

REPUBLIC OF KENYA



COUNTY GOVERNMENT OF KILIFI

**TENDER DOCUMENT FOR FRAMEWORK CONTRACT FOR
PROVISION OF LEGAL SERVICES
(AS AND WHEN REQUIRED)**

TENDER NO. KCG/EXEC/877077-2/2020/2021-2022/2023

MAY 2021

TABLE OF CONTENTS

Contents

SECTION I – INVITATION TO TENDER.....4

SECTION II INSTRUCTIONS TO TENDERERS5

2.1 Eligible tenderers5

2.2 Cost of tendering5

2.3 Contents of tender documents5

2.4 Clarification of Documents6

2.5 Amendment of documents6

2.6 Tender Prices7

2.7 Tender Currencies7

2.8 Tenderers Eligibility and Qualifications7

2.9 Tender Security7

2.10 Validity of Tenders8

2.11 Format and Signing of Tender8

2.12 Sealing and Marking of Tenders9

2.13 Deadline for Submission of Tenders9

2.14 Modification and withdrawal of tenders10

2.15 Opening of Tenders10

2.16 Clarification of tenders10

2.17 Preliminary Examination and Responsiveness10

2.18 Conversion to a single currency11

2.19 Evaluation and comparison of tenders11

 (a) Operational Plan12

 (b) Deviation in payment schedule12

2.20 Contacting the procuring entity12

2.21 Award of Contract13

 a) Post qualification13

 b) Award Criteria13

2.22 Notification of award14

2.23 Signing of Contract14

2.24 Performance Security14

2.25 Corrupt or Fraudulent Practices14

APPENDIX TO INSTRUCTIONS TO THE TENDERERS15

SECTION III GENERAL CONDITIONS OF CONTRACT24

3.1 Definitions24

3.2 Application24

3.3 Standards24

3.4 Patent Rights24

3.5 Inspections and Tests25

3.6 Payment.....	25
3.7 Prices.....	25
3.8 Assignment	25
3.10 Termination for Default	26
3.12 Termination of insolvency.....	26
3.13 Termination for convenience	26
3.14 Resolution of disputes	27
3.15 Governing Language	27
3.16 Force Majeure	27
3.17 Applicable Law.....	27
3.18 Notices	27
SECTION IV SPECIAL CONDITIONS OF CONTRACT.....	28
SECTION V – SCHEDULE OF REQUIREMENTS	29
Services Required.....	29
Bidder’s Experience Requirements	29
No. Contact Information Details	29
SECTION VI DESCRIPTION OF SERVICES	30
SECTION VII METHOD OF CHARGING FOR SERVICES.....	30
Particulars	
TABLE 1: GENERAL SERVICE SPECIFICATIONS	30
SECTION VI - STANDARD FORMS	33
FORM OF TENDER	34
PRICE SCHEDULE OF SERVICES	36
CONTRACT FORM	37
CONFIDENTIAL BUSINESS QUESTIONNAIRE.....	38
TENDER SECURITY FORM	39
PERFORMANCE SECURITY FORM	40
BANK GUARANTEE FOR ADVANCE PAYMENT	41
LETTER OF NOTIFICATION OF AWARD	42
FORM RB 1	43

SECTION I – INVITATION TO TENDER

Tender reference no. : KCG/EXEC/877077-2/2020/2021-2022/2023

**Tender Name: FRAMEWORK CONTRACT FOR PROVISION OF LEGAL SERVICE
(AS AND WHEN REQUIRED)**

- 1.1 The County Government of Kilifi invites sealed tenders for **FRAMEWORK CONTRACT FOR PROVISION OF LEGAL SERVICE (AS AND WHEN REQUIRED)**
- 1.2 Interested eligible candidates may obtain and inspect tender documents upon request of the same vide email legal.kilifi.go.ke.
- 1.3 For any more information/clarification interested applicants can visit the office of the **Head of Supply Chain Management, Kilifi County Central Stores**, during normal working hours.
- 1.4 Prices quoted should be net inclusive of all taxes, must be in Kenya shillings and shall remain valid for the contract period.
- 1.5 Tender document can be obtained in The Public Procurement Information Portal (PPIP). They can also be downloaded free of charge from Kilifi County Website www.kilifi.go.ke.
- 1.6 Completed tender documents should be uploaded to the GOK IFMIS tender portal www.suppliers.treasury.go.ke on or before **15th June 2021** at 10:00am
- 1.7 NB: Manual Submission of Tender Documents is NOT allowed.
- 1.8 NB: Eligible bidders who may experience challenges in accessing and submitting their completed tender documents to the GOK IFMIS portal should contact IFMIS help desk (Tel:0800721477) NOTE: Enquiries can be made via address: www.kilifi.go.ke Addenda shall be made via address: www.kilifi.go.ke

Head of Supply Chain Management

For: The County Executive Member, Finance & Economic Planning

SECTION II INSTRUCTIONS TO TENDERERS

2.1 Eligible tenderers

- 2.1.1. This Invitation to tender is open to all tenderers eligible as described in the instructions to tenderers. Successful tenderers shall provide the services for the stipulated duration from the date of commencement (hereinafter referred to as the term) specified in the tender documents.
- 2.1.2. The procuring entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender unless where specially allowed under section 131 of the Act.
- 2.1.3. Tenderers shall provide the qualification information statement that the tenderer (including all members, of a joint venture and subcontractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Procuring entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the services under this Invitation for tenders.
- 2.1.4. Tenderers involved in corrupt or fraudulent practices or debarred from participating in public procurement shall not be eligible.

2.2 Cost of tendering

- 2.2.1 The Tenderer shall bear all costs associated with the preparation and submission of its tender, and the procuring entity, will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.
- 2.2.2 The price to be charged for the tender document shall not exceed Kshs.1,000/=
- 2.2.3 The procuring entity shall allow the tenderer to review the tender document free of charge before purchase.

2.3 Contents of tender documents

2.3.1 The tender document comprises of the documents listed below and addenda issued in accordance with clause 6 of these instructions to tenders

- i. Instructions to tenderers
- ii. General Conditions of Contract
- iii. Special Conditions of Contract
- iv. Schedule of Requirements
- v. Details of service
- vi. Form of tender
- vii. Price schedules

- viii) Contract form
- x) Confidential business questionnaire form
- ix) Tender security form
- x) Performance security form
- xi) Principal's or manufacturers authorization form
- xii) Declaration form

2.3.2. The Tenderer is expected to examine all instructions, forms, terms, and specifications in the tender documents. Failure to furnish all information required by the tender documents or to submit a tender not substantially responsive to the tender documents in every respect will be at the tenderers risk and may result in the rejection of its tender.

2.4 Documents Comprising the Tender

The tender prepared by the tenderer shall comprise the following components:

- (a) A Tender Form and a Price Schedule completed in accordance with paragraph 2.5 below.
- (b) Documentary evidence established in accordance with Clause 2.8 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;
- (c) Tender security furnished is in accordance with Clause 2.9
- (d) Confidential business questionnaire.

2.5 Form of Tender

2.5.1 The tenderers shall complete the Form of Tender and the appropriate Price Schedule furnished in the tender documents, indicating the services to be performed.

2.6 Tender Prices

2.6.1 The tenderer shall indicate on the Price schedule the unit prices where applicable and total tender prices of the services it proposes to provide under the contract.

2.6.2 Prices indicated on the Price Schedule shall be the cost of the services quoted including all customs duties and VAT and other taxes payable:

2.6.3 Prices quoted by the tenderer shall remain fixed during the term of the contract unless otherwise agreed by the parties. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.17.5.

2.6.4 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)

2.6.5 Where contract price variation is allowed, the variation shall not exceed 10% of the original contract price.

2.6.6 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.

2.7 Tender Currencies

2.7.1 Prices shall be quoted in Kenya Shillings unless otherwise specified in the appendix to Instructions to Tenderers.

2.8 Tenderers Eligibility and Qualifications.

2.8.1 Pursuant to Clause 2.1 the tenderer shall furnish, as part of its tender, documents establishing the tenderers eligibility to tender and its qualifications to perform the contract if its tender is accepted.

2.8.1.1 The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall establish to the Procuring entity's satisfaction that the tenderer has the financial and technical capability necessary to perform the contract.

2.9 Tender Security

2.9.1 The tenderer shall furnish, as part of its tender, a tender security for the amount and form specified in the Invitation to tender.

