TENDER DOCUMENT FOR SELECTION OF CONSULTANTS

REQUEST FOR PROPOSALS (RFP)

FOR

FEASIBILITY STUDY AND DETAILED ENGINEERING DESIGN FOR CONSTRUCTION OF A NEW LIQUID BULK TERMINAL AND TANK FARM FOR IMPORTING AND STORING VARIOUS TYPES OF LIQUID BULK CARGOES AND RELOCATION OF KURASINI OIL JETTY (KOJ)

TENDER No.: PRQ20151169

SUPPORTED BY

TRADE MARK EAST AFRICA
Growing Prosperity Through Trade

DATE: 13TH MAY 2016
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## REQUEST FOR PROPOSALS

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PART I

Section 1: Letter of Invitation

RFP No.: PRQ20141894;

Dar es Salaam, Tanzania

13th May 2016

Dear Mr. /Ms.:

1. The Tanzania Ports Authority (Client) has been allocated grant funds (the “Grant”) from the TradeMark East Africa, which are administered by TradeMark East Africa (the “Financier”) and executed by the Tanzania Ports Authority (“the Implementing Agency”). The Financier intends to apply the funds to eligible payments under the contract for which this Request for Proposals is issued.

2. The Financier now invites proposals to provide the following consulting services (hereinafter called “Services”): Feasibility Study and Detailed Engineering Design for Construction of a New Liquid Bulk Terminal and Tank Farm for Importing and Storing Various Types of Liquid Bulk Cargoes and Relocation Of Kurasini Oil Jetty (KOJ). More details on the Services are provided in the Terms of Reference.

3. A firm will be selected under Quality and Cost Based Selection (QCBS) procedures and in a Full Technical Proposal (FTP) format as described in this RFP and as per TradeMark East Africa guidelines as contained in TMEA’s Procurement and Grants Manual.

4. The RFP includes the following documents:

   - Section 1 - Letter of Invitation
   - Section 2 - Instructions to Consultants and Data Sheet
   - Section 3 - Technical Proposal FTP - Standard Forms
   - Section 4 - Financial Proposal - Standard Forms
   - Section 5 – TMEA’s Code of Ethics
   - Section 6 - Terms of Reference
   - Section 7 - Standard Forms of Contract (Lump-Sum)
5. Please inform us in writing by 25th May 2016, 5.00 p.m. (local time) at the following address:

   Email: procurement@trademarkea.com

   (a) Accessed the Letter of Invitation;
   (b) You have accessed the RFP document; and
   (c) Whether you intend to submit a proposal alone or intend to enhance your experience by requesting permission to associate with other firm(s) (if permissible under Section 2, Instructions to Consultants (ITC), Data Sheet 14.1.1).

6. Please note that any announcement, change or amendment to this tender shall be conveyed through the TMEA website. www.trademarkea.com. Bidders are requested to visit the website regularly throughout the tender period to update themselves with any changes that there may be. Not accessing bid update shall not be used as reason for noncompliance to bid requirements.

7. Details on the proposal’s submission date, time and address are provided in Clauses 17.7 and 17.9 of the ITC in the Data Sheet.

Yours Sincerely,

Procurement Director
TradeMark East Africa
procurement@trademarkea.com
A. General Provisions

1. Definitions

(a) “Affiliate(s)” means an individual or an entity that directly or indirectly controls, is controlled by, or is under common control with the Consultant.

(b) “Applicable Guidelines” means the policies of TradeMark East Africa as contained in TMEA’s Procurement and Grants Manual that shall govern the selection and Contract award process as set forth in this RFP and the Data Sheet.

(c) “Applicable Law” means the laws and any other instruments having the force of law in the Client’s country, or in such other country as may be specified in the Data Sheet, as they may be issued and in force from time to time.

(d) “Financier” means TradeMark East Africa (TMEA).

(e) “Recipient” means the Government, Government agency or other entity that signs the Financing Agreement with the TMEA.

(f) “Client” means the implementing agency that signs the Contract for the Services with the selected Consultant.

(g) “Consultant” means a legally-established professional consulting firm or an entity that may provide or provides the Services to the Client under the Contract.

(h) “Contract” means a legally binding written agreement signed between the Client and the Consultant and includes all the attached documents listed in its Clause 1 (the General Conditions of Contract (GCC), the Special Conditions of Contract (SCC), and the Appendices).

(i) “Data Sheet” means an integral part of the Instructions to Consultants (ITC) Section 2 that is used to reflect specific country and assignment conditions to supplement or amend the provisions of the ITC.

(j) “Day” means a calendar day.

(k) “Experts” means, collectively, Key Experts, Non-Key
Experts, or any other personnel of the Consultant, Sub-consultant or Joint Venture member(s).

(I) “Government” means the government of the Client’s country.

(m) “Joint Venture (JV)” means an association with or without a legal personality distinct from that of its members, of more than one Consultant where one member has the authority to conduct all business for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Client for the performance of the Contract.

(n) “Key Expert(s)” means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose CV is taken into account in the technical evaluation of the Consultant’s proposal.

(o) “ITC” (this Section 2 of the RFP) means the Instructions to Consultants that provides prospective Consultants with all information needed to prepare their Proposals.

(p) “LOI” (this Section 1 of the RFP) means the Letter of Invitation being sent by the Financier to prospective Consultants.

(q) “Non-Key Expert(s)” means an individual professional provided by the Consultant or its Sub-consultant and who is assigned to perform the Services or any part thereof under the Contract and whose CVs are not evaluated individually.

(r) “Procuring entity” means the institution making a procurement to which these Guidelines applies using their procurement guidelines.


(t) “RFP” means the Request for Proposals to be prepared by the Financier for the selection of Consultants, based on the SRFP.

(u) “Services” means the work to be performed by the Consultant pursuant to the Contract.
Section 2. Instructions to Consultants

(v) “Sub-consultant” means an entity to which the Consultant intends to subcontract any part of the Services while remaining responsible to the Client during the performance of the Contract.

(w) “TORs” (this Section 6 of the RFP) means the Terms of Reference that explain the objectives, scope of work, activities, and tasks to be performed, respective responsibilities of the Client and the Consultant, and expected results and deliverables of the assignment.

(x) “Allocated” means Funds set aside in the Financer’s budget specifically towards payment directly to the service provider/s against particular service/s or goods to the beneficiary or client procured by the Financer.

2. Introduction

2.1 The Financier named in the Data Sheet intends to select a Consultant from those interested bidders who will submit bids that are found to be responsive in accordance with the method of selection specified in the Data Sheet.

2.2 Consultants are invited to submit a Technical Proposal and a Financial Proposal as specified in the Data Sheet, for consulting services required for the assignment named in the Data Sheet. The Proposal will be the basis for negotiating and ultimately signing the Contract with the selected and competitive Consultant.

2.3 The Consultants should familiarize themselves with the local conditions and take them into account in preparing their Proposals; including attending a pre-bid conference as specified in the Data Sheet. Attending the pre-proposal conference is mandatory and is at the Consultants’ expense – without any refund expected. A certificate of attendance shall be issued and must be submitted alongside other eligibility requirement in ITC Clause 6.2 below.

2.4 The Client will timely provide, at no cost to the Consultants, the inputs, relevant project data, and reports required for the preparation of the Consultant’s Proposal as specified in the Data Sheet.

3. Conflict of Interest

3.1 The Consultant is required to provide professional, objective, and impartial advice, at all times holding the Client’s and Financier’s interests paramount, strictly avoiding conflicts with other assignments or its own corporate interests, and acting
without any consideration for future work.

3.2 The Consultant has an obligation to disclose to the Client and Financier any situation of actual or potential conflict that impacts its capacity to serve the best interest of its Client. Failure to disclose such situations may lead to the disqualification of the Consultant or the termination of its Contract and/or sanctions by the Client.

3.2.1 Without limitation on the generality of the foregoing, and unless stated otherwise in the Data Sheet, the Consultant shall not be hired under the circumstances set forth below:

a. Conflicting activities

(i) Conflict between consulting activities and procurement of goods, works or non-consulting services: a firm that has been engaged by the Client to provide goods, works, or non-consulting services for a project, or any of its Affiliates, shall be disqualified from providing consulting services resulting from or directly related to those goods, works, or non-consulting services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, or any of its Affiliates, shall be disqualified from subsequently providing goods or works or non-consulting services resulting from or directly related to the consulting services for such preparation or implementation.

b. Conflicting assignments

(ii) Conflict among consulting assignments: a Consultant (including its Experts and Sub-consultants) or any of its Affiliates shall not be hired for any assignment that, by its nature, may be in conflict with another assignment of the Consultant for the same or for another Client.

c. Conflicting relationships

(iii) Relationship with the Client’s staff: a Consultant (including its Experts and Sub-consultants) that has a close business or family relationship with a professional staff of the Recipient (or of the Client, or of implementing agency, or of a recipient of a part of the Client’s financing) who are directly or indirectly involved in any part of (i) the preparation of the Terms of Reference for the assignment, (ii) the selection process for the Contract, or (iii) the supervision of the Contract, may not be awarded a Contract, unless the conflict stemming from this relationship has been resolved in a
manner acceptable to the Financier throughout the selection process and the execution of the Contract.

4. Unfair Competitive Advantage

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

5. Code of Ethics

5.1 The Financier requires compliance with its policy in regard to code of ethics as set forth in Section 5.

5.2 In further pursuance of this policy, Consultant shall permit and shall cause its agents, Experts, Sub-consultants, sub-contractors, services providers, or suppliers to permit the Financier or Client to inspect all accounts, records, and other documents relating to the submission of the Proposal and contract performance (in case of an award), and to have them audited by auditors appointed by the Financier or Client.

5.3 In the event that the Financer establishes to a reasonable degree that a bidder/consultant has misrepresented information in her bid or receives confirmation from a referee that an assignment was not undertaken satisfactory or litigation not captured in the bid submitted is discovered, the Financer shall reject the bid and/or terminate the contract immediately without incurring any liability whatsoever.

6. Eligibility

6.1 The Client permits consultants (individuals and firms, including Joint Ventures and their individual members) from all countries to offer consulting services for TMEA-financed projects.

6.2 Furthermore, it is the Consultant’s responsibility to ensure that its Experts, joint venture members, Sub-consultants, agents (declared or not), sub-contractors, service providers, suppliers and/or their employees meet the eligibility requirements as established by the Financier in the Applicable Guidelines. In addition to this, bidders are required to submit administrative compliance documents indicated in the Data Sheet.

6.3 As an exception to the foregoing Clauses 6.1 and 6.2 above:
**a. Sanctions**

6.3.1 A firm or an individual sanctioned by the Financier or her client or donor or development partner or a multinational such as the World Bank (or similar) in accordance with the above Clause 5.1 or in accordance with “Code of Ethics” shall be ineligible to be awarded a TMEA-financed contract, or to benefit from a TMEA-financed contract, financially or otherwise, during such period of time as the Financier shall determine. The list of debarred firms and individuals is available at the electronic address specified in the **Data Sheet**.

**b. Prohibitions**

6.3.2 Firms and individuals of a country or goods manufactured in a country may be ineligible if so indicated in Section 5 (“Code of Ethics”) and:

(a) as a matter of law or official regulations, the Recipient’s country prohibits commercial relations with that country, provided that the Financier is satisfied that such exclusion does not preclude effective competition for the provision of Services required; or

(b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Recipient’s Country prohibits any import of goods from that country or any payments to any country, person, or entity in that country.

**c. Restrictions for Government-owned Enterprises**

6.3.3 Government-owned enterprises or institutions in the Recipient’s country shall be eligible only if they can establish that they (i) are legally and financially autonomous, (ii) operate under commercial law, and (iii) that they are not dependent agencies of the Client.

To establish eligibility, the government-owned enterprise or institution should provide all relevant documents (including its charter) sufficient to demonstrate that it is a legal entity separate from the government; it does not currently receive any substantial subsidies or budget support; it is not obligated to pass on its surplus to the government; it can acquire rights and liabilities, borrow funds, and can be liable for repayment of debts and be declared bankrupt; and it is not competing for a contract to be awarded by the government department or agency which, under the applicable laws or regulations, is its
d. Restrictions for public employees

6.3.4 Government officials and civil servants of the Recipient’s country are not eligible to be included as Experts in the Consultant’s Proposal unless such engagement does not conflict with any employment or other laws, regulations, or policies of the Recipient’s country, and they

(i) are on leave of absence without pay, or have resigned or retired;

(ii) are not being hired by the same agency they were working for before going on leave of absence without pay, resigning, or retiring (in case of resignation or retirement, for a period of at least 6 (six) months, or the period established by statutory provisions applying to civil servants or government employees in the Recipient’s country, whichever is longer. Experts who are employed by the government-owned universities, educational or research institutions are not eligible unless they have been full time employees of their institutions for a year or more prior to being included in Consultant’s Proposal.; and

(iii) Their hiring would not create a conflict of interest.

B. Preparation of Proposals

7. General Considerations

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

8. Cost of Preparation of Proposal

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

9. Language

9.1 The Proposal, as well as all correspondence and documents relating to the Proposal exchanged between the Consultant and the Financier shall be written in the language(s) specified in the Data Sheet. Any other language shall lead to none
consideration of the document; in cases where there is a translation, it must be endorsed by an authorised translator.

10. Documents Comprising the Proposal

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

10.2 As specified in the Data Sheet, the Consultant shall include a **statement of an undertaking** of the Consultant to observe, in competing for and executing a contract, the Client country’s laws against fraud and corruption (including bribery).

10.3 The Consultant shall furnish information on commissions, gratuities, and fees, if any, paid or to be paid to agents or any other party relating to this Proposal and, if awarded, Contract execution, as requested in the Financial Proposal submission form (Section 4).

11. Only One Proposal

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

12. Proposal Validity

12.1 The Data Sheet indicates the period during which the Consultant’s Proposal must remain valid after the Proposal submission deadline.

12.2 During this period, the Consultant shall maintain its original Proposal without any change, including the availability of the Key Experts, the proposed rates and the total price.

12.3 If it is established that any Key Expert nominated in the Consultant’s Proposal was not available at the time of Proposal submission or was included in the Proposal without his/her confirmation, such Proposal shall be disqualified and rejected for further evaluation, and may be subject to sanctions in accordance with Clause 5 of this ITC.

a. Extension of Validity Period

12.4 The Financier will make its best effort to complete the negotiations within the proposal’s validity period. However, should the need arise, the Financier may request, in writing, all Consultants who submitted Proposals prior to the submission deadline to extend the Proposals’ validity.
12.5 If the Consultant agrees to extend the validity of its Proposal, it shall be done without any change in the original Proposal and with the confirmation of the availability of the Key Experts.

12.6 The Consultant has the right to refuse to extend the validity of its Proposal in which case such Proposal will not be further evaluated.

b. Substitution of Key Experts at Validity Extension

12.7 If any of the Key Experts become unavailable for the extended validity period, the Consultant shall provide a written adequate justification and evidence satisfactory to the Client together with the substitution request. In such case, a replacement Key Expert shall have equal or better qualifications and experience than those of the originally proposed Key Expert. The technical evaluation score, however, will remain to be based on the evaluation of the CV of the original Key Expert.

12.8 If the Consultant fails to provide a replacement Key Expert with equal or better qualifications, or if the provided reasons for the replacement or justification are unacceptable to the Client, such Proposal will be rejected.

c. Sub-Contracting

12.9 The Consultant shall not subcontract the whole or part of the Services.

13. Clarification and Amendment of RFP

13.1 The Consultant may request a clarification of any part of the RFP during the period indicated in the Data Sheet before the Proposals’ submission deadline. Any request for clarification must be sent in writing, or by standard electronic means, to the Financier’s address indicated in the Data Sheet. The Financier will respond by electronic means (email), (including an explanation of the query but without identifying its source) to all prospective Consultants. Should the Financier deem it necessary to amend the RFP as a result of a clarification, it shall do so following the procedure described below:

13.1.1 At any time before the proposal submission deadline, the Financier may amend the RFP by issuing an amendment in writing or by standard electronic means. The amendment shall be sent to all Consultants and will be binding on them. The Consultants shall acknowledge receipt of all amendments in writing.

13.1.2 If the amendment is substantial, the Financier may extend the proposal submission deadline to give the
Consultants reasonable time to take an amendment into account in their Proposals.

13.2 The Consultant may submit a modified Proposal or a modification to any part of it at any time prior to the proposal submission deadline. No modifications to the Technical or Financial Proposal shall be accepted after the deadline.

14. Preparation of Proposals – Specific Considerations

14.1 While preparing the Proposal, the Consultant must give particular attention to the following:

14.1.1 If a prospective Consultant considers that it may enhance its expertise for the assignment by associating with other consultants in the form of a Joint Venture or as Sub-consultants, it may do so with if permitted in the Data Sheet.

14.1.2 The Financier may indicate in the Data Sheet the estimated Key Experts’ time input (expressed in person-month) or the Financier’s estimated total cost of the assignment, but not both. This estimate is indicative and the Proposal shall be based on the Consultant’s own estimates for the same.

14.1.3 If stated in the Data Sheet, the Consultant shall include in its Proposal at least the same time input (in the same unit as indicated in the Data Sheet) of Key Experts, failing which the Financial Proposal will be adjusted for the purpose of comparison of proposals and decision for award in accordance with the procedure in the Data Sheet.

14.1.4 For assignments under the Fixed-Budget selection method, the estimated Key Experts’ time input is not disclosed. Total available budget, with an indication whether it is inclusive or exclusive of taxes, is given in the Data Sheet, and the Financial Proposal shall not exceed this budget.

15. Technical Proposal Format and Content

15.1 The Technical Proposal shall not include any financial information. A Technical Proposal containing material financial information shall be declared non-responsive and/or shall be disqualified.

15.1.1 Consultant shall not propose alternative Key Experts. Only one CV shall be submitted for each Key Expert position. Failure to comply with this requirement will
make the Proposal non-responsive and therefore automatic disqualification.

15.2 For this assignment, the Consultant is required to submit a Full Technical Proposal (FTP) as indicated in the Data Sheet and using the Standard Forms provided in Section 3 of the RFP.

16. Financial Proposal

16.1 The Financial Proposal must be prepared using the Standard Forms provided in Section 4 of the RFP. It shall list all costs associated with the assignment, including (a) remuneration for Key Experts and Non-Key Experts, (b) reimbursable expenses indicated in the Data Sheet.

a. Price Adjustment

16.2 For assignments with a duration exceeding 18 months, a price adjustment provision for foreign and/or local inflation for remuneration rates does not apply as stated in the Data Sheet.

b. Taxes

16.3 The Consultant and its Sub-consultants and Experts are responsible for meeting all tax liabilities arising out of the Contract unless stated otherwise in the Data Sheet. Information on taxes in the Client’s country is provided in the Data Sheet, but the consultant is responsible of establishing her tax obligation.

c. Currency of Proposal

16.4 The Consultant may express the price for its Services in the currency or currencies as stated in the Data Sheet. If indicated in the Data Sheet, the portion of the price representing local cost shall be stated in the national currency.

d. Currency of Payment

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

C. Submission, Opening and Evaluation

17. Submission, Sealing, and Marking of Proposals

17.1 The Consultant shall submit a signed and complete Proposal comprising the documents and forms in accordance with Clause 10 (Documents Comprising Proposal). The submission shall be done by hand (or courier) as specified in the Data Sheet; the Consultant has no option of submitting its Proposals electronically.

17.2 An authorized representative of the Consultant shall sign the original submission letters in the required format for both the Technical Proposal and, if applicable, the Financial Proposal and shall initial all pages of both. The authorization shall be in the form of a written power of attorney attached to the Technical Proposal.
17.3 A Proposal submitted by a Joint Venture shall be signed by all members so as to be legally binding on all members, or by an authorized representative who has a written power of attorney signed by each member’s authorized representative and in line with the applicable law for this assignment.

