



**Government of Jamaica
Ministry of Science, Energy, Telecommunications and
Transport**

Request for Proposal

Data Protection Consultancy Service

Ref No: MSETT/CS/JUL2023-01

July 2023

REQUEST FOR PROPOSAL

Data Protection Consultancy Service

August 8, 2023

To: Prospective Bidders

Re: Procurement of Consultancy Services for the Provision of Data Protection Consultancy Services – Ref # MSETT/CS/JUL2023-01

1. The Ministry of Science, Energy, Telecommunications and Transport (MSETT), utilizing public funds invites you to submit your price Proposal for the Provision of Data Protection Consultancy Services as per the Terms of Reference at Section 2.
2. The Proposal must be submitted to the Government of Jamaica Electronic Procurement (GOJEP) portal at www.gojep.gov.jm on or before **Thursday, August 24, 2023 at 3:00 p.m.**
3. No Proposal Security is required.
4. The Procuring Entity shall award the contract to the Consultant if the Proposal has been determined to be substantially responsive to this Invitation and demonstrates value for money.

Permanent Secretary
Ministry of Science, Energy, Telecommunications and Transport

Addenda

Section 1	Instructions to Consultant
Section 2	Terms of Reference
Section 3	Form of Proposal
Section 4	Form of Contract Agreement

Section 1 Instructions to Consultant

1. Eligibility of the Consultant

The consultant must meet the following criteria to be eligible for the procurement contract award:

- a. In accordance with the Public Procurement Regulation 17, the Consultant and any named subcontractor shall have to demonstrate that they have paid all taxes, duties, fees and other impositions as may be levied in Jamaica as part of their Proposal. Proof of Tax Compliance is a valid copy of the Tax Compliance Letter (TCL).
- b. The Consultant must provide a valid copy of their Tax Compliance Letter (TCL).
- c. The Consultant must have received this invitation directly from the procuring entity.

2. Qualification of the Consultant

The Consultant must meet the following qualification requirements to be considered for the procurement contract award:

- a. Evidence as a Consultant in the execution of at least five works of the nature and complexity equivalent to the works included in this Invitation,
- b. over the last three years.
- c. The Consultant may not subcontract any part of the works.

3. Fraud, Corruption and Other Prohibited Practices

The Government of Jamaica requires that all parties involved in the procurement proceedings and execution of such contracts observe the highest standard of ethics.

For the purposes of this provision, offences of fraud and corruption are defined in Part VII of the Public Procurement Act, 2015 (Act) and any other Act relating to corrupt activities in Jamaica.

A person who commits an offence under the Act or any other Act relating to corrupt activities in Jamaica shall:

- i. be liable for conviction under the provisions of the Act or any other Act relating to corrupt activities in Jamaica;
- ii. have their Proposal rejected if it is determined that the Consultant is not in compliance with the provisions of the Act, the regulations or any other Act relating to corrupt activities in Jamaica;
- iii. risk other sanctions provided for in the Act or the regulations.

4. Eligible Consultant

In accordance with the Public Procurement Regulations, 2018, Section 17, Bidders shall have to demonstrate that they have paid all taxes, duties, fees and other impositions as may be levied in Jamaica at the time of Proposal submission.

In accordance with the Public Procurement Regulations, 2018, Section 17, Bidders shall have to demonstrate compliance with Section 15 of the Act at the time of Proposal submission.

Bidders shall provide such evidence of their continued eligibility as the procuring entity may reasonably request.

5. Disqualified Consultant

Failure to directly obtain the bidding documents from the procuring entity will result in disqualification from the procurement proceedings.

The Consultant shall not have a conflict of interest. All Consultants found to have a conflict of interest shall be disqualified. Consultant may be considered to have a conflict of interest with one or more parties in this bidding process, if they are or have been associated in the past, with a firm or any of its affiliates which have been engaged by the procuring entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods to be purchased under this bidding document; or that has been hired (or is proposed to be hired) by the procuring entity as Project Manager for the Contract.

A Consultant that is ineligible in accordance with ITB Clause 3, at the date of contract award, shall be disqualified.

A Consultant falling in any of the disqualification grounds in sections 18 and 19 of The Public Procurement Regulations 2018 shall be disqualified.

