



**REQUEST FOR PROPOSALS (RFP)**

**TENDER NO.: KWS/RFP/AFD/23/2018-2019**

**CONSULTANCY TO CARRY OUT AN INDEPENDENT AUDIT FOR THE NORTHERN  
KENYA BIODIVERSITY CONSERVATION PROJECT MARSABIT (AFD)**

**CLOSING DATE: 4<sup>TH</sup> APRIL 2019  
TIME : 12.00 NOON**

**Kenya Wildlife Service, Headquarters,  
PO Box 40241 - 00100, Nairobi, Kenya  
Tel +254-726610508/9, 0735663421  
Email: [hps@kws.go.ke](mailto:hps@kws.go.ke)  
Website: [www.kws.go.ke](http://www.kws.go.ke)**

## **A) LETTER OF INVITATION**

Dear Sir/Madam:

### **RE: CONSULTANCY TO CARRY OUT AN INDEPENDENT AUDIT FOR THE NORTHERN KENYA BIODIVERSITY CONSERVATION PROJECT MARSABIT (AFD)**

#### **TENDER NO: KWS/RFP/AFD/23/2018-2019**

The Republic of Kenya has received financing from the Agence Française de Développement (AFD) towards the cost of the Northern Kenya Biodiversity Conservation (NKBCP) Project (Marsabit). The funded activities are implemented by a Project implementation Unit (PIU) under the Kenya Wildlife Service (KWS) which is a state corporation.

NKBCP is a project funded by AFD, Fonds Français pour L'environnement Mondial (FFEM) and the Government of Kenya (GoK) to address the substantial threats to the unique ecosystem of Mount Marsabit National Reserve and its surrounding ecosystem. The project was officially declared effective on Tuesday 23rd July 2013 after fulfilling all the conditions of effectiveness for an implementation period of five years ending 30<sup>th</sup> June 2019.

The total cost of the project is € 12.64 million with a co-financing of € 8.0 million from (AFD), € 2.41 million from the (GOK) and (€ 1.5 million) from (FFEM). The contracting authority is the National Treasury with Kenya Wildlife Service (KWS) having the overall responsibility for the implementation and execution of the AFD financed activities working with other partners including Kenya Forest Service (KFS), relevant Non-Governmental Organizations' (NGO's) and the local communities. The Northern Rangeland Trust (NRT) has the overall responsibility for the implementation of the FFEM financed activities.

The overall goal of the project is to achieve sustainable use of natural resources while at the same time optimizing ecological service functions, particularly water, grazing and energy provision in the area of northern Kenya that centers on Marsabit forest and its ecological and economic connections and the adjacent community conservancies of Songa Shurr and Jaldesa.

The Kenya Wildlife Service hereby invites competent and eligible consulting firms to submit technical and financial proposals to carry out an **INDEPENDENT AUDIT FOR THE NORTHERN KENYA BIODIVERSITY CONSERVATION PROJECT BASED IN MARSABIT (AFD)**

To be eligible for evaluation, interested firms should submit together with their Technical and Financial proposals, the following documents to demonstrate their technical and proven experience in similar assignments:

1. Company profile brochure (business name, physical address, contact

numbers and contact person);

2. Statutory registration documents (i.e. certificate of incorporation/registration, copies of PIN, VAT registration, tax compliance certificate, certificate conforming to International Standards of Supreme Audit Institutions (ISSAIs);
3. Information clearly showing technical ability and experience in carrying out similar assignment (s) in the last 3 years;
4. Qualification and experience of key staff (provide names and detailed CVs and copies of certificates of key staff expected to undertake the assignment, indicating their qualifications, experience and competence in Tourism management;
4. Letter of recommendation by at least 3 major clients;
5. Financial ability (i.e. audited accounts for the last 5 years) and certified bank statements for the last six months

Tender documents detailing the requirements may be down loaded by prospective bidders free of charge from the Kenya wildlife service website: **[www.kws.go.ke](http://www.kws.go.ke)**.

The proposal documents comprising of one (1) original and two (2) copies shall be sealed in two inner envelopes marked "ORIGINAL" and "COPIES" and enclosed in an outer plain sealed envelope clearly marked "Proposal for Consultancy to carry out an independent audit for the Northern Kenya Biodiversity Conservation Project Marsabit (AFD)" **KWS/RFP/AFD/23/2018-2019**, addressed to **Director, Kenya Wildlife Service P. O. Box 40241-00100, Nairobi** and placed in the Tender Box at the Main Reception KWS Headquarters in Langata. The plain sealed envelope should indicate the Tender Reference name without identifying the sender, so as to reach KWS not later than **4th April 2019**. Bids will be opened immediately thereafter in the presence of bidders or their representatives who choose to attend at KWS boardroom.

The candidate is required to provide the following documents with their Technical proposal:

- i) Company Incorporation OR Business Registration certificate.
- ii) Valid Tax compliance certificate
- iii) Company profile
- iv) Copy of CR12
- v) Audited Financial accounts for the last 5 years and certified bank statements for the last six months
- vi) The tender document must be sequentially paginated including all attachments
- vii) Declaration that the bidder will not engage in any corrupt or fraudulent practice and a declaration that the person or his or her sub-contractors are not debarred from participating in procurement proceeding
- viii) The tenders MUST be book bound or Tape bound

This Request for Proposal (RFP) includes the following documents:

Section A	Letter of Invitation
Section B	Terms of Reference
Section C	Instructions to Bidders
Appendix 1	Data Sheet
Appendix 2	Technical Proposal – Standard Forms
Appendix 3	Financial Proposal – Standard Forms
Section D	Standard Tender Documents

Yours faithfully,

**HEAD-SUPPLY CHAIN MANAGEMENT**

# **NORTHERN KENYA BIODIVERSITY CONSERVATION PROJECT**

## **B) TERMS OF REFERENCE**

### **TERMS OF REFERENCE FOR RECRUITMENT OF AN INDEPENDENT AUDITOR FOR THE NORTHERN KENYA BIODIVERSITY CONSERVATION PROJECT MARSABIT PROJECT (AFD)**

#### **1.0 INTRODUCTION**

Mount Marsabit is of critical importance to sustaining life not only within the forest, but also in the surrounding areas including Marsabit town. The forest and the surrounding areas harbour a diverse range of ecosystems and associated biodiversity. However, it is the ecosystem service functions (water provision, climate regulatory, carbon storage roles) and ecosystem good provision (fuel wood, grazing, medicinal plants) that are particularly important to the people living in the area. There are 11,000 ha of Marsabit forest remaining (down from over 18,363ha in 1973). The rate of deforestation is estimated to be 180 ha per year.

The primary drivers of deforestation are: i) conversion of forest to agricultural land (particularly to the east of the forest), ii) deforestation through over abstraction of fuel wood (currently fuel wood abstraction rates are 16,382 tons per year), iii) over-grazing by domestic livestock (up to 50,000 heads of livestock entered the forest during the drought of 2009). There is concern that if the current deforestation rates continue unabated, the remaining 11,000 will be lost within six decades.

It is with the desire to intervene and reverse this vicious degradation cycle that the Northern Kenya Biodiversity Conservation Project (Marsabit) was conceived and formulated by the Government of Kenya (GOK). Project implementation is for a period of five years (2013-2019).

## **1.1 Northern Kenya Biodiversity Conservation Project Goals and Objectives**

The project will work to overcome these threats, their root causes and the barriers to effective management of the protected areas in the area. Thus, the overall goal of the project is to achieve sustainable use of natural resources while at the same time optimizing ecological service functions, particularly water, grazing and energy provision in the area of northern Kenya that centers on Marsabit forest and its ecological and economic connections.