17.4 Any modifications, revisions, interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Proposal.

17.5 The signed Proposal shall be marked “Original”, and its copies marked “Copy” as appropriate. The number of copies is indicated in the Data Sheet. All copies shall be made from the signed original. If there are discrepancies between the original and the copies, the original shall prevail.

17.6 The original and all the copies of the Technical Proposal shall be placed inside of a sealed envelope clearly marked “Technical Proposal”, “[Name of the Assignment]“, reference number, name and address of the Consultant, and with a warning “Do Not Open until [insert the date and the time of the Technical Proposal submission deadline].”

17.7 Similarly, the original Financial Proposal (if required for the applicable selection method) shall be placed inside of a sealed envelope clearly marked “Financial Proposal” followed by the name of the assignment, reference number, name and address of the Consultant, and with a warning “Do Not Open With The Technical Proposal.”

17.8 The sealed envelopes containing the Technical and Financial Proposals shall be placed into one outer envelope and sealed. This outer envelope shall bear the submission address, RFP reference number, the name of the assignment, Consultant’s name and the address, and shall be clearly marked “Do Not Open Before [insert the time and date of the submission deadline indicated in the Data Sheet]”.

17.9 If the envelopes and packages with the Proposal are not sealed and marked as required, the Financier will assume no responsibility for the misplacement, loss, or premature opening of the Proposal.

17.10 The Proposal or its modifications must be sent to the address indicated in the Data Sheet and received by the Client no later than the deadline indicated in the Data Sheet, or any extension to this deadline. Any Proposal or its modification
received by the Financier after the deadline shall be declared late and rejected, and promptly returned unopened.

18. Confidentiality

18.1 From the time the Proposals are opened to the time the Contract is awarded, the Consultant should not contact the Financier on any matter related to its Technical and/or Financial Proposal. Information relating to the evaluation of Proposals and award recommendations shall not be disclosed to the Consultants who submitted the Proposals or to any other party not officially concerned with the process, until the publication of the Contract award information.

18.2 Any attempt by prospective Consultants or anyone on behalf of the Consultant to influence improperly the Financier 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 Financier’s sanctions procedures.

18.3 Notwithstanding the above provisions, from the time of the Proposals’ opening to the time of Contract award publication, if a Consultant wishes to contact the Financier on any matter related to the selection process, it should do so only in writing and in line with this RFP.

19. Opening of Technical Proposals

19.1 The Financier’s evaluation committee shall conduct the opening of the Technical Proposals in the presence of the prospective Consultants’ authorized representatives who choose to attend (in person, or online if this option is offered in the Data Sheet). The opening date, time and the address are stated in the Data Sheet. The envelopes with the Financial Proposal shall remain sealed and shall be securely stored until they are opened in accordance with Clause 23 of this ITC.

19.2 At the opening of the Technical Proposals the following shall be read out: (i) the name and the country of the Consultant or, in case of a Joint Venture, the name of the Joint Venture, the name of the lead member and the names and the countries of all members; (ii) the presence or absence of a duly sealed envelope with the Financial Proposal; (iii) any modifications to the Proposal submitted prior to proposal submission deadline; and (iv) any other information deemed appropriate or as indicated in the Data Sheet.

20. Proposals Evaluation

20.1 Subject to provision of Clause 17 of the ITC, the evaluators of the Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is
concluded.

20.2 The Consultant is not permitted to alter or modify its Proposal in any way after the proposal submission deadline except as permitted under Clause 13.1 of this ITC. While evaluating the Proposals, the Financier will conduct the evaluation *solely* on the basis of the submitted Technical and Financial Proposals.

### 21. Evaluation of Technical Proposals

21.1 The Financier’s evaluation committee shall evaluate the Technical Proposals on the basis of their responsiveness to the Terms of Reference and the RFP, applying the evaluation criteria, sub-criteria, and point system specified in the Data Sheet. Each responsive Proposal will be given a technical score. A Proposal shall be rejected at this stage if it does not respond to important aspects of the RFP or if it fails to achieve the minimum technical score indicated in the Data Sheet.

### 22. Financial Proposals for QBS

22.1 Following the ranking of the Technical Proposals, when the selection is based on quality only (QBS), the top-ranked Consultant is notified for contract award.

22.2 If Financial Proposals were invited together with the Technical Proposals, only the Financial Proposal of the technically top-ranked Consultant is opened by the Financier’s evaluation committee. All other Financial Proposals are returned unopened after the Contract negotiations are successfully concluded and the Contract is signed.

### 23. Technical evaluations outcome notification

23.1 After the technical evaluation is completed, the Procuring entity shall notify those Consultants whose Proposals were considered non-responsive to the RFP and TOR or did not meet the minimum qualifying technical score (and shall provide information relating to the Consultant’s overall technical score, as well as scores obtained for each criterion) that their Financial Proposals will be returned unopened after completing the selection process. The Financier shall simultaneously notify in writing those Consultants that have achieved the minimum overall technical score and inform them of the date, time and location for the opening of the Financial Proposals. The Consultant’s attendance at the opening of the Financial Proposals (in person, or online if such option is indicated in the Data Sheet) is optional and is at the Consultant’s *choice and cost*.

23.2 Bidders who may have queries regarding the technical evaluation outcome shall be given an opportunity to do so at
24. Public Opening of Financial Proposals (for QCBS, FBS, and LCS methods)
24.1 The Financial Proposals shall be opened in the presence of the representatives of those Consultants whose proposals have passed the minimum technical score. At the opening, the names of the Consultants, and the overall technical scores, including the criterion, shall be read aloud. The Financial Proposals will then be inspected to confirm that they have remained sealed and unopened. These Financial Proposals shall be then opened, and the total prices read aloud and recorded. Copies of the record shall be sent to all Consultants who submitted Proposals and to the Client.

25. Correction of Errors
25.1 Activities and items described in the Technical Proposal but not priced in the Financial Proposal, shall be assumed to be included in the prices of other activities or items, and no corrections are made to the Financial Proposal.

a. Time-Based Contracts
25.2 If a Time-Based contract form is included in the RFP, the Financier’s evaluation committee will (a) correct any computational or arithmetical errors, and (b) adjust the prices if they fail to reflect all inputs included for the respective activities or items in the Technical Proposal. In case of discrepancy between (i) a partial amount (sub-total) and the total amount, or (ii) between the amount derived by multiplication of unit price with quantity and the total price, or (iii) between words and figures, the former will prevail. In case of discrepancy between the Technical and Financial Proposals in indicating quantities of input, the Technical Proposal prevails and the Financier’s evaluation committee shall correct the quantification indicated in the Financial Proposal so as to make it consistent with that indicated in the Technical Proposal, apply the relevant unit price included in the Financial Proposal to the corrected quantity, and correct the total Proposal cost.

b. Lump-Sum Contracts
25.3 If a Lump-Sum contract form is included in the RFP, the Consultant is deemed to have included all prices in the Financial Proposal, so neither arithmetical corrections nor price adjustments shall be made. The total price inclusive of taxes understood as per Clause ITC 25 below, specified in the Financial Proposal (Form FIN-1) shall be considered as the offered price.

26. Taxes
26.1 The Financier’s evaluation of the Consultant’s Financial Proposal shall include taxes and duties in the Client’s country
in accordance with the instructions in the Data Sheet.

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. Combined Quality and Cost Evaluation

a. Quality- and Cost-Based Selection (QCBS)

28.1 In the case of QCBS, the total score is calculated by weighting the technical and financial scores and adding them as per the formula and instructions in the Data Sheet. The Consultant achieving the highest combined technical and financial score will be notified for a ward.
b. Least-Cost Selection

28.2 In the case of Least-Cost Selection (LCS), the Client will select the Consultant with the lowest evaluated total price among those consultants that achieved the minimum technical score, and invite such Consultant to negotiate the Contract.

c. Fixed-Budget Selection (FBS)

28.3 In the case of FBS, those Proposals that exceed the budget shall be rejected.

28.4 The Financier will select the Consultant that submitted the highest-ranked Technical Proposal that does not exceed the budget indicated in the RFP, and invite such Consultant to negotiate the Contract.

29. Nonconformities, Errors, and Omissions

29.1 Provided that a bid is substantially responsive, the Employer may waive any non-conformity in the bid.

29.2 Provided that a bid is substantially responsive, the Employer may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities in the bid related to documentation requirements. Requesting information or documentation on such nonconformities shall not be related to any aspect of the price of the bid. Failure of the Bidder to comply with the request may result in the rejection of its bid.

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

30.2 The Financier shall prepare minutes of negotiations that are signed by the Client and the Consultant’s authorized representative which shall expressly be an integral part of the contract if successful.

a. Availability of Key Experts

30.3 The invited Consultant shall confirm the availability of all Key Experts included in the Proposal as a pre-requisite to the negotiations, or, if applicable, a replacement in accordance with Clause 12.7 of the ITC. Failure to confirm the Key Experts’ availability may result in the rejection of the Consultant’s Proposal and the Financier proceeding to negotiate the Contract with the next-ranked Consultant.

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

b. Technical negotiations

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

c. Financial negotiations

30.6 The negotiations include the clarification of the Consultant’s tax liability in the Client’s country and how it should be reflected in the Contract.

30.7 If the selection method included cost as a factor in the evaluation, the total price stated in the Financial Proposal for a Lump-Sum contract shall not be negotiated.

30.8 In the case of a Time-Based contract, unit rates negotiations shall not take place, except when the offered Key Experts and Non-Key Experts’ remuneration rates are much higher than the typically charged rates by consultants in similar contracts. In such case, the Financier may ask for clarifications and, if the fees are very high, ask to change the rates after consultation with the Client.

30.9 The format for (i) providing information on remuneration rates in the case of Quality Based Selection; and (ii) clarifying remuneration rates’ structure under Clause 22.8 above, is provided in Appendix A to the Financial Form FIN-3: Financial Negotiations – Breakdown of Remuneration Rates.

31. Conclusion of Negotiations

31.1 The negotiations are concluded with a review of the finalized draft Contract, which then shall be initialed by the Financier and the Consultant’s authorized representative.

31.2 If the negotiations fail, the Financier shall inform the Consultant in writing of all pending issues and disagreements and provide a final opportunity to the Consultant to respond. If disagreement persists, the Financier shall terminate the
negotiations informing the Consultant of the reasons for doing so. After obtaining the Financier’s tender board approval, the Financier will invite the next-ranked Consultant to negotiate a Contract. Once the Financier commences negotiations with the next-ranked Consultant, the Financier shall not reopen the earlier negotiations.

E. Notifications, no-action period, due diligence and contracting

32. Tender selection process outcome

32.1 After completion of the technical and financial evaluation, the Financier shall notify each of the bidders of tender selection process outcome with. The notification shall contain information on the overall score and the rank including information on whether their bid was Most Economically Advantageous Tender (MEAT) or not.

32.2 Information regarding name of the winning bidder and the price at which the contract is signed shall be posted on the Financier’s website at the end of the no-action period and contract signing as per ITC 32 and 34 below.

33. No-action period

33.1 This is a period that gives bidders an opportunity to seek feedback on the entire selection process.

33.2 Further information on this are available in the Financier’s procurement guidelines.

34. Due diligence

34.1 At the end of the no-action period, the Financier may decide to conduct due diligence (DD) on the MEAT bidder so as to ascertain the information evaluated in the bid submitted. A positive DD outcome shall be followed by pre-contract clarification and contracting thereafter upon agreement.

34.2 A negative DD outcome shall lead to award notification being withdrawn by the Financier without liability whatsoever and the second ranked bidder being approached for a DD and subsequent contracting if successful.

35. Contracting

35.1 The bidder with the highest technical and financial score and with a positive DD outcome will be contracted.

35.2 The contract implementation starts at the date shown in the Data Sheet.
F. Data Sheet

A. General

<table>
<thead>
<tr>
<th>ITC Clause Reference</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>TMEA procurement guidelines as contained in TMEA Procurement and Grants Manual</td>
<td></td>
</tr>
<tr>
<td>Laws of Tanzania</td>
<td></td>
</tr>
<tr>
<td>Procuring entity: TradeMark East Africa</td>
<td></td>
</tr>
<tr>
<td>Allocated funds: <strong>TMEA shall make payments in relation to this contract directly to the service provider/s.</strong></td>
<td></td>
</tr>
</tbody>
</table>

2.1 Name of the Financier: TradeMark East Africa

<table>
<thead>
<tr>
<th>Address</th>
<th>P. O. Box 14956, Dar es Salaam; Tanzania;</th>
</tr>
</thead>
<tbody>
<tr>
<td>Telephone:</td>
<td>+255 22 212 8953</td>
</tr>
<tr>
<td>Email:</td>
<td><a href="mailto:procurement@trademarkea.com">procurement@trademarkea.com</a></td>
</tr>
</tbody>
</table>

Client/Recipient: Tanzania Ports Authority

Tender method: International Competitive Bidding

Method of selection: Quality and Cost Based Selection.

Applicable procurement Guidelines: TradeMark East Africa as contained in TMEA’s Procurement and Grants Manual.

2.2 Financial Proposal to be submitted together with Technical Proposal: **Yes**

The name of the assignment is: Feasibility Study and Detailed Engineering Design for Construction of a New Liquid Bulk Terminal and Tank Farm for Importing and Storing Various Types of Liquid Bulk Cargoes and Relocation Of Kurasini Oil Jetty (KOJ).

2.3 A pre-bid conference will be held: **YES.**

**Thursday, 26th May 2016**

Venue: Head Office Tanzania Port Authority, Dar es Salaam.
One Bandari road, P.O Box 9184
Dares salaam,
Tel +255-22-2110-401
### Section 2. Instructions to Consultants

| 2.4 | The Client will provide the following inputs, project data, reports, etc. to facilitate the preparation of the Proposals: **NONE.** |
| 4.1 | None. |
| 6.0 | Eligibility |
| 6.2 | **Administrative Mandatory Documents Required before contracting are:**  
| | a) **Valid signed and stamped Power of Attorney** in line with the law applicable for this consultancy assignment *(Witnessed by a Commissioner for Oaths).*  
| | b) **Valid Tax Compliance Certificates** from the relevant revenue authority.  
| | c) **Certificate of Registration/Incorporation.** |
| 6.3.1 | A list of debarred firms and individuals is available at the World Bank’s external website: [www.worldbank.org/debarr](http://www.worldbank.org/debarr). All those consultants barred by the Government of Tanzania are not eligible to bid (if still serving such a penalty). The lists of firms debarred by the Government of Tanzania are available at [www.ppra.go.tz](http://www.ppra.go.tz). |

#### B. Preparation of Proposals

| 9.1 | This RFP has been issued in the **English language.**  
| | All correspondence exchange shall be in **English language.** |
| 10.1 | The Proposal shall comprise the following:  
| | For **FULL TECHNICAL PROPOSAL (FTP):**  
| | **1st Inner Envelope with the Technical Proposal:**  
| | (1) Power of Attorney to sign the Proposal  
| | (2) TECH-1  
| | (3) TECH-2  
| | (4) TECH-3  
| | (5) TECH-4  
| | (6) TECH-5  
| | (7) TECH-6  
| | AND  
| | **2nd Inner Envelope with the Financial Proposal (if applicable):**  
| | (1) FIN-1 |
## Section 2. Instructions to Consultants

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(2) FIN-2</td>
<td>(3) FIN-3</td>
</tr>
<tr>
<td>(4) FIN-4</td>
<td>(5) Statement of Undertaking (if required under Data Sheet 10.2 below)</td>
</tr>
</tbody>
</table>

### 10.2
Statement of Undertaking is required: **Yes.**

### 12.1
Proposals must remain valid for **120 days** calendar days after the proposal submission deadline – till **7th October 2016.**

### 13.1
Clarifications may be requested no later than, **3rd June 2016, 11.00 a.m. (Tanzania local time).**

The contact information for requesting clarification is:

- **Attention:** Procurement Director
- **TradeMark East Africa,**
- **Email:** procurement@trademarkea.com

### 14.1.1
**Not applicable.**

### 14.1.2
Estimated total cost of the assignment: **NOT APPLICABLE**

### 14.1.3
For time-based contracts only: If a Proposal includes less than the required minimum time-input, the missing time-input (expressed in person-month) is calculated as follows:

- **N/A**

### 14.1.4
**Not applicable.**

### 15.2
The format of the Technical Proposal to be submitted is: **FTP**

Submission of the Technical Proposal in a wrong format may lead to the Proposal being deemed non-responsive to the RFP requirements. **All pages must be numbered with a clear table of contents.**

### 16.1
**Not Applicable.**

### 16.2
A price adjustment provision applies to remuneration rates: **No.**

### 16.3
Information on the Consultant’s tax obligations in the Client’s country can
be found at www.tra.go.tz.

16.4 The Financial Proposal shall be stated in the following currencies: **United States Dollars (USD $) only.**

### C. Submission, Opening and Evaluation

17.1 The Consultants shall **NOT** have the option of submitting their Proposals electronically.

17.5 and 17.7 **The Consultant must submit:**
(a) **Technical Proposal:** one (1) original and three (03) copies with a CD ROM / Flash disk in each envelope;
(b) **Financial Proposal:** one (1) original and three (03) copies with a CD ROM / Flash disk in each envelope.

17.10 **The Proposals must be submitted no later than:**
- **Date:** Friday, 10\(^{th}\) June 2016
- **Time:** 10.30 am Tanzania Local time.

The Proposal submission address is:

- **Attention:** Procurement Director,
  TradeMark East Africa
  3\(^{rd}\) Floor, 50 Mirambo St.;
- **Address:** P. O. Box 14956, Dar es Salaam;
  Tanzania
- **Telephone:** +255 22 212 8953

19.1 **An online option of the opening of the Technical Proposals is offered:** **No.**
The opening shall take place at: TradeMark East Africa  3\(^{rd}\) Floor, 50 Mirambo Street
- **Date:** 10.30 am Tanzania Local time.
- **Time:** 11.00 am. Local Time (Tanzania).

19.2 In addition, the following information will be read aloud at the opening of the Technical Proposals: “N/A”.

### 21.1 Evaluation criteria

<table>
<thead>
<tr>
<th>Criteria, sub-criteria</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) Experience of the firm in carrying out similar assignment in:</td>
<td>10</td>
</tr>
</tbody>
</table>
Feasibility study for oil terminal (2 similar projects) (each project will be allocated 2.5 marks)

Detailed design for oil terminal and farm tanks (2 similar projects). The consultant must submit the completion certificates for the completed similar references (each project will be allocated 2.5 marks).

