Request for Proposal – Quality and Price

REQUEST FOR PROPOSAL FOR PROVISION OF MAINTENANCE SERVICES FOR AIR CONDITIONING EQUIPMENT AT THE REGIONAL DEVELOPMENT AND BUSINESS DELIVERY OFFICE (RDGE) - NAIROBI

REF: ADB/RFP/RDGE/2019/0099

RDGE
REGIONAL OFFICES
SUMMARY DESCRIPTION

PART I – SELECTION PROCEDURES AND REQUIREMENTS

Section 1: Letter of Invitation
This Section is a letter from the Bank addressed to potential bidders inviting them to submit a proposal for the assignment. The letter includes references to the selection method and applicable guidelines or policies of the Bank that govern the selection and award process.

Section 2: Instructions to Bidders
This Section provides information to help potential bidders prepare their proposals. Information is also provided on the submission, opening and evaluation of proposals, contract negotiation and award of contract.

Section 3: RFP Data Sheet
“RFP Data” contains information specific to the current selection and corresponds to the clauses in “Instructions to Bidders” that call for selection-specific information to be added.

Section 4: Terms of Reference
This Section describes the scope of services, objectives, goals, specific tasks required to implement the assignment, and relevant background information; provides details on the required qualifications of the key experts.

Section 5: Evaluation Criteria and Methodology
This Section provides information on the evaluation of submissions.

Section 6: Technical Proposal Questionnaire
This Section includes the technical proposal forms that are to be completed by potential bidders and submitted in accordance with the requirements of Section 2.

Section 7: Financial Proposal Questionnaire
This Section includes the financial forms that are to be completed by potential bidders, including bidders’ costing of their technical proposal, which are to be submitted in accordance with the requirements of Section 2.

Section 8: Eligibility Requirements
This Section contains information on the Bank’s eligibility criteria and list of member countries.

PART II – CONDITIONS OF CONTRACT

Section 9: This Section includes the General Conditions of the Bank that shall not be modified and the Special Contract Conditions.
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SECTION I – LETTER OF INVITATION

Dear Sir/Madam,

1. The African Development Bank (the “Bank”) invites proposals for the provision of goods and services as described in this Request for Proposal (RFP). To qualify for award, a bidder shall meet the qualification criteria set out in the Section 3.

2. The proposals submitted by bidders shall be received by the Bank on or before the date and time and in the manner specified in Section 2. The Bank’s requirement is set out in Section 4.

3. The Bank is an ‘AAA’ rated regional multilateral development finance institution, established in 1963, with a mandate to further economic development and social progress of African countries, individually and collectively. 80 member countries including all the 54 African countries and 26 non-African countries in the Americas, Europe and Asia own the Bank.

4. The Bank’s principal functions include: (i) using its resources for the financing of investment projects and programs relating to the economic and social development of its Regional Member Countries (RMCs); (ii) the provision of technical assistance for the preparation and execution of development projects and programs; (iii) promoting investment in Africa of public and private capital for development purposes; and (iv) to respond to requests for assistance in coordinating development policies and plans of RMCs. In its operations, the Bank is also required to give special attention to projects and programs that promote regional integration.

5. The Bank began its operations from its headquarters, in Abidjan, Côte d'Ivoire on July 1, 1966. For purposes of its operations the Bank also maintains field offices in certain of its RMCs.

6. The information contained in the RFP is designed to enable bidders complete and submit proposals. Bidders shall read the RFP carefully and ensure proposals comply with the instructions provided in the RFP. Bidders are required to complete and submit the Technical Proposal Questionnaire (Section 6) and Financial Proposal Questionnaire (Section 7) in accordance with the Instructions to Bidders (Section 2), RFP Data Sheet (Section 3), Description of Goods/Technical Specification/Terms of Reference (Section 4), Eligibility Criteria (Section 8) and General and Specific Conditions (Section 9). The Bank shall evaluate proposals in accordance with the evaluation criteria and methodology (Section 5). The Bank is not bound by any other terms and conditions unless agreed in writing by the Bank.

7. Any eligible bidder interested in doing business with the Bank shall register at: https://eprocurement.afdb.org/sap/bc/webdynpro/sap/zsup_reg_submit#


9. We look forward to receiving your proposal and thank you for your interest in doing business with the Bank.

____________________________
Nnenna Nwabufo
Deputy Director General, RDGE
SECTION 2 - INSTRUCTIONS TO BIDDERS

GENERAL

1. Eligibility of Bidders, Goods and Services - Goods and services procured by the Bank shall be produced in a member country of the Bank and supplied by bidders from a member country of the Bank as defined in the Presidential Directive concerning the Rules for Corporate Procurement activities of the Bank. The Bank’s eligibility criteria as defined in the Presidential Directive are set out in the RFP.

2. Procurement Ethics, Integrity, Anti-corruption and Fairness
   2.1. It is the Bank's policy that bidders/suppliers to the Bank observe the highest standard of ethics during the procurement process and execution of such contracts. In pursuance of this policy, the Bank shall reject a proposal if it determines that the bidder, or any of its personnel, agent, consultant, subcontractor or service provider, has, directly or indirectly, engaged in "Corrupt", "Fraudulent", "Collusive", "Coercive" or "Obstructive" practices in competing for the contract in question. These terms are defined in the General and Specific Conditions. The Bank may also declare the bidder ineligible for participation in future procurement and award of contracts, either indefinitely or for a stated period of time.
   2.2. A bidder/supplier who offers any gift of any value to Bank staff will be considered to be influencing the procurement process. The Bank shall reject a proposal if it determines that any such gift has been offered.
   2.3. All bidders/suppliers are required to comply with the Code of Conduct for Suppliers in the General and Specific Conditions.

3. Conflict of Interest - A bidder shall not have a conflict of interest that would call into question its participation in the procurement process and award of contract. Bidders shall disclose any potential or actual conflict of interest in the disclosure form and during execution of any contract. All bidders found to have a conflict of interest may be disqualified.

4. Joint Venture
   4.1. Where a joint venture or any other form of partnership (JV) approach is proposed, bidders are required to provide full details of the JV and nature of relationship with other JV members. Bidders forming a JV shall nominate an authorized representative of the JV (duly evidenced by submitting a power of attorney signed by a legally authorized representative of the JV) who shall have the authority to conduct all business for and on behalf of all members and enter into the contract. Each member shall meet the eligibility criteria as defined in the Presidential Directive.
   4.2. A JV shall comprise no more than four members. At least one member shall provide 40% of the contract sum and each of the other members shall provide at least 20% of the contract sum.
   4.3. All members shall be jointly and severally liable for the performance of any resulting contract.

CLARIFICATION OF THE PROCUREMENT PROCESS

5. Bidders are solely responsible, at their own cost and risk, for obtaining information that may be necessary for preparing proposals and entering into the contract.

6. Amendment of RFP – The Bank reserves the right to modify any content of the RFP without incurring any liability to any bidder. Any such amendment shall be posted on the Bank’s website. It is the sole responsibility of bidders to ensure they are aware of any amendment and take the amendment into account in preparing proposals.
7. **Clarification of RFP**

7.1. A bidder requiring any clarification shall notify the Bank in writing at the details provided in the [RFP Data Sheet](#). Within the period for clarification in the [RFP Data Sheet](#), written copies of the Bank’s response (including the questions raised without identifying the source) shall be posted on the Bank’s website.

7.2. If a bidder feels that any provision in the RFP will be unacceptable, such issue and any request for change to the RFP shall be raised at the earliest opportunity in writing at the details provided in the [RFP Data Sheet](#). In any event no later than the deadline in the [RFP Data Sheet](#). The Bank shall not consider any request to change the General Conditions.

7.3. The Bank shall determine, in its sole discretion, to accept or reject any query or request for change. Any response from the Bank shall be binding on bidders.

7.4. A bidder who contacts any member of Bank staff directly or indirectly in relation to the procurement (except staff specified in the RFP) shall be disqualified.

7.5. The Bank shall not respond to any query or request received after the deadline in the [RFP Data Sheet](#).

8. **Site Visit / Pre-Bid meeting**

8.1. If provided in the [RFP Data Sheet](#), bidders are invited to attend a site visit and pre-bid meeting. The purpose of the meeting will be to clarify issues and answer questions on any matter relating to the Bank’s requirements. The cost of the site visit and pre-bid meeting shall be at the bidder’s own expense.

8.2. Bidders are requested to submit any questions in writing to the address in the [RFP Data Sheet](#), to reach the Bank no later than one week before the meeting.

8.3. If provided in the [RFP Data Sheet](#), attendance at the site visit and pre-bid meeting is mandatory, any bidder wishing to submit a proposal shall attend the site visit and pre-bid meeting. The Bank shall not consider a proposal from a bidder who does not attend a mandatory site visit and pre-bid meeting.

8.4. Minutes of the meeting (including the text of the questions raised without identifying the source together with the Bank’s response) shall be posted on the Bank’s website.

**PREPARATION OF PROPOSALS**

9. **Cost of Bidding** – Bidders shall bear all costs associated with the preparation and submission of proposals. The Bank shall not be responsible or liable for any costs regardless of the conduct or outcome of the procurement process.

10. **Language of Proposals**

10.1. The proposal and all correspondence and documents relating to the proposal exchanged by the bidder and the Bank shall be written in the language specified in the [RFP Data Sheet](#). A proposal submitted in a language not specified in the [RFP Data Sheet](#) shall be rejected.

10.2. Any printed literature furnished by the bidder written in another language other than the language specified in the [RFP Data Sheet](#) shall be accompanied by a certified translation in the language in the [RFP Data Sheet](#) of its pertinent passages in which case, for the purpose of interpretation of the proposal, the translation shall govern.

11. **Subcontractors and service providers** – Bidders shall identify any sub-contractors that will play a significant role in the bidder’s performance of the contract. The Bank reserves the right to obtain the same level of information from subcontractors as from bidders.

12. **Documents comprising the Proposal** - Proposals shall comprise the following documents, completed in full and supported with evidence and information requested:

- Technical Proposal Questionnaire; and
- Financial Proposal Questionnaire.
13. **Statement of Conformity, Bid Submission Form and Price Schedule** – Bidders shall sign the Statement of Conformity and Bid Submission Form and complete the price schedule using the forms provided. The forms shall be completed without alterations to its format and content. No other substitutes shall be accepted.

14. **Publicity Material** - Unless expressly permitted in the RFP, bidders shall not submit brochures, general marketing or promotional material with proposals. Publicity brochures shall not be accepted as answers to questions. Bidders shall respond fully to the questions in the RFP.

15. **Meeting the Bank’s requirements**
   15.1. Unless otherwise provided, bidders shall meet the Bank’s requirements by the deadline for submission of proposals.
   15.2. Bidders shall respond in sufficient detail and provide evidence and supporting documentation to enable the Bank determine whether the bidder has the required capability, experience, knowledge and expertise to satisfactorily perform the contract.

16. **Mandatory Requirements** – The RFP may include mandatory requirements. The classification of a requirement as mandatory gives an indication of its significance to the Bank. A proposal that does not meet any mandatory requirement shall be rejected as non-responsive.

17. **Samples and Inspection**
   17.1. The Bank may request samples at any time during the procurement process. If requested, bidders shall provide samples free of charge. A bidder who fails to provide the required samples shall be disqualified. The Bank makes no guarantee that the samples will be returned or the condition of samples upon completion of evaluation. Samples shall be returned at the bidders own cost.
   17.2. If provided in the RFP, the Bank shall conduct an inspection of the goods and services during the procurement process either at the bidder’s premises or at the Bank’s offices. Such inspection shall not relieve the bidder from any of its obligations under the contract. The Bank shall notify bidders in writing of the details of any inspection. The Bank shall not be responsible for the expenses incurred by the bidder for such inspection.

18. **Demonstration** – If provided in the RFP, the Bank shall require bidders to provide a live demonstration of the proposed solution. The bidder shall provide the demonstration free of charge and the Bank shall not accept any liability for any damage to or loss of bidders’ property in connection with such demonstration.

19. **Sustainable Procurement (SP)** – the Bank is committed to managing its business and executing contracts in an environmentally and socially responsible manner. Bidders should set out how they will deliver the contract in a sustainable manner. The Bank’s SP guideline is available on its website.

20. **Alternative Proposals** - The Bank shall not consider any variation to its requirements (“Alternative Proposal”) unless expressly permitted in the RFP Data Sheet. If an Alternative Proposal is permitted, the Alternative Proposal shall be accompanied by a fully compliant proposal, i.e. one that meets the minimum technical requirements. The bidder shall quote the price for the fully compliant proposal and then separately provide the technical specification, methodology and adjustment in price that can be offered if the Alternative Proposal is accepted.

The nearest functional equivalent or closest standard shall be offered as an alternative. Only the Alternative Proposal of the successful bidder shall be considered.
21. **Acceptance of the General and Specific Conditions** - It shall be clearly understood that by submitting a proposal in response to the RFP, a bidder shall be deemed to have accepted the General and Specific Conditions. A proposal that does not accept the General and Specific Conditions shall be rejected as non-responsive.

22. **Taxes** - The prices quoted shall be net free and clear of all applicable taxes including withholding tax duties, fees, levies or indirect taxes, such as customs duties, as the Bank, by virtue of its status as an international organization, is exempt from paying any direct or indirect taxes, by virtue of Article 57 of the Agreement establishing the Bank. If the bidder is unable to quote or invoice exclusive of all applicable taxes, such taxes shall be separately set forth on the quote or invoice.

23. **Bid Prices**
   23.1. The prices submitted by bidders shall, except insofar as it is otherwise provided in the contract, include all labour, supervision, materials, transportation, insurance, profit, general risks, liabilities and obligations set out or implied in the contract.
   23.2. The Bank shall award the contract based on value for money that takes into account the whole life costing (i.e., life-cycle costs of the goods and services, maintenance, spare parts, warranty, training, disposal, shipment, insurance) of the requirement.

24. **Currency of Proposal** - The prices shall be expressed in the currency in the **RFP Data Sheet**. A bidder shall express all prices in the same currency.

25. **Lots** – If the Bank’s requirement is sub-divided into separate units (“lots”), bidders can submit a proposal for one or multiple lots unless otherwise indicated in the **RFP Data Sheet**.

26. **Period of Validity of Proposals** – Proposals shall remain valid for a period not less than the period stated in the **RFP Data Sheet**. Proposals valid for a shorter period shall be rejected as non-responsive. The Bank may require bidders to extend the period of validity of proposals. If the bidder does not extend the period of validity of proposals, the bidder’s proposal may be rejected. A bidder granting the request shall not be required or permitted to modify its proposal.

27. **Bid Security**
   27.1. If provided in the **RFP Data Sheet**, the bidder shall furnish, as part of its proposal, the signed Bid-Securing Declaration form or bid security in the amount, form and valid for the period in the **RFP Data Sheet**.
   27.2. The bid security shall be in the form of a certified cheque or a bank guarantee from a bank located in a member country of the Bank and acceptable to the Bank. Any proposal not accompanied by a substantially responsive bid security shall be rejected.
   27.3. The Bank may require bidders to extend the period of validity of a bid security. If the bidder does not extend the validity of the bid security, the bidder’s proposal shall be rejected unless the bidder submits a new bid security acceptable to the Bank before the expiration of the bid security.
   27.4. The bid security of a joint venture shall be issued in the name of the joint venture submitting the proposal and shall list all members of the joint venture.
   27.5. The bid security shall be returned to bidders or forfeited in the circumstances specified in the **RFP Data Sheet**.

**SUBMISSION AND OPENING OF PROPOSALS**

28. **Deadline for Submission of Proposals**
   28.1. The Bank shall receive proposals no later than deadline in the **RFP Data Sheet**. It is the sole responsibility of bidders to ensure timely receipt of proposals by the Bank.
28.2. The Bank shall extend the deadline for submission of proposals at any time without incurring any liability to bidders.

29. **Late Proposals** – The Bank shall not consider any proposal received after the deadline for submission of proposals. Any proposal received by the Bank after the deadline for submissions shall be declared late and rejected by the Bank.

30. **Proposals rejected by the Bank** – Proposals rejected by the Bank shall be destroyed or returned to bidders, at its own cost, if so requested.

31. **Proposals submitted electronically via AfDB e-Procurement portal**
   31.1. If provided in the **RFP Data Sheet**, proposals shall be submitted electronically via AfDB e-Procurement portal.
   31.2. Bidders shall obtain guidance on submitting proposals electronically in the user manual in AfDB e-Procurement portal.
   31.3. The Bank reserves the right to request the original of any form, document or authorization submitted electronically by any bidder.

