

**FEDERAL GOVERNMENT OF NIGERIA**

**THE NATIONAL AGENCY FOR THE CONTROL OF AIDS  
(NACA)**

**STANDARD REQUEST FOR  
PROPOSALS**

for the

**Selection of Consulting Firms**

**Engagement of State Engagement Consulting Firm**

**National Agency for the Control of AIDS (NACA)  
Invitation for Proposal No: NACA/RSSH/CSS/  
Issued on 14<sup>th</sup> October, 2022.**

# Table of Contents

## LETTER OF INVITATION FOR Engagement of State Engagement Consulting Firm

**Error! Bookmark not defined.**

Section 1.	Instructions to Consultants.....	8
<b>A. General.....</b>		<b>8</b>
1.	Scope of Proposal .....	8
2.	Source of Funds .....	8
3.	Corrupt, Fraudulent, Collusive, Coercive or Obstructive Practices .....	8
4.	Eligible Consultants.....	10
5.	Conflict of Interest.....	11
6.	Eligible Services.....	12
7.	Site Visit.....	12
<b>B. Request for Proposal.....</b>		<b>12</b>
8.	RFP Sections .....	12
9.	RFP Clarification.....	12
10.	Pre-proposal meeting.....	13
11.	RFP Amendment .....	13
<b>C. Proposal Preparation.....</b>		<b>13</b>
12.	Proposal: Only one .....	13
13.	Proposal: Preparation Costs.....	13
14.	Proposal: Language .....	14
15.	Proposal: Documents.....	14
16.	Proposal: Preparation.....	14
17.	Technical Proposal Preparation .....	14
18.	Technical Proposal: Format and Content.....	15
19.	Financial Proposal Format and Content.....	16
20.	Taxes 16	
21.	Client Inputs .....	17
22.	Alternative Proposals.....	17
23.	Proposal Prices .....	17
24.	Proposal Currency .....	17
25.	Proposal Validity .....	17
26.	Proposal Format and Signing.....	17
<b>D. Proposal Submission.....</b>		<b>18</b>
27.	Proposal: Sealing and Marking.....	18
28.	Proposal: Submission Deadline .....	18
29.	Proposal Submitted Late.....	19
30.	Proposal Modification, Substitution or Withdrawal .....	19
<b>E. Proposal Opening and Evaluation.....</b>		<b>19</b>
31.	Technical Proposal Opening.....	19
32.	Confidentiality .....	20
33.	Contacting the Client.....	20
34.	Examination of Conflict of Interest Situation .....	20
35.	Proposal: Technical Evaluation .....	20
36.	Financial Proposal Opening.....	21
37.	Proposal: Financial Evaluation .....	21
38.	Correction of Arithmetical Errors.....	22
39.	Proposal: Combined Evaluation .....	22
40.	Proposal: Negotiation .....	22
41.	Proposal Negotiation: Technical.....	23
42.	Proposal Negotiation: Financial.....	23
43.	Availability of Professional staff/experts.....	23
44.	Proposal Negotiations: Conclusion.....	23
<b>F. Contract Award .....</b>		<b>23</b>
45.	Contract Award .....	23
46.	Advising Unsuccessful Consultants.....	23
47.	Commencement of Services .....	24
48.	Consultants Right to Complain.....	24
Section 2.	Special Instructions to Consultants.....	17
Section 3.	General Conditions of Contract .....	25

<b>A. General.....</b>	<b>25</b>
1. Definitions .....	25
2. Contract Documents .....	26
3. Corrupt, Fraudulent, Collusive or Coercive Practices.....	26
4. Interpretation .....	27
5. Documents Forming the Contract and Priority of Documents.....	28
6. Eligibility.....	28
7. Governing Language .....	29
8. Applicable Law .....	29
9. Contractual Ethics .....	29
10. Joint Venture, Consortium or Association (JVCA) .....	29
11. Communications and Notices .....	29
12. Assignment.....	29
13. Relation between the Parties.....	29
14. Site 30	
15. Authority of Member in Charge .....	30
16. Authorized Representatives .....	30
17. Taxes and Duties .....	30
<b>B. Commencement, Completion and Modification of Contract.....</b>	<b>30</b>
18. Effectiveness of Contract.....	30
19. Termination of Contract for Failure to Become Effective .....	30
20. Commencement of Services .....	30
21. Expiration of Contract .....	30
22. Modifications or Variations.....	30
<b>C. Consultant’s Personnel and Sub-Consultants .....</b>	<b>31</b>
23. General 31	
24. Description of Personnel .....	31
25. Approval of Personnel.....	31
26. Removal and/or Replacement of Personnel .....	31
27. Project Manager.....	31
<b>D. Obligations of the Consultant .....</b>	<b>32</b>
28. Standard of Performance .....	32
29. Law Governing Services .....	32
30. Conflict of Interests .....	32
31. Consultant Not to Benefit from Com-missions, Discounts.....	32
32. Consultant and Affiliates not to Engage in Certain Activities .....	32
33. Prohibition of Conflicting Activities .....	32
34. Confidentiality .....	33
35. Liability of the Consultant .....	33
36. Insurance to be taken out by the Consultant .....	34
37. Accounting, Inspection and Auditing .....	34
38. Consultant’s Actions Requiring Client’s Prior Approval .....	35
39. Reporting Obligations.....	35
40. Proprietary Rights on Documents Prepared by the Consultant .....	35
41. Proprietary Rights on Equipment and Materials Furnished by the Client.....	36
<b>E. Obligations of the Client.....</b>	<b>36</b>
42. Assistance and Exemptions .....	36
43. Access to Land .....	36
44. Change in the Applicable Law Related to Taxes and Duties .....	36
45. Services, Facilities and Property of the Client .....	37
46. Payment37	
47. Counterpart Personnel .....	37
<b>F. Payments to the Consultants.....</b>	<b>38</b>
48. Cost of Services:.....	38
49. Payments: General.....	38
50. Lump-Sum Remuneration .....	38
51. Modes of Payment.....	38
52. Advance Payment .....	38
53. Interim Payments.....	38
54. Final Payment.....	39
55. Suspension of Payments .....	39
<b>G. Time Control .....</b>	<b>39</b>
56. The Services to be Completed by the Intended Completion Date.....	39
57. Early Warning .....	39
58. Extension of the Intended Completion Date.....	40

59.	Progress Meetings .....	40
<b>H.</b>	<b>Good Faith and Fairness in Operation .....</b>	<b>40</b>
60.	Good Faith.....	40
61.	Fairness in Operation.....	40
<b>I.</b>	<b>Termination and Settlement of Disputes .....</b>	<b>40</b>
62.	Termination for Default.....	40
63.	Termination for Insolvency .....	41
64.	Termination for Convenience .....	41
65.	Termination because of Force Majeure .....	42
66.	Force Majeure.....	42
67.	No Breach of Contract .....	42
68.	Measures to be Taken on Force Majeure.....	42
69.	Cessation of Rights and Obligations.....	43
70.	Cessation of Services.....	43
71.	Payment upon Termination.....	43
72.	Disputes about Events of Termination.....	44
73.	Settlement of Disputes.....	44
Section 4.	Special Conditions of Contract .....	45
Section 5.	Proposal & Contract Forms .....	49
<b>5A.</b>	<b>Technical Proposal - Standard Forms .....</b>	<b>49</b>
<b>Form 5A1</b>	<b>Technical Proposal Submission Form.....</b>	<b>50</b>
<b>Form 5A2</b>	<b>Consultant's Organization and Experience.....</b>	<b>51</b>
<b>Form 5A3</b>	<b>Comments and Suggestions on the Terms of Reference and on Counterpart Staff and Facilities to be provided by the Client .....</b>	<b>52</b>
<b>Form 5A4</b>	<b>Description of Approach, Methodology and Work Plan for Performing the Assignment</b>	<b>53</b>
<b>Form 5A5</b>	<b>Work Schedule.....</b>	<b>54</b>
<b>Form 5A6</b>	<b>Team Composition and Task Assignments.....</b>	<b>55</b>
<b>Form 5A7</b>	<b>Staffing Schedule 1 .....</b>	<b>56</b>
<b>Form 5A8</b>	<b>Curriculum Vitae (CV) for Each Proposed Professional Staff .....</b>	<b>57</b>
<b>5B.</b>	<b>Financial Proposal - Standard Forms .....</b>	<b>59</b>
<b>Form 5B1</b>	<b>Financial Proposal Submission Form .....</b>	<b>60</b>
<b>Form 5B3</b>	<b>Breakdown of Staff Remuneration.....</b>	<b>62</b>
<b>Form 5B4</b>	<b>Breakdown of Other Expenses .....</b>	<b>63</b>
<b>Form 5B5</b>	<b>Breakdown of Taxes .....</b>	<b>64</b>
<b>5C.</b>	<b>Contract Agreement.....</b>	<b>65</b>
<b>5D.</b>	<b>Appendices .....</b>	<b>67</b>
Section 6.	Terms of Reference.....	<b>Error! Bookmark not defined.</b>



## **NATIONAL AGENCY FOR THE CONTROL OF AIDS (NACA)**



### **Engagement of State Engagement Consulting Firm** **Background**

The Global Fund to Fight AIDS, Tuberculosis and Malaria provides resources to support resource constrained countries to implement national plans and meet health goals towards achieving the Universal Health Coverage (UHC). The 2021-2023 Global Fund Resilient and Sustainable Systems for Health (RSSH) grant to Nigeria will contribute to making foundational changes to strengthen the health systems in Nigeria to ensure positive treatment outcomes for citizens by:

- Providing effective leadership and an enabling policy environment that ensures adequate oversight and accountability for the delivery of quality health care for sustainable development of the national health system
- Strengthening the procurement and supply chain management system for efficient health service delivery
- Strengthening the National Health Management Information System (NHMIS)
- Ensuring equitable, safe, appropriate, quality, and effective laboratory services to meet current and future needs
- Promoting community engagement for sustainable health development

The State Engagement approach of the RSSH grant 2021-2023 is designed to contribute to strengthening the health system through targeted interventions at the state level for improved health outcomes. States will be empowered to manage health programs, to leverage domestic resources and plan for sustainability. State engagement as an approach will involve empowering states and building states' capacity to plan, coordinate, manage, improve the coverage and monitoring of ATM-related services and health systems strengthening efforts.

The RSSH grant is supporting seven states to conduct priority health systems strengthening interventions. Each state's activities are determined by the states priority needs resulting in a diverse set of activities.

### **Objectives**

1. To provide technical assistance, supervise, coordinate and certify the implementation of state led RSSH activities to improve ATM services
2. To build the capacity of selected states on Global Fund grant implementation requirements and guidelines.

### **Scope of work**

1. Support capacity development of the state government and key structures in programme coordination, financial management and requirements, procurement, risk management and M&E.
2. Support capacity development of the state government and key structure on GF grant implementation requirements and guidelines.
3. Carry out a 360-degree capacity assessment of the states and develop capacity building plans
  - a. Develop the necessary guidelines, templates and manuals

- b. Train designated staff
  - c. On the job mentoring and supervision
4. With support from the PR, FA and state government staff, handle disbursement and payments for activities as per approved workplan and set guidelines while ensuring that all participants hold a bank account
5. Carry out mentoring and supportive supervision for activities in the state
6. Support the state to develop and submit detailed quality programmatic and technical reports/deliverables for all RSSH/GF activities in the states
7. Submit the following detailed financial and programmatic reports/deliverables for all RSSH/GF activities in the selected states.
  - Financial reports will include a cashbook, bank reconciliation, budgeted vs actual, variance analysis, retirement of all funds (participants lists, hotel receipts, accommodation receipts, DSA sign off sheets, etc).
  - Programmatic reports will include quarterly reports on progress of grant implementation, indicators, report of capacity building activities, capacity assessment reports and recommendations.
8. Monitoring and assessing state's performance (through a biannual assessment activity)
9. Monitor, assess, and ensure states comply with all terms and conditions of the GF and approved budget
10. Initiate and ensure that an audit be performed annually by the end of the first quarter of the next year.
11. Ensure an asset register is maintained, assets are insured and a verification exercise is carried out every end of year and completed by the first quarter of the next year.
12. Conduct the final review of completed "projects" and process close-outs.
13. Support the states to document successes at the end of the project such as technical report and scientific publications
14. Monitor and support states to ensure sustainability/continuity of activities supported through RSSH/C19RM grant
15. Submit a monthly report of TSO activities

### **Duration**

06 months- July to December 2022. To be renewed based on performance.

### **Location**

Seven states: Jigawa, Cross River, Nasarawa, Ekiti, Anambra, Gombe and Kaduna

### **Deliverables**

- Work plan for the support to the states with timeline, milestones, indicators, and risk assessment and mitigation approaches
- Biannual capacity assessment reports of states to track baseline data
- States needs and capacity assessment and plans to support on identified needs
- Guidelines and tools for states
- Submit monthly progress reports including reports of non-compliance and corrective actions
- Reports for routine joint supervisory visits
- Routine programmatic reports submitted by the state
- Routine programmatic and financial reports of the TSO operations in the state
- Bi-annual performance evaluation report for states
- Annual audit report for the state

- Fixed Asset register for each state
- Success story compilation
- Close-out report

### **PR Oversight**

- PR will provide programmatic and financial oversight of the functions of the TSO. Due to the varied scope of the state-led activities, all Technical Leads (STs and Advisors) will be involved in this responsibility
- In collaboration with the PR will ensure compliance in disbursement, documentation and programmatic and financial report
- The TSO will be managed by the CSS team headed by the Senior Technical Specialist and closely supported by the State Engagement Officer and the PR Finance team.