The firm must submit proof of the assignments handled. This proof will comprise of:

- Signed contract of submitted assignments as proof of experience
- Completion certificates of assignments
- Letters from clients confirming that the assignment was done by the firm and completed satisfactorily

(ii) Overall Quality of the offer, quality of the work and methodology

<table>
<thead>
<tr>
<th>Understanding of terms of reference / 10 points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Comments and Suggestions on the Terms of Reference / 5 points</td>
</tr>
<tr>
<td>Comments and Suggestions on Counterpart Staff / 5 points</td>
</tr>
<tr>
<td>(a) Adequacy and relevance of the methodology proposed / 10 points</td>
</tr>
<tr>
<td>• Proposed Field work and data gathering strategies and methods (5 marks)</td>
</tr>
<tr>
<td>• Use of case studies in backing up qualitative assessments (5 marks)</td>
</tr>
<tr>
<td>(b) Adequacy and Adequacy and suitability Work plan / 5 points</td>
</tr>
<tr>
<td>• Clear work plan covering all activities in all phases (2.5 marks)</td>
</tr>
<tr>
<td>• Proper scheduling of activities and deliverables with in the project time line (2.5 marks)</td>
</tr>
</tbody>
</table>

Qualifications of experts and experience in the field of assignment / 60 points

Team leader / 15 points

- Registered Architect/Civil Engineer with a degree in Architecture/Civil Engineering or an equivalent qualification (2 marks)
### Section 2. Instructions to Consultants

<table>
<thead>
<tr>
<th>Role</th>
<th>Points</th>
<th>Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Postgraduate qualification in port/engineering is an added advantage</td>
<td>1 mark</td>
<td>She/he must have a minimum of fifteen (15) years of cumulative experience related to port design or construction.</td>
</tr>
<tr>
<td>Experience in contract administration is an added advantage</td>
<td>1 mark</td>
<td>Experience in management of infrastructure projects with not less than 15 years as a Team Leader and/or Project Manager on assignments similar in nature and complexity. Should have knowledge of complex projects including ports, roads, bridges, and building works. Ability to manage multi-disciplinary teams in design and supervision of similar projects.</td>
</tr>
<tr>
<td>Liquid bulk operations specialist / 5 points</td>
<td></td>
<td>Shall have experience in liquid bulk operations with not less than 10 years of experience in similar capacity for similar projects in nature and complexity.</td>
</tr>
<tr>
<td>Handling &amp; storage specialist / 5 points</td>
<td></td>
<td>Shall have experience in handling and storage of oil and gas products with not less than 10 years of experience in similar capacity for similar projects in nature and complexity.</td>
</tr>
<tr>
<td>Port/coastal engineer / 5 points</td>
<td></td>
<td>Registered Engineer with a valid practicing certificate and bachelor’s degree or equivalent qualification in Port and Coastal Engineering. She/he shall be required to possess not less than ten (10) years of experience in designing transport infrastructure of similar nature. She/He must also have dredging experience, as well as ship simulation expertise for not less than 5 years’ experience in similar complexity assignments.</td>
</tr>
<tr>
<td>Oil services berths/terminals expert / 5 points</td>
<td></td>
<td>Registered Civil Engineer with a degree in Civil Engineering or an equivalent qualification in Port and/or Maritime Infrastructure Development. Postgraduate qualification in design and management of Oil Service berths or terminals is an added advantage. She/he must have a minimum post qualification experience in port development planning of ten (10) years and should have adequate experience in the physical planning, design and operation of facilities for the oil and gas industry.</td>
</tr>
</tbody>
</table>
### Service engineer / 5 points
- Registered or chartered Mechanical or Electrical Engineer or Building Services Engineer, with at least a bachelor’s degree or equivalent qualification in civil/electrical/mechanical engineering (2 marks)
- She/he shall be required to have not less than ten (10) years of experience in designing transport infrastructure. Experience in designing port infrastructure is a must. (3 marks)

### Quantity surveyor / 4 points
- She/he must have a degree in Quantity Surveying or equivalent qualification (1 mark)
- (10) years’ experience in quantity surveying related to contractual issues and marine construction (1 mark)
- She/he must have served in similar capacity on at least two (2) Port/Marine projects of similar nature in the past ten (10) years (1 mark)
- She/he must have relevant international experience and a working experience of at least 3 years in developing countries (1 mark)

### Economist/financial/business analyst / 5 points
- Postgraduate degree in the field of economics/finance/business (2 marks)
- not less than ten (10) years of practical experience in undertaking feasibility studies for transport infrastructure development projects, including but not limited to assessment of traffic demand, traffic forecasting, economic and financial analysis and investment planning (3 marks)

### Environmental management specialist / 6 points
- She/he shall be qualified with a degree in environmental management or related discipline (1 mark)
- Cumulative experience of not less than 10 years (1 mark)
- She/he must have served as an Environmentalist in at least two (2) marine projects of similar nature in the past ten years (1 mark)
- She/he must have served as an Environmentalist in at least two (2) dredging operation or/and marine construction and dredging projects of similar nature in the past five years (1 mark)
- She/he must have at least three (3) years working experience in Sub-Sahara Africa (1 mark)
- Experience in the ports sector will be an additional merit (1 mark)

### Social Specialist / 5 points
Section 2. Instructions to Consultants

- should be qualified with a degree in Gender / Social Science management, or, related discipline (1 mark)
- at least seven (7) years professional experience in development work with social and gender components, including the design and/ or management, social impact assessment and mitigation measures of infrastructure programs and projects in Africa (2 marks)
- must have experience in Resettlement Action Plan development. (1 mark)
- Consultancy experience in feasibility studies and program design will be necessary (1 mark)

<p>| | |</p>
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<td></td>
<td>The general qualification of each key staff shall account for 20% of the total marks</td>
</tr>
<tr>
<td></td>
<td>Adequacy and experience of each key staff shall account for 60% of the total marks</td>
</tr>
<tr>
<td></td>
<td>Experience in the EAC region and language shall account for 20% of the total marks</td>
</tr>
</tbody>
</table>

(iv) Inclusion of local experts

At least one third of key Staff are local experts, OR
The Consulting Firm is in association with a local firm

<table>
<thead>
<tr>
<th>TOTAL POINTS</th>
<th></th>
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<tbody>
<tr>
<td>100</td>
<td>The minimum Technical Score St required to pass is: 70 Points.</td>
</tr>
</tbody>
</table>

The weights given to the Technical and Financial Proposals are:

T = 0.8, and
P = 0.2

The number of points to be assigned to each of the above positions or disciplines shall be determined considering the following three sub-criteria and relevant percentage weights:

1) General qualifications 20%
2) Adequacy for the assignment 60%
3) Experience in East Africa region and language 20%

Total weight: 100%

The minimum technical score required to pass is: 70 Points

Technical and Financial Weights
### Section 2. Instructions to Consultants

| 24.1   | An online option of the opening of the Financial Proposals is offered: **No.** |
| 26.1   | For the purpose of the evaluation, the Consultant will include: (a) all local identifiable indirect taxes such as sales tax, withholding tax, excise tax, VAT, or similar taxes to be levied on the contract’s invoices; and (b) all additional local indirect tax on the remuneration of services rendered by non-resident experts in the Client’s country. |
| 27.1   | **Not Applicable.** |
| 28.1 (QCBS only) | The lowest evaluated Financial Proposal (Fm) is given the maximum financial score (Sf) of 100.  

The formula for determining the financial scores (Sf) of all other Proposals is calculated as following:  

\[ S_f = 100 \times \frac{Fm}{F}, \]  

in which “Sf” is the financial score, “Fm” is the lowest price, and “F” the price of the proposal under consideration.  

**The weights given to the Technical (T) and Financial (P) Proposals are:**  
\[ T = \text{_______} \times 80, \text{ and} \]  
\[ P = \text{_______} \times 20 \]  

Proposals are ranked according to their combined technical (StI + StP) and financial (Sf) scores using the weights (T = the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; T + P = 1) as following:  

\[ S = (StI + StP) \times T\% + Sf \times P\%. \]

<table>
<thead>
<tr>
<th>28.2, 28.3 and 28.4</th>
<th><strong>N/A</strong></th>
</tr>
</thead>
</table>

### D. Negotiations and Award

<table>
<thead>
<tr>
<th>30 and 31</th>
<th><strong>N/A</strong></th>
</tr>
</thead>
</table>

### E. Notifications, no-action period, due diligence and contracting
<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>33.1</strong></td>
<td><strong>No-action period:</strong> Fourteen (14 no.) calendar days</td>
</tr>
<tr>
<td><strong>35.2</strong></td>
<td><strong>Assignment start date:</strong> July 2016</td>
</tr>
</tbody>
</table>
### CHECKLIST OF REQUIRED FORMS

<table>
<thead>
<tr>
<th>REQUIRED for FTP or STP (✓)</th>
<th>FORM</th>
<th>DESCRIPTION</th>
<th>Page Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>✓</td>
<td>✓</td>
<td>TECH-1</td>
<td></td>
</tr>
<tr>
<td></td>
<td>TECH-1 Attachment</td>
<td>Technical Proposal Submission Form.</td>
<td></td>
</tr>
<tr>
<td>“✓” If applicable</td>
<td>TECH-1</td>
<td>If the Proposal is submitted by a joint venture, attach a letter of intent or a copy of an existing agreement.</td>
<td></td>
</tr>
<tr>
<td>“✓” If applicable</td>
<td>Power of Attorney</td>
<td>One valid as per the laws of Tanzania. In the case of a Joint Venture, several are required: a power of attorney for the authorized representative of each JV member, and a power of attorney for the representative of the lead member to represent all the JV members.</td>
<td></td>
</tr>
<tr>
<td>✓</td>
<td>TECH-2</td>
<td>Consultant’s Organization and Experience (attach valid copies of proof/evidence).</td>
<td></td>
</tr>
<tr>
<td>✓</td>
<td>TECH-2A</td>
<td>A. Consultant’s Organization.</td>
<td></td>
</tr>
<tr>
<td>✓</td>
<td>TECH-2B</td>
<td>B. Consultant’s Experience (attach valid copies of proof/evidence). The acceptable proof of the consultants experience will include</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>⬤ Signed contract of submitted assignments as proof of experience</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>⬤ Completion certificates of assignments</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>⬤ Letters from clients confirming that the assignment was done by the firm and completed satisfactorily</td>
<td></td>
</tr>
<tr>
<td>✓</td>
<td>TECH-3</td>
<td>Comments or Suggestions on the Terms of Reference and on Counterpart Staff and Facilities to be provided by the Client.</td>
<td></td>
</tr>
<tr>
<td>✓</td>
<td>TECH-3A</td>
<td>A. On the Terms of Reference.</td>
<td></td>
</tr>
</tbody>
</table>
Section 3. Technical Proposal – Standard Forms

All pages of the original Technical and Financial Proposal shall be initialled by the same authorized representative of the Consultant who signs the Proposal.
All pages must be numbered/serialised and in line with the table of content.

Form TECH-1

TECHNICAL PROPOSAL SUBMISSION FORM

{Location, Date}

To:  [Name and address of Client]

Dear Sirs:

We, the undersigned, offer to provide the consulting services for [Insert title of assignment] in accordance with your Request for Proposals dated [Insert Date] and our Proposal. [Select appropriate wording depending on the selection method stated in the RFP: “We are hereby submitting our Proposal, which includes this Technical Proposal and a Financial Proposal sealed in a separate envelope” or, if only a Technical Proposal is invited “We hereby are submitting our Proposal, which includes this Technical Proposal only in a sealed envelope.”].

{If the Consultant is a joint venture, insert the following: We are submitting our Proposal 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 and in line with the applicable law for this consultancy assignment.}

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

We hereby declare that:

(a) All the information and statements made in this Proposal are true and we accept that any misinterpretation or misrepresentation contained in this Proposal may lead to our disqualification by the Client and/or may be sanctioned by the Client.

(b) Our Proposal shall be valid and remain binding upon us for the period of time specified in the Data Sheet, Clause 12.1.

(c) We have no conflict of interest in accordance with ITC 3.

(d) We meet the eligibility requirements as stated in ITC 6, and we confirm our understanding of our obligation to abide by the Client’s policy in regard to code of ethics as per ITC 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, in force in the country of the Client.

(f) Except as stated in the ITC, we undertake to negotiate a Contract on the basis of the proposed Key Experts. We accept that the substitution of Key Experts for reasons other than those stated in ITC Clause 12 and ITC Clause 12.7 may lead to the termination of Contract negotiations.

(g) Our Proposal is binding upon us and subject to any modifications resulting from the Contract negotiations.

We undertake, if our Proposal is accepted and the Contract is signed, to initiate the Services related to the assignment no later than the date indicated in Clause 30.2 of the Data Sheet.

We understand that the Client is not bound to accept any Proposal that the Client receives.

We remain,

Yours Sincerely,

Authorized Signature {In full and initials}: ___
Section 3. Technical Proposal – Standard Forms

Name and Title of Signatory: ______

Name of Consultant (company’s name or JV’s name):

In the capacity of: ___

Address: ____

Contact information (phone and e-mail): ___

Form TECH-2 (for Full Technical Proposal Only)

CONSULTANT’S ORGANIZATION AND EXPERIENCE

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

A - Consultant’s Organization

1. 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.

2. Include organizational chart, a list of Board of Directors, and beneficial ownership

B - Consultant’s Experience

1. List only previous similar assignments successfully completed in the last ten (10) years.

2. List only those assignments for which the Consultant was legally contracted by the Client as a company or was one of the joint venture partners. Assignments completed by the Consultant’s individual experts working privately or through other consulting firms cannot be claimed as the relevant experience of the Consultant, or that of the Consultant’s partners or sub-consultants, but can be claimed by the Experts themselves in their CVs. The Consultant
should substantiate the claimed experience relevant to TORs requirement/s by attaching valid copies of relevant documents and references in English language.
<table>
<thead>
<tr>
<th>Duration</th>
<th>Assignment name/&amp; brief description of main deliverables/outputs</th>
<th>Name of Client &amp; Country of Assignment</th>
<th>Approx. Contract value (in US$ equivalent)/ Amount paid to your firm</th>
<th>Role on the Assignment</th>
</tr>
</thead>
<tbody>
<tr>
<td>{e.g., Jan.2009–Apr.2010}</td>
<td>{e.g., “Improvement quality of.............”: designed master plan for rationalization of .......; }</td>
<td>{e.g., Ministry of ......, country}</td>
<td>{e.g., US$1 mill/US$0.5 mill}</td>
<td>{e.g., Lead partner in a JV A&amp;B&amp;C}</td>
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<tr>
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<tr>
<td>{e.g., Jan-May 2008}</td>
<td>{e.g., “Support to sub-national government.....” drafted secondary level regulations on.............}</td>
<td>{e.g., municipality of........., country}</td>
<td>{e.g., US$0.2 mil/US$0.2 mil}</td>
<td>{e.g., sole Consultant}</td>
</tr>
</tbody>
</table>
Form TECH-3 (for Full Technical Proposal)

**COMMENTS AND SUGGESTIONS ON THE TERMS OF REFERENCE, COUNTERPART STAFF, AND FACILITIES TO BE PROVIDED BY THE CLIENT**

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

**A - On the Terms of Reference**

{Improvements to the Terms of Reference, creativity etc if any}

**B - On Counterpart Staff and Facilities**

{Comments on counterpart staff and facilities to be provided by the Client, For example, administrative support, office space, local transportation, equipment, data, background reports, etc., if any}
Form TECH-4 (for Full Technical Proposal Only)

DESCRIPTION OF APPROACH, METHODOLOGY, AND WORK PLAN IN RESPONDING TO THE TERMS OF REFERENCE

Form TECH-4: a description of the approach, methodology and work plan for performing the assignment, including a detailed description of the proposed methodology and staffing.

{Suggested structure of your Technical Proposal (in FTP format)}:

a) Technical Approach and Methodology
b) Work Plan and Gantt chart
c) Organization and Staffing

a) **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 TORs in here.}

b) **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 Client), and tentative delivery dates of the reports. 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.}

c) **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.} Credit will be given for the proportion of time spent by the Key Experts, and the proportion of time spent in Tanzania.
Form TECH-4 (for Simplified Technical Proposal Only) - N/A

**DESCRIPTION OF APPROACH, METHODOLOGY, AND WORK PLAN FOR PERFORMING THE ASSIGNMENT**

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

{Suggested structure of your Technical Proposal}

a) **Technical Approach, Methodology, and Organization of the Consultant’s team.**
   {Please explain your understanding of the objectives of the assignment as outlined in the Terms of Reference (TOR), the technical approach, and the methodology you would adopt for implementing the tasks to deliver the expected output(s); the degree of detail of such output; and describe the structure and composition of your team. Please do not repeat/copy the TORs in here.}

b) **Work Plan and Staffing.** {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 Client), and tentative delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into a feasible working plan and work schedule showing the assigned tasks for each expert. 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.}

c) **Comments (on the TOR and on counterpart staff and facilities)**
   {Your suggestions should be concise and to the point, and incorporated in your Proposal. Please also include comments, if any, on counterpart staff and facilities to be provided by the Client. For example, administrative support, office space, local transportation, equipment, data, background reports, etc.}
### Work Schedule and Planning for Deliverables

**Form TECH-5 (for FTP and STP)**

<table>
<thead>
<tr>
<th>N°</th>
<th>Deliverables ¹ (D-..)</th>
<th>Months</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>1 2 3 4 5 6 7 8 9 ..... n TOTAL</td>
</tr>
<tr>
<td>D-1</td>
<td>{e.g., Deliverable #1: Report A}</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1) data collection</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2) drafting</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3) inception report</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4) incorporating comments</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5) delivery of final report to Client</td>
<td></td>
</tr>
<tr>
<td>D-2</td>
<td>{e.g., Deliverable #2 :.............}</td>
<td></td>
</tr>
<tr>
<td>n</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

1. List the deliverables with the breakdown for activities required to produce them and other benchmarks such as the Client'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.
# Form TECH-6 (for FTP and STP)

## TEAM COMPOSITION, ASSIGNMENT, AND KEY EXPERTS’ INPUTS

<table>
<thead>
<tr>
<th>N°</th>
<th>Name</th>
<th>Expert’s input (in person/month) per each Deliverable (listed in TECH-5)</th>
<th>Total time-input (in Months)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Position</td>
<td>D-1</td>
</tr>
</tbody>
</table>

### KEY EXPERTS

| K-1 | {e.g., Mr. Abbbb} [Team Leader] | [Home] [2 month] | [Field] [0.5 m] | [1.0] | [1.0] | [2.5] | [0] | Subtotal |

| K-2 |                      |                   |                |       |       |       |     |         |
| K-3 |                      |                   |                |       |       |       |     |         |

| n   |                      |                   |                |       |       |       |     | Subtotal |

### NON-KEY EXPERTS

| N-1 |                      |                   |                |       |       |       |     |         |
| N-2 |                      |                   |                |       |       |       |     |         |
### Section 3 – Technical Proposal – Standard Forms

<table>
<thead>
<tr>
<th>n</th>
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<th></th>
<th></th>
<th></th>
<th></th>
<th>Subtotal</th>
<th>Total</th>
</tr>
</thead>
</table>

1. For Key Experts, the input should be indicated individually for the same positions as required under the Data Sheet ITC21.1.
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 the Client’s country or any other country outside the expert’s country of residence.

- Full time input
- Part time input
FORM TECH-6
(CONTINUED)

CURRICULUM VITAE (CV)

<table>
<thead>
<tr>
<th>Position Title and No.</th>
<th>{e.g., K-1, TEAM LEADER}</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of Expert:</td>
<td>{Insert full name}</td>
</tr>
<tr>
<td>Date of Birth:</td>
<td>{day/month/year}</td>
</tr>
<tr>
<td>Country of Citizenship/Residence</td>
<td></td>
</tr>
</tbody>
</table>

Education: {List college/university or other specialized education, giving names of educational institutions, dates attended, degree(s)/diploma(s) obtained attach valid copies of the certificates and testimonials}

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 clients 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.}

<table>
<thead>
<tr>
<th>Period</th>
<th>Employing organization and your title/position. Contact info for references</th>
<th>Country</th>
<th>Summary of activities performed relevant to the Assignment</th>
</tr>
</thead>
<tbody>
<tr>
<td>[e.g., May 2005-present]</td>
<td>[e.g., Ministry of ......., advisor/consultant to... For references: Tel............./e-mail......; Mr. Hbbbbbb, deputy minister]</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Membership in Professional Associations and Publications:

Language Skills (indicate only languages in which you can work ranking from 1 to 5 for speaking, writing and reading where 1 is poor and 5 is excellent): ______________
Adequacy for the Assignment:

<table>
<thead>
<tr>
<th>Detailed Tasks Assigned on Consultant’s Team of Experts:</th>
<th>Reference to Prior Work/Assignments that Best Illustrates Capability to Handle the Assigned Tasks</th>
</tr>
</thead>
<tbody>
<tr>
<td>{List all deliverables/tasks as in TECH- 5 in which the Expert will be involved}</td>
<td></td>
</tr>
</tbody>
</table>

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 Client, and/or sanctions by the Client.