6. Documents Comprising the Proposal

The Proposal submitted by the Consultant shall comprise the following documents:

- Signed Letter of Proposal
- Signed Curricula Vitae (CVs).
- TCL

7. Evaluation Criteria

The Consultant may only submit one Proposal. Any Consultant who submits more than one Proposal will have their Proposal rejected.

The procuring entity shall evaluate the Proposal on the basis of its responsiveness to the TOR applying the evaluation criteria and point system specified in the Terms of Reference.

The qualifications and competence of the consultant for the assignment:

The procuring entity may interview the Consultant and/or request references in order to validate their qualifications and experience.

The Consultant achieving the highest technical score within the fixed budget may be invited for negotiations.

This is a Lump-sum Price assignment.

8. Language of the Proposal

All documents relating to the Proposal and contract shall be in the English language.

9. Signing of the Proposal

The original and copy of the proposal shall be typed, digitally entered or written in permanent ink and shall be signed and stamped by the Consultant.

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

10. Submission of Proposal

All Proposals must be to the Government of Jamaica Electronic Procurement (GOJEP) portal at www.gojep.gov.jm.

The Consultant may modify or withdraw its Proposal once submitted but only prior to the deadline for submission.

11. Deadline of submissions

The deadline for receipt of your Proposal by the procuring entity is no later than **3:00 p.m., Thursday, August 24, 2023**.

12. Late Proposals

The procuring entity shall not consider any Proposal that arrives after the deadline for submission of Proposals. All late Proposals shall be declared late and rejected.

13. Confidentiality

Information relating to the examination, evaluation, comparison and post-qualification of Proposals and recommendation of contract award shall not be disclosed to Consultants or any other persons not officially concerned with such process until publications of the contract award.

Any attempt by the Consultant or any person to influence the procuring entity in the examination, evaluation, comparison and post-qualification of the Proposals or contract award decisions, pursuant to Section 56 of the Act, shall result in the rejection of its Proposal.

Procuring Entity's Right to Accept Any Proposal and to Reject any or all Proposal:

The procuring entity reserves the right to accept or reject any Proposal, and to cancel the process of competition and reject all Proposals, at any time prior to the award of the contract, without thereby incurring any liability to the affected Consultant(s).

14. Clarification or Further Information

Any request for clarification or further information must be received by **Thursday, August 18, 2023**. All requests must be in writing to the Director, Public Procurement at dirprocurement@mset.gov.jm

15. Notification of Award and Signing of contract:

The procuring entity shall notify all Consultant, in writing, of the determination of the successful Proposal.

The date of this notification establishes the commencement of the standstill period. The standstill period will be four (4) days. During this time Consultant may query, apply for reconsideration or otherwise challenge the decision of the procuring entity. This may include a request for debriefing seeking explanations for the grounds on which their Proposals were not selected.

On the expiry of the standstill period the procuring entity shall send the successful Consultant the contract which shall be binding. The procuring entity will immediately notify in writing all unsuccessful Consultant of the final results and shall publish the results in the manner prescribed by the Office.

16. Right to Reconsideration and Review

Subject to section 49 of the Public Procurement Act 2015 and in accordance with The Public Procurement (Reconsideration and Review) Regulations, 2018 an eligible Bidder has the right to reconsideration or review of an action or decision of the procuring entity.

Section 2 Terms of Reference

1. SERVICES REQUIRED

The Ministry of Science, Energy, Telecommunications and Transport (MSETT), seeks proposals from qualified firms ("the Consultant") to design and guide the implementation of a ***Data Protection and Privacy Programme*** to ensure that the MSETT meets its compliance obligations under the Data Protection Act.

2. BACKGROUND

The Ministry of Science, Energy, Telecommunications and Transport (MSETT) was created in May 2023 and has portfolio responsibility for the areas of science, energy, telecommunications and transport. The Ministry's policies and programmes are developed in support of the achievement of the goals of Vision 2030, National Development Plan, the Medium Term Socio-Economic Policy Framework (MTF) 2018-2021, the Medium Term Economic Programme (MTEP), as well as the Medium-term Strategic Priorities of Government for 2022/2023.

The MSETT has portfolio responsibility for just in excess of twenty (20) agencies and departments spanning the country's science, energy, telecommunications and transportation sectors. This has a direct impact on its structure, mandate, mission and vision, and a broadening of its responsibilities. Consequently, the MSETT areas of focus in science, energy, telecommunications and transport feed directly into the Government of Jamaica's (GOJ) medium term strategic priority, which is 'Inclusive Sustainable Economic Growth and Job Creation'. Therefore, the Ministry's policy priorities have been planned with keen focus on facilitating improved energy security, ease of doing business through digital technology, increased wealth creation through advancements in Communications Technology and Science and Innovation.