### **Oversight activities will include**

1. Monthly meetings with TSO (and preferably including focal persons from the states)
2. Monitoring
3. Reporting

<b>S/No</b>	<b>Type of Report</b>	<b>Frequency</b>
1.	Programmatic reports	Quarterly
2	Monthly report (programmatic and financial)	Monthly
3.	Financial reports (these include expenditure reports by budget lines/activity, a cashbook, bank reconciliation, budgeted vs actual, variance analysis, retirement from the states)	Quarterly
4.	Capacity assessment report	Six-monthly
5.	Close-out reports	At the end of the activity

### **Qualifications/Experiences/Competencies of the firm**

Any candidate firm must have experience and expertise in the following functional areas:

- Project Management and financial management for at least 10 years
- Management of a Global Fund grant in the last 5 years.
- Evidence of government stakeholder engagement, Ministry of Health or other appropriate ministry
- Work experience cutting across the multiple geo-political zones in Nigeria
- Familiarity with HIV/AIDs, TB, Malaria programmes and health systems strengthening is an added advantage
- Providing program and financial support to a government agency or an NGO on behalf of a donor agency
- Ability to conduct M & E activities (assessment, monitoring)
- Adequate capacity to deploy staff to any of the states

### **Number of staff Technical staff required**

The firm/organization is required to have at least four core technical and finance staff with and well-established project management structure. The organisation should take full responsibility of its terms of reference and independently deliver the project with minimum intervention from NACA. NACA will provide technical and financial, guidance and

oversight. The organisation should be able to interact well with the state government. The minimum qualifications of the key technical staff required for the work are as follows

## **1. General Eligibility Criteria**

### **GENERAL ELIGIBILITY CRITERIA**

- a. Evidence of Certificate of Incorporation with the Corporate Affairs Commission (CAC) including Form CAC1.1 or CAC02 and CAC07.
- b. Evidence of Company's Income Tax Clearance Certificate for the last three (3) years (2019, 2020 and 2021) valid till 31st December, 2022.
- c. Evidence of Pension Clearance Certificate valid till 31st December, 2022
- d. Evidence of Industrial Training Fund (ITF) Compliance Certificate valid till 31st December, 2022.
- e. Evidence of current Nigeria Social Insurance Trust Fund (NSITF) Compliance Certificate valid till 31st December, 2022;
- f. Evidence of Registration on the National Database of Federal Contractors, Consultants and Service Providers by submission of Interim Registration Report (IRR) expiring on 31/12/2022 issued by the BPP.
- g. Sworn Affidavit:
  - a. Certifying that the company is not in receivership, insolvency or bankruptcy. Stating that no officer of NACA or Bureau of Public Procurement is a
  - b. Director or Shareholder or has any pecuniary interest in the bidder.
  - c. Also, that none of the Directors of the Company has been convicted for a criminal offence in relation to fraud or financial impropriety in any court in Nigeria or elsewhere.
  - d. And that all information presented in the bid is true and correct in all particulars.
- h. Company's Audited Account for the last three (3) years (2019, 2020 and 2021)
- i. Reference Letter from a reputable commercial bank indicating willingness to provide credit facility for the execution of the project when needed;
- j. Company's profile with the Curriculum Vitae of the Key Staff to be deployed for the consultancy, including copies of their Academic/ Professional qualifications;
- k. Verifiable document of 3 similar jobs executed in the last Ten (10) years including Letter of Award,
- l. The minimum validity period of the Tender should be One Hundred and Twenty (120) Days:
- m. Signed Cover letter attached to the technical submission with the company's letter head. Any submission with a cover letter will be disqualified:

### **COLLECTION OF REQUESTS FOR PROPOSAL (RFP) DOCUMENT**

The Request for Proposal (RFP) can be downloaded from this link;

### **SUBMISSION OF TENDER DOCUMENTS**

Prospective consulting firms are to submit three (3) hard copies **(one original & two copies)** of the requested documents and financial bid. Thereafter, the Tenderer shall



enclose the original in one (1) envelope and all the copies of the Tender in another envelope, duly marking the envelopes as “**Engagement of State Consulting Firm**” and “**FINANCIAL.**” The two (2) envelopes shall then be enclosed and sealed in one (1) single outer envelope after registration using the NACA bid register.

- a. Prospective bidders can submit their documents as a Joint Venture with relevant documents provided in line with the requirements stated in the SBD.

## **2. DEADLINE FOR SUBMISSION**

The deadline for the submission of Tender should not be later than 12 noon of 11<sup>th</sup> November, 2022,. Clarification can be obtained at the Office of the **Head of Procurement, Ground Floor, NACA main building, 3 Ziguinchor Street. Wuse Zone 4. Abuja.** The bids will be opened immediately after close of submission.

## **3. GENERAL INFORMATION**

- i. Bids must be in English Language and signed by an official authorized by the bidder;
- ii. Bids submitted after the deadline for submission would be rejected;
- iii. NACA reserves the right to evaluate and award per line item and in the event of exigency, NACA may vary the quantities/quality of the items during the time of evaluation, award and execution of contract with respect to this invitation to tender;
- iv. NACA is not bound to shortlist any Consultant, and reserves the right to annul the bidding process at any time without incurring any liabilities or providing reason.

## **12.0 ADDRESS FOR INFORMATION AND SUBMISSION OF PROPOSALS**

### ***Attention:***

#### **Head Procurement**

National Agency for the Control of AIDS (NACA)

Ground Floor Room 1.08

No. 3 Ziguinchor Street, Beside AEDC Office, Wuse zone 4, Abuja

Email: [procurement@naca.gov.ng](mailto:procurement@naca.gov.ng)

Tel: +234-9-4613726-9 Fax: +234 94613700

## **13.0 GLOBAL FUND CODE OF CONDUCT**

You shall get acquainted with the global fund code of conduct for suppliers using this link below:

[https://www.theglobalfund.org/media/3275/corporate\\_codeofconductforsuppliers\\_policy\\_en.pdf](https://www.theglobalfund.org/media/3275/corporate_codeofconductforsuppliers_policy_en.pdf)

Accepting this invitation shall serve as an acknowledgement and agreement to abide by the Global Fund Code of Conduct for Suppliers.

## **14. Notes/Disclaimer**

- i. Late submissions will not be accepted.
- ii. NACA shall verify any or all documents and claims made by applicants and will disqualify consultants with falsified documents and claims.
- iii. If it is determined that submitted documents and claims have been falsified, the consultant may face prosecution in a court of Law.

- ii. NACA shall not be held responsible for any disqualified proposal as a result of any omission or deletion relating to the submission guidelines.
- iii. This advertisement shall not be construed a contract to any Consultant, nor shall it entitle any Consultant submitting documents to claim any indemnity from NACA.
- iv. NACA is not bound to shortlist any Consultant, and reserves the right to annul the bidding process at any time without incurring any liabilities or providing reason.

**Signed**  
Management.

## Section 1. Instructions to Consultants

### A. General

1. Scope of Proposal
  - 1.1 The Client, as indicated in the Special Instructions to Consultants (SIC), issues this Request for Proposal (RFP) for the supply of Services as specified in the SIC and described in details in Section 6, Terms of Reference in accordance with the method of selection specified in the SIC.
  - 1.2 All interested and competent consulting firms are to submit a Proposal for the supply of consulting services required for the assignment. The Proposal will be the basis for contract negotiations and ultimately for a signed Contract with the selected Consultant.
  - 1.3 The successful Consultant will be expected to complete the delivery of the Services in accordance with the phasing indicated in the SIC. When the assignment includes several phases, the performance of the Consultant under each phase must be to the Client's satisfaction before work begins on the next phase.
  - 1.4 Throughout this RFP:
    - (a) the term "in writing" means communicated in written form with proof of receipt;
    - (b) if the context so requires, singular means plural and vice versa; and
    - (c) "day" means calendar day.
2. Source of Funds
  - 2.1 The Client has been allocated public funds as indicated in the SIC and intends to apply a portion of the funds to eligible payments under the contract for which this RFP is issued.
  - 2.2 For the purpose of this provision, "public funds" means any monetary resources appropriated to procuring entities under Government budget, or revenues generated by statutory bodies and corporations or aid grants and credits put at the disposal of procuring entities by the development partners through the Government.
  - 2.3 Payments by the development partner, if so indicated in the SIC, will be made only at the request of the Government and upon approval by the development partner in accordance with the applicable Loan/Credit/Grant Agreement, and will be subject in all respects to the terms and conditions of that Agreement.
3. Corrupt, Fraudulent, Collusive, Coercive or
  - 3.1 The Government requires that Clients, as well as Applicants Consultants, shall observe the highest standard of ethics during the implementation of the procurement proceedings and the execution of contracts under public funds.

## Obstructive Practices

- 3.2 In pursuance of this requirement, the Client shall
- (a) exclude the Consultant from participation in the procurement proceedings concerned or reject a proposal for award; and
  - (b) declare the Consultant ineligible, either indefinitely or for a stated period of time, from participation in procurement proceedings under public fund;
  - (c) have the right to require that a provision be included in bidding documents, requiring bidders, suppliers and contractors to permit the relevant authorities to inspect their accounts and records and other documents relating to the bid submission and contract performance and to have them audited by auditors

if it, at any time, determines that the Consultant has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a contract under public fund.

- 3.3 Should any corrupt or fraudulent practice of any kind referred to in ITC Sub-Clause 3.4 come to the knowledge of the Client, it shall, in the first place, allow the Consultant to provide an explanation and shall take actions as stated in ITC Sub-Clause 3.2 only when a satisfactory explanation is not received. Such exclusion and the reasons for it, shall be recorded in the record of the procurement proceedings and promptly communicated to the Consultant concerned. Any communications between the Consultant and the Client related to matters of alleged fraud or corruption shall be in writing.
- 3.4 The Government defines, for the purposes of this provision, the terms set forth below as follows:
- (a) “*corrupt practice*” means offering, giving, or promising to give, directly or indirectly, to any officer or employee of a Procuring Entity or other governmental/private authority or individual a gratuity in any form, an employment or any other thing or service of value, as an inducement with respect to an act or decision of, or method followed by, a Procuring Entity in connection with the procurement proceeding;
  - (b) “*fraudulent practice*” means a misrepresentation or omission of facts in order to influence a procurement proceeding or the execution of a contract to the detriment of the Client,
  - (c) “*collusive practice*” means a scheme or arrangement among two and more Consultants with or without the knowledge of the Client (prior to or after proposal submission) designed to establish proposal prices at artificial, non-competitive levels and to deprive

the Client of the benefits of free, open and genuine competition;  
and

(d) “*coercive practice*” means harming or threatening to harm, directly or indirectly, persons or their property to influence the procurement proceedings, or affect the execution of a contract.

(e) obstructive practice which means

i. deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede relevant authorities’ 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

ii. acts intended to materially impede the exercise of the relevant authorities’ inspection and audit rights provided for under par. 3.2 (c) above.

3.5 The Consultant shall be aware of the provisions on fraud and corruption stated in GCC Clause 3 and GCC Sub-Clause 63.2 (c).

3.6 The Government requires that the Client’s personnel have an equal obligation not to solicit, ask for and/or use coercive methods to obtain personal benefits in connection with the said proceedings.

#### 4. Eligible Consultants

4.1 Only short-listed Consultants are eligible to submit proposals.

4.2 The Consultant has the legal capacity to enter into the contract.

4.3 The Consultant shall not be under a declaration of ineligibility for corrupt, fraudulent, collusive or coercive practices in accordance with ITC Sub-Clause 3.2.

4.4 The Consultant is not insolvent, in receivership, bankrupt or being wound up, their business activities have not been suspended, and he is not the subject of legal proceedings for any of the foregoing.

4.5 The Consultant has fulfilled its obligations to pay taxes and social security contributions under the relevant national laws and regulations.

4.6 Government officials and civil servants, including persons of autonomous bodies or corporations may be hired to work as a member of a team of consultants provided the person (a) is on leave of absence without pay; (b) is not being hired by the procuring entity he/she was working for immediately prior to going on leave; and (c) the hiring of him/her would not create any conflict of interest.

4.7 Consultants have an obligation to disclose any situation of actual or potential conflict of interest that impacts on their capacity to serve the

best interest of their Client, or that may reasonably be perceived as having this effect. Failure to disclose such situations may lead to the disqualification of the Consultant or the termination of its Contract.

5. Conflict of Interest of 5.1 General

- (a) The Consultant (including any of his affiliates/associates), in deference to the requirements that the Consultant provides professional and objective advice and at all times hold the Client's interests paramount, strictly avoids conflicts with other assignments or their own corporate interests, acts without any consideration for future work and must not have a conflict of interest (COI), shall not be recruited under any of the circumstances specified in ITC Sub Clauses 5.2 to 5.4. "COI" shall mean a situation in which a Consultant provides biased professional advice to a client in order to obtain from that client an undue benefit for himself or affiliate(s)/associate(s).

5.2 Conflicting Activities

- (a) A firm that has been engaged by the Client to provide Services, works or services other than consulting services for a project, and any of its affiliates, shall be disqualified from providing consulting services related to those Services, works, or services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, and any of its affiliates, shall be disqualified from subsequently providing Services or works or services other than consulting services resulting from or directly related to the firm's earlier consulting services. For the purpose of this clause, services other than consulting services are defined as those leading to a measurable physical output, for example surveys, exploratory drilling, aerial photography, and satellite imagery.

5.3 Conflicting Assignments

- (a) A Consultant (including its Personnel 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 to be executed for the same or for another Client. For example, a Consultant hired to prepare engineering design for an infrastructure project shall not be engaged to prepare an independent environmental assessment for the same project, and a Consultant assisting a Client in the privatization of public assets shall not purchase, nor advise Clients of, such assets. Similarly, a Consultant hired to prepare Terms of Reference for an assignment shall not be hired for the assignment in question.

(a) Conflicting Relationships

- (a) A Consultant (including its Personnel and Sub Consultants) that has a business or family relationship with a member of the Client's staff may not be awarded a Contract, unless the conflict stemming

from this relationship has been addressed adequately throughout the selection process and the execution of the Contract.

5.5 Unfair Advantage

- (a) *If* a shortlisted Consultant could derive a competitive advantage from having provided consulting services related to the assignment in question, the Client shall make available to all shortlisted Consultants together with this RFP all information that would in that respect give such Consultant any competitive advantage over competing Consultants.

6. Eligible Services 6.1 All material, equipment and supplies used by the Consultant and Services to be provided under the contract shall have their origin in countries other than those specified in the SIC.
7. Site Visit 7.1 The Consultant, at the Consultant's own responsibility and risk, is encouraged to visit and examine the Site and obtain all information that may be necessary for preparing the Proposal and entering into a contract for supply of Services.
- 7.2 The Consultant should ensure that the Client is advised of the visit in adequate time to allow it to make appropriate arrangements.
- 7.3 The costs of visiting the Site shall be at the Consultant's own expense.

**B. Request for Proposal**

8. RFP Sections 8.1 The Sections comprising the Request for Proposal are listed below.
- Section 1 : Instructions to Consultants (ITC)
  - Section 2 : Special Instructions to Consultants (SIC)
  - Section 3 : General Conditions of Contract (GCC),
  - Section 4 : Special Conditions of Contract (SCC),
  - Section 5 : Proposal and Contract Forms
  - Section 6: Terms of Reference (TOR)
- 8.2 The Client is not responsible for the completeness of the RFP and any addenda, if these were not obtained directly from the Client.
- 8.3 The Consultant is expected to examine all instructions, forms, terms, and provisions in the RFP. Failure to furnish all information or documentation required by the RFP may result in the rejection of the Proposal.
9. RFP Clarification 9.1 A Consultant requiring any clarification of the RFP shall contact the Client in writing at the Client's address indicated in the SIC. The Client will respond in writing to any request for clarification received no later than seven (7) days prior to the dead line for submission of proposals.

- 9.2 The Client shall forward copies of its response to all those short listed Consultants, including a description of the enquiry but without identifying its source.
  - 9.3 Should the Client deem it necessary to amend the RFP as a result of a clarification, it shall do so following the procedure in ITC Clause 11.
10. Pre-proposal meeting
- 10.1 To clarify issues and to answer questions on any matter arising in the RFP, the Client may, if stated in the SIC, invite prospective Consultants to a Pre-Proposal Meeting at the place, date and time as specified in the SIC. The Consultant is encouraged to attend the meeting if it is held.
  - 10.2 The Consultant is requested, as far as possible, to submit any questions in writing, to reach the Client not later than one (1) week before the meeting.
  - 10.3 Minutes of the pre-Proposal meeting, including the text of the questions raised and the responses given, together with any responses prepared after the meeting, will be transmitted without delay to all the short-listed Consultants not later than seven (7) days after the date of the meeting. Any modification to the RFP listed in ITC Clause 8.1 that may become necessary as a result of the pre-Proposal meeting shall be made by the Client exclusively through the issue of an Addendum pursuant to ITC Clause 11 and not through the minutes of the pre-Proposal meeting.
11. RFP Amendment
- 11.1 At any time prior to the deadline for submission of Proposals, the Client, for any reason on its own initiative or in response to a clarification request in writing from a Consultant, may amend the RFP by issuing an amendment.
  - 11.2 Any amendment issued shall become an integral part of the RFP and shall be communicated in writing to all the short-listed Consultants.
  - 11.3 To give a prospective Consultant reasonable time in which to take any amendment into account in preparing its Proposal, the Client may, at its discretion, extend the deadline for the submission of Proposals, pursuant to ITC Sub-Clause 28.3.

