant will establish a Community Development Framework for the project area and under integration of activities and support measures already implemented by GDC. The CDF will be established based on lessons learned and experience from GDC in community development and based on a rapid participatory needs and capacities assessment with local communities in the project area, to be undertaken by the Consultant.

The CDF will provide at minimum, but may not be limited to

- GDC policy, principles and approach for community development and benefit sharing
- Institutional and legal framework, requirements of Applicable Standards
- Summary of social baseline conditions (including information on vulnerable groups and Indigenous Groups) and summary of project impacts
- Entitlement framework for community development and benefit sharing
- Results of Rapid Participatory Needs and Capacity Assessment with local communities
- Strategies for community development and benefit sharing for different groups of population in project areas
- Detailed guidance to develop specific community support plans and –measures/benefit sharing schemes on the local level/for different groups
- Monitoring and Evaluation Framework
- Implementation Arrangements
- Cost Estimates

The CDF will be conceptualized closely coordinated with the provisions of the SEP, IPP and LACF, with the objective to guide the provision of targeted support and of benefit sharing schemes to local communities, in addition to the provisions of the LACF

Deliverables Task 6

- Draft Community Development Framework (CDF)
- After review and no objection and after public disclosure: Final versions of Community Development Framework

5.8 Timing of the Assignment

Due to the limited time frame for the assignment, it is projected that the Consultant shall deliver these tasks/services over a period of 3.0 months, and submit final reports ideally by 30th June 2024.

The Consultants efforts for the different tasks will have to be organized very meaningful, in order to draw maximum benefits from synergies and interfaces between the different tasks.

NOTE: As construction works for exploration drilling can only start once the ESIA Update/ESMPs/LACLRLPs are in place and only once compensation for project affected people has been done, the Consultant will determine in cooperation with GDC, an appropriate sequencing of E&S activities in order to correspond to the schedule of technical works.

5.9 Required Expertise

Due to the limited time period to carry out the assignment, a larger team of experts would be required, providing at minimum the following expertise

Team Leader (Project Manager)

- Education: Postgraduate education with direct relevance for this assignment.
- Professional experience:
 - ✓ Long term and international expertise in carrying out environmental and social impact assessments and establishing environmental and social management plans, documented experience in the application of international ESIA standards, namely of IFC PS and IFC EHS Guidelines
 - ✓ At least 15 years of professional experienced in environmental and social impact studies
 - ✓ Must be registered by NEMA with a valid practicing licence
- Leadership experience: Experience as Team Leader. preferably as team leader of

comprehensive impact studies

- Donor experience: Experience for projects financed by international donors; experience as team leader for Donor funded projects would be a strong asset
- Regional experience: Professional experience in Eastern Africa, preferably in Kenya.

ESIA expert for environmental & Occupational Health issues

- Education: Postgraduate university degree in environmental management, biology, geography, occupational health & safety or a related discipline
- Professional experience:
 - ✓ Minimum 8 years of experience in conducting ESIA for large-scale projects according to international environmental and social safeguard standards (e.g. World Bank, IFC, EBRD)
 - ✓ Must be registered by NEMA/DOSHS with a valid practicing licence
 - ✓ Specific experience in development of environmental and occupational health management plans for geothermal projects (the expert should have participated in at least four geothermal sector projects or projects of similar nature and complexity)
- Donor experience: Experience with ESIA studies (expert should have at least three reference projects of similar nature within the past 8 years and an ESIA for at least two Donor funded projects within the past 5 years)
- Regional experience:
 - ✓ Strong working experience in Kenya and/or neighbouring countries (at least three countries)
 - ✓ Working experience in the sector (geothermal projects) in Kenya would be a strong asset

Expert for land acquisition, resettlement, and livelihood restoration

- Education: - University degree in anthropology / sociology or related disciplines
- Professional experience
 - ✓ Minimum 8 years of experience in developing Land Acquisition, Compensation, Resettlement and Livelihood Restoration Frameworks and Resettlement and Livelihood Restoration Plan including for the geothermal sector according to international environmental and social safeguard standards (e.g. World Bank, IFC, EBRD)
 - ✓ Experience in developing LACRF, RAP, LRP (the expert should have developed such plans for at least three projects of a similar nature within the past 8 years)
 - ✓ Experience in development of LACRF, RAP and LRP for geothermal – or other renewable infrastructure projects – in project areas which are used by pastoralist communities, including indigenous and/or vulnerable communities
 - ✓ Experience in working closely with national agencies responsible for land acquisition and resettlement (including working experience with NLC in Kenya), experience within the development of integrated RAP/LRP implementation schedules in collaboration with project developers and national agencies
 - ✓ Experience in the development of livelihood restoration plans for rural pastoralist communities
- Donor experience: Experience with Financial Cooperation projects; the experts should have developed RAP/LRPs for at least two Donor funded projects over the past 5 years
- Regional experience
 - ✓ Working experience in Eastern Africa, preferably in Kenya
 - ✓ Working experience referring to geothermal projects in Kenya would be an advantage

ESIA expert for social and gender issues and stakeholder engagement

- Education: Postgraduate university degree in anthropology / sociology or a related discipline.
- Professional experience:
 - ✓ 8 years of experience in conducting ESIA and developing SEPs for large-scale projects according to international environmental and social safeguard standards (e.g. World Bank, IFC, EBRD)

- ✓ The expert must have done an ESIA (social impact assessment) study including ESMP and SEP development for at least three projects of a similar nature within the past 8 years
- ✓ Experience in undertaking social impact assessments and stakeholder engagement for geothermal – or other renewable infrastructure projects in project areas which are used by pastoralist communities, including indigenous and/or vulnerable communities
- ✓ Experience in the development of accessible, transparent, and culturally appropriate grievance mechanisms tailored to the needs and socio-economic settings of indigenous, marginalized communities in remote areas
- ✓ Experience in the development of stakeholder engagement plans and of gender actions plans for complex, traditional and marginalized socio-economic settings
- ✓ Profound expertise within establishment of community development plans
- Donor experience: Social impact assessment for an ESIA for Financial Cooperation projects; the expert should have carried out at least two such studies for Donor funded projects over the past 5 years
- Regional experience
- ✓ Working experience in Eastern Africa, preferably in Kenya
- ✓ Working experience referring to geothermal projects in Kenya would be an advantage

Key expert for indigenous peoples

Education: University degree in anthropology / sociology or related disciplines.

Professional experience

- ✓ Minimum 5 years of experience in developing indigenous peoples plans or vulnerable and marginalized groups plans including for the geothermal sector according to international environmental and social safeguard standards (e.g. World Bank, IFC, EBRD)
- ✓ Track record for the development of at least three indigenous peoples plans or vulnerable and marginalized group plans for projects of a similar nature within the past 8 years
- ✓ Experience in working with local communities in the geothermal sector – or other renewable infrastructure projects – in project areas which are used by pastoralist communities, including indigenous and/or vulnerable communities
- Donor experience: Experience in working for Financial Cooperation projects in the sector; experience with indigenous peoples planning for at least one Donor funded project over the past 5 years would be a strong asset
- Regional experience
- ✓ Working experience in eastern Africa, preferably in Kenya
- ✓ Working experience referring to geothermal projects in Kenya would be an advantage

Ecologist

- Education: Degree & Post Graduate Degree in Plant ecology, Wildlife ecology, Environmental Conservation, Conservation Biology, Range Management and related discipline
- Minimum 5 years of experience in designing and implementation of ecological studies and preparation of habitat management plans/ biodiversity action plans
- Profound experience regarding in undertaking biodiversity assessments/critical habitat assessment and to develop Biodiversity Action Plans in line with IFC PS 6, specifically for ecosystems similar to that of Suswa and Lake Naivasha areas

Geothermal Energy specialist

- Education: Degree & Post Graduate Degree in Earth Science, Geothermal Energy Technology, Renewable energy and related discipline
- Experience
- ✓ More than eight (8) year experience in the geothermal sector and working experience in Kenya
- ✓ Vast knowledge in developing environmental and social management and monitoring plans in geothermal energy development

6.0 Consulting Firm of Experts

- The Consulting firm should demonstrate that they can mobilize and deploy multiple skills necessary to undertake the range of tasks set out in these Terms of Reference
- It is required that the team will be coordinated and management by a Lead Consultant. Each individual on the team must be personally available to do the work as and when required. The Lead Consultant will be held accountable, in terms of services and technical assistance or the contract, for ensuring project deliverables and for the professional conduct and integrity of the team
- A firm that does not have all the expertise for the assignment in-house may associate with another firm to provide the full range of the required expertise. However, any associating firm can associate with one firm only (i.e. be a member of only one consortium). Proposals by a firm associating with more than one firm will be rejected
- The firm must provide information indicating that they are qualified to perform the services. Consultants may constitute joint-ventures to enhance their chances of qualification.
The Consultant should submit a detailed staffing plan for the different tasks as part of the proposal as well as signed CVs for all staff as planned for the assignment. The CV should be signed by respective experts and Firms Appointed Representative
- The firm must attach certified proof (Contract/completion certificate) on undertaking three similar/related infrastructural assignments undertaken within the past ten years

NB: Terms of Reference

The consultant may offer suggestions and improvements in the Terms of Reference, which he considers would result in better implementation of the service. Such proposals if accepted will form part of the Terms of Reference of the proposals submitted by the consultant. The effect on time and cost estimates given under the above clause shall be clearly identified.

Annex 1: ESMP Requirements

To the level of detail appropriate for the ESIA and corresponding to the information comprised in the Update Study, the ESMP shall at minimum cover, but will not be limited to, the following areas:

- **Labour Management, Employment and Procurement Management Plan**, which will describe the methods, measures and procedures to achieve compliance with Kenyan and international labour and procurement requirements (notably ILO standards) and ensure that recruitment, employment, training and procurement aspects are carried out in a fair and transparent manner, consistent with good international industry practices. It will also assist the Project in maximizing local employment and procurement. A workers' grievance mechanism must be part of this plan.
- **Workers Health, Safety and Security Management Plan**, to provide clear direction on health, safety and security management, to ensure compliance with national and international standards and to provide the basis for driving improvements. The plan will address the management of project activities and infrastructure across all aspects of project implementation and associated activities, including workers' tasks and accommodation. It should apply to all workers including GDC and contractors' employees.
- **Community, Health, Safety and Security Management Plan**, which will describe the measures to be taken to avoid or minimize health, safety, and security impacts directly and indirectly caused by the planned Project activities and infrastructure implementation. It will detail effective mechanisms and procedures for protecting local communities in the area of influence, from both direct and indirect project-related hazards, risks and impacts during all project phases, with specific attention to vulnerable groups.
- **Pollution Prevention Management Plan**, to avoid pollution of water, soils and air by fuels and oils, dust, noise, dust, GHG emissions, gases, geothermal fluids, etc.
- **Waste Management Plan**, including management of hazardous wastes to cover all project phases on waste reduction, segregation, collection and disposal practices to avoid deterioration of the natural environment and negative impacts on the health and safety of communities.
- **Erosion Control and Re-vegetation Plan**, covering all aspects of erosion control and site restoration through construction.
- **Influx Management Plan**, which will set out measures for managing the influx of workers and associated service providers during construction. The plan should detail how coordination with the local authorities will be arranged, how security will be provided to local communities, and any other required measures.
- **Community Development Plan**, which will describe the Project approach to community development in affected communities, and its roles and responsibilities.
- **Gender Action Plan**, to ensure that gender mainstreaming would be integrated into the decision-making processes by GDC according to national requirements and best practices. It will promote awareness among relevant stakeholders and engage in advocacy to ensure that gender issues are identified and addressed. It will include the creation of partnerships with gender-sensitive NGOs and local organizations to properly address gender aspects during Project implementation, to help ensure participation of women and provide required knowledge for the Project.

- **Cultural Heritage Management Plan**, to ensure that project activities are managed properly to limit irreversible damages to archaeological or cultural heritage resources and -features. It will clearly define how sites of importance will be marked and treated by the Project during construction and operation and will include non-tangible cultural heritage. It will include measures for consultation on all issues related to archaeological and cultural heritage.
- **Water Management Plan**, to consolidate all the measures that will be implemented to monitor and mitigate the Project activities that affect surface and groundwater within the project's area during all project phases.
- **Biodiversity Management Plan**, to make sure the management measures related to biodiversity are clearly defined and are well implemented during all project phases in order to meet objectives and targets associated with biodiversity protection.
- **Compliance Plan**, listing all the requirements and commitments made by the Project stakeholders and the method by which they will be checked, and when, including the role of independent observers and a Panel of Experts as appropriate.
- **ESMP Training Plan**, which will detail the capacity-building activities and associated cost needed for all stakeholders in ESMP implementation during all project phases.

Annex 2: Requirements Stakeholder Engagement Plan

The SEP shall contain at least, but not be limited to the following information as relevant to the ESIA, LACRF/LACLRP, FPIC processes and to subsequent project phases:

Background information: overview of the proposed Project design and its activities during the different project stages (planning, construction, operation, maintenance), its purpose, costs and financiers;

- Background Information: anticipated magnitude of economic and physical displacement, activities to be carried out for the development of the LACRF
- Public consultation regulations and requirements: description of national regulations and requirements as well as international Standards and international Best Practice. Wherever there are gaps between national and international requirements, the most stringent will be applied; reference to both ESIA, LACRF and national land adjudication processes
- Previous public consultation and disclosure activities: summarize all public consultation and information disclosure activities to date. This should include the types of information disseminated, the locations and dates of meetings, descriptions of those individuals/groups involved. An overview of issues discussed, how they were responded to and how they were communicated back to the concerned publics
- Stakeholder identification/stakeholder mapping: the first step of the stakeholder engagement activities is the identification and characterization of the Project stakeholders. In this regard, provide an inventory of key stakeholder groups who were/will be informed and consulted about the project. This would include local communities/specifically affected communities, civic organizations, Non-Governmental Organizations (NGOs) and Community Based Organizations (CBOs) and administrations on different levels, government representatives as well as take into account power/influence relations and inter- and intra-social dynamics across all stakeholders, identifying under-represented and vulnerable groups; stakeholder mapping to include all relevant government agencies to be involved in the Project and the development and implementation of the different safeguard documents and corresponding processes
- Stakeholder planning: the SEP shall describe the engagement planning activities to be undertaken. The planning activities should define the goals of the SEP, its methods for information disclosure and consultation, including appropriate communication methods (culturally appropriate, gender sensitive and in relevant language(s)), the timing and activities for stakeholder engagement as well as the issues to be presented to the different stakeholder groups. Also, a schedule detailing when public consultation and information disclosure will occur, with which stakeholder groups, at what stages of the project's process/project cycle, and through what formats will be provided
- Stakeholder documentation: the Tenderer shall prepare the necessary documentation required for engagement activities. This will include a Background Information Document (BID), presentations for use at stakeholder meetings, advertisements and notices as well as maps, pictures and posters as required
- Stakeholder interactions: including meetings, provision of information, advertisements, notices, radio and TV advertisements

- Reporting: the results of the stakeholder interactions should be summarized within the SEP, ESIA Report and LACRF and LACLRP Report. Additional Annexes (e.g. stakeholder register, consultation log, grievance forms) should be included
- Grievance Procedure: **see ToR for the assignment**
- Monitoring, reporting and review: describe monitoring activities for review of the stakeholder engagement activities including identifying any need to update the SEP as the project progresses. Identify where and when the results of public consultation and information disclosure will be reported. This should include at a minimum reporting on the results of consultations at the draft ESIA and LACRF/LACLRP preparation stages and annual monitoring reports
- Resources and Responsibilities: the staff and resources that will be required to implement and manage stakeholder management activities and how these will be integrated in the current management activities
- Disclosure: the stakeholder engagement activities should include sufficient disclosure of Project information, including release of the (Draft) ESIA Update- and LACLRP Report
- SEP Database: the Consultant shall develop a digital Stakeholder Engagement Database, also covering the database for the Grievance Mechanism (see Task 8 of the assignment); the Consultant shall closely liaise with GDC in order to use programs and formats for the database which could be managed by GDC during construction and operation phases without requiring major capacity building efforts for the GDC team. In addition, any software used for the database should be cost-effective and sustainable

SECTION 6. MANDATORY FORMS FOR THE TECHNICAL PROPOSAL

Filling forms in this section is Mandatory. The forms give GDC extra information about the Bidder, their commitment and ability to undertake UPDATE OF SUSWA GEOTHERMAL DRILLING PROJECT ESIA REPORT, PREPARATION OF ENVIRONMENTAL & SOCIAL SAFEGUARD DOCUMENTATION (SEP, LACLRP, IPP & CDF) AS PER THE IFC PERFORMANCE STANDARDS as well as their compliance and commitment to legal and regulatory requirements.

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FORM-TECH-1: TECHNICAL PROPOSAL SUBMISSION FORM

{Location, Date}

To: *[Name and address of GDC]*

Dear Sirs:

We, the undersigned, offer to undertake UPDATE OF SUSWA GEOTHERMAL DRILLING PROJECT ESIA REPORT, PREPARATION OF ENVIRONMENTAL & SOCIAL SAFEGUARD DOCUMENTATION (SEP, LACLRP, IPP & CDF) AS PER THE IFC PERFORMANCE STANDARDS on *[Insert title of]* in accordance with your RFP dated *[Insert Date]* and our Proposal. We are hereby submitting our Proposal, which includes this Technical Proposal.

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

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 GDC 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, ITI-13.
- c) We have no conflict of interest in accordance with ITI-3.
- d) We meet the eligibility requirements as stated in ITI-7, 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 ITI-5.
- 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 Bidder 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-Bidders 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.
- (j) Our Proposal is binding upon us and subject to any modifications resulting from the Contract negotiations.
- (k) We understand that GDC 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 as stated and agreed on negotiations.

We remain, Yours sincerely,

Authorized Signature *{In full and initials}*: Name and Title of Signatory:

Name of Bidder *(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}

FORM TECH-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;
1. I am the authorized representative of the Tenderer with authority to sign this Certificate, and to submit the Tender on behalf of the Tenderer;
2. 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:
 1. Has been requested to submit a Tender in response to this request for tenders;
 2. could potentially submit a tender in response to this request for tenders, based on their qualifications, abilities or experience;
- 3. The Tenderer discloses that [TICK one of the following, as applicable] (TICK A OR B BELOW:**
 1. The Tenderer has arrived at the Tender independently from, and without consultation, communication, agreement or arrangement with, any competitor;
 2. 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;
4. 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:
 1. prices;
 2. methods, factors or formulas used to calculate prices;
 3. the intention or decision to submit, or not to submit, a proposal; or
 4. 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;
5. 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;
6. 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, which 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]

FORM-TECH-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: -
 1. disqualified from entering into a contract for a procurement or asset disposal proceeding; or
 2. 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—
 1. Shall not take part in the procurement proceedings;
 2. shall not, after a procurement contract has been entered into, take part in any decision relating to the procurement or contract; and
 3. 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.
4. 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;
5. 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.
6. Incompliance with Kenya's laws, regulations and policies mentioned above, the Procuring Entity:
 1. Defines broadly, for the purposes of the above provisions, the terms set forth below as follows:
 1. "corrupt practice" is the offering, giving, receiving, or soliciting, directly or indirectly,

- of anything of value to influence improperly the actions of another party;
2. "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;
 3. "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;
 4. "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;
 5. "obstructive practice" is:
 1. 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
 2. 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.
2. 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 tenders 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.
 3. Rejects a proposal or award 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;
 4. 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;
 5. 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 inspect 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
 6. 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.

FORM TECH-4: BIDDER'S ORGANIZATION AND EXPERIENCE

Form TECH-4: a brief description of the Bidder's organization and an outline of the recent experience of the Bidder in the proposed industry. In the case of a joint venture, information on similar Environmental and Social Documentation studies shall be provided for each partner.

Bidder'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.

FORM TECH - 5: TENDER-SECURITY 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:
 1. Our receipt of a copy of your notification of the name of the successful Tenderer; or
 2. 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

FORM - TECH-6: COMMENTS AND SUGGESTIONS

Form TECH-6: The Bidder to provide comments and suggestions the ToR (Section 5) that could improve the quality/effectiveness of the Environmental and Social Documentation Update proposal.

**FORM TECH -7: DESCRIPTION OF ENVIRONMENTAL AND SOCIAL DOCUMENTATION UPDATE
PROCESS APPROACH AND TIMELINES**

Form TECH-7: a description of the Environmental and Social Documentation Update approach and timelines including deliverable timelines. This to include facilitation required from GDC and other key parties/partners. The information provided here will be useful information in ensuring that GDC meets their obligations to the Bidders.

FORMTECH-8: 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.

{The structure of your Technical Proposal:

8A Technical Approach and Methodology

8B Work Plan

8C Organization and Staffing

8D Key staff CVs

1. **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.}
2. **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.}
3. **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.}

FORM TECH-8B: 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.

FORMT TECH- 8C: 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]	[2 month]	[1.0]		[1.0]								
			[Field]	[0.5 m]	[2.5]		[0]								
K-2															
K-3															
N															
											Subtotal				
NON-KEY															
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

FORM TECH-8D: 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- in which the Expert will be involved) 5	

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.

{day / month/year}

Name of Expert _____ Signature _____ Date _____

{day / month/year}

Name of authorized _____ Signature. _____ Date _____

Representative of the Consultant (the
same who signs the Proposal

FORM-TECH-9: 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]

1. Certificate of Incorporation/Certificate of Registration or equivalent for foreign firms.

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

2. Tax Compliance Certificate or equivalent for foreign firms.

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

3. 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}

4. 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}

5. Academic Certificates

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

6. Professional Certificates

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

7. Professional Membership of Key Experts

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

8. Certificate of Independent Proposal Determination

{The Form is available on Tech FORM TECH-1: TECHNICAL PROPOSAL SUBMISSION FORM}.

FORM TECH- 10: JOINT VENTURE COMPOSITION (If applicable)

PART 3 – CONDITIONS OF CONTRACT AND CONTRACT FORMS

SECTION 7 - GENERAL CONDITIONS OF CONTRACT

A. General

1.1 Provisions Definitions

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

- a) The Adjudicator is the person appointed jointly by the Procuring Entity and the Service Provider to resolve disputes in the first instance, as provided for in Sub-Clause 8.2 hereunder.
- b) "Activity Schedule" is the priced and completed list of items of Services to be performed by the Service Provider forming part of his Tender;
- c) "Completion Date" means the date of completion of the Services by the Service Provider as certified by the Procuring Entity
- d) "Contract" means the Contract signed by the Parties, to which these General Conditions of Contract (GCC) are attached, together with all the documents listed in Clause 1 of such signed Contract;
- e) "Contract Price" means the price to be paid for the performance of the Services, in accordance with Clause 6;
- f) "Day works" means varied work inputs subject to payment on a time basis for the Service Provider's employees and equipment, in addition to payments for associated materials and administration.
- g) "Procuring Entity" means the Procuring Entity or party who employs the Service Provider
- 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) "Local Currency" means Kenya shilling;
- l) "Member," in case the Service Provider consist of a joint venture of more than one entity, means any of these entities; "Members" means all these entities, and "Member in Charge" means the entity specified in the SC to act on their behalf in exercising all the Service Provider' rights and obligations towards the Procuring Entity under this Contract;
- m) "Party" means the Procuring Entity or the Service Provider, as the case maybe, and "Parties" means both of them;
- n) "Personnel" means persons hired by the Service Provider or by any Subcontractor as employees and assigned to the performance of the Services or any part there of;
- o) "Service Provider" is a person or corporate body whose Tender to provide the Services has been accepted by the Procuring Entity;
- p) "Service Provider's Tender" means the completed Tendering Document submitted by the Service Provider to the Procuring Entity
- q) "SCC" means the Special Conditions of Contract by which the GCC may be amended or supplemented;

- r) "Specifications" means the specifications of the service included in the Tendering Document submitted by the Service Provider to the Procuring Entity
- s) "Services" means the work to be performed by the Service Provider pursuant to this Contract, as described in Appendix A; and in the Specifications and Schedule of Activities included in the Service Provider's Tender.
- t) "Subcontractor" means any entity to which the Service Provider subcontracts any part of the Services in accordance with the provisions of Sub-Clauses 3.5 and 4;
- u) "Public Procurement Regulatory Authority (PPRA)" shall mean the Government Agency responsible for oversight of public procurement.
- v) "Project Manager" shall be the person appointed by the Procuring Entity to act as the Project Manager for the purposes of the Contract and named in the Particular Conditions of Contract, or other person appointed from time to time by the Procuring Entity and notified to the Contractor
- w) "Notice of Dissatisfaction" means the notice given by either Party to the other indicating its dissatisfaction and intention to commence arbitration
- x) "Investment life" This is the period to which the contract shall be in effect and shall vary depending on the investment category, as specified in the SCC

1.2 Applicable Law

The Contract shall be interpreted in accordance with the laws of Kenya.

1.3 Language

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

1.4 Notices

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

1.5 Location

The Services shall be performed at such locations as are specified in Appendix A, in the specifications 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.

1.6 Authorized Representatives

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

1.7 Inspection and Audit by the PPRA

Pursuant to paragraph 2.2 e. of Attachment 1 to the General Conditions, the Service Provider shall permit and shall cause its sub-contractors and sub-consultants to permit, PPRA and/or persons appointed by PPRA to inspect the Site and/or the accounts and records relating to the procurement process, selection and/or contract execution, and to have such accounts and records audited by auditors appointed by PPRA. The Service Provider's and its Subcontractors' and sub-consultants' attention is drawn to Sub-Clause 3.10 which provides, inter alia, that acts intended to materially impede the exercise of PPRA's inspection and audit rights constitute a

prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to PPRA's prevailing sanctions procedures).

1.8 Taxes and Duties

The Service Provider, Subcontractors, and their Personnel shall pay such taxes, duties, fees, and other impositions as may be levied under the Applicable Law, the amount of which is deemed to have been included in the Contract Price.

2 Commencement, Completion, Modification, and Termination of Contract

2.1 Effectiveness of Contract

This Contract shall come into effect on the date the Contract is signed by both parties or such other later date as maybe **stated in the SCC**.

2.2 Commencement of Services

2.2.1 Program

Before commencement of the Services, the Service Provider shall submit to the Procuring Entity for approval a Program showing the general methods, arrangements order and timing for all activities. The Services shall be carried out in accordance with the approved Program as updated.

2.2.2 Starting Date

The Service Provider shall start carrying out the Services thirty (30) days after the date the Contract becomes effective, or at such other date as may be **specified in the SCC**.

2.3 Intended Completion Date

Unless terminated earlier pursuant to Sub-Clause 2.6, the Service Provider shall complete the activities by the Intended Completion Date, as is **specified in the SCC**. If the Service Provider does not complete the activities by the Intended Completion Date, it shall be liable to pay liquidated damage as per Sub-Clause 3.8. In this case, the Completion Date will be the date of completion of all activities.

2.4 Modification

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

2.4.1 Value Engineering

The Service Provider may prepare, at its own cost, a value engineering proposal at any time during the performance of the contract. The value engineering proposal shall, at a minimum, include the following;

- a) The proposed change(s), and a description of the difference to the existing contract requirements;
- b) A full cost/benefit analysis of the proposed change(s) including a description and estimate of costs (including life cycle costs, if applicable) the Procuring Entity may incur in implementing the value engineering proposal; and
- c) A description of any effect(s) of the change on performance/functionality.

The Procuring Entity may accept the value engineering proposal if the proposal demonstrates

benefits that:

- a) accelerates the delivery period; or
- b) reduces the Contract Price or the lifecycle costs to the Procuring Entity; or
- c) improves the quality, efficiency, safety or sustainability of the services; or
- d) yields any other benefits to the Procuring Entity, without compromising the necessary functions of the Facilities.

If the value engineering proposal is approved by the Procuring Entity and results in:

- a) a reduction of the Contract Price; the amount to be paid to the Service Provider shall be the percentage specified in the **SCC** of the reduction in the Contract Price; or
- b) an increase in the Contract Price; but results in a reduction in lifecycle costs due to any benefit described in (a) to (d) above, the amount to be paid to the Service Provider shall be the full increase in the Contract Price.

2.5 CONTRACT TERM

1.1. Term

Unless terminated earlier pursuant to clauses 2.6.1 and 2.6.2, this Contract shall terminate at the end of fifteen (15) years from the effective date.

1.2. Extension of Project Term

The Term or any element thereof may be extended by mutual written agreement of the parties or as otherwise provided for under this contract.

1.3. Variation of Terms

Variation of the Terms of this Contract including any variation to the scope of work, Contract price and Tariff may only be by written agreement between the Parties.

2.6 Force Majeure

2.6.1 Definition

For the purposes of this Contract, "Force Majeure" means an event which is beyond their control of a Party and which makes a Party's performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.

2.6.2 No Breach of Contract

The failure of a Party to fulfill any of its obligations under the contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.

2.6.3 Extension of Time

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

2.6.4 Payments

During the period of their inability to perform the Services as a result of an event of Force Majeure, parties will negotiate payments for works reasonably performed prior to the event and thereafter agree to relieve each party its obligations at no cost until the end of the force majeure event.

2.7 Termination

2.7.1 By the Procuring Entity

The Procuring Entity may terminate this Contract, by not less than thirty (30) days' written notice of termination to the Service Provider, to be given after the occurrence of any of the events specified in paragraphs(a)through (d) of this Sub-Clause 2.6.1:

- a) If the Service Provider does not remedy a failure in the performance of its obligations under the Contract, within thirty (30) days after being notified or within any further period as the Procuring Entity may have subsequently approved in writing;
- b) if the Service Provider become insolvent or bankrupt;
- c) if, as the result of Force Majeure, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or
- d) if the Service Provider, has engaged in Fraud and Corruption, as defined in paragraph2.2a. of Attachment1 to the GCC, in competing for or in executing the Contract

For Purposes of this clause;

- e) "Corrupt Practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the selection process or in contract execution.
- f) " Fraudulent practice" means a misrepresentation of facts in order to influence a selection process or the execution of contract to the detriment of GDC, and includes collusive practice among service providers (prior to or after submission of proposals) designed to establish to establish prices at artificial non-competitive levels and to deprive GDC of the benefits of free and open competition.

2.7.2 By the Service Provider

The Service Provider may terminate this Contract, by not less than thirty (30) days' written notice to the Procuring Entity, such notice to be given after the occurrence of any of the events specified in paragraphs (a) and (b) of this Sub-Clause 2.6.2:

- a) If the Procuring Entity fails to pay any monies due to the Service Provider pursuant to this Contract and not subject to dispute pursuant to Clause 7 within forty-five (45) days after receiving written notice from the Service Provider that such payment is overdue; or
- b) if, as the result of Force Majeure, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days.

2.7.3 Payment up on Termination

Upon termination of this Contract pursuant to Sub-Clauses 2.6.1 or 2.6.2, the Procuring Entity shall make the following payments to the Service Provider:

- a) Payment of the tasks satisfactorily undertaken and agreed upon as per terms of reference (ToR), Section 4 ;

Obligations of The Procuring Entity

Refer to ToR section 4

3 Obligations of the Service Provider

3.1 General

The Service Provider shall perform the Services in accordance with the Specifications and the Activity Schedule, and carry out its obligations with all due diligence, efficiency, and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe methods. The Service Provider shall always act, in respect of any matter relating to this Contractor to the Services, as faithful adviser to the Procuring Entity, and shall at all times support and safeguard the Procuring Entity's legitimate interests in any dealings with Subcontractors or third parties.

3.2 Conflict of Interests

3.2.1 Service Provider Not to Benefit from Commissions and Discounts.

The remuneration of the Service Provider pursuant to Clause 6 shall constitute the Service Provider's sole remuneration in connection with this Contractor the Services, and the Service Provider shall not accept for their own benefit any trade commission, discount, or similar payment in connection with activities pursuant to this Contractor to the Services or in the discharge of their obligations under the Contract, and the Service Provider shall use their best efforts to ensure that the Personnel, any Subcontractors, and agents of either of them similarly shall not receive any such additional remuneration.

3.2.2 Service Provider and Affiliates Not to be Otherwise Interested in Project

The Service Provider agree that, during the term of this Contract and after its termination, the Service Provider and its affiliates, as well as any Subcontractor and any of its affiliates, shall be disqualified from providing goods, works, or Services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.

3.2.3 Prohibition of Conflicting Activities

Neither the Service Provider nor its Subcontractors nor the Personnel shall engage, either directly or indirectly, in any of the following activities:

- a) During the term of this Contract, any business or professional activities in Kenya which would conflict with the activities assigned to them under this Contract;
- b) during the term of this Contract, neither the Service Provider nor their Subcontractors shall hire public employees' inactive duty or on any type of leave, to perform any activity under this Contract;
- c) After the termination of this Contract, such other activities as may be **specified in the SCC.**

3.3 Confidentiality

The Service Provider, its Subcontractors, and the Personnel of either of them shall not, either during the term or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information relating to the Project, the Services, this Contract, or the Procuring Entity's business or operations without the prior written consent of the

Procuring Entity.

3.4 **The Service Provider** (a) shall take out and maintain, and shall cause any Subcontractors to take out and maintain, at its (or the Sub contractors', 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, as shall be **specified in the SCC**; and (b) 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 have been paid.

3.5 Service Provider's Actions Requiring Procuring Entity's Prior Approval

The Service Provider shall obtain the Procuring Entity's prior approval in writing before taking any of the following actions:

- a) Entering into a subcontract for the performance of any part of the Services,
- b) appointing such members of the Personnel not listed by name in Appendix C ("Key Personnel and Subcontractors"),
- c) changing the Program of activities; and
- d) Any other action that may be **specified in the SCC**.

3.6 Reporting Obligations

The Service Provider shall submit to the Procuring Entity the reports and documents specified in Appendix B in the form, in the numbers, and within the periods set forth in the said Appendix.

3.7 Documents Prepared by the Service Provider to Be the Property of the Procuring Entity

All plans, drawings, specifications, designs, reports, and other documents and software submitted by the Service Provider in accordance with Sub-Clause 3.6 shall become and remain the property of the Procuring Entity, and the Service Provider shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Procuring Entity, together with a detailed inventory thereof. The Service Provider may retain a copy of such documents and software. Restrictions about the future use of these documents, if any, shall be **specified in the SCC**.

3.8 Liquidated Damages

3.8.1 Payments of Liquidated Damages

The Service Provider shall pay liquidated damages to the Procuring Entity at the rate per day **stated in the SCC** for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount **defined in the SCC**. The Procuring Entity may deduct liquidated damages from payments due to the Service Provider. Payment of liquidated damages shall not affect the Service Provider's liabilities.

3.8.2 Correction for Over-payment

If the Intended Completion Date is extended after liquidated damages have been paid, the Procuring Entity shall correct any overpayment of liquidated damages by the Service Provider by adjusting the next payment certificate. The Service Provider shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in Sub-Clause 6.5.

3.8.3 Lack of performance penalty

If the Service Provider has not corrected a Defect within the time specified in the Procuring Entity's notice, a penalty for Lack of performance will be paid by the Service Provider. The amount to be paid will be calculated as a percentage of the cost of having the Defect corrected, assessed as described in Sub-Clause 7.2 and **specified in the SCC**.

3.9 Performance Security

The Service Provider shall provide the Performance Security to the Procuring Entity no later than the date specified in the Form of acceptance. The Performance Security shall be issued in an amount and form and by a bank or surety acceptable to the Procuring Entity, and denominated in the types and proportions of the currencies in which the Contract Price is payable. The performance Security shall be valid until a date 28 day from the Completion Date of the Contract in case of a bank guarantee, and until one year from the Completion Date of the Contract in the case of a Performance Bond.

3.10 Fraud and Corruption

The Procuring Entity requires compliance with the Government's Anti-Corruption laws and its prevailing sanctions. The Procuring Entity requires the Service Provider to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the tendering 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.

3.11 Sustainable Procurement

The Service Provider shall conform to the sustainable procurement contractual provisions, if and as specified in the **SCC**.

4 Service Provider's Personnel

4.1 Description of Personnel

The titles, agreed job descriptions, minimum qualifications, and estimated periods of engagement in the carrying out of the Services of the Service Provider's Key Personnel are described in Appendix C. The Key Personnel and Subcontractors listed by title as well as by name in Appendix C are hereby approved by the Procuring Entity.

4.2 Removal and/or Replacement of Personnel

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

5 Obligations of the Procuring Entity

5.1 Assistance and Exemptions

The Procuring Entity shall use its best efforts to ensure that the Government shall provide the Service Provider such assistance and exemptions as **specified in the SCC**.

5.2 Change in the Applicable Law

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

5.3 Services and Facilities

The Procuring Entity shall make available to the Service Provider the Services and Facilities listed under Appendix F.

6 Payments to the Service Provider

6.1 Terms and Conditions of Payment

Payments will be made to the Service Provider by the procuring entity according to the payment schedule **stated in the SCC**. **Unless otherwise stated in the SCC**, the advance payment (Advance for Mobilization, Materials and Supplies) shall be made against the provision by the Service Provider of a bank guarantee for the same amount, and shall be valid for the period **stated in the SCC**. Any other payment shall be made after the conditions **listed in the SCC** for such payment have been met, and the Service Provider have submitted an invoice to the Procuring Entity specifying the amount due.

6.2 Interest on Delayed Payments

If the service provider has delayed payments beyond thirty (30) days after the due date stated in the **SCC**, interest shall be paid to the procuring entity for each day of delay at the rate stated in **the SCC**.

6.3 Identifying Defects

The principle and modalities of Inspection of the Services by the Procuring Entity shall be as **indicated in the SCC**. The Procuring Entity shall check the Service Provider's performance and notify him of any Defects that are found. Such checking shall not affect the Service Provider's responsibilities. The Procuring Entity may instruct the Service Provider to search for a Defect and to uncover and test any service that the Procuring Entity considers may have a Defect. Defect Liability Period is as **defined in the SCC**.

5.7.6.1 Correction of Defects, and Lack of Performance Penalty

- a) The Procuring Entity shall give notice to the Service Provider of any Defects before the end of the Contract. The Defects liability period shall be extended for as long as Defects remain to be corrected.
- b) Every time notice a Defect is given, the Service Provider shall correct the notified Defect within the length of time specified by the Procuring Entity's notice.
- c) If the Service Provider has not corrected a Defect within the time specified in the Procuring Entity's notice, the Procuring Entity will assess the cost of having the Defect corrected, the Service Provider will pay this amount and a Penalty for Lack of Performance calculated as described in Sub-Clause 3.8.

7 Dispute resolution

Any dispute will be handled as per **SCC**.

8 Non-Waiver

No relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as a waiver of any subsequent or continuing breach of Contract.

Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived

9 Limitation of Liability

To the fullest extent permitted by law, GDC, its officers, directors, employees, agents, and sub-contractors, shall not be liable for any claims, losses, costs, or damages of whatsoever nature and howsoever arising to the Supplier, and anyone claiming by, through, or under the Supplier, resulting from or in any way related to this Framework Contract from any cause or causes, including but not limited to any direct, indirect, general, special, punitive, incidental or consequential damages, loss of income or profit, loss of or damage to property, claims of third parties or other losses of any kind or character.

SECTION 8 - SPECIAL CONDITIONS OF CONTRACT

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
1.1(a)	The Adjudicator is _____ <i>To be appointed by parties.</i> _____
1.1(v)	Project Manager is _to be appointed in writing by GDC._____
1.1(d)	The contract name is - <i>Update of Suswa Geothermal Drilling Project ESIA Report, Preparation of Environmental & Social Safeguard Documentation (SEP, LACLRP, IPP & CDF) as Per the IFC Performance Standards</i>
1.1(g)	The Procuring Entity is _____ <i>GDC</i> _____
1.1(l)	The Member in Charge is _____
1.1(o)	The Service Provider is _____ <i>As to be awarded.</i> _____
1.4	<p>The addresses are:</p> <p>Procuring Entity: Geothermal Development Company Ltd</p> <p>Attention: <u>MD & CEO</u></p> <p>Email: <u>info@gdc.co.ke</u></p> <p>Service Provider: _____</p> <p>Attention: _____</p> <p>Email address _____</p>
1.6	<p>The Authorized Representatives are:</p> <p>For the Procuring Entity:</p> <p>_____ <u>Managing Director & CEO</u></p> <p>For the Service Provider: To be provided after award _____</p>
2.1	The date on which this Contract shall come into effect is ___ <i>on the date it is signed by both parties</i> _____.
2.2.2	The Starting Date for the commencement of Services is ___ <i>as will be agreed by the parties following negotiations.</i> _____.
2.3	The Intended Completion Date is ___ <i>subject to the award and negotiations</i> _____.
2.4.1	If the value of <i>Update of Suswa Geothermal Drilling Project ESIA Report, Preparation of Environmental & Social Safeguard Documentation (SEP, LACLRP, IPP & CDF) as Per the IFC Performance Standards</i> proposal is approved by the Procuring Entity the amount to be paid to the Service Provider shall be N/A__% (insert appropriate percentage. The percentage is normally up to 50%) of the reduction in the Contract Price.

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
3.2.3	Activities prohibited after termination of this Contract are: _____ _____N/A_____
3.4	The risks and coverage by insurance shall be: values of the insurance to be negotiated by parties upon award. (i) Third Party motor vehicle _____ (ii) Third Party liability _____ (iii) service provider's liability and workers' compensation _____ (iv) Professional liability _____ (v) Loss or damage to equipment and property _____ <u>Value of each of these policies shall be negotiated parties based on the award.</u>
3.5(d)	The other actions are _____.]
3.7	Restrictions on the use of documents prepared by the Service Provider are: _____N/A_____
3.8.1	The liquidated damages shall be applicable where there is delays in completing the project however the applicable rates shall be proposed by the proposed by the procuring entity during negotiations. ____
3.8.3	The percentage <i>is as to be negotiated parties.</i>
3.9	Operations Securities The service provider shall submit a construction security prior to the construction phase of the project which shall be 10% of the total quoted project cost. Upon completion and commissioning of the project, the service provider shall submit an operation security valued at 20% of the total project cost which shall be valid during the life of the project. These securities shall be in the form of a bank guarantee acceptable to the service provider.
5.1	The assistance and exemptions provided to the Service Provider are: _____N/A_____
6.2(a)	The amount in Kenya Shillings _____N/A_____.
6.3.2	The performance incentive paid to the Service Provider shall be: _____N/A_____ _____

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
7.1	<p>Payments shall be made according to the following schedule:</p> <p>Payment structured shall be negotiated by both parties. This is in reference to the Terms of Reference, Sections 4.6 and Section 4.7:</p> <p>i. No advance payment is provided for this procurement</p>
	<p>Payment shall be made within <u>30 days</u>. _____ days of receipt of the invoice and the relevant documents specified in Sub-Clause 6.4, and within _____ days in the case of the final payment.</p> <p>The interest on delayed payments shall be at the CBK prevailing rate. <u>N/A</u>.</p>
	<p>Price adjustment is <u>N/A</u> in accordance with Sub-Clause 6.6.</p> <p>The coefficients for adjustment of prices are _____:</p> <p>(a) For local currency:</p> <p> A_L is _____</p> <p> B_L is _____</p> <p> C_L is _____</p> <p> L_{mc} and L_{oc} are the index for Labor from _____</p> <p> I_{mc} and I_{oc} are the index for _____ from _____</p> <p>(b) For foreign currency</p> <p> A_F is _____</p> <p> B_F is _____</p> <p> C_F is _____</p> <p> L_{mc} and L_{oc} are the index for Labor from _____</p> <p> I_{mc} and I_{oc} are the index for _____ from _____</p>
8	<p>Dispute Resolution</p> <p>If any question, dispute, difference or claim arises out of or in connection with this Agreement, including any question regarding its existence, validity, performance or termination (a "Dispute"), which either Party has notified to the other, senior management personnel from each Party shall meet and diligently attempt in good faith to resolve the Dispute for a period of Sixty (60) Days following one Party's written request to the other Party for such a meeting.</p>
9.1	<p>The designated Appointing Authority for a new Adjudicator is _____ <i>both parties</i>.</p>
9.2	<p>The Adjudicator is _____ <i>be appointed jointly by the parties</i>.</p>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	Who will be paid a rate of ___to be agreed upon once appointed_____ per hour of work? The following reimbursable expenses are recognized: _____

SECTION 9 - CONTRACT FORMS

PROPOSAL SUBMISSION FORM

{Location, Date}

To: *[Name and address of GDC]*

Dear Sirs:

We, the undersigned, offer to undertake an investment on *[Insert title of _____]* in accordance with your RFP dated *[Insert Date _____]* and our Proposal. We are hereby submitting our Proposal, which includes this Technical Proposal.

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

We hereby declare that:

- h) 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 GDC or maybe sanctioned by the PPRA.
- i) Our Proposal shall be valid and remain binding upon us for the period of time specified in the Data Sheet, ITI-13.
- j) We have no conflict of interest in accordance with ITI-3.
- k) We meet the eligibility requirements as stated in ITI-7, 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 ITI-5.
- l) 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.
- m) We confirm that we are not insolvent, in receivership, bankrupt or on the process of being of being wound up.
- n) The Investor 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.

- ① 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-Investors 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 ITI30 and Data Sheet, we undertake to negotiate a Contract on the basis of the proposed Tariffs and other agreed terms related to this investment.
- (l) Our Proposal is binding upon us and subject to any modifications resulting from the Contract negotiations.
- (m) We understand that the GDC 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 as stated and agreed on negotiations.

We remain,

Yours

sincerely,

Authorized Signature *{In full and initials}*: Name and Title of Signatory:
Name of Investor *(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}

SELF-DECLARATIONFORMS

FORM SD1

SELF DECLARATION THAT THE COMPANY/FIRM/ 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 **RFP No.** for..... (Insert tender title/description) for..... (Insert name of the GDC) and duly authorized and competent to make this statement.
- 2. THAT the aforesaid Firm/Company, 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.

..... (Signature) (Date) (Title)

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 GDC) and duly authorized and competent to make this
statement.
2. THAT the aforesaid Firm/Company, 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 GDC)
which is the GDC.
3. THAT the aforesaid Firm/Company, 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 GDC).
4. THAT the aforesaid Firm/Company 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's 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 here by 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.....

6 (Company Seal/ Rubber Stamp where applicable)

Witness

Name

Sign.....

Date.....

CERTIFICATE OF INDEPENDENT PROPOSAL DETERMINATION

I, the undersigned, in submitting the accompanying PROPOSAL SUBMISSION FORM to the _____ [Name of GDC]

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 Investor 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]:
a. The Tenderer has arrived at the Tender independently from, and without consultation, communication, agreement or arrangement with, any competitor;
b. 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 Investor, directly or indirectly, to any competitor, prior to the date and time of the official proposed opening, or of the awarding of the Contract, which 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 Investor and Date]

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

(Appendix shall not be modified)

1. 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.

2. Requirements

The Government of Kenya requires that all parties including Procuring Entities, Tenderers, (applicants/proposers), Investors, Contractors and Suppliers; any Sub-contractors, Sub-Investors, 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 GDC under subsection (7) does not limit any legal remedy the GDC may have;
- (5) An employee or agent of the GDC or a member of the Board or committee of the GDC 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 GDC;
- (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 GDC:
 - 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 tenders submission designed to establish tender prices at artificial non-competitive levels and to deprive the GDC 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-Investors, 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), Investors, Contractors, and Suppliers and their Sub-contractors, Sub- Investors, 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.
-

FORM FIN-1-MANDATORY FORMS FOR THE FINANCIAL PROPOSAL

{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

FORM FIN-1: FINANCIAL 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 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.

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:
.....{inserttitle/positionofauthorizedrepresentative}
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}			
	<i>{Insert Foreign Currency # 1}</i>	<i>{Insert Foreign Currency # 2, if used}</i>	<i>{Insert Foreign Currency # 3, if used}</i>	<i>{Insert Local Currency, if</i>
Cost of the Financial Proposal				
Including:				
(1) Remuneration				
(2) Reimbursables				
Subtotal [Remuneration + Reimbursables]				
Taxes:				
<i>{insert type of tax' e.g., VAT or sales tax}</i>				
<i>{e.g., withholding tax on experts' remuneration}</i>				
<i>{insert type of tax}</i>				
Total Taxes				
Total Cost of the Financial Proposal: <i>{Should match the amount in Form FIN-1}</i>				

FORM FIN-3-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:

FORM FIN-4- 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 asset for thin the Contract, in particular:
 - a) The Consultant shall carryout 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]