2.9.2 The tender security shall be in the amount not exceeding 2 per cent of the tender price.

2.9.3 The tender security is required to protect the Procuring entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.27.2

2.9.4 The tender security shall be denominated in a Kenya Shillings or in another freely convertible currency and shall be in the form of:

- 2.9.4.1 A bank guarantee.
- 2.9.4.2 Cash.
- 2.9.4.3 Such insurance guarantee approved by the Authority.
- 2.9.4.4 Letter of credit

2.9.5 Any tender not secured in accordance with paragraph 2.9.1 and 2.9.3 will be rejected by the Procuring entity as non-responsive, pursuant to paragraph 2.17.5.

2.9.6 Unsuccessful tenderer's security will be discharged or returned as promptly as possible but not later than thirty (30) days after the expiration of the period of tender validity prescribed by the procuring entity. The successful tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.26, and furnishing the performance security, pursuant to paragraph 2.27.

2.9.7 The tender security may be forfeited:

- (a) If a tenderer withdraws its tender during the period of tender Validity specified by the procuring entity on the Tender Form; or
- (b) In the case of a successful tenderer, if the tenderer fails:
 - (i) to sign the contract in accordance with paragraph 30 or
 - (ii) to furnish performance security in accordance with paragraph 31.
- (c) If the tenderer rejects, correction of an error in the tender.

2.10 Validity of Tenders

2.10.1 Tenders shall remain valid for 120 days or as specified in the invitation to tender after date of tender opening prescribed by the Procuring entity, pursuant to paragraph 2.17. A tender valid for a shorter period shall be rejected by the Procuring entity as nonresponsive.

2.10.2 In exceptional circumstances, the Procuring entity may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The tender security provided under paragraph 2.9 shall also be suitably extended. A tenderer may refuse the request without forfeiting its tender security. A tenderer granting the request will not be required nor permitted to modify its tender.

2.11 Format and Signing of Tender

2.11.1 The tenderer shall download the tender document at the Public Procurement Information Portal (PPIP). They can also be downloaded free of charge from Kilifi County Website www.kilifi.go.ke. Completed tender documents should be uploaded to the GOK IFMIS tender portal www.suppliers.treasury.go.ke.

2.11.2 The original and all copies of the tender shall be typed or written in indelible ink and shall be signed by the tenderer or a person or persons duly authorized to bind the tenderer

to the contract. All pages of the tender, except for unamended printed literature, shall be initialed by the person or persons signing the tender.

2.11.3 The tender shall have no interlineations, erasures, or overwriting except as necessary to correct errors made by the tenderer, in which case such corrections shall be initialed by the person or persons signing the tender.

2.12 Sealing and Marking of Tenders

2.12.2.1 Completed tender documents should be uploaded to the GOK IFMIS tender portal www.suppliers.treasury.go.ke before **15th June 2021**

2.13 Deadline for Submission of Tenders

2.13.2 Tenders must be received by the Procuring entity at the IFMIS Portal not later than **15th June 2021** at 10.00 am

Commented [MF1]: Rehema, please insert

2.13.3 The procuring entity may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 6, in which case all rights and obligations of the procuring entity and candidates previously subject to the deadline will thereafter be subject to the deadline as extended.

2.14 Modification and withdrawal of tenders

2.14.2 The tenderer may modify or withdraw its tender after the tender's submission, provided that written notice of the modification, including substitution or withdrawal of the tender's is received by the procuring entity prior to the deadline prescribed for the submission of tenders.

2.14.3 The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.15. A withdrawal notice may also be sent by cable, but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.

2.14.4 No tender may be modified after the deadline for submission of tenders.

2.14.5 No tender may be withdrawn in the interval between the deadline for submission of tenders and the expiration of the period of tender validity specified by the tenderer on the Tender Form. Withdrawal of a tender during this interval may result in the Tenderer's forfeiture of its tender security, pursuant to paragraph 2.12.7.

2.14.6 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.

2.14.7 The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

2.15 Opening of Tenders

2.15.1 Tender will be opened (unsealed) and evaluated (scored) immediately after the closing time electronically in the GOK IFMIS portal.

2.15.2 The tenderers' names, tender modifications or withdrawals, tender prices, discounts, and the presence or absence of requisite tender security and such other details as the Procuring Entity, at its discretion, may consider appropriate, will be announced at the opening.

2.15.3 The procuring entity will prepare minutes of the tender opening which will be submitted to the tenderers that signed the tender opening register and will have made the request.

2.16 Clarification of tenders

2.16.1 To assist in the examination, evaluation and comparison of tenders the procuring entity may at its discretion, ask the tenderer for a clarification of its tender. The request for clarification and the response shall be in writing, and no change in the prices or substance shall be sought, offered, or permitted.

2.16.2 Any effort by the tenderer to influence the procuring entity in the procuring entity's tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderer's tender. Comparison or contract award decisions may result in the rejection of the tenderers' tender.

2.17 Preliminary Examination and Responsiveness

2.17.1 The Procuring entity will examine the tenders to determine whether they are complete, whether any computational errors have been made, whether required securities have been furnished whether the documents have been properly signed, and whether the tenders are generally in order.

- 2.17.2 Arithmetical errors will be rectified on the following basis. 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. If the candidate does not accept the correction of the errors, its tender will be rejected, and its tender security may be forfeited. If there is a discrepancy between words and figures, the amount in words will prevail.
- 2.17.3 The Procuring entity may waive any minor informality or nonconformity or irregularity in a tender which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any tenderer.
- 2.17.4 Prior to the detailed evaluation, pursuant to paragraph 23, the Procuring entity will determine the substantial responsiveness of each tender to the tender documents. For purposes of these paragraphs, a substantially responsive tender is one which conforms to all the terms and conditions of the tender documents without material deviations. The Procuring entity's determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.
- 2.17.5 If a tender is not substantially responsive, it will be rejected by the Procuring entity and may not subsequently be made responsive by the tenderer by correction of then on conformity.

2.18 Conversion to a single currency

- 2.18.1 Where other currencies are used, the procuring entity will convert those currencies to Kenya shillings using the selling exchange rate on the date of tender closing provided by the central bank of Kenya.

2.19 Evaluation and comparison of tenders.

- 2.19.1 The procuring entity will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.20
- 2.19.2 The comparison shall be of the price including all costs as well as duties and taxes payable on all the materials to be used in the provision of the services.
- 2.19.3 The Procuring entity's evaluation of a tender will take into account, in addition to the tender price, the following factors, in the manner and to the extent indicated in paragraph 2.22.4 and in the technical specifications:
- 2.19.3.1 operational plan proposed in the tender;
 - 2.19.3.2 deviations in payment schedule from that specified in the Special Conditions of Contract;

2.19.4 Pursuant to paragraph 22.3 the following evaluation methods will be applied:

(a) Operational Plan.

The Procuring entity requires that the services under the Invitation for Tenders shall be performed at the time specified in the Schedule of Requirements. Tenders offering to perform longer than the procuring entity's required delivery time will be treated as non-responsive and rejected.

(b) Deviation in payment schedule.

Tenderers shall state their tender price for the payment on a schedule outlined in the special conditions of contract. Tenders will be evaluated on the basis of this base price. Tenderers are, however, permitted to state an alternative payment schedule and indicate the reduction in tender price they wish to offer for such alternative payment schedule. The Procuring entity may consider the alternative payment schedule offered by the selected tenderer.

The tender evaluation committee shall evaluate the tender within 30 days from the date of opening the tender.

2.19.5 To qualify for contract awards, the tenderer shall have the following:-

2.19.5.1 Necessary qualifications, capability experience, services, equipment and facilities to provide what is being procured.

2.19.5.2 Legal capacity to enter into a contract for procurement. Shall not be insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing.

2.19.5.3 Shall not be debarred from participating in public procurement.

2.20 Contacting the procuring entity

2.20.1 Subject to paragraph 2.19, no tenderer shall contact the procuring entity on any matter relating to its tender, from the time of the tender opening to the time the contract is awarded.

2.20.2 Any effort by a tenderer to influence the procuring entity in its decisions on tender evaluation, tender comparison or contract award may result in the rejection of the tenderer's tender.

2.21 Award of Contract

a) Postqualification

2.21.1 In the absence of pre-qualification, the Procuring entity will determine to its satisfaction whether the tenderer that is selected as having submitted the lowest evaluated responsive tender is qualified to perform the contract satisfactorily.

2.21.2 The determination will take into account the tenderer's financial and technical capabilities. It will be based upon an examination of the documentary evidence of the tenderer's qualifications submitted by the tenderer, pursuant to paragraph 2.1.2, as well as such other information as the Procuring entity deems necessary and appropriate.

