



Addis Ababa, ETHIOPIA, P. O. Box 3243, Telephone: +251-11-551 7700,
Fax: +251-11-5517844, website: www.africa-union.org

BID CLARIFICATION

Title	Consultancy Services For Conducting A Continental Infrastructure Market And Demand Study For Africa
Procurement Number	AUC/IED/C/046
Original Deadline for Submission	31 MAY 2019
Revised Submission Deadline	14 June 2019

SN	QUESTIONS BY POTENTIAL BIDDERS	AU REPOSNSSES
1	Section 3 ITC Clause 3.3(iv) and Section 4G: Will it lead to disqualification of the Consultant if the team leader does not possess a Master's degree?	No disqualification but the candidate without Master's degree will get lower marks for this criteria.
2	If the team leader does not possess a Master's degree, is an equivalent qualification by experience possible?	No disqualification but the candidate without Master's degree will get lower marks for this criteria.
3	Kindly provide us with the final report of PIDA Study Phase III ICT. The Consultant was unable to find the report on this sector online on PIDA's website.	The PIDA Study Phase III ICT is not available but the PIDA synthesis report which includes ICT is available.
4	Please clarify whether the analysis should be performed until 2030 or 2040.	Until 2030
5	Does the Consultant get access to the underlying data (forecasts etc.) and models of the previous market and demand study?	The Consultant will get the available data.
6	Kindly confirm that the details of the five flagship projects mentioned on p. 13 of the TOR will be made available to the Consultant.	The information on the 5 flagship projects will be made available.
7	Kindly confirm that the design and selection of priority projects mentioned on p. 14 of the TOR is not within the scope of this Consultant's work.	This will be in another process. The definition of criteria will be carried out with another constancy but the consultant of this study will interact with the winner.
8	Does the Consultant get full access to PIDA's job creation toolkit?	Yes
9	The TOR mention a mapping of project implementation risks of certain projects as a case study. Kindly confirm how many projects this will entail.	We will define with consultant how many will be necessary to draw adequate conclusion.

10	In order to fulfil the deliverables within the envisaged time frame, it is assumed that the member states will be involved via RECs. Please confirm whether this is sufficient.	Yes. But the study may require to engage the Member States directly as necessary (to be advised by consultants). In this case AUC and RECs will facilitate the meetings with the targeted Member States but the costs for the visits will be beared by the consultant.
11	P. 13 of the TOR states that the Single Africa Air Transport Market (SAATM) “requires the development of standardized aviation infrastructure on the ground and in the air“. Is air transport in general part of the scope?	Yes. Air Transport is a sub-sector of Transport therefore it is also part of the scope.
12	Stakeholder's workshops/meetings, which are mentioned in the TOR, is supposed to be organized, moderated and paid by the Client. We would like to confirm if our understanding is correct.	The workshops are organized and paid by the AUC however the consultant will be required to moderate the sessions related to study. The field visits are covered by the consultant.
13	In section B (Objective of the Assignment), the period for projections is given as 2021-2030 . However, in section C (Scope of Works and Tasks of Consultant) the period is given as 2021-2040 . We would like to confirm which is correct	Kindly note that the period for PIDA PAP 2 is 2021-2030.
14	We note that the general and specific conditions of contract were not attached to the RFP. Can these please be included as annexure to the RFP, as is typically the case with studies funded by the African Development Bank or most other development partners? It is a requirement from our legal department that the general and specific conditions of contract are being reviewed before submission of a proposal due to the obvious legal implications.	The economic analysis is sufficient for this assessment of infrastructure needs for period of 2021-2030.
15	Section J timeline of the assignment on page 35 of the TOR refers to a study duration of 6 months whilst the schedule refers to 8 months (June 2019 to January 2019). Section E deliverables on page 28 of the TOR refers to 7 months (6 + 1). Please clarify.	The study is planned to be finalized within 6 months. The remaining 2 moths will be the time for its dissemination among the PIDA policy organs. The consultant will be involved in this and they shall evaluate how much they can contribute to the dissemination exercises.
16	Section I qualifications and responsibilities of the consultants on page 34 of the TOR refers to an envisaged level of effort of team leader of 50 person-days (2.3 person-months). Based on the study duration of between 6 and 8 months, it therefore appears that the involvement of the team leader is only intermittent which seems to be in conflict with the responsibility of the team leader. Please clarify whether it is indeed the intention to limit the involvement of the team leader.	The plan of that the team leader will spend more time on the project that the other team members. However his times should be allocated according to the methodology proposed by the consultant and how the consultant feel at which stage the team leader should spend more time.