### **C. Proposal Preparation**

- 12. Proposal: Only one
  - 12.1 A short listed Consultant, including its affiliate(s), may submit only one (1) Proposal. If a Consultant submits or participates in more than one (1) Proposal, all such proposals shall be rejected. However, this does not limit the participation of the same Sub-Consultant, including individuals, to more than one proposal.
- 13. Proposal: Preparation Costs
  - 13.1 The Consultant shall bear all costs associated with the preparation and submission of its Proposal, and the Client shall not be responsible or liable for those costs, regardless of the conduct or outcome of the procurement process.



14. Proposal: Language
- 14.1 The Proposal, as well as all correspondences and documents relating to the Proposal and subsequent Contract shall be written in the English language. Supporting documents and printed literature furnished by the Consultant may be in another language provided they are accompanied by an accurate translation of the relevant passages in the English language, in which case, for purposes of interpretation of the Proposal, such translation shall govern.
- 14.2 The Consultant shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.
15. Proposal: Documents
- 15.1 The Proposal prepared by the Consultant shall comprise the following:
- (a) Technical Proposal;
  - (b) Financial Proposal;
  - (c) documentary evidence establishing the Consultant's eligibility; and
  - (d) any other document required as stated in the SIC.
16. Proposal: Preparation
- 16.1 In preparing its Proposal, the Consultant shall examine in detail the documents comprising the RFP. Material deficiencies in providing the information requested may result in rejection of a proposal.
- 16.2 The Consultant shall prepare the Technical Proposal in accordance with ITC Clauses 17 and 18 using the forms furnished in Section 5A: Technical Proposal; Standard Forms.
- 16.3 The Consultant shall submit the Financial Proposal in accordance with ITC Clause 19 and using the forms furnished in Section 5B: Financial Proposal; Standard Forms.
- 16.4 All the forms mentioned in ITC Sub-Clauses 16.2 and 16.3 shall be completed without any material changes and alterations to its format, filling in all blank spaces with the information requested, failing which the Proposal may be rejected as being incomplete.
17. Technical Proposal Preparation
- 17.1 If a Consultant considers that it does not have all the expertise required for the assignment, it may obtain that expertise by associating with other Consultants or entities in a joint venture or sub consultancy as appropriate. Association among the short listed Consultants at the time of submission of a proposal is not permitted, and the Client shall disqualify such proposal. Association of other Consultants (not short listed) in a joint venture at the time of submission of a proposal is only permitted with the prior permission of the Client, which must be obtained prior to the submission of a proposal. A short listed Consultant associating another firm as sub consultant at the time of submission of proposal will not require prior permission of the Client. For such cases, the Proposal shall be submitted in the name of the short listed Consultant. For such sub-consultancy (etc), the Proposal should include a covering letter signed by an authorized representative of the

Consultant with full authority to make legally binding contractual (and financial) commitments on behalf of the Consultant, plus a copy of the agreement(s) with the sub-Consultant(s). Sub-consultancies (etc) shall in no event relieve the short listed Consultant from any of its obligations, duties, responsibility or liability under the Contract

17.2 For QBS, QCBS or Least Cost Selection based assignments, the estimated number of Professional staff-months is indicated in the SIC; however the available budget shall not be disclosed. The proposal shall be based on the number of Professional staff-months estimated by the Consultant.

17.3 For Selection under a Fixed Budget, the available budget is given in the SIC, and the Financial Proposal shall not exceed this budget, while the estimated number of Professional staff-months normally is not be disclosed.

17.4 Proposed professional staff shall have at least the qualification experience indicated in the SIC, preferably working under conditions similar to Nigeria. It is desirable that the majority of the key professional staff proposed be permanent employees of the Consultant or has an extended and stable working relationship with it.

17.5 Alternative experts shall not be proposed, and only one curriculum vita (CV) may be submitted for each position.

17.6 Reports to be submitted by the Consultants as part of the assignment shall be in the English language.

18. Technical Proposal: Format and Content

18.1 The Technical Proposal shall provide the following information using the attached Standard Forms (Section 5A):

- a) Form 5A1: Technical Proposal Submission Form in the format of a letter, duly signed by an authorised signatory of the Consultant;
- b) Form 5A2: giving a brief description of the Consultant's organization and an outline of recent experience of the Consultant and, in the case of an association by each partner, on assignments of a similar nature. For each assignment, the outline should indicate the names of Sub-Consultants / Professional staff / experts who participated, duration of the assignment, contract amount, and the Consultant's involvement. Information should be provided only for those assignments for which the Consultant was legally contracted by the Client as a corporation or as one of the major firms within an association. Assignments completed by individual Professional staff/experts working privately or through other consulting firms cannot be claimed as the experience of the Consultant, or that of the Consultant's associates, but can be claimed by the Professional staff/experts themselves in their CVs. Consultants should be prepared to substantiate the claimed experience if so requested by the Client;
- c) Form 5A3: indicating comments and suggestions that the Consultant may have on the Terms of Reference to improve performance in

carrying out the assignment, any requirements for counterpart staff and facilities including: administrative support, office space, local transportation, equipment, or data, to be provided by the Client;

- d) Form 5A4: indicating the approach, methodology and work plan for performing the assignment covering the following subjects: technical approach and methodology, work plan, and organization and staffing schedule. The work plan should be consistent with the Work Schedule (Form 5A5) and should be in the form of a bar chart showing the timing proposed for each activity;
- e) Form 5A6: being the list of the proposed Professional staff team by area of expertise, the position that would be assigned to each staff team member, and their tasks;
- f) Form 5A7: being the Estimates of the staff input (staff-months of professionals) needed to carry out the assignment. The staff-months input should be indicated separately for head office and field activities;
- g) Form 5A8: being the CVs of the Professional staff signed by the respective staff member and by the authorized representative submitting the proposal;
- h) Plus, a detailed description of the proposed methodology, staffing, and monitoring of training, if the SIC specifies training as a major component of the assignment; and
- i) Any additional information that might be requested in the SIC.

18.2 The Technical Proposal shall not include any financial information.

19. Financial Proposal Format and Content

19.1 The Financial Proposal shall provide the following information using the attached Standard Forms (Section 5B):

- (a) Form 5B1: Financial Proposal Submission Form in the format of a letter, duly signed by an authorised signatory of the Consultant. Commissions and gratuities, if any, paid or to be paid by Consultants and related to the assignment will be listed in the form;
- (b) Form 5B2: being the Summary of Costs against staff remuneration, other expenses, and the taxes;
- (c) Form 5B3: being the breakdown of costs against staff remuneration;
- (d) Form 5B4: being the breakdown of costs against other expenses. A sample list is provided in the SIC; and
- (e) Form 5B5: being the estimate of the local taxes, duties, fees, levies and other charges under the applicable law, on the Consultants, sub-Consultants and their personnel.

If appropriate, all these costs should be broken down by activity.

20. Taxes

20.1 The Consultant is subject to local taxes on amounts payable by the Client as per the Applicable Law. It is the responsibility of the

Consultant to be familiar with the relevant laws in Nigeria, and to determine the taxes amounts to be paid.

21. Client Inputs 21.1 The Client shall:
- (a) provide at no cost to the Consultant the inputs and facilities specified in the SIC;
  - (b) make available to the Consultant, relevant project data and reports at the time of issuing the RFP; and
  - (c) Assist the Consultant in obtaining relevant project data and reports from other related departments/divisions, which will be required by the Consultant to perform the assignment.
22. Alternative Proposals 22.1 Alternative proposals shall not be considered.
23. Proposal Prices 23.1 The Consultant shall indicate on the Financial Proposal the total Lump Sum Price of the Services it proposes to provide under the contract, and a breakdown of the lump-sum price in accordance with the format provided in Section 5 ....
24. Proposal Currency 24.1 All prices shall be quoted in Naira.
25. Proposal Validity 25.1 Proposals shall remain valid for the period specified in the SIC after the Proposal submission deadline date prescribed by the Client.
- 25.2 Consultants shall maintain the availability of Professional staff/experts nominated in the Proposal during the Proposal validity period. The Client will make its best effort to complete negotiations of a contract with the top ranked candidate within this period.
- 25.3 In exceptional circumstances, prior to the expiration of the Proposal validity period, the Client may request Consultants to extend the period of validity of their Proposals. The request and the responses shall be made in writing. If a Consultant does not respond or refuse the request, its Proposal shall no longer be considered in the evaluation proceedings. A Consultant agreeing to the request will not be required or permitted to modify its Proposal.
26. Proposal Format and Signing 26.1 The Consultant shall prepare one (1) original of the Technical Proposal as described in ITC Sub-Clause 18.1 and one (1) original of the Financial Proposal as described in ITC Sub-Clause 19.1 and clearly mark them "ORIGINAL".
- 26.2 The Consultant shall prepare the number of copies as specified in the SIC of each Technical Proposal and clearly mark them "COPY". In the event of any discrepancy between the original and the copies, the original shall prevail.

26.3 The original and all copies of the Technical and Financial Proposals shall be typed or written in indelible ink and shall be signed by a person duly authorized to bind the Consultant to the Contract. The name and position held by each person signing the authorization must be typed or printed below the signature.

26.4 All pages of the Proposals except for un-amended printed literature shall be signed or initialled by the person signing the Proposals.

#### **D. Proposal Submission**

27. Proposal: Sealing and Marking
- 27.1 The Consultant shall enclose the original and each copy of the Technical Proposal in separate sealed envelopes, duly marking the envelopes as “TECHNICAL PROPOSAL” and “ORIGINAL” and “COPY, as appropriate.” These envelopes containing the original and the copies shall then be enclosed in one single envelope duly marking the envelope as “TECHNICAL PROPOSAL”.
- 27.2 The Consultant shall enclose the original of the Financial Proposal in one single separate sealed envelope, duly marking the envelope as “FINANCIAL PROPOSAL” and with a warning “DO NOT OPEN WITH THE TECHNICAL PROPOSAL.”
- 27.3 The two envelopes shall then be enclosed in one single outer envelope. The inner and outer envelopes shall:
- (a) bear the name and address of the Consultant;
  - (b) be addressed to the Client at the address specified in the SIC;
  - (c) bear the name of the Proposal as specified in the SIC; and
  - (d) bear a statement “DO NOT OPEN BEFORE ....” The date for opening as specified in the SIC.
- 27.4 If all envelopes are not sealed and marked as required, the Client will assume no responsibility for the misplacement, or premature opening of the Proposal.
- 27.5 If the Financial Proposal is not submitted in a separate sealed envelope duly marked as indicated above, this may constitute grounds for declaring the Proposal non-responsive.
28. Proposal: Submission Deadline
- 28.1 Proposals must be received by the Client at the address specified under ITC Sub-Clause 27.3 no later than the date indicated in the SIC.
- 28.2 The Proposal may be hand delivered or posted by registered mail or sent by courier. The Client shall, on request, provide the Consultant with a receipt showing the date and time when its Proposal was received.

- 28.3 The Client may, at its discretion, extend the deadline for the submission of Proposals by amending the RFP in accordance with ITC Clause 11, in which case all rights and obligations of the Client and Consultants previously subject to the deadline shall thereafter be subject to the deadline as extended.
29. Proposal Submitted Late 29.1 Any Proposal received by the Client after the deadline for submission of Proposals, in accordance with ITC Clause 28 shall be declared late, will be rejected, and returned unopened to the Consultant.
30. Proposal Modification, Substitution or Withdrawal 30.1 A Consultant may modify, substitute, or withdraw its Proposal after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITC Sub-Clause 26.3, (except that no copies of the withdrawal notice are required). The corresponding substitution or modification of the Proposal must accompany the respective written notice. All notices must be:
- (a) submitted in accordance with ITC Clause 27 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked “MODIFICATION,” “SUBSTITUTION,” or “WITHDRAWAL;” and
  - (b) received by the Client prior to the deadline prescribed for submission of Proposals, in accordance with ITC Clause 28.
- 30.2 Proposals requested to be withdrawn in accordance with ITC Sub-Clause 30.1 shall be returned unopened to the Consultants.
- 30.3 No Proposal may be modified, substituted, or withdrawn after the deadline for submission of Proposals specified in ITC Clause 28.

## **E. Proposal Opening and Evaluation**

31. Technical Proposal Opening 31.1 There shall be no public opening of the Technical Proposals, however the Client shall open all Technical Proposals received shortly after the deadline and at the place specified in the SIC. The Consultants may obtain from the Client the list of Consultant’s who have submitted proposals by the deadline.
- 31.2 The Client shall not open the Financial Proposals at this stage and shall keep these sealed and securely stored until these are opened at the time and manner specified in ITC Clause 37.
- 31.3 No Proposal shall be rejected at Proposal opening, except for late Proposals, which shall be returned unopened to the Consultant pursuant to ITC Clause 29.

32. Confidentiality
- 32.1 Information relating to evaluation of Proposals and recommendations concerning awards shall not be disclosed to the Consultants who submitted the Proposals or to other persons not officially concerned with the process, until the winning firm has been notified that it has been awarded the Contract. The undue use by any Consultant of confidential information related to the process may result in the rejection of its Proposal and may be subject to the provisions of the Government's antifraud and corruption policy.
- 32.2 Evaluators of Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded and approved by the relevant authority.
33. Contacting the Client
- 34.1 Following the opening of the Technical Proposals, and until the contract is signed, no Consultant shall make any unsolicited communication to the Client.
- 34.2 Any effort by a Consultant to influence the Client in its decisions on the examination, evaluation, and comparison of either the Technical or Financial Proposals or contract award may result in the rejection of its Proposal.
34. Examination of Conflict of Interest Situation
- 35.1 During the evaluation of the Technical Proposals, the Client shall ascertain that no new COI situations have arisen since the Consultant was short-listed. If the Client identifies a COI at this stage, it shall determine whether the specific conflict is substantive and take action by reducing the scope of work of the assignment or rejecting the Technical Proposal.
35. Proposal: Technical Evaluation
- 36.1 The Proposals Evaluation Committee (PEC) as a whole and each of its members individually shall evaluate and rank the Technical Proposals on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria, sub criteria, and points system specified in ITC Sub-Clause 36.2.
- 36.2 Technical Proposals shall be evaluated and ranked on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria, sub criteria, and point system specified in the SIC. Each responsive Technical Proposal will be given a technical score (St). A Technical Proposal shall be rejected if it does not respond to important aspects of the RFP, and particularly the Terms of Reference or if it fails to achieve the minimum technical score indicated in the SIC.
- 36.3 Innovativeness will be appreciated, including workable suggestions that could improve the quality/effectiveness of the assignment. In this regard, unless the Consultant clearly states otherwise, it will be assumed by the Client that work associated with implementation of

any such improvements are included in the inputs shown on the Consultant's staffing schedule.