32. **Proposals submitted by mail, courier or hand-delivery**
   32.1. If provided in the **RFP Data Sheet**, proposals shall be submitted by mail, courier or hand delivery.
   32.2. Proposals shall be submitted in a sealed envelope (with both the technical proposal questionnaire and financial proposal questionnaire in separate sealed envelopes) and delivered to the address in the **RFP Data Sheet**.
   32.3. Each bidder shall submit proposal in one original and four copies (any attachment, appendix and annex thereto shall also be submitted in one original and four copies): the original proposal shall carry the mention “Original” and each of the four copies the mention “Copy”. The technical proposal (one original and four copies) and the financial proposal (one original and four copies) shall each be placed in two separate sealed envelopes (the “internal envelopes”).
   32.4. The following mention shall appear on each internal envelope:
      a) the RFP reference;
      b) the mention “Technical Proposal” or “Financial Proposal” as the case may be; and
      c) the name and address of the bidder.
   32.5. The internal envelopes shall be placed together in a large single envelope called “external envelope” which shall be anonymous and **carry the label in the RFP Data Sheet that should be photocopied and placed on the external envelope**.
   32.6. Any alternative proposal shall be prepared, sealed, marked and dispatched as per the instructions in this paragraph and clearly be identified as “Alternative”.
   32.7. All pages of the proposal shall be numbered. Each copy of the proposal shall be bound in a single volume where practical. All documentation submitted with the proposal shall be bound in a single volume.
   32.8. The person or persons signing the proposal shall initial all pages of the proposal where correction has been made.
   32.9. When delivered by hand, the proposal shall be delivered at the address during the working hours of the Bank from 8.00 hrs. to 12.00 hrs. and from 14.00 hrs. to 18.00 hrs., Monday through Friday except for holidays observed by the Bank. Delivery to any other office of the Bank shall be at the risk of the bidder and shall not constitute timely delivery.

33. **Modification / Withdrawal of Proposals** – Bidders may modify or withdraw proposals prior to the deadline for submission. Bidders shall not be permitted to modify or withdraw proposals after the deadline for submission.
33.1. **Proposals submitted electronically via AfDB e-Procurement portal** - Bidders can obtain guidance on modifying or withdrawing proposals in the user manual.

33.2. **Proposals submitted by mail, courier or hand-delivery** - The bidder’s modification or withdrawal shall be prepared, sealed, marked and dispatched as per the instructions set out in this section and accompanied by a written notice duly signed by an authorized representative. Any modification or withdrawal shall clearly be identified as “Modification” or “Withdrawal”.

34. **Bid Opening** – Proposals shall be opened as soon as possible after the deadline for submission. The record of the bid opening shall be made available as soon as possible on the Bank’s website.

### EXAMINATION OF PROPOSALS

35. **Confidentiality and Disclosure of Information** - The Bank is committed to make public all information in its possession unless there is a compelling reason for confidentiality in accordance with its policy on Disclosure and Access to Information. Bidders shall notify the Bank if the information provided is confidential and shall not be disclosed to the public. The Bank shall endeavor to maintain confidentiality of confidential information and evaluation of proposals. The Bank reserves the right to disclose information in accordance with its policy on Disclosure and Access to Information.

36. **Clarification of Proposals**

36.1. To assist in the examination and evaluation of proposals and qualification of bidders, the Bank may, at its discretion:

36.1.1. Require any bidder to clarify any part of its proposal;

36.1.2. Require any bidder to provide further information or documentation;

36.1.3. Undertake site visit to any bidder; or

36.1.4. Contact referees provided by any bidder.

36.2. Any clarification submitted by a bidder that is not in response to a request by the Bank shall not be considered. No change in the price or substance of the proposal shall be sought, offered or permitted. Where a bidder does not provide the information requested the proposal shall be evaluated as presented.

37. **Determination of Responsiveness**

37.1. The Bank’s determination of a proposal’s responsiveness is to be based on the contents of the proposal itself, as defined in the RFP. A substantially responsive proposal is one that meets the requirements of the RFP without material deviation, reservation or omissions.

37.1.1. “Deviation” is a departure from the requirements specified in the RFP;

37.1.2. “Reservation” is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the RFP; and

37.1.3. “Omission” is the failure to submit part or all of the information or documentation required in the RFP.

37.2. A material deviation, reservation or omission is one that, if accepted, would:

37.2.1. Affect in any substantial way the scope, quality or performance of the requirements as specified in the RFP;

37.2.1.2. Limit in any substantial way, inconsistent with the RFP, the Bank’s rights or the bidder’s obligations under the proposed contract; or

37.2.1.3. If rectified, would unfairly affect the competitive position of other bidders presenting substantially responsive proposals.
37.3. The Bank shall examine the technical proposals to determine whether proposals are substantially responsive with the requirements.

37.4. If a proposal is not substantially responsive to the requirements of the RFP, it shall be rejected by the Bank and may not subsequently be made responsive by correction of the material deviation, reservation or omission.

**BID EVALUATION**

38. **Conversion to Single Currency** - For the purpose of evaluation, the Bank shall convert all prices into the Bank's Units of Accounts (UA) by using the Bank's monthly moving average rate for the applicable month (deadline for submission of proposals).

39. **Acceptance or Rejection of Proposals** - The Bank reserves the right to accept or reject any or all proposals, cancel the procurement process and/or reject all proposals at any time prior to contract award, without incurring any liability to bidders.

**AWARD OF CONTRACT**

40. **Award Methodology**

The Bank shall evaluate proposals in accordance with the evaluation criteria and methodology and may discuss proposals with bidders.

41. **Contract Award**

41.1. By issuing this RFP, the Bank is not committed to award a contract for all or part of the requirements.

41.2. The Bank reserves the right to award a contract for all or part of the requirements. Bidders shall indicate if they would not accept a contract for part of the requirements.

41.3. If the requirement is divided into lots, the Bank reserves the right to award a contract to a bidder to satisfy the entire requirement.

41.4. The Bank reserves the right to increase or decrease the volume of goods or services, usually not to exceed 20%, without any change in unit price or other terms and conditions.

42. **Best and Final Offer** - Following evaluation of proposals, the Bank may decide to obtain Best and Final Offers from qualified bidders whose proposals are substantially responsive with the requirements. If such a decision is made, the Bank shall notify bidders in writing of the process. The Bank may use e-Auction for this process.

43. **Notification of Award** – Following a recommendation to award the contract, the Bank shall issue a notice of consideration for award to the successful bidder and regret letters to unsuccessful bidders.

44. **Debriefing** - Unsuccessful bidders may request debrief within seven (7) days from receipt of the regret letter.

45. **Award Protest Procedure** – The Bank has a complaint procedure as set out in the Presidential Directive. An unsuccessful bidder wishing to make a complaint must inform the Bank within seven (7) days of notification of the Bank’s contract award decision.

46. **Contractual Relationship** - The contractual relationship shall be governed by the General and Specific Conditions and shall include the description of goods/technical specification/terms of reference, the successful bidder's technical and financial proposal. **No other terms and conditions put forward at any time by the bidder shall form part of the contract.**
47. **Performance Security**

47.1. If provided in the **RFP Data Sheet**, the successful bidder shall furnish the performance security within the period, amount and form stipulated in the **RFP Data Sheet**. The performance security shall be in the form of a bank guarantee from a bank located in a member country of the Bank and acceptable to the Bank.

47.2. The performance security shall be returned to the bidder as set out in the General and Specific Conditions.

47.3. Failure of the successful bidder to comply with the requirements of performance security shall constitute sufficient grounds for cancellation of the award to the bidder without any right of action against the Bank.

47.4. In lieu of bank guarantee, the Bank may retain 10% of the contract sum that shall be returned to the bidder as set out in the General and Specific Conditions.

48. **Advance Payment**

48.1. If provided in the **RFP Data Sheet**, the Bank shall provide advance payment to the successful bidder, subject to a maximum amount not to exceed 30% of the contract sum. The advance payment request shall be accompanied by an advance payment guarantee from an insurance company or bank located in a member country of the Bank and acceptable to the Bank. The advance payment guarantee shall be in the form specified in the **RFP Data Sheet**.

48.2. For the purpose of receiving the advance payment, the bidder shall make an estimate of, and include in its proposal, the expenses that will be incurred during the first month beginning with the date of the Bank’s notice to proceed or contract signature, whichever is earliest.

48.3. The advance payment shall be repaid to the Bank by deducting proportionate amounts from payments due to the bidder as set out in the General and Specific Conditions.

48.4. The advance payment guarantee shall be returned to the bidder as set out in the General and Specific Conditions.

49. **Defects Liability Period and Retention Fee** – If provided in the **RFP Data Sheet**, the Bank shall retain 10% of the contract sum until the end of the defects liability period. This is the pre-determined period after practical completion of the project when the successful bidder is responsible for making good any faults which appear and which are due to defective materials or work. The defects liability period is set out in the General and Specific Conditions. The Bank shall pay the successful bidder the retention fee as set out in the **RFP Data Sheet**.

**FURTHER ASSISTANCE**

50. **Authorized Representative** – Bidders shall provide the Bank with up to two authorized representatives. The Bank shall contact bidders through the authorized representative. The Bank shall assume that the representative is authorized to act on behalf of the bidder and bind the bidder to any response.

51. **Assistance** – For assistance on using AfDB e-Procurement portal, bidders shall refer to the user manual. Alternatively, bidders can contact RDGE_Tender@afdb.org and quote the tender reference.
### SECTION 3 – RFP DATA SHEET

The numbering below refers to the appropriate numbering of the introduction

| § 1 | The travel services to be provided for the African Development Bank Eastern Africa Regional offices and as outlined in Section 4. |
| § 1 | To qualify for award, bidders (including each partner in a joint venture or partnership, subcontractors) shall meet the following pass/fail qualification criteria: |

#### Eligibility of Bidders, Goods and Services:
Goods and services procured by the Bank shall be produced in a member country of the Bank and supplied by bidders from a member country of the Bank.

#### Eligibility Criteria:
a bidder shall not normally be eligible if any of the situations in the Presidential Directive concerning the rules for corporate procurement activities of the Bank apply.

#### Financial Standing:
An average turnover of at least KES 20,000,000 per annum for the last three years [2015, 2016, 2017 or the latest]. A bidder shall demonstrate current soundness of financial position and its long-term profitability.

#### General and Specific Experience:
The bidder should have a minimum of Five years’ experience, and shall have successfully implemented as a principal contractor, three projects of a similar nature and complexity (the Bank reserves the right to check references).

#### Historical Contract Performance and Pending Litigation:
a bidder shall demonstrate the ability to successfully complete previous contracts and has no pending litigation to impede its ability to perform the contract.

#### Conflict of Interest:
a bidder shall have no actual or potential conflict of interest that would call into question its participation in the procurement process and award of contract.

The numbering below refers to the appropriate numbering of the instructions to bidders

| § 7 | Request for clarification and/or request for change to the RFP shall be sent in writing: (i) by telefax (at the fax number [+254 20 271 2938]), (ii) by electronic mail: RDGE_Tender@afdb.org or (iii) to the question and answer section in the AfDB e-Procurement portal. The request shall be received by the Bank no later than 7th June 2019, 15:00Hrs local time. |
| § 8 | The Bank shall organize a mandatory pre-bid conference: [YES]. The conference will be held on 4th June 2019 at 09:00Hrs local time, at the Bank’s premises located along 10 Longonot road Upper Hill, Nairobi. Questions for the site visit and pre-bid meeting shall be submitted to RDGE_Tender@afdb.org. The pre-bid conference is a mandatory requirement: [YES] |
| § 10 | The language of proposals and all correspondence is: ENGLISH |
| § 20 | Alternative proposals are accepted: [NO] |
| § 24  | The prices shall be expressed in KENYA SHILLINGS |
| § 25  | The Bank’s requirement is divided into lots [NO] |
| § 26  | The minimum period of validity of proposals is Ninety (90) days, from the deadline for submission of proposals. |
| § 27  | Bid security is required [NO] |
| § 27.1 | If a Bid-Securing declaration form is required: |
|        | However, bidders are required to complete the bid-securing declaration form to secure their proposal. Any proposal not supported by a bid-securing declaration will be automatically disqualified. Bidders should use the bid-securing declaration form in Section 6. |
| § 28  | The deadline for submission of proposals is 13th June 2019 at 15:00Hrs local time. |
| § 31  | Proposals shall be submitted electronically via the AfDB e-Procurement portal at [NO]. |
| § 32  | Proposals shall be submitted by mail, courier or hand delivery: [YES] |
|        | Proposals shall be sent to the following address and the external envelope shall bear the following information: |
|        | African Development Bank |
|        | P O BOX 4861 – 00200, Nairobi |
|        | Regional Development and Business Delivery Office (RDGE) |
|        | Off Longonot Road, Upper Hill |
|        | Tel +254 20 271 2925-26-28 |
|        | RFP – DO NOT OPEN UNTIL BID OPENING DAY |
|        | RFP Closing Date and Time: 13 June 2019 (15:00Hrs Local Time) |
| § 47  | Performance security is required: [NO] |
| § 48  | Advance payment will be provided to the successful bidder: [NO]. |
| § 49  | The Bank shall retain 10% of the contract sum until the end of the defects liability period: [NO] |
1.0 BACKGROUND INFORMATION
1.1 The African Development Bank is a ‘AAA’ rated regional multilateral development finance institution, established in 1963, with a mandate to further the economic development and social progress of African countries, individually and collectively. 80 member countries including all the 54 African countries and 26 non-African countries in the Americas, Europe and Asia own the Bank (Please see Annex 6 for a list of the Bank’s member countries).

1.2 The Bank was established on 4 August 1963, and began its operations from its headquarters, in Abidjan, Côte d'Ivoire on July 1, 1966. For purposes of its operations the Bank also maintains country offices in certain of its RMCs.

1.3 The Bank's principal functions include: (i) using its resources for the financing of investment projects and programs relating to the economic and social development of its RMCs; (ii) the provision of technical assistance for the preparation and execution of development projects and programs; and (iii) promoting investment in Africa of public and private capital for development purposes; and (iv) to respond to requests for assistance in coordinating development policies and plans of RMCs. In its operations, the Bank is also required to give special attention to projects and programs which promote regional integration.

The Bank may undertake site visits to any prospective bidder's office in order to validate the information provided in the RFP response. The Bank also reserves the right to contact references provided by the bidders in order to validate information provided in the RFP response.

2.0 OBJECTIVE

The objective of engaging a local Air Conditioning equipment Service Partner for air conditioning equipment maintenance is to provide equipment curative and preventive maintenance support services to ensure optimal equipment functionality and minimize downtime that would occur in the event of equipment failure.

2.1 The Service provider will provide necessary support services, to answer questions and to assist the Bank in resolving problems related to the Carrier equipment installed at the EARC.

3. SCOPE OF WORK

The Service Provider will provide timely maintenance and fault resolution of the existing Carrier Air Conditioning equipment. Once the Bank has entered into agreement with the Service provider:

Preventive Maintenance: The Supplier commits to ensure a support of the Air Conditioning installations by on-site maintenance in accordance with timetables adopted and agreed to by both two parties.

The service tasks of the preventive maintenance covered by this include:
- A monthly onsite preventive visit to check the correct operation of the Air Conditioning equipment installations
- A comprehensive quarterly preventive maintenance of all the Air Conditioning equipment according to regulations and following the manufacturers’ requirements. Troubleshooting,
repair and restoration of proper functioning of the all the components of the Air Conditioning Units.

- A deep annual preventive review of all the Air Conditioning equipment installations according to regulations and following the manufacturers’ requirements.
- Assistance and advice in the best practice administration relating to the Air Conditioning equipment field

- Report to the Bank’s IT Officer of the Bank, keep the maintenance records, and enters into the maintenance register the date of the visit, the tests carried out, the adjustments made, and any further details that may be required accordingly.
- Check and optimize the gas levels of air conditioning equipment
- Tightening the electrical connections
- Clean the Air Conditioning equipment and all its components
- Ensure the availability of the Air Conditioning equipment on 24/7 basis.