17	Section J timeline of the assignment on page 35 of the TOR refers to a “technical validation of the study” Does this refer to a review by the client of the deliverables?	Yes
18	Page 36 point III of section C scope of work and task of the consultant refers to an econometric analysis of the projected infrastructure needs (including a high-level feasibility, bankability and attractiveness assessment). We assume that the term econometric analysis is an error and should refer to economic analysis, as a meaningful econometric analysis will require a large number of time series and / or panel data observations and feasibility, bankability and attractiveness assessments are typically conducted as part of an economic analysis. Please confirm.	This is right, the economic analysis is sufficient for this assessment of infrastructure needs for period of 2021-2030.
19	Section G staffing of consultant’s team on page 29 of the TOR refers to the required qualifications and experience of the key staff. For the key expert 2: infrastructure finance expert, the required qualification refers to a master’s degree in finance or related field. Will a Master of Science in Building (Quantity Surveying) be considered as a related field provided that working experience is related to infrastructure financing?	This could be sufficient. However. The evaluation team will see the relation of this specialty to infrastructure finance.
20	Key expert 6: ICT expert refers to a master’s degree in computer science, information management, telecommunications or equivalent. Will a master’s degree in industrial engineering be considered as related field due to it also being process and systems oriented?	This could be related if the candidate has sufficient relevant working experience in ICT.
21	Similarly, for the key expert 3: infrastructure planner and the key expert 5: energy expert, will a master’s degree in economics qualify as related field?	For these expert we are expecting candidates with engineering/technical background on these fields.
22	Section F on page 28 of the TOR refers to the stakeholders to be consulted. Given the limited study duration, it will be challenging to visit all of the listed stakeholders. Is it the intention that some of the listed stakeholders only be contacted during the two workshops or is it envisaged that all of the stakeholders be consulted during one-on-one visits, as there may be security challenges to visit some of the stakeholders such as the CEN-SAD REC located in Libya?	Some of the stakeholders can be consulted during the two planned workshops or other PIDA related gatherings. The consultants will be invited to participate to such workshops.
23	Please confirm that the African Development Bank will fund this assignment.	No, this assignment is not funded by AfDB
24	Based on the above requests and the upcoming public holiday (downfall of the Derg on 28 May in Ethiopia) which could impact the submission by courier to the AUC offices in Addis Ababa, we kindly request that the submission deadline be extended with two weeks (i.e. from 31 May to 14 June) to provide us with sufficient	Extension is granted to 14 June 2019

	time. Alternatively, if extension of time cannot be granted, will it be permissible that the proposals be submitted via e-mail whereby the financial proposal be password protected?	
25	It appears that some of the technical proposal forms i.e. forms D and E are not included in the RFP, as the technical form templates only include forms A, B, C and F. Please confirm that either forms D and E are not required or alternatively provide us with the templates of forms D and E.	D is the description of methodology and work plan (Page 38 of the RFP). Bidders are free to use own style. Template E is the (page 39) is the Team Composition and Task assignment
	The second last sentence on page 33 of section H: requirements on the format of the offer refers to statements of availability for the proposed experts for the proposed project duration. Will it be in order if the statements of availability only be submitted during contract negotiations with the preferred consultant, as is typically the case with studies funded by the African Development Bank or most other development partners?	AU would like to ensure the experts whose CVs are submitted are aware and have consented to participate in the bid.
26	We note that the general and specific conditions of contract were not attached to the RFP. Can these please be included as annexure to the RFP, as is typically the case with studies funded by the African Development Bank or most other development partners? It is a requirement from our legal department that the general and specific conditions of contract are being reviewed before submission of a proposal due to the obvious legal implications.	Attached to this clarification
27	We kindly ask the Client to confirm if Consultants are free to add non-key experts to the team in accordance with their approach to the assignment and in addition to the positions already outlined.	No-key experts can be added by the consultants if these experts can bring effective contributions to the success of the study. However, point will be earned on the requested experts.
28	Please kindly confirm that the financial offers should be presented exclusive of all taxes to allow for a meaningful comparison and evaluation of the cost proposals. Please kindly confirm whether we need to submit 1 original and 3 copies for each of the technical and the financial proposal.	Refer to text in the Financial bids submission form
29	We kindly ask the Client to provide an estimation of expected work in the field of the Key Experts.	The ToR mention the stakeholders that needs to be consulted. But the field work will be defined during the inception phase with mutual agreement between the client and the consultant.