- 36.4 Higher ratings will be given to experts from the short-listed consultants and their associates, if any, who are full-time employees. A full-time employee is a person who has been employed by the firm continuously for a period of more than twelve (12) months prior to the date when the proposal is submitted.
36. Financial Proposal Opening
- 37.1 In the case of QCBS, FBS and LCS, after the technical evaluation is completed, the Client shall notify in writing, those Consultants that have secured the minimum qualifying mark, indicating the date, time and location for opening the Financial Proposals. The opening date shall usually not be less than one (1) week after such notification.
- 37.2 In the case of QBS, Selection Based on Consultant's Qualifications, and Single-Source Selection, the highest ranked firm or firm selected on a single-source basis is invited to negotiate its proposal and the contract on the basis of the Technical Proposal and the Financial Proposal submitted in accordance with the instructions given in the SIC.
- 37.3 In the case of QCBS, FBS and LCS, the Client shall simultaneously notify those Consultants whose Technical Proposals did not meet the minimum qualifying mark or were considered non-responsive to the RFP, indicating that their Financial Proposals will be returned unopened after completion of the selection process.
- 37.4 Except in the case of QBS, Financial Proposals shall be opened publicly in the presence of the Consultants' representatives who choose to attend. Those representatives who attend shall sign an attendance sheet. Each Financial Proposal will then be inspected to confirm that it has remained sealed and unopened. The name of the Consultants, the technical scores, and the proposed prices shall be read aloud and recorded when the Financial Proposals are opened. The Client shall prepare minutes of the public opening and these shall be furnished, upon request, to Consultants who's Financial Proposals were opened.
37. Proposal: Financial Evaluation
- 38.1 The Proposal Evaluation Committee (PEC) will review the detailed content of each Financial Proposal. During the review, the committee and any Client staff and others involved in the evaluation process, will not be permitted to seek clarification or additional information from any Consultant who has submitted a Financial Proposal.
- 38.2 Financial Proposals will be reviewed to ensure these are complete (i.e. whether Consultants have cost all items of the corresponding Technical Proposal; if not, the Client will cost them and add their cost to the offered price) and correct any computational errors. The evaluation shall exclude all local taxes, duties and other charges imposed under the Applicable Law.



- 38.3 In case of QCBS, the lowest evaluated Financial Proposal (Fm) will be given a financial score (Sf) of 100 points. The financial scores (Sf) of the other Financial Proposals will be computed as indicated in the SIC.
38. Correction of Arithmetical Errors
- 39.1 Arithmetical errors in the Financial Proposal shall be corrected on the following basis:
- (a) if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Client there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;
  - (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
  - (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.
- 39.2 Where the consultant does not accept the correction of arithmetic errors, his (her) bid shall be rejected.
39. Proposal: Combined Evaluation
- 40.1 In QCBS the Proposals will be ranked according to their combined technical (St) and financial (Sf) scores using the weights (T = the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; T + P = 1) indicated in the SIC:  $S = St \times T\% + Sf \times P\%$ . The firm achieving the highest combined technical and financial score will be invited for negotiation under ITC Clauses 41 to 45.
- 40.2 In the case of Fixed-Budget Selection, the Client will select the firm that submitted the highest ranked Technical Proposal with an evaluated price that is within the budget. Proposals that exceed the indicated budget will be rejected. The selected firm will be invited for negotiations under ITC Clauses 41 to 45.
- 40.3 In the case of the Least-Cost Selection, the Client will select the lowest proposal (“evaluated” price) among those that passed the minimum technical score. The selected firm will be invited for negotiations under ITC Clauses 41 to 45.
40. Proposal: Negotiation
- 41.1 Negotiations will be held at the address indicated in the SIC. The invited Consultant will, as a prerequisite for attendance at the negotiations, confirm availability of all Professional staff/experts and satisfy such other pre-negotiation requirements as the Client may specify.

- |  |      |   |
|--|------|---|
| 41. Proposal Negotiation: Technical            | 42.1 | Negotiations will include a discussion of the Technical Proposal, the proposed technical approach and methodology, work plan, and organization and staffing, and any suggestions made by the Consultant to improve the Terms of Reference. The Client and the Consultant will finalise the Terms of Reference, staffing schedule, work schedule, logistics, and reporting. These documents will then be incorporated in the Contract as “Description of Services”. Special attention will be paid to clearly defining the inputs and facilities required from the Client to ensure satisfactory implementation of the assignment. The Client shall prepare minutes of negotiations that will be signed by the Client and the Consultant.  |
| 42. Proposal Negotiation: Financial            | 43.1 | The financial negotiations will reflect the agreed technical modifications in the cost of the services.   |
| 43. Availability of Professional staff/experts | 44.1 | Having selected the Consultant on the basis of, among other things, an evaluation of proposed Professional staff/experts; the Client expects to negotiate a Contract on the basis of the Professional staff/experts named in the Proposal. Before contract negotiations, the Client will require assurances that the Professional staff/experts will be actually available. The Client will not consider substitutions during contract negotiations unless both parties agree that undue delay in the selection process makes such substitution unavoidable or for reasons such as death or medical incapacity. If this is not the case and if it is established that Professional staff/experts were offered in the proposal without confirming their availability, the firm may be disqualified. Any proposed substitute shall have equivalent or better qualifications and experience than the original candidate. |
| 44. Proposal Negotiations : Conclusion         | 45.1 | Negotiations will conclude with a review of the draft Contract. To complete negotiations, the Client and the Consultant will initial the agreed Contract Agreement. If negotiations fail, the Client will invite the Consultant whose Proposal received the second highest score to negotiate a Contract, if this fails the Client shall negotiate with the remaining responsive Consultants in the order of their relative ranking, till a satisfactory contract agreement is reached, subject to the right of the Client to reject all proposals.   |

## **F. Contract Award**

- |                                       |      |  |
|---------------------------------------|------|--|
| 45. Contract Award                    | 46.1 | After completing negotiations and after having received the approval to award the Contract, the Client shall award the Contract to the selected Consultant.  |
| 46. Advising Unsuccessful Consultants | 47.1 | After successful completion of Contract negotiation, the Client shall promptly notify the other Consultants that they were unsuccessful. The Client shall also return the unopened Financial Proposals, as the case may be, to the unsuccessful Consultants. |

- 47.2 The Client shall promptly respond in writing to any unsuccessful Consultant who requests the Client in writing to provide a brief statement of the reason (s) its proposal was not selected.
47. Commencement of Services 48.1 The Consultant is expected to commence the assignment on the date and at the location specified in the SIC.
48. Consultants Right to Complain 49.1 Any short listed Consultant has the right to complain in accordance with Clause 31 of Procurement Regulations for the Use of Consultants Services.
- 49.2 The complaint shall firstly be processed through an administrative review following the procedures set out in the Regulations. The place and address for the first step in the submission of complaints to the Administrative Authority is provided in the SIC.
- 49.3 If the Consultant considers that its complaint has not been dealt with equitably, it may, in accordance with Regulation 33, within ten working days submit an appeal to the Head of the BPP, who shall review the case and issue within 21 working days a decision in writing to the Consultant if its complaint is receivable and what corrective action has or will be taken or if its complaint is rejected, stating the reasons for the rejection.
- 49.4 If not satisfied with the outcome of the administrative review, the Consultant may appeal to the federal high court pursuant to paragraph 34 of the regulations.

## Section 2. Special Instructions to Consultants

ITC Clause	Amendments of, and Supplements to, Clauses in the Instruction to Consultants.
1.1	<p>The Client is: <b>National Agency for the Control of AIDS (NACA)</b></p> <p>The identification of the Request for Proposal is: <b>Engagement of State Consulting Firm</b></p> <p>The objectives and brief description of the Service is to engage the service of standard and experienced firm(s) in the subject matter to provide technical assistance, supervise, coordinate and certify the implementation of this project</p> <p>The Method of selection is: <b>Quality and Cost Based Selection Method.</b></p>
1.3	<p>The assignment as indicated below:</p> <p>Provide technical assistance, supervise, coordinate and certify the implementation of this project</p>
2.1	<p>The source of Public Fund is <b>Global Fund RSSH Grant 2021-2023</b></p>
3.1	<p>Materials, equipment and supplies used by the Consultant are not permitted if they have originated in: None</p>
3.2	<p>For <b><u>clarification of Request for Proposals</u></b> the Client 's address is:</p> <p>Attention: Head Procurement and Supply Chain Management.</p> <p>Address: National Agency for the Control of AIDS (NACA)</p> <p>No 3, Ziguinchor Street, Wuse Zone 4, Abuja</p> <p>Telephone: +234-9-4613726</p> <p>Facsimile number: +234-9-4613700</p> <p>Electronic mail address: <a href="mailto:procurement@naca.gov.ng">procurement@naca.gov.ng</a></p>
4.1	<p>A Pre-proposal Meeting will not be held</p>
5.1	<p>Other documents required to be submitted with the proposal are:</p>
6.1	<p>The estimated number of professional staff-months required for the assignment is <b>6 months.</b></p>
7.1	<p>In the case of Fixed Budget Selection, the Financial Proposal shall not exceed the available budget of: NA</p>
8.1	<p>n. The minimum required qualification and experience of professional staff are as follows: Evidence of Certificate of Incorporation with the Corporate Affairs Commission (CAC) including Form CAC1.1 or CAC02 and CAC07.</p>

- o. Evidence of Company's Income Tax Clearance Certificate for the last three (3) years (2019, 2020 and 2021) valid till 31st December, 2022.
- p. Evidence of Pension Clearance Certificate valid till 31st December, 2022
- q. Evidence of Industrial Training Fund (ITF) Compliance Certificate valid till 31st December, 2022.
- r. Evidence of current Nigeria Social Insurance Trust Fund (NSITF) Compliance Certificate valid till 31st December, 2022;
- s. Evidence of Registration on the National Database of Federal Contractors, Consultants and Service Providers by submission of Interim Registration Report (IRR) expiring on 31/12/2022 issued by the BPP.
- t. Sworn Affidavit:
  - e. Certifying that the company is not in receivership, insolvency or bankruptcy. Stating that no officer of NACA or Bureau of Public Procurement is a
  - f. Director or Shareholder or has any pecuniary interest in the bidder.
  - g. Also, that none of the Directors of the Company has been convicted for a criminal offence in relation to fraud or financial impropriety in any court in Nigeria or elsewhere.
  - h. And that all information presented in the bid is true and correct in all particulars.
- u. Company's Audited Account for the last three (3) years (2019, 2020 and 2021)
- v. Reference Letter from a reputable commercial bank indicating willingness to provide credit facility for the execution of the project when needed;
- w. Company's profile with the Curriculum Vitae of the Key Staff to be deployed for the consultancy, including copies of their Academic/ Professional qualifications;
- x. Verifiable document of 3 similar jobs executed in the last Ten (10) years including Letter of Award,
- y. The minimum validity period of the Tender should be One Hundred and Twenty (120) Days:
- z. Signed Cover letter attached to the technical submission with the company's letter head. Any submission without a cover letter will be disqualified:

**Project Coordinator**

- MBBS or Master's degree in Public Health, medical sciences or social sciences or other related fields.
- At least 10 years' experience in health programme management at a senior level
- Experience working on Global Fund project is essential
- At least two years Leadership experience in management of public health programmes and managing relationships with state government.
- Strong leadership and planning skills
- Strong understanding of the Nigerian health systems
- Excellent written and spoken English is required
- Performance management experience

At least two years Experience at organizing and facilitating systems strengthening, capacity development and mentoring processes.

### **Health System Strengthening Specialist (1)**

- MBBS or Master's degree in Public Health, medical sciences or social sciences or other related fields.
- At least 10 years of experience working in the Nigeria health system
- At least two years' Experience designing and implementing health systems strengthening interventions
- Experience with HIV, TB & Malaria programs
- Experience working on international donor-funded programs (Global Fund preferred) is added advantage.
- Strong leadership competencies in both the mobilization of teams on one hand; the design, development and mainstreaming of new processes or procedures, on the other hand.
- Experience at organizing and facilitating systems strengthening, capacity development and mentoring processes
- Ability to lead and guide strategy development with the State Ministry of Health (SMOH) and Civil Society networks, manage technical implementation of proposed project initiatives, as well as ability to supervise, mentor and coach project and government staff.

Strong analytical and verbal communication skills.

### **Finance Specialist (1)**

- Master's degree in Accounting/Finance/Audit
- ICAN or equivalent degree (CA, CPA, ACCA,CISA,CFE) is mandatory
- A minimum of 10 years accounting or auditing and grants management experience
- Preferably at least 8 years' experience working with donor funded projects (preferably Global Fund).
- Effectiveness in training and coaching finance and non-finance staff in internal control policies and procedures to ensure highest standards are maintained
- Excellent experience of budgeting and budget management
- Excellent understanding of financial systems and procedures
- Good understanding of budgets, financial processes and financial reporting and compliance with donor requirements.
- Excellent experience of computerised accounting software packages, Excel, PowerPoint and Word .

Strong management, supervisory, and capacity building skills, including at least 5 years' experience in managing teams of professional staff.

### **M & E Specialist (1)**

	<ul style="list-style-type: none"> <li>• Degree in Health Sciences, MBBS, Public Health, Statistics, Epidemiology or equivalent</li> <li>• Minimum 7 years' experience in monitoring and evaluation of Malaria or TB or HIV programs and experience in the management information systems in the public sector</li> <li>• Training and experience in logical framework, project management, performance management and setting up of program monitoring and evaluation systems in health programs</li> <li>• Demonstrated experience in designing and implementing M&amp;E systems, performance frameworks, project management, and program/project evaluations within the health sector</li> <li>• Good capacity to produce reports on time</li> <li>• Experience in the monitoring and implementation of Global Fund grants is an added advantage.</li> <li>• Familiarity with the MoH health management information system is an added advantage</li> </ul> <p>Strong knowledge of Microsoft office, database programs and statistical software</p>
<b>9.1</b>	Training is a specific component of this assignment.
<b>10.1</b>	Additional information on the Technical Proposal includes: N/A
<b>11.1(d)</b>	<p>The other expenses shall be the following:</p> <ol style="list-style-type: none"> <li>(1). Cost of locally procured items, office accommodations, camp facilities, camp services, equipment rentals, utilities and communication charges, all if and to the extent required for the purpose of the Services;</li> <li>(2). Cost of necessary travel, including transportation of the Personnel by the most appropriate means of transport and the most direct practicable route;</li> <li>(3). Cost of communications such as the use of telephone and facsimile required for the purpose of the Services;</li> <li>(4). Cost, rental and freight of any instruments or equipment required to be provided by the Consultant for the purposes of the Services;</li> <li>(5). Cost of printing and dispatching of the Reports to be produced for the Services;</li> <li>(6). Cost of any subcontract required for the Services in the TOR;</li> <li>(7). Other allowances where applicable and provisional or fixed sums (if any); and</li> <li>(8). Cost of such further items required for purposes of the Services not covered in the foregoing.</li> </ol>
<b>12.1</b>	The consultancy is subject to applicable Nigerian taxes as contained in the all applicable tax laws. <b>Note that all Global Fund procurement are VAT Exempted</b>
<b>13.1</b>	<p>The Client will provide the following inputs and facilities:</p> <p><b>Necessary information needed for the assignment</b></p>