This goal will be specifically achieved through a network of protected areas and community conservancies that are managed effectively, adaptively and collaboratively through partnerships that include government and nongovernment actors, and local communities. The project has five principal components that contribute to achieving this goal. These are:

## **1.2 Project Components**

- I. **Policy and legislative framework---**The expected outcome of this component is the enabling policy and legislative framework for conservation in Kenya is implemented in Northern Kenya, and institutional cooperation, collaboration and coordination leads to effective conservation and natural resource management.
- II. **Ecosystem conservation--**The expected outcome of this component is: the critical ecosystem service functions of the Marsabit forest are secured while alternative sources of energy, water and grazing are sought, developed, delivered and managed.
- III. **Natural resources management--** The expected outcome of this component is: For the people dependent on forest ecosystem goods and services, alternative sources of energy, water and grazing are sought, developed, delivered and managed.

- IV. **Connectivity**--The expected outcome of the component is: the biological connections between Marsabit and its surrounding areas are secured and thereafter maintained.
- V. **Payment for Ecosystem Services**- The expected outcome of the component is Payment for Ecosystem Services (PES) is generating revenues that are contributing to covering the costs of conservation.

### **1.3 Project Funds Outline**

The total cost of the project is € 12.64 million with a co-financing of € 8.0 million from Agence Française de Développement (AFD), € 2.41 million from the Government of Kenya (GOK) and (€ 1.5 million) from the Fonds Français pour L'environnement Mondial (FFEM). There is significant co-financing from The Nature Conservancy (TNC) and Northern Rangelands Trust (NRT) (€ 0.44 and 0.29 million, respectively). The contracting authority is the National Wildlife Service (KWS) having the overall responsibility for the implementation and execution of the AFD financed activities working with other partners including Forest Service (KFS), relevant Non-Governmental Organizations' (NGO's) and the local communities. The NRT will have the overall responsibility for the implementation and FFEM financed activities.

#### **1.3.1 Location of audit services**

The audit will be carried out in the project operations area of Marsabit National Park/Reserve in Kenya and the KWS headquarters in Nairobi.

### **2.0 Audit Objectives**

The objective of this engagement is to conduct a financial audit of the **NORTHERN KENYA BIODIVERSITY CONSERVATION PROJECT** managed by Kenya Wildlife Service under Credit Facility Agreement No CKE 1036 01 H, for the period from July 1, 2015 to June 30, 2018 in accordance with Kenya Government Auditing requirements, International Public Sector Accounting Standards and International Standards on Auditing (ISA), Public Procurement

and Disposal Act, Financial Management Act and Kenya Wildlife Service regulations.

The financial audit must include (1) a specific audit of the entire recipient's AFD-funded project, and (2) a review of the recipient's internal control system. The statement of receipts and payment is the basic financial statement to be audited that presents the recipient's revenues, costs incurred and cash balance of funds provided by AFD. The statement of receipts and payment should be reconciled to the AFD records.

**NB: The project budget for the period 2015-2016, 2016-2017, 2017-2018 financial years.**

### **2.1 The specific objectives of the audit of the AFD funds are to:**

- a) Express an opinion on whether the financial statement presents fairly, in all material respects, revenues received, costs incurred, and commodities directly procured by AFD and GoK funds for the period audited are in conformity with the terms of the agreements and generally accepted accounting principles.
- b) Evaluate the recipient's internal control related to the AFD-funded program, assess control risks, and identify significant deficiencies including material weaknesses.

### **2.2 Audit Scope**

This independent audit is for the Northern Kenya Biodiversity Conservation Project CKE 1036 based in Marsabit. The scope of the audit is limited to the implementing partner expenditures which include (1) all disbursements listed in the quarterly financial reports submitted by the implementing partner and (2) the direct payments processed by AFD at the request of the implementing partner. The Audit will be carried out in accordance with International Standards of Auditing (ISA) or International Organization of Supreme Audit



Institutions (INTOSAI) Audit standards and will include such tests and controls, as the Auditors consider necessary under the circumstances.

### **2.2.1 Specific tasks**

The audit period under review is between the period **2016-2017 and 2017-2018 financial years.**

- a) To evaluate the quality of tenders issued during the Project: transparency (including equity access to public procurement); the legality of the methods of evaluation of bids; the legality/legitimacy of decisions approving contracts.
- b) Verification of numerical accuracy, ensure that the expenditures described in the supporting documentation (the quarterly financial reports, the list of direct payments processed by AFD at the request of the government, the list of disbursements made by AFD as part of support services, are reconciled to the expenditures by disbursing source.
- c) A general review of project progress and timeliness in relation to the project document or the Annual Work Plan and Budget (AWP&B).
- d) An assessment of the project's internal control system with emphasis on the effectiveness of the system in providing the project management with useful and timely information for the proper management of the project.
- e) To audit the expenditures and receipts under the Financing Agreement and the Partnership Agreements. Special attention should be paid to the following:
  - o The second financial disbursement receipts and expenditures between that period have been used in accordance with the conditions of Financing Agreement and Partnership Agreements with due attention to economy and efficiency and only for the purposes for which the funds were to be applied;

- Goods and services financed have been procured in accordance with the Financing Agreement, Partnership Agreements, and notice of non-objection from the AFD;
- Checks on the activities' implementation;
- Review the vehicles fuel log books as well as fuel expenditure to determine level of efficiency in the use of project vehicles
- All necessary supporting documents, records and accounts have been kept in respect of all Programme activities. Clear linkages should exist between the books of account and the financial statements presented as well as level of disbursement and physical completion stage;
- The financial statements have been prepared in accordance with International Accounting Standards (IAS) and Generally Accepted Accounting principles (GAAP) and give a true and fair view of the financial position of the Programme as to the application of the initial disbursement and of the requests following and of their receipts and expenditures;
- The Auditor should carry out a comprehensive assessment of the adequacy and effectiveness of the accounting and overall internal control system to monitor expenditures and other financial transactions and ensure safe custody of Programme financed assets;
- The Auditor should ascertain that the ledgers are maintained by the Programme as required by the rules and guidelines as well as a fixed asset register.
- Whether all Assets procured from project funds exist and are properly safeguarded
- Further and as required by AFD, the report should confirm whether or not all AFD and counterpart funds have been used in accordance with the loan agreement and with due attention to

economy efficiency and only for the purposes for which financing was provided under the Loan agreement,

- Whether National laws have been complied with and the financial and accounting procedures approved for the project were followed and used.
- Review expenditures made by the project and assess whether they are in accordance with the project document and Annual Workplan and Budget.
- Review the projects accounting records and assess their adequacy for maintaining accurate and complete records of receipts and disbursements of cash; and for supporting the preparation of the quarterly financial report.

### **3.0 Qualifications**

To carry out this exercise, the following key professional staff will be required

- **Audit Manager:** Professional Accountant (CA, ACCA, ACA) or equivalent professional qualification with a minimum of eight years post-qualification experience on similar audit assignments;
- **Audit Supervisor:** Professional Accountant (CA, ACCA, ACA) or equivalent professional qualification with a minimum of five years audit experience of which three should have been on the audit of Donor funded Programs;
- **Audit Senior:** Part-qualified Accountant (Part 3 of the professional examinations of ACCA, ACA) or equivalent professional accountancy body with a minimum of three years audit experience two of which should have been on the audit of Donor funded Program.

#### **3.1 General qualifications**

- a) The auditors should be recognized in law, in good standing under ICPAK and provide a current tax compliance certificate.