{Day/month/year}

Name of Expert
Date
Signature

{Day/month/year}

Name of authorized Representative of the Consultant (the same who signs the Proposal)
Date
Signature

Note: Failure by the consultant to sign the CV (physically or electronically), shall lead to the CV not being considered altogether.
To: [Name and address of Client]

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(s) currency (ies)}{Insert amount(s) in words and figures}, [Insert “including”] of all indirect local taxes in accordance with Clause 19.1 in the Data Sheet. {Please note that all amounts shall be the same as in Form FIN-2}.

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the validity period of the Proposal, i.e. before the date indicated in Clause 6.1 of the Data Sheet.

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:

<table>
<thead>
<tr>
<th>Name and Address of Agents</th>
<th>Amount and Currency</th>
<th>Purpose of Commission or Gratitude</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

{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,

Authorized Signature (In full and initials): __________________________
Name and Title of Signatory: __________________________
In the capacity of: __________________________
Address: __________________________
E-mail: __________________________

{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}
FAIR PRICE AND NON-COLLUSION DECLARATION FORM

This will be submitted in the financial proposal submission envelop.

We/I [insert name of the consultant or consultancy firm] hereby declare that the price quoted in our financial proposal are in line with the market rates and/or the approved professional charges, are economical and that there is no collusion in submission of this bid. We/I hereby give TradeMark East Africa authority to terminate the contract without further communication should they discover that we/I [insert name of consultant or consultancy firm] are in contravention of this declaration.

Name: ........................................................................................................................................

Designation: ..................................................................................................................................

Signature: ........................................................................................................................................

Date: ...............................................................................................................................................

NOTE: The Fair price declaration form must be submitted alongside FORM: FIN - 1
## FORM FIN-2 SUMMARY OF COSTS

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>{Consultant must state the proposed Costs in accordance with Clause 16.4 of the Data Sheet; delete columns which are not used}</td>
<td>{Insert Foreign Currency # 1} {Insert Foreign Currency # 2, if used} {Insert Foreign Currency # 3, if used} {Insert Local Currency, if used and/or required}</td>
</tr>
</tbody>
</table>

### Cost of the Financial Proposal

Including:

(1) Remuneration

(2) Reimbursables

### Total Cost of the Financial Proposal:
{Should match the amount in Form FIN-1}

---

Footnote: Payments will be made in the currency (ies) expressed above (Reference to ITC 16.4).
FORM FIN-3 BREAKDOWN OF REMUNERATION

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

<table>
<thead>
<tr>
<th>No.</th>
<th>Name</th>
<th>Position (as in TECH-6)</th>
<th>Person-month Remuneration Rate</th>
<th>Time Input in Person/Month (from TECH-6)</th>
<th>{Currency # 1- as in FIN-2}</th>
<th>{Currency # 2- as in FIN-2}</th>
<th>{Currency # 3- as in FIN-2}</th>
<th>{Local Currency- as in FIN-2}</th>
</tr>
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<tr>
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<td>Key Experts</td>
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<td>Non-Key Experts</td>
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Appendix A. Financial Negotiations - Breakdown of Remuneration Rates

1. Review of Remuneration Rates

1.1. The remuneration rates are made up of salary or a base fee, social costs, overheads, profit, and any premium or allowance that may be paid for assignments away from headquarters or a home office. An attached Sample Form can be used to provide a breakdown of rates.

1.2. If the RFP requests submission of a technical proposal only, the Sample Form is used by the selected Consultant to prepare for the negotiations of the Contract. If the RFP requests submission of the financial proposal, the Sample Form shall be completed and attached to the Financial Form-3. Agreed (at the negotiations) breakdown sheets shall form part of the negotiated Contract and included in its Appendix D or C.

1.3. At the negotiations the firm shall be prepared to disclose its audited financial statements for the last three years, to substantiate its rates, and accept that its proposed rates and other financial matters are subject to scrutiny. The Client is charged with the custody of government funds and is expected to exercise prudence in the expenditure of these funds.

1.4. Rate details are discussed below:

   (i) Salary is the gross regular cash salary or fee paid to the individual in the firm’s home office. It shall not contain any premium for work away from headquarters or bonus (except where these are included by law or government regulations).

   (ii) Bonuses are normally paid out of profits. To avoid double counting, any bonuses shall not normally be included in the “Salary” and should be shown separately. Where the Consultant’s accounting system is such that the percentages of social costs and overheads are based on total revenue, including bonuses, those percentages shall be adjusted downward accordingly. Where national policy requires that 13 months’ pay be given for 12 months’ work, the profit element need not be adjusted downward. Any discussions on bonuses shall be supported by audited documentation, which shall be treated as confidential.

   (iii) Social Charges are the costs of non-monetary benefits and may include, inter alia, social security (including pension, medical, and life insurance costs) and the cost of a paid sick and/or annual leave. In this regard, a paid leave during public holidays or an annual leave taken during an assignment if no Expert’s replacement has been provided is not considered social charges.

   (iv) Cost of Leave. The principles of calculating the cost of total days leave per annum as a percentage of basic salary is normally calculated as follows:
Leave cost as percentage of salary = \[
\frac{\text{total days leave} \times 100}{[365 - w - \text{ph} - v - s]}
\]

Where \(w\) = weekends, \(\text{ph}\) = public holidays, \(v\) = vacation, and \(s\) = sick leave.

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

(v) Overheads are the Consultant’s business costs that are not directly related to the execution of the assignment and shall not be reimbursed as separate items under the Contract. Typical items are home office costs (non-billable time, time of senior Consultant’s staff monitoring the project, rent of headquarters’ office, support staff, research, staff training, marketing, etc.), the cost of Consultant’s personnel not currently employed on revenue-earning projects, taxes on business activities, and business promotion costs. During negotiations, audited financial statements, certified as correct by an independent auditor and supporting the last three years’ overheads, shall be available for discussion, together with detailed lists of items making up the overheads and the percentage by which each relates to basic salary. The Client does not accept an add-on margin for social charges, overhead expenses, etc. for Experts who are not permanent employees of the Consultant. In such case, the Consultant shall be entitled only to administrative costs and a fee on the monthly payments charged for subcontracted Experts.

(vi) Profit is normally based on the sum of the Salary, Social costs, and Overheads. If any bonuses paid on a regular basis are listed, a corresponding reduction shall be made in the profit amount. Profit shall not be allowed on travel or any other reimbursable expenses.

(vii) Away from Home Office Allowance or Premium or Subsistence Allowances. Some Consultants pay allowances to Experts working away from headquarters or outside of the home office. Such allowances are calculated as a percentage of salary (or a fee) and shall not draw overheads or profit. Sometimes, by law, such allowances may draw social costs. In this case, the amount of this social cost shall still be shown under social costs, with the net allowance shown separately.

TMEA’s standard rates for the particular country may be used as reference to determine subsistence allowances available on www.trademarkea.com.
SECTION 4
FINANCIAL PROPOSAL – STANDARD FORMS
Sample Form

Consultant: Country:
Assignment: Date:

Consultant’s Representations Regarding Costs and Charges

We hereby confirm that:

(a) the basic fees indicated in the attached table are taken from the firm’s payroll records and reflect the current rates of the Experts listed which have not been raised other than within the normal annual pay increase policy as applied to all the Consultant’s Experts;

(b) Attached are true copies of the latest pay slips of the Experts listed – N/A;

(c) The away- from-home office allowances indicated below are those that the Consultant has agreed to pay for this assignment to the Experts listed;

(d) the factors listed in the attached table for social charges and overhead are based on the firm’s average cost experiences for the latest three years as represented by the firm’s financial statements; and

(e) Said factors for overhead and social charges do not include any bonuses or other means of profit-sharing.

[Name of Consultant]

_________________________ __________________________
Signature of Authorized Representative Date

Name: ________________________________

Title: ________________________________
## Consultant’s Representations Regarding Costs and Charges

**(Model Form I)**

(Expressed in \{insert name of currency\})*

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<tbody>
<tr>
<td>Name</td>
<td>Position</td>
<td>Basic Remuneration Rate per Working Month/Day/Year</td>
<td>Social Charges$^1$</td>
<td>Overhead$^1$</td>
<td>Subtotal</td>
<td>Profit$^2$</td>
<td>Away from Home Office Allowance</td>
<td>Proposed Fixed Rate per Working Month/Day/Hour</td>
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{* If more than one currency is used, use additional table(s), one for each currency*}

1. Expressed as percentage of 1
2. Expressed as percentage of 4
FORM FIN-4 BREAKDOWN OF REIMBURSABLE EXPENSES

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

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<th>N.o</th>
<th>Type of Reimbursable Expenses</th>
<th>Unit</th>
<th>Unit Cost</th>
<th>Quantity</th>
<th>(Currency #1- as in FIN-2)</th>
<th>(Currency #2- as in FIN-2)</th>
<th>(Currency #3- as in FIN-2)</th>
<th>(Local Currency- as in FIN-2)</th>
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Total Costs

Legend:
“Per diem allowance” is paid for each night the expert is required by the Contract to be away from his/her usual place of residence. Client can set up a ceiling. Refer to www.trademarkea.com for details.
Section 5: TradeMark East Africa-Code of Ethics

(This shall not be modified – failure to sign & stamp to this code of ethics shall lead to automatic disqualification. It will be submitted alongside the technical proposal)

CODE OF ETHICS

1. Preamble

TradeMark East Africa’s (TMEA) success depends on its reputation, integrity, openness and respect for others. The trust and confidence of those with whom we deal is therefore essential. The protection of our reputation and relationships is of fundamental importance to our long term sustainability. We recognise our obligations to all those with whom we have a direct relationship such as, donors, staff, contractors and suppliers, the private sector in general, government, civil society and the wider community.

This document covers fraud and corruption in the use of funds for ineligible expenditures, as well as fraud and corruption engaged in for the purpose of influencing any decision as to the use of funds. All such fraud and corruption is deemed to occur “in connection with the use of TMEA funds”. The recourse for funds mismanagement, where TMEA has sufficient evidence, shall lead to refund of monies by the beneficiary involved and prosecution by the authorities.

Gender mainstreaming also forms part of this document and it is obligatory for all partners to put gender equity issues practice rather than adopting a superficial approach. This will be through continuous assessment of the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels of the project.

Finally, all partners, consultants, contractors and stakeholders will sign the last page signifying they have read and understood this document, which is an integral part of the engagement/contract document with TMEA.

2. Definitions

- A “corrupt practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;

- A “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;

- A “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;
A “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, and;

An “obstructive practice” is;

- Deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation 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

- Acts intended to materially impede the exercise of the Bank’s contractual rights of audit or access to information.

“Gender mainstreaming” is the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality.

A “recipient” is any individual, firm, organisation, NGO, PSO or CSO or any partner that works with TMEA and/ or receives TMEA funding either through a contract or a grant.

3. Code of ethics

3.1 Relationship with stakeholders

TMEA’s reputation depends on the way in which we work. It is vital that our stakeholders have confidence in our competence and professional excellence. We will treat our stakeholders with respect, honesty and fairness.

Confidential information relating to our relationship with all stakeholders will be respected. We respect copyright and other intellectual property rights.

Where consultants and other third parties are contracted to perform duties by TMEA, they will be expected to act in accordance with this code. The obligation to comply with this document forms an integral part of the engagement we have with partners or consultants who are expected to append their signature, as a confirmation of commitment to adherence.
Decisions to hire a consultant or source materials from a particular vendor or supplier are made on the basis of objective criteria such as quality, reliability, technical excellence, price and service. Purchasing decisions must never be made on the basis of personal relationships or the opportunity for personal financial gain. The contractor undertakes to pay suppliers, subcontractors and agents in accordance with agreed terms.

The receipt of gifts or favours by recipients can give rise to embarrassing situations and may be seen as improper inducement. Gifts and favours must not be solicited. In the event that any offers of gifts or favours are received, it should be reported immediately using your organisation’s hierarchy.

The recipient shall not avoid tax. The recipient will record and report all transactions, including those where payment is made in cash. All taxable perquisites to which staffs are entitled will be listed and declared for tax purposes.

TMEA is committed to openness and transparency in communicating with stakeholders and seeks a constructive relationship the wider private sector/ civil society, the media, the government, non-governmental organisations and the general public.

3.2 Relationship with employees

TMEA aims to provide a positive, responsible, open and exemplary working environment. Relationship with staff should be based on respect, dignity and fair treatment for all. We strive to maintain an environment that is based on merit and inclusiveness. The organisation will recruit and promote staff on the basis of their suitability for the job and organisation’s needs without discrimination. Diversity of staff is central to our operations and we value it immensely.

TMEA expect staffs to conduct their business activities with colleagues and stakeholders with respect for all and with honesty and courtesy. We will not tolerate harassment or bullying of staff.

The recipient will explain the purpose of its activities and individual jobs, foster effective communication and involve employees in improving their work. As far as possible, it will provide staff with opportunities to enhance their skills and capabilities, enabling them to develop fulfilling careers and to maximise their contribution to the organisation.

The recipient, in recognition of the efforts of an individual, it will maintain an atmosphere of fair terms and conditions of employment and remuneration policies and structures.

The recipient’s time, physical and intellectual property should be used for business purposes only. Electronic communication equipment and related services (including email, internet, bulletin boards, fax machines, file storage) must be protected from unauthorised external access or use. Under no circumstances should they be used for receiving illegal, offensive, obscene or otherwise inappropriate materials.
The recipient shall respect staff privacy. We will only collect and retain personal information that is required for effective operation of the organisation or as required by law. The information will be kept confidential and released only to those who have a legitimate need to know. Information received by staff in the course of business dealings may not be used for personal gain.

No staff may be involved in any activity for personal gain. Any personal interests or interests of a member of one’s immediate family in relation to the organisation’s business must be disclosed. Any perceived conflicts of interest should be discussed with the line manager and it is your responsibility to take action to declare and resolve any real or apparent conflict.

4. Fraud and corruption
The recipient shall:

4.1 Take all appropriate measures to prevent corrupt, fraudulent, collusive, coercive and obstructive practices in connection with the use of TMEA funds, including (but not limited to):
   - adopting appropriate fiduciary and administrative practices and institutional arrangements to ensure that the funds are used only for the purposes for which they were intended, and;
   - ensuring that all of its representatives involved with the project, and all recipients of funds with which it enters into an agreement related to the Project, receive a copy of this document and are made aware of its contents;

4.2 Immediately report to TMEA any allegations of fraud and corruption;
4.3 Cooperate fully with representatives of TMEA or its appointed agent in any investigation into allegations of fraud and corruption. If TMEA determines that any person or entity referred to in 4.1 above has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, it may suspend further funding/disbursement/payment. Should investigations reveal that there was fraudulent activity, TMEA reserves the right to demand a refund and may terminate the agreement in place. TMEA may also hand over the reports from any investigations to proceed with prosecution;

4.4 Take all necessary and appropriate against any representative declared ineligible, as described in below, from duties and responsibilities;
   - If TMEA determines that a recipient is also a potential provider of goods, works or services, it shall declare the recipient ineligible;
   - TMEA shall declare a firm, consultant or individual ineligible under this code of ethics if such firm, consultant or individual has been declared ineligible
under TMEA procurement guidelines or those of the respective
government/partner or any other international organisation; and

4.5 Assist or enable TMEA obtain a refund of any resources (assets, monies, materials among other benefits) that have been used inappropriately funds including returning any unutilised funds especially where TMEA is not content with progress.

5. Gender mainstreaming
The core guidelines for gender mainstreaming in TMEA funded projects shall be based on but not limited to the following:

5.1 Issues across all areas of activity shall be defined in such a manner that gender differences are diagnosed;
5.2 Responsibility for translating gender mainstreaming into practice is system-wide and rests at the highest level of the recipient organisation. Accountability for outcomes needs to be monitored continuously;
5.3 Gender mainstreaming also requires that every effort be made to broaden equal participation at all levels of decision-making;
5.4 Gender mainstreaming must be institutionalised through concrete steps, mechanisms and processes in all areas of TMEA funded projects;
5.5 Gender mainstreaming does not replace the need for targeted, policies and programmes or positive legislation, nor does it substitute for gender units or focal points; and
5.6 There shall be clear organisational will and the allocation of adequate human and financial resources for gender mainstreaming from all available funding for the successful translation of the concept into practice.

6. Implementing and monitoring this document
The recipient’s commitment to this document is essential to TMEA’s success and will be demonstrated through training, enforcement and accountability. Adherence to the provisions of this document is a condition of partnership.

Project Managers should ensure that all recipients receive guidance on this document and understand the values that underpin its usage. They should strive to create an environment that encourages open discussion about any concerns.

These document is a guide rather than an exhaustive description of the recipient’s ethics policies and standards. TMEA aims to create a culture in which it is normal for partners to ‘do the right thing’ and to voice genuinely held concerns about behaviour or decisions that they perceive to be unethical.
All recipients are required to sign an ‘Annual Certificate of Compliance’ stating that they have read this document and have taken all reasonable steps to ensure that they have conducted business responsibly and in compliance with applicable laws and regulations.

7. Miscellaneous
The provisions in this code do not limit any other rights, remedies or obligations of TMEA or the recipient under the Memorandum of Understanding/Agreement or any other document to which TMEA and the Partner are both parties.

8. Commitment to the Code of Ethics
I have read the code and hereby sign as an indication of commitment to ensuring the code is incorporated and adhered to.

Organisation’s name: 

Title of Signatory: 

Signature: 

Date: 

STAMP/SEAL
Section 6: Terms of Reference

Feasibility Study and Detailed Engineering Design for Construction of a New Liquid Bulk Terminal and Tank Farm for Importing and Storing Various Types of Liquid Bulk Cargoes and Relocation Of Kurasini Oil Jetty (KOJ). Introduction and Background

1. Introduction

1.1 Tanzania Ports Authority (TPA) is a State Corporation under the Ministry of Transport, established on 15th April 2005 following the repeal of THA Act No. 12/77 and enactment of TPA Act No. 17/2004 in Tanzania. The Authority is charged with the responsibility for port development, management and administration of the main ports of Dar es Salaam, Tanga, Mtwara and secondary ports located on the mainland coast and all lake ports in Tanzania.

1.2 The main port is Dar es Salaam handling approximately 90% to 95% of Tanzania’s import and export volumes and being the gateway to central and northern parts of the country as well as to the countries of Malawi, Zambia, Democratic Republic of Congo, Rwanda, Burundi, and Uganda.

1.3 In 2013, Dar es Salaam Port handled over 500,000 Twenty-Foot Equivalent Units (TEU’s) making Dar Port the 5th largest container Port on the East and Southern Coast of Africa, after Durban, Cape Town, Mombasa and Port Elizabeth. Transport demand across all the port sectors has been growing strongly, leading to congestion and delay at Dar Port. Though TPA have recently taken steps to invest in additional capacity (especially container terminal capacity), high growth, compounded by poor urban planning and a mushrooming of unregulated activities is widening congestion impacts.

1.4 Tanzania Ports Authority commissioned a Feasibility study to INROS LACKNER AG in association with Gauff Ingenieure GmbH & CO KG – JBG Branch Tanzania. The key objectives of this study were to undertake a technical, financial and environmental feasibility assessment on the most suitable method for the increasing capacity at the Port of Dar es Salaam, and specifically at Berths 1-7 (the “Dar es Salaam Berths 1-7 Modernisation Project” or the “Project”).