30	As the estimated budget is not provided, please kindly confirm if there is a minimum requirement Level of Effort for the Key Experts.	This is mentioned in the ToR with estimation of persons-day per key experts
31	Given the extensive scope of the Terms of Reference and the need to deliver hard copies of the proposal, we believe that an extension of the proposal deadline would benefit the quality of all proposals submitted. Please kindly consider extending the proposal submission deadline through June 7 th .	Deadline for submission is hereby extended to 14 June 2019

African Union

DRAFT

FORM OF CONTRACT

Consultant Services

Complex Lump-Sum Payment

[Title of the Assignment]

between

[Name of the Client]

and

[Name of the Consultants]

Procurement Number: _____

Dated: _____

Contents

CONTENTS.....	1
1. FORM OF CONTRACT.....	3
2. GENERAL CONDITIONS OF CONTRACT.....	5
1. GENERAL PROVISIONS.....	5
1.1 Definitions.....	5
1.2 Law Governing the Contract.....	6
1.3 Language.....	6
1.4 Notices	6
1.5 Location	6
1.6 Authorised Representatives	6
1.7 Taxes and Duties.....	6
2. COMMENCEMENT, COMPLETION, MODIFICATION, AND TERMINATION OF CONTRACT.....	7
2.1 Effectiveness of Contract.....	7
2.2 Commencement of Services	7
2.3 Expiration of Contract.....	7
2.4 Modification.....	7
2.5 Force Majeure	7
2.5.1 Definition	7
2.5.2 No Breach of Contract	8
2.5.3 Extension of Time.....	8
2.5.4 Payments	8
2.6 Termination.....	8
2.6.1 By the Client	8
2.6.2 By the Consultants	9
2.6.3 Payment upon Termination.....	10
2.7 Entire Agreement	10
3. OBLIGATIONS OF THE CONSULTANTS	10
3.1 General.....	10
3.1.1 Standard of Performance.....	10
3.2.1 Consultants Not to Benefit from Commissions, Discounts, etc.....	10
3.2.2 Compliance with Procurement Rules	11
3.2.3 Consultants and Affiliates Not to be Otherwise Interested in Project	11
3.2.4 Prohibition of Conflicting Activities	11
3.3 Confidentiality	11
3.4 Insurance to be Taken Out by the Consultants	11
3.5 Consultants' Actions Requiring Client's Prior Approval	12
3.6 Reporting Obligations.....	12
3.7 Documents Prepared by the Consultants to Be the Property of the Client	12
4. CONSULTANTS' PERSONNEL.....	12
4.1 Description of Personnel.....	12
4.2 Removal and/or Replacement of Personnel	12
5. OBLIGATIONS OF THE CLIENT.....	13
5.1 Assistance and Exemptions.....	13
5.2 Change in the Applicable Law.....	13
5.3 Services and Facilities.....	13
6. PAYMENTS TO THE CONSULTANTS	14

6.1 Lump-Sum Remuneration.....	14
6.2 Contract Price.....	14
6.3 Payment for Additional Services	14
6.4 Terms and Conditions of Payment.....	14
6.5 Interest on Delayed Payments.....	14
7. SETTLEMENT OF DISPUTES	14
7.1 Amicable Settlement.....	14
7.2 Dispute Settlement	14
3. SPECIAL CONDITIONS OF CONTRACT	15
4. APPENDICES	19
APPENDIX A—DESCRIPTION OF THE SERVICES	19
APPENDIX B—REPORTING REQUIREMENTS.....	19
APPENDIX C—KEY PERSONNEL AND SUBCONSULTANTS	19
APPENDIX D—BREAKDOWN OF CONTRACT PRICE IN FOREIGN CURRENCY	19
APPENDIX E—BREAKDOWN OF CONTRACT PRICE IN LOCAL CURRENCY	20
APPENDIX F—SERVICES AND FACILITIES PROVIDED BY THE CLIENT	20
APPENDIX G—FORM OF BANK GUARANTEE FOR ADVANCE PAYMENTS	21

1. Form of Contract

COMPLEX LUMP-SUM PAYMENT

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

[Note: If the Consultants consist 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 Consultants’ obligations under this Contract, namely, [name of consultants] and [name of consultants] (hereinafter called the “Consultants”).]