2.21.3 An affirmative determination will be a prerequisite for award of the contract to the tenderer. A negative determination will result in rejection of the Tenderer's tender, in which event the Procuring entity will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

b) Award Criteria

2.21.4 Subject to paragraph 2.29 the Procuring entity will award the contract to the successful tenderer whose tender has been determined to be substantially responsive and has been determined to be the lowest evaluated tender, provided further that the tenderer is determined to be qualified to perform the contract satisfactorily.

2.21.5 The procuring entity reserves the right to accept or reject any tender and to annul the tendering process and reject all tenders at any time prior to contract award, without thereby incurring any liability to the affected tenderer or tenderers or any obligation to inform the affected tenderer or tenderers of the grounds for the procuring entity's action. If the procuring entity determines that none of the tenderers is responsive; the procuring entity shall notify each tenderer who submitted a tender.

2.21.6 A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement.

2.22 Notification of award

2.22.1 Prior to the expiration of the period of tender validity, the Procuring entity will notify the successful tenderer in writing that its tender has been accepted.

2.22.2 The notification of award will signify the formation of the Contract subject to the signing of the contract between the tenderer and the procuring entity pursuant to clause 2.29. Simultaneously the other tenderers shall be notified that their tenders have not been successful.

2.22.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 31, the Procuring entity will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 2.12

2.23 Signing of Contract

2.23.1 At the same time as the Procuring entity notifies the successful tenderer that its tender has been accepted, the Procuring entity will simultaneously inform the other tenderers that their tenders have not been successful.

2.23.2 Within fourteen (14) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to the Procuring entity.

2.23.3 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.

2.24 Performance Security

Performance security is not required, a valid Professional Indemnity cover is sufficient.

2.25 Corrupt or Fraudulent Practices

2.25.1 The Procuring entity requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts. A tenderer shall sign a declaration that he has not and will not be involved in corrupt or fraudulent practices. The procuring entity will reject a proposal for award if it determines that the tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;

2.25.2 Further, a tenderer who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.

APPENDIX TO INSTRUCTIONS TO THE TENDERERS

The following information for procurement of services shall complement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provisions of the instructions to tenderers and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to tenderers

Instructions to tenderers	Particulars of appendix to instructions to Tenderers
2.1	<p>Particulars of eligible tenderers: The tender is open to eligible registered law firms which meet all requirements to offer legal services to Government Institutions.</p> <p>Preferential treatment is accorded to holders of AGPO certificates who are exempted from supplying tender security and audited statements.</p>
2.2	Particulars of other currencies allowed – N/A.
2.3	Particulars of eligibility and qualifications documents of evidence required – as per table A and B below (preliminary/mandatory, technical)
2.4	Opening of bid will be conducted immediately after closing in the IFMIS system
2.5	<p>Tenderers who were successful in the previous Tender No KCG/EXEC/824018/2020/2021 need not resubmit their bids. The said successful bidders should however resubmit the following documents:-</p> <ul style="list-style-type: none"> i) Certified Valid tax compliance certificate ii) Professional Insurance Indemnity cover for Kshs. 50 Million iii) Current practicing certificates for the partners and all associates practicing under the firm.

A. Preliminary/mandatory evaluation (To be met by Legal Services Providers/ LawFirms)

No.	Evaluation Criteria	Responsiveness (YES/N0)
1.	Certified Certificate of Registration/Incorporation	
2.	Certified Valid KRA PIN certificate	
3.	Certified Valid tax compliance certificate	
4.	Tender Security (Kshs. 100,000)	
5.	Professional Insurance indemnity cover for at least Kshs.50 million	
6.	The document must be serialized in the format of 1, 2, 3, 4.....	
7.	A statement from the Advocates Complaints Commission or the LSK Disciplinary Committee indicating that all the lawyers in the bidding firm have no pending disciplinary cases – including the partners. The list of the lawyers should be stated therein.	
8.	Current practicing certificate or evidence of payment of the same for the partners and all associates practicing under the firm	
9.	Must Fill the Form of Tender in the Format provided	
10.	Must submit a duly filled up self-declaration form in format provided	
11.	Must submit a duly filled up Confidential Business Questionnaire in format provided	
12.	A signed statement that the bidder is not debarred from participating in public procurement.	
13.	Recent year's audited accounts	

NB: Firms which fails to submit mandatory requirements as stated above shall not move to Technical stage

B: Technical Evaluation (1)

TECHNICAL EVALUATION				
PART "A" PRACTICE AREAS				
1	Construction and Engineering law	(i) 2 Marks for 1 Engineering or Construction consultancy contract (ii) 2 Marks for 1 concluded or ongoing litigation matter (iii) 1 mark for 1 Alternative dispute resolution matter (iv) 1 mark for 1 construction matters before the Public Procurement Administrative Board	6	
3	Land Law and practice	(i) 3 Marks for 3 matters affecting community land rights under the Community Land Rights Act, 2016 and its Regulations (ii) 3 marks for 3 matters dealing with physical planning and development control. (iii) 3 marks for 3 matters dealing with public land rights under the Land Act, 2012. iv) 3 marks for 3 successfully completed transfers (conveyancing) of land under the Land Laws, 2012 for values over Kshs. 10,000,000. v) 2 marks for successful registration of way leaves or litigation in relation to way leaves	14	
4	Legal Audits	2 marks for a Legal Audit completed with a report being submitted to client	2	
5	Legislative Drafting	1 mark for each Bill drafted	4	
6	Commercial matters	i) 1 marks for 1 Contract related to public corporation ii) 1 marks for 1 other commercial contract	4	

		iii) 2 marks for any other related commercial matter in the High Court (1 mark per matter)		
7	Public Interest Litigation	i) 2 marks for every Public Interest Litigation Matter concluded successfully. ii) 1 mark for each Public Interest Litigation filed and still pending in court.	4	
8	Human Rights	2 marks each for every matter concluded dealing with Human Rights as enshrined in the Kenya Constitution 2010	4	
9	Public Participation, Civic Education ,Legal Aid & Pro bono services	(i) 1 mark for activities related to public participation as enshrined in the Kenyan Constitution 2010. (ii) 1 mark for activities related to Civic Education. (iii) 2 marks for participation in provision Pro Bono Services and Legal Aid as described by the Legal Aid Act, 2016	4	
10	Civil Litigation and Practice	(i) 3 Marks for two Court of Appeal matters (ii) 5 Marks for four High Court Matters (iii) 4 marks for matters in lower courts or tribunals	12	
11	Constitutional and Administrative Law	1 mark per matter	4	
12	Employment and Labour Laws	1 mark per matter	2	
13	Public-Private Partnerships	Two marks for contracts executed or matters successfully litigated	2	
14	Public Procurement and Disposal Law	Two marks for 2 matters under the Public Procurement and Assets Disposal Act	2	
15	Environmental Law	Two matters concerning the environment excluding land	2	
16	International Law	1 matter on any aspect of public international law	1	

PART “B” – ORGANIZATIONS WHICH THE FIRM HAS OFFERED LEGAL TRAINING IN THE LAST THREE YEARS

1	Companies/ organizations and numbers trained in each company/organization (Provide list with complete contact addresses each company/organization)	1 mark for each Company/organization.	3	
2	At least 3 Training material for training each company/ organization	1 mark for each manual or material or other training document per company/organization	3	

PART “C” – THE FIRM				
1	Firm profile	(i) 2 marks for over 5 years in operation. (ii) 1 mark for the rest	2	
2	Membership (Affiliation) of any international consortium of lawyers.	1 mark	1	
3	Capacity of the firm (Partners)/Sole Proprietor	(i) 3 marks for four partners and above. (ii) 2 marks for between two and three partners (iii) 1 mark for sole proprietorship.	3	
4	Capacity of the Firm (Associates)	(i) 2 marks for over four associates (ii) 1 mark for between one and four associates	2	
5	Law Society Of Kenya(LSK) Appointment to a Board	1 mark for each partner/ associate who has been appointed to a board by LSK in terms of any Kenyan Law.	2	

6	Firm Capacity: Membership with a Professional organization.	1 mark for every partner or associate who has membership with CIArb (attach proof).	2	
7	Degree of Responsibility	State an assignment where a partner/Sole Proprietor in the firm acted as lead counsel or lead lawyer; attach proof	2	
8	At least 2 Associates' outstanding achievement (Civil matters only)	(i) 1 marks for Supreme Court or Court of Appeal (ii) 2 mark for High Court (iii) 1 mark for Magistrate's Court (or its equivalent) or other Tribunals	4	
9	Adequacy of Support staff	(i) 3marks for over ten support staff (ii) 3 marks for between five and nine support staff (iii) 2 mark for up to four support staff (iv) No mark if there are no supportstaff.	3	
10	Local Presence	(i)4 Marks if the firm has local presence, that is, either main office or branch office within Kilifi County (evidence of lease) (ii) 3 marks if the firm has main office or branch office in neighboring counties (evidence of lease)	4	
11.	Financial stability	Last 15 calendar months bank statements, certified by the bank	2	
TOTAL MARKS			100	

NB:

1. The pass mark at the technical evaluation is 70%.
2. Bidders who will not meet the pass mark of 70% will be disqualified from the entire procurement process.