Mission

The MSETT's mission is to provide the legal and policy framework that guides innovation and development in the science, energy, telecommunications and transportation sectors to fuel growth.

Vision

The MSETT's mission is to be the leading public sector organisation to provide the legislative, regulatory and policy framework that will ensure energy security and promote innovation, investments and development in the science, telecommunications and transportation sectors.

Mandate

The MSETT is currently mandated to:

- Encourage private sector innovation in the science, energy, telecommunications and transportation sectors.

- Lead legal and regulatory reform of the transport, electricity and gas sectors.
- Improve national energy efficiency and conservation.
- Diversify primary energy sources, particularly to increase the share of renewable energy and to reduce dependence on imported fuels.
- Promote and enable the exploitation of Science for innovation and economic development.

In 2020, the Jamaican Parliament passed the Data Protection Act (DPA). The primary objectives of the legislation are to:

1. Define the general principles for the treatment of personal data
2. Provide for transparent oversight that will enable the public and private sector organisations to strengthen the protection of personal data.

The DPA imposes certain responsibilities and obligations on data controllers and data processors. MSETT, by the nature of its operations, is both a data controller and a data processor.

A data controller is defined under the Act as

any person or public authority, who, either alone or jointly or in common with other persons determines the purposes for which and the manner in which any personal data are, or are to be, processed, and where personal data is processed only for purposes for which they are required under any enactment to be processed, the person on whom the obligation to process the personal data is imposed by or under that enactment is for the purposes of this Act a data controller

A data processor is defined under the Act as

any person, other than an employee of the data controller, who processes the data on behalf of the data controller.

This document defines the terms of reference for a consultancy engagement to design and implement a Data Protection and Privacy Programme to ensure the MSETT can meet its obligations under the DPA.

3. OBJECTIVES OF THE ASSIGNMENT

The specific objectives of the assignment are:

1. To design a Data Protection and Privacy Programme, and governance framework to ensure that MSETT meets its compliance obligations under the Data Protection Act (2020)
2. To provide technical guidance and support during the implementation of the Programme

4. SCOPE OF WORK

In achieving the objectives outlined above, the Consultant is expected to engage in providing services in accordance with the Work Plan outlined below. The scope of work is not considered exhaustive, and modifications may be considered during contract negotiations. Both parties shall formally agree on all changes to the scope of work.

1. Design the governance model and organisational structures required to ensure ongoing compliance with the DPA.
2. Develop the appropriate policies required for the internal governance of the Data Protection and Privacy Programme, including but not limited to Data Protection and Privacy Policy, and Data Retention Policy.
3. Define roles, responsibilities, and reporting relationships for the Data Protection /Privacy Team. Develop job descriptions for members of the team as well as for the Data Protection Officer, as well as determining the existing job descriptions that need to be updated to include privacy requirements and defining those requirements.
4. Develop a Data Protection Training and Awareness programme, develop training and awareness content, deliver training to Data Protection team members, and deliver awareness training to the general staff.
5. Develop metrics, inclusive of key performance indicators, to assist the organisation to measure and monitor the effectiveness of the Data Protection and Privacy Programme.
6. Lead data flow mapping exercises to identify personal data collected, used, stored or otherwise processed by the organisation. Analyse and assess current data processing activities for alignment, with DPA requirements. Develop an action plan to address any identified gaps.
7. Review and update existing Risk Assessment Methodology to address privacy risks. Conduct a privacy risk assessment and generate a prioritised risk treatment plan to address identified privacy risks.
8. Establish processes and procedures to ensure that the organisation can comply with the requirements of the DPA on an ongoing basis. This includes, but is not limited to:
 - a. Privacy notices
 - b. Data subject consent mechanism
 - c. Procedures for addressing data subject rights
 - d. Incident response procedures
 - e. Breach notification procedures
9. Establish processes/guidelines to embed the principles of data protection and data privacy by design into all products (development & maintenance) and infrastructure management and maintenance.
10. Review and update contracts to ensure that data protection and privacy requirements are addressed in all third-party contracts and agreements. Where necessary develop standard contract clauses for inclusion in future contracts and create standard contract templates.
11. Review existing security measures (policies, standards, procedures and technical controls) for protecting personal data, and recommend updates to ensure that personal data protection

is consistent with the requirements of the DPA. The review will, at a minimum, include the following areas:

- Risk Assessment Methodology
 - Information classification/media handling
 - Access control – user access provisioning
 - Cryptographic controls
 - Physical security – secure asset disposal
 - Operational security- protection of PII
 - Communications security– information transfer
 - Software acquisition development and maintenance
 - Security incident management
 - Security compliance requirements
12. Develop a methodology for conducting Data Privacy Impact Assessments (DPIA). The methodology should include triggers for conducting a DPIA, the DPIA process, stakeholders to be consulted, documentation to be produced.
 13. Identify the record-keeping requirements of the DPA and make recommendations for procedure changes to ensure that the organisation maintains the records necessary to meet its Compliance obligations.
 14. Assist the organisation to register with the Office of the Information Commissioner to include Registration Particulars (personal data, with whom data is shared, categories of data subjects, etc.)

5. METHODOLOGY

The Consultant is expected to use accepted and proven methodologies and approaches for carrying out the assignment. The Consultant should prepare a detailed methodology and Work Plan indicating how the objectives of the assignment will be achieved.

The Consultant's Work Plan must provide detailed scheduling to support the methodology outlined.

The Consultant is required to work closely with MSETT's resources to confirm requirements, validate design options and review findings before the submission of final deliverables.

6. COORDINATION/REPORTING RELATIONSHIP

The Permanent Secretary (PS) is the owner of this project. The Consultant will report to and operate under the supervision of the PS or designate. The Consultant will be required to provide periodic updates to the PS. MSETT may assign a project manager who will coordinate activities between the MSETT and the Consultant to ensure effective execution of the project. Unless otherwise delegated, the PS will review and approve of key deliverables as listed in **Section 7** below.

7. DELIVERABLES

The deliverables under this project are as specified in the table below. All documents submitted must conform to the following minimum standards:

- Should follow the draft outline that is to be submitted to and approved by the PS before the deliverable is formally submitted.
- Should use language appropriate for a non-technical audience.
- Should be comprehensive, properly formatted and well presented.
- Should provide justifications for all assumptions.
- Should be presented to the PS to allow for feedback and comments.
- Should be submitted in electronic editable format.

The key deliverables under this project are as specified in the table following.

Key Deliverables	Description	Performance Standard	Payment %
Inception Report and Work Plan	<ul style="list-style-type: none"> • The Inception Report will outline critical issues to be addressed within the scope of the assignment and any issues related to the availability of information, and required resources. • The Work Plan includes tasks, duration, start and end dates, resources, etc. 	The Inception Report and Work Plan will be submitted within 15 days of the start of the engagement and shall be accepted by the PS.	
Governance Model	<p>The governance model includes:</p> <ul style="list-style-type: none"> - defining the placement of the Data Protection/Privacy Team within the organisation, - defining the roles and responsibilities for the Data Protection/Privacy Team and Data Protection Officer, - defining job descriptions for the Data Protection/Privacy Team and privacy clauses to be included in other job roles within the organization - RACI chart 	Consistent with best practices for privacy programmes and accepted by the PS	
Policy Documents	<ul style="list-style-type: none"> • Data Privacy and Data Retention Policies. 	Developed after consultation with	

Key Deliverables	Description	Performance Standard	Payment %
	<ul style="list-style-type: none"> • Updates to the Data Classification Standard to address data protection requirements • Recommended updates to existing policies to address gaps related to data protection requirements 	appropriate stakeholders and approved in accordance with existing governance practices	
Privacy Process and Procedures	A privacy process to be used within the organization across the various business processes to ensure compliance with DPA obligations. This includes the development of new procedures or updates to existing procedures as required by the scope of work	Developed after consultation with appropriate stakeholders	
Training and awareness programme	<ul style="list-style-type: none"> • Training and awareness programme design • Training and awareness content • Delivery of training courses and awareness sessions 	Delivered according to agreed schedule and scope	
Metrics and KPIs	List of metrics and KPIs to measure programme effectiveness Tools for collecting and reporting on KPIs	Covers the areas of the programme. Monitoring and reporting are integrated into operational processes	
Data flow mapping and Gap Analysis	As defined in the scope of work	All data flows mapped and misalignment with DPA requirements documented	
Privacy Risk Assessment	Risk map and prioritised risk treatment plan to address privacy risks associated with the organisation's data process activities	Delivered according to agreed schedule and scope	
Updates to 3 rd Party Contracts	Updated client and vendor contract to address DPA requirements, Standard contract clauses, contract templates	Delivered according to agreed schedule and scope	
Recommendations for changes to existing information security measures	Recommend changes to existing security policies, standards, procedures and technical controls required to ensure compliance with DPA obligations	As per the agreed work plan	