WHEREAS

- (a) the Client has requested the Consultants to provide certain consulting services as defined in the General Conditions of Contract attached to this Contract (hereinafter called the “Services”);
- (b) the Consultants, 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;
- (c) the Client has received funding towards the cost of the Services and intends to apply a portion of this funding to eligible payments under this Contract;

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:
 - (a) The Special Conditions of Contract;
 - (b) The General Conditions of Contract;
 - (c) The following Appendices: *[Note: If any of these Appendices are not used, the words “Not Used” should be inserted below next to the title of the Appendix and on the sheet attached hereto carrying the title of that Appendix.]*

Appendix A: Description of the Services
Appendix B: Reporting Requirements
Appendix C: Key Personnel and Sub-Consultants
Appendix D: Breakdown of Contract Price in Foreign Currency
Appendix E: Breakdown of Contract Price in Local Currency
Appendix F: Services and Facilities Provided by the Client
Appendix G: Form of Bank Guarantee for Advance Payments

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

[Authorised Representative]

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

[Authorised Representative]

[Note: If the Consultants consist 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 Consultants

[name of member]

[Authorised Representative]

[name of member]

[Authorised Representative]

2. General Conditions of Contract

1. General Provisions

1.1 Definitions

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

- (a) “Applicable Law” means International Law;
- (b) “Contract” means the Contract signed by the Parties, to which these General Conditions of Contract (GCC) are attached, together with all the documents listed in Clause 1 of such signed Contract;
- (c) “Contract Price” means the price to be paid for the performance of the Services, in accordance with GCC Clause 6;
- (d) “Country specified for performance of the Services” means the Country specified in the SCC;
- (e) “Effective Date” means the date on which this Contract comes into force and effect pursuant to GCC Clause 2.1;
- (f) “Foreign Currency” means any currency other than Currency of the Country specified for performance of the Services;
- (g) “GCC” means these General Conditions of Contract;
- (h) “Local Currency” means the Currency of the Country specified for performance of the Services;
- (i) “Member,” in case the Consultants consist of a joint venture of more than one entity, means any of these entities; “Members” means all these entities, and “Member in Charge” means the entity specified in the SCC to act on their behalf in exercising all the Consultants’ rights and obligations towards the Client under this Contract;
- (j) “Party” means the Client or the Consultants, as the case may be, and “Parties” means both of them;
- (k) “Personnel” means persons hired by the Consultants or by any Sub-Consultant as employees and assigned to the performance of the Services or any part thereof. “Foreign Personnel” means such persons who at the time of being so hired had their domicile outside the Country specified for the performance of the Services. “Local Personnel” means such persons who at the time of being so hired had their domicile within the Country specified

for performance of the Services. “Key Personnel” means the Personnel referred to in GCC Clause 4.2(a).

- (l) “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented;
- (m) “Services” means the work to be performed by the Consultants pursuant to this Contract, as described in Appendix A hereto;
- (n) “Sub-Consultant” means any person or entity to whom/which the Consultants subcontract any part of the Services in accordance with the provisions of GCC Clauses 3.5 and 4.
- (o) “Third Party” means any person or entity other than the Client, the Consultants or a Sub-Consultant.

1.2 Law Governing the Contract	This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.
1.3 Language	This Contract has been executed in the language specified in the SCC, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.
1.4 Notices	Any notice, request, or consent made pursuant to this Contract shall be in writing and shall be deemed to have been made when delivered in person to an authorised representative of the Party to whom the communication is addressed, or when to such Party at the address specified in the SCC.
1.5 Location	The Services shall be performed at such locations as are specified in Appendix A and, where the location of a particular task is not so specified, at such locations as the Client may approve.
1.6 Authorised Representatives	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 Consultants may be taken or executed by the officials specified in the SCC.
1.7 Taxes & Duties	
1.7.1 African Union Exemption from Taxes & Duties	The African Union and its organs are exempted from all direct taxes, and are exempted from customs duties in respect of articles imported or exported for its official use in conformity with the General Convention on Privileges and Immunities. Accordingly, the Consultant authorises the Commission of the African Union (AUC) to deduct from payments any amount representing such taxes or duties charged to the African Union by the Consultant. In the event that any taxing authority refuses to accept the African Union’s exemption from such taxes or duties, the Consultant shall immediately consult with the AUC.

- 1.7.2 Consultant Obligations on Taxes & Duties
- A Consultant shall be responsible for obtaining exemption for the African Union of all such taxes, duties, license fees, and other impositions incurred within African Union Member States, unless otherwise agreed in writing by the AUC.

Consultants, Sub-Consultants, and their Personnel shall pay such other taxes, duties, fees, and other impositions as may be levied by the law of their domicile country.

2. Commencement, Completion, Modification, and Termination of Contract

- 2.1 Effectiveness of Contract
- This Contract shall come into force and effect on the date (the “Effective Date”) of the Client’s Letter of Acceptance instructing the Consultants to begin carrying out the Services. This notice shall confirm that the effectiveness conditions, if any, listed in the SCC have been met.