(C) TECHNICAL EVALUATION (2)

TABLE 1: GENERAL SERVICE SPECIFICATIONS

The Detailed Service Specifications/Particulars are as follows: The documents submitted will be evaluated for suitability and all bidders who qualify for this stage must comply to the specifications provided. Any bidder who **does not comply will not proceed to Financial Evaluation**

Bidders are required to indicate against each service specification “UNDERSTOOD AND WILL COMPLY” or “UNDERSTOOD AND WILL NOT COMPLY”

Any other response in the column will be treated as NON- RESPONSIVE,

NO.	MINIMUM REQUIREMENT/SPECIFICATION	BIDDER'S RESPONSE
1.	Provision of Legal Services	
2.	Service Provider to Focus on Kilifi County Government requirements and will be available at all times for bookings and presentation in the court.	
3.	Provide cost effective and efficient Legal services to Kilifi County Government by providing legal services to Kilifi County Government at the recommended billing parameters as per Advocates Remuneration Order.	
4.	Tailor-make requests to suit all legal services and related needs of Kilifi County Government	
5.	Prepare legal plans and offer representation for Kilifi County Government on request	
6.	Use the most cost effective routes in Legal plans, and to prepare several Legal options at any stage of the proceedings.	
7.	Ensure maximum price savings as well as most minimal Legal time in all Legal plans	
8.	To indicate in all Legal plans, the most competitive scale for billing to arrive at an expedient conclusion of any brief	

9.	Issue legal fee notes using the Advocates Remuneration Order and the Advocate Remuneration Rules	
10.	To keep Kilifi County Government executive updated on current developments in legal decisions as they emerge from time to time	

NB:

3. All who understand and comply will proceed to financial Evaluation
4. Bidders who will not UNDERSTAND COMPLY to the requirements in the above stage will be disqualified from the entire procurement process.

BiddersSignature

Official Stamp.....

Date.....

(C) FINANCIAL EVALUATION

Fees and charges are as guided by the Advocates (Remuneration) (Amendment) Order promulgated by the Hon. Chief Justice pursuant to section 44 of the Advocates Act for which the minimum charges are prescribed will be applied. However, where costs or charges of transactions are not prescribed then Schedule 5 thereto will be applied.

The Financial Evaluation will be based on the most Economically Advantageous Bid.

The supplier should indicate the cost that is necessary to meet the requirements of Kilifi County Government .The price quotation shall include all applicable taxes.

NO.	SERVICES REQUIRED	QTY	CHARGES	REMARKS
1.	Litigation	On need basis		As per the ARO
2.	SCHEDULE 5 PREScribes BASIS FOR FEES IN RESPECT OF BUSINESS THE REMUNERATION FOR WHICH IS NOT OTHERWISE PRESCRIBED OR WHICH HAS	On need basis		Provide basis for calculation of the un-prescribed

	<p>BEEN THE SUBJECT OF AN ELECTION UNDER PARAGRAPH 22</p> <p>PART I—AGREED HOURLY RATE 1. Fees to be assessed under this Schedule may either be charged in accordance with paragraph 2 of this Part or assessed in accordance with Part II. 2. An advocate may charge his fees at such hourly rate or rates as may be agreed with his client from time to time.</p> <p>PART II—ALTERNATIVE METHOD OF ASSESSMENT 1. INSTRUCTIONS 2. Such fee for instructions as, having regard to the care and labour required, the number and length of the papers to be perused, the nature or importance of the matter, the amount or value of the subject matter involved, the interest of the parties, complexity of the matter and all other circumstances the case, may be fair and reasonable, but so that due allowances shall be given in the instruction fees for other charges raised under this Schedule.</p>			<p>Legal Consultancy Services, which can include Research and Advisory services, Mediation and Legislative Drafting or Review.</p>
<p>4.</p>	<p>Reimbursable Expenses that is accommodation, fuel/mileage, telephone, internet/data expenses, courier.</p> <p>All other expenses will be charged according to Schedule 6 of the ARO.</p>			<ul style="list-style-type: none"> - Indicate estimate expenses as per court station, as kilometer, as per hour. - the entity will not reimburse airflight expenses for matters arising in the High Courts situated in the coastal area - for VAT not to be deducted, evidence will be required

The services will be rendered on need basis

.....

Signature and Rubber Stamp of tenderer

SECTION III GENERAL CONDITIONS OF CONTRACT

3.1 Definitions

In this contract the following terms shall be interpreted as indicated:

- a) —The contract means the agreement entered into between the Procuring entity and the tenderer as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- b) —The Contract Price means the price payable to the tenderer under the Contract for the full and proper performance of its contractual obligations.
- c) —The services means services to be provided by the contractor including materials and incidentals which the tenderer is required to provide to the Procuring entity under the Contract.
- d) —The Procuring entity means the organization sourcing for the services under this Contract.
- e) —The contractor means the individual or firm providing the services under this Contract.
- f) —GCC means general conditions of contract contained in this section
- g) —SCC means the special conditions of contract
- h) —Day means calendar day

3.2 Application

These General Conditions shall apply to the extent that they are not superseded by provisions of other part of contract.

3.3 Standards

The services provided under this Contract shall conform to the standards mentioned in the Schedule of requirements.

3.4 Patent Rights

The tenderer shall indemnify the Procuring entity against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the services under the contract or any part thereof.

3.5 Inspections and Tests

- a) The Procuring entity or its representative shall have the right to inspect and/or to test the services to confirm their conformity to the Contract specifications. The Procuring entity shall notify the tenderer in writing, in a timely manner, of the identity of any representatives retained for these purposes.
- b) The inspections and tests may be conducted on the premises of the tenderer or its subcontractor(s). If conducted on the premises of the tenderer or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring entity.
- c) Should any inspected or tested services fail to conform to the Specifications, the Procuring entity may reject the services, and the tenderer shall either replace the rejected services or make alterations necessary to meet specification requirements free of cost to the Procuring entity.

3.6 Payment

- a) The method and conditions of payment to be made to the tenderer under this Contract shall be specified in SCC

3.7 Prices

Prices charged by the contractor for services performed under the Contract shall not, with the exception of any Price adjustments authorized in SCC, vary from the prices by the tenderer in its tender or in the procuring entity's request for tender validity extension as the case may be. No variation in or modification to the terms of the contract shall be made except by written amendment signed by the parties.

3.8 Assignment

The tenderer shall not assign, in whole or in part, its obligations to perform under this contract, except with the procuring entity's prior written consent.

3.10 Termination for Default

The Procuring entity may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the tenderer, terminate this Contract in whole or in part:

- a) if the tenderer fails to provide any or all of the services within the period(s) specified in the Contract, or within any extension thereof granted by the Procuring entity.
- b) if the tenderer fails to perform any other obligation(s) under the Contract.
- c) if the tenderer, in the judgment of the Procuring entity has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

In the event the Procuring entity terminates the Contract in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, services similar to those undelivered, and the tenderer shall be liable to the Procuring entity for any excess costs for such similar services.

3.12 Termination of insolvency

The procuring entity may at any time terminate the contract by giving written notice to the contractor if the contractor becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the contractor, provided that such termination will not produce or affect any right of action or remedy, which has accrued or will accrue thereafter to the procuring entity.

3.13 Termination for convenience

3.13.1 The procuring entity by written notice sent to the contractor may terminate the contract in whole or in part, at any time for its convenience. The notice of termination shall specify that the termination is for the procuring entity convenience, the extent to which performance of the contractor of the contract is terminated and the date on which such termination becomes effective.

3.13.2 For the remaining part of the contract after termination the procuring entity may elect to cancel the services and pay to the contractor an agreed amount for partially completed services.