14.1	Proposals must remain valid for <b>120</b> days after the submission date.	
15.1	The Consultant must submit one original for both the Technical Proposal and the Financial Proposal in separate envelopes and 2 copy each of the Financial and Technical Proposal.	
15.1(b)	The Proposal submission address is:  <b>Head of Procurement</b> <b>Address: National Agency for the Control of AIDS (NACA)</b> <b>No 3, Ziguinchor Street, Wuse Zone 4, Abuja</b>	
	Proposals must be submitted no later than <b>12 Noon on 11<sup>th</sup> November, 2022</b>	
16.1	The number of points to be given under each of the evaluation criteria are:	
	<b><u>Criteria, sub-criteria</u></b>	<b><u>Points</u></b>
	(i) <b>Specific experience of the Consulting firm relevant to the assignment.</b> ( <i>Verifiable documentary evidence of at least three (3) similar jobs executed in the last five (5) years by showing copy of either Letters of Awards or Job Completion Certificate</i> )	<b>20</b>
	<b>(ii) Adequacy of the proposed work plan and methodology in responding to the terms of Reference.</b>	
	(a) Work plan	5
	(b) Methodology	30
	(c) Organization and staffing	5
	Total points for criterion 2:	<b>40</b>
	<b>(iii) Professional staff qualifications and competence for the assignment (<i>Must show evidence of professional Certification</i>)</b>	
	The minimum required qualification and experience of professional staff are as follows: <b>Project Coordinator- (10 Marks)</b> <ul style="list-style-type: none"> <li>• MBBS or Master’s degree in Public Health, medical sciences or social sciences or other related fields.</li> <li>• At least 10 years’ experience in health programme management at a senior level</li> <li>• Experience working on Global Fund project is essential</li> <li>• 2 years minimum Leadership experience in management of public health programmes and managing relationships with state government.</li> <li>• Strong leadership and planning skills</li> <li>• Strong understanding of the Nigerian health systems</li> <li>• Excellent written and spoken English is required</li> </ul>	



	<ul style="list-style-type: none"> <li>• Performance management experience</li> </ul> <p>Experience at organizing and facilitating systems strengthening, capacity development and mentoring processes.</p> <p><b>Health System Strengthening Specialist (1)- 10Marks</b></p> <ul style="list-style-type: none"> <li>• MBBS or Master’s degree in Public Health, medical sciences or social sciences or other related fields.</li> <li>• At least 10 years of experience working in the Nigeria health system</li> <li>• Experience designing and implementing health systems strengthening interventions</li> <li>• Experience with HIV, TB &amp; Malaria programs</li> <li>• Experience working on international donor-funded programs (Global Fund preferred) is added advantage.</li> <li>• Strong leadership competencies in both the mobilization of teams on one hand; the design, development and mainstreaming of new processes or procedures, on the other hand.</li> <li>• Experience at organizing and facilitating systems strengthening, capacity development and mentoring processes</li> <li>• Ability to lead and guide strategy development with the State Ministry of Health (SMOH) and Civil Society networks, manage technical implementation of proposed project initiatives, as well as ability to supervise, mentor and coach project and government staff.</li> </ul> <p>Strong analytical and verbal communication skills.</p> <p><b>Finance Specialist (1) 10 Marks</b></p> <ul style="list-style-type: none"> <li>• Master’s degree in Accounting/Finance/Audit</li> <li>• ICAN or equivalent degree (CA, CPA, ACCA,CISA,CFE) is added advantage</li> <li>• A minimum of 10 years accounting or auditing and grants management experience</li> <li>• Preferably at least 8 years’ experience working with donor funded projects (preferably Global Fund).</li> <li>• Effectiveness in training and coaching finance and non-finance staff in internal control policies and procedures to ensure highest standards are maintained</li> <li>• Excellent experience of budgeting and budget management</li> <li>• Excellent understanding of financial systems and procedures</li> <li>• Good understanding of budgets, financial processes and financial reporting and compliance with donor requirements.</li> <li>• Excellent experience of computerised accounting software packages, Excel, PowerPoint and Word .</li> </ul>	
--	--	--

	<p>Strong management, supervisory, and capacity building skills, including at least 5 years' experience in managing teams of professional staff.</p> <p><b>M &amp; E Specialist (1) 10 Marks</b></p> <ul style="list-style-type: none"> <li>• Degree in Health Sciences, MBBS, Public Health, Statistics, Epidemiology or equivalent</li> <li>• Minimum 7 years' experience in monitoring and evaluation of Malaria or TB or HIV programs and experience in the management information systems in the public sector</li> <li>• Training and experience in logical framework, project management, performance management and setting up of program monitoring and evaluation systems in health programs</li> <li>• Demonstrated experience in designing and implementing M&amp;E systems, performance frameworks, project management, and program/project evaluations within the health sector</li> <li>• Good capacity to produce reports on time</li> <li>• Experience in the monitoring and implementation of Global Fund grants is an added advantage.</li> <li>• Familiarity with the MoH health management information system is an added advantage</li> </ul> <p>Strong knowledge of Microsoft office, database programs and statistical software</p>	
	Total points for criterion 3:	<b>40</b>
	The number of points to be assigned to each of the above position or discipline shall be determined considering the following three sub criteria and relevant percentage weights:	
	General Qualifications	30%
	Professional Certification	30%
	Experience in the Assignment	40%
	Total Weight:	100%
	<b>TOTAL POINTS</b>	<b>100</b>
	<b>The minimum Technical Score required to pass is 70 Points.</b>	
<b>17.1</b>	Both technical and financial are relevant and weights given to the technical and financial scores are as indicated in 17.3 below.	
<b>17.2</b>	<p>The formula for determining the financial scores is the following:</p> <p><math>S_f = 100 \times F_m / F</math>, in which <math>S_f</math> is the financial score, <math>F_m</math> is the lowest price and <math>F</math> the price of the proposal under consideration.</p>	

17.3	<p>The weights given to the Technical and Financial Proposals are:  T = 0.8 and  F = 0.2</p>
18.1	<p>The address for contract negotiations is:  <b>Procurement Unit, NACA</b>  <b>Address: National Agency for the Control of AIDS (NACA)</b>  <b>No 3, Ziguinchor Street, Wuse Zone 4, Abuja</b></p>
19.1	<p>The assignment is expected to commence in September 2022.</p>
20.1	<p>The name and address of the office where complaints to the Procuring Entity are to be submitted is:  <b>Head, Procurement Unit and Supply Chain Management</b>  <b>Address: National Agency for the Control of AIDS (NACA)</b>  <b>No 3, Ziguinchor Street, Wuse Zone 4, Abuja</b></p>

## Section 3. General Conditions of Contract

### A. General

1. Definitions
- 1.1 The following words and expressions shall have the meanings hereby assigned to them. Boldface type is used to identify the defined terms:
- (a) The “**Client**” is the party named in the SCC who engages the Consultant to perform the Services.
  - (b) “**Completion**” means the fulfilment of the Services by the Consultant in accordance with the terms and conditions set forth in the Contract.
  - (c) The “**Completion Date**” is the date of actual completion of the fulfilment of the Services.
  - (d) The “**Consultant**” is the organisation whose proposal to perform the Services has been accepted by the Client and is named as such in the SCC and the Contract Agreement.
  - (e) “**Contract Agreement**” means the Agreement entered into between the Client and the Consultant together with the Contract Documents.
  - (f) “**Contract Documents**” means the documents listed in the Agreement, including any amendments thereto, that is these General Conditions of Contract (GCC), the Special Conditions of Contract (SCC), and the Appendices.
  - (g) “**Day**” means calendar day.
  - (h) “**Effective Date**” means the date on which this Contract **comes** into force and effect pursuant to GCC Clause 18.
  - (i) “**GCC**” mean the General Conditions of Contract.
  - (j) “**Government**” means the Federal Government of Nigeria.
  - (k) The “**Intended Completion Date**” is the date on which it is intended that the Consultant shall complete the Services as specified in the SCC.
  - (l) “**Member**” means any of the entities that make up a joint venture when the Consultant consists of a joint venture; and “**Members**” means all these entities.
  - (m) “**Month**” means calendar month
  - (n) “**Party**” means the Client or the Consultant, as the case may be, and “**Parties**” means both of them. Third party means any party other than Client as Consultant.
  - (o) “**Personnel**” means professionals and support staff provided by the Consultant or by any Sub-Consultant and assigned to perform

the Services or any part t; and “Key Personnel” means the Personnel referred to in GCC Sub Clause 24.1.

- (p) **“other expenses”** means all assignment-related costs other than Consultant’s remuneration.
- (q) **“Remuneration”** means all costs related to payments of fees to the Consultant for the time spent by the professional and other staff on assignment related activities.
- (r) **“SCC”** means the Special Conditions of Contract by which the GCC may be amended or supplemented.
- (s) **“Services”** means the work to be performed by the Consultant pursuant to this Contract, as described in Appendices 1 to 7 of the Contract Agreement.
- (t) **“Sub-Consultant”** means any person or entity to whom/which the Consultant subcontracts any part of the Services.
- (u) **“Third Party”** means any person or entity other than the Government, the Client, the Consultant or a Sub-Consultant.
- (v) **“Writing”** means any hand-written, type-written, or printed communication including telex, cable and facsimile transmission.

- 2. Contract Documents 2.1 Subject to the order of precedence set forth in the Agreement, all documents forming the Contract (and all parts) are intended to be correlative, complementary, and mutually explanatory.
- 3. Corrupt, Fraudulent, Collusive or Coercive Practices 3.1 The Government requires that Clients, as well as Consultants shall observe the highest standard of ethics during the implementation of procurement proceedings and the execution of contracts under public funds.  
3.2 In pursuance of this requirement, the Client shall:
  - (a) exclude the Consultant from participation in the procurement proceedings concerned or reject a proposal for award; and
  - (b) declare the Consultant ineligible, either indefinitely or for a stated period of time, from participation in procurement proceedings under public funds;

if it at any time determines that the Consultant has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a contract under public funds.

3.3 Should any corrupt or fraudulent practice of any kind referred to in GCC Sub-Clause 3.4 come to the knowledge of the Client, it shall, in the first place, allow the Consultant to provide an explanation and shall take actions as stated in GCC Sub-Clause 3.2 only when a satisfactory explanation is not received. Such exclusion and the reasons therefore, shall be recorded in the record of the procurement proceedings and promptly communicated to the Consultant concerned. Any communications between the Consultant and the Client related to matters of alleged fraud or corruption shall be in writing.

3.4 The Government defines, for the purposes of this provision, the terms set forth below as follows:

- (a) “*corrupt practice*” means offering, giving, or promising to give, directly or indirectly, to any officer or employee of a Procuring Entity or other governmental/private authority or any individual a gratuity in any form, an employment or any other thing or service of value, as an inducement with respect to an act or decision of, or method followed by, a Procuring Entity in connection with the procurement proceeding;
- (b) “*fraudulent practice*” means a misrepresentation or omission of facts in order to influence a procurement proceedings or the execution of a contract to the detriment of the Client,
- (c) “*collusive practice*” means a scheme or arrangement among two and more Consultants with or without the knowledge of the Client (prior to or after proposal submission) designed to establish proposal prices at artificial, non-competitive levels and to deprive the Client of the benefits of free, open and genuine competition; and
- (d) “*coercive practice*” means harming or threatening to harm, directly or indirectly, persons or their property to influence the procurement proceedings, or affect the execution of a contract.

3.5 The Government requires that the Client’s personnel have an equal obligation not to solicit, ask for and/or use coercive methods to obtain personal benefits in connection with the said proceedings.

4. Interpretation 4.1 In interpreting the General Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings in the General Conditions of Contract shall not be deemed part of or be taken into consideration in the interpretation or construction of the Contract. Words have their normal meaning under the English language unless specifically defined.

4.2 Entire Agreement

- (a) The Contract constitutes the entire agreement between the Client and the Consultant and supersedes all communications,

negotiations and agreements (whether written or oral) of parties with respect thereto made prior to the date of Contract Agreement.

#### 4.3 Amendment

- (a) No amendment or other variation of the Contract shall be valid unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party thereto.

#### 4.4 Non-waiver

- (a) Subject to GCC Sub-Clause 4.4(b) below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.
- (b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

#### 4.5 Severability

- (a) 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.

#### 4.6 Phased completion

- (a) If phased completion is specified in the SCC, references in the GCC to the Services, the Completion Date, and the Intended Completion Date apply to any Phase of the Services (other than references to the Completion Date and Intended Completion Date for the whole of the Services).

### 5. Documents Forming the Contract and Priority of Documents

- 5.1 The following documents forming the contract shall be interpreted in the following order of priority:
  - (a) The Contract Agreement;
  - (b) The Special Conditions of Contract (SCC);
  - (c) The General Conditions of Contract (GCC),
  - (d) The Appendices (1 to 7).

### 6. Eligibility

- 6.1 The Consultant and its Sub-Consultants shall have the nationality of a country, other than those specified in the SCC.

- 6.2 [All materials, equipment, plant, and supplies used by the Consultant and services supplied under the Contract shall have their origin in the countries, except those specified in the SCC.]
7. Governing Language
- 7.1 The Contract as well as all correspondence and documents relating to the Contract exchanged between the Consultant and the Client shall be written in the English language. Supporting documents and printed literature that are part of the Contract may be in another language provided these are accompanied by an accurate translation of the relevant passages in English, in which case, for purposes of interpretation of the Contract, this translation shall govern.
- 7.2 The Consultant shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.
8. Applicable Law
- 8.1 The Contract shall be governed by and interpreted in accordance with the laws of the Federal Republic of Nigeria.
9. Contractual Ethics
- 9.1 No fees, gratuities, rebates, gifts, commissions or other payments, other than those shown in the proposal or the contract, shall have been given or received in connection with the selection process or in the contract execution.
10. Joint Venture, Consortium or Association (JVCA)
- 10.1 If the Consultant is a joint venture, consortium, or association, (this does not include sub consultancy) all of the parties shall sign the Contract Agreement and be jointly and severally liable to the Client for the fulfilment of the provisions of the Contract and shall designate one party to act as a Member-in-Charge with authority to bind the joint venture, consortium, or association. The composition or the constitution of the joint venture, consortium, or association shall not be altered without the prior consent of the Client.
11. Communications and Notices
- 11.1 Communications between Parties (notice, request or consent required or permitted to be given or made by one party to the other) pursuant to the Contract shall be in writing to the address specified in the SCC.
- 11.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.
- 11.3 A Party may change its address for notice hereunder by giving the other Party notice of such change to the address.
12. Assignment
- 12.1 Neither the Client nor the Consultant shall assign, in whole or in part, their obligations under this Contract.
13. Relation between the Parties
- 13.1 Nothing contained herein shall be construed as establishing a relation of master and servant or of principal and agent as between the Client and the Consultant. The Consultant, subject to this Contract, has complete charge of Personnel and Sub-Consultants,



if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

- |                                   |      |   |
|-----------------------------------|------|---|
| 14. Site                          | 14.1 | The Services shall be performed at such locations as are specified in Appendix 1, to the Contract and, where the location of a particular task is not so specified, at such locations as the Client may approve.  |
| 15. Authority of Member in Charge | 15.1 | In case the Consultant consists of a JV of more than one entity, the Members hereby authorize the entity specified in the SCC to act on their behalf in exercising all the Consultant's rights and obligations towards the Client under this Contract, including without limitation the receiving of instructions and payments from the Client. |
| 16. Authorized Representatives    | 16.1 | Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Client or the Consultant may be taken or executed by the officials specified in the SCC.   |
| 17. Taxes and Duties              | 17.1 | The Consultant, Sub-Consultants and Personnel shall pay such taxes, duties, fees and other impositions as may be levied under the Governing Law, the amount of which is deemed to have been included in the Contract Price.   |

## **B. Commencement, Completion and Modification of Contract**

- |   |      |  |
|---|------|--|
| 18. Effectiveness of Contract                               | 18.1 | The Contract shall come into force and effect on the date (the "Effective Date") of the Client's notice to the Consultant instructing the Consultant to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, listed in the SCC have been met.   |
| 19. Termination of Contract for Failure to Become Effective | 19.1 | If the Contract has not become effective within such time period after the date of the Contract signed by the Parties as specified in the SCC, either Party may, by not less than twenty-one (21) days written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto. |
| 20. Commencement of Services                                | 20.1 | The Consultant shall begin carrying out the Services not later than the number of days after the Effective Date as specified in the SCC.   |
| 21. Expiration of Contract                                  | 21.1 | Unless terminated earlier pursuant to GCC Clauses 63 to 66, this Contract shall expire at the end of such time period after the Effective Date as specified in the SCC.  |
| 22. Modifications or Variations                             | 22.1 | Any modification or variation of the terms and conditions of the Contract, including any modification or variation of the Scope of the Services, may only be made by written agreement between the   |

Parties. Pursuant to GCC Sub-Clause 49.2, however, each Party shall give due consideration to any proposals for modification or variation made by the other Party.