1.5 The study observed that the Port of Dar Es Salaam will in 2028 have reached its cargo handling limits. In order to provide for provision of physical facilities ahead of demand, the study recommended the need for construction of a number of infrastructure facilities at the Port of Dar Es Salaam. These include the Construction of a new RoRo/Multipurpose Terminal before the commencement of works at Berths 1-7. This facility is scheduled to be operational by July 2018, which is meant to allow Port Operations at Berths 1-7 to be shifted to the new RoRo Terminal, while berths 1-7 are under reconstruction.

1.6 These initiatives are in line with the policy of creating additional capacity ahead of demand and to improve services and to enhance the attractiveness of Dar es Salaam Port for international shipping lines. In order to actualize this objective,
and in line with the anticipated directives of the Big Results Now (BRN) initiative, TPA intends to develop a new Oil Terminal and a corresponding Tank Farm potentially at Mbwamaji and adjacent areas, which will cater for increasing liquid bulk ships and the demand for oil in the Eastern and Central African Region.

1.7 Furthermore, in order to match expected growth, TPA and Government plan to construct a new container terminal at berths 13-14. However, vessels access to and efficient operations of this terminal will be obstructed by the existing Kurasini Oil Terminal at berth 12. Consequently, TPA has to secure alternative location for the oil terminal/KOJ.

1.8 Therefore, in order to match with the above developments, TPA wishes to undertake a Feasibility Study with the aim of further developing and augmenting DSM port’s capacity to handle oil products by constructing an Oil Terminal at Mbwamaji and adjacent areas, which will be connected to a Tank Farm for onward distribution to various oil companies, corresponding to the current and future demand of the same.

1.9 Accordingly TPA plans to engage a Consultant to investigate the most efficient option and location for the construction of an Oil Terminal and a Tank Farm to cater for growth in liquid bulk trade at Dar es Salaam Port., In addition to defining the best option for the type of terminal, the proposed assignment must also define the optimum timeline and processes for the relocation of the existing oil jetty at Kurasini.

1.10 The assignment is expected to be carried out efficiently and the consultant selected is required to ensure that ultimately, the study can be used to enhance port productivity, competitiveness and profitability. The consultant shall keep in mind that the study will form the basis for making important investment decisions and must therefore be authentic and thorough. To this end, the consultant shall exercise all reasonable skill, care and diligence in the performance of the assignment and undertake the works according to recognized professional standards. The Consultant shall at all-time act as faithful advisor to TPA and shall supply all expertise, knowledge and skills required to carry-out and complete the works expeditiously and in accordance with the conditions of engagement.

1.11 TPA also favors and works to build capacity within and around national consulting firms at large. In this regard, the consultant shall build meaningful partnerships with counterpart staff within TPA. Moreover and where possible, consultants should involve/associate with national consultancy firms in the assignment.

2. **Objective Of The Assignment**

2.1 The main objective of this assignment is to provide:

(a) a technical, financial and environmental feasibility assessment on the most suitable method and options of constructing a dedicated Oil Terminal and corresponding Tank Farm preferably at Mbwamaji and adjacent areas and relocation of KOJ and sub-surface pipelines, within Dar es Salaam port to
handle increasing size of liquid bulk vessels in an efficient and cost effective manner

(b) Upon selection of the preferred option, carry out the detailed design for construction of an Oil Terminal and Corresponding Tank Farm at a selected location, preferably at Mbwamaji and adjacent areas;

(c) the detailed design for demolition and relocation of KOJ and sub-surface pipelines at Kurasini area.

The study is divided into two phases. At the end of the phase one, there is a “break point” and a period during which TPA and other stakeholders shall review the results and recommendations from the phase one. A decision will then be taken whether to proceed with the next phase or not, and the scope of work for the phase two will be confirmed or amended in the light of the findings of the preceding phase.

3. **Recipient**

The recipients are Tanzania Ports Authority and TradeMark East Africa in partnership with DFID and World Bank.

4. **Methodology**

4.1 The Consultant shall be responsible for evolving an appropriate methodology in accordance with relevant industry standards, which is acceptable to TPA and shall undertake all fieldwork and ensure all data gathered is quality assured and corrected wherever appropriate.

4.2 The Consultant shall keep a record of all information collected and present this in a manner, which allows statistical comparisons to be made. Qualitative assessments must be backed up by case studies and relevant industry examples.

5. **Scope of Work**

5.1 The services to be provided by the Consultant for this assignment shall include but not necessarily be limited to:

Phase I: technical, financial and environmental feasibility assessment on the most suitable method and options of constructing a dedicated Oil Terminal and corresponding Tank Farm

(i) Reviewing and analyzing all available TPA data on the number, type and frequency of liquid bulk ship calls at Dar es Salaam port with a view to establishing future trends;

(ii) Reviewing and analyzing the main drivers for changing ship size in the liner shipping and tramp trades (the bareboat, time and voyage charter markets for liquid bulk carriers, and other ships);

(iii) Review and analyze all existing geotechnical information of Mbwamaji and adjacent areas for construction of the new Oil Terminal and the Tank Farm, and undertake additional geotechnical investigations;
(iv) Reviewing and analyzing all post dredge-survey drawings made following the capital dredging works carried out in 1997 at Dar es Salaam Port;

(v) Reviewing and analyzing all bathymetric data collected by TPA in intervening periods, including post-dredge surveys made following maintenance dredging;

(vi) Investigating the presence of wrecks or other hazards to navigation in or adjacent to the envisaged Oil Terminal area, including the proposed port basin or vessel turning area;

(vii) Undertaking a physical condition survey of Mbwamaji and adjacent areas to establish:

✓ the actual physical condition of the respective areas,
✓ the actual depth at Mbwamaji and adjacent areas up-to a distance 50m perpendicular to the line of the proposed Oil Terminal;

(viii) Making recommendations, consistent with recognized international standards and practices for that development needed to most efficiently and effectively:

✓ to dredge the Oil Terminal area and its corresponding entrance channel including the ship turning circle to the required draft levels below Lowest Astronomical Tide taking into account;
✓ the existing tidal regime, bathymetric and geotechnical conditions at Mbwamaji and adjacent areas;
✓ construct a well-equipped Oil Terminal with the capacity of handling up to 250,000 DWT tankers (Very Large Crude Carriers-VLCC);
✓ construct a Tank Farm with the capacity of handling for the unloading of the design vessels with the following facilities:

  - new state of the art technology with automated tank gauging;
  - automated tank valves;
  - fire suppression systems;
  - high tech security system with adequate surveillance cameras, cone bottom in all the tanks to drain water;
  - tank high level alarms, and impervious tank containment systems;
  - the system should be operated from a centralized control room using the latest terminal automation, and
  - terminal systems for refined and crude products.
✓ The need to optimize the size of berthing and maneuvering areas by carrying out vessel simulator studies for various size and types of ships of between 150,000-250,000 DWT ships;
✓ The need for port tug assistance;
The presence of tidal streams and currents within Mbwamaji area along prevailing tidal stream, and/or current direction; and

Traffic conditions and use of the navigation channel as part of the turning basin area.

(ix) Review all existing information on the current Kurasini Oil Jetty (KoJ) and sub-surface pipelines, and undertake, if necessary, additional site investigation to collect these details on existing situation;

(x) Propose optimal options of relocating the current Kurasini Oil Jetty (KoJ) and sub-surface pipelines, including choice of appropriate area(s) and pipelines routes in conjunction with oil reservoirs in the area;

(xi) Review capacity and suitability of the current SPM and after relocation of KoJ vis-a-vis the proposed Oil Terminal in essence of coming up with the best option(s) of handling various types of liquid bulk products (crude oil, refined petroleum products and edible oils) at DSM Port;

(xii) Develop viable outline options and undertake a SWOT (Strengths Weaknesses Opportunities Threats) analysis on all design alternatives;

(xiii) Undertake a thorough financial and economic analysis of the preferred option(s), taking into account whole life costs and future throughput trends to confirm the affordability of the project for TPA (based on the existing wharf age and other infrastructure levies contained in the existing port tariff);

(xiv) Make recommendations for a preferred option(s) based on the findings above;

Phase II: the detailed engineering design for construction of a new Oil Terminal and Corresponding Tank Farm and detailed design for demolition and relocation of KoJ and sub-surface pipelines.

After selection of one preferred option, the consultant will be given a go ahead to proceed with detailed engineering designs. The consultant shall review all available and relevant documents, maps, previous studies if any and perform all engineering work, environmental and social impact assessment study, Geotechnical studies, field investigations and the related works herein described as well as any other related work required to attain the objectives.

Component one: Detailed engineering design for the preferred options. Including the results of the activities in the Phase II (detailed design reports, drawings, BOQs and tender documents for the preferred option).

(i) Provide all detailed engineering design, cost estimates and drawings and tender documents of the preferred option;
(ii) Undertake Environmental and Social Impact Assessment (ESIA) for the construction of the new facilities and develop a viable mitigation plan for negative impact associated with the construction of new facilities;

(iii) Develop a viable plan to mitigate environmental impacts associated with the dredging and construction works. This should include considering possible use of dredged material as a resource (PIANC Report No. 104-2009) and, an early scoping investigation – made in accordance with Tanzanian laws and regulations - that can be presented to the National Environmental Management Council for consideration and further study if required;

(iv) Prepare tender documents for procurement of a contractor for construction/implementation of the project.

The Consultant shall prepare site drawings but not limited to the following:

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Component two: Demolition of the existing Kurasini Oil Jetty (KOJ)

(a) Detailed engineering design reports for demolition of existing structures;

(b) Health, safety and environment protection plan for demolition;

(c) Bill of Quantities (BOQs) and costs estimates;
(d) Undertake Environmental and Social Impact Assessment (ESIA) for the demolition of the KOJ and develop a viable mitigation plan for negative impact associated with the demolition of the facilities;

(e) Tender Documents, using Standards Bidding Documents for Government of Tanzania (GoT).

Construction Quantities (for each component)

The calculated quantities for the items of construction shall be based on the final design drawings. A detailed bill of quantities shall be prepared all oil terminal facilities.

Cost Estimates (for each component)

The Consultant shall estimate likely ruling bill rates applicable to the proposed time of construction, showing how these are derived. In order to make a fair and reasonable estimate of the cost of project, the Consultant shall prepare a unit price analysis of each item using basic cost elements (labour, materials, equipment, tools, overheads, on-site costs, profit, etc.), and showing separately the cost of all taxes (direct or indirect, duties, levies and fees). The cost estimates shall also include the costs for implementation of ESMP and HIV programme which should be reflected in the Tender Document in each packages proposed.

The Consultant shall give cost estimates broken down by main works’ items into foreign and local currency components as follows:

- For foreign currency:
  - Imported equipment, materials and supplies;
  - Identifiable foreign components of domestic manufactured equipment, materials and supplies;
  - Salaries of expatriate personnel; and
  - Profit and overheads of foreign firms where appropriate.

- For local currency:
  - Right of way acquisition;
  - Local materials, supplies, and services; and
  - Salaries and wages of local employees both skilled and unskilled.

In addition, the Consultant shall present separately the taxes and duties element of the cost estimates.

6. Preparations of Tender Documents (For each Component)

The Consultant shall prepare complete Tender documents in accordance with the current Standard Bidding Documents of the Government of Tanzania.
7. Facilities, Services and Resources to be Provided by TPA

6.1 Facilities, services and resources to be provided by TPA

TPA shall provide the consultant with the following:

(a) The Employer will provide liaison with the Government Ministries and Departments in order to introduce the Consultant to them. However, the Consultant shall be fully responsible for collecting data and information from these agencies; paying for them where applicable.

(b) The Employer will make available: and any available drawings showing the existing layout of the port, study reports, including appendices, etc. relevant to the assignment, that have been carried out by or for the Employer and any other relevant data available, which are necessary for the proper execution of the assignment.

(c) The Employer will assist the Consultant to:

1. Obtain formal consent from outside authorities or persons having rights or powers in connection with the works or the site thereof;
2. Obtain ministerial orders, sanctions, licenses and permits in connection with the works; and
3. Register a non-Tanzanian firm and senior staff with the Engineers Registration Board. Any associated cost will be borne by the consultant.

All information, data and reports obtained from TPA in the execution of the Consultancy Services shall be properly reviewed and analyzed by the Consultant. The Consultant shall be responsible for the correctness of using such data. All such information, data and reports shall be treated as confidential.

5.2 Facilities, services and resources to be provided by the Consultant

The Consultant shall:

(a) employ only staff whose CVs have been approved by the client. Replacement or temporary substitution shall not be permitted unless in emergency, or under very exceptional circumstances;

(b) co-operate fully with TPA, TMEA and the relevant Government Ministries and Departments in the conduct of the work;

(c) make all necessary arrangements for carrying out the services and supporting the staff assigned to the project. Ensure that the Team Leader and professional staff have the full authority, in country, to make any technical decisions necessary to complete the services as required.

(d) the Consultant shall be responsible for arranging for all necessary office and living accommodation, transport, equipment, supplies, secretarial services, and such other services. The Consultant must make sure that his financial proposal costing has taken them into consideration.

7.0 Skills and Experience Required
7.1 The Consultant shall undertake the assignment with an estimated total 9 staff-months input over an estimated 10 months period. The Consultancy team shall be required to possess expertise in port engineering, oil/gas terminal services, financial analysis, environmental impact assessment and project management.

7.2 The proposed team to undertake this assignment shall be required to consist, but not limited to the following:

(a) Team Leader/Project Manager;
(b) Liquid bulk operations specialist;
(c) Handling & storage specialist;
(d) Port/Coastal Engineer
(e) Oil Services Berths/Terminals Expert
(f) Services Engineer
(g) Quantity Surveyor
(h) Land Surveyor
(i) Economist/Financial/Business analyst
(j) Environmental Management Specialist
(k) Social Specialist

7.3 Qualification and experience required for the key personnel shall be as follows:

(i) Team Leader/Project Manager

The Team Leader shall be a qualified, registered Architect/Civil Engineer with a degree in Architecture/Civil Engineering or an equivalent qualification. Postgraduate qualification in port engineering/coastal engineering is an added advantage. She/he must have a minimum of fifteen (15) years of cumulative experience related to port design or construction. Experience in contract administration is an added advantage.

She/he shall have experience in management of infrastructure projects with not less than 15 years as a Team Leader and/or Project Manager on assignments similar in nature and complexity. She/he should have knowledge of complex projects including ports, roads, bridges, and building works and ability to manage multi-disciplinary teams in design and supervision of similar projects. Fluency in written and spoken English is mandatory.

(ii) Liquid bulk operations specialist

She/he shall have experience in liquid bulk operations with not less than 10 years of experience in similar capacity for similar projects in nature and
complexity. She/he shall be responsible for all liquid bulk operations related of the assignment. Fluency in written and spoken English is mandatory.

(iii) Handling & Storage Specialist

She/he shall have experience in handling and storage of oil and gas products with not less than 10 years of experience in similar capacity for similar projects in nature and complexity. She/he shall be responsible for all handling and storage components of the assignment. Fluency in written and spoken English is mandatory.

(iv) Port/Coastal Engineer

The Port and Coastal Engineer shall be a registered Engineer with a valid practicing certificate and bachelor’s degree or equivalent qualification in Port and Coastal Engineering. She/he shall be required to possess not less than ten (10) years of experience in designing transport infrastructure of similar nature. She/ He must also have dredging experience, as well as ship simulation expertise for not less than 5 years’ experience in similar complexity assignments. She/he shall be responsible for all Coastal and Engineering designs.

(v) Oil Services Berths/Terminals Expert

She/he must be a registered Civil Engineer with a degree in Civil Engineering or an equivalent qualification. Postgraduate qualification in design and management of Oil Service berths or terminals is an added advantage.

She/he must possess a minimum qualification of Bachelor of Science degree in Civil Engineering of its relevant equivalent in Port and/or Maritime Infrastructure Development. She/he must have a minimum post qualification experience in port development planning of ten (10) years and should have adequate experience in the physical planning, design and operation of facilities for the oil and gas industry. These facilities should cater for oil service vessels, fabrication, assembly and repair yards, storage of the different types of chemicals and other materials required for offshore oil and gas industry, rig repairs, etc.

(vi) Services Engineer

The Services Engineer shall be a registered or chartered Mechanical or Electrical Engineer or Building Services Engineer, with at least a bachelor’s degree or equivalent qualification in civil/electrical/mechanical
engineering. She/he shall be required to have not less than ten (10) years of experience in designing transport infrastructure. Experience in designing port infrastructure is a must.

(vii) Quantity Surveyor

The Quantity Surveyor shall be responsible for preparation of bills of quantities, cost estimates and quantity calculation. She/he must have a degree in Quantity Surveying or equivalent qualification. She/he must have a minimum of ten (10) years’ experience in quantity surveying related to contractual issues and marine construction. She/he must have served in similar capacity on at least two (2) Port/Marine projects of similar nature in the past ten (10) years. In addition, she/he must have relevant international experience and a working experience of at least 3 years in developing countries. Fluency in written and spoken English is mandatory.

(viii) Economist/Financial/Business analyst

The analyst is expected to have a postgraduate degree in the field of economics/finance/business and not less than ten (10) years of practical experience in undertaking feasibility studies for transport infrastructure development projects, including but not limited to assessment of traffic demand, traffic forecasting, economic and financial analysis and investment planning.

(ix) Environmental Management Specialist

She/he shall be responsible for carrying out environmental impact assessment of the project as per acceptable national and international requirements. She/he shall be qualified with a degree in environmental management or related discipline with cumulative experience of not less than 10 years. She/he must have sound knowledge of environmental and social issues, initiatives and implementation of mitigation measures related to civil engineering infrastructure projects.

She/he must have served as an Environmentalist in at least two (2) marine projects of similar nature in the past ten years. She/he must have served as an Environmentalist in at least two (2) dredging operation or/and marine construction and dredging projects of similar nature in the past five years. She/he must have at least three (3) years working experience in Sub-Sahara Africa. Experience in the ports sector will be an additional merit.

(x) Social Specialist
The Social Specialist shall be responsible for carrying out a social impact assessment of the project and propose mitigating actions to be carried out in order to minimize any negative social impacts that the project will have on the people. She/he shall also be responsible for conducting a thorough gender analysis of the project and propose actions to be carried out to ensure equal benefits to both women and men are derived from the project.

The Specialist should be qualified with a degree in Gender / Social Science management, or, related discipline with at least seven (7) years professional experience in development work with social and gender components, including the design and/ or management, social impact assessment and mitigation measures of infrastructure programs and projects in Africa and must have experience in Resettlement Action Plan development. Familiarity with bilateral or multilateral development organizations is preferable. Consultancy experience in feasibility studies and program design will be necessary. Presence in the field for extended durations shall be necessity.

(xii) Support Staff

The Consultant shall propose support staff for the assignment where appropriate. The Consultant may add any personnel which in his opinion are necessary for the agreed deliverables. These should be clearly reflected in the technical proposal method statement and staffing schedules.

7.4 Use of Local Experts

The Consultant is encouraged to associate with local companies and individuals where appropriate. In particular, the Consultant is encouraged to propose Tanzanian nationals as Key or Additional Experts, especially those with international experience.

7.5 Counterpart staff involvement

TPA may assign up to 2 counterpart staff relevant to the assignment during execution of the services to work with the Consultant in all aspects of the study as a way of knowledge transfer. The counterparts shall be involved in the field as well as the Consultant's home office. The Consultant will only provide office space for counterpart staff and their other costs and remunerations will be provided to them directly by TPA.
8.0 Deliverables and Timeframe

Phase I:

The outputs for phase I of this consultancy shall be as follows:

(i) The Inception Report which shall include data collection, interview reports, and traffic forecast review, description of methodology, detailed work programme, and list of deliverables shall be submitted to TPA within six (6) weeks of the Consultancy’s Contract commencement date.