- b) The auditors must be completely impartial and independent from all aspects of management or financial interests in the entity being audited.
- c) The auditors should not, during the period covered by the audit nor during the undertaking of the audit, be employed by, serve as director for, or have any financial or close business relationships with any senior participant in the management of the entity.
- d) The auditors should be experienced in applying ISA audit standards, whichever is applicable for the audit.
- e) Experience in auditing of International Funded-Government projects is an asset.
- f) Curriculum vitae (CVs) should be provided to the client by the principal of the firm of auditors who would be responsible for signing the opinion, together with the CVs of managers, supervisors and key personnel proposed as part of the audit team.
- g) CVs should include details on audits carried out by the applicable staff, including ongoing assignments indicating capability and capacity to undertake the audit.

#### **4.0 PIU Provisions and Facilitation**

In order to undertake the assignment, it is expected that the Auditors will familiarize themselves with the project's log frame and develop an understanding of the project objectives, outputs, activities, interventions and approaches.

#### **4.1 During the audit period the project office shall facilitate the following,**

- a) Mobilize relevant Staff involved in day to day project management.
- b) Provide relevant data and information necessary to undertake/facilitate the assignment. These documents will include but will not be limited to the following,

- The Credit Facility Agreement between the AFD and the National Treasury
- The on-granting Agreement between National Treasury and Kenya Wildlife Service
- The Gok Financial Procedures
- Kenya Wildlife Service Project Implementation Manual
- The annual/quarterly progress and Financial Reports.
- The GoK Guidelines for the Procurement of goods and services.

c) Provide office space during the assignment.

#### **4.2 Outputs and Deliverables**

At the end of the assignment the Audit Firm shall provide to the Head of Internal Audit and the PIU the following output:

a) Produce an audit report (6 well bound copies and 6 CDs) at the completion of the audit that should express an opinion on the financial statements in accordance with provisions of section 9 of the public Audit Act, 2003.

The audit report will include but not limited to the following

- Summary report on resources by project component
- Balance sheet on the initial disbursement of funds describing the accumulated resources, bank's outstanding, assets of the Project;
- Comprehensive list of all assets purchased, with given dates, values and condition of the asset;
- The Auditors must form an opinion as to the degree of compliance with the Financing Agreement and Partnership Agreements and the balance of the special account as at the period of audit;
- Summary of expenditures shown under the main Programme headings (components) and by main categories of expenditure. These expenditures should be carefully compared for Programme eligibility with the Financing Agreement. Where ineligible expenditures are identified as having been included, these should be noted separately by the auditors;

### **4.3 Management letter**

In addition to the Audit report, the Auditors will prepare a “management letter,” in which they will:

- give comments and observations on the accounting records, systems and controls that were examined during the course of the Audit;
- identify specific deficiencies and areas of weakness in systems and controls and make recommendations for improvement;
- report on the degree of compliance of each of the financial covenants on the Financing Agreement and Partnership Agreements and give comments, if any, on internal and external matters affecting such compliance;
- communicate matters that have come to their attention during the Audit which might have a significant impact on the implementation and sustainability of the Programme;
- bring to attention any other matters that the Auditors consider pertinent.

### **5.0 Reporting Arrangement**

The consultant will be reporting to the Deputy Director Finance and Administration at the KWS headquarters in collaboration with the Project Coordinator.

### **5.1 Duration of assignment**

- a)** The duration of engagement of the successful audit firm will be 3 years, under a framework contract. A letter of engagement will be issued every year by KWS for the audit exercise with payments made annually as per the terms of the contract.

- b) The consultant should complete the yearly assignment (audit) and submit the final report within sixty (60) working days from the date of the awarding of the contract.

## **C) INSTRUCTION TO BIDDERS**

### **2.0 General Terms and Conditions**

#### **2.1 Scope**

The Invitation to Bid (RFP) document is for the procurement of consultancy services for “AN **INDEPENDENT AUDITOR FOR THE NORTHERN KENYA BIODIVERSITY CONSERVATION PROJECT MARSABIT (AFD)**”, as specified in the data sheet. Consultants must comply fully with the requirements set out in this document.

#### **2.2 Eligibility**

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

##### **2.2.1 Restrictions**

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

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

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

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

- a. Are bankrupt, or are being wound up, or whose affairs are being administered by court, or who have entered into an arrangement with creditors, or who have suspended business activities or who are subject to an injunction against running business by a court of law;

- b. Are subject of proceedings for declaration of bankruptcy, or of an order for compulsory winding up or administration by court, or of an arrangement with creditors, or of any other similar proceedings;
- c. Have been convicted of an offence concerning their professional conduct by a court of law, or found guilty of grave professional misconduct; and
- d. Have not fulfilled obligations relating to payments of taxes or statutory contributions.

All bidders/ consultants are required to sign the bidders Declaration form contained in Appendix 4

### **2.3 Conflict of Interest**

Conflict of interest is described as;

- 1. Any event(s) influencing the capacity of a candidate, bidder or contractor to give an objective and impartial professional opinion, or preventing him at any moment, from giving priority to the interests of KWS.
- 2. Receipt or granting of any consideration relating to possible contracts in the future or conflict with other commitments, past, present, of a candidate, bidder or contractor, or any conflict with their own interests.

These restrictions also apply to subcontractors and employees of the candidate, bidder or contractor.

### **2.4 Request for Clarification**

Any request for clarification must be received by KWS- Supply Chain Management in writing as specified in the data sheet (clause 1.3). If KWS either on its own initiative or in or in response to a request from a bidder provides additional information on the proposal document, such information will be sent in writing to all bidders.

### **2.5 Amendment of RFP Documents**

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

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



### 3.0 Preparation of Proposal

#### Technical Proposal

3.1 The Consultants proposal shall be written in English language.

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

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

- (i) If a firm considers that it does not have all the expertise for the assignment, it may obtain a full range of expertise by associating with individual consultant(s) and/or other firms or entities in a joint venture or sub consultancy as appropriate. Consultants shall not associate with the other consultants invited for this assignment. Any firms associating in contravention of this requirement shall automatically be disqualified.
- (ii) It is desirable that the majority of the key professional staff proposed be available throughout the contract period
- (iii) Proposed professional staff must, as a minimum, have the experience indicated
- (iv) Alternative professional staff shall not be proposed and only one Curriculum Vitae (CV) may be submitted for each position.

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

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

should include number of years working for the firm/entity and degree of responsibility held in various assignments

- (vi) Estimates of the total staff input (professional and support staff staff-time) needed to carry out the assignment and the time proposed for each professional staff team member.

3.5 The Technical Proposal **shall not** include any financial information.

### **Financial Proposal**

3.6 In preparing the Financial Proposal, consultants are expected to take into account the requirements and conditions outlined in the RFP documents. The Financial Proposal should follow Standard Forms (Section D). It lists all costs associated with the assignment including; (a) remuneration for staff (in the field and at headquarters), and; (b) reimbursable expenses (if any), transportation, services and equipment (vehicles, office equipment, furniture, and supplies), office rent, insurance, printing of documents, surveys, and training, if it is a major component of the assignment. If appropriate these costs should be broken down by activity.

3.7 The Financial Proposal should clearly identify as a separate amount, the local taxes, duties, fees, levies and other charges imposed under the law on the consultants, the sub consultants and their personnel.

3.8 Consultants shall express the price of their services in Kenya Shillings.

3.9 Commissions and gratuities, if any, paid or to be paid by consultants and related to the assignment will be listed in the Financial Proposal submission Form.

3.10 The Proposal must remain valid for 90 days after the submission date. During this period, the consultant is expected to keep available, at his own cost, the professional staff proposed for the assignment. KWS will make an effort to complete negotiations within this period. If the KWS wishes to extend the validity period of the proposals, the consultants who do not agree have the right not to extend the validity of their proposals.