- 2.2 Commencement of Services
- The Consultants shall begin carrying out the Services thirty (30) days after the date the Contract becomes effective, or at such other date as may be specified in the SCC.

- 2.3 Expiration of Contract
- Unless terminated earlier pursuant to Clause 2.6, this Contract shall terminate at the end of such time period after the Effective Date as is specified in the SCC.

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

2.5 Force Majeure

- 2.5.1 Definition
- (a) For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party and which makes a Party’s performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances. Force Majeure includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by government agencies.
- (b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party’s Sub-Consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both: (a) take into account at the time of the conclusion of this

Contract; and (b) avoid or overcome in the carrying out of its obligations under this Contract.

- (c) Force Majeure shall not include insufficiency of funds or failure to make any payment required under the Contract.

2.5.2 No Breach of Contract

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

2.5.3 Extension of Time

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

2.5.4 Payments

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

2.6 Termination

2.6.1 By the Client

The Client may terminate this Contract, by not less than thirty (30) days' written notice of termination to the Consultants, to be given after the occurrence of any of the events specified in paragraphs (a) through (d) of this GCC Clause 2.6.1 and sixty (60) days' in the case of the event referred to in (e):

- (a) if the Consultants do not remedy a failure in the performance of their obligations under the Contract, within thirty (30) days after being notified or within any further period as the Client may have subsequently approved in writing;
- (b) if the Consultants become insolvent or bankrupt;
- (c) if, as the result of Force Majeure, the Consultants are unable to perform a material portion of the Services for a period of not less than sixty (60) days;
- (d) if the Consultant, in the judgment of the Client has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for or in executing the Contract. For the purpose of this clause:

“corrupt practice”¹ is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;

“fraudulent practice”² is any act or omission including a misrepresentation that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;

“collusive practice”³ is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;

“coercive practice”⁴ is impairing or harming or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

“obstructive practice” is deliberately destroying, falsifying, altering or concealing of evidence material to any investigation or making false statements to investigators in order to materially impede any 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;

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

2.6.2 By the Consultants

The Consultants may terminate this Contract, by not less than thirty (30) days’ written notice to the Client, such notice to be given after the occurrence of any of the events specified in paragraphs (a) and (b) of this GCC Clause 2.6.2:

¹ “another party” refers to an officer of the AU acting in relation to the procurement process or contract execution. In this context, “officer of the AU” includes staff and employees of other organisations taking or reviewing procurement decisions.

² a “party” refers to any officer of the AU; the terms “benefit” and “obligation” relate to the procurement process or contract execution; and the “act or omission” is intended to influence the procurement process or contract execution.

³ “parties” refers to any participants in the procurement process (including officers of the AU) attempting to establish bid prices at artificial, non competitive levels.

⁴ a “party” refers to any participant in the procurement process or contract execution.

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

2.6.3 Payment upon Termination

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

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

2.7 Entire Agreement

This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth within the Contract or written modifications thereto pursuant to GCC Clause 2.4.

3. Obligations of the Consultants

3.1 General

3.1.1 Standard of Performance

The Consultants shall perform the Services and carry out their obligations with all due diligence, efficiency, and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe methods. The Consultants 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.

3.2 Conflict of Interests

3.2.1 Consultants Not to Benefit from

The remuneration of the Consultants pursuant to GCC Clause 6 shall constitute the Consultants' sole remuneration in connection with this

Commissions, Discounts, etc.	Contract or the Services, and the Consultants shall not accept for their own benefit any trade commission, discount, or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations under the Contract, and the Consultants shall use their best efforts to ensure that the Personnel, any Sub-Consultants, and agents of either of them similarly shall not receive any such additional remuneration.
3.2.2 Compliance with Procurement Rules	If the Consultants, as part of the Services, have the responsibility of advising the Client on the procurement of goods, works or services, the Consultants shall comply with the African Union procurement regulations and at all times exercise such responsibility in the best interest of the Client. Any discounts or commissions obtained by the Consultants in the exercise of such procurement responsibility shall be for the account of the Client.
3.2.3 Consultants and Affiliates Not to be Otherwise Interested in Project	The Consultants agree that, during the term of this Contract and after its termination, the Consultants and their affiliates, as well as any Sub-Consultant and any of its affiliates, shall be disqualified from providing goods, works, or services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.
3.2.4 Prohibition of Conflicting Activities	<p>Neither the Consultants nor their Sub-Consultants nor the Personnel shall engage, either directly or indirectly, in any of the following activities:</p> <ul style="list-style-type: none">(a) during the term of this Contract, any business or professional activities in the Country specified for performance of the Services which would conflict with the activities assigned to them under this Contract; or(b) after the termination of this Contract, such other activities as may be specified in the SCC.
3.3 Confidentiality	The Consultants, their Sub-Consultants, and the Personnel of either of them shall not, either during the term or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information relating to the Project, the Services, this Contract, or the Client's business or operations without the prior written consent of the Client.
3.4 Insurance to be Taken Out by the Consultants	The Consultants (a) shall take out and maintain, and shall cause any Sub-Consultants to take out and maintain, at their own cost but on terms and conditions approved by the Client, insurance against the risks, and for the coverage, specified in the SCC; and (b) at the Client's request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums have been paid.