(ii) The Interim Report including geotechnical and topographic survey, operational concept and terminal layout staffing requirements, preliminary cost estimates, EIA Scoping and the basis for of designs shall be submitted to TPA within fourteen (14) weeks of TPA giving the Consultant comments on the Inception Report and setting out the findings of work done.

(iii) The Draft Final Feasibility and EIA Scoping Reports and a professional presentation shall be submitted eight (8) weeks after receipt of comments on the Interim Feasibility Study Report and Draft EIA Scoping Report. The Draft Final Report shall also include any revisions that the Consultant deems appropriate after receiving comments from both TPA and other relevant experts or peer reviewers in respect the Draft Reports. The draft final report shall include proposed options based on economic, financial analysis as well as technical analysis among which the proposed option will be chosen. As part of the final submission, all data gathered by the Consultant shall also be submitted.

(iv) The Final Feasibility and Environmental Report shall be submitted four (4) weeks after receipt of comments on the Draft Final Reports.

(v) The report of each stage of the study shall be submitted in 20 hard copies and 5 CD soft copies.

(vi) The Consultant will deliver the following workshops:

   (1) Project Consultation workshop: After approval of the inception report, the consultant will develop the project option screening criteria and conduct a consultation and prioritization workshop to interact with stakeholders and present the preliminary analysis of the feasibility study, gather view from them on the envisaged different options. The outcome of this workshop will be suggestions for the project package.

   (2) Dissemination workshop: Prepare a summary report of the proposed project options for discussion and organize a workshop with stakeholders in cooperation with TPA. This workshop will be conducted upon submission of the Draft Final Report. The outcome of this workshop will be suggestions for the project package with one preferred option and these consultations will be reflected in the proposed project design as appropriate. The Consultant will then proceed with the Phase II of the services after approval of the Phase I.
Phase II:

The outputs for phase II of this consultancy shall be submitted eight (8) weeks of TPA giving the approval of the Phase I as follows:

Component one: Construction of the new oil terminal

(a) Detailed Engineering design reports and Technical reports for the preferred option for construction of new oil terminal;
(b) Construction drawings on appropriate scales;
(c) Bill of Quantities (BOQs) and Engineers estimates;
(d) Tender Documents, using Standards Bidding Documents for GoT

Component two: Demolition of the existing Kurasini Oil Jetty (KOJ)

(f) Detailed Engineering design reports for demolition of existing structures;
(g) Health, safety and environment protection plan for demolition;
(h) Bill of Quantities (BOQs) and Engineers estimates;
(i) Tender Documents, using Standards Bidding Documents for GoT

9.0 Reporting

The Consultant will be reporting [each report in six (6) hardcopies plus all soft copies in original formats on two (2) USB flash disk] to the Director General through Project Manager who shall be responsible for reviewing the reports for make necessary comments to the Consultant and approving deliverables before they are paid. The tender document shall be produced in 15 hard copies and two soft copies (in word document and PDF)

9.1 Reporting Requirements

(i) The Consultant shall prepare, and submit all reports in English and presented on A4 sized paper. All reports shall be submitted initially as draft versions, which shall be finalized to accommodate Clients’ comments. Survey data for both draft and final reports shall be submitted in a format compatible to Windows 10 or the latest version.

(ii) The Consultant shall prepare the Tender Documents for the proposed project.

(iii) The Consultant shall arrange to present the Reports to the panel of the Project Implementation Team (PIT). The presentations shall be made at least 7 days after submission of the hard and soft copies of the reports. The presentations shall be in PowerPoint.
(iv) After delivery of all final documentation, the originals of the documents are to be deposited with TPA Headquarters in Compact Disc compatible with software used and agreed by the Client, such as Microsoft word for word processing, Microsoft Excel for spreadsheet, Microsoft project for project management, AutoCAD etc.

Please note that failure to submit reports whether at intermediate stages or overall on specified time periods shall result to application of liquidated damages equal to 1/1000th (one thousandth) of the value of the invoice raised and payable for each calendar day, with a maximum limit value of 15% (fifteen percent) of the value of the invoice.

10.0 Payments schedule

The following payments schedule is set for the assignment. Bidders should consider these in mind in writing their proposals.

Phase I
(i) 20% of the contract sum for phase I shall be paid upon delivery and approval of the Inception Report;
(ii) 20% of the contract sum for phase I shall be paid upon delivery and approval of the Interim Report and the project consultation workshop;
(iii) 40% of the contract sum for phase I shall be paid upon delivery and approval of the Draft Final Report and the project dissemination workshop;
(iv) 20% of the contract sum for phase I shall be paid upon delivery and approval of the Final Report and the project prioritization workshop;

Phase II, Component one
(i) 20% of the contract sum for phase II component one (Detailed design for a new Oil terminal) shall be paid upon delivery and approval of the preliminary design report;
(ii) 20% of the contract sum for phase II component one (Detailed design for a new Oil terminal) shall be paid upon delivery and approval of the scheme design report;
(iii) 30% of the contract sum for phase II component one (Detailed design for a new Oil terminal) shall be paid upon delivery and approval of the draft final design report;
(iv) 30% of the contract sum for phase II component one (Detailed design for a new Oil terminal) shall be paid upon delivery and approval of the final design report and the tender Document;

Phase II, Component two
(i) 50% of the contract sum for phase II component two (Detailed design for demolition of KOJ) shall be paid upon delivery and approval of the draft design report and Health, safety and environment protection plan for demolition and draft tender document;

(ii) 50% of the contract sum for phase II component two (Detailed design for demolition of KOJ) shall be paid upon delivery and approval of the final design report for demolition and the tender Document.

TradeMark East Africa

May 2016
Section 7: General Conditions of Contract

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Section 7: General Conditions of Contract

A General Provisions

Definitions

1.1 The headings and titles of these General Conditions of Contract shall not limit, alter or affect the meaning of the Contract.

1.2 Unless the context otherwise requires, the following words and terms shall have the meanings assigned to them:

“Contract” means the Agreement entered into between the Parties and includes the Contract Documents.

“Contract Documents” means the documents listed in GCC 4.1, including all attachments, appendices, and all documents incorporated by reference therein, and shall include any amendments thereto.

“Contract Price” means the sum stated in the Agreement representing the maximum, total or estimated amount payable for the provision of the Services.

“Day” means working day. “Month” means calendar month.

“Eligible Countries” means the countries and territories eligible as listed in the SCC.

“Foreign Currency” means any currency other than Tanzania Shillings.

“GCC” means the General Conditions of Contract.

“Local Currency” means Tanzania Shillings.

“Lump sum contract” means a contract under which the Services are performed for an all-inclusive fixed total amount.

“Member,” where the Provider 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 authorised to act on all the Members behalf in exercising all the Providers’ rights and obligations towards TradeMark East Africa under the Contract and named in the SCC.

“Party” means TradeMark East Africa or the Provider, as the case may be, and “Parties” means both of them.

“Personnel” means persons engaged by the Provider or by any Sub-contractor as employees and assigned to the performance of the Services or any part thereof; “Foreign Personnel” means such persons who at the time of being so engaged had their domicile outside Tanzania; “Local Personnel” means such persons who at the time of being so engaged had their domicile inside Tanzania; and “Key Personnel” means those Personnel that are regarded by the Provider as essential to the successful completion of the Services and related tasks.

“Procuring and Disposing Entity” means the entity purchasing the Services, as specified in the Agreement.

“Provider” means the natural person, private or government entity, or a combination of the above, whose bid to perform the Contract has been accepted by TradeMark East Africa and is named as such in the Agreement, and includes the legal successors or permitted assigns of the Provider.

“SCC” means the Special Conditions of Contract.
“Services” means the professional or specialised Services to be performed by the Provider as described in the contract and shall include consultancy Services.

“Subcontractor” means any natural person, private or government entity, or a combination of the above, including its legal successors or permitted assigns, to whom any part of the Services to be provided is subcontracted by the Provider.

“Time based contract” means a contract under which the Services are provided on the basis of fixed fee rates and payments are made on the basis of time actually spent.

3 1.3 The word “Government” shall mean the Government of the Republic of Tanzania.

4 1.4 If the context so requires it, singular means plural and vice versa.

5 1.5 Nothing contained herein shall be construed as establishing a relation of master and servant or of principal and agent between TradeMark East Africa and the Provider.

Corrupt Practices

6 2.1 It is the Government of Tanzania policy to require that Procuring and Disposing Entities, as well as Bidders and Providers under Government financed contracts, observe the highest standards of ethics during the procurement and execution of such contracts. In pursuit of this policy, the Government of Tanzania:

a) defines, for the purposes of this provision, the terms set forth below as follows:

(i) “corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and

(ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of TradeMark East Africa, and includes collusive practices among Bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive TradeMark East Africa of the benefits of free and open competition;

b) will suspend a firm, either indefinitely or for a stated period of time, from being awarded a Government funded contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a Government funded Contract.

7 2.2 The Provider shall permit the Government of Tanzania to inspect the Provider’s accounts and records relating to the performance of the Provider and to have them audited by auditors appointed by the Government of Tanzania, if so required by the Government.

8 2.3 In pursuit of the policy defined in GCC Clause 2.1, TradeMark East Africa may terminate a Contract in accordance with GCC Clause 0 if it at any time determines that corrupt or fraudulent practices were engaged in by representatives of TradeMark East Africa or of a Provider, during the procurement
or the execution of that contract.

**Confidential Information**

9 3.1 TradeMark East Africa and the Provider shall keep confidential and shall not without the written consent of the other party hereto, divulge to any third party any reports or data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Provider may furnish to its Subcontractor such documents, data, and other information it receives from TradeMark East Africa to the extent required for the Subcontractor to perform its work under the Contract, in which event the Provider shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Provider under the Contract.

10 3.2 TradeMark East Africa shall not use such documents, data, and other information received from the Provider for any purposes unrelated to the contract. Similarly, the Provider shall not use such documents, data, and other information received from TradeMark East Africa for any purpose other than the design, procurement, or other work and Services required for the performance of the Contract.

11 3.3 The obligations of a party under GCC Clauses 3.1 and 3.2 shall however not apply to information that:

(a) TradeMark East Africa or Provider need to share with any institution participating in the financing of the Contract;

(b) now or hereafter enters the public domain through no fault of that party;

(c) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party; or

(d) Otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

12 3.4 The provisions of GCC Clauses 3.1 and 3.2 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Services or any part thereof.

13 3.5 The provisions of GCC Clauses 3.1 and 3.2 shall survive for a period of two years from completion or termination, for whatever reason, of the Contract.

**B The Contract**

**Contract Documents**

14 4.1 The documents forming the Contract shall be interpreted in the following order of priority:

(a) Agreement,
(b) any Letter of Bid Acceptance,
(c) Provider’s Bid as amended by clarifications,
(d) Special Conditions of Contract,
(e) General Conditions of Contract,
(f) Statement of Requirements,
(g) Any other document listed in the SCC as forming part of the Contract.

15 All documents forming the Contract are intended to be correlative, complementary, and mutually explanatory.

16 4.2 No amendment, modification or other variation of the Contract shall be valid unless an Amendment to Contract is made in writing, is dated, expressly refers to the Contract, and is signed by a duly authorised representative of each party thereto.

17 4.3 If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

18 4.4 Any action required or permitted to be taken, and any document required or permitted to be executed, under the Contract by TradeMark East Africa or the Provider may be taken or executed by the authorised representatives specified in the SCC.

19 4.5 The Contract constitutes the entire agreement between TradeMark East Africa and the Provider and supersedes all communications, negotiations and agreements (whether written or oral) of parties with respect thereto made prior to the date of Contract. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.

Governing Law

20 5.1 The Contract shall be governed by and interpreted in accordance with the laws of Tanzania unless otherwise stated in the SCC.

Language

21 6.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Provider and TradeMark East Africa, shall be written in English unless specified otherwise in the SCC. Supporting documents and printed literature that are part of the Contract may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified, in which case, for purposes of interpretation of the Contract, this translation shall govern.

22 6.2 The Provider shall bear all costs of translation to the governing language and all
risks of the accuracy of such translation.

Notices
23 7.1 Any notice, request or consent required or permitted to be given or made pursuant to the Contract shall be in writing. Any such notice shall be deemed to have been given when delivered to the authorised representative of the Party at the address specified in the SCC.

24 7.2 A Party may change its address for notice hereunder by giving the other Party notice of such change.

Commencement of Services
25 8.1 The Provider shall commence the Services within the time period specified in the SCC, after the date of the Letter of Bid Acceptance or the date of the Agreement whichever is the earlier.

26 8.2 If the Services have not commenced in accordance with GCC Sub-Clause 8.1 either Party may, by not less than four weeks’ written notice to the other Party, declare the Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

Assignment
27 9.1 TradeMark East Africa or the Provider shall not assign, in whole or in part, their obligations under this Contract, except with the prior written consent of the other party.

Subcontracting
28 10.1 The Provider shall request approval in writing from TradeMark East Africa for all subcontracts awarded under the Contract that are not included in the Contract. Subcontracting shall in no event relieve the Provider of any of its obligations, duties, responsibilities or liability under the Contract.

29 10.2 Subcontracts shall comply with the provisions of GCC Clauses 2 and 34.

Contract Amendments
30 11.1 TradeMark East Africa may at any time request the Provider through notice in accordance with GCC Clause 7, to make changes to the Contract by agreement to an Amendment of Contract.

31 11.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Provider’s performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Completion Date, or both, and the Contract shall accordingly be amended. Any claims by the Provider for adjustment must be asserted within twenty-eight days from the date of the Provider’s receipt of TradeMark East Africa’s notice.
32 11.3 Prices to be charged by the Provider for any related or additional Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties.

33 11.4 An Amendment to Contract shall be signed by both Parties following agreement to the proposed changes required and shall make adjustments for the impact on the Contract Price, completion period or any other condition.

Change in Laws
34 12.1 Unless otherwise specified in the Contract, if after the date of the Bidding Document, any law, regulation, ordinance, order or by law having the force of law is enacted, promulgated, abrogated, or changed in Tanzania or where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Completion Date and/or the Contract Price, then such Completion Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Provider has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for by a contracts amendment or a price adjustment in accordance with GCC Clause 31.

Force Majeure
35 13.1 For the purposes of the Contract, “Force Majeure” shall mean an event or events which are beyond the reasonable control of a Party, and which makes a Party’s performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by government agencies.

36 13.2 Force Majeure shall not include:
(a) any event which is caused by the negligence or intentional action of a Party or such Party’s Sub-contractors or agents or employees; nor
(b) any event which a diligent Party could reasonably have been expected to both:
   (i) take into account from the effective date of the Contract; and
   (ii) Avoid or overcome in the carrying out of its obligations.
(c) Insufficiency of funds or failure to make any payment required hereunder.

37 13.3 The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, the Contract insofar as such
inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of the Contract.

13.4 A Party affected by an event of Force Majeure shall take all reasonable measures to:
   (a) remove such Party’s inability to fulfil its obligations hereunder with a minimum of delay; and
   (b) Minimise the consequences of any event of Force Majeure.

13.5 A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any event not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.

13.6 During the period of their inability to perform the Services as a result of an event of Force Majeure, the Provider shall be entitled to continue to be paid under the terms of the Contract as well as to be reimbursed for additional costs reasonably and necessarily incurred by them during such period for the purposes of the Services and in reactivating the Services after the end of such period.

13.7 Not later than thirty (30) days after the Provider, as the result of an event of Force Majeure, has become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing appropriate measures to be taken in the circumstances.

**Suspension of Assignment**

14.1 TradeMark East Africa may, by written notice of suspension of the assignment to the Provider, suspend all payments to the Provider hereunder if the Provider fails to perform any of its obligations under the Contract, including the carrying out of the Services, provided that such notice of suspension shall:
   (a) specify the nature of the failure; and
   (b) Request the Provider to remedy such failure within a period not exceeding thirty days after receipt by the Provider of such notice of suspension.

**Termination**

15.1 TradeMark East Africa may, by not less than thirty days written notice of termination to the Provider (except in the event listed in paragraph (f) below, for which there shall be a written notice of not less than sixty days), such notice to be given after the occurrence of any of the events specified in GCC Clause 15.1 (a) to (g), terminate the Contract if:
   (a) the Provider fails to remedy a failure in the performance of its obligations as
specified in a notice of suspension of assignment pursuant to GCC Clause 14 within thirty days of receipt of such notice of suspension of assignment or within such other period agreed between the Parties in writing;

(b) the Provider becomes, or if any of the Provider’s Members becomes, insolvent or bankrupt or enters into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary other than for a reconstruction or amalgamation;

(c) the Provider fails to comply with any final decision reached as a result of arbitration proceedings pursuant to GCC Clause 17 hereof;

(d) the Provider submits to TradeMark East Africa a statement which has a material effect on the rights, obligations or interests of TradeMark East Africa and which TradeMark East Africa knows to be false;

(e) the Provider is unable as the result of Force Majeure, to perform a material portion of the Services for a period of not less than sixty days;

(f) TradeMark East Africa, in its sole discretion and for any reason whatsoever, decides to terminate the Contract;

(g) The Provider, in the judgment of TradeMark East Africa, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

15.2 The Provider may, by not less than thirty days written notice to TradeMark East Africa, such notice to be given after the occurrence of any of the events specified in GCC Clause 15.2 (a) to (d) terminate the Contract if:

(a) TradeMark East Africa fails to pay any money due to the Provider pursuant to the Contract and not subject to dispute pursuant to GCC Sub-Clause 26.1 within forty-five days after receiving written notice from the Provider that such payment is overdue;

(b) TradeMark East Africa is in material breach of its obligations pursuant to the Contract and has not remedied the same within forty-five days (or such longer period as the Provider may have subsequently approved in writing) following the receipt by TradeMark East Africa of the Provider’s notice specifying such breach;

(c) the Provider is unable as the result of Force Majeure, to perform a material portion of the Services for a period of not less than sixty days;

(d) TradeMark East Africa fails to comply with any final decision reached as a result of arbitration pursuant to GCC Clause 19 hereof.

15.3 If either Party disputes whether an event specified GCC Clauses 15.1 or GCC Clause 15. has occurred, such Party may, within forty-five days after receipt of notice of termination from the other Party, refer the matter to arbitration pursuant to GCC Clause 17 and the Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

Cessation of Rights and Obligations or Services

16.1 Upon termination of the Contract pursuant to GCC Clause 15, or upon
completion of the Services pursuant to GCC Clause 18 hereof, all rights and obligations of the Parties hereunder shall cease, except:

(a) such rights and obligations as may have accrued on the date of termination or completion;
(b) the obligation of confidentiality set forth in GCC Clause 3;
(b) the Provider’s obligation to permit inspection, copying and auditing of their accounts and records set forth in GCC Sub-Clause 2.2; and
(c) Any right which a Party may have under the Governing Laws.

47 16.2 Upon termination of the Contract by notice of either Party to the other pursuant to GCC Clause 7, the Provider shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Provider and equipment and materials furnished by TradeMark East Africa, the Provider shall proceed as provided, by GCC Clause 43.

Settlement of Disputes
48 17.1 TradeMark East Africa and the Provider shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract or interpretation thereof.

49 17.2 If the parties fail to resolve such a dispute or difference by mutual consultation within twenty-eight days from the commencement of such consultation, either party may require that the dispute be referred for resolution in accordance with the Arbitration Law of Tanzania or such other formal mechanism specified in the SCC.

Completion Period of the Services
50 18.1 The period for the completion of the Services shall be specified in the SCC. The completion period shall be counted from the date of the commencement of the Services.

C Obligations of TradeMark East Africa

Provision of Information and Assistance
51 19.1 TradeMark East Africa shall supply the Provider with any information or documentation at its disposal which may be relevant to the performance of the contract. Such documents shall be returned to TradeMark East Africa at the end of the period of the Contract.