#### **a. Submission, Receipt, and Opening of Proposals**

4.1 The original proposal (Technical Proposal and Financial Proposal) shall be prepared in indelible ink. It shall contain no interlineations or overwriting,

except as necessary to correct errors made by the firm itself. Any such corrections must be initialed by the persons or person authorized to sign the proposals.

4.2 For each proposal, the consultants shall prepare the number of copies indicated. Each Technical Proposal and Financial Proposal shall be marked "**ORIGINAL**" or "**COPY**" as appropriate. If there are any discrepancies between the original and the copies of the proposal, the original shall govern.

4.3 The original and all copies of the **Technical Proposal** shall be placed in a sealed envelope clearly marked "**TECHNICAL PROPOSAL**," and the original and all copies of the FINANCIAL PROPOSAL in a sealed envelope clearly marked "**FINANCIAL PROPOSAL**" and warning: "**DO NOT OPEN WITH THE TECHNICAL PROPOSAL**". Both envelopes shall be placed into an outer envelope and sealed. This outer envelope shall bear the submission address and other information indicated and be clearly marked, "**DO NOT OPEN, EXCEPT IN PRESENCE OF THE EVALUATION COMMITTEE.**"

4.4 The completed Technical and Financial Proposals must be delivered at the submission address on or before closure date. Any proposal received after the closing time for submission of proposals shall be returned to the respective consultant **unopened**.

4.5 After the deadline for submission of proposals, the Technical Proposal shall be opened immediately by the evaluation committee. The Financial Proposal shall remain sealed and deposited with a responsible officer of the client department until all submitted proposals are opened publicly.

## **5.0 Proposal Evaluation General**

5.1 From the time the bids are opened to the time the Contract is awarded, if any consultant wishes to contact the Client on any matter related to his proposal, he should do so in writing at the address indicated. Any effort by the firm to influence the Client in the proposal evaluation, proposal comparison or Contract award decisions may result in the rejection of the consultant's proposal.

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

### **Evaluation of Technical Proposals**

5.3 The evaluation committee appointed by the Client shall evaluate the proposals on the basis of their responsiveness to the Terms of Reference, and applying the evaluation criteria below;

	<b>The number of points given under each of the evaluation criteria are:</b>	<b><u>Points Given</u></b>
<b>(1)</b>	<b>Specific Experience of the consulting firm in the same field that of the assignment and on similar projects</b>	<b><u>30</u></b> 30
<b>(2)</b>	<b>Adequacy of the proposed work plan and methodology in responding to the TOR</b>	<b><u>35</u></b>
<b>a.</b>	<b>Understanding of the TOR</b>	5
<b>b.</b>	<b>Overall quality of proposal</b>	5
<b>c.</b>	<b>Quality of methodology proposed</b>	
	(c.1) Technical approach	20
	(c.2) Quality of work plan	3
	(c.3) Organization and staffing	2
<b>(3)</b>	<b>Qualifications and competence of the key staff for the assignment</b>	<b><u>35</u></b>
	<b>Total:</b>	<b>100</b>

Each responsive proposal will be given a technical score (St). A proposal shall be rejected at this stage if it does not respond to important aspects of the Terms of Reference.

5.4 Any proposal that does not attain a minimum threshold of 70 points at the technical evaluation stage will be rejected and thus will not be considered for financial evaluation

### **Public Opening and Evaluation of Financial Proposals**

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

5.5 The Financial Proposals shall be opened publicly in the presence of the consultants' representatives who choose to attend.

5.6 The name of the consultant, the technical scores and the proposed prices shall be read aloud and recorded when the Financial Proposals are opened. The Client shall prepare minutes of the public opening.

5.7 The evaluation committee will determine whether the financial proposals are complete (i.e. whether the consultants have costed all the items of the corresponding Technical Proposal and correct any computational errors. The cost of any unpriced item shall be assumed to be included in other costs in the proposal. In all cases, the total price of the Financial Proposal as submitted shall prevail.

5.8 While comparing proposal prices between local and foreign firms participating in a selection process in financial evaluation of Proposals, firms incorporated in Kenya where indigenous Kenyans own 51% or more of the share capital shall be allowed a 10% preferential bias in proposal prices. However, there shall be no such preference in the technical evaluation of the tenders. Proof of local incorporation and citizenship shall be required before the provisions of this sub-clause are applied. Details of such proof shall be attached by the Consultant in the financial proposal.

5.9 The formulae for determining the Financial Score ( $S_f$ ) shall, be as follows: -

$S_f = 100 \times F_m/F$  where  $S_f$  is the financial score;  $F_m$  is the lowest priced financial proposal and  $F$  is the price of the proposal under consideration.

Proposals will be ranked according to their combined technical ( $S_t$ ) and financial ( $S_f$ ) scores using the weights ( $T$ =the weight given to the Technical Proposal ( $T= 0.75$ );  $P$ = the weight given to the Financial Proposal ( $P=0.25$ );  $T + P = 1$ ). The combined technical and financial score,  $S$ , is calculated as follows: -  
 $S = S_t \times T \% + S_f \times P \%.$

The firm achieving the highest combined technical and financial score ( $S$ ) will be invited for negotiations.

## **6. Negotiations**

6.1 Negotiations will be held with successful firm with the aim of reaching an agreement on all points and sign a contract.

6.2 Negotiations will include a discussion of the Technical Proposal, the proposed methodology (work plan), staffing and any suggestions made by the firm to improve the Terms of Reference. The Client and firm will then work out final Terms of Reference, staffing and activities, staff periods in the field and in the head office, staff-months, logistics and reporting. The agreed work plan and final Terms of Reference will then be incorporated in the "Description of Services" and form part of the Contract. Special attention will be paid to getting the most the firm can offer within the available budget and to clearly defining the inputs required from the Client to ensure satisfactory implementation of the assignment.

6.3 Unless there are exceptional reasons, the financial negotiations will not involve the remuneration rates for staff (no breakdown of fees).

6.4 Having selected the firm on the basis of, among other things, an evaluation of proposed key professional staff, the Client expects to negotiate a contract on the basis of the experts named in the proposal. Before contract negotiations, the Client will require assurances that the experts will be actually available. The Client will not consider substitutions during contract negotiations unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the assignment. If this is not the case and if it is established that key staff were offered in the proposal without confirming their availability, the firm may be disqualified.

6.5 The negotiations will conclude with a review of the draft form of the Contract. To complete negotiations the Client and the selected firm will sign the agreed Contract. If negotiations fail, the Client will invite the firm whose proposal received the second highest score to negotiate a contract.

## **7.0 Award of Contract**

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

7.2 The selected firm is expected to commence the assignment upon signing the contract.

## **8. Performance bond**

8.1 Within fourteen (14) days of receipt of the notification of Contract award, the successful tenderer shall furnish to KWS the performance bond in the amount specified in Special Conditions of Contract.

8.2 The proceeds of the performance bond shall be payable to KWS as compensation for any loss resulting from the Tenderer's failure to complete its obligations under the Contract.

8.3 The performance bond shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to KWS and shall be in the form of a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in Kenya or abroad, acceptable to KWS, in the form provided in the tender documents.

8.4 The performance bond will be discharged by KWS and returned to the Candidate not later than thirty (30) days following the date of completion of the Tenderer's performance obligations under the Contract, including any warranty obligations, under the Contract

## **9.0 Confidentiality**

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

9.1 "The tenderer represents that it has not engaged in any practice likely to influence the projects implementation process at the Borrowers expense and in particular that there was not and shall not be any collusion. The tenderer represents that the negotiation, procurement and performance of the contract has not given rise to and shall not give rise to corruption as defined in the United Nations convention against corruption dated October 31, 2003."