### **C. Consultant's Personnel and Sub-Consultants**

- |   |      |  |
|---|------|--|
| 23. General                                 | 23.1 | The Consultant shall employ and provide such qualified and experienced Personnel and Sub Consultants as are required to carry out the Services.  |
| 24. Description of Personnel                | 24.1 | The title, agreed job description, minimum qualification and estimated period of engagement in the carrying out of the Services of each of the Consultant's Key Personnel are described in Appendix 3, to the contract if any of the Key Personnel has already been approved by the Client, his/her name is listed as well.  |
| 25. Approval of Personnel                   | 25.1 | The Client hereby approves the Key Personnel and Sub Consultants listed by title as well as by name in Appendix 3 to the contract. In respect of other Personnel that the Consultant proposes to use in the carrying out of the Services, the Consultant shall submit to the Client for review and approval a copy of their Curricula Vitae (CVs). If the Client does not object in writing (stating the reasons for the objection) within twenty-one (21) days from the date of receipt of such CVs, such Personnel shall be deemed approved by the Client. |
| 26. Removal and/or Replacement of Personnel | 26.1 | Except as the Client may otherwise agree, no changes shall be made in the Personnel. If, for any reason beyond the reasonable control of the Consultant, it becomes necessary to replace any of the Personnel, the Consultant shall forthwith provide as a replacement a person of equivalent or better qualifications acceptable to the Client.   |
|   | 26.2 | If the Client<br>(a) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action; or<br>(b) has reasonable cause to be dissatisfied with the performance of any of the Personnel,<br><br>then the Consultant shall, at the Client's written request specifying the grounds therefore, forthwith provide as a replacement a person with equal or better qualifications and experience and acceptable to the Client.  |
| 27. Project Manager                         | 27.1 | If specified in the SCC, the Consultant shall ensure that at all times during the Consultant's performance of the Services a Project Manager, acceptable to the Client, shall take charge of the operations of the personnel and performance of such Services.   |

## **D. Obligations of the Consultant**

28. Standard of Performance 28.1 The Consultant shall perform the Services and carry out its obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with Sub Consultants or Third Parties.
29. Law Governing Services 29.1 The Consultant shall perform the Services in accordance with the Applicable Law and shall take all practicable steps to ensure that any Sub Consultants, as well as the Personnel of the Consultant and any Sub Consultants, comply with the Applicable Law.
30. Conflict of Interests 30.1 The Consultant shall hold the Client's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.
31. Consultant Not to Benefit from Commissions, Discounts 31.1 The remuneration of the Consultant pursuant to GCC Clauses 49 to 51 shall constitute the Consultant's sole remuneration in connection with this Contract and, subject to GCC Clause 33, the Consultant shall not accept for their own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of their obligations hereunder, and the Consultant shall use their best efforts to ensure that any Sub Consultants, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.
- 31.2 Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the Client on the procurement of goods, works or services, the Consultant shall at all times exercise such responsibility in the best interest of the Client. Any discounts or commissions obtained by the Consultant in the exercise of such procurement responsibility shall be for the account of the Client.
32. Consultant and Affiliates not to Engage in Certain Activities 32.1 The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-Consultant and any entity affiliated with such Sub-Consultant, shall be disqualified from providing goods, works or services (other than consulting services) for any project resulting from or closely related to the Services.
33. Prohibition of Conflicting Activities 33.1 The Consultant shall not engage, and shall cause their Personnel as well as their Sub-Consultants and their Personnel not to engage, either directly or indirectly, in any business or professional

activities in Nigeria that would conflict with the activities assigned to them under this Contract.

34. Confidentiality
- 34.1 Except with the prior written consent of the Client, the Consultant and the Personnel shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Personnel make public the recommendations formulated in the course of, or as a result of, the Services. For purposes of this section, “confidential information” means any information or knowledge acquired by the Consultant and/or their Personnel arising out of, or in connection with, the performance of the Services under this Contract that is not otherwise available to the public.
35. Liability of the Consultant
- 35.0 The Consultant shall be responsible for, and shall indemnify the Client, in respect of loss of or damage to equipment and materials furnished by the Client, or purchased by the Consultant in whole or in part with funds provided by the Client.
- 35.1 The Consultant undertakes full responsibility in respect of life, health, and accidents for the Personnel.
- 35.2 The Consultant shall indemnify the Client from and against any and all claims, liabilities, obligations, losses, damages, penalties, actions, judgment, suits, proceedings, demands, costs, expenses and disbursements of whatsoever nature that may be imposed on, incurred by or asserted against the Client during or in connection in the Services by reason of:
- a. infringement or alleged infringement by the Consultant of any patent or other protected right; or
  - b. plagiarism or alleged plagiarism by the Consultant.
- 35.3 The Consultant shall ensure that all goods and services (including without limitation all computer hardware, software and systems) procured by the Consultant out of funds provided or reimbursed by the Client or used by the Consultant in the carrying out of the Services do not violate or infringe any industrial property or intellectual property right or claim of any third party.
- 35.4 The Consultant shall indemnify, protect and defend at their own expense the Client, and its agents and employees from and against any and all actions, claims, losses or damages arising out of Consultant’s failure to exercise the skill and care required under GCC Clause 29 provided:
- a. that the Consultant is notified of such actions, claims, losses or damages not later than the number of months after conclusion of the Services indicated in the SCC;
  - b. that the ceiling on the Consultant’s liability under GCC Clause 29 shall be limited to the amount indicated in the SCC, except

that such ceiling shall not apply to actions, claims, losses or damages caused by Consultant's gross negligence or reckless conduct; and

- c. that the Consultant's liability under GCC Clause 29 shall be limited to actions, claims, losses or damages directly caused by such failure to exercise the said skill and care, and shall not include liability for any actions, claims, losses or damages arising out of occurrences incidental or indirectly consequential to such failure.

35.5 In addition to any liability the Consultant may have under GCC Clause 29, the Consultant shall, at their own cost and expense, upon request of Client, re-perform the Services in the event of Consultant's failure to exercise the skill and care required under GCC Clause 29.

35.6 Notwithstanding the provisions of paragraph (a) of this GCC Clause 36, the Consultant shall have no liability whatsoever for actions, claims, losses or damages occasioned by: (i) Client's overriding a decision or recommendation of the Consultant or requiring the Consultant to implement a decision or recommendation with which Consultant do not agree; or (ii) the improper execution of the Consultant's instructions by agents, employees or independent contractors of the Client.

- |   |      |                      |  |
|---|------|----------------------|--|
| 36. Insurance to be taken out by the Consultant | 36.1 | The Consultant       | <ul style="list-style-type: none"><li>(a) shall take out and maintain, and shall cause any Sub-Consultants to take out and maintain, at their (or the Sub-Consultants', as the case may be) own cost, but on terms and conditions approved by the Client, insurance against the risks, and for the coverage specified in the SCC, and</li><li>(b) at the Client's request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid.</li></ul>  |
| 37. Accounting, Inspection and Auditing         | 37.1 | The Consultant shall | <ul style="list-style-type: none"><li>(a) 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 costs and the bases for these costs;</li><li>(b) periodically permit the Client or its designated representative or the development partner's representative (when applicable), and up to two (2) years from the expiration or termination of this Contract, to inspect the same and make copies thereof as well as to have them</li></ul> |

audited by auditors appointed by the Client, if so required by the Client as the case may be.

- 37.2 The Consultant shall furnish the Client such information relating to the Services as the Client may from time to time reasonably request.
38. Consultant's Actions Requiring Client's Prior Approval
- 38.1 The Consultant shall obtain the Client's prior approval in writing before taking any of the following actions:
- (a) Any change or addition to the Personnel listed in Appendix 3 to the Contract;
  - (b) Any sub-contract work relating to the Services to an extent and with such specialists and entities as may be approved; and
  - (c) Any other action that may be specified in the SCC.
- 38.2 Notwithstanding any approval under Sub-Clause 39.1(b), the Consultant shall remain fully liable for the performance of Services by the Sub-Consultant and its personnel and retain full responsibility for the Services. In the event that any Sub-Consultant is found by the Client to be incompetent or incapable in discharging assigned duties, the Client may request and the Consultant shall provide a replacement, with qualifications and experience acceptable to the Client, or to resume the performance of the Services itself.
39. Reporting Obligations
- 39.1 The Consultant shall submit to the Client the reports and documents specified in Appendix 2 to the Contract hereto, in the form, in the numbers and within the time periods set forth in the said Appendix 2. Final reports shall be delivered in CD ROM in addition to the hard copies specified in the said Appendix.
40. Proprietary Rights on Documents Prepared by the Consultant
- 40.1 All plans, maps, diagrams, drawings, specifications, designs, statistics, reports, other documents, data and software compiled or prepared by the Consultant for the Client under this Contract shall become and remain the property of the Client, and the Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Client, together with a detailed inventory thereof. The Consultant may retain a copy of such documents and software, and use such software for their own use with the prior written approval of the Client. If license agreements are necessary or appropriate between the Consultant and third parties for purposes of the development of any such computer programs, the Consultant shall obtain the Client's prior written approval to such agreements, and the Client shall be entitled, at its sole discretion, to require recovering the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, shall be specified in the SCC. Consideration: seek legal advice

41. Proprietary Rights on Equipment and Materials Furnished by the Client. 41.1 Equipment, tools and materials made available to the Consultant by the Client, or purchased by the Consultant wholly or partly with funds provided by the Client, shall be the property of the Client and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the Client an inventory of such equipment and materials and shall dispose of such equipment and materials in accordance with the Client's instructions. While in possession of such equipment and materials, the Consultant, unless otherwise instructed by the Client in writing, shall insure them at the expense of the Client in an amount equal to their full replacement value.

## **E. Obligations of the Client**

42. Assistance and Exemptions 42.1 The Client shall use its best efforts to ensure that the Government shall:
- (a) Provide the Consultant, Sub-Consultants and Personnel with documents as shall be necessary to enable the Consultant, Sub-Consultants or Personnel to perform the Services;
  - (b) issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services;
  - (c) assist the Consultant in obtaining necessary licenses and permits needed to carry out the services; and
  - (d) provide to the Consultant, Sub-Consultants and Personnel any such other assistance as may be specified in the SCC.
43. Access to Land 43.1 The Client warrants that the Consultant shall have, free of charge, unimpeded access to all land in respect of which access is required for the performance of the Services. The Consultant shall, however, be responsible for any damage to such land or any property thereon resulting from such access, and will indemnify the Consultant and each of the Personnel in respect of liability for any such damage, unless such damage is caused by the default or negligence of the Consultant or any Sub Consultant or the Personnel of either of them.
44. Change in the Applicable Law Related to Taxes and Duties 44.1 If, after the date of signing of the Contract, and during the performance of the Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, then the amounts otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement

between the Parties hereto, and corresponding adjustments shall be made to the ceiling amount specified in GCC Sub Clause 49.2.

45. Services, Facilities and Property of the Client
- 45.1 The Client shall make available to the Consultant and the Personnel, for the purposes of the Services and free of any charge, the services, facilities and property described in Appendix 5A to the contract at the times and in the manner specified in said Appendix 5A.
- 45.2 In case that such services, facilities and property shall not be made available to the Consultant as and when specified in Appendix 5A to the contract, the Parties shall agree on (i) any time extension that it may be appropriate to grant to the Consultant for the performance of the Services, (ii) the manner in which the Consultant shall procure any such services, facilities and property from other sources, and (iii) the additional payments, if any, to be made to the Consultant as a result thereof pursuant to GCC Sub Clause 49.3.
46. Payment
- 46.1 In consideration of the Services performed by the Consultant under this Contract, the Client shall make to the Consultant such payments and in such manner as is provided by GCC Clauses 49 to 55.
47. Counterpart Personnel
- 47.1 The Client shall make available to the Consultant free of charge such professional and support counterpart personnel, to be nominated by the Client with the Consultant's advice, if specified in Appendix 5B to the contract.
- 47.2 If counterpart personnel are not provided by the Client to the Consultant as and when specified in Appendix 5B, the Client and the Consultant shall agree on
- (a) how the affected part of the Services shall be carried out, and
- (b) the additional payments, if any, to be made by the Client to the Consultant as a result thereof pursuant to GCC Sub-Clause 49.3.
- 47.3 Professional and support counterpart personnel, excluding Client's liaison personnel, shall work under the exclusive direction of the Consultant. If any member of the counterpart personnel fails to perform adequately any work assigned to such member by the Consultant that is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the Client shall not unreasonably refuse to act upon such request.



## **F. Payments to the Consultants**

48. Cost of Services: of 48.1 The cost of the Services is set forth in Appendix 6 to the contract.
- 48.2 Except as may be otherwise agreed under GCC Clause 22, payments under this Contract shall not exceed the amount specified in the SCC.
49. Payments: General 49.1 All payments under this Contract shall be made to the account of the Consultant specified in the SCC.
- 49.2 With the exception of the final payment under GCC Clause 55, payments do not constitute acceptance of the Services nor relieve the Consultant of any obligations hereunder.
50. Lump-Sum Remuneration 50.1 Subject to the ceiling specified in GCC Sub-Clause 49.2, the Client shall pay to the Consultant total remuneration which shall be a fixed lump-sum including all staff costs, sub-consultants costs, reimbursables, and all other costs incurred by the Consultant in carrying out the Services described in Appendix 1. The contract price may only be increased above the amounts stated in GCC Sub-Clause 49.2, if the Parties have agreed to additional payments in accordance with GCC Sub-Clause 22.1.
51. Modes of Payment 51.1 Payments in respect of the Services shall be made as specified in GCC Clauses from 53 to 55.
52. Advance Payment 52.1 If so specified in the SCC, an Advance Payment shall be made to the Consultant, of the amount and within the number of days after the Effective Date as specified in the SCC. If the advance payment exceeds ten percent (10%) of the contract price, then the advance payment shall be made against the provision of a Bank Guarantee by the Consultant which shall:
- (a) remain effective until the Advance Payment has been fully offset; and
- (b) be in the format as shown in Appendix 7.
- 52.2 The Advance Payment will be offset by the Client in a way specified in the SCC.
53. Interim Payments 53.1 Payment will be made according to the payment schedule stated in the SCC subject to the provision of advance payment stated in GCC Clause 53. Any other payment shall be made after the conditions listed in the SCC for such payment have been met, and the Consultant has submitted an invoice to the Client specifying the amount due.
- 53.2 The Client shall pay the Consultant within forty five (45) days after the receipt by the Client of the invoices with supporting documents.

Only such portion of a statement that is not satisfactorily supported may be withheld from payment.

53.3 Should any discrepancy be found to exist between actual payment and costs authorized to be incurred by the Consultant, the Client may add or subtract the difference from any subsequent payments. Interest at the annual rate specified in the SCC shall become payable as from the above due date on any amount due by, but not paid on, such due date.

54. Final Payment 54.1 The final payment under this Clause shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Consultant and approved as satisfactory by the Client. The Services shall be deemed completed and finally accepted by the Client and the final report and final statement shall be deemed approved by the Client as satisfactory sixty (60) days after receipt of the final report and final statement by the Client unless the Client, within such sixty (60) day period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report or final statement. The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated until such time as the final report and the final statement have been approved by the Client.

55. Suspension of Payments 55.1 The Client may, by written notice of suspension to the Consultant, suspend all or part of the payments to the Consultant hereunder if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension:

- (a) shall specify the nature of the failure, and
- (b) shall request the Consultant to remedy such failure within a period not exceeding thirty (30) days after receipt by the Consultant of such notice of suspension.

## **G. Time Control**

56. The Services to be Completed by the Intended Completion Date 56.1 The Consultant shall carry out the Services in accordance with the Programme submitted by the Consultant, as updated with the approval of the Client and complete them by the Intended Completion Date.

57. Early Warning 57.1 If at any time during performance of the Contract, the Consultant or its Sub-Consultants should encounter events, circumstances conditions that may adversely affect the quality of the work, increase the cost of Services or delay the execution of the Services, the Consultant shall promptly notify the Client in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Consultant's notice, the Client shall evaluate the

situation, and the Consultant shall cooperate with the Client in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced.

58. Extension of the Intended Completion Date 58.1 In the event the Consultant is unable to complete the assignment by the Intended Completion Date it may request the Client to extend the Intended Completion Date giving reasons thereof. The Client shall extend the Intended Completion Date if the reasons given by the Consultant are found acceptable. The Client shall, however, decide by how much to extend the Intended Completion Date.
59. Progress Meetings 59.1 The Client and the Consultant shall arrange progress meetings at regular intervals to review the progress of works. The meeting may review the plans for dealing with matters raised in accordance with the early warning procedure.
- 59.2 The Client shall record the business of progress meetings and provide copies of the record to those attending the meeting and to the Consultant for action.

## **H. Good Faith and Fairness in Operation**

60. Good Faith 60.1 The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.
61. Fairness in Operation 61.1 The Parties recognize that it is impractical in the Contract to provide for every contingency which may arise during the life of the Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but no failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in accordance with GCC Clause 74.

## **I. Termination and Settlement of Disputes**

62. Termination for Default 62.1 The Client or the Consultant, without prejudice to any other remedy for breach of Contract, by notice of default sent to the other party, may terminate the Contract in whole or in part if the other party causes a fundamental breach of contract. In such an occurrence one party shall give not less than thirty (30) days' written notice of termination to the other party.
- 62.2 Fundamental breaches of the contract shall include but shall not be limited to, the following:
- (a) If the Consultant fails to remedy a failure in the performance of their obligations hereunder, as specified in a notice of

suspension pursuant to GCC Clause 56, within thirty (30) days of receipt of such notice of suspension or within such further period as the Client may have subsequently approved in writing;

- (b) If the Consultant submits to the Client a statement which has a material effect on the rights, obligations or interests of the Client and which the Consultant knows to be false;
- (c) If the Consultant, in the judgment of the Client, has engaged in corrupt or fraudulent practices in competing for or in executing this Contract;
- (d) If the Consultant or the Client fails to comply with any final decision reached as a result of arbitration proceedings pursuant to GCC Sub-Clause 74.2;
- (e) If the Client fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to GCC Sub-Clause 74.2 within forty-five (45) days after receiving written notice from the Consultant that such payment is overdue; or
- (f) If the Client is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Consultant may have subsequently approved in writing) following the receipt by the Client of the Consultant's notice specifying such breach.

63. Termination for Insolvency      63.1      The Client and the Consultant may at any time terminate the Contract by giving notice to the other party if:

- (a) the Client becomes bankrupt or otherwise insolvent;
- (b) the Consultant becomes (or, if the Consultant consist of more than one entity, if any of its Members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary; or
- (c) in such event, termination will be without compensation to any party, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the other party.

64. Termination for Convenience      64.1      The Client, by notice sent to the Consultant, may in its sole discretion and for any reason whatsoever, terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Client's convenience, the extent to which performance of the Consultant under the Contract is terminated, and the date upon which such termination becomes effective.

65. Termination because of Force Majeure 65.1 The Client and the Consultant may at any time terminate the Contract by giving notice to the other party if, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days.
66. Force Majeure 66.1 For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part 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, epidemics, 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.
- 66.2 Force Majeure shall not include any:
- (a) event which is caused by the negligence or intentional action of a Party or such Party’s Sub-Consultants or agents or employees, or
  - (b) event which a diligent Party could reasonably have been expected both to take into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.
- 66.3 Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.
67. No Breach of Contract 67.1 The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.
68. Measures to be Taken on Force Majeure 68.1 A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.
- 68.2 A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly

give written notice of the restoration of normal conditions as soon as possible.

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

68.4 During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the Client, shall either:

- (a) demobilize, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Client, in reactivating the Services; or
- (b) continue with the Services to the extent possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.

69. Cessation of Rights and Obligations 69.1 Upon termination of the Contract pursuant to GCC Clauses 19, 63, 64, 65 or 66, or upon expiration of this Contract pursuant to GCC Clause 21, 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 expiration;
- (b) the obligation of confidentiality set forth in GCC Clause 35;
- (c) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records set forth in GCC Clause 38; and
- (d) any right which a Party may have under the Applicable Law.

70. Cessation of Services 70.1 Upon termination of the Contract by notice of either Party to the other pursuant to GCC Clauses 63, 64, 65 or 66, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Client, the Consultant shall proceed as provided, respectively, by GCC Clauses 41 or 42.

71. Payment upon Termination 71.1 Upon termination of the Contract pursuant to GCC Clauses 63, 64, 65 or 66, the Client shall make the following payments to the Consultant:

- (a) remuneration pursuant to GCC Sub-Clause 51.2 for Services satisfactorily performed prior to the effective date of termination, and other expenditures pursuant to GCC Sub-Clause 51.3 for expenditures actually incurred prior to the effective date of termination; and other expenditures
  - (b) except in the case of termination on the Consultant's default, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract.
72. Disputes about Events of Termination
- 72.1 If either Party disputes whether an event specified in GCC clause 63, 64 or 66 has occurred, such Party may, within forty-five (45) days after receipt of notice of termination from the other Party, refer the matter to arbitration pursuant to GCC Clause 74, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.
- 72.2 In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to GCC Clause 74.
73. Settlement of Disputes
- 73.1 Amicable Settlement
- (a) The Client and the Consultant shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.
- 73.2 Arbitration
- (a) Any dispute between the Parties as to matters arising pursuant to this Contract which cannot be settled amicably within twenty eight (28) days after receipt by one Party of the other Party's request for such amicable settlement may be submitted by either Party for arbitration in accordance with the **Conciliation and Arbitration Act, LFN 2004 as amended** as at present in force and in the place shown in the SCC.

## Section 4. Special Conditions of Contract

GCC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
<p><b>1.1 (a)</b></p> <p><b>1.1 (d)</b></p> <p><b>1.1 (k)</b></p>	<p>The Client is <b>The National Agency for the Control of AIDS (NACA), No 3, Ziguinchor Street, Wuse Zone 4, Abuja</b></p> <p>The Consultant is [<i>Name, address and name of authorized representatives</i>]</p> <p>The Intended Completion Date is: <b>Six (6) months</b> after the contract agreement.</p>
<b>4.6</b>	The assignment is to be completed in <b>Six-months</b>
<b>[6.1]</b>	Non eligible countries are: <b>NONE</b>
<b>[6.2]</b>	[Materials, equipment and supplies used by the Consultant are not permitted if they have originated in <b>NONE</b>
<b>11.1</b>	<p>The addresses for <b><u>Communications and Notices</u></b> are:</p> <p>Attention: Head Procurement and Supply Chain Management.</p> <p>Address: National Agency for the Control of AIDS (NACA) No 3, Ziguinchor Street, Wuse Zone 4, Abuja</p> <p>Telephone: +234-9-4613726</p> <p>Facsimile number: +234-9-4613700</p> <p>Electronic mail address: <a href="mailto:info@naca.gov.ng">info@naca.gov.ng</a></p> <p><b>Consultant</b> :</p> <p>Attention :</p> <p>Facsimile :</p> <p>E-mail :</p>
<b>15.1</b>	<p>The Member in Charge is [<i>insert name of member</i>].</p> <p><i>Note: If the Consultant consists of a joint venture of more than one entity, the name of the entity whose address is specified in Clause SCC 11 should be inserted here. If the Consultant consists only of one entity, this Clause SCC 15.1 should be deleted from the SCC.</i></p>
<b>16.1</b>	The Authorized Representatives are:



	<p><b>For the Client : RSSH Project Coordinator</b></p> <p><b>The National Agency for the Control of AIDS (NACA), No 3, Ziguinchor Street, Wuse Zone 4, Abuja</b></p> <p><b>For the Consultant :</b></p>
<b>18.1</b>	<p>The effectiveness conditions are the following: <i>[NA]</i></p> <p><i>Note: List here any conditions of effectiveness of the Contract, e.g., receipt by Consultant of advance payment and by Client of advance payment guarantee (see Clause GCC 53. If there are no effectiveness conditions, then state so above.</i></p>
<b>19.1</b>	<p>The time period shall be <b>6 months</b></p>
<b>20.1</b>	<p>The person designated as Project Manager in Appendix C to the contract shall serve in that capacity</p> <p><i>Note: If there is no such manager, then state so above.</i></p>
<b>21.1 (a)</b>	<p>The number of months shall be <b>6 months</b></p>
<b>21.1 (b)</b>	<p>The ceiling on Consultant’s liability shall be limited to <i>[insert amount]</i><i>NA</i></p>
<b>21.1(c)</b>	<p>The risks and the coverage shall be as follows:</p> <p>(a) Professional Liability insurance, with a minimum coverage of <b>₦10,000,000.00;</b></p> <p>(b) Employer’s Liability and Workers’ Compensation insurance in respect of the Personnel of the Consultant and of any Sub-Consultant, in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel, or other insurance as may be appropriate;</p>
<b>21.1(d)</b>	<p>The other actions are: <i>[NA]</i>.</p> <p><i>Note: If there are no other actions, then state so above. If the Services consist of or include the supervision of civil works, the following action should be inserted:</i></p> <p>“taking any action under a civil works contract designating the Consultant as “Engineer”, for which action, pursuant to such civil works contract, the written approval of the Client as “Employer” is required”.</p>
<b>22.1</b>	<p><i>Note:</i></p>

	“The Consultant shall not use these documents and software for purposes unrelated to this Contract without the prior written approval of the Client”.			
<b>23.1</b>	The Client shall provide the consultants with the following commodities: NA			
<b>24.1</b>	The Lump-sum amount is :			
<b>25.1</b>	The account is: <i>[insert account]</i> .			
<b>26.1</b>	Advance payment does not apply for this services.  (I)			
<b>27.1</b>	Payment shall be made according to the following schedule:			
	SN	Deliverable	Tentative date (T=Contract Start Date)	Fee (%)
	1	i. Work plan for the support to the states with timeline, milestones, indicators, and risk assessment and mitigation approaches 2. Guidelines and tools for states	Month 1	30%
	2	i. Reports for routine joint supervisory visits ii. Routine programmatic reports submitted by the state iii. Routine programmatic and financial reports of the TSO operations in the state Success story compilation	Month 3	40%

	3	<ul style="list-style-type: none"> <li>i. Performance evaluation report for each state</li> <li>ii. Capacity assessment report for each state</li> <li>iii. Financial reports (audit report, fixed asset report) for each state</li> <li>iv. Programmatic reports for each state</li> </ul> <p>Success story compilation for each state with report</p>	Month 6	30%
<b>28.1</b>	<p>The interest rate is <b>1% above lending rate of commercial banks in Nigeria.</b></p> <p>The payment-delay period after which the Procuring Entity shall pay interest to the supplier shall be 100 days.</p>			
<b>29.1</b>	<p>The place of Arbitration is: <b>Abuja, Nigeria</b></p>			

## **Section 5. Proposal & Contract Forms**

### **5A. Technical Proposal - Standard Forms**

- 5A1 Technical Proposal Submission Form
- 5A2 Consultant's Organization and Experience
  - a. Consultant's Organization
  - b. Consultant's Experience
- 5A3 Comments or Suggestions on the Terms of Reference and on Counterpart Staff and Facilities to be provided by the Client
  - a. On the Terms of Reference
  - b. On the Counterpart Staff and Facilities
- 5A4 Descriptions of the Approach, Methodology, and Work Plan for Performing the Assignment
- 5A5 Work Schedule
- 5A6 Team Composition and Task Assignments
- 5A7 Staffing Schedule
- 5A8 Curriculum Vitae (CV) for Proposed Professional Staff

**Form 5A1 Technical Proposal Submission Form**

[Location, Date]

To:

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 Proposal. We are hereby submitting our Proposal, which includes the Technical Proposal, and the Financial Proposal sealed under two separate envelopes.

We are submitting our Proposal in association with: [Insert a list with full name and address of each associated Consultant, also specify, whether they are in joint venture or sub consultancy].

If negotiations are held during the period of validity of the Proposal, i.e., before the date indicated in Clause Reference 25 of the Special Instructions to Consultants, we undertake to negotiate on the basis of the proposed staff. Our Proposal is binding upon us and subject to the modifications resulting from Contract negotiations.

We undertake, if our Proposal is accepted, to initiate the consulting services related to the assignment not later than the date indicated in Clause Reference 48 of the Special Instructions to Consultants.

We also confirm that the Federal Government of Nigeria has not declared us, or any sub consultants for any part of the Contract, ineligible on charges of engaging in corrupt, fraudulent, collusive or coercive practices. We furthermore, pledge not to indulge in such practices in competing for or in executing the Contract, and we are aware of the relevant provisions of the Proposal Document (ITC Clause 3).