Key Deliverables	Description	Performance Standard	Payment %
Data Protection Impact Assessment Methodology	Processes, templates and guidance to allow the Data Protection /Privacy team to conduct DPIAs	Must be consistent with the requirements of the Information Commissioner	
Progress Reports	<p>The progress reports will be provided at regular intervals and shall include the following:</p> <ul style="list-style-type: none"> - Accomplishments - Planned actions - Updates on the status of any issues affecting assignments - Issues requiring action by the PS - An update of the Work Plan and proposed changes, if any - Risks to project and actions taken/proposed to manage those risks 	Progress reports shall be provided in accordance with an agreed schedule	
Final Report	Project closure report outlining a summary of the deliverables provided, lessons learnt, etc.	Delivered according to agreed schedule and scope	

"Sign-off" procedure

The Consultant will present deliverables to the PS before acceptance and sign-off.

Variations

All proposed changes to the Work Plan and deliverables must be submitted to the PS for approval.

8. QUALIFICATIONS & TECHNICAL EXPERTISE REQUIRED

The Consulting Firm

The consulting firm should have the following minimum qualifications:

- At least two (2) years' experience in data protection/ data privacy practice;
- Completed a minimum of two (2) projects of similar size and scope; and
- Relevant experience in projects within the Caribbean region and/or countries that have implemented the General Data Protection Regulations (GDPR).

Individual Consultants

The key subject matter expert(s) assigned by the consulting firm to this project engagement should have the following minimum qualifications and demonstrate the following competencies:

- Degree in Law, Information Technology or Management

- Data Protection or Privacy certification such as CIPP, CIPM, CDPSE
- Minimum five (5) years' experience within compliance, IT Risk Management or legal function
- At least 18 months experience in privacy compliance in the last 3 years
- Extensive knowledge of the Data Protection Act 2020
- Completed a minimum of one (1) similar project
- Ability to work effectively in a complex environment involving rapidly changing priorities
- Strong interpersonal and relationship-building skills and ability to communicate with individuals at all levels of the organisation
- Advanced knowledge of project budget management, control and reporting
- Advanced planning and organisational skills and analytical/logical skills; and
- Excellent maturity and judgment

The Consultant must meet the minimum score of 70% in relation to the criteria listed in **Appendix A**.

9. COMMENCEMENT DATE AND PERIOD OF EXECUTION

The Consultant is expected to produce his/her deliverables under this assignment over a nine month duration, commencing not later than thirty (30) calendar days after contract signing. It is expected that in developing the proposed Work Plan, the Consultant will identify the number of consultancy days/months required to produce each deliverable.

The Act provides for a transition period to allow data controllers time to take the steps necessary to ensure full compliance with the legislation. The transition period expires in December 2023.

APPENDIX A: Evaluation Criteria for Scoring Technical Proposals

	EVALUATION CRITERIA	MAX POINTS
1.	Qualification & experience of consulting firm	20
1.1.	The number of years of experience and the number of relevant projects completed. (Maximum points will be awarded for 2 years' experience and 2 projects.) <ul style="list-style-type: none"> Two or more years' experience and two projects - 15 points One year experience at least one project – 5 points Less than one year – 0 points 	15
1.2.	Regional experience: Consultant to provide a list and brief description of relevant projects previously completed by the firm in Jamaica, Latin America or the Caribbean Region and/or countries that have implemented the GDPR.	5
2.	Qualification and experience of Consultant staff for the assignment	30
2.1.	Degree in Law, Information Technology or Management	5
2.2.	Professional Privacy certification such as CIPP, CIPM, CDPSE	10
2.3.	Knowledge of the DPA and similar data protection laws and regulations	5
2.4.	Experience in data protection/ data privacy compliance and completed a minimum of one (1) similar project	