## Appendix 1: DATA SHEET

Clause Ref:	1. General
1.1	<ol style="list-style-type: none"> <li>1 <b>Name of Client:</b> The procuring entity is KWS,</li> <li>2 <b>Recipient:</b> The services shall be delivered to the KWS.</li> <li>3 <b>Method of procurement:</b> Open tender</li> </ol>
1.2	The name and reference number of the Invitation to Bid is: <b>“CONSULTANCY TO CARRY OUT AN INDEPENDENT AUDIT FOR THE NORTHERN KENYA BIODIVERSITY CONSERVATION PROJECT MARSABIT (AFD)”</b>
1.3	<p><b>Clarifications</b></p> <ol style="list-style-type: none"> <li>1. Requests for clarification quoting the tender number and title <b>must</b> be received by <b>12:00 Hrs Kenyan time on 4th April 2019</b>. Clarification requests received after this date and time shall not be responded to. Responses to queries are expected to have been sent out to all bidders by 3rd <b>April 2019</b>.</li> <li>2. Clarifications on any aspect of this RFP including the detailed terms of reference must be addressed and submitted to the KWS- Supply Chain Management Department on official letterhead only by fax, registered mail or hand delivered to the address and contacts below.</li> <li>3. The address and contact for submitting proposals and requesting clarifications is as follows: <p style="text-align: center;"> <b>The Director  Kenya Wildlife Service  P O Box 40241  Nairobi, Kenya</b> </p> </li> </ol>
	<b>2.0 Preparation of Proposals</b>
2.1	The currency specified for this proposal is Kenya Shillings.
2.2	The proposal(s) must remain valid for 90 days from date of submission.
2.3	The bidder shall submit one (1) original and three (3) copies of its proposal.
	<b>3.0 Submission of Proposals</b>
3.1	Proposals must be received and deposited in the tender box before 12.00 Noon Kenyan Time (GMT +3) on <b>4<sup>th</sup> April 2019</b> at the address indicated in 1.3 above.
3.2	<p>Bidders must submit the original and 3 copies of the technical Proposal as well as the original of the Financial Proposal and 3 copies. In both cases the proposals must be printed in indelible ink and neatly bound. The original copy must be clearly marked “Original” and copies marked clearly as “Copy”.</p> <p>The Technical and Financial Proposals <b>must</b> be separately sealed in <b>two separate envelopes</b>, clearly marked “Technical Proposal” and “Financial Proposal”. The two separate envelopes must be enclosed in a single outer envelope, which shall not bear the name and address of the bidder, the proposal title and reference number (as per clause 1.2 above) and labeled <b>“not to be open except in the presence of the Tender Opening Committee.”</b></p>
3.3	Submission of proposals by electronic mail or facsimile is <b>not</b> allowed.
3.4	<p><b>Opening of technical and financial proposals</b></p> <ol style="list-style-type: none"> <li>1. Opening of the technical proposal shall be undertaken immediately following the proposals submission. Bidders or their authorized representatives are allowed to attend and observe the technical</li> </ol>



	<p>proposal opening if they so choose. The bidders' or their representatives shall sign a register of attendance.</p> <ol style="list-style-type: none"> <li>2. The bidders' names and the presence or absence of Bidder's Declaration, Integrity Pact and other such details as the KWS, at its discretion, may consider appropriate will be announced at the opening.</li> <li>3. The opening of financial proposals shall be undertaken only for bidders whose technical proposals meet the minimum technical score as detailed in clause 4.2 below.</li> <li>4. Bidders who do not meet the minimum technical score shall not proceed to the financial evaluation stage and shall have their unopened financial proposals returned to them.</li> </ol>																																	
	<b>4.0 Evaluation and comparison of Proposals</b>																																	
4.1	<b>Currency:</b> The currency for evaluation process will be Kenya Shillings																																	
4.2	<p><b>Proposal evaluation and criteria and process</b></p> <p>In assessing the proposals submitted, the tender committee will carry out a three-stage Quality and cost-Based Selection process as follows:</p> <p><b>1. Technical evaluation</b></p> <p>(a) The technical evaluation will be based on a scoring system marked out of a maximum of 100 marks. Only proposals that score at least 70 marks in this technical evaluation will be deemed to be "technically responsive" and eligible for Stage 2. Marks will be awarded according to the following matrix:</p> <table border="1" data-bbox="349 1061 1385 1854"> <thead> <tr> <th></th> <th>The number of points given under each of the evaluation criteria are:</th> <th><u>Points Given</u></th> </tr> </thead> <tbody> <tr> <td>(1)</td> <td><b>Specific Experience of the audit firm in the same field that of the assignment and on similar projects</b> Experience in auditing of similar project with similar magnitude</td> <td><u>30</u> 30</td> </tr> <tr> <td>(2)</td> <td><b>Adequacy of the proposed work plan and methodology in responding to the TOR</b></td> <td><u>35</u></td> </tr> <tr> <td></td> <td>a. <b>Understanding of the TOR</b></td> <td>5</td> </tr> <tr> <td></td> <td>b. <b>Overall quality of proposal</b></td> <td>5</td> </tr> <tr> <td></td> <td>c. <b>Quality of methodology proposed</b></td> <td></td> </tr> <tr> <td></td> <td>(c.1) Technical approach</td> <td>20</td> </tr> <tr> <td></td> <td>(c.2) Quality of work plan</td> <td>3</td> </tr> <tr> <td></td> <td>(c.3) Organization and staffing</td> <td>2</td> </tr> <tr> <td>(3)</td> <td><b>Qualifications and competence of the key staff for the assignment</b></td> <td><u>35</u></td> </tr> <tr> <td></td> <td><b>Total:</b></td> <td><b>100</b></td> </tr> </tbody> </table> <p><b>2. Financial evaluation</b></p>		The number of points given under each of the evaluation criteria are:	<u>Points Given</u>	(1)	<b>Specific Experience of the audit firm in the same field that of the assignment and on similar projects</b> Experience in auditing of similar project with similar magnitude	<u>30</u> 30	(2)	<b>Adequacy of the proposed work plan and methodology in responding to the TOR</b>	<u>35</u>		a. <b>Understanding of the TOR</b>	5		b. <b>Overall quality of proposal</b>	5		c. <b>Quality of methodology proposed</b>			(c.1) Technical approach	20		(c.2) Quality of work plan	3		(c.3) Organization and staffing	2	(3)	<b>Qualifications and competence of the key staff for the assignment</b>	<u>35</u>		<b>Total:</b>	<b>100</b>
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The financial evaluation will allocate the least-cost, qualified bidder (i.e. the bidder with the lowest cost quotation among those who attain a score of at least 70 marks in the overall technical evaluation) with a maximum financial score of 30 marks. Other qualifying bidders will then have their financial scores reduced in proportion to their excess over minimum qualifying cost quotation.

The formula

$$S_f = \frac{F_M}{F} \times 100$$

shall be used where:

F = Price of proposal under consideration

S<sub>f</sub> = Financial score

F<sub>m</sub> = Lowest priced financial proposal

### **3. Total proposal score (S)**

A total proposal score will then be ascribed to each qualifying bidder, as the sum of:

- Technical score; and
- Financial score as calculated above.

Finally, bidders will be ranked by total proposal score and the highest scoring bidder overall will be selected as the successful bidder. Where, the highest scoring bidder is unable to confirm availability for the work, the next highest combined scoring bidder will be selected as the successful bidder.