Curative Maintenance: The Supplier makes every effort to ensure the curative maintenance consisting in executing the repair works of Air Conditioning installations further to the breakdowns caused by a normal use which could arise. To answer the demands of intervention, The Supplier arranges following services:

- A Hot line service for repair requests.
- An e-mail address for system malfunctions of all kinds, which allows for the defining of problems and secures an effective intervention.
- For the curative maintenance, the contractor should provide a list of necessary spare parts required for smooth functioning of the electrical components
- Next-business-day hardware replacement,

Provide a unit cost for relocation of existing Air Conditioning units. This cost will provide for the relocation of existing air conditioning units on a needs basis and should not form part of the contract amount. This cost will be administered separately from all contractual obligations contained in maintenance contract.

Provide a list of spare parts and indicative prices. The prices should be fixed for the period of the contract.

Provide a unit cost for the installation of an Air Conditioning unit.
### 3.2 INVENTORY OF AIR CONDITIONING EQUIPMENT AT THE EARC

<table>
<thead>
<tr>
<th>S.NO</th>
<th>ITEM</th>
<th>COOLING CAPACITY</th>
<th>MAKE</th>
<th>INDOOR MODEL</th>
<th>UNIT (UNIT)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>4 WAY CEILING CASSETTE SPLIT UNIT</td>
<td>12000 BTU/HR (3.6KW)</td>
<td>CARRIER</td>
<td>42TLC0121001211/3</td>
<td>8FN012100 97</td>
</tr>
<tr>
<td>2</td>
<td>4 WAY CEILING CASSETTE SPLIT UNIT</td>
<td>18000 BTU/HR (5.6KW)</td>
<td>CARRIER</td>
<td>42TLC018/38FN018</td>
<td>18</td>
</tr>
<tr>
<td>3</td>
<td>4 WAY CEILING CASSETTE SPLIT UNIT</td>
<td>24000 BTU/HR (7.1KW)</td>
<td>CARRIER</td>
<td>42TLC024/38FN024</td>
<td>6</td>
</tr>
<tr>
<td>4</td>
<td>4 WAY CEILING CASSETTE SPLIT UNIT</td>
<td>36000 BTU/HR (7.1KW)</td>
<td>CARRIER</td>
<td>42TLC036/38FN036</td>
<td>4</td>
</tr>
<tr>
<td>5</td>
<td>DUCTABLE SPLIT UNIT</td>
<td>36000BTU/HR (10.0KW)</td>
<td>CARRIER</td>
<td>42SMCO3600123A/3</td>
<td>8FN0361123A 1</td>
</tr>
<tr>
<td>6</td>
<td>DUCTABLE SPLIT UNIT</td>
<td>48000 BTU/HR (14KW)</td>
<td>CARRIER</td>
<td>42SMCO4800123A/3</td>
<td>8FN0481123A 2</td>
</tr>
<tr>
<td>7</td>
<td>4 WAY CEILING CASSETTE SPLIT UNIT (New)</td>
<td>12000 BTU/HR (3.6KW)</td>
<td>CARRIER</td>
<td>42TLC0121001211/3</td>
<td>8FN012100 5</td>
</tr>
<tr>
<td>8</td>
<td>4 WAY CEILING CASSETTE SPLIT UNIT (New)</td>
<td>18000 BTU/HR (5.6KW)</td>
<td>CARRIER</td>
<td>42TLC018/38FN018</td>
<td>3</td>
</tr>
</tbody>
</table>

**TOTAL NO. OF UNITS** 136
Financial Consideration: Renumeration

Each vendor should provide prices based on the following:

Schedule 1 – Annual Maintenance Service
<table>
<thead>
<tr>
<th>S.NO</th>
<th>ITEM</th>
<th>COOLING CAPACITY</th>
<th>MAKE</th>
<th>INDOOR MODEL</th>
<th>UNIT</th>
<th>QTY (UNIT)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>4 WAY CEILING CASSETTE SPLIT UNIT</td>
<td>12000 BTU/HR (3.6KW)</td>
<td>CARRIER</td>
<td>42TLC0121001211/3 8FN012100</td>
<td>97</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>4 WAY CEILING CASSETTE SPLIT UNIT</td>
<td>18000 BTU/HR (5.6KW)</td>
<td>CARRIER</td>
<td>42TLC018/38FN018</td>
<td>18</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>4 WAY CEILING CASSETTE SPLIT UNIT</td>
<td>24000 BTU/HR (7.1KW)</td>
<td>CARRIER</td>
<td>42TLC024/38FN024</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>4 WAY CEILING CASSETTE SPLIT UNIT</td>
<td>36000 BTU/HR (7.1KW)</td>
<td>CARRIER</td>
<td>42TLC036/38FN036</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>DUCTABLE SPLIT UNIT</td>
<td>36000BTU/HR (10.0KW)</td>
<td>CARRIER</td>
<td>42SMCO3600123A/3 8FN0361123A</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>DUCTABLE SPLIT UNIT</td>
<td>48000 BTU/HR (14KW)</td>
<td>CARRIER</td>
<td>42SMCO4800123A/FNO361123A</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>4 WAY CEILING CASSETTE SPLIT UNIT(NEW)</td>
<td>12000 BTU/HR (3.6KW)</td>
<td>CARRIER</td>
<td>42TLC0121001211/3 8FN012100</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>4 WAY CEILING CASSETTE SPLIT UNIT(NEW)</td>
<td>18000 BTU/HR (5.6KW)</td>
<td>CARRIER</td>
<td>42TLC018/38FN018</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Total Number of units</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td><strong>136</strong></td>
</tr>
</tbody>
</table>
Schedule 2 – Spare Parts

<table>
<thead>
<tr>
<th>S.NO</th>
<th>List of Spares</th>
<th>Unit Cost (KES)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td></td>
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<tr>
<td>5</td>
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<td>6</td>
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<td></td>
<td></td>
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<tr>
<td>8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- **Schedule 3** - Unit cost (KES) of relocation of air conditioning unit
- **Schedule 4** - Additional maintenance cost (10% of preventive maintenance cost) to be Exercised upon request from the Bank and upon new installations.

**4.0 COMMENCEMENT OF THE MAINTENANCE CONTRACT**
The expected commencement of provision of Maintenance Services is 1st July 2019.

**DURATION OF THE CONTRACT**
The contract is expected to last for three years renewable twice for an additional period of one year subject to satisfactory performance.
SECTION 5 – EVALUATION CRITERIA AND METHODOLOGY

1) A qualification (pass/fail) assessment will be carried out to determine whether proposals meet the eligibility and qualification criteria. Proposals determined to meet the eligibility and qualification criteria shall be considered for the next stage. Proposals not meeting the eligibility and qualification criteria shall be rejected. The qualification (pass/fail) questionnaire is set out in Section 6.

2) A two-stage process shall be adopted in evaluating proposals. Proposals shall be ranked according to technical score (Nt) and financial score (Nf) using the weights (T = the weight given to the technical proposal, 70%), (F = the weight given to the financial proposal 30%) (T + f = 1).

3) The final score shall be calculated as follows:

\[ \text{Final Score (NG)} = (Nt \times T\%) + (Nf \times F\%) \]

TECHNICAL EVALUATION

Technical evaluation (100 points) (minimum [70] points)

4) Bidders shall obtain a minimum of Seventy (70) points following evaluation of technical proposals ("Qualifying Technical Score") to be considered for financial evaluation. Bidders obtaining less than the Qualifying Technical Score shall be rejected.

5) Each responsive proposal shall be attributed a technical score:

To be responsive, and to be legible for further evaluation, Bidders must comply with the Pass/fail criteria indicated above and further evaluation will be carried out for Offers that qualify for the next stage will as follows.
### (a) Technical Evaluation Criteria

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Points</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bidder’s Technical Response to the RFP particularly the Terms of References provided in <strong>Annex 2. A list of tasks to be performed during maintenance service.</strong></td>
<td>20</td>
<td></td>
</tr>
<tr>
<td>Bidder’s methodology, capabilities and understanding of air conditioning equipment manufacturers maintenance programme:</td>
<td>30</td>
<td></td>
</tr>
<tr>
<td>  Frequency of maintenance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>  List of consumables that may be required</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manufacturers Certification - The bidder should provide proof of equipment manufacturer’s authorization to provide maintenance services for the installed equipment.</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Curriculum Vitae of Technicians to perform maintenance services at the AfDB offices</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Description of a similar service currently provided to another client(s).</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Professional reputation of the firm supported by at least three</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Sustainable maintenance - The supplier demonstrated that they will provide maintenance services in a sustainable manner taking into consideration the environment, social and economic aspects</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>Refer to the detailed evaluation Matrix for sustainable maintenance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Marks</td>
<td>100</td>
<td></td>
</tr>
</tbody>
</table>

Bidders who will meet a minimum of 70% final technical score will be considered for the next stage and their Financial Proposals will be opened. The Bank will verify the availability of equipment and tools by visiting the office premises of the service provider to ascertain the following:

- Office premises
- Equipment
- Tools
- Vehicles
- No. of employees
- Workshop
The Bidders who fail to do so, or whose offer did not comprehensively address this RFP, will have their financial proposal not opened and not evaluated. Financial offers will then be returned to them unopened.

6) The bidders obtaining the Qualifying Technical Score of Seventy (70) points shall be notified of the opening of financial proposals. The financial proposals shall be opened and checked for completeness and corrected for computational errors.

**FINANCIAL EVALUATION**

7) The financial proposals shall be evaluated in accordance with the formula below. The bidder or bidders with the lowest financial proposal (Fm) shall be given 100 points. The financial scores of the other bidders (F) shall be computed as follows:

\[
N_f \text{ (financial score)} = 100 \times \frac{F_m}{F}
\]

\(F = \text{amount of financial proposal converted in the common currency).}\)

**FINAL RANKING**

8) The bidder or bidders with the highest combined technical and financial score will be ranked first and eligible for award of the contract.

**AWARD OF CONTRACT**

9) The Bank will sign the contract with the bidder who attained the highest combined technical and financial score and with whom satisfactory price, terms and conditions have been agreed.

**POST-QUALIFICATION**

10) Prior to award of the contract, the Bank may undertake a site visit to a prospective bidder’s premises, contact referees and carry out due diligence review in order to validate the information provided in the proposal.

11) The selected bidder will be required to provide an insurance certificate for professional liability of the bidder.
APPENDIX (H):

FORMAT OF CURRICULUM VITAE (CV) FOR PROPOSED KEY STAFF

(To be included in the Technical Proposal)

Proposed Position:

Name of Firm:

Name of Staff:

Profession:

National Identity number:

Certificate of good conduct:

Date of Birth:

Years with Firm: Nationality:

Detailed Tasks Assigned:

Key Qualifications:
[Give an outline of key staff member’s experience and training most pertinent to tasks assignment. Describe degree of responsibility held by each staff member on relevant previous assignments and give dates and locations. Use up to half a page.]

Education:
[Summarize college/university and other specialized education of each staff member, giving names of schools, dates attended and degrees obtained. Use up to a quarter page.]

Employment Record:
[Starting with present position, list in reverse order every employment held. List all positions held by each staff member since graduation, giving dates, names of employing organization, title of positions held and location of assignments. For experience in last five years, also give types of activities performed and client references, where appropriate. Use up to three-quarters of a page.]

Languages:
[Indicate proficiency in speaking, reading and writing of each language: excellent, good, fair, or poor.]

Certification:
I, the undersigned, certify that to the best of my knowledge and belief, these bio data correctly describe myself, my qualifications and my experience.

Date:
Signature of staff or authorized officer from the bidding firm Day/Month/Year
Appendix 6A

STATEMENT OF CONFORMITY

To the African Development Bank
Eastern Africa Regional Center
P.O.Box 4861-00200
Nairobi,
Kenya.

Dear Sir/Madam,
We, the undersigned, declare that:

(a) We have examined the Request for Proposal (RFP) No ADB/RFP/RDGE/2019/0099 and have no reservation to the RFP including addendum issued;
(b) We have read and understood the general and specific conditions and accept to be bound by the general and specific conditions;
(c) We offer to provide the goods and services in conformity with the RFP;
(d) We agree that any other terms or conditions or any general reservation that may be provided on any correspondence emanating from us in connection with the RFP shall not be applicable to any resulting contract;
(e) Our proposal shall be valid for the period indicated in the RFP and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
(f) We, including any subcontractors or suppliers for any part of the contract, do not have any conflict of interest which will call into question our participation in the procurement process and award of contract;
(g) We understand that the Bank’s policy requires bidders and suppliers to observe the highest standard of ethics, as such we have not offered any gift to Bank staff;
(h) We understand that if we withdraw our proposal after the deadline for submission, the Bank may decide to exclude us from future procurements;
(i) We, including our subcontractors or suppliers for any part of the contract, have nationalities from member countries of the Bank;
(j) Our firm, its affiliates or subsidiaries (including any subcontractors or suppliers for any part of the contract) has not been declared ineligible by the Bank;
(k) We are not under sanction by the World Bank, Asian Development Bank, Inter-American Development Bank or European Bank for Reconstruction and Development.

We undertake that, in competing for (and, if the award is made to us, in executing) the contract, we will strictly observe the laws in force in our country of registration and the country where the contract is performed.

We understand that you are not bound to accept the most advantageous proposal or any other proposal that you may receive.

We confirm that the undersigned are authorized to commit the bidder(s) to the obligations contained in the RFP and the contract.

Name ___________________________________ In the capacity of _______________________________

Signature ___________________________________

Email _____________________________________

Duly authorized to sign this proposal for and on behalf of: ________________________________
### BIDDER INFORMATION SHEET

1. Bidder's Legal Name:

2. In case of joint venture or any other form of partnership (JV), legal name of each party:

3. Bidder’s actual or intended Country of Registration, Constitution or Incorporation:

4. Bidder’s actual or intended Year of Registration, Constitution or Incorporation:

5. Bidder’s legal address in Country of Registration, Constitution or Incorporation:

6. Bidder’s Authorized Representative Information:
   - Name:
   - Address:
   - Telephone/Fax numbers:
   - Email Address:

7. Attached are copies of original documents of:
   - Articles of Incorporation or Registration of firm named and information on the capital structure.
   - In case of JV, letter of intent to form a legally enforceable JV including a draft agreement, or JV agreement
   - In case of government owned entity from the Bank’s member country, documents establishing legal and financial autonomy and compliance with the principles of commercial law.
   - Organizational chart of the company and list of current staff
### PARTY TO JOINT VENTURE INFORMATION SHEET

<table>
<thead>
<tr>
<th>1. Bidder’s Legal Name:</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. JV’s Party legal name:</td>
</tr>
<tr>
<td>3. JV’s Party Country of Registration, Constitution or Incorporation:</td>
</tr>
<tr>
<td>4. JV’s Party Year of constitution or registration into a legally enforceable JV:</td>
</tr>
<tr>
<td>5. JV’s Party Legal address in Country of Registration, Constitution or Incorporation:</td>
</tr>
<tr>
<td>6. JV’s Party Authorized Representative Information:</td>
</tr>
<tr>
<td>Name:</td>
</tr>
<tr>
<td>Address:</td>
</tr>
<tr>
<td>Telephone/Fax numbers:</td>
</tr>
<tr>
<td>Email Address:</td>
</tr>
<tr>
<td>7. Attached are copies of original documents of:</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
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<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>
## QUALIFICATION (PASS/FAIL) ASSESSMENT

Bidders shall complete all sections in the questionnaire in sufficient detail and provide evidence and supporting documentation to demonstrate compliance. Bidders shall meet each criterion by the deadline for submission of proposals.

<table>
<thead>
<tr>
<th>PASS/FAIL CRITERIA</th>
<th>Bidders Compliance Requirements</th>
<th>Bidders Response</th>
<th>Comments / Evidence provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Entity</td>
<td>Joint venture and any other form of partnership (JV)</td>
<td>Yes/No</td>
<td></td>
</tr>
<tr>
<td>All partners combined</td>
<td>Each partner</td>
<td>At least one partner</td>
<td></td>
</tr>
</tbody>
</table>

### STATEMENT OF CONFORMITY AND BID SUBMISSION FORM

<table>
<thead>
<tr>
<th>REQUIREMENT</th>
<th>BOTH PARTNERS</th>
<th>EACH PARTNER</th>
<th>AT LEAST ONE PARTNER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Must meet requirement</td>
<td>Existing or intended JV must meet requirement</td>
<td>Must meet requirement</td>
<td>N/A</td>
</tr>
</tbody>
</table>

A person or persons duly authorized to bind the bidder to the price and contract has completed and signed the statement of conformity and bid submission form in the format provided.