- 3.5 Consultants' Actions Requiring Client's Prior Approval
- The Consultants shall obtain the Client's prior approval in writing before taking any of the following actions:
- (a) entering into a sub-contract for the performance of any part of the Services,
 - (b) appointing such members of the Personnel not listed by name in Appendix C ("Key Personnel and Sub-Consultants"), and
 - (c) any other action that may be specified in the SCC.
- 3.6 Reporting Obligations
- The Consultants shall submit to the Client the reports and documents and software specified in Appendix B in the form, in the numbers, and within the periods set forth in the said Appendix.
- 3.7 Documents Prepared by the Consultants to Be the Property of the Client
- All plans, drawings, specifications, designs, reports, other documents and software submitted by the Consultants in accordance with Clause 3.6 shall become and remain the property of the Client, and the Consultants shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Client, together with a detailed inventory thereof. The Consultants may retain a copy of such documents and software. Restrictions about the future use of these documents, if any, shall be specified in the SCC.

4. Consultants' Personnel

- 4.1 Description of Personnel
- The titles, agreed job descriptions, minimum qualifications, and estimated periods of engagement in the carrying out of the Services of the Consultants' Key Personnel are described in Appendix C. The Key Personnel and Sub-Consultants listed by title as well as by name in Appendix C are hereby approved by the Client.
- 4.2 Removal and/or Replacement of Personnel
- (a) Except as the Client may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Consultants, it becomes necessary to replace any of the Key Personnel, the Consultants shall provide as a replacement a person of equivalent or better qualifications.
 - (b) If the Client finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultants shall, at the Client's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Client.
 - (c) The Consultants shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

5. Obligations of the Client

- 5.1 Assistance and Exemptions** Unless otherwise specified in the SCC, the Client shall use its best efforts to ensure that the African Union Commission shall:
- (a) provide the Consultants, Sub-Consultants and Personnel with work permits and such other documents as shall be necessary to enable the Consultants, Sub-Consultants or Personnel to perform the Services;
 - (b) arrange for the Personnel and, if appropriate, their eligible dependents to be provided promptly with all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in the Country specified for performance of the Services;
 - (c) facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Personnel and their eligible dependents;
 - (d) issue to officials, agents and representatives of the African Union Commission all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services;
 - (e) exempt the Consultants and the Personnel and any Sub-Consultants employed by the Consultants for the Services from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity according to the Laws of the Country specified for performance of the Services;
 - (f) grant to the Consultants, any Sub-Consultants and their Personnel the privilege, pursuant to the Applicable Law, of bringing into the Country specified for performance of the Services reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Personnel and their dependents, and of withdrawing any such amounts as may be earned therein by the Personnel in the execution of the Services
- 5.2 Modification of Contract Sum** If, after the date of this Contract, there is any change with respect to a failure by the Client to gain exemption from taxes and duties which increases the cost of the services rendered by the Consultants, then the remuneration and reimbursable expenses otherwise payable to the Consultants under this Contract shall be increased accordingly by agreement between the Parties, and corresponding adjustments shall be made to the ceiling amounts referred to in GCC Clauses 6.1 and 6.2.
- 5.3 Services and Facilities** The Client shall make available to the Consultants, free of any charge, the Services and Facilities listed under Appendix F.