## **Appendix 2: - TECHNICAL PROPOSAL – STANDARD FORMS**

These forms shall include;

- i) Technical Proposal submission form.
- ii) Firm's references.
- iii) Comments and suggestions of consultants on the Terms of Reference and on data, services and facilities to be provided by the Client.
- iv) Description of the methodology and work plan for performing the assignment.
- v) Team composition and task assignments.
- vi) Format of curriculum vitae (CV) for proposed professional staff.
- vii) Time schedule for professional personnel.
- viii) Activity (work) schedule.

**(i) TECHNICAL PROPOSAL SUBMISSION FORM**

[\_\_\_\_\_ Date]

To: \_\_\_\_\_ [Name and address of Client]

Ladies/Gentlemen:

We, the undersigned, offer to provide the consultancy services for

\_\_\_\_\_ [Title of consulting services] in accordance with your Request for Proposal dated \_\_\_\_\_ [Date] and our Proposal. We are hereby submitting our Proposal, which includes this Technical Proposal, [and a Financial Proposal sealed under a separate envelope].

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

We remain,

Yours sincerely,

\_\_\_\_\_ [Authorized Signature]

\_\_\_\_\_ [Name and Title of Signatory]

\_\_\_\_\_ [Name of Firm]

\_\_\_\_\_ [Address]

## (ii) FIRM'S REFERENCES

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

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

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

Firm's Name: \_\_\_\_\_

Name and title of signatory; \_\_\_\_\_

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

---

On the Terms of Reference:

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

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

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

**(iv) DESCRIPTION OF THE METHODOLOGY AND WORK PLAN FOR PERFORMING THE ASSIGNMENT**

## (v) TEAM COMPOSITION AND TASK ASSIGNMENTS

### 1. Technical/Managerial Staff

Name	Position	Task

### 2. Support Staff

Name	Position	Task

## (vi) FORMAT OF CURRICULUM VITAE (CV) FOR PROPOSED PROFESSIONAL STAFF

Proposed Position:

---

Name of Firm:

---

Name of Staff:

---

Profession:

---



Date of Birth:

---

Years with Firm: \_\_\_\_\_ Nationality:

---

Membership in Professional Societies:

---

---

Detailed Tasks Assigned:

---

---

**Key Qualifications:**

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

---

**Education:**

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

---

**Employment Record:**

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

---

**Certification:**

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

\_\_\_\_\_ Date:

\_\_\_\_\_  
*[Signature of staff member ]*

Date; \_\_\_\_\_

*[Signature of authorised representative of the firm]*

Full name of staff member:

\_\_\_\_\_

Full name of authorized representative:

\_\_\_\_\_

**(vii) TIME SCHEDULE FOR PROFESSIONAL PERSONNEL**

Weeks (in the Form of a Bar Chart)

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

Reports Due: \_\_\_\_\_

Activities Duration: \_\_\_\_\_

Signature: \_\_\_\_\_  
(Authorized representative)

Full Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

**(viii) ACTIVITY (WORK) SCHEDULE**

**(a). Field Investigation and Study Items**

*[1<sup>st</sup>, 2<sup>nd</sup>, etc, are weeks from the start of assignment)*

	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>	6 <sup>th</sup>	7 <sup>th</sup>	8 <sup>th</sup>	
Activity (Work)									
_____									
_____									
_____									
_____									

**(b). Completion and Submission of Reports**

Reports	Date
1. Inception Report	
3. Draft Report	
4. Final Report	

Appendix 3: - **FINANCIAL PROPOSAL – STANDARD FORMS**

These forms shall include;

- i) Financial Proposal submission form.
- ii) Summary of costs.
- iii) Breakdown of price per activity.
- iv) Breakdown of remuneration per activity.
- v) Re-imbursables per activity.
- vi) Miscellaneous expenses.

**(i) FINANCIAL PROPOSAL SUBMISSION FORM**

\_\_\_\_\_ [ Date]

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
*[Name and address of Client]*

Ladies/Gentlemen:

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

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

We remain,

Yours sincerely,

\_\_\_\_\_ *[Authorized Signature]*

\_\_\_\_\_ *[Name and Title of Signatory]*

\_\_\_\_\_ *[Name of Firm]*

\_\_\_\_\_ [Address]

**(ii) SUMMARY OF COSTS**

Costs	Currency(ies)	Amount(s)
Subtotal		
Taxes		
Total Amount of Financial Proposal		_____

**(iii) BREAKDOWN OF PRICE PER ACTIVITY**

Activity NO.: _____	Description: _____
Price Component	Amount(s)
Remuneration	
Reimbursables	
Miscellaneous Expenses	
Subtotal	_____

**(iv) BREAKDOWN OF REMUNERATION PER ACTIVITY**

Activity No: _____		Name: _____		
Names	Position	Input (Staff months, days or hours as appropriate)	Remuneration Rate	Amount
<b>Regular staff</b>				
(i)				
(ii)				
<b>Consultants</b>				

<b>Grand Total</b>				
--------------------	--	--	--	--

**(v) REIMBURSABLES PER ACTIVITY**

Activity No: \_\_\_\_\_

Name: \_\_\_\_\_

No.	Description	Unit	Quantity	Unit Price	Total Amount
1.					
2.					
3.					
4.					

**(vi). MISCELLANEOUS EXPENSES**

Activity No. \_\_\_\_\_ Activity

Name: \_\_\_\_\_

No.	Description	Unit	Quantity	Unit Price	Total Amount
1.					
2.					
3.					
4.					

## SECTION D– STANDARD TENDER FORM

i) BUSINESS QUESTIONNAIRE:

- 1.1 **Business Name:** .....
- 1.2 **Date of Registration**.....
- 1.3 **Indicate the form of Business:**  
 (a) Sole Proprietor..... (b) Partnership.....  
 (c) Company.....
- 1.4 What businesses are you licensed to operate? .....
- 1.5 Postal Address .....
- Tel /Telfax No .....
- Cell Phone.....
- Email .....
- Web page.....
- 1.6 Location of business premises:  
 Street/Road.....Building and Floor.....Plot No  
 .....
- 1.7 Who are your Principal Bankers ..... Branch  
 .....
- 1.8 Details of business registration: Please complete the relevant section.

Part 1.8 (a) – Sole Proprietor

Your name in full .....

Are you a Kenya Citizen?.....If not, what is your Nationality

.....

### **Part 1.8(b) – Partnership/ Limited Company**

Country of incorporation.....Date.....

	NAME OF PARTNERS/SHARE HOLDERS	NATIONALITY	CITIZENSHIP	OWNERSHIP (SHARES)
1				
2				
3				
4				

**The Position in the company of the person making this application**.....

Signature.....Date.....

OFFICIAL STAMP HERE:

**ii. Tender Security Form**

Whereas..... [name of the tenderer] (hereinafter called "the tenderer") has submitted its tender dated .....[date of submission of tender] for the supply of..... [name and/or description of the service]

(hereinafter called "the Tender").....

KNOW ALL PEOPLE by these presents that WE.....

of..... having our registered office at ..... (hereinafter called "the Bank"), are bound unto KWS (hereinafter called "Kenya Wildlife Service") in the sum of .....

for which payment well and truly to be made to the said KWS, the Bank binds itself, its successors, and assigns by these presents. Sealed with the Common Seal of the said Bank this \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

THE CONDITIONS of this obligation are:

1. If the tenderer withdraws its Tender during the period of tender validity specified by the tenderer on the Tender Form; or
2. If the tenderer, having been notified of the acceptance of its Tender by KWS during the period of tender validity:
  - (a) fails or refuses to execute the Contract Form, if required; or
  - (b) fails or refuses to furnish the performance bond, in accordance with the Instructions to tenderers;

We undertake to pay to KWS up to the above amount upon receipt of its first written demand, without KWS having to substantiate its demand, provided that in its demand KWS will note that the amount claimed by it is due to it, owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This guarantee will remain in force up to and including thirty (30) days after the period of tender validity, and any demand in respect thereof should reach the Bank not later than the above date.