A power of attorney shall be attached, if applicable.

The bidder shall sign and return the documents in the format provided for a PASS.

### ELIGIBILITY CRITERIA

<table>
<thead>
<tr>
<th>REQUIREMENT</th>
<th>BOTH PARTNERS</th>
<th>EACH PARTNER</th>
<th>AT LEAST ONE PARTNER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Must meet requirement</td>
<td>Existing or intended JV must meet requirement</td>
<td>Must meet requirement</td>
<td>N/A</td>
</tr>
</tbody>
</table>

The bidder is from a member country of the Bank.
<table>
<thead>
<tr>
<th>PASS/FAIL CRITERIA</th>
<th>Bidders Compliance Requirements</th>
<th>Bidders Response</th>
<th>Comments / Evidence provided</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Single Entity</td>
<td>Joint venture and any other form of partnership (JV)</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>All partners combined</td>
<td>Each partner</td>
<td>At least one partner</td>
</tr>
</tbody>
</table>

If yes, provide evidence, such as, articles of incorporation or registration of firm, memorandum of association (if available), information on the capital structure and legal status of the bidder.

The goods and services offered are produced in a member country of the Bank.

If yes, provide evidence, such as, operating license, information on origin of goods and services.

**The bidder, goods and services offered shall meet the eligibility criteria on the basis of nationality for a PASS.**

The bidder has become bankrupt, is insolvent or is in the process of winding-up; is being administered by an administrator appointed by a competent court of law that has entered into an arrangement with creditors; has suspended business activities; or is in any analogous situation arising from a similar procedure provided for in the relevant...
### PASS/FAIL CRITERIA

<table>
<thead>
<tr>
<th>Bidders Compliance Requirements</th>
<th>Bidders Response</th>
<th>Comments / Evidence provided</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Single Entity</strong></td>
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</tr>
<tr>
<td>All partners combined</td>
<td>Each partner</td>
<td>At least one partner</td>
</tr>
</tbody>
</table>

### Bidders Compliance Requirements

- The bidder has not fulfilled obligations relating to the payment of social security contributions, pension fund premiums, payment of taxes or similar legal statutory payments under the law of the country in which the bidder is established or where the contract is to be performed.

- The bidder has been convicted of a criminal offence relating to the conduct of its business of profession in the last ten (10) years?

- The bidder has been subject of a judgment for professional misconduct, fraud, corruption, involvement in a criminal organization or any other illegal activity.

- The bidder has been debarred or cross-debarred by the Bank on the basis of corrupt, fraudulent, collusive, coercive and obstructive practices.

- The bidder has been evaluated as having provided unsatisfactory national legislation or regulation.
<table>
<thead>
<tr>
<th>PASS/FAIL CRITERIA</th>
<th>Bidders Compliance Requirements</th>
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</tr>
<tr>
<td>All partners combined</td>
<td>Each partner</td>
<td>At least one partner</td>
<td></td>
</tr>
<tr>
<td>performance under a previous contract with the Bank within the last 3 years.</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>The bidder, or any of its affiliates, has not been engaged to provide consulting</td>
<td></td>
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</tr>
<tr>
<td>services for the preparation or implementation of the procurement.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The bidder shall not be subject to any of the situations above for a PASS</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>JV (if applicable)</td>
<td>N/A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The bidder has included a JV agreement, or letter of intent to form a legally</td>
<td>Existing or intended JV must meet requirement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>enforceable JV including a draft agreement.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The bidder has nominated an authorized representative of the JV who has the</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>authority to conduct all business for and on behalf of all partners and enter into</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>the contract.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Provide contact details of authorized representative of the JV and power of</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>attorney signed by a legally</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
# PASS/FAIL CRITERIA

<table>
<thead>
<tr>
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<td></td>
<td></td>
</tr>
<tr>
<td>At least one partner</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Authorized representative of the JV.

The bidder shall provide a JV agreement or letter of intent to form a legally enforceable JV and draft agreement, contact details of the authorized representative of the JV and power attorney for a PASS.

## FINANCIAL STANDING

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Bidders Compliance Requirements</th>
<th>Bidders Response</th>
<th>Comments / Evidence provided</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Entity</td>
<td>Must meet requirement</td>
<td>Existing or intended JV must meet requirement</td>
<td>Must meet at least 20% of the requirement</td>
</tr>
<tr>
<td>Joint venture and any other form of partnership (JV)</td>
<td>If yes, provide evidence, such as audited balance sheets (including notes and income statements), copies of financial statements or other documents to demonstrate financial performance for the past three years [2015, 2016, 2017 or latest]</td>
<td>Must meet requirement</td>
<td>Must meet requirement</td>
</tr>
<tr>
<td>All partners combined</td>
<td>If the laws of the bidders’ country of establishment do not require audits, bidders may submit their balance sheet</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### PASS/FAIL CRITERIA

<table>
<thead>
<tr>
<th>Bidders Compliance Requirements</th>
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<tbody>
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</tr>
</tbody>
</table>

sheets certified by a registered accountant and supported by copies of tax returns for the past three years [2015, 2016, 2017 or the latest].

The bidder can demonstrate access to and availability of financial resources to meet the overall cash flow requirements for the contract and its current work commitments?

If yes, provide evidence, such as, liquid assets, unencumbered real assets, lines of credit and other financial means, other than contractual advance payments or other documents to demonstrate financial resources.

**The bidder shall demonstrate current soundness of its financial position and its long-term profitability for a PASS.**

### GENERAL AND SPECIFIC EXPERIENCE

See below

The bidder has been in business for **Must meet**

Existing or **Must meet**

N/A
<table>
<thead>
<tr>
<th>PASS/FAIL CRITERIA</th>
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<tr>
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<td>Each partner</td>
<td>At least one partner</td>
<td></td>
</tr>
<tr>
<td>the past three (3) years].</td>
<td>requirement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>If yes, provide evidence, such as, information on the bidder's company</td>
<td>intended JV must meet requirement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(description, including a short history, business plan, services offered,</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>organizational chart, number of staff</td>
<td>requirement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>and list of current staff, number of years in business).</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The bidder is registered with the</td>
<td>Must Meet Requirement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>National Construction Authority(NCA)</td>
<td>Existing or intended JV must meet requirement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The bidder should have a minimum of Five years’ experience, and shall have</td>
<td>Must meet requirement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>successfully implemented as a principal contractor, three projects of</td>
<td>Must meet requirement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a similar nature and complexity (the Bank reserves the right to check references).</td>
<td>Must meet Requirement for one specialism</td>
<td></td>
<td></td>
</tr>
<tr>
<td>If yes, provide description of similar contracts undertaken as a prime</td>
<td>Must meet requirement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>contractor (including name of customer) in the last 3 years.</td>
<td>Existing or intended JV must meet requirement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The bidder shall have been in business for the last five (5) years and has the</td>
<td>Must meet requirement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>experience and capability to provide the goods and services</td>
<td>Must meet requirement</td>
<td></td>
<td></td>
</tr>
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</table>

The bidder shall have been in business for the last five (5) years and has the experience and capability to provide the goods and services.
<table>
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<td>All partners combined</td>
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</tr>
<tr>
<td></td>
<td>required for a PASS.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>HISTORICAL CONTRACT PERFORMANCE AND PENDING LITIGATION</td>
<td>Must meet requirement</td>
<td>Existing or intended JV must meet requirement</td>
<td></td>
</tr>
<tr>
<td>The bidder has had a contract(s) terminated in the last three (3) years for unsatisfactory performance or default.</td>
<td>Bidders shall complete the litigation history form.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The bidder is involved in litigation that represents more than 50% percent of the bidder’s net worth.</td>
<td>Bidders shall complete the litigation history form.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>The bidder shall demonstrate ability to successfully complete previous contracts and has no pending litigation to impede its ability to perform the contract for a PASS.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CONFLICT OF INTEREST</td>
<td>Must meet requirement</td>
<td>Existing or intended JV must meet requirement</td>
<td></td>
</tr>
<tr>
<td>The bidder has declared any actual or potential conflict of interest in the</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>PASS/FAIL CRITERIA</td>
<td>Bidders Compliance Requirements</td>
<td>Bidders Response</td>
<td>Comments / Evidence provided</td>
</tr>
<tr>
<td>-------------------</td>
<td>---------------------------------------------------------------------</td>
<td>------------------</td>
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</tr>
<tr>
<td></td>
<td>Single Entity</td>
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<td></td>
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</tr>
<tr>
<td></td>
<td>At least one partner</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The bidder shall have no actual or potential conflict of interest to call into question its participation in the procurement process and award of contract for a PASS.
A bidder shall PASS all above criteria to be considered for the next stage.

Remarks (Accept/Reject for the next stage)
**Appendix 6E**

**LITIGATION HISTORY**

Name of Bidder:  
RFP Reference:

Bidders shall provide information on any history of litigation or arbitration resulting from contracts executed in the last three years or currently under execution. A separate sheet shall be used for each partner of a joint venture.

### Non-Performing Contracts – contracts terminated in the past three (3) years for unsatisfactory performance or default

- **Contract non-performance did not occur during the stipulated period**
- **Contract non-performance during the stipulated period**

<table>
<thead>
<tr>
<th>Year</th>
<th>Outcome as Percent of Total Assets</th>
<th>Contract Identification</th>
<th>Total Contract Amount (current value, US$ equivalent)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Name of Purchaser:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Address of Purchaser:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Contract description:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Contract award date:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Termination date:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Reason for termination:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Pending Litigation

- **No pending litigation**
- **Pending litigation**

<table>
<thead>
<tr>
<th>Year</th>
<th>Outcome as Percent of Total Assets</th>
<th>Contract Identification</th>
<th>Total Contract Amount (current value, US$ equivalent)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Name of Purchaser:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Contract description:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Address of Purchaser:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Contract award date:</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>Matter in dispute:</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td></td>
<td>Name of Purchaser:</td>
<td></td>
<td></td>
</tr>
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<td></td>
<td>Contract description:</td>
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<td></td>
</tr>
<tr>
<td></td>
<td>Contract award date:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Matter in dispute:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## Conflict of Interest Disclosure Form

It is the Bank’s policy to ensure fairness and integrity in its procurement process. All bidders (including affiliates, partners in joint venture, suppliers and subcontractors) are required to disclose any actual or potential conflict of interest. Bidders shall respond to the questions below and provide further information pertaining to any relationship/connection with the Bank.

<table>
<thead>
<tr>
<th>Bidders Response</th>
<th>Comments / Information provided</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Are you connected to a person employed by the Bank who is involved in the procurement process? This could be a personal or business relationship.</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Have you been engaged in providing consulting services for the preparation or implementation of an assignment relating to the procurement?</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Are you an employee or stakeholder of the Bank?</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Has the Bank offered you a contract of employment in the last 12 months?</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Are you participating in more than one proposal in the procurement process?</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Have you hired any Bank staff involved in the preparation or implementation of the assignment relating to the procurement in the last 12 months?</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Have you held a position in government in the last 3 years? For example, a ministerial position</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Has a member of your family held a position in government in the last three years? This includes your spouse, parent, brother, sister or child.</strong></td>
<td></td>
</tr>
</tbody>
</table>
We hereby certify that: a) we have read and understood the contents of this disclosure form; and b) we have disclosed all actual or potential conflict of interest.

We understand that the Bank shall determine, in its sole discretion, whether any conflict of interest disclosed shall result in rejection of our proposal from the procurement process.

<table>
<thead>
<tr>
<th>Name:</th>
<th>In the capacity of:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signed:</td>
<td>Duly authorized to sign this proposal for and on behalf of:</td>
</tr>
<tr>
<td>Dated on:</td>
<td></td>
</tr>
</tbody>
</table>


In this section, the Bidder should provide a comprehensive description of how it will provide the required Services in accordance with the Terms of Reference (TOR) included in this RFP. Information provided must be sufficient to convey to the Bank that the bidder has an understanding of the challenges in performing the required Services and that it has an approach, methodology and work plan to overcome those challenges.

All submissions must be written in English. The Proposals prepared by the Bidder and all correspondence and documents relating to the Proposal exchanged by the Bidder and the Bank shall be written in the English language. Any printed literature furnished by the Bidder written in another language shall be accompanied by English translation of its pertinent passages in which case, for purposes of interpretation of the Proposal, the English translation shall govern. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal should be numbered. Each copy of the proposal should be bound in a single volume where practical. All documentation submitted with the proposal should be bound in that single volume.

1. **Technical Proposal** (Technical Envelope)

   (a) In respect of article 9 of the Letter of Invitation, the bidder must submit the following documents:
   - A statement of conformity (using format as described in Appendix A)
   - Power of attorney, if applicable

   (b) **Proposed solution.** This section should demonstrate the Bidder’s responsiveness to the Terms of Reference by identifying the specific components proposed, addressing the requirements, as specified, point by point; and should also include any other value-adding services that were not indicated in the TOR but that the bidder may wish to offer the Bank.

   (c) **Details of the proposed methodology**, including but not limited to:
   - bidder’s facilities, equipment, resources;
   - frequency of AC servicing;
   - Support and routine Assistance;
   - Support and Routine Assistance.
   - Preventive maintenance
   - Curative maintenance;
   - suggestions of current IT tools used to enhance monitoring and reporting standards;
   - Procedures to be used to meet the Bank’s service requirements at minimum costs.
(d) **Experience and past performance**: bidder should provide at least three attestations duly signed by the companies for which the bidder provided similar services. The document should include signatory name, telephone and fax numbers.

(e) **Management Plan**: bidder must provide a comprehensive and complete written general management approach towards the project that clearly provides a practical approach and includes the following:

   i. **Customer Service**: Bidder shall describe its customer service plan including the response to unsatisfactory performance, ability to handle queries or deal with emergencies at all times, i.e. 24 hours per day;

   ii. **Quality Assurance and Control** including (complaint management process, quality control systems and procedures proposed, etc.); and

   iii. **Details of disaster recovery program for continuous service on the contract**

(g) **Qualification of Proposed personnel**, professional experience and educational qualifications for this project (use format as described in Appendix D and D-1).

   - Bidders should provide detailed information on proposed travel counselor(s), attaching his/her curriculum vitae, setting out his/her's:
     - Suitability for the assignment;
     - Relevant skills and experience;
     - Outline the precise role the lead person will play;

   - Training plan: Describe the proposed training plan. On-going training provided by the company (especially as regard to development of core competencies and soft skills) for its staff

2. **Financial Proposal** (Financial envelope)

   The financial proposal will include:
   - a bid submission form, fully completed and signed (using format as described in Appendix B)
   - a general table summarizing pricing (Appendix C)

3. **Currencies of Bid**

   The Bidders are free to submit their prices in Kenya Shillings. However, for the purpose of evaluation, the Bank will convert all bid prices into the Bank’s Unit of Account by using the Bank’s monthly moving average rate for the applicable month (deadline for submission of proposals). The currency that shall be used to convert all bid prices expressed in various currencies into a single currency is: **UA** (Unit of Accounts).
Appendix 6G

DETAILED EVALUATION FOR SUSTAINABLE CRITERIA (100 Points) (weight = 10% of the Technical Evaluation)

The ACs components are usually considered to have both Environment and Health impacts.

The following are some of the Criteria that were created by the Global Sustainable Tourism Council (GSTC), to provide a common understanding throughout the world of “sustainable tourism”, and are the minimum that any tourism business should aspire to reach. The Criteria have been developed and revised while striving to adhere to the Standard-Setting Code of the ISEAL Alliance, the body recognized to provide guidance on international norms for developing sustainability standards in all sectors. They are organized around four main themes, namely effective sustainability planning, maximizing social and economic benefits for the local community, enhancing cultural heritage, and reducing negative impacts to the environment.

The provider is requested to indicate the level of engagement and compliance with the terms of reference in relation to sustainability and demonstrate their current status on the following criteria.