3.14 Resolution of disputes

The procuring entity's and the contractor shall make every effort to resolve amicably by direct informal negotiations any disagreement or dispute arising between them under or in connection with the contract.

If after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute either party may require that the dispute be referred for resolution to the formal mechanisms specified in the SCC.

3.15 Governing Language

The contract shall be written in the English language. All correspondence and other documents pertaining to the contract, which are exchanged by the parties, shall be written in the same language.

3.16 Force Majeure

The contractor shall not be liable for forfeiture of its performance security, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

3.17 Applicable Law.

The contract shall be interpreted in accordance with the laws of Kenya unless otherwise specified in the SCC

3.18 Notices

Any notices given by one party to the other pursuant to this contract shall be sent to the other party by post or by fax or E-mail and confirmed in writing to the other party's address specified in the SCC.

A notice shall be effective when delivered or on the notices effective date, whichever is later.

SECTION IV SPECIAL CONDITIONS OF CONTRACT

- 4.1 Special conditions of contract shall supplement the general conditions of contract, wherever there is a conflict between the GCC and the SCC, the provisions of the SCC herein shall prevail over those in the GCC.
- 4.2 Special conditions of contract with reference to the general conditions of contract.

General Conditions of contract Reference	Special conditions of contract
3.6	Specify method of Payments. Not more than 30% of the assessed interim fee note amount as requested by the law firm to be paid in the interim and balance thereof to be agreed upon agreed deliverables
3.7	Specify price adjustments allowed – N/A
3.8	Specify resolution of disputes. Disputes to be settled as per the Arbitration Laws of Kenya
3.9	Specify applicable law – Laws of Kenya

SECTION V – SCHEDULE OF REQUIREMENTS

Services Required

The County intends to procure legal services for a period of one year renewable upon satisfactory performance. The County requires that legal services to be offered in respect of its officials and non-County officials requiring legal services in the interest of the County and be made by the county with due consideration of the following:-

- (i) Arrangements will only be for Office of The County Attorney
- (ii) The most cost effective and practical means offer of legal services
- (iii) The appointed Legal Firm will be required to always assist County officials concerning legal services arrangements. This will include court proceedings among others.

Bidder’s Experience Requirements

Potential legal firms are required to submit details of at least five (5 No.) organizations where they have undertaken similar services in the format given below. This is so that references may be obtained. Ensure you have provided reference letters from the organizations duly signed and stamped by the relevant officer. The reference letters must be in the organizations letterheads.

No. Contact Information Details

- 1. Name of company.....
- Name of contact person.....
- Designation.....
- Telephone number.....
- e-mail address.....

Ensure you have provided reference letters for ALL the above organizations, duly signed and stamped by the relevant officer. The reference letter MUST be on the organization’s letterhead.

SECTION VI DESCRIPTION OF SERVICES

Particulars

The County has a need for legal Services. This tender covers the Provision of Legal Services:- Table 1 gives the detailed clause-by-clause description of the required services. The Tenderer is required to provide the clause-by-clause response to the specifications and indicate clearly how the services offered meet the requirements.

SECTION VI - STANDARD FORMS

1. Form oftender
2. Priceschedules
3. Contract form
4. Confidential Questionnaire form
5. Tender securityform
6. Performance securityform
7. Bank guarantee for advancepayment
8. Declaration form

SECTION VII. METHOD OF CHARGING FOR SERVICES

PART A

5.1 Advocates Remuneration Order under the advocates Act 1989

PART A

5.11 OAG & DOJ'S appointment will consider law firms that offer the right balance of value for money as measured by the quality of legal services rendered. Law firm's will be expected to identify ways in which legal costs for any significant or complex cases may be mitigated.

5.12 OAG & DOG expects that legal fees and charges payable shall generally be in accordance with the order as applicable to the case or matter being handled.

5.13 The mode of billing shall be considered on a case by case basis and subject to agreement between OAG & DOJ and the firm may by agreement refer the issue to taxation with each party bearing their own costs for taxation.

PART B.

5.2 Advocates Remuneration Order (Schedule V) under the advocates Act, 1989

5.21 Without prejudice to the contents of paragraph 5.1, OAG & DOJ recognizes that the present 5th Schedule of the order provides for an hourly billing system or an amount fixed by agreement between OAG & DOJ and the firm.

5.22 Law firms are required to fill in the table below (HOURLY BILLING TABLE) If and when the issue of hourly billing arises from the performance of services instructed within the two year period, where OAG & DOJ consents, the parties will refer to the Table 5.2.3 below as a basis for discussion and determination of fees payable

FORM OF TENDER

TO: KILIFICOUNTYGVERNMENT _____ [Date]
REF: FRAMEWORK CONTRACT FOR PROVISION OF LEGAL SERVICE (AS AND WHEN REQUIRED).KCG/EXEC/758542/2019-2020

Dear Sir:

1. Having examined the tender documents which is hereby duly acknowledged, we, the undersigned, offer to provide **LEGAL SERVICE** in conformity with the said tender documents for the sum of _____
_____ [total tender amount in words and figures] or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.
2. We undertake, if our Tender is accepted, to provide the services in accordance with the services schedule specified in the Schedule of Requirements.
3. If our Tender is accepted, we will obtain the tender guarantee in a sum equivalent to _____ percent of the Contract Price for the due performance of the Contract, in the form prescribed by (Procuring entity).
4. We agree to abide by this Tender for a period 365 days from the date fixed for tender opening of the Instructions to tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
5. Until a formal Contract is prepared and executed, this Tender, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.

Dated this _____ day of _____ 20_____

Signature _____ in the capacity of _____
duly authorized to sign tenders for and on behalf of

_____ [Name of Employer]
of _____ [Address of Employer]

Witness; Name _____

Address _____

Signature _____

Date _____

PRICE SCHEDULE OF SERVICES

The price quotation shall include all applicable taxes

NO.	SERVICES REQUIRED	QTY	CHARGES	REMARKS
1.	For matters or assignments within the Kilifi and Malindi	On need basis		
2.	For matters or assignments in Kwale, Lamu, Tana River and Taita Taveta	On need basis		
3.	For matters or assignments in Kisumu, Nairobi and Mombasa cities	On need basis		
4.	For matters or assignments in any other towns	On need basis		

No	Name of Professional Staff	Position (Partner or associate or assistant)	Hourly Remuneration Rate Kshs)
1.			
2.			
3.			
4.			
5.			

The services will be rendered on need basis

- . Payments shall be made within 30 days upon receipt of Invoice(s).
- . NB bidders must provide the fee notes for payment

Bidders Signature

Official Stamp.....

Date

LETTER OF ACCEPTANCE
[letterhead paper of the Employer]

_____ [date]

To: _____
[name of the Contractor]

[address of the Contractor]

Dear Sir,

This is to notify you that your Tender dated _____
for the execution of _____
[name of the Contract and identification number, as given in the Tender documents] for the
Contract Price of Kshs. _____
[amount in figures] [Kenya Shillings _____ (amount in
words)] in accordance with the Instructions to Tenderers is hereby accepted.

You are hereby instructed to proceed with the execution of the said Works in accordance with
the Contract documents.

Authorized Signature.....

Name and Title of Signatory.....

Attachment : Agreement

FORM OF AGREEMENT

DatedDay of2020

LEGAL SERVICES AGREEMENT FOR GENERAL LEGAL SERVICES

BETWEEN



THE COUNTY GOVERNMENT OF KILIFI

AND

.....

THIS SERVICE LEVEL AGREEMENT is made this day of Two Thousand and Twenty between **COUNTY GOVERNMENT OF KILIFI** of Post Office Box Number 519-80108 Kilifi in the Republic of Kenya (hereinafter referred to as “**CGK**” which expression shall where the context so admits include its successors and assigns in title) of the one part and _____ of Post Office Box Number _____ aforesaid (hereinafter referred to as “**the Law Firm**” which expression shall where the context so admits include his personal representatives, successors and assigns) of the other part.

WHEREAS:

- A. CGK had invited applications from competent law firms for pre-qualification of legal service providers vide Tender referenced **KCG/EXEC/**_____
- B. The Law Firm emerged a successful bidder and has agreed to provide the Services as and when requested to do so having represented to CGK that it has the requisite professional skills, personnel and technical resources to provide the Services, on the terms and conditions appearing hereinafter in this Agreement.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1.0 DEFINITIONS AND INTERPRETATION

- 1.1 “Agreement” means the Service Level Agreement as delineated in this document.
- 1.2 “Legal Services” means the services provided by the law firm in accordance with clause 2 of this Agreement.
- 1.3 Headings used are for convenience and ease of reference only, are not part of this Agreement and shall not be relevant to or affect the meaning or interpretation of this Agreement.
- 1.4 Words importing the singular include the plural and vice versa as the context so requires, and words of one gender include all other genders.
- 1.5 A reference to a clause or schedule is a reference to a clause of or schedule to this Agreement and a reference to this Agreement includes any of its schedules.
- 1.6 A reference to a specific time for the performance of an obligation is a reference to that time in the place where that obligation is to be performed.

2.0 SCOPE OF SERVICES

- 2.1 During the term of this Agreement the Law Firm shall provide legal services as and when instructed by the CGK. The services may include any or a combination of the following:-
 - 2.1.1 Representation of the CGK in Courts/ Tribunals and ensuring that the CGK’s interests are protected at all times;
 - 2.1.2 Providing the CGK with well researched legal opinions on various legal matters;
 - 2.1.3 Handling debt collection matters;
 - 2.1.4 Handling conveyancing matters such as sale transactions, mortgages, perfection of the CGK’s securities, leases, registration at the lands office and generally matters involving transactions in land;
 - 2.1.5 Advisory role on current or new legislation as and when it comes into force;
 - 2.1.6 Assisting the CGK in conducting due diligence in various matters;

2.1.7 Any other legal matters the CGK may issue instructions on from time to time.

2.2 The law firm may be called upon to provide any other legal services as and when need arises.

2.3 The Law Firm shall provide legal services on the terms and conditions contained in this Agreement and in accordance with the provisions hereof. Delivery of services shall be guided by specific deliverables as provides in schedule 3 of this Agreement. The terms and conditions set forth herein may be modified in the future on written mutual agreement between the CGK and the Law Firm.

3.0 TERM

This Agreement shall be deemed to come into force on 10th February, 2020 and remain in force for a period of two years (which period shall hereinafter be referred to as “the Term”) unless earlier terminated in accordance with this Agreement.

4.0 PERFORMANCE

The Law Firm shall forward to the CGK a quarterly status report on all matters being handled by the Law Firm on behalf of the CGK.

The report will give the current position of all litigation and conveyancing matters and opinions on the best way forward in each matter. These reports should be received by the CGK not later than the 5th day of the subsequent quarter. These reports shall be used to measure the Law Firm’s performance and/ or service delivery.

The Law Firm shall not record any consent or effect any binding settlement in any case or matter on behalf of the CGK without express instructions in writing. The law firm undertakes to seek approval in writing of any proposed settlement in good time.

4 PAYMENT TERMS

4.2 The CGK shall make payments in accordance with the latest applicable version of The Advocates (Remuneration) Order.

4.3 The CGK shall make payment for services rendered after receipt of a reasonable fee note from the Law Firm. Both parties will agree on a suitable instant when to raise the fee note so as to make payments after completion of the agreed deliverables as contained in schedule A. This will ensure that the Law Firm shall not do too much service without payment and CGK shall not pay too much without services being rendered or prior to approving the legal service being performed by the Law Firm.

4.4 At the end of the transaction the Law Firm shall issue a Final Fee Note which shall outline the actual costs incurred in the course of the transaction and shall be accompanied by a Credit Note or a Debit Note depending on whether the sums estimated in the Fee and Costs Advice Note earlier issued were an over or under estimate of the actual total costs incurred.

5 EXPENSES

CGK hereby authorizes the Law firm to incur expenses in the legal representation of CGK and CGK hereby agrees to pay the expenses incurred by the Firm.. Provided always that the expenses shall be those indicated in the schedule and provided that the firm shall produce evidence of the expense for it not to be subjected to withholding tax or any other tax as the case may be.

6 RELATIONSHIP

The relationship between the parties herein shall not in any way be misconstrued to be a partnership, joint venture or employer-employee and the Law Firm shall not hold itself out as such.

7 CONFIDENTIALITY

- 7.2 The Law Firm shall keep in confidence any information obtained from CGK under this Agreement and in the course of providing the services to CGK, which would otherwise not be obtained and shall not divulge the same to any person (other than the Law Firm's employees who need to know the information for the execution of this Agreement or their duties relating thereto) without the written consent of CGK.
- 7.3 The Law Firm shall not reveal to any person or third party, CGK's secrets or confidential matters, operations, processes or dealings or any information concerning the organization, business, finances, transactions or affairs of CGK or any of its subsidiaries which may come to their knowledge during the term of this Agreement and shall hold with complete secrecy all confidential information disclosed to it and not use or attempt to use any such information in any manner which may injure or cause loss either directly or indirectly to CGK or its business or that of any of its subsidiaries.
- 7.4 This section shall not apply to information which is in the public domain other than in breach of this Agreement, in the possession of the receiving party before such divulgence has taken place, obtained from a third party who is free to divulge the same, and demanded by any government department or law enforcement agency, if the information is sought under proper authority.
- 7.5 This confidentiality clause shall survive the expiration or termination of this Agreement.

8 REPRESENTATIONS AND WARRANTIES

- 8.2 The Law Firm hereby unequivocally represents and warrants to CGK that:-
- 8.2.1 It is a properly constituted Law Firm and that its main business includes the provision of legal services.
- 8.2.2 It has the staff, professional knowledge; skills and experience to enable it carry out competently its duties in terms of this Agreement.
- 8.2.3 It has control procedures to ensure the protection and safety of CGK's information, assets and property under its control and the integrity and confidentiality of documents, Titles and other records (this includes communications sent or received by use of information technology).
- 8.3 The Law Firm warrants that the services will be performed in a professional manner consistent with or above industry standards reasonably applicable to such services, will not infringe third party rights in performing the Services and is not violating any other agreement by performing the Services under this Agreement.
- 8.4 In the event of any defective performance from the Law Firm or failure to furnish the agreed level of service, the Law Firm will make reasonable efforts to restore the Service to the required level on an urgent basis.

8.5 The Law Firm will indemnify CGK against any and all claims, liabilities, obligations, losses, damages, penalties, actions and expenses which may be suffered by CGK as a result of any breach of the above-mentioned warranties.

9 INSURANCE, TAX COMPLIANCE CERTIFICATES & ADVOCATES PRACTICING CERTIFICATE

The Law Firm hereby confirms to CGK that it has a valid professional indemnity cover, tax compliance certificate and Advocates practicing certificate as per conditions given by CGK in the Tender for Provision of Legal Services, throughout the term of this Agreement.

The Law Firm will provide certified copies of the above named cover and licenses upon renewal.

10 FORCE MAJEURE

Except in respect of payment liabilities, neither party will be liable for any failure or delay in its performance under this Agreement due to reasons beyond its reasonable control, including acts of war, acts of God, earthquake, flood, riot, governmental acts, provided the delayed party gives the other party prompt notice of the reasons of such cause.

11 NON-SOLICITATION

There is a restriction on each party soliciting work from the other.

12 ASSIGNMENT

The Law Firm shall not be entitled to transfer or assign this Agreement or any services emanating thereunder without prior written consent of CGK.

13 BINDING CONTRACTS

The Law Firm hereby agrees to adhere to CGK's rules and regulations and policies that may pertain to this Agreement as and when advised.

14 FAIRNESS AND GOOD FAITH

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

15 CHANGE OF SCOPE AND VARIATION

Should it become necessary as the Agreement proceeds to change the scope of the Services to include matters CGK thinks appropriate and/or exclude certain matters pursuit of which becomes impracticable or likely to involve time and expense out of proportion to their value to CGK, CGK shall discuss and agree such changes with the Firm; such agreement will include the payment of reasonable additional fees and a reasonable period to provide any additional services. Significant variations in the scope of the Services will be the subject of a supplementary agreement or engagement letter. Subject to the foregoing this Agreement shall not be varied or cancelled, unless such variation or cancellation shall be expressly agreed in writing by each party.

16 ARBITRATION

- 16.2 Should any dispute, claim or controversy arise between the parties (hereinafter referred to as the “dispute”) concerning this Agreement, the parties shall attempt to resolve the dispute by negotiation. This entails that one party invites the other party in writing to meet to resolve the dispute within seven (7) days from the date of the written invitation. If the dispute has not been resolved by such negotiation, the parties shall submit the dispute to mediation.
- 16.3 Failing such resolution, the dispute if arbitral in law, may be resolved by arbitration, by one (1) arbitrator to be appointed by agreement between the parties. In the event that the Parties cannot agree upon a single arbitrator, then the same shall be determined by three arbitrators, each party to appoint one arbitrator and the third arbitrator to be appointed by the two arbitrators so appointed by the Parties.
- 16.4 The arbitration shall be held in Kilifi County, Kenya and shall be conducted in English. Judgment upon award rendered may be entered in any court of competent jurisdiction.
- 16.5 All arbitral awards in relation to this Agreement shall be limited to pecuniary damages and/ or compensation and shall not demand specific performance or lead to the modification of the terms and/ or conditions of this Agreement.
- 16.6 Nothing in this clause shall prevent either party from instituting legal proceedings in any court of competent jurisdiction and/ or seeking interim relief from any court of competent jurisdiction.

17 GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the Laws of Kenya.

18 EFFECTIVE DATE AND SIGNATRE

In witness whereof, the duly authorized representatives of Kilifi County Government and..... sign this Agreement in three (3) originals in the places indicated below and for each party to retain an original for their files.

SIGNED on behalf of **THE COUNTY GOVERNMENT**

MICHELLE BIBI FONDO,

COUNTY ATTORNEY

).....

ADVOCATE

I _____ an Advocate of the High Court of Kenya duly licensed to practice certify that I was present and saw the above named..... set his hand to this Agreement.

ADVOCATE

SIGNED on behalf of _____

PARTNER).....

ADVOCATE

I _____ an Advocate of the High Court of Kenya duly licensed to practice certify that I was present and saw the above named..... set his hand to this Agreement.

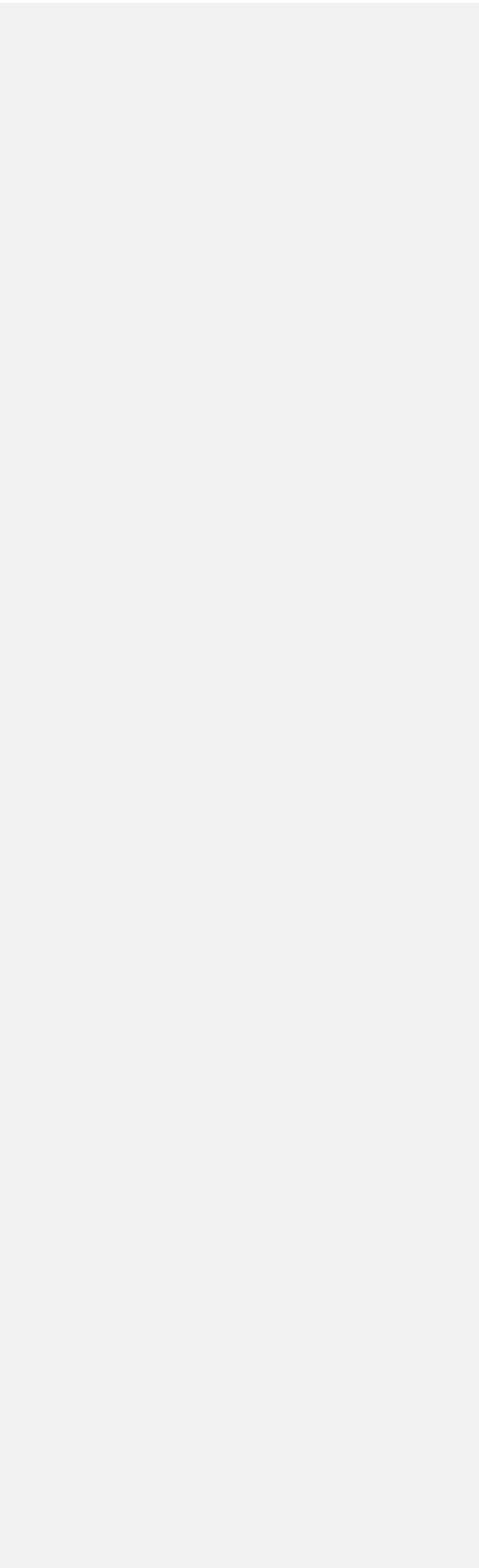
ADVOCATE

SCHEDULE: A

1. Payment Schedule

1.1 Computation of reasonable fees shall be based on the following criteria:-

- 1.1.1 The time and labour required, the novelty, complexity and difficulty of the transaction involved and the skill requisite to perform the legal service promptly;
- 1.1.2 The fee customarily charged in the locality for similar legal services;
- 1.1.3 The value of the entities involved and the subsequent transaction;
- 1.1.4 The time limitations imposed by the Client for service delivery;



1.1.5 The time spent engaging all relevant stakeholders and regulators to facilitate the matter;

1.1.6 The nature and length of the professional relationship with the Client;

1.1.7 The number of personnel and total man-hours spent on the transaction; and

1.1.8 The experience, reputation and ability of the Firm in rendering services in corporate and commercial work and related matters.

1.2 Not more than 30% of the assessed interim fee note amount as requested by the law firm to be paid in the interim and balance thereof to be agreed upon agreed deliverables.

1.3 Counsel should provide a schedule of professional fees where the basis of charging is as follows:-

No.	Designation	Rate Per Hour (Kshs)
1.	Partner	
2.	Associate	
3.	Clerk	
4.	Pupil	

Note. Where a matter is being charged above scale a justification relying on the Advocates Remuneration Order should be provided.

2. Expenses accepted as disbursements

2.1 Transport

2.2 Printing

2.3 Binding

2.4 Airtime

2.5 Commissioning of documents

2.6 Perusal of court pleadings & proceedings

2.7 Meetings costs

2.8 Cost of accommodation

2.9 Filing fees

3. Specified timelines

3.1 Acceptance or otherwise of instructions to represent CGK in court to be done within 48 Hours of receiving the instructions.

3.2 Legal opinion over a matter sought by CGK be delivered within 72 Hours of receiving such instructions.

3.3 Inform CGK in writing or email each time the Advocate attends court and what transpired therein within 24 Hours of attending court.

3.4 The Firm to give 2 weeks written notice to CGK of an impending court attendance which requires identified GJK witnesses to attend.

DRAWN BY:

OFFICE OF THE COUNTY ATTORNEY,
KILIFI PLAZA 3RD FLOOR,
P.O. BOX 519,
KILIFI,
KENYA.

FORM OF TENDER SECURITY

WHEREAS(hereinafter called “the Tenderer”) has submitted his tender dated for the construction of.....
..... (name of Contract)

KNOW ALL PEOPLE by these presents that WE having our registered office at(hereinafter called “the Bank”), are bound unto(hereinafter called “the Employer”) in the sum of Kshs. for which payment well and truly to be made to the said Employer, the Bank binds itself, its successors and assigns by these presents sealed with the Common Seal of the said Bank this Day of20.....

THE CONDITIONS of this obligation are:

- 1. If after tender opening the tenderer withdraws his tender during the period of tender validity specified in the instructions to tenderers
Or
- 2. If the tenderer, having been notified of the acceptance of his tender by the Employer during the period of tender validity:
 - (a) fails or refuses to execute the form of Agreement in accordance with the Instructions to Tenderers, if required; or
 - (b) fails or refuses to furnish the Performance Security, in accordance with the Instructions to Tenderers;

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

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

[date]

[signature of the Bank]

[witness]

[seal]

PERFORMANCE BANK GUARANTEE

To: _____ (Name of Employer) _____ (Date)
_____ (Address of Employer)

Dear Sir,

WHEREAS _____ (hereinafter called "the Contractor") has undertaken, in pursuance of Contract No. _____ dated _____ to execute _____ (hereinafter called "the Works");

AND WHEREAS it has been stipulated by you in the said Contract that the Contractor shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

AND WHEREAS we have agreed to give the Contractor such a Bank Guarantee:

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Contractor, up to a total of KShs. (amount of Guarantee in figures) _____ Kenya Shillings _____ (amount of Guarantee in words), and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limit of Kenya Shillings _____ (amount of Guarantee in words) as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Contractor before presenting us with the demand.

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

This guarantee shall be valid until the date of issue of the Certificate of Completion.

SIGNATURE AND SEAL OF THE GUARANTOR _____

Name of Bank _____

Address _____

Date _____

BANK GUARANTEE FOR ADVANCE PAYMENT

To: _____ [name of Employer] _____ (Date)
_____ [address of Employer]

Gentlemen,

Ref: _____ [name of Contract]

In accordance with the provisions of the Conditions of Contract of the above-mentioned Contract, We, _____ [name and Address of Contractor] (hereinafter called "the Contractor") shall deposit with _____ [name of Employer] a bank guarantee to guarantee his proper and faithful performance under the said Contract in an amount of Kshs. _____ [amount of Guarantee in figures] Kenya Shillings _____ [amount of Guarantee in words].

We, _____ [bank or financial institution], as instructed by the Contractor, agree unconditionally and irrevocably to guarantee as primary obligator and not as Surety merely, the payment to _____ [name of Employer] on his first demand without whatsoever right of objection on our part and without his first claim to the Contractor, in the amount not exceeding Kshs _____ [amount of Guarantee in figures] Kenya Shillings _____ [amount of Guarantee in words], such amount to be reduced periodically by the amounts recovered by you from the proceeds of the Contract.

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

No drawing may be made by you under this guarantee until we have received notice in writing from you that an advance payment of the amount listed above has been paid to the Contractor pursuant to the Contract.

This guarantee shall remain valid and in full effect from the date of the advance payment under the Contract until _____ (name of Employer) receives full payment of the same amount from the Contractor.

Yours faithfully,

Signature and Seal _____

Name of the Bank or financial institution _____

Address _____

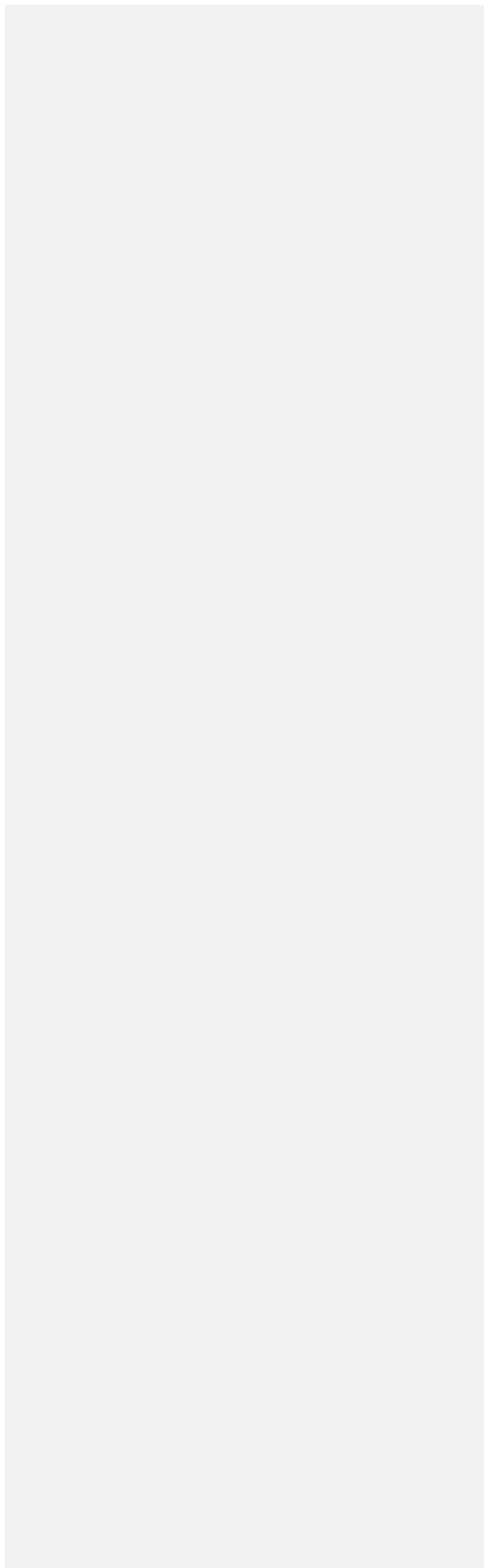
Date _____

Witness: Name: _____

Address: _____

Signature: _____

Date: _____



CONFIDENTIAL BUSINESS QUESTIONNAIRE

You are requested to give the particulars indicated in Part 1 and either Part 2 (a), 2 (b) or 2 (c) and 2 (d) whichever applies to your type of business.

You are advised that it is a serious offence to give false information on this Form.

Part 1 – General

Business Name.....

Location of business premises; Country/Town.....

Plot No..... Street/Road.....

Postal Address..... TelNo.....

Nature of Business.....

Current Trade Licence No..... Expiring date.....

Maximum value of business which you can handle at any time: K.
pound.....

Name of your bankers.....

Branch.....

Part 2 (a) – Sole Proprietor

Your name in full..... Age.....

Nationality..... Country of Origin.....

*Citizenship details

Part 2 (b) – Partnership

Give details of partners as follows:

	<i>Name in full</i>	<i>Nationality</i>	<i>Citizenship Details</i>	<i>Shares</i>
1.
2.
3.

Part 2(c) – Registered Company:

Private or public.....

State the nominal and issued capital of the Company-

NominalKshs.....

IssuedKshs.....

Give details of all directors as follows:

Name in full.	Nationality.	Citizenship Details*.	Shares.
---------------	--------------	-----------------------	---------

1.
.....

2.
.....

3.
.....

4.
.....

Part 2(d) – Interest in the Firm:

Is there any person / persons in(Name of Employer) who has interest in this firm? Yes/No.....(Delete as necessary)

I certify that the information given above is correct.

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

- Attach proof of citizenship

LETTER OF NOTIFICATION OF AWARD

Address of Procuring Entity

To: _____

RE: TenderNo. _____

TenderName _____

This is to notify that the contract/s stated below under the above mentioned tender have been awarded to you.

1. Please acknowledge receipt of this letter of notification signifying your acceptance.
2. The contract/contracts shall be signed by the parties within 30 days of the date of this letter but not earlier than 14 days from the date of the letter.
3. You may contact the officer(s) whose particulars appear below on the subject matter of this letter of notification of award.

(FULL PARTICULARS) _____

SIGNED FOR ACCOUNTING OFFICER

FORM RB 1

REPUBLIC OF KENYA
PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD
APPLICATION NO.....OF.....20.....

BETWEEN

.....APPLICANT

AND

.....RESPONDENT (*Procuring Entity*)

Request for review of the decision of the..... (*Name of the Procuring Entity*) of
.....dated the...day of20.....in the matter of TenderNo.....of
..... 20...

REQUEST FOR REVIEW

I/We.....,the above named Applicant(s), of address: Physical
address.....Fax No.....Tel. No.....Email, hereby request the Public
Procurement Administrative Review Board to review the whole/part of the above mentioned
decision on the following grounds , namely:-

- 1.
 - 2.
- etc.

By this memorandum, the Applicant requests the Board for an order/orders that: -

- 1.
 - 2.
- etc

SIGNED..... (Applicant)

Dated on.....day of/...20...

FOR OFFICIAL USE ONLY

Lodged with the Secretary Public Procurement Administrative Review Board on
day of20.....

SIGNED

Board Secretary

FORM OF POWER OF ATTORNEY

(All bidders shall complete this form otherwise, their bids shall be considered non-responsive)

We _____ (Name of Bidder)

having our offices located in _____ (Name of Town and Building) duly authorise

_____ (Name of person appointed to act for and on behalf of the bidder) to act for and on our behalf on all matters pertaining to the execution of works as stipulated **FRAMEWORK CONTRACT FOR PROVISION OF LEGAL SERVICE (AS AND WHEN REQUIRED)[KCG/EXEC/758542/2019/2020]**

Duly signed and delivered:

Name of appointed attorney: _____

Signature of appointed attorney: _____

Witnessed by:

1. Name of First Company Director: _____

Signature: _____

2. Name of Second Company Director: _____

Signature: _____

Company Seal:

SELF-DECLARATION FORM

Date _____

To:

Kilifi County government
P.O. Box 519-
80108
Kilifi

The tenderer i.e. (name and address)

_____ declare the following:

- a) Has not been debarred from participating in public procurement.

- b) Has not been involved in and will not be involved in corrupt and fraudulent practices regarding public procurement.

Name.....
Title.....
Signature.....
Date.....
Official Stamp.....

(To be signed by authorized representative and officially stamped)

ANTI-CORRUPTION DECLARATION COMMITMENT/ PLEDGE

(Sections 62 of the PPAD Act, 2015)

I/We/Messrs.....

of Street, Building, P O Box.....

.....

Contact/Phone/E mail.....

declare that Public Procurement is based on a free and fair competitive Tendering process which should not be open to abuse.

I/We

declare that I/We will not offer or facilitate, directly or indirectly, any inducement or reward to any public officer, their relations or business associates, in connection with

Tender/Tender No

for or in the subsequent performance of the contract if I/We am/are successful.

Authorized Signature.....

Name of Signatory.....

Title of Signatory

Official Stamp.....