### iii) Declaration Form for Non Corrupt Practices & Non-Debarrement

Date: .....

To:

DIRECTOR GENERAL  
KENYA WILDLIFE SERVICE  
P. O. BOX 40241-00100  
**NAIROBI**

#### LADIES AND GENTLEMEN

The Tenderer i.e. (full name and complete physical and postal address) \_\_\_\_\_ declare the following: -

- a) That I/ We have not been debarred from participating in public procurement by anybody, institution or person
- b) That I/ We have not been involved in and will not be involved in corrupt and fraudulent practices regarding public procurement anywhere.
- c) That I/ We are not insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing.
- d) That I/We do hereby confirm that all the information given in this tender is accurate, factual and true to the best of our knowledge.
- e) That I/ We are not associated with any other Tenderer participating in this tender.

Yours sincerely,

\_\_\_\_\_  
Name of Tenderer

\_\_\_\_\_  
Signature of duly authorized person signing the Tender

\_\_\_\_\_  
Name and Designation of duly authorised person signing the Tender  
**Stamp or Seal of Tenderer**

## FORM OF CONTRACT

This Agreement (hereinafter called the "Contract") is made the \_\_\_\_\_)day of the month of \_\_\_\_\_[month], [year], between \_\_\_\_\_, [name of client] of [or whose registered office is situated at ]\_\_\_\_\_ [location of office] (hereinafter called the "Client") of the one part AND

\_\_\_\_\_ [name of consultant] of [or whose registered office is situated at] \_\_\_\_\_ [location of office] (hereinafter called the "Consultant") of the other part.

### WHEREAS

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

NOW THEREFORE the Parties hereto hereby agree as follows:

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

- (a) The Consultant shall carry out the Services in accordance with the provisions of the Contract; and
- (b) The Client shall make payments to the Consultant in accordance with the provisions of the Contract.

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

For and on behalf of \_\_\_\_\_ [name of client]

[full name of Client's authorised representative] \_\_\_\_\_

[title] \_\_\_\_\_

[signature] \_\_\_\_\_

[date] \_\_\_\_\_

For and on behalf of \_\_\_\_\_ [name of consultant]

[full name of Consultant's authorized representative] \_\_\_\_\_

[title] \_\_\_\_\_

[signature] \_\_\_\_\_

[date] \_\_\_\_\_

## GENERAL CONDITIONS OF CONTRACT

### 1. GENERAL PROVISIONS

#### 1.1 Definitions

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

- (a) "Applicable Law" means the laws and any other instruments having the force of law in the Republic of Kenya as they may be issued and in force from time to time;
- (b) "Contract" means the Contract signed by the Parties, to which these General Conditions of Contract (GC) are attached together with all the documents listed in Clause 1 of such signed Contract;
- (c) "Contract Price" means the price to be paid for the performance of the Services in accordance with Clause 6 here below;
- (d) "Foreign Currency" means any currency other than the Kenya Shilling;
- (e) "GC" means these General Conditions of Contract;
- (f) "Government" means the Government of the Republic of Kenya;
- (g) "Local Currency" means the Kenya Shilling;
- (h) "Member", in case the Consultant consists of a joint venture of more than one entity, means any of these entities; "Members" means all these entities, and "Member in Charge" means the entity specified in the SC to act on their behalf in exercising all the Consultant's rights and obligations towards the Client under this Contract;
- (i) "Party" means the Client or the Consultant, as the case may be and "Parties" means both of them;
- (j) "Personnel" means persons hired by the Consultant or by any Sub consultant as employees and assigned to the performance of the Services or any part thereof;
- (k) "SC" means the Special Conditions of Contract by which the GC may be amended or supplemented;
- (l) "Services" means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A; and

- (m) "Sub consultant" means any entity to which the Consultant subcontracts any part of the Services in accordance with the provisions of Clauses 3 and 4.

- 1.2 Law Governing and the the Contract** This Contract, its meaning and interpretation relationship between the Parties shall be governed by the Laws of Kenya.
- 1.3 Language** This Contract has been executed in English language which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.
- 1.4 Notices** Any notice, request, or consent made pursuant to this Contract shall be in writing and shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed or when sent by registered mail, telex, telegram or facsimile to such Party at the address specified in the SC.
- 1.5 Location** The Services shall be performed at such locations as are specified in Appendix A and, where the location of a particular task is not so specified, at such locations, whether in the Republic of Kenya or elsewhere, as the Client may approve.
- 1.6 Authorized any Representative's** Any action required or permitted to be taken and document required or permitted to be executed under this Contract by the Client or the Consultant may be taken or executed by the officials specified in the SC.
- 1.7 Taxes and personnel Duties** The Consultant, Sub consultant[s] and their shall pay such taxes, duties, fees and other impositions as may be levied under the Laws of Kenya, the amount of which is deemed to have been included in the Contract Price.

## 2.0 COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT

- 2.1 Effectiveness of Contract** This Contract shall come into effect on the date the Contract is signed by both Parties or such other later date as may be stated in the SC.
- 2.2 Commencement of Services** The Consultant shall begin carrying out the Services immediately, the Contract becomes effective or at such other date as may be specified in the SC.
- 2.3 Expiration of Contract** Unless terminated earlier pursuant to Clause 2.6, this Contract shall terminate at the end of such time period, after the Effective Date, as is specified in the SC.
- 2.4 Modification** Modification of the terms and Conditions of this Contract, including any modification of the scope of the Services or the Contract Price, may only be made by written agreement between the Parties.
- 2.5 Force Majeure**
- 2.5.1 Definition** means For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party and which makes a Party's performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.
- 2.5.2 No Breach** under The failure of a Party to fulfill any of its obligations under the Contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.

**2.5.3 Extension** Any period within which a Party shall, pursuant to this

**Of Time** Contract complete any action or task shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

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

## **2.6 Termination**

**2.6.1 By the Client** The Client may terminate this Contract by a written notice of termination to the Consultant, to be given after the occurrence of any of the events specified in this Clause;

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

For the purpose of this clause;

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

“fraudulent practice” means a misrepresentation of facts in order to influence a selection process or the execution of Contract to the detriment of the Client, and includes collusive practice among

consultants (prior to or after submission of proposals) designed to establish prices at artificial non-competitive levels and to deprive the Client of the benefits of free and open competition.

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

### **2.6.2 By the Consultant**

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

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

### **2.6.3 Payment upon Termination**

Upon termination of this Contract pursuant to Clauses 2.6.1 or 2.6.2, the Client shall make the following **payments** to the Consultant:

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



### 3.0 OBLIGATIONS OF THE CONSULTANT

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

### 3.2 Conflict of Interests

#### 3.2.1 Consultant pursuant to

**Not to Benefit from Commissions, Discounts, Etc.**  
with

(i) The remuneration of the Consultant

Clause 6 shall constitute the Consultant's sole remuneration in connection with this Contract

the Services and the Consultant shall

for his own benefit any trade commission, discount or similar payment in connection

activities pursuant to this Contract or to the Services or in the discharge of his obligations under the Contract and the Consultant shall use his best efforts to ensure that his personnel, any sub consultant[s] and agents of either of them similarly shall not receive any such additional remuneration.

(ii) For a period of two years after the expiration of this Contract, the Consultant shall not engage and shall cause his personnel as well as his sub consultant[s] and his/their personnel not to engage in the activity of a purchaser (directly or indirectly) of the assets on which he advised the Client on this Contract nor shall he engage in the activity of an adviser (directly or indirectly) of potential purchasers of such assets.