52 19.2 The Provider may request the assistance of TradeMark East Africa to obtain copies of laws, regulations, and information on local customs, orders or by laws of Tanzania, which may affect the Provider in the performance of its obligations under the contract. TradeMark East Africa may charge the Provider for such assistance.
19.3 Subject to the provisions of the laws and regulations on foreign labour in Tanzania, TradeMark East Africa shall make every effort to facilitate the Provider in obtaining all required visas and permits, including work and residence permits, for the personnel whose services the Provider and TradeMark East Africa consider necessary as well as residence permits for their families.

19.4 TradeMark East Africa shall issue to its employees, agents and representatives all such instructions as may be necessary or appropriate to facilitate the prompt and effective performance of the Services.

19.5 TradeMark East Africa shall use its best efforts to ensure that the Government shall:
   (a) facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Personnel and their eligible dependents;
   (b) exempt the Provider and the Personnel from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity according to the Laws of Tanzania;
   (c) provide to the Provider, Sub-contractors and Personnel any such other assistance as may be specified in the SCC.

19.6 TradeMark East Africa shall make available to the Provider and the Personnel, for the purposes of the Services and free of any charge, the services, facilities and property described in the Statement of Requirements at the times and in the manner specified in the Statement of Requirement.

Provision of Counterpart Staff

20.1 If so provided in the SCC, TradeMark East Africa shall make available to the Provider, as and when provided in the Contract, and free of charge, such counterpart Personnel to be selected by TradeMark East Africa, with the Provider’s advice, as shall be specified in the Contract. Counterpart Personnel shall work under the exclusive direction of the Provider. If any member of the counterpart Personnel fails to perform adequately any work assigned to such member by the Provider which is consistent with the position occupied by such member, the Provider may request the replacement of such member, and TradeMark East Africa shall not unreasonably refuse to act upon such request.

20.2 If counterpart Personnel are not provided by TradeMark East Africa to the Provider where specified in the Contract, TradeMark East Africa and the Provider shall agree:
   (a) how the affected part of the Services shall be carried out; and
   (b) the additional payments or time, if any, to be granted by TradeMark East Africa to the Provider as a result thereof.

Counterpart personnel are not liable for the poor performance of the service provider.
D Payment

Contract Price and Currency
59 21.1 The Contract Price shall be expressed as a specific amount or amounts in the Agreement representing:
   (a) the total amount payable for a Lump Sum contract; or
   (b) The maximum amount for a Time Based contract.

60 21.2 Payments shall be made in the currency or currencies of the contract price, unless otherwise specified in the SCC.

61 21.3 The Contract Price may only be changed as provided for in GCC Clause 0.

General Payment Procedure
62 22.1 The provisions of this Clause apply to all contracts subject to these GCC. Additional provisions at GCC Clause 29 or 30 shall apply as follows:
   (a) the provisions of GCC Clause 0, Option 1 shall apply to Lump Sum contracts;
   (b) The provisions of GCC Clause 0, Option 2 shall apply to Time Based contracts. The type of contract applicable is stated in the SCC.

63 22.2 In consideration of the Services performed by the Provider under the Contract, TradeMark East Africa shall make to the Provider such payments in such manner as is provided by the Contract.

Invoice Procedure
64 23.1 TradeMark East Africa shall receive payment requests made by submission of invoices and all supporting documents and shall certify such invoices for payment. TradeMark East Africa shall certify or reject such requests for payment within five days from receipt.

65 23.2 Where such payment requests are rejected, TradeMark East Africa shall promptly advise the Provider of the reasons for rejection.

66 23.2 TradeMark East Africa shall not unreasonably withhold any undisputed portion of a request for payment. TradeMark East Africa shall notify the Provider of the inadmissibility of a request for payment due to an error, discrepancy, omission or any other reason so that the Parties may resolve such error, discrepancy, omission or other fault and agree a solution to enable payment of the corrected request for payment. Only such portion of the request for payment that is inadmissible may be withheld from payment. Should any discrepancy be found to exist between actual payment made and costs authorised to be incurred by the Provider, TradeMark East Africa may add or subtract the difference from any subsequent payments.

Documentation to Support Invoices
67 24.1 Invoices shall be accompanied by the documentary requirements specified in the SCC.

Payment Schedule
25.1 All payments under the Contract shall be made in accordance with the payment schedule specified in the SCC.

25.2 Unless otherwise stated in the SCC, where any payment is made in advance of any deliverables as an advance payment, the payment shall be made against the provision by the Provider of a bank guarantee for the same amount, and shall be valid for the period stated in the SCC.

25.3 Should the advance payment guarantee cease to be valid and the Provider fails to re-validate it, a deduction equal to the amount of the advance payment may be made by TradeMark East Africa from future payments due to the Provider under the contract.

25.4 If a Contract is terminated for any reason, the guarantee securing the advance may be invoked in order to recover the balance of the advance still owed by the Provider.

Payment Terms

26.1 Unless otherwise specified in the SCC, payments shall be made by TradeMark East Africa, no later than thirty days after submission and certification of a request for payment by the Provider.

Final Statement and Payment

27.1 A final payment shall be made against submission by the Provider of a final statement, identified as such and approved by TradeMark East Africa. The final statement shall be deemed approved by TradeMark East Africa ninety working days after receipt by TradeMark East Africa unless TradeMark East Africa, within this period, gives written notice to the Provider specifying in detail deficiencies in the Services, the deliverables or the final statement.

27.2 Any amount which TradeMark East Africa has paid or caused to be paid which is in excess of the amounts actually payable in accordance with the provisions of the Contract, shall be reimbursed by the Provider to TradeMark East Africa within thirty days after receipt by the Provider of a notice thereof. Any such claim by TradeMark East Africa for reimbursement must be made within twelve months after receipt by TradeMark East Africa of a final statement approved by TradeMark East Africa.

27.3 Upon termination of the Contract pursuant to GCC Clauses 15, TradeMark East Africa shall make the following payments to the Provider:

(a) fees for Services satisfactorily performed prior to the effective date of termination;

(b) Except in the case of termination pursuant to GCC Clauses 15.1(a) to 15.2(b) reimbursement of any reasonable cost incidental to the prompt and orderly termination of the Contract including the cost of the return travel of the Personnel and their eligible dependents.

Accounts

28.1 All payments under the Contract shall be made to the accounts of the Provider specified in the Invoice.
Option 1 - Payments in respect of Lump Sum remunerated Contracts

29.1 The Contract Price shall be a fixed total lump-sum including all Personnel costs, Sub-contractors’ costs, printing, communications, travel, accommodation, and all other costs to be incurred by the Provider in carrying out the Services described in the Contract.

29.2 Separate invoices shall be submitted for fees and for reimbursable expenditure.

29.3 Fees for the Personnel shall be claimed in accordance with the documentary requirement stated in GC Clause 0.

29.4 Reimbursable expenditures shall include costs actually and reasonably incurred by the Provider in the performance of the Services as specified in the Contract.

Option 2 - Payments in respect of Time Based remunerated Contracts

30.1 The Provider’s total remuneration shall not exceed the Contract Price stated in the Agreement.

30.2 The Provider shall notify TradeMark East Africa as soon as cumulative charges incurred for the Services have reached 80% of the Contract Price.

30.3 Separate invoices shall be submitted for fees and for reimbursable expenditure.

30.4 Fees for the Personnel shall be claimed in accordance with the documentary requirement stated in GC Clause 0.

30.5 Fees for the Personnel shall be determined on the basis of time actually spent by the Personnel in the performance of the Services after the date determined in accordance with the Commencement Date of the Services or such other date as the Parties may agree in writing. Personnel time spent in the performance of the Services shall include time for necessary travel via the most direct route, at the rates detailed in the Contract and subject to such additional provisions as are set forth, in the SCC.

30.6 Reimbursable expenditures shall include costs actually and reasonably incurred by the Provider in the performance of the Services and are specified in the Contract.

Price Adjustments

31.1 Prices charged by the Provider for the Services performed under the Contract shall not vary from the prices quoted in the Contract, with the exception of any price adjustments authorised in the SCC.

Taxes and Duties

32.1 Except as otherwise specifically provided in the SCC, the Provider shall bear and pay all taxes, duties, and levies imposed on the Provider, by all municipal, state or national government authorities, both within and outside Tanzania, in connection with the provision of the Services to be supplied under the Contract.

32.2 If any tax exemptions, reductions, allowances or privileges may be available to the Provider in Tanzania, TradeMark East Africa shall use its best efforts to enable the Provider to benefit from any such tax savings to the maximum allowable extent.
32.3 For the purpose of the Contract, it is agreed that the Contract Price specified in the Agreement is based on the taxes, duties, levies, and charges prevailing at the date twenty-eight (28) days prior to the date of bid submission in Tanzania (called “tax” in this clause). If any tax rates are increased or decreased, a new tax is introduced, an existing tax is abolished, or any change in interpretation or application of any tax occurs in the course of the performance of the Contract, which was or will be assessed on the Provider, its Subcontractors, or their employees in connection with performance of the Contract, an equitable adjustment to the Contract Price shall be made to fully take into account any such change by addition to or reduction from the Contract Price, as the case may be.

E Obligations of the Provider

Obligations of the Provider

33.1 The Provider shall perform the Services under the contract with due care, efficiency and diligence, in accordance with best professional practices.

33.2 The Provider shall submit to TradeMark East Africa the reports and other deliverables, specified in the Contract.

33.3 The Provider shall respect and abide by all laws and regulations in force and shall ensure that its personnel, their dependants, and its local employees also respect and abide by all such laws and regulations. The Provider shall indemnify TradeMark East Africa against any claims and proceedings arising from any infringement by the Provider, its employees and their dependants of such laws and regulations.

33.4 The Provider shall treat all documents and information received in connection with the contract as confidential in accordance with GCC Clause 3.

33.5 The Provider shall obtain TradeMark East Africa’s prior approval in writing before taking any of the following actions:

a) appointing any member of the Personnel that are not named in the Contract;

b) entering into a subcontract that is not specified in the Contract, for the performance of any part of the Services, it being understood that the Provider shall remain fully liable for the performance of the Services by the Subcontractor and its Personnel pursuant to the Contract;

c) Any other action that may be specified in the SCC.

Eligibility

34.1 The Provider and its Subcontractors shall have the nationality of an eligible country. A Provider or Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.

34.2 The Provider and its Sub-contractors shall provide Personnel who shall be citizens of eligible countries.

Joint Venture, Consortium or Association
35.1 Unless otherwise specified in the SCC, if the Provider is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to TradeMark East Africa for the fulfilment of the provisions of the Contract. The joint venture, consortium, or association shall designate one party to act as the Member in Charge with authority to bind the joint venture, consortium, or association and to act on their behalf in exercising all the Provider’s rights and obligations towards TradeMark East Africa under the Contract, including without limitation the receiving of instructions and payments from TradeMark East Africa.

35.2 The composition or the constitution of the joint venture, consortium, or association shall not be altered without the prior consent of TradeMark East Africa. Any alteration of the composition of the joint venture, consortium or association without the prior written consent of TradeMark East Africa shall be considered to be a breach of contract.

Code of Conduct

36.1 The Provider shall at all times act loyally and impartially and as a faithful adviser to TradeMark East Africa in accordance with the rules and/or codes of conduct of its profession. It shall, in particular, refrain from making any public statements concerning the Services without the prior approval of TradeMark East Africa, and from engaging in any activity which conflicts with its obligations towards TradeMark East Africa under the contract. It shall not commit TradeMark East Africa in any way whatsoever without its prior written consent, and shall, where appropriate, make this obligation clear to third parties.

36.2 For the period of execution of the contract, the Provider and its personnel shall respect human rights and undertake not to offend the political, cultural and religious practices prevailing in Tanzania.

Conflict of Interests

37.1 The Provider shall refrain from any relationship which would compromise its independence or that of its Personnel. If the Provider fails to maintain such independence TradeMark East Africa may terminate the contract in accordance with the provision contained in the GCC Clause 15.

37.2 The Provider shall after the conclusion or termination of the Contract, be limited in its role in connection with the project and shall not be permitted any further involvement in the provision or procurement of works, supplies or further Services other than a continuation of the Services, for any project resulting from or closely related to the Services.

37.3 The Provider shall not engage, and shall cause their Personnel and Subcontractors not to engage, either directly or indirectly, in any of the following activities:

a) during the term of the Contract, any business or professional activities in Tanzania which would conflict with the activities assigned to them under the
b) After the termination of the Contract, such other activities as may be specified in the SCC.

105 37.4 The payments to the Provider under the contract shall constitute the only income or benefit it may derive in connection with the contract and neither it nor its personnel shall accept any commission, discount, allowance, indirect payment or other consideration in connection with, or in relation to, or in discharge of, its obligations under the contract.

106 37.5 The Provider shall not have the benefit, whether directly or indirectly, of any royalty, gratuity or commission in respect of any patented or protected article or process used in or for the purposes of the contract or the project, without the prior written approval of TradeMark East Africa.

Indemnification

107 38.1 At its own expense, the Provider shall indemnify, protect and defend, TradeMark East Africa, its agents and employees, from and against all actions, claims, losses or damage arising from any act or omission by the Provider in the performance of the Services, including any violation of any legal provisions, or rights of third parties, in respect of patents, trademarks and other forms of intellectual property such as copyrights.

108 38.2 At its own expense, the Provider shall indemnify, protect and defend TradeMark East Africa, its agents and employees, from and against all actions, claims, losses or damages arising out of the Provider’s failure to perform its obligations provided that:

(a) the Provider is notified of such actions, claims, losses or damages not later than 30 days after TradeMark East Africa becomes aware of them;

(b) the ceiling on the Provider’s liability shall be limited to an amount equal to the contract value, but such ceiling shall not apply to actions, claims, losses or damages caused by the Provider’s wilful misconduct;

(c) The Provider’s liability shall be limited to actions, claims, losses or damages directly caused by such failure to perform its obligations under the contract and shall not include liability arising from unforeseeable occurrences incidental or indirectly consequential to such failure.

109 38.3 The aggregate liability of the Provider to TradeMark East Africa shall not exceed the total contract value or such other amount specified in the SCC.

110 38.4 The Provider shall have no liability whatsoever for actions, claims, losses or damages occasioned by:

a) TradeMark East Africa omitting to act on any recommendation, or overriding any act, decision or recommendation, of the Provider, or requiring the Provider to implement a decision or recommendation with which the Provider disagrees or on which it expresses a serious reservation; or

b) The improper execution of the Provider’s instructions by agents, employees or independent contractors of TradeMark East Africa.
38.5 The Provider shall remain responsible for any breach of its obligations under the contract for such period after the Services have been performed as may be determined by the law governing the contract.

Insurance to be Taken Out by the Provider

39.1 The Provider shall take out, maintain and shall cause any Sub-contractors to take out and maintain, at their own cost insurance coverage against the risks and on terms and conditions approved by TradeMark East Africa as shall be specified in the SCC.

39.2 The Provider shall at TradeMark East Africa’s request, provide evidence to TradeMark East Africa showing that such insurance has been taken out and maintained.

Accounting, Inspection and Auditing

40.1 The Provider shall keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and costs.

Performance of the Services

Scope of Services

41.1 The Services to be provided shall be as specified in the Statement of Requirements in the Contract.

41.2 The Services shall be performed at such locations as are specified in the Contract and, where the location of a particular task is not so specified, at such locations, whether in Tanzania or elsewhere, as TradeMark East Africa may approve.

Specifications and Designs

42.1 The Consultant shall prepare all specifications and designs using accepted and generally recognised systems acceptable to TradeMark East Africa and taking into account the latest design criteria.

42.2 The Consultant shall ensure that any specifications and designs and all documentation relating to procurement of Works, Supplies and Services are prepared on an impartial basis so as to promote competitive tendering.

Property of Deliverables

43.1 All reports and data such as maps, diagrams, drawings, plans, designs, specifications, calculations and software containing data and information compiled, prepared and furnished by the Provider for TradeMark East Africa under the Contract shall become and remain the absolute property of TradeMark East Africa. The Provider shall deliver all such documents to TradeMark East Africa on completion or termination of the Contract. The Provider may retain a copy of such reports, data and software and any restrictions about the future use of such reports, data or software shall be
specified in the SCC.

120 43.2 Equipment and materials made available to the Provider, or purchased by the Provider with funds provided by TradeMark East Africa, shall be the property of TradeMark East Africa. Upon completion of the Contract, the Provider shall make available an inventory of such items and shall dispose of such equipment and materials in accordance with TradeMark East Africa’s instructions. While in possession of such equipment and materials, the Provider shall ensure the items are insured at the expense of TradeMark East Africa in an amount equal to their full replacement value.

Extensions of Time

121 44.1 If at any time during performance of the Contract, the Provider or its subcontractors should encounter conditions impeding timely completion of Services pursuant to GCC Clause 13, the Provider shall promptly notify TradeMark East Africa in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Provider’s notice, TradeMark East Africa may at its discretion extend the Provider’s time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.

Performance Security

122 45.1 If so stated in the SCC, the Provider shall, within twenty eight days of the notification of contract award, provide a Performance Security for the due performance of the Contract in the amount and currency specified in the SCC or in a freely convertible currency acceptable to TradeMark East Africa.

123 45.2 The proceeds of the Performance Security shall be payable to TradeMark East Africa as compensation for any loss resulting from the Provider’s failure to complete its obligations under the Contract.

124 45.3 The Performance Security shall be in one of the forms stipulated by TradeMark East Africa in the SCC.

125 45.4 The Performance Security shall be discharged by TradeMark East Africa and returned to the Provider not later than twenty-eight days following the date of completion of the Provider’s performance obligations under the Contract.

Provider’s Personnel

126 46.1 The Provider shall employ and provide such qualified and experienced Personnel and Sub-contractors as are required to carry out the Services. The Provider shall be responsible for the quality of the Personnel.

127 46.2 If required by the Contract, the Provider shall ensure that a resident project manager, acceptable to TradeMark East Africa, takes charge of the performance of the Services.

128 46.3 The Services shall be carried out by the Personnel specified in the Contract for the period of time indicated therein. The title, job description, and estimated period of engagement of each of the Provider’s Key Personnel shall be listed in the Contract.
46.4 The Key Personnel and Sub-contractors listed by title/position and by name in the Contract are hereby approved by TradeMark East Africa. In respect of other Key Personnel which the Provider proposes to use in the carrying out of the Services, the Provider shall submit to TradeMark East Africa for review and approval a copy of their biographical data. If TradeMark East Africa does not object in writing stating the reasons for the objection, within twenty-one days from the date of receipt of such biographical data, such Key Personnel shall be deemed to have been approved by TradeMark East Africa.

46.5 The Provider may with the prior approval of TradeMark East Africa make minor adjustments to the periods of input for Key Personnel as may be appropriate to ensure the efficient performance of the Services, provided that such adjustments do not cause the payments made under the contract to exceed the Contract Price.

46.6 Adjustments with respect to the periods of engagement of Key Personnel which shall cause the total contract payments to exceed the Contract Price shall only be made with TradeMark East Africa’s written approval.

46.7 If additional work is required beyond the Statement of Requirements specified in the Contract, the estimated periods of engagement of Key Personnel set forth in the Contract may be increased by agreement in writing between TradeMark East Africa and the Provider, provided that any such increase shall not, except as otherwise agreed in writing, cause payments under the Contract to exceed the Contract Price specified in the Agreement.

**Working Hours of the Personnel**

47.1 Working hours and holidays for Key Personnel are set forth in the Contract. To account for travel time, foreign Personnel carrying out Services inside Tanzania shall be deemed to have commenced or finished work in respect of the Services such number of days before their arrival in or after their departure from Tanzania.

47.2 The Key Personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave unless otherwise specified in the SCC. Except as specified in the Contract, the Provider’s remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is included in the staff-months of service set forth in the Contract. Any taking of leave by Personnel shall be subject to the prior approval by the Provider who shall ensure that absence for leave purposes will not delay the progress and adequate supervision of the Services.

**Replacement of Personnel**

48.1 The Provider shall not make changes in the Personnel without the prior written approval of TradeMark East Africa. The Provider must on its own initiative propose a replacement in the following cases:

a) In the event of death, illness for an extended period or in the event of accident of a member of Personnel.
b) If it becomes necessary to replace a member of Personnel for any other reasons beyond the Provider’s control (e.g. resignation, etc.).

48.2 TradeMark East Africa may request a replacement with a written and justified request if in the course of performance, it considers that a member of the Personnel does not perform its duties satisfactorily under the contract.

48.3 Where a member of Personnel must be replaced, the replacement must possess at least equivalent qualifications and experience, and the remuneration to be paid for the replacement cannot exceed that paid for the member of Personnel who has been replaced. Where the Provider is unable to provide a replacement with equivalent qualifications and/or experience, TradeMark East Africa may either decide to terminate the contract, if the proper performance of it is jeopardised, or, if it considers that this is not the case, accept a replacement with lesser qualifications, provided that the fees of the latter are reduced to reflect the appropriate remuneration level.

48.4 Additional costs incurred in the replacement of Personnel are the responsibility of the Provider. Where the expert is not replaced immediately and it is some time before the new expert takes up its functions, TradeMark East Africa may ask the Provider to assign to the project temporary personnel pending the arrival of the new personnel, or to take other measures to compensate for the temporary absence of the missing personnel. TradeMark East Africa shall make no payment for the period associated with the Personnel’s absence while the position is not filled.

Medical and Insurance arrangements

49.1 For the period of execution of the contract, the Provider shall obtain medical insurance for its Personnel. TradeMark East Africa shall be under no liability in respect of the medical expenses of the Provider.
Section 8 – Special Conditions of Contract

The following Special Conditions of Contract (SCC) shall supplement the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

<table>
<thead>
<tr>
<th>GCC reference</th>
<th>Special Conditions of Contract</th>
</tr>
</thead>
<tbody>
<tr>
<td>GCC 1.2 (e)</td>
<td>The Eligible Countries are those listed in Section 5 of the Bidding Document.</td>
</tr>
<tr>
<td>GCC 1.2(j)</td>
<td><strong>Member in Charge:</strong> The Member in Charge is: The entity authorised to act on all members behalf.</td>
</tr>
<tr>
<td>GCC 4.1(g)</td>
<td><strong>Contract Documents:</strong> Other documents forming part of the contract are: (i) Letter of Acceptance from Bidder, (ii) Notification of Award</td>
</tr>
<tr>
<td>GCC 4.4</td>
<td><strong>Authorised Representatives:</strong> The Authorised Representatives are: Procurement Director  TMEA</td>
</tr>
<tr>
<td>GCC 5.1</td>
<td><strong>Law:</strong> The Contract shall be governed by the laws of Tanzania.</td>
</tr>
<tr>
<td>GCC 6.1</td>
<td><strong>Language:</strong> The language of the contract shall be English.</td>
</tr>
<tr>
<td>GCC 7.1</td>
<td><strong>Notices:</strong> The addresses for Notices are: P. O. Box 14956, Dar es Salaam; 3rd Floor, 50 Mirambo Street.; Email: <a href="mailto:procurement@trademarkea.com">procurement@trademarkea.com</a></td>
</tr>
<tr>
<td>GCC 8.1</td>
<td><strong>Commencement:</strong> The Period within which the Services shall have commenced is: 14 days after signing the contract agreement.</td>
</tr>
<tr>
<td>GCC 17.2</td>
<td><strong>Dispute settlement:</strong> The formal mechanism for the resolution of disputes shall be: In accordance with Tanzania Law of arbitration and the place of arbitration shall be Dar es Salaam, Tanzania.</td>
</tr>
<tr>
<td>GCC 18.1</td>
<td><strong>Completion of the Services:</strong> The Period within which the Services shall have been completed following commencement of the Services is: 10 months</td>
</tr>
<tr>
<td>GCC 19.5(c)</td>
<td><strong>Further Assistance:</strong> TradeMark East Africa shall provide the following further assistance: NONE</td>
</tr>
<tr>
<td>GCC 20.1</td>
<td><strong>Counterpart Staff:</strong> Counter Staff shall be provided</td>
</tr>
<tr>
<td>GCC 21.2</td>
<td><strong>Payment currencies:</strong> Payments shall be made in USD only.</td>
</tr>
<tr>
<td>GCC 22.1</td>
<td>The Contract is a:</td>
</tr>
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</table>
Part 4: Contract

Section 8 – Special Conditions of Contract

<table>
<thead>
<tr>
<th>GCC reference</th>
<th>Special Conditions of Contract</th>
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<tbody>
<tr>
<td>Milestone -based.</td>
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</tr>
<tr>
<td>GCC 24.1</td>
<td>Documentation for Payment: The following documentation shall be required to support invoices requesting payments: -&lt;br&gt;• Approved Reports</td>
</tr>
<tr>
<td>GCC 25.1</td>
<td>Proposed Payment Schedule: -&lt;br&gt;Phase I&lt;br&gt;(i) 20% of the contract sum for phase I shall be paid upon delivery and approval of the Inception Report;&lt;br&gt;(ii) 20% of the contract sum for phase I shall be paid upon delivery and approval of the Interim Report and the project consultation workshop;&lt;br&gt;(iii) 40% of the contract sum for phase I shall be paid upon delivery and approval of the Draft Final Report and the project dissemination workshop;&lt;br&gt;(iv) 20% of the contract sum for phase I shall be paid upon delivery and approval of the Final Report and the project prioritization workshop;</td>
</tr>
<tr>
<td>Phase II, Component one&lt;br&gt;(i) 20% of the contract sum for phase II component one (Detailed design for a new Oil terminal) shall be paid upon delivery and approval of the preliminary design report;&lt;br&gt;(ii) 20% of the contract sum for phase II component one (Detailed design for a new Oil terminal) shall be paid upon delivery and approval of the scheme design report;&lt;br&gt;(iii) 30% of the contract sum for phase II component one (Detailed design for a new Oil terminal) shall be paid upon delivery and approval of the draft final design report;&lt;br&gt;(iv) 30% of the contract sum for phase II component one (Detailed design for a new Oil terminal) shall be paid upon delivery and approval of the final design report and the tender Document;</td>
<td></td>
</tr>
<tr>
<td>Phase II, Component two&lt;br&gt;(i) 50% of the contract sum for phase II component two (Detailed design for demolition of KOJ) shall be paid upon delivery and approval of the draft design report and Health, safety and environment protection plan for demolition and draft tender</td>
<td></td>
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</table>
## Part 4: Contract
### Section 8 – Special Conditions of Contract

<table>
<thead>
<tr>
<th>GCC reference</th>
<th>Special Conditions of Contract</th>
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<tbody>
<tr>
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<td>document;</td>
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<td></td>
<td>(ii) 50% of the contract sum for phase II component two</td>
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<td></td>
<td>(Detailed design for demolition of KOJ) shall be paid upon</td>
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<tr>
<td></td>
<td>delivery and approval of the final design report for demolition</td>
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<tr>
<td></td>
<td>and the tender Document.</td>
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<tr>
<td>GCC 25.2</td>
<td><strong>Advance Payment Guarantee:</strong> Ten (10) percent of the Contract Price</td>
</tr>
<tr>
<td></td>
<td>upon submission of a bank guarantee of equivalent amount.</td>
</tr>
<tr>
<td>GCC 26.1</td>
<td><strong>Payment Period:</strong> Payment shall be made by TradeMark East Africa</td>
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<tr>
<td></td>
<td>within 30 days of receipt and certification of the invoice accompanied</td>
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<td>by supporting documents and within 60 days in the case of the final</td>
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<td></td>
<td>payment.</td>
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<tr>
<td>GCC 30.5</td>
<td><strong>Additional provisions:</strong> The additional provisions for Personnel time are:</td>
</tr>
<tr>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>GCC 31.1</td>
<td><strong>Price variation:</strong> The Contract Price including the remuneration rates is</td>
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<td></td>
<td>not subject to price variation for fluctuations in market, commodity or</td>
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<td></td>
<td>other variable rates.</td>
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<tr>
<td>GCC 32.1</td>
<td><strong>Taxes and duties:</strong> The consultant/firm shall bear and pay all taxes,</td>
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<tr>
<td></td>
<td>duties, and levies imposed on the Provider, by all municipal, state or</td>
</tr>
<tr>
<td></td>
<td>national government authorities:</td>
</tr>
<tr>
<td>GCC 33.5(c)</td>
<td><strong>TradeMark East Africa’s prior approval:</strong> TradeMark East Africa’s prior</td>
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<tr>
<td></td>
<td>approval is also required for increased scope of work or time of</td>
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<tr>
<td></td>
<td>implementation.</td>
</tr>
<tr>
<td>GCC 35.1</td>
<td><strong>Joint Venture requirements:</strong> The individuals or firms in a joint venture,</td>
</tr>
<tr>
<td></td>
<td>consortium or association shall be jointly and severally liable.</td>
</tr>
<tr>
<td>GCC 37.3(b)</td>
<td><strong>Additional activities prohibited:</strong> The following activities are prohibited:</td>
</tr>
<tr>
<td></td>
<td>(i) any business or professional activities in Tanzania which would</td>
</tr>
<tr>
<td></td>
<td>conflict with the activities assigned under the contract.</td>
</tr>
<tr>
<td>GCC 38.3</td>
<td><strong>Total Liability:</strong> The total liability under the Contract shall be the total</td>
</tr>
<tr>
<td></td>
<td>contract value and includes the loss the Client may suffer as a result of</td>
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<tr>
<td></td>
<td>failure of the design during construction.</td>
</tr>
<tr>
<td>GCC 39.1</td>
<td><strong>Insurance taken out by Provider:</strong> The risks and coverage shall be:</td>
</tr>
<tr>
<td></td>
<td>(i) Third Party motor vehicle</td>
</tr>
<tr>
<td></td>
<td>(ii) Third Party liability</td>
</tr>
</tbody>
</table>
# Part 4: Contract

## Section 8 – Special Conditions of Contract

<table>
<thead>
<tr>
<th>GCC reference</th>
<th>Special Conditions of Contract</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>(iii) Employer’s liability and workers’ compensation</td>
</tr>
<tr>
<td></td>
<td>(iv) Professional liability</td>
</tr>
<tr>
<td></td>
<td>(v) Loss or damage to equipment and property</td>
</tr>
<tr>
<td></td>
<td>(vi) Other</td>
</tr>
<tr>
<td>GCC 43.1</td>
<td><strong>Restrictions on the use of Deliverables:</strong> The future uses of deliverables are restricted as follows: (i) the provider shall not use these documents for purposes unrelated to this contract without the prior written approval of the Procuring &amp; Disposal entity.</td>
</tr>
<tr>
<td>GCC 45.1</td>
<td><strong>Performance Security:</strong> A Performance Security shall not be required.</td>
</tr>
<tr>
<td>GCC 45.3</td>
<td><strong>Form of Performance Security:</strong> The forms of acceptable Performance Security are: N/A.</td>
</tr>
<tr>
<td>GCC 47.2</td>
<td><strong>Personnel entitlements:</strong> The Key Personnel shall be entitled to payment for: None</td>
</tr>
</tbody>
</table>
### Section 9: Contract Forms

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<th>Page</th>
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<td>Agreement</td>
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<tr>
<td>Performance Security</td>
<td>116</td>
</tr>
<tr>
<td>Advance Payment Security</td>
<td>118</td>
</tr>
</tbody>
</table>
1. Agreement

For Time Based

This Agreement is made the......... day of the month of ....................... between ....................... of ........................................... (Hereinafter called the “Procuring Entity”) and ........................................... of ............. hereinafter called the “Provider”.

WHEREAS

(a) TradeMark East Africa has requested the Provider to provide certain consultancy services (hereinafter called the “Services”) as defined herein and attached to this Contract;

(b) the Provider having represented to TradeMark East Africa that it has the required professional skills, personnel and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract;

NOW THEREFORE the parties hereto agree as follows:

1. The documents forming the Contract shall be as stated in and in the order of priority stated in the General Conditions of Contract.

2. The mutual rights and obligations of TradeMark East Africa and the Provider shall be as set forth in the Contract, in particular:

   (a) The Provider shall carry out the Services in accordance with the provisions of the Contract; and

   (b) TradeMark East Africa shall pay the Provider the Contract Price of _______________ or such other sum as may become payable under the provisions of the Contract, at the times and in the manner prescribed by 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.

Signed by ____________________________ (for TradeMark East Africa)
Name: ________________________________ Authorised Representative
Position: ______________________________
Part 4: Contract

Section 8 – Special Conditions of Contract

Witness: _________________________________

Signed by _______________________________ (for the Provider)

Name: ________________________________ Authorised Representative

Position: _________________________________
Appendices

1.1 **APPENDIX A STATEMENT OF REQUIREMENTS**

[Detailed descriptions of the Services to be provided, dates for completion of tasks, location of tasks, etc.]

1.2 **APPENDIX B KEY PERSONNEL AND SUB-CONTRACTOR**

B.1 Team Composition – Technical/Managerial Staff: Names, (where available), positions, assigned tasks and staff-months for each (Section 4 Table 4.1.5).

B.2 Team Composition – Support Staff [Names, where available], positions, assigned tasks and staff-months for each. (Same as B.1 for Key foreign Personnel to be assigned to work outside Tanzania (Section 4 Table 4.1.5)

B.3 List of Sub-contractors (where available); same information with respect to their Personnel as in B.1

B.4 List of Sub-contractors (where available); same information as B.1 for Key local Personnel

B.5 Time Schedule for Professional Staff (Section 4 Table 4.1.7)

1.3 **APPENDIX C 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:

C.1 Breakdown of Contract Price (summarising the main elements of the contract price detailing fees, Re - imburseables and miscellaneous expenses (Section 4 Table 4.2.2)

C.2 Breakdown of Fees into the monthly rates for Personnel (Key Personnel and other Personnel) (Section 4 Table 4.2.3)

C.3 Breakdown of Reimbursable (Section 4 Table 4.2.4)

C.4 Breakdown of Miscellaneous Expenses (Section 4 Table 4.2.5)

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

1.4 **APPENDIX D BREAKDOWN OF CONTRACT PRICE IN TANZANIA SHILLINGS**

[List here the elements of cost used to arrive at the breakdown of the lump-sum price—local currency portion:

D.1 Breakdown of Contract Price (summarising the main elements of the contract price detailing fees, Reimbursables and miscellaneous expenses (S. 4 Table 4.2.2)
Part 4: Contract

Section 8 – Special Conditions of Contract

D.2 Breakdown of Fees into the monthly rates for Personnel (Key Personnel and other Personnel) (Section 4 Table 4.2.3)

D.3. Breakdown of Reimbursable expenditures (Section 4 Table 4.2.4)

D.4 Breakdown of Miscellaneous Expenses (Section 4 Table 4.2.5). This appendix will exclusively be used for determining remuneration for additional services.
Part 4: Contract

Section 8 – Special Conditions of Contract

[The Performance Security should be on the letterhead of the issuing Financial Institution and should be signed by a person with the proper authority to sign documents that are binding on the Financial Institution]

2  Performance Security

Date: [insert date (as day, month, and year) of Performance Security]
Procurement Reference No: [insert Procurement Reference Number]

To: [insert complete name of Procuring and Disposing Entity]

WHEREAS [insert name complete of Provider] (hereinafter “the Provider”) has undertaken, pursuant to Contract No. [insert number] dated [insert day, month and year] to provide [brief description of the Services] (hereinafter “the Contract”).

AND WHEREAS it has been stipulated by you in the aforementioned Contract that the Provider shall furnish you with a [insert type of security] Security issued by a reputable guarantor for the sum specified therein as security for compliance with the Provider’s performance obligations in accordance with the Contract.

AND WHEREAS the undersigned [insert complete name of Guarantor], legally domiciled in [insert complete address of Guarantor], (hereinafter the” Guarantor”), have agreed to give the Provider a security:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Provider, up to a total of [insert currency and amount of guarantee in words and figures] and we undertake to pay you, upon your first written demand declaring the Provider to be in default under the Contract, without cavil or argument, any sum or sums within the limits of [insert currency and amount of guarantee in words and figures] as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This security is valid until the [insert number] day of [insert month], [insert year].

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded.

Name: [insert complete name of person signing the Performance Security]
Part 4: Contract

Section 8 – Special Conditions of Contract

In the capacity of [insert legal capacity of person signing the Performance Security]

Signed: [signature of person whose name and capacity are shown above]
Duly authorised to sign the Security for and on behalf of: [insert complete name of Financial Institution]
Dated on ____________ day of __________________, _______ [insert date of signing]
Part 4: Contract

Section 8 – Special Conditions of Contract

[The Advance Payment Security should be on the letterhead of the issuing Financial Institution and should be signed by a person with the proper authority to sign documents that are binding on the Financial Institution]

3 Advance Payment Security

Date: [insert date (as day, month, and year) of Advance Payment Security]

Procurement Reference No.: [insert Procurement Reference number]

To: [insert complete name of Procuring and Disposing Entity]

In accordance with the payment provision included in the Contract, in relation to advance payments, [insert complete name of Provider] (hereinafter called “the Provider”) shall deposit with TradeMark East Africa a security consisting of [indicate type of security], to guarantee its proper and faithful performance of the obligations imposed by said Clause of the Contract, in the amount of [insert currency and amount of guarantee in words and figures].

We, the undersigned [insert complete name of Guarantor], legally domiciled in [insert full address of Guarantor] (hereinafter “the Guarantor”), as instructed by the Provider, agree unconditionally and irrevocably to guarantee as primary obligor and not as surety merely, the payment to TradeMark East Africa on its first demand without whatsoever right of objection on our part and without its first claim to the Provider, in the amount not exceeding [insert currency and amount of guarantee in words and figures].

This security shall remain valid and in full effect from the date of the advance payment received by the Provider under the Contract until [insert day and month, insert year].

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded.

Name: [insert complete name of person signing the Security]

In the capacity of [insert legal capacity of person signing the Security]

Signed: [signature of person whose name and capacity are shown above]

Duly authorized to sign the Security for and on behalf of: [insert complete name of the Financial Institution]
Part 4: Contract

Section 8 – Special Conditions of Contract

Dated on __________ day of __________________, _______ [insert date of signing]
To: M/s Bidder name and address as per bid submitted

Subject: Feasibility Study and Detailed Engineering Design for Construction of a New Liquid Bulk Terminal and Tank Farm for Importing and Storing Various Types of Liquid Bulk Cargoes and Relocation Of Kurasini Oil Jetty (KOJ)

Reference No. PRQ20151169

This is to notify you that your Bid dated [insert date] for execution of the [insert tender name], Procurement Ref: [insert contract number], for the Accepted Contract Amount of the equivalent of US$ [insert figure] [insert value in words] inclusive of all applicable taxes and duties as corrected and modified in accordance with the Instructions to Bidders is hereby accepted by TradeMark East Africa in liaison with Government of Tanzania, Ministry of Transport and Infrastructure.

We accept that should there be need for Adjudication or Arbitration, the Adjudicator or Arbitrator shall be jointly appointed by the Employer and the Contractor in accordance with the laws of the Republic of Tanzania.

The contract commencement date is [insert date] with a Completion Date of [insert date].

Authorized Signature: .................................................................................................................................

Name and Title of Signatory: ..........................................................................................................................

Name of Agency: ............................................................................................................................................