6. Payments to the Consultants

- | | |
|-------------------------------------|--|
| 6.1 Lump-Sum Remuneration | The Consultant's total remuneration shall not exceed the Contract Price and shall be a fixed lump-sum including all staff costs, Sub-Consultants' costs, printing, communications, travel, accommodation, and the like, and all other costs incurred by the Consultant in carrying out the Services described in Appendix A. Except as provided in GCC Clause 5.2, the Contract Price may only be increased above the amounts stated in GCC Clause 6.2 if the Parties have agreed to additional payments in accordance with GCC Clause 2.4. |
| 6.2 Contract Price | <p>(a) The price payable in foreign currency is set forth in the SCC.</p> <p>(b) The price payable in local currency is set forth in the SCC.</p> |
| 6.3 Payment for Additional Services | For the purpose of determining the remuneration due for additional services as may be agreed under Clause 2.4, a breakdown of the lump-sum price is provided in Appendices D and E. |
| 6.4 Terms and Conditions of Payment | Payments will be made to the account of the Consultants and according to the payment schedule stated in the SCC. Unless otherwise stated in the SCC, the first payment shall be an advance payment made against the provision by the Consultants of a bank guarantee for the same amount, and shall be valid for the period stated in the SCC. Any other payment shall be made after the conditions listed in the SCC for such payment have been met, and the Consultants have submitted an invoice to the Client specifying the amount due. |
| 6.5 Interest on Delayed Payments | If the Client has delayed payments beyond ninety (90) days after receipt by the Client, interest shall be paid to the Consultants for each day of delay at the rate stated in the SCC. |

7. Settlement of Disputes

- | | |
|-------------------------|--|
| 7.1 Amicable Settlement | The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation. |
| 7.2 Dispute Settlement | Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement may be submitted by either Party for settlement in accordance with the provisions specified in the SCC. |

3. Special Conditions of Contract

Number of GCC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
GCC Clause 1.1 (d)	The Country specified for performance of the Services is:
GCC Clause 1.3	The language of the contract is English
GCC Clause 1.4	<p>The addresses for notices are:</p> <p>Client: _____</p> <p>Attention: _____</p> <p>e-mail: _____</p> <p>Facsimile: _____</p> <p>Consultants: _____</p> <p>Attention: _____</p> <p>e-mail: _____</p> <p>Facsimile: _____</p>
GCC Clause 1.6	<p>The Authorised Representatives are:</p> <p>For the Client: _____</p> <p>For the Consultants: _____</p>
GCC Clause 1.7	<p>The Client warrants that the Consultants, the Sub-Consultants and the Personnel shall be exempt from any local taxes, duties, fees, levies and other impositions imposed within the Country specified for performance of the Services on the Consultants, the Sub-Consultants and the Personnel in respect of:</p> <p>(a) any payments whatsoever made to the Consultants, Sub-Consultants and the Personnel (other than nationals or permanent residents of the Country specified for performance of the Services), in connection with the carrying out of the Services;</p> <p>(b) any equipment, materials and supplies brought into the Country specified for performance of the Services by the Consultants or Sub-Consultants for the purpose of carrying out the Services and which, after having been brought into the country, will be subsequently withdrawn therefrom by them;</p>

- (c) any equipment imported for the purpose of carrying out the Services and paid for out of funds provided by the Client and which is treated as property of the Client;
- (d) any property brought into the Country specified for performance of the Services by the Consultants, any Sub-Consultants or the Personnel (other than nationals or permanent residents of the Country specified for performance of the Services), or the eligible dependents of such Personnel for their personal use and which will subsequently be withdrawn therefrom by them upon their respective departure from the Country specified for performance of the Services, provided that:
 - (1) the Consultants, Sub-Consultants and Personnel, and their eligible dependents, shall follow the usual customs procedures in importing property into the Country specified for performance of the Services; and
 - (2) if the Consultants, Sub-Consultants or Personnel, or their eligible dependents, do not withdraw but dispose of any property in the Country specified for performance of the Services upon which customs duties and taxes have been exempted, the Consultants, Sub-Consultants or Personnel, as the case may be, shall bear such customs duties and taxes in conformity with the regulations of the Country specified for the performance of the Services.

[The issue of local taxes and duties must be discussed and agreed during negotiation in respect of whether the Consultants should have to pay levies of this kind, or should be exempted from any such levies.]

GCC Clause 2.1 The effectiveness of the Contract is subject to the following conditions:
[List any conditions of effectiveness of the Contract. If there are no effectiveness conditions, delete this Clause SCC 2.1 from the SCC.]

GCC Clause 2.3 The time period for expiration of the Contract shall be *[length of time]* or such other time period as the parties may agree in writing.