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

We remain,

Yours sincerely,

Authorised Signature	
Name and title of Signatory	
Name of Firm	
Address	

**Form 5A2 Consultant's Organization and Experience**

**Consultant's Organisation**

*[Provide here a brief description (maximum two pages) of the background and organization of the Consultant]*

**Consultant's Experience**

**Major Work Undertaken during the last Ten Years that best Illustrates Qualifications**

*[using the format below, provide information on each assignment for which your firm was legally contracted for carrying out consulting services similar to the ones requested under this assignment. ]*

Assignment name:		Country:
Assignment Location within country:		Duration of assignment (months):
Name of Client:		Professional Staff provided by your Organisation: No of Staff:
Start Date (Month/Year)	Completion Date (Month/Year)	No of Person-Months
Name of associated Consultants, if any:		Nº of Person-Months of Professional Staff provided by associated Consultants:
Name of Senior Staff (Project Director/Coordinator, Team Leader) Involved and Functions Performed:		
Detailed Narrative Description of Project:		
Detailed Description of Actual Services Provided by your Staff:		

Firm's Name:	
Authorised Signature:	

**Form 5A3    Comments and Suggestions on the Terms of Reference and on Counterpart Staff and Facilities to be provided by the Client**

**On the Terms of Reference**

*[Present and justify here any modifications or improvement to the Terms of Reference you are proposing to improve performance in carrying out the assignment (such as deleting some activity you consider unnecessary, or adding another, or proposing a different phasing of the activities or proposing an alternative method of undertaking the work). Such suggestions should be concise and to the point, and incorporated in your Proposal.]*

**On Counterpart Staff and Facilities**

*[Comment here on counterpart staff and facilities to be provided by the Client according to Clause Reference 21.1 of the Special Instructions to Consultants including: administrative support, office space, local transportation, equipment, data, etc.]*

## Form 5A4 Description of Approach, Methodology and Work Plan for Performing the Assignment

*[Technical approach, methodology and work plan are key components of the technical proposal. It is suggested that you present your technical proposal divided into the following three chapters:*

- *Technical Approach and Methodology,*
- *Work Plan, and*
- *Organization and Staffing.*

- a) **Technical Approach and Methodology.** Here you should explain your understanding of the objectives of the assignment, approach to the services, methodology for carrying out the activities and obtaining the expected output, and the degree of detail of such output. You should highlight the problems being addressed and their importance, and explain the technical approach you would adopt to address them. You should also explain the methodologies you propose to adopt and highlight the compatibility of those methodologies with the proposed approach, (e.g., the methods of interpreting the available data; carrying out investigations, analyses, and studies; comparing alternative solutions). This chapter should incorporate any modifications to the TOR proposed by you. In case the TOR requires the Consultant to provide a quality plan and carry out the assignment according to its provisions, an outline of the quality plan (e.g., its list of contents) should be included in this chapter of the technical proposal.
- b) **Work Plan.** Here you should propose the main activities of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the Client), and 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. A list of the final documents, including reports, drawings, and tables to be delivered as final output, should be included here. The work plan should be consistent with the Work schedule of Form 5A5.
- c) **Organization and Staffing.** In this chapter you should propose the structure and composition of your team. You should list the main disciplines of the assignment, the key expert responsible, and proposed technical and support staff. The roles and responsibilities of professional staff should be set out in job descriptions. In case of association, this chapter will indicate how the duties and responsibilities will be shared. The organization and staffing will be reflected in the Team Composition and Task Assignments of Form 5A6, and the Staffing schedule of Form 5A7. An organization chart illustrating the structure of the team and its interfaces with the Client and other institutions involved in the project also should be provided.



**Form 5A5 Work Schedule**

N°	Activity <sup>1</sup>	Weeks <sup>2</sup>												
		1	2	4	4	5	6	7	8	9	10	11	12	n
1														
2														
4														
4														
5														
n														

- 1 Indicate all main activities of the assignment, including delivery of reports (e.g.: inception, interim, and final reports), and other benchmarks such as Client approvals. For phased assignments indicate activities, delivery of reports, and benchmarks separately for each phase.
- 2 Duration of activities shall be indicated in the form of a bar chart. Weeks are counted from the start of the assignment.

**Form 5A6 Team Composition and Task Assignments**

<b>i) Professional Staff</b>				
<b>Name of Staff</b>	<b>Firm/Organisation</b>	<b>Area of Expertise</b>	<b>Position Assigned</b>	<b>Task Assigned</b>

**Form 5A7 Staffing Schedule 1**

N°	Name of Staff	Staff-Week input by Week <sup>1</sup>													Total staff-Week input		
		1	2	4	4	5	6	7	8	9	10	11	12	n	Home	Field <sup>2</sup>	Total
1																	
2																	
3																	
n																	
										<b>Total</b>							

- 1 For Professional Staff the input should be indicated individually; for Support Staff it should be indicated by category (e.g.: draftsmen, clerical staff, etc.).
- 2 Weeks are counted from the start of the assignment. For each staff indicate separately staff-week input for home and field work.

**Form 5A8 Curriculum Vitae (CV) for Each Proposed Professional Staff**

1	PROPOSED POSITION FOR THIS PROJECT	<i>[From the Terms of Reference, state the position which the Consultant will be engaged. Only one candidate shall be nominated for each position].</i>			
2	NAME OF PERSON	<i>[state full name]</i>			
3	DATE OF BIRTH				
4	NATIONALITY				
5	MEMBERSHIP IN PROFESSIONAL SOCIETIES	<i>[state rank and name of society and year of attaining that rank].</i>			
6	EDUCATION:	<i>[list all the colleges/universities which the consultant attended, stating degrees obtained, and dates, and list any other specialised education of the consultant].</i>			
7	OTHER TRAINING	<i>[indicate significant training since degrees under EDUCATION were obtained, which is pertinent to the proposed tasks of the consultant].</i>			
8	LANGUAGES & DEGREE OF PROFICIENCY	Language	Speaking	Reading	Writing
		<i>e.g. English</i>	<i>Fluent</i>	<i>Excellent</i>	<i>Excellent</i>
9	COUNTRIES OF WORK EXPERIENCE				
10	EMPLOYMENT RECORD	<p><i>[The Consultant should clearly distinguish whether as an “employee” of the firm or as a “Consultant” or “Advisor” of the firm].</i></p> <p><i>[The Consultant should clearly indicate the Position held and give a brief description of the duties in which the Consultant was involved].</i></p>			
	EMPLOYER 1	FROM:	TO:		
		<i>[e.g. January 1999]</i>	<i>[e.g. December 2001]</i>		
	EMPLOYER 2	FROM:	TO:		
	EMPLOYER 3	FROM:	TO:		

EMPLOYER 4 (etc)	FROM:	TO:
11 WORK UNDERTAKEN THAT BEST ILLUSTRATES YOUR CAPABILITY TO HANDLE THIS ASSIGNMENT	<i>[give an outline of experience and training most pertinent to tasks on this assignment, with degree of responsibility held. Use about half of a page A4].</i>	

**CERTIFICATION** *[Do not amend this Certification].*

I, the undersigned, certify that (i) I was not a former employee of the Client immediately before the submission of this proposal, and (iii) to the best of my knowledge and belief, this biodata correctly describes myself, my qualifications, and my experience. I understand that any wilful mis-statement described herein may lead to my disqualification or dismissal, if engaged.

I have been employed by *[name of the Consultant]* continuously for the last twelve (12) months as regular full time staff. Indicate “Yes” or “No” in the boxes below:

**YES** 
                 
 **NO**

Signature

Date of Signing

Day / Month / Year

## **5B. Financial Proposal - Standard Forms**

*[Comments in brackets [ ] provide guidance to the short listed Consultants for the preparation of their Financial Proposals; they should not appear on the Financial Proposals to be submitted.]*

*[Forms 5B1 to 5B5 are to be used for the preparation of the Financial Proposal according to the instructions provided under Clause 19 of the Instructions to Consultants. Such Forms are to be used whichever is the selection method indicated in Clause 1.1 of the Special Instructions to Consultants]*

- 5B1 Financial Proposal Submission Form
- 5B2 Summary of Costs
- 5B3 Breakdown of Staff Remuneration
- 5B4 Breakdown of other expenses
- 5B5 Breakdown of Taxes

**Form 5B1 Financial 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 Proposal dated [Insert Date] and our Technical Proposal. Our attached Financial Proposal is for the sum of [Insert amount in words and figures]. This amount is exclusive of Nigerian taxes, which we have estimated at [insert amount in words and figures].

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 Reference 25 of the Special Instructions to Consultants.

Commissions and gratuities, if any, paid or to be paid by us to agents relating to this Proposal and Contract execution, if we are awarded the Contract, are listed as follows:

Name and Address of Agents	Amount	Purpose of commission or gratuity
----------------------------	--------	-----------------------------------

We also declare that the Government of Nigeria has not declared us, or any sub-Consultants for any part of the Contract, ineligible on charges of engaging in corrupt, fraudulent, collusive, or coercive practices. We furthermore, pledge not to indulge in such practices in competing for or in executing the Contract, and are aware of the relevant provisions of the Proposal Document (ITC Clause 3).

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

Signed

In the capacity of:

Duly authorised to sign the proposal on behalf of the Applicant.

Date:

**Form 5B2****Summary of Costs**

Cost Component	Costs
Staff Remuneration (1)	
Reimbursable Expenses (1)	
Sub-Total	
Local Taxes (1)	

1# Staff Remuneration, Reimbursable Expenses and Taxes must coincide with relevant Total Costs indicated in Forms 5B3, 5B4 and 5B5.



**Form 5B3 Breakdown of Staff Remuneration**

Name <sup>1</sup>	Position <sup>2</sup>	Staff-month Rate <sup>3</sup>	Input <sup>3</sup> (Staff-months)	[Indicate Sub Cost for each staff] <sup>4</sup>
Staff				
		Head Office		
		Field		
Total Costs				

- 1 Professional Staff should be indicated individually; Support Staff should be indicated per category (e.g.: draftsmen, clerical staff).
- 2 Positions must coincide with the ones indicated in Form 5A7.
- 3 Indicate the total expected input of staff and staff-month rate required for carrying out the activity indicated in the Form.
- 4 For each staff indicate the remuneration. Remuneration = Staff-month Rate x Input.

**Form 5B4 Breakdown of Other Expenses**

N°	Description <sup>1</sup>	Unit	Unit Cost <sup>2</sup>	Quantity	[Indicate sub cost for each item] <sup>3</sup>			
	Per diem allowances	Day						
	Travel expenses	Trip						
	Communication costs between [Insert place] and [Insert place]							
	Drafting, reproduction of reports							
	Equipment, instruments, etc.							
	materials, supplies, etc.							
	Use of computers,							
	Laboratory tests.							
	Subcontracts							
	Other transportation							
	Office rent, clerical assistance							
	Others (specify)							
Total Costs								

- 1 Delete items that are not applicable or add other items according to Clause 19.1 of the Special Instructions to Consultants.
- 2 Indicate unit cost.
- 3 Indicate the cost of each reimbursable item. Cost = Unit Cost x Quantity.

**Form 5B5 Breakdown of Taxes**

Sl. No.	Description1	Unit	Unit Cost 2	Quantity	[Indicate cost for each item] 3			

- 1. Describe any relevant tax or taxes
- 2. Indicate Unit Cost
- 3. Indicate Cost of each item: Unit Cost x Quantity

## 5C. Contract Agreement

This CONTRACT (hereinafter called the “Contract”) is made the *[insert day]* day of the month of *[insert month]*, *[insert year]*, between, on the one hand, *[insert name of client]* (hereinafter called the “Client”) and, on the other hand, *[insert name of Consultant]* (hereinafter called the “Consultant”).

*[Note: If the Consultant consists of more than one entity, the above should be partially amended to read as follows: “... (hereinafter called the “Client”) and, on the other hand, a joint venture consisting of the following entities, each of which will be jointly and severally liable to the Client for all the Consultant’s obligations under this Contract, namely, [insert name of Consultant] and [insert name(s) of other Consultant(s)] (hereinafter called the “Consultant”).]*

### WHEREAS

- (a) the Client has requested the Consultant to provide certain consulting services as defined in this Contract (hereinafter called the “Services”);
- (b) the Consultant, having represented to the Client that they have the required professional skills, and personnel and technical resources, have agreed to provide the Services on the terms and conditions set forth in this Contract; and
- (c) the Client has received a credit/ loan/ grant from *[insert name of development partner]* towards the cost of the services under this Contract, it being understood (i) that payments by the development partner will be made only at the request of the Client and upon approval by the development partner, (ii) that such payments will be subject, in all respects, to the terms and conditions of the agreement between the development partner and the Client. *[delete this Clause if not applicable].*

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents forming the integral part of this Contract shall be interpreted in the order of priority shown:
  - (a) The Form of Contract;
  - (b) The Special Conditions of Contract (SCC);
  - (c) The General Conditions of Contract (GCC),
  - (d) The Appendices (1 to 7).

*[Note: If any of these Appendices are not used, the words “Not Used” should be inserted next to the title of the Appendix]*

- Appendix 1: Description of the Services
- Appendix 2: Reporting Requirements
- Appendix 3: Personnel and Sub Consultants
- Appendix 5: Services and facilities provided by the client
- Appendix 6: Breakdown of contract price

Appendix 7: Form of Bank Guarantee for Advance Payment

2. The mutual rights and obligations of the Client and the Consultant shall be as set forth in the Contract, in particular:
- (a) the Consultant shall carry out the Services in accordance with the provisions of the Contract; and
  - (b) the Client shall make payments to the Consultant in accordance with the provisions of the Contract.

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

For and on behalf of *[name of Client]*

---

*[Authorized Representative]*

For and on behalf of *[name of Consultant]*

---

*[Authorized Representative]*

**[Note:** *If the Consultant consists of more than one entity, all these entities should appear as signatories, e.g., in the following manner:]*

For and on behalf of each of the Members of the Consultant

*[name of member]*

---

*[Authorized Representative]*

*[name of member]*

---

*[Authorized Representative]*

## **5D. Appendices**

### **Appendix 1 Bank Guarantee for Advance Payments**

### **Appendix 2 Description of the Services**

This Appendix will include the final Terms of Reference worked out by the Client and the Consultant during technical negotiations, dates for completion of various tasks, place of performance for different tasks, specific tasks to be approved by Client, etc.

### **Appendix 3 Lump-Sum Cost and Reimbursable**

Bidders must abide to the above implementation schedule

- Payments are directly linked to deliverables.
- All reports must be submitted in an editable draft version in Word, Excel or other as well as a PDF version (for comments) and then final version, following incorporation of all comments and suggestions by the relevant stakeholders before payment is effected.
- Price proposed must be in an all-inclusive fee, supported by a breakdown of costs (*unit costs must be provided*).
- Contract price is fixed for the duration of the project.
- Contract signature does not warrant any advance payment.

### **Appendix 4 Reporting Requirements**

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

1. Other items not covered in the foregoing.

## **APPENDIX 1 BANK GUARANTEE FOR ADVANCE PAYMENTS**

*[this is the format for the Advance Payment Security to be issued by a commercial bank of Nigeria in accordance with SCC Clause 53.1]*

Contract No:

Date:

To:

[Name and address of Client]

### **ADVANCE PAYMENT GUARANTEE No:**

We have been informed that *[name of Consultant]* (hereinafter called “the Consultant”) has undertaken, pursuant to Contract No *[reference number of Contract]* dated *[date of Contract]* (hereinafter called “the Contract”) for the supply of *[description of consulting services]* under the Contract.

Furthermore, we understand that, according to your Special Conditions of Contract Clause 53.1, Advance Payment(s) on Contracts must be supported by a bank guarantee.

At the request of the Consultant, we *[name of bank]* hereby irrevocably undertake to pay you, without cavil or argument, any sum or sums not exceeding in total an amount of N.... *[insert amount in figures and in words]* upon receipt by us of your first written demand accompanied by a written statement that the Consultant is in breach of its obligation(s) under the Contract conditions, without you needing to prove or show grounds or reasons for your demand of the sum specified therein.

We further agree that no change, addition or other modification of the terms of the Contract to be performed, or of any of the Contract documents which may be made between the Client and the Consultant, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

This guarantee is valid until *[date of validity of guarantee]*, consequently, we must receive at the above-mentioned office any demand for payment under this guarantee on or before that date.

Signature

Signature