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Yes/No</th>
<th>Points</th>
<th>Score</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Effective sustainable management</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Have in place a documented, and is implementing a long-term sustainability management system that addresses environmental, social, cultural, economic, quality, human rights, health, safety, risk and crisis management issues and drives continuous improvement.</td>
<td></td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Engages staff with the development and implementation of the sustainability management system and receives periodic guidance and training regarding their roles and responsibilities in its delivery.</td>
<td></td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Compliance with all applicable local, national and international legislation and regulations including health, safety, labour and environmental aspects e.g. OSHA, ERC regulations, NEMA</td>
<td></td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Monitors and takes corrective action on customer satisfaction including aspects of sustainability.</td>
<td></td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Promotional materials and marketing communication regarding the organization and its products and services, are accurate and do not promise more that is being delivered.</td>
<td></td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Use of local appropriate and sustainable practices and materials e.g. plants used in landscaping, construction materials used.</td>
<td></td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Access and information for persons with special needs, where appropriate.</td>
<td></td>
<td>4</td>
<td></td>
</tr>
<tr>
<td><strong>2) Social and economic benefits to the local community</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Actively supports initiatives for local infrastructure and social community development e.g. education, training,</td>
<td></td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>Health and sanitation and projects which address the impacts of climate change.</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Supports local entrepreneurs in the development and sale of sustainable products and services.</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Have in place and implement a policy against commercial, sexual or any other form of exploitation or harassment, particularly of children, adolescents, women, minorities and other vulnerable groups.</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Offers employment opportunities, including in management positions, without discrimination by gender, race, religion, disability or in other ways.</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Labour rights are respected, a safe and secure working environment is provided and employees are paid at least a living wage. Employees are offered regular training, experience and opportunities for advancement.</td>
<td>4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Activities of the company do not jeopardize the provision of basic services such as food, water, energy, healthcare or sanitation to neighboring communities.</td>
<td>4</td>
<td></td>
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<tr>
<td>Activities of the company do not adversely affect local access to livelihoods including land and aquatic resource use, right-of-way, transport and housing.</td>
<td>4</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 3) Benefits to the environment

| Purchasing policies favour environmentally sustainable suppliers and products including capital goods, food, beverages, building materials and consumables. | 5 |
| Company carefully manages the purchasing of consumable and disposable goods including food, in order to minimize waste. | 4 |
| Water consumption is assessed, measured and steps are taken to minimize overall consumption and adverse effects on environmental flows. | 4 |
| The company seeks to reduce transportation requirements and actively encourages the use of cleaner and more resource efficient alternative by customers, employees, suppliers and in its own operations. | 4 |
| Wastewater, including grey water, is effectively treated and is only reused or released safely, with no adverse effects to the local population or the environment. | 4 |
| Mechanisms are in place to reduce waste (including food waste) and where reduction is not feasible, to reuse or recycle it. Any residual waste disposal has no adverse effect on the local population or the environment. | 4 |
| The company implements practices to minimize pollution from noise, light, runoff, erosion, ozone-depleting substance and air, water and soil contaminants. | 4 |

### 4) Economy and efficiency

| Have in place value for money, cost effectiveness, cost avoidance mechanisms for its clients. | 5 |
African Development Bank Group
Reference: ADB/RFP/RDGE/2019/0099
Provision of Maintenance Services for Air Conditioning Units for Eastern Africa Regional Offices

Have in place policies to provide quality and efficient services to its clients.  
Have in place systems and procedures for swift and timely delivery of services to clients.

<table>
<thead>
<tr>
<th></th>
<th>4</th>
<th>4</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total Points</strong></td>
<td></td>
<td>100</td>
</tr>
</tbody>
</table>

Total points 100. This part will constitute only 10% of the total evaluation score of the Bidder

APPENDIX (6 I):

SUMMARY OF PROPOSED KEY PERSONNEL

Qualifications and experience of key personnel proposed for administration and execution of the Contract.

<table>
<thead>
<tr>
<th>Position</th>
<th>Name</th>
<th>Years of Experience</th>
<th>Qualification</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

LIST OF CURRENT AND PREVIOUS CLIENTS

Contracts performed as prime Contractor on services of a similar nature and volume over the last three years. Also list details of current clients.

<table>
<thead>
<tr>
<th>Contract Name and Country</th>
<th>Name of Client and Contact</th>
<th>Type of Work Performed and Year of Completion</th>
<th>Value of Contract</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current client</td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Previous clients</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Appendix ( 6J)

Major items of Contractor’s Equipment proposed for carrying out the assignment. List all information requested below.

<table>
<thead>
<tr>
<th>Item of Equipment</th>
<th>Description, make, and Age (years)</th>
<th>Condition (new, good, poor) and number available</th>
<th>Owned, leased (from whom or to be purchased (from whom)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>
Appendix 7A

BID SUBMISSION FORM

To the African Development Bank
Eastern Africa Regional center
P.O.Box 4861-00200
Nairobi,
Kenya.

Dear Sir/Madam,

We, the undersigned, declare that:

(a) We have examined the Request for Proposal (RFP) No ADB/RFP/RDGE/2019/0099 and have no reservation to the RFP including addendum issued;

(b) We offer to provide the goods and services in the amount indicated in the Price Schedule form included in our proposal;

(c) If provided in the RFP, the prices quoted shall remain fixed for the duration of the contract;

(d) Our proposal shall be valid for the period indicated in the RFP and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

We understand that you are not bound to accept the most advantageous proposal or any other proposal that you may receive.

We confirm that the undersigned are authorized to commit the bidder(s) to the obligations contained in the RFP and the contract.

Name __________________________

In the capacity of ______________________

Signature __________________________

Duly authorized to sign this proposal for and on behalf of: __________________________

Dated on __________________________

Official Stamp __________________________
PRICE SCHEDULE FORM

Schedule 1 – Annual Maintenance Service

<table>
<thead>
<tr>
<th>S.NO</th>
<th>ITEM</th>
<th>Capacity</th>
<th>Quantity</th>
<th>Unit Cost (KES)</th>
<th>Total Cost (KES)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>4 WAY CEILING CASSETTE SPLIT UNIT</td>
<td>12000 BTU/HR (3.6KW)</td>
<td>97</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>4 WAY CEILING CASSETTE SPLIT UNIT</td>
<td>24000 BTU/HR (7.1 KW)</td>
<td>10</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>CEILING CONCEALED DUCTED SPLIT UNIT</td>
<td>48000 BTU/HR (14 KW)</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>4 WAY CEILING CASSETTE SPLIT UNIT</td>
<td>18000 BTU/HR (5.6KW)</td>
<td>19</td>
<td></td>
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</tr>
<tr>
<td>5</td>
<td>4 WAY CEILING CASSETTE SPLIT UNIT</td>
<td>36000 BTU/HR (10.5 KW)</td>
<td>2</td>
<td></td>
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<tr>
<td>6</td>
<td>4 WAY CEILING CASSETTE SPLIT UNIT (New)</td>
<td>12000 BTU/HR (3.6KW)</td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>4 WAY CEILING CASSETTE SPLIT UNIT (New)</td>
<td>18000 BTU/HR (3.6KW)</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>CEILING DUCTABLE (New)</td>
<td>36000 BTU/R410A</td>
<td>1</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Grand Total

Schedule 2 – Spare Parts

<table>
<thead>
<tr>
<th>S.NO</th>
<th>List of Spares</th>
<th>Unit Cost (KES)</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
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<td></td>
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<td>3</td>
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<td>9</td>
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<td></td>
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<tr>
<td>10</td>
<td></td>
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</tbody>
</table>

- Schedule 3 - Unit cost (KES) of relocation of air conditioning unit
- Schedule 4 - Additional maintenance cost (10% of preventive maintenance cost) to be exercised upon request from the Bank and upon new installations.
SECTION 8 – PRESIDENTIAL DIRECTIVE CONCERNING THE RULES
FOR CORPORATE PROCUREMENT ACTIVITIES OF THE BANK

ARTICLE 3: ELIGIBILITY

3.1 Goods, Services, Real Estate and Works procured by the Bank shall be produced in a Member Country and supplied by Contractors from a Member Country, as described in paragraphs 3.2 and 3.3, unless a waiver of Article 17(1)(d) of the Agreement establishing the Bank is granted by the Board of Directors.

3.2 The eligibility of a Bidder or Contractor on the basis of nationality shall be determined in accordance with the following rules:

a) **Natural Person**: a Natural Person is eligible if he or she is a national of a Member Country of the Bank. Where a person has more than one nationality, such a person shall be eligible if the nationality indicated in his or her submission is that of a Member Country of the Bank.

b) **Business**: a Business is eligible if it satisfies the following criteria:

   - It has its registered office or has its principal place of business in a country that is a member of the Bank;
   - Its legal existence is recognized and is in accordance with the laws of a country that is a member of the Bank; and
   - The majority of its capital is held by nationals from a Member Country of the Bank or, if the Business has no capital, more than half of the value of the members contributions to the Business has been contributed by nationals from a Member Country of the Bank.

3.3 In order to be eligible:

a) Goods to be procured must have a value of which more than half is attributable to production or to originating materials and inputs from one or more eligible Member Countries of the Bank;

b) Works must be performed where more than half of the value of the labour is supplied from one or more eligible Member Country of the Bank, and where the equipment and materials needed for carrying out the Works have a value of which more than half is attributable to production or to originating materials and inputs from one or more Member Countries of the Bank.

3.4 A Natural Person or Business shall not normally be eligible at any stage of a competitive procurement process and contract execution if any of the following situations apply and have been declared or should have been declared by the Bidder:

a) The Natural Person or Business has become bankrupt, is insolvent or, in the case of a Business, is in the process of winding-up; is being administered by an administrator appointed by a competent court of law that has entered into an arrangement with creditors; has suspended business activities; or is in any analogous situation arising from a similar procedure provided for in the relevant national legislation or regulation;
b) The Natural Person or Business has not fulfilled obligations relating to the payment of social security contributions, pension fund premiums, payment of taxes or similar legal statutory payments under the law of the country in which the Natural Person or Business is established or where the contract is to be performed;

c) The Natural Person or Business has been convicted of a criminal offence relating to the conduct of its business or profession in the last 10 years;

d) The Natural Person or Business has been the subject of a judgment for professional misconduct, fraud, corruption, involvement in a criminal organization or any other illegal activity;

e) The Natural Person or Business has been debarred or cross-debarred by the Bank on the basis of corrupt, fraudulent, collusive, coercive and obstructive practices;

f) The Natural Person or Business has been evaluated as having provided unsatisfactory performance under a previous contract with the Bank within the last 3 years.

3.5 A Natural Person or Business, or any of its affiliates, that has been engaged to provide Consulting Services for the preparation or implementation of an assignment shall be disqualified from subsequently providing Goods, Services, Real Estate or Works (other than a continuation of earlier Consulting Services) for the same assignment.

3.6 In addition to the foregoing paragraphs, Vendors of a particular country or Goods and Work materials manufactured in a particular country may be declared ineligible if:

a) as a matter of law or official regulation, the country where the contract is to be performed prohibits commercial relations with that particular country, provided that the Bank is satisfied that such exclusion does not preclude effective competition for the supply of Goods, Services, Real Estate and Works, or

b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the country where the contract is to be performed prohibits any import of Goods from, or payments to, that particular country or Vendor.

DEFINITIONS

Bank means the African Development Bank, the African Development Fund and the Nigerian Trust Fund collectively, or any of them individually, as the case may be.

Bidder means a Vendor that has responded to a solicitation document issued by the Bank.

Business means any incorporated or unincorporated organization recognized by the laws of a Member Country of the Bank that has the capacity of entering into contracts and of offering Goods, Services, Real Estate and Works.

Contractor means a Vendor who has entered into a contract with the Bank for the provision of Goods, Services, Real Estate or Works.

Goods means tangible items, including assets and expendable items that are purchased, hired, leased or rented by the Bank, A ‘Good’ may include related Services, such as transportation,
Insurance, installation, commissioning, training and initial maintenance, provided that the value of those Services is less than the value of the Goods acquired.

**Natural Person** means an individual authorized by the laws of a Member Country of the Bank to offer Goods, Services, Real Estate and Works.

**Real Estate**, also known as real property, means land, buildings and premises that are purchased, built or leased by the Bank.

**Services** means all services except consulting services. For the purposes of this Directive “Consulting Services” refers to expert intellectual or advisory services.

**Vendor** means any Natural Person or Business that is in the business of selling or otherwise providing Goods, Services, Real Estate or Works.

**Works** means the construction, reconstruction, demolition, outfitting, repair or renovation of premises or related infrastructures. Such contracts may include related Services where the value of those Services does not exceed the value of the Works.
# LIST OF MEMBER COUNTRIES OF THE BANK

## REGIONAL COUNTRIES

<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>41. Sao Tome &amp; Principe</td>
<td>42. Senegal</td>
<td>43. Seychelles</td>
<td>44. Sierra Leone</td>
</tr>
<tr>
<td>45. Somalia</td>
<td>46. South Sudan</td>
<td>47. Sudan</td>
<td>48. Swaziland</td>
</tr>
<tr>
<td>49. Tanzania</td>
<td>50. Togo</td>
<td>51. Tunisia</td>
<td>52. Uganda</td>
</tr>
<tr>
<td>53. Zambia</td>
<td>54. Zimbabwe</td>
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</tbody>
</table>

## NON REGIONAL COUNTRIES

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>25. United Kingdom</td>
<td>26. United States of America</td>
<td></td>
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</tr>
</tbody>
</table>
## PART II – GENERAL AND SPECIFIC CONDITIONS

### African Development Bank

**General Terms and Conditions for the Purchase of Goods, Works and Services**

1.0 **Constitution of Contract**

1.1 The submission of any bid shall constitute acceptance of the African Development Bank General Terms and Conditions for the Purchase of Works and Services, except to the extent they may be modified by special conditions attached to the Contract or Purchase Order (PO). These General Terms and Conditions are then an integral part of the Contract or PO to which they are attached.

1.2 No additional or inconsistent provisions and no variations in or modifications of that Contract or PO made by the Contractor shall be binding unless agreed to in writing by the African Development Bank (hereinafter called the “Bank” or AfDB).

2.0 **Performance of Contract**

2.1 The Contractor agrees to provide the works or services (hereinafter called the “Services”), as the case may be, required hereunder in accordance with the requirements set forth in the Contract or PO documents. The Contractor undertakes to perform the Services hereunder in accordance with the highest standards of professional competence and integrity in the Contractor’s industry, having due regard for the nature and purposes of the Bank as an international organization and to ensure that the employees assigned to perform any Services under the Contract or PO will conduct themselves in a manner consistent therewith. The Services will then be rendered in (1) an efficient, safe, courteous and businesslike manner; (2) in accordance with any specific instructions issued from time to time by the Bank’s designated Project Manager; and (3) to the extent consistent with the above as economically as sound business judgment warrants. The Contractor shall provide the services of qualified personnel through all stages of this Contract/PO. The Contractor shall promptly replace any member of the Contractor’s project team that the Bank considers unfit or otherwise unsatisfactory.

The Contractor represents and warrants that it is in compliance with all the applicable laws of any jurisdiction in which the Services shall be performed.

2.2 The Contractor shall not assign or transfer any of its obligations under the Contract/PO. It shall be solely responsible for the performance of the Contract/PO in every respect. The Contractor shall indicate the Contract/PO number on all correspondence which shall be addressed to the Bank, unless otherwise stated. The Contractor shall immediately report to the Bank in writing any problems encountered which may jeopardize the performance of the Contract/PO.

2.3 The Contractor shall be responsible for obtaining and renewing at its own cost and in due time such approvals, consents, governmental and regulatory authorizations, licenses and permits as may be required or deemed necessary by the Bank to perform the Contract/PO.

3.0 **Conflict of interest**

3.1 The remuneration of the Contractor shall constitute the sole remuneration in connection with the Contract/PO. Contractor shall not accept for its benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract/PO or in the discharge of its obligations hereunder, and the Contractor shall use its best efforts to ensure that any subcontractors, as well as the personnel and agents of either of them, similarly shall not receive any such additional remuneration.

3.2 Contractor or the contractor’s employees, subcontractors and subcontractor’s employees shall, during the term of the Contract/PO strictly avoid carrying out any other assignments that may be in conflict with this assignment for the Bank.

4.0 **Financial Liability, Immunities and Applicable Law**
4.1 The financial liability of the Bank under this Contract/PO shall not exceed the total amount of the Contract/PO.

4.2 Nothing in the Contract/PO or relating thereto shall be construed as constituting a waiver of the privileges or immunities of the African Development Bank.

4.3 This Contract/PO is subject to the laws of England, unless otherwise specified in a specific provision of the Contract/PO.

5.0 Insurance

5.1 The Contractor shall procure and maintain during the entire period of performance of this Contract/PO, all adequate insurance required by law in the jurisdiction where the Services will be performed. Upon request of the Bank, the Contractor shall be able to furnish evidence of such insurance, or can be asked to take complementary coverage in order to meet the requirements of the present article.

6.0 Documents

6.1 The Contractor shall furnish all documents and technical information that the Bank may deem necessary for the performance of the Contract/PO. The Contractor shall, in the language requested, attach to each unit of the goods any information necessary for their maintenance and operation.

6.2 The Contract/PO Number must appear on all invoices, shipping documents, packing slips, packages and correspondence.

7.0 Changes

7.1 The Bank may, at any time by written order designated or indicated to be a change order, make changes to the Contract/PO or any part thereof.

7.2 If any such change increases or decreases the cost of and/or the time required for the performance of any part of the Contract/PO, an equitable adjustment shall be made in the Contract/PO price or time schedule or both, and the Contract/PO shall accordingly be amended. No change in, modification of, or revision to the Contract/PO shall be valid unless in writing and signed by an authorized representative of the Bank.

7.3 Prices indicated in the Contractor's bid shall, at all times, be deemed to be firm and not subject to revision. Works and services for the Bank are exempted from taxes and customs duties. If a Contractor is unable to invoice exclusive of taxes, he shall show these taxes and customs duties on a separate line in the invoice, and the payment will be made free and clear of these taxes and customs duties.

8.0 Payment and Claims

8.1 Payment will normally be made through check or bank transfer within 30 days after receipt and acceptance of the Services or from receipt of a correct signed invoice whichever is later. Invoices must be sent in duplicate (one original and one copy) at the following address:

African Development Bank
Eastern Africa Regional center
P.O.Box 4861-00200
Nairobi,
Kenya

Appropriate documentation should accompany all invoices.

8.2 Irrespective of their nature, all claims of the contractual parties, other than warranty claims, arising from or in any way connected with the Contract/PO, shall be asserted within six (6) months after its termination.

9.0 Warranties

9.1 The Contractor warrants that the Services provided under this Contract/PO will conform to the specifications, or other descriptions furnished or specified by the Bank.

9.2 If the Contractor fails to comply with the above requirements, the Bank may after notice to the Contractor, take action at the Contractor expense which in the opinion of the Bank is necessary.

10.0 Safety

10.1 The Contractor shall ensure that itself and all Contractor personnel observe and comply with all applicable safety rules including those specified by the Contractor and the Bank and the Bank’s fire, safety and security
regulations. The Contractor shall ensure that any work areas assigned by the Bank to the Contractor are cleaned daily and remain free of hazards.

11.0 Suspension

11.1 The Bank may at any time suspend the performance of the Contract/PO or any part thereof, even for its convenience, by a written notice specifying the part to be suspended, the effective date and the anticipated period of suspension. The Bank shall not be responsible for the cost of the Contractor’s further performance of the suspended part after the Contractor has been directed to suspend performance.

11.2 Suspension of the Contract/PO shall not prejudice or affect the accrued rights or claims and liabilities of either party to this Contract/PO.

12.0 Termination of Contract/PO

12.1 The Bank may, by written notice, without the authorization of a court or any other authorization and without prejudice to any other remedy, terminate the Contract/PO in whole or in part:

12.1.1 If the Contractor fails to perform any of its contractual obligations and does not immediately rectify such failure after receipt of a written notice by the Bank;

12.1.2 If the Contractor becomes insolvent or bankrupt or ceases paying its debts generally as they mature.

12.1.3 For convenience, without assigning any reason.

12.2 Termination of the Contract/PO in whole or in part by the Bank is not limited to a fundamental breach of Contract/PO and shall not prejudice or affect the accrued rights or claims and liabilities of either party to this Contract/PO.

12.3 If the Bank terminates the Contract/PO pursuant to paragraph 12.1 (i), the Bank may procure, upon such terms and in such manner as it may deem appropriate, services and works similar to those not delivered and the Contractor shall be liable for any excess costs or damage caused to the Bank by the Contractor’s default. The Bank reserves the right to offset costs, incurred by it in relation to the termination of the Contract/PO, from any monies due. In case of partial termination of the Contract/PO, the Contractor shall continue performance of the Contract/PO to the extent not terminated.

12.4 If the Bank terminates the Contract/PO pursuant to paragraph 12.1 (iii) for convenience, the notice of such a termination shall state that termination is for the Bank’s convenience, the extent to which the performance under the Contract/PO is terminated, and the effective termination date. The Bank will issue an equitable adjustment, not to exceed the total Contract/PO price, to compensate the Contractor for: (i) the Contract/PO price for the Services accepted by Bank but not paid previously and adjusted for any savings, (ii) the costs incurred in the performance in the work terminated, including initial and preparatory expenses; (iii) the cost of settling and paying other Contractors, subcontractors or lessors under terminated agreements properly chargeable to the terminated portion of the Contract/PO and not included in items (i) and (ii) hereof; and (iv) a reasonable profit on item (ii) above.

12.5 If the Contractor is found to have engaged in any corrupt or fraudulent practices in connection with the Contract/PO, the Bank may in its sole discretion do any or a combination of the following: (i) declare void or terminate this Contract; (ii) declare the Consultant ineligible to contract with the Bank or to enter into contracts financed by the Bank; and (iii) pursue legal proceedings against the Consultant. For purposes hereof:

- “corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the procurement process or in Contract/PO execution.

- “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a Contract/PO to the detriment of the Bank, and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Bank of the benefits of free and open competition.
13.0 Period of performance and Liquidated Damages

13.1 The period of performance of the Services shall be as stated on the front of the Contract/PO. The schedule for submitting deliverables shall be as stated either in the statement of works attached to this Contract/PO or in front of this Contract/PO. Deliverables must be completed within the said period.

13.2 If the Contractor fails to perform the Contract/PO or any part thereof within the specified period, the Bank may, without prejudice to any other remedy under the Contract/PO, deduct from the Contract/PO price, as liquidated damages, a sum equal to 0.5% of the Contract/PO value for each week of delay until actual performance, up to a maximum of 5% of the Contract/PO value.

14.0 Liability

14.1 The Contractor shall be liable for all damages arising from its action or that of its agents, of which he or its agents could be held liable under the applicable laws.

14.2 The Contractor shall bear the full financial consequences of any material damage or personal injuries, including death which, through its action or that of its agents, may be suffered by himself, its agents, the Bank or its agents or any third party.

14.3 The Contractor undertakes to indemnify and hold harmless the Bank and its agents and principals harmless against all claims, suits and losses that are due to personal injury (including death) or property damage to the extent caused, or alleged by a claimant to have been caused, connection with the performance of the Services under this Contract/PO, by (i) improper or defective work performed by the Contractor; (ii) improper or defective machinery, materials, supplies, implements, equipment or appliances provided, installed or used by the Contractor; and (iii) negligent or wrongful acts or omissions of the Contractor.

15.0 Intellectual Property and Confidentiality

15.1 The Contractor agrees to indemnify and hold harmless the Bank, its officers, employees and agents against all claims, suits and losses that arise from patent, trademark and/or copyright infringement by the Contractor. The Contractor further agrees and indemnifies the Bank in any action against the Bank by the Contractor’s employees seeking further compensation for claims covered by the Contractor’s worker’s compensation insurance. The obligation set out in this Article shall survive the expiration or termination of the Contract/PO.

15.2 The Contractor shall not, while performing the Contract/PO or at any time thereafter, use, or disclose in any manner prejudicial to or incompatible with the interests of the Bank any information of a restricted or confidential nature that may come to its knowledge in connection with the performance of this Contract/PO. The Contractor shall not use the Bank’s name or emblem without prior written authorization.

16.0 Dispute Settlement

16.1 The parties shall make every effort to resolve any disagreement or dispute arising between them under or in connection with this purchase order amicably by direct informal negotiation. The party asserting the existence of a disagreement or dispute shall, promptly upon becoming aware of such disagreement or dispute, notify the other party in writing (such writing being referred to herein as the “Notice of Dispute”) specifying the nature of the disagreement or dispute, and shall also provide such other information about the disagreement or dispute as the other party may reasonably require.

16.2 If, forty-five (45) days after the date the Notice of Dispute has been given, the parties have been unable to amicably resolve the dispute or difference, either party may require that such dispute be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.

16.3 The arbitral tribunal shall comprise one arbitrator jointly chosen by the parties. However, where the parties are unable to reach an agreement within sixty (60) days of notification of the Conciliation Notice, the
16.4 The arbitration shall take place in, London, UK and shall be in the English language.

16.5 The resulting award shall be final and binding on the parties and shall be in lieu of any other remedy.

16.6 Nothing contained in this Contract shall be construed as or constitute a waiver, renunciation or other modification of any privileges, immunities and exemptions accorded to the Bank under the Agreement Establishing the African Development Bank, international conventions or any other applicable law.

16.7 The provision of this article shall remain in force after the termination of this contract.

17.0 Governing law

17.1 This Agreement shall be governed by, enforced and construed in accordance with the laws of England.

18.0 Force Majeure

18.1 "Force Majeure" means any event or condition which (a) wholly or partially delays or prevents a party from performing any of its obligations under the Contract/PO, (b) is unforeseeable and unavoidable, (c) is beyond the reasonable control of such party, and (d) occurs without the fault or negligence of such party.

18.2 The party affected by such Force Majeure shall give prompt written notice to the other party of the nature and probable duration of such Force Majeure, and of the extent of its effects on such party's performance of its obligations hereunder.

18.3 During the continuance of such Force Majeure, the obligations of the affected party shall be suspended to the extent necessitated by such Force Majeure.

18.4 In the event of Force Majeure which delays performance of the Contract/PO or any part thereof by more than thirty (30) days, either party shall have the right, by notice to the other party, to terminate the PO.

19.0 Severability

19.1 If any provision of the Contract/PO is held to be invalid or unenforceable, the remainder of the Contract/PO will remain in full force and effect, and such provision will be deemed to be amended to the minimum extent necessary to render it enforceable.

20.0 Copyrights, database and design rights

The deliverable report(s) and other creative work of the Contractor called for by this Contract/PO, including all written, graphic, audio, visual and other materials, contributions, applicable work product and production elements contained therein, whether on paper, disk, tape, digital file or any other media, (the “Deliverable Work”) is being specially commissioned as work made for hire in accordance with the applicable copyright, data protection and design laws of the country governing the Contract/PO originated. The Bank is the proprietor of the Deliverable Work from the time of its creation and owns all right, title and interest therein throughout the world including, without limitation, copyrights and all related rights. To the extent that it is determined that the Deliverable Work does not qualify as a work made for hire within the meaning of the applicable copyright, data protection and design laws of the country governing the Contract/PO, then the Contractor hereby irrevocably transfers and assigns to the Bank all of its right, title and interest, throughout the world and in perpetuity, in and to the Deliverable Work, including without limitation all of its right, title and interest in copyright and related rights free of any claim by the Contractor or any other person or entity.
SECTION 9 – CONTRACT AGREEMENT

DRAFT CONTRACT

DRAFT CONTRACT

SERVICE CONTRACT
ADB/RFP/RDGE/2019/0099

FOR PROVISION OF MAINTENANCE SERVICES FOR AIR CONDITIONING EQUIPMENT

BETWEEN

THE AFRICAN DEVELOPMENT BANK
EASTERN AFRICA REGIONAL RESOURCE CENTER

AND

………………………………………………………………………..

CONTRACTOR

CGSP/SF/02 Version 3 Revised 06/08
CONTRACT- No. ADB/RFP/RDGE/2019/0099

MAINTENANCE OF AIR CONDITIONING EQUIPMENT AT THE AFRICAN DEVELOPMENT BANK, EASTERN AFRICA RESOURCE CENTRE

THIS CONTRACT together with the General Terms and Conditions for the Purchase of Goods, Works and Services hereto and forming an integral part hereof, (hereinafter called the “Contract”) is made on the 1st day of July, 2019 between the AFRICAN DEVELOPMENT BANK, an International Financial Institution having its headquarters in Abidjan, Avenue Joseph Anoma, 01 BP 1387, Abidjan 01, COTE D’IVOIRE, and ................................................................., having its principal place of business at .........................................................., (hereinafter called the “Contractor”), of the other part.

WEREAS the Bank has determined the need to procure the services of a Contractor to execute Air Conditioning Equipment Maintenance Works at the Bank’s Eastern Africa Resource Centre (EARC) (hereinafter called the “Works”).

WHEREAS the Bank has accepted the Bid by the Contractor for the execution and completion of the said Works and related services and the remedying of any defects therein;

AND WHEREAS the Contractor represents and affirms that it has the requisite qualifications, experience, skills and competence to perform the said Works;

NOW THEREFORE the parties hereto have agreed as follows:

Article 1. Description of Works

1.1 For the purpose of this Contract, “Works” shall mean the whole of the activities, services, materials, equipment, matters and things required to be done, delivered or performed by the Contractor, in accordance with the terms of this Contract, with regards to RFP No. ADB/RFP/EARC/2014/0047. Other words and expressions shall have the meaning given to them in the General Terms and Conditions for the Purchase of Goods, Works and Services

1.2 Works shall be performed in accordance with the terms and conditions listed in the following documents:

1.2.1 General Terms and Conditions for Purchase of Goods, Works and Services attached hereto.
1.2.2 The RFP.

1.2.3 The Work Plan proposed by the Contractor as accepted by the Bank.

1.2.4 Contractor’s Proposals to RFP No. ADB/RFP/RDGE/2019/0099.

Article 2. Commencement and Duration

2.1 The Contractor shall commence the Works from 1st July 2019 or the date of receipt of Notice to proceed.

Article 3. Duties of the Contractor

3.1 The Contractor shall perform the Works with all due care, diligence and efficiency, in accordance with the highest standards of professional competence and skill, and shall, in performing the Works, accept, promptly act upon, and comply with, such instructions and directions as may be issued by the Bank from time to time.

3.2 The Contractor shall perform the Works to the satisfaction of the Bank in accordance with the terms and conditions of this Contract.

3.3 The Contractor designates ………………………………… as the project’s leader to spearhead, and coordinate the performance of the Works and to act as the principal liaison between the Bank and the Contractor during the performance of this Contract. In this capacity, the project leader’s responsibilities shall include, but not be limited to, supervision and oversight of the Works and all communications between the Contractor and the Bank.

3.4 The Contractor shall keep and maintain accurate and complete accounts in respect of expenditure incurred by the Contractor under this Contract, in such form and detail as shall be satisfactory to the Bank, for the purposes of the Bank making payment under this Contract.

3.5 The Contractor shall be fully liable for the consequences of any error or omission on its part and for any damage caused by negligence on its part in carrying out the Works or performing its other obligations under this Contract.

3.6 The Contractor shall be fully liable for the consequences of error or omission on its part and for any damage caused by negligence on its part carrying out the Works or performing its other obligations under this Contract.

3.7 Cleaning and restoring the site and the removal of debris is the responsibility and liability of the contractor. It will be insured by the Contractor at its expenses.

Article 4. Representations, warranties and Covenants
4.1 The Contractor represents and warrants that it possesses the requisite experience, qualifications, competence and skills to perform the Works and carry out all its duties and responsibilities set out in this Contract and that all information given concerning such experience, qualifications, competence and skills is accurate.

4.2 The Contractor represents and warrants that it is in compliance with all the applicable laws and regulations in force at its place of incorporation. The Contractor covenants that during the term of this Contract it shall abide by, and take all measures necessary to enable it to be in compliance with all laws and regulations in force in any place where the Works are to be wholly or partially performed.

Article 5. Insurance

5.1 The Contractor shall be responsible for insurance coverage for its experts and employees performing the Works in accordance with relevant industry norms and standards. The Bank shall have no responsibility whatsoever for such coverage or for any expenses that the Contractor or its employees, agents, affiliates, subcontractors or other persons deriving authority from the Contractor (collectively hereinafter referred to as the “Contractor’s Associates”) may incur.

Article 6. Relationship of the Parties and Indemnification

6.1 Nothing contained in this Contract shall be construed as establishing or creating any relationship between the Bank and the Contractor other than that of independent contractor. Accordingly, the Contractor hereby agrees that the Bank shall accept no liability in contract or in tort or any responsibility for the acts, omissions, errors or negligence of the Contractor, or the Contractor’s Associates.

6.2 The Contractor hereby undertakes that it will indemnify and hold harmless the Bank from and against any action and losses, liabilities, costs, claims, damages and expenses (“Losses”) which the Bank may incur in relation to, arising out of, or otherwise in respect of any act, omission, error or negligence of the Contractor or any of the Contractor’s Associates, and the Contractor will reimburse the Bank for all costs, charges and expenses which the Bank may pay or incur in connection with investigating, disputing or defending against any such action or Losses.

Article 7. Payment for the Works

7.1 The Bank shall, subject to satisfactory performance of the Works, pay to the Contractor the amounts specified and in the manner prescribed in Section 1 (51) of the Tender Document.

Article 8. Contract prices

Except as otherwise agreed with the Bank in accordance with the General Conditions, total payments under this contract shall be a sum equivalent to KES……………………………………………………… (……………………………………………………… Kenya Shillings).
Article 9. Facilities and Services Required for the Works

9.1 The Contractor shall provide all equipment and tools, required for the Works.

Article 10. Assignment and Subcontracting

10.1 The Contractor shall not assign, transfer or make any other disposition of any of its rights and obligations under this Contract, in whole or in part, except with the prior written consent of the Bank.

10.2 The Contractor shall not subcontract the whole or any part of the Works to any person or entity except with the prior written consent of the Bank given in respect of the particular person or entity.

10.3 Notwithstanding any such consent given by the Bank pursuant to Articles 10.1 or 10.2 above, the Contractor hereby guarantees full compliance by each of the Contractor’s Associates with the terms of this Contract and the prompt performance by each of them of the subcontracted parts of the Works. The Contractor further represents and warrants that it shall be fully responsible as primary obligor to the Bank regarding the manner and standard of performance of the Works.

Article 11. Effective Date and Expiry

11.1 The Contract shall become effective upon its signature by both parties (the date of the last such signature being the “Effective Date”)

11.2 Unless terminated, the Contract shall remain in force until the date on which all obligations arising out of or under this Contract have been discharged, in accordance with the provisions of the General Conditions of Contract.

Article 12. Notices and Requests

12.1 Any notice or request required or permitted to be given or made under this Contract shall be in writing and in the English or French language. Such notice or request shall be deemed to have been duly given or made when delivered by hand or by registered mail or facsimile to the party to which it is required to be given or made at the following address or such other address as any of the parties may have notified to the other party in writing.

FOR THE BANK

Mailing Address
The African Development Bank
Eastern Africa Resource Centre
P.O Box 4861-00200, Nairobi
KENYA

Attention
Article 13. Modification or Amendment

13.1 This Contract constitutes the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersedes any and all prior agreements and understandings, oral or written, relating to the subject matter hereof all of which are expressly excluded.

13.2 No amendment, modification or waiver of any provision of this Contract, nor consent to any departure by either Party therefrom, shall in any event be effective unless the same shall be mutually agreed upon, in writing and signed by authorized representatives of both Parties. Any such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No delay or failure on the part of either Party in exercising any right, power or privilege hereunder shall constitute a waiver, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

Article 14. Severability

14.1 The invalidity, unenforceability or illegality of any provision (or part of a provision) of this Contract shall in no way affect the validity, enforceability or legality of any of its other provisions.

Article 15. Counterparts

This Contract may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed in their respective names by their duly authorized representatives, on the respective dates specified below.

FOR THE AFRICAN DEVELOPMENT BANK
THIS CONTRACT is entered into by and between THE AFRICAN DEVELOPMENT BANK (hereinafter called the “Bank”), an international financial institution having its headquarters in Abidjan, Avenue Joseph Anoma, 01 B.P. 1387, Abidjan, CÔTE d'IVOIRE of the one part and ____________________________, (hereinafter called the “Supplier”), a company duly incorporated and existing under the laws of the Kenya, whose principal place of business is located at …………………………………………………………………………………… of the other part.

Parties mean the Supplier and the Bank collectively, and Party means any one of them, as the context may indicate.

WHEREAS the Bank and the Supplier have agreed, in accordance with Section E of the General Conditions of Maintenance of Air Conditioning Equipment installations : the AfDB Regional Development and Business Delivery Centre situated at Kushee Tower, Longonot Road, Upper Hill, Nairobi, Kenya that the Supplier shall provide maintenance, support and routine preventive maintenance for the Air Conditioning Equipment for the duration of this contract.

This contract includes the corrective maintenance and is linked to the principal contract.

NOW THEREFORE, the parties hereto agree as follows:

1. SCOPE AND TERM OF CONTRACT

1.1 The purpose of this Contract is to describe the Supplier's responsibilities in the Maintenance of Air Conditioning equipment that are indicated in Annex I and installed at the Eastern Africa Resource Centre. The Supplier shall perform the services and carry out its obligations with due diligence, efficiency and economy, in accordance with standards specified in the Service Level Agreement. The Supplier
shall observe sound management practices, and employ as appropriate advanced technology and safe method. In respect of this Contract, the Supplier shall always act as a faithful adviser to the Bank and shall at all times support and safeguard the Bank’s legitimate interest in any dealings with sub-contractors or third parties.

1.2 This Maintenance Contract shall remain valid for a period of five years in accordance with the General Conditions of Maintenance of Air Conditioning Equipment installed in the Eastern Africa Resource Centre concluded between the Bank and …………………………..………..; The Supplier warrants that it is qualified by the manufacturer, in case of third party products, to supply and provide maintenance services, technical or help desk support, new version upgrade and/or other services related to the equipment installed. The Supplier further warrants that its work will not negatively affect the performance of the system.

2. **MAINTENANCE FEES - PAYMENT TERMS**

2.1 In consideration of the provision of maintenance services for support for the Air Conditioning Equipment hereunder, the Bank agrees to pay to the Supplier an amount not exceeding ………………….. (…………………..KES) for annual Maintenance.

The repairs and maintenance of the system shall, commence on 1st July 2019. Payment shall be made quarterly following receipt of invoice. The support will cover enhancement, upgrade, hardware, replacement. (Please note that this does not cover hardware replacement. The cost of any replaceable hardware after the warranty period shall be billed to the Bank

2.2 The Annual Maintenance Fee is fixed for all the duration of the contract and shall be paid at once on presentation to the Bank of appropriate invoices and supporting documents. Payment shall be made by the Bank within thirty (30) days of receipt of the relevant invoice at the end of the year and after rendered service.

3. **OBLIGATIONS OF THE SUPPLIER**

The Air Conditioning equipment installations must be maintained in a safe condition and in accordance with statutory requirements. The contractor shall ensure, in liaise with the Kushee Tower building Manager, that electrical power from the public network to Air Conditioning Equipment systems remains uninterrupted

**Support and Routine Assistance**

The Supplier’s maintenance and technical support personnel shall be available to assist and consult with the staff of the Bank during normal business hours of the Eastern Africa Resource Centre. However, in the event of a critical or serious technical fault developing outside of these hours, the contractor shall ensure that technical support personnel are available to respond to and remedy any such fault at all times, including weekends and public holidays. Critical or serious faults are defined within the Service Level Agreement.
- Errors and Corrections of defects for the products

The Supplier agrees to correct defects of the products sold to the Bank and to supply replacements to the Bank at no additional charge. The Bank agrees to report promptly to the Supplier any and all defects in, or problems with, the devices, which it may discover. The Supplier shall correct the defects promptly after they are discovered by the Bank or are reported to the Supplier.

SERVICES

3.1 Support and Routine Assistance.

The Supplier’s support staff shall provide support services to answer questions and to assist the Bank, either on the phone or through on-site intervention, in resolving problems related to the use and operation of the Air Conditioner equipment installations. In addition the user will institute a service, fault and maintenance register. The Supplier shall undertake regular preventive maintenance of the Bank’s Equipment. This task shall include, among other duties, the replacement of defective consumables, gas refilling and electrical spare parts. He should report to the Bank’s staff, keep the maintenance records, and enter into the maintenance register the date of the visit, the tests carried out, the adjustments made, and any further details that may be required accordingly.

3.2 Preventive maintenance

The Supplier commits to ensure a support of the Air Conditioning installations by on-site maintenance in accordance with timetables adopted and agreed to by both two parties.

The service tasks of the preventive maintenance covered by this include:

- A monthly onsite preventive visit to check the correct operation of the Air Conditioning equipment installations
- A comprehensive quarterly preventive maintenance of all the Air Conditioning equipment according to regulations and following the manufacturers’ requirements. Troubleshooting, repair and restoration of proper functioning of the all the components of the Air Conditioning Units.
- A deep annual preventive review of all the Air Conditioning equipment installations according to regulations and following the manufacturers’ requirements.
- Assistance and advice in the best practice administration relating to the Air Conditioning equipment field
- Report to the Bank’s IT Officer of the Bank, keep the maintenance records, and enters into the maintenance register the date of the visit, the tests carried out, the adjustments made, and any further details that may be required accordingly.

- Check and optimize the gas levels of air conditioning equipment
- Tightening the electrical connections
- Clean the Air Conditioning equipment and all its components
- Ensure the availability of the Air Conditioning equipment on 24/7 basis.

3.3 Curative maintenance

The Supplier makes every effort to ensure the curative maintenance consisting in executing the repair works of Air Conditioning installations further to the breakdowns caused by a normal use which could arise. To answer the demands of intervention, The Supplier arranges following services:

- A Hot line service for repair requests.
- An e-mail address for system malfunctions of all kinds, which allows for the defining of problems and secures an effective intervention.

For the curative maintenance, the contractor should provide a list of necessary spare parts required for smooth functioning of the electrical components.

4. FORCE MAJEURE

If the performance of this Contract is prevented or interfered with by reason of any circumstances beyond the reasonable control of a party hereto, and which makes a party’s performance of its obligations under the Contract impossible or so impracticable as to be considered impossible under the circumstances, such party shall be excused from such performance for the duration of the force majeure, provided that the party so affected 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.

5. CONTRACT AMENDMENTS

No variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

6. ASSIGNMENT

The Supplier shall not assign, in whole or in part, its obligations to perform under this Contract, except with the Bank’s prior written consent.
7. **SUBCONTRACTS**

The Supplier shall notify the Bank in writing of all subcontracts awarded under this Contract. Such notification shall not relieve the Supplier from any liability or obligation under the Contract.

8. **DELAYS IN THE SUPPLIER’S PERFORMANCE**

All services to be performed under this Maintenance Contract shall be provided by the Supplier in accordance with the time schedule prescribed within the Service Level Agreement. If at any time during performance of this Contract, the Supplier should encounter conditions impeding timely delivery of and the performance of the Services, the Supplier shall promptly notify the Bank in writing of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Supplier’s notice, the Bank shall evaluate the situation and may at its discretion extend the Supplier’s time for performance or terminate the Contract with or without claiming liquidated damages from the Supplier.

9. **TERMINATION OF CONTRACT**

9.1 **Termination for default** - The Bank, without prejudice to any remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate this Contract in whole or in part, if the Supplier fails to perform any obligation(s).

9.2 **Termination for insolvency** - The Bank may at any time terminate the Contract by giving written notice to the Supplier if the Supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy, which has accrued or will accrue thereafter to the Bank.

9.3 **Termination for convenience** - The Bank, by written notice sent to the Supplier, before 2 months, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Bank’s convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.

9.4 Upon termination of this Contract, the Supplier shall take immediate steps to end the performance of the Contract in a prompt and orderly manner, mitigating any losses and keeping further expenditure to a minimum.

If this Contract is terminated under this clause, the Bank shall be liable only for payment for the part of the contract actually performed and actual expenses reasonably incurred prior to the effective date of termination.

10 **RESOLUTION OF DISPUTES**
10.1 The Bank and the Supplier shall make every effort to resolve any disagreement or dispute arising between them under or in connection with this Contract amicably by direct informal negotiation. The party asserting the existence of a disagreement or dispute shall, promptly upon becoming aware of such disagreement or dispute, notify the other party in writing (such writing being referred to herein as the “Notice of Dispute”) specifying the nature of the disagreement or dispute, and shall also provide such other information about the disagreement or dispute as the other party may reasonably require.

10.2 If, after thirty (30) days from the commencement of such informal negotiations, the Bank and the Supplier have been unable to amicably resolve the dispute or disagreement, either party shall have the right to initiate arbitration proceedings in accordance with the UNCITRAL Arbitration Rules as at present in force. The arbitral tribunal shall consist of one (1) arbitrator who shall be selected by agreement of the parties. If the parties are unable to agree on the sole arbitrator, the London Court of International Arbitration (LCIA) shall act as the appointing authority. The arbitration shall take place in Tunis. The language to be used in the arbitral proceedings shall be English. The resulting award shall be final and binding on the parties and shall be in lieu of any other remedy. Neither the parties, nor the Arbitrator, nor the Appointing authority shall disclose the existence, consent, or results of any arbitration except with the prior written consent of both parties.

10.3 The Arbitrator shall abide by the rules of Ethics for international Arbitrators established by the international bar association. The authority of the Arbitration Tribunal to grant relief is subject to the terms of this Arbitration clause, the terms of this agreement, and the law governing the Contract. The Arbitration Tribunal shall have no authority to award exemplary, punitive, or treble damages.

10.4 Nothing in this Contract shall operate or be construed as a waiver, renunciation or other modification of any right, privilege, immunity and exemption accorded to the Bank under the Agreement establishing the Bank, or under any applicable law.

11. 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 English or French.

12. GOVERNING LAW

This Contract shall be governed and interpreted in accordance with English Law, excluding its conflicts of law provisions.

13. TAXES AND DUTIES

The Bank, its assets, property, operations, transactions and income are exempt from all forms of taxation in accordance with the provisions of the Agreement establishing the African Development Bank. Accordingly, the Supplier shall not claim from the Bank any taxes, levies, licence fees or any other such charges in
relation to this Contract which are paid or may be payable to the municipal/local Council or any other responsible Authority in relation to this Contract and or the Services provided under this Contract.

14. **CORRUPTION**

The Supplier states that no employee of the Bank involved in the award of this contract, has received, or will received, directly or indirectly, any kind of benefit or advantage from the Supplier or its affiliates, resulting from the award of the Contract or its implementation.

15. **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 to an authorized representative of the party to whom the communication is addressed, or when sent by registered mail or facsimile to such party at the address specified below:

**For the Bank:**
Deputy Director General,
Regional Development and Business Delivery Center (RDGE)
African Development Bank,
Nairobi, Kenya.

**For the Supplier:**

16. **ENTRY INTO FORCE**

This Contract shall be effective on the day following system acceptance as specified in Article 1.2 of this Contract.

**IN WITNESS WHEREOF,** the Parties hereto have caused this Contract to be duly executed in their respective names by their duly authorized representatives, on the respective dates specified below.
FOR AFRICAN DEVELOPMENT BANK

Date: __________________

Nnenna Nwabufo
Deputy Director General

FOR THE CONTRACTOR

Date: __________________

………………………………………

………………………………………………………………..
### Annex 1: List of Air Conditioning Equipment

<table>
<thead>
<tr>
<th>S.NO</th>
<th>ITEM</th>
<th>COOLING CAPACITY</th>
<th>MAKE</th>
<th>INDOOR UNIT / OUTDOOR UNIT MODEL</th>
<th>QTY</th>
</tr>
</thead>
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<td>1</td>
<td>4 WAY CEILING CASSETTE SPLIT UNIT</td>
<td>12000 BTU/HR (3.6KW)</td>
<td>CARRIER</td>
<td>42TLC012/38FN012</td>
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<td>4 WAY CEILING CASSETTE SPLIT UNIT</td>
<td>12000 BTU/HR (3.6KW)</td>
<td>CARRIER</td>
<td>42TLC012/38FN012</td>
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<td>4 WAY CEILING CASSETTE SPLIT UNIT</td>
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<td>CARRIER</td>
<td>42TNC024/38FN012</td>
<td>2</td>
</tr>
<tr>
<td>4</td>
<td>4 WAY CEILING CASSETTE SPLIT UNIT</td>
<td>12000 BTU/HR (3.6KW)</td>
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<td>42TLC012/38FN012</td>
<td>2</td>
</tr>
<tr>
<td>5</td>
<td>4 WAY CEILING CASSETTE SPLIT UNIT</td>
<td>24000 BTU/HR (7.1 KW)</td>
<td>CARRIER</td>
<td>42TNC024/38FN012</td>
<td>2</td>
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<tr>
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<td>CEILING CONCEALED DUCTED SPLIT UNIT</td>
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ARTICLE 10 - PERFORMANCE OF THE CONTRACT

10.1 The Contractor shall perform the Contract to the highest professional standards. The Contractor shall have sole responsibility for complying with any legal obligations incumbent on him, notably those resulting from employment, tax and social legislation.

10.2 The Contractor shall have sole responsibility for taking the necessary steps to obtain any permit or license required for performance of the Contract under the laws and regulations in force at the place where the tasks assigned to him are to be executed.

10.3 Any reference made to the Contractor’s staff in the Contract shall relate exclusively to individuals involved in the performance of the Contract.

10.4 The Contractor must ensure that any staff performing the Contract has the professional qualifications and experience required for the execution of the tasks assigned to him.

10.5 The Contractor shall have sole responsibility for the staff who executes the tasks assigned to him.

10.6 The Contractor shall make provision for the following employment or service relationships with his staff: the Bank may not under any circumstances be considered to be the staff's employer and the said staff shall undertake not to invoke in respect of the Bank any right arising from the contractual relationship between the Bank and the Contractor.

10.7 In the event of disruption resulting from the action of a member of the Contractor's staff working on Bank premises or in the event of the expertise of a member of the Contractor's staff failing to correspond to the profile required by the Contract, the Contractor shall replace him without delay. The Bank shall have the right to request the replacement of any such member of staff, stating its reasons for so doing. Replacement staff must have the necessary qualifications and be capable of performing the Contract under the same contractual conditions. The Contractor shall be responsible for any delay in the execution of the tasks assigned to him resulting from the replacement of staff in accordance with this Article.

10.8 Should any unforeseen event, action or omission directly or indirectly hamper execution of the tasks, either partially or totally, the Contractor shall immediately and on his own initiative record it and report it to the Bank. The report shall include a description of the problem and an indication of the date on which it started and of the remedial action taken by the Contractor to ensure full compliance with his obligations under the Contract. In such event the Contractor shall give priority to solving the problem rather than determining liability.

ARTICLE 11 - RELATIONSHIP OF THE PARTIES, INDEMNIFICATION

11.1 Nothing contained in this Contract shall be construed as establishing or creating any relationship between the Contractor and the Bank other than that of independent contractor. Accordingly, the Bank hereby agrees that the Bank shall accept no liability in contract or in tort or any responsibility for the acts, omissions, errors or negligence of the Bank, or the Banks Associates.

11.2 The Bank hereby undertakes that it will indemnify and hold harmless the Bank from and against any action and all losses, liabilities, costs, claims, damages and expenses (“Losses”) (including, without limitation, reasonable attorney’s fees) which the Bank may incur in relation to, arising out of, or otherwise in respect of any act, omission, error or
negligence of the Bank or any of the Bank’s Associates including without limitation all third party claims, and the Bank will reimburse the Bank for all costs, charges and expenses which the Bank may pay or incur in connection with investigating, disputing or defending against any such action or Losses. The Bank shall indemnify the Bank against all third-party claims of infringement of patent, trademark, intellectual property or industrial design rights arising from the performance of the Services by the Bank and any of the Bank’s Associates.

11.3 The provisions set out in this Article shall survive the expiration or termination of this Contract.

ARTICLE 12 - CONFLICT OF INTERESTS

12.1 The Contractor shall take all necessary measures to prevent any situation that could compromise the impartial and objective performance of the Contract. Such conflict of interests could arise in particular as a result of economic interest or shared interest. Any conflict of interests which could arise during performance of the Contract must be notified to the Bank in writing without delay. In the event of such conflict, the Contractor shall immediately take all necessary steps to resolve it.

12.2 The Bank reserves the right to verify that such measures are adequate and may require additional measures to be taken, if necessary, within a time limit which it shall set. The Contractor shall ensure that his staff is not placed in a situation which could give rise to conflict of interests. Without prejudice to Article 10 the Contractor shall replace, immediately and without compensation from the Bank, any member of his staff exposed to such a situation.

ARTICLE 13 - DATA PROTECTION

13.1 Contractor shall not damage, disclose, alter, lose or destroy any information or data of The Bank for any reason unless specifically instructed to do so in writing by The Bank. Nor shall Contractor use any such information or data for any purpose other than that for which it has been specifically authorized. Contractor shall maintain appropriate security measures to prevent unauthorized use, disclosure, destruction or loss of any Exchange information or data.

13.2 In the event of loss of any Bank data or records where such loss is due to the intentional act or omission or negligence of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for recreating such lost data in the manner and on the schedule set by the Bank. The Contractor shall ensure that all data is backed up and recoverable by the Contractor. Contractor shall use its best efforts to assure that at no time shall any actions undertaken by the Contractor under this Contract (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in data bases, systems, platforms and/or applications with which the Contractor is working hereunder.

ARTICLE 14 - EVALUATION OF THE CONTRACT
14.1 This Agreement will be evaluated every six months. The quality of delivery of goods will be assessed using performance criteria on which the Supplier agrees (Annex 6). Faults detected will be immediately reported in writing to the attention of the Supplier, as well as opportunities for improvement in order to meet the standards and market quality.

14.2 The results below those expected by the Bank and the failure to obtain the minimum required score for each criterion expose the Supplier to sanctions ranging from formal termination of the Agreement.

ARTICLE 15 - CONTRACTOR'S INABILITY TO PERFORM SERVICES

If, at any time and for whatever reason, in the opinion of the Bank the Contractor is unable to perform or to complete the performance of the Services in a manner satisfactory to the Bank, the Bank may, at its option, either terminate this Contract, or extend the time within which the Services are to be performed. Any additional costs or expenses to the Bank arising from such extension shall be borne by the Contractor.

ARTICLE 16 - DISPUTE RESOLUTION

16.1 The parties shall make every effort to resolve any disagreement or dispute arising between them under or in connection with the Agreement amicably by direct informal negotiation. The party asserting the existence of a disagreement or dispute shall, promptly upon becoming aware of such disagreement or dispute, notify the other party in writing (such writing being referred to herein as the “Notice of Dispute”) specifying the nature of the disagreement or dispute, and shall also provide such other information about the disagreement or dispute as the other party may reasonably require.

16.2 If, forty-five (45) calendar days after the date the Notice of Dispute has been given, the parties have been unable to amicably resolve the dispute or disagreement, either party may initiate arbitration proceedings in accordance with the UNCITRAL Arbitration Rules as at present in force.

16.3 The arbitral tribunal shall consist of one (1) arbitrator who shall be selected by agreement of the parties. If, sixty (60) calendar days after the date of the Notice of Dispute, the parties are unable to agree on the sole arbitrator, the London Court of International Arbitration (“LCIA”) shall act as the appointing authority.

16.4 The seat, or legal place, of arbitration shall be London, England. The language to be used in the arbitral proceedings shall be English.

16.5 The resulting award shall be final and binding on the parties and shall be in lieu of any other remedy.

16.6 Notwithstanding the provisions of the UNCITRAL Arbitration Rules, the arbitral tribunal shall not be authorized to take or provide, and the parties shall not be authorized to seek from any judicial authority, any interim measures of protection or pre-award relief against the other party.

16.7 Nothing contained in this Contract shall be construed as or constitute a waiver, renunciation or other modification of any privileges, immunities and exemptions accorded to the Bank under the Agreement Establishing the African Development Bank, international conventions or any other applicable law.

16.8 The provisions of this Article shall survive the termination of the Agreement.
ARTICLE 17 - COPYRIGHT, CONFIDENTIALITY AND OWNERSHIP

17.1 The Contractor shall not at any time without written authorization from the Bank, communicate to any person or entity any Confidential Information disclosed to it for the purpose of performing the Services or obtained by it in the course of performing the Services, or make any public statements concerning this Contract. All Confidential Information shall be treated as confidential by the Contractor and the Contractor’s Associates and remain the property of the Bank. The Contractor and the Contractor’s Associates shall not be entitled to use or copy such Confidential Information for any purpose not related to this Contract. For purposes hereof, “Confidential Information” refers to all documents, statistics, reports, data or other information whether in written, oral or other tangible form provided, or made available to, or created, obtained, compiled or prepared by the Contractor in respect of, in connection with or by virtue of this Contract.

17.2 The Contractor shall exercise sufficient control over any Confidential Information in order to preserve the confidential nature thereof, and to safeguard the Confidential Information from theft and/or access by unauthorized personnel and third parties and to ensure that Confidential Information is not used in an unauthorized manner.

17.3 The obligations of the Contractor under Section 17.1 of this Contract will not be deemed to have been breached to the extent that Confidential Information: (a) is disclosed by the Contractor to the Contractor’s Associates solely in order to comply with obligations, or exercise rights, under this Contract; or (b) is in the public domain other than due to a breach of Section 17.1. Where the Contractor discloses Confidential Information to another person pursuant to clause (a) above, the Contractor will (a) notify the receiving person that the information is Confidential Information and (b) not provide the Confidential Information unless the receiving person agrees to comply with the terms and conditions set forth in Section 17.1. In every instance, the Contractor shall notify the Bank (a) of such disclosure to the Contractor’s Associates prior to making such disclosure, and (b) promptly of any breach of its confidentiality obligations when it has learnt of such a breach.

17.4 The Contractor shall not publish or cause or permit to be published, without the prior written approval of the Bank, the existence of this Contract nor any conclusions or recommendations nor part thereof formulated in the course of or as a result of the performance of the Services.

17.5 All proprietary and intellectual property rights in all documents, reports, statistics, data and other information provided, made available to, or created, obtained, compiled or prepared by, the Contractor in the course of carrying out the Services shall be vested in and become the property of the Bank. All such documents, reports, statistics, data and any other information shall, upon the completion of Services or termination of this Contract, be promptly returned to the Bank. Such materials shall be sorted and indexed by the Contractor in a manner acceptable to the Bank prior to delivery to the Bank.

17.6 The Contractor further agrees to include the contents of this Article in all subcontracts and consulting agreements entered into by the Contractor for the performance of Services under this Contract.

17.7 The provisions of this Article shall survive the expiration or the termination of this Contract.
ARTICLE 18 - FORCE MAJEURE

18.1 Neither party to this Agreement shall be responsible for any delay or failure to perform its obligations under the Agreement if the delay or failure is attributable to force majeure.

18.2 If a Force Majeure situation arises, the Supplier shall promptly notify the Bank in writing of such condition and the cause thereof. Unless otherwise directed by the Bank in writing, the Supplier shall continue to perform its obligations under the Agreement as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

18.3 In the event of force majeure which delays performance of the whole or any part of this Agreement for more than sixty (60) days, either party shall have the right, by notice in writing to the other party, to terminate the Agreement.

18.4 For purposes of this Article, an event of force majeure shall mean an unforeseen and unavoidable event beyond the reasonable control and contemplation of the party invoking the existence of such event.

ARTICLE 19 - FRAUD AND CORRUPTION

19.1 The Supplier represents that no employee of the Bank involved in the award of this Agreement, has received, or will receive, directly or indirectly, any kind of benefit or advantage from the Supplier, its agents or affiliates, resulting from the award of this Agreement or its implementation.

19.2 If the Supplier is found to have engaged in corrupt or fraudulent practices in connection with this Agreement, the Bank may at its discretion, do any one or combination of the following: (i) void or terminate the Agreement; ii) declare the Supplier ineligible to contract with the Bank and to enter into contracts in connection with matters financed by the Bank; or iii) pursue legal proceedings against the Supplier.

19.3 For the purposes of the Agreement:

a) “corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution, and includes, inter alia, bribery and extortion or coercion which involve threats of injury to person, property or reputation; and

b) “Fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Bank, and includes collusive practices among bidders, or between bidders and Bank staff (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels.

19.4 The Bank reserves the right, where the Supplier has been found by a national or international entity to have engaged in corrupt or fraudulent practice, to declare that the Supplier is ineligible, for a stated period of time, to be awarded a Bank contract.

19.5 The Supplier agrees that the Bank may at its discretion require that, in contracts financed by the Bank, a provision be included requiring the Supplier and its contractors to permit the
Bank to inspect their accounts and records relating to the performance of the Agreement and to have them audited by auditors appointed by the Bank.

19.6 Any communications between the Supplier and the Bank related to matters of alleged fraud or corruption shall be made in writing.

ARTICLE 20 - TERMINATION

20.1 The Bank may terminate this Contract at any time without advance notice in the event the Contractor engages in misconduct. For purposes hereof, “misconduct” means conduct that is unlawful or improper, and that the Bank determines in its discretion, reflects seriously and adversely on the Bank.

20.2 The Bank may, upon giving not less than three months (90) days’ notice in writing to the Contractor, terminate this Contract if the Bank determines that the Contractor has failed to perform satisfactorily the Services or to otherwise comply with any of its obligations under this Contract.

20.3 The Bank may, at its option and in its sole discretion, terminate this Contract when it is in the interest of or the convenience of the Bank to do so, provided, that the Contractor shall in such event be given prior notice of not less than [two months] 60 days of such termination.

20.4 The Bank may at any time terminate the Agreement by giving thirty (30) days written notice to the Supplier if the Supplier becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the Bank.

20.5 The Contractor may terminate this Contract if the Bank has, within a period of forty-five (45) days after the due date, failed to pay any amount due to it in respect of which no dispute has arisen.

20.6 The Bank and the Contractor may terminate this Contract by mutual agreement in writing.

20.7 Upon termination of this Contract, the Contractor shall: (a) take immediate steps to end the performance of the Services in a prompt and orderly manner, mitigating any losses and keeping further expenditures to a minimum; and (b) promptly return all Bank equipment and, in accordance with Section 17.4 hereof, all documents, reports, statistics, data and other information provided, or made available to, or created, obtained, compiled or prepared by, the Contractor in the course of carrying out the Services.

20.8 If this Contract is terminated under this Article 21, Article 15 or 19, the Bank shall be liable only for payment, in accordance with the payment provisions of this Contract, for the part of the Services actually performed and expenses reasonably incurred prior to the effective date of termination.

ARTICLE 21 - LIQUIDATED DAMAGES

Should the Contractor fail to perform his obligations under the Contract within the time limits set by the Contract, then, without prejudice to all its other remedies under the Contract or to the Bank's right to terminate the Contract, the Bank may deduct from payment due to Contractor, the amount of service not performed or poorly performed.
ARTICLE 22 - DISASTER RECOVERY

If the contractor, at any time during the performance of this contract, is determined by the Bank (at its sole discretion) to provide services essential or critical to the Bank mission (based on the nature of an actual or threatened emergency situation), then upon such notice to the contractor by the Bank Contracting Officer; the contractor shall take immediate and effective measures to ensure the availability or use of back-up or redundant services and/or system(s) support to deal with such emergency, and to ensure uninterrupted support of the services or system(s) support under the contract so identified.

ARTICLE 23 - MODIFICATION OR AMENDMENT

Subject to Section II hereof, no changes, modifications or amendments shall be made to this Contract except as may be mutually agreed upon in writing by both parties hereto.

ARTICLE 24 - GOVERNING LANGUAGE

24.1 The Agreement as well as all correspondence and documents relating to the Agreement exchanged by the Supplier and the Bank shall be written in English. Supporting documents and printed literature that are part of the Agreement may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified in English, in which case, for purposes of interpretation of the Agreement, this translation shall govern.

24.2 The Contractor shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.

ARTICLE 25 – NOTICES

25.1 All notices or requests required or permitted to be given or made shall in the case of the Bank be addressed or made to the Deputy Director General, Kenyan Office, or such officer duly authorized by it in writing to receive or act upon the same.

25.2 Any notice or request to be given or made under this Contract shall be in writing and have been duly made or given when delivered by hand, or by certified mail or by facsimile to the party to the following address, or such other address as any of the parties may have notified to the other party in writing.

FOR THE BANK

Mailing Address
The African Development Bank
Regional Development and Business Delivery Center
Kushee Tower
10, Longonot Road
P.O Box 4861, Nairobi
Kenya.

Attention
Deputy Director General
Fax: +254 20 2712938
FOR THE CONTRACTOR

Mailing Address ..............................................

..................................................
Fax: + ..........................................
Tel: + ............................................

ARTICLE 26 - GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of England.

ARTICLE 27 - SEVERABILITY

The invalidity, unenforceability or illegality of any provision (or part of a provision) of this Contract shall in no way affect the validity, enforceability or legality of any of its other provisions.

ARTICLE 29 - COUNTERPARTS

This Contract may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be duly executed on the respective dates specified below.

..................................................  ..................................................
Signed for and behalf of Signed for and behalf of
..................................................  African Development Bank

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

Title: .............................................. Title:..............................................

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