GCC Clause 3.4 The risks and insurance coverage shall be:

- (a) Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Country specified for performance of the Services by the Consultants or their Personnel or any Sub-Consultants or their Personnel, with a minimum coverage of *[amount]*;
- (b) Third Party liability insurance, with a minimum coverage of *[amount]*;
- (c) professional liability insurance, with a minimum coverage of *[amount]*;

- (d) employer's liability and workers' compensation insurance in respect of the Personnel of the Consultants 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; and
- (e) insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultants' property used in the performance of the Services, and (iii) any documents prepared by the Consultants in the performance of the Services.

GCC Clause 6.2(a) The amount in foreign currency or currencies is *[insert amount]*.

GCC Clause 6.2(b) The amount in Local Currency is *[insert amount]*.

GCC Clause 6.4 The bank accounts are:

for foreign currency: *[insert account]*

for local currency: *[insert account]*

Payments shall be made according to the following schedule:

[Insert the payment schedule and conditions specifically drafted for this contract.]

Payments shall be made within *[number]* days of receipt of the invoice and the relevant documents specified in Clause 6.4 and within *[number]* days in the case of the final payment.

GCC Clause 6.5 The annual interest rate is *[percentage]*.

GCC Clause 7.2 Settlement of Disputes:

[Note: (a) should always be retained for a Contract with a foreign Supplier (b) is an alternative that may be substituted for a Contract with a Consultant who is a National of the Country specified for the performance of the Services:]

[Example Clauses:]

(a) Contract with a foreign Supplier:

Any dispute, controversy or claim arising out of or relating to this Contract, or breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.

(b) *Contracts with Consultant firm that is national of the Country specified for performance of the Services:*

In the case of a dispute between the Client and a Consultant who is a national of the Country specified for performance of the Services, any dispute shall be settled in accordance with arbitration procedures as agreed between the parties during contract negotiations.

[The arbitration procedures that will apply should be agreed during contract negotiations, and only applicable clauses should be retained in the SCC.]

In any arbitration proceeding hereunder:

- (a) unless otherwise agreed by the Parties, proceedings shall be held in *[location]*;
- (b) the English language shall be the official language for all purposes, with interpretation to other AU working languages when necessary; and
- (c) the decision of the sole arbitrator or of a majority of the arbitrators (or of the third arbitrator if there is no such majority) shall be final and binding.

4. Appendices

Appendix A—Description of the Services

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

Appendix B—Reporting Requirements

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

Appendix C—Key Personnel and Sub-Consultants

- [List under:*
- C-1 Titles [and names, if already available], detailed job descriptions and minimum qualifications of foreign Personnel to be assigned to work in the Country specified for performance of the Services, and staff-months for each.*
 - C-2 Same as C-1 for Key foreign Personnel to be assigned to work outside the Country specified for performance of the Services.*
 - C-3 Same information as C-1 for Key local Personnel.]*
 - C-4 List of approved Sub-Consultants (if already available); same information with respect to their Personnel as in C-1 or C-2.*

Appendix D—Breakdown of Contract Price in Foreign Currency

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

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

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

Appendix E—Breakdown of Contract Price in Local Currency

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

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

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

Appendix F—Services and Facilities Provided by the Client

[List Services, facilities, property and counterpart personnel to be made available to the Consultants by the Client.]

Appendix G—Form of Bank Guarantee for Advance Payments

[Note: See Clause GCC 6.4. The Client should insert here an acceptable form of a bank guarantee. An example is set forth below.]

TO: *{Name and Address of Client}*
 {Name of Contract for Consultants' Services}

Sir / Madam:

In accordance with the provisions of Clause GCC 6.4) of the above-mentioned Contract (hereinafter called “the Contract”), *{name and address of Consultant}* (hereinafter called “the Consultants”) shall deposit with *{name of Client}* a bank guarantee to guarantee their proper and faithful performance under the said provisions of the Contract in an amount of *{amount of Guarantee}*, *{amount of Guarantee in words}*.³

We, the *{bank or financial institution}*, as instructed by the Consultants, agree unconditionally and irrevocably to guarantee as primary obligor and not as Surety merely, the payment to *{name of Client}* on his first demand without whatsoever right of objection on our part and without his first claim to the Consultants, in the amount not exceeding *{amount of Guarantee}*, *{amount of Guarantee in words}*.

We further agree that no change or addition to or other modification of the terms of the Contract which may be made between *{name of Client}* and the Consultants, 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 shall remain valid and in full effect from the date of the advance payment under the Contract until *[state conditionality for discharge of the bank guarantee as indicated in GCC Clause 6.4 and the SCC]*.

Yours truly,

Name, Signature and Seal

Name of Bank/Financial Institution

Address

Date

³ An amount is to be inserted by the bank or financial institution as specified in SCC Clause GCC 6.4.