- (ii) Where the Consultant as part of the Services has the responsibility of advising the Client on the procurement of goods, works or services, the Consultant will comply with any applicable.

Procurement guidelines and shall at all times exercise such responsibility in the best interest of the Client. Any discounts or commissions obtained by the Consultant in the exercise of such procurement shall be for the account of the Client.

**3.2.2 Consultant and Affiliates Not to be Otherwise Interested in Project**  
this  
Consultant  
from  
the  
Services.

The Consultant agrees that, during the term of Contract and after its termination, the and his affiliates, as well as any Sub consultant and any of his affiliates, shall be disqualified providing goods, works or services (other than Services and any continuation thereof) for any project resulting from or closely related to the

**3.2.3 Prohibition of Conflicting Activities**  
directly or

Neither the Consultant nor his subconsultant[s] nor their personnel shall engage, either indirectly in any of the following activities:

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

### **3.3 Confidentiality**

The Consultant, his sub consultant[s] and the personnel of either of them shall not, either during the term of this Contract or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential

information relating to the Project, the Services, this Contract or the Client's business or operations without the prior written consent of the Client.

**3.4 Insurance to be Taken Out by the Consultant**

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

**3.5 Consultant's Actions requiring Client's prior Approval**

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

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

**3.6 Reporting**  
Client the reports  
**Obligations**  
form, in

the said

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

**3.7 Documents**  
reports and  
**Prepared by**  
the Consult-  
**the Consultant**  
become and  
**to Be the**  
Consultant

All plans, drawings, specifications, designs, other documents and software submitted by ant in accordance with Clause 3.6 shall remain the property of the Client and the

**Property**  
expiration of this  
**of the Client**

shall, not later than upon termination or

Contract, deliver all such documents and software to the Client together with a detailed inventory thereof. The

Consultant may retain a copy of such documents and software. Neither Party shall use these documents for purposes unrelated to this Contract without the prior approval of the other Party.

## 4.0 CONSULTANT'S PERSONNEL

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

**4.2 Removal and/or Replacement Of Personnel** (a) Except as the Client may otherwise agree, no changes shall be made in the Key Personnel. If for any reason beyond the reasonable control of the Consultant, it becomes necessary to replace any of the Key Personnel, the Consultant shall provide as a replacement a person of equivalent or better qualifications.

(b) If the Client finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) the Client has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultant shall, at the Client's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Client.

(c) The Consultant shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

## 5. OBLIGATIONS OF THE CLIENT

**5.1 Assistance and Exemptions** The Client shall use his best efforts to ensure that he provides the Consultant such assistance and exemptions as may be necessary for due

performance of this Contract.

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

**5.3 Services and Consultant the Services** The Client shall make available to the Consultant the **Facilities** and Facilities listed under Appendix F.

## **6.0 PAYMENTS TO THE CONSULTANT**

**6.1 Lump-Sum Remuneration** The Consultant's total remuneration shall not exceed the Contract Price and shall be a fixed lump-sum including all staff costs, sub consultants' costs, printing, communications, travel, accommodation and the like and all other costs incurred by the Consultant in carrying out the

Services described in Appendix A. Except as provided in Clause 5.2, the Contract Price may only be increased above the amounts stated in Clause 6.2 if the Parties have agreed to additional payments in accordance with Clause 2.4.

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

(b) The price payable in local currency is set forth in the SC.

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

**6.4 Terms and Conditions of** Payments will be made to the account of the Consultant and according to the payment

## **Payment**

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

### **6.5 Interest on Delayed Payment**

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

## **7.0 SETTLEMENT OF DISPUTES**

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

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

## 8.0 SPECIAL CONDITIONS OF CONTRACT

Number of GC Clause	Amendments of and Supplements to Clauses in the General Conditions of Contract
---------------------	--

8.1 (i) The Member in Charge  
is \_\_\_\_\_ [name of Member]

8.2 The addresses are:

Client: \_\_\_\_\_

Attention: \_\_\_\_\_

Telephone: \_\_\_\_\_

Telex; \_\_\_\_\_

Facsimile: \_\_\_\_\_

Consultant: \_\_\_\_\_

Attention: \_\_\_\_\_

Telephone; \_\_\_\_\_

Telex: \_\_\_\_\_

Facsimile: \_\_\_\_\_

8.3 The Authorized Representatives are:

For the Client: \_\_\_\_\_

For the Consultant: \_\_\_\_\_

8.5 The date on which this Contract shall come into effect is(\_\_\_\_\_) [date].

**Note:** The date may be specified by reference to conditions of effectiveness of the Contract, such as



receipt by Consultants of advance payment and by Client of bank guarantee

8.6 The date for the commencement of Services  
is \_\_\_\_\_ [date]

8.7 The period shall be \_\_\_\_\_ six (6) months \_\_\_\_\_  
[length of time].

**Note:** Fill in the period, eg, twenty-four (18) months or such other period as the Parties may agree in writing.

8.8 The risks and coverage shall be:

(i) Professional Liability

\_\_\_\_\_

(ii) Loss of or damage to equipment and property

\_\_\_\_\_

8.9 (a) The amount in foreign currency or currencies  
is \_\_\_\_\_ [Insert amount].

8.9 (b) The amount in local Currency is \_\_\_\_\_ [Insert  
amount]

8.10 Payments shall be made according to the following schedule:

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

- The bank guarantee shall be released when the total payments reach fifty (50) percent of the lump-sum amount.

### **3.0 Appendices**

#### **APPENDIX A – DESCRIPTION OF THE SERVICES**

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

## **APPENDIX B – REPORTING REQUIREMENTS**

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

## **APPENDIX C– KEY PERSONNEL AND SUBCONSULTANTS**

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

## **APPENDIX D – BREAKDOWN OF CONTRACT PRICE IN FOREIGN CURRENCY**

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

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

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

## **APPENDIX E – BREAKDOWN OF CONTRACT PRICE IN LOCAL CURRENCY**

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

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

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

## APPENDIX F – SERVICES AND FACILITIES PROVIDED BY THE CLIENT

### Appendix 4: BIDDER DECLARATION

We/I the undersigned....., in the capacity of.....for [name of the company/firm/individual] certify that the bidder is not in any of the following situations;

1. Bankruptcy; are the subject of proceedings for a declaration of bankruptcy, or of an order for compulsory winding up or administration by court, or of any other similar proceedings
2. Payments to us have been suspended in accordance with the judgment of a court other than judgment declaring bankruptcy and resulting, in accordance with our national laws, in the total or partial loss of the right to administer and dispose off our property;
3. Legal proceedings have been instituted against us involving an order suspending payments and which may result, in accordance with our national laws, in a declaration of bankruptcy or in any other situation entailing the total or partial loss of the right to administer and dispose of our property;
4. Are being wound up, or our affairs are being administered by court, or have entered into an arrangement with creditors, or have suspended business activities or are subject to an injunction against running business by a court of law;
5. Have been convicted by a final judgment of any crime or offence concerning our/my professional conduct;
6. Are guilty of serious misrepresentation with regard to information required for participation in an invitation to tender or execution of a tender already awarded;
7. Are in breach of contract on another contract with the government of Kenya or other local or international contracting authority or foreign government.
8. Are convicted of an offence concerning our/my professional conduct by a court of law, or found guilty of grave professional misconduct; and
9. Is in default of obligations relating to payments of taxes or statutory contributions.

If the bidder is in any of the above listed situations, kindly attach documents giving details of situation.

Names in Full [.....]

Duly authorized to sign this bid on behalf of (bidder's name):

[.....]

Place and date: [.....]

Stamp of the firm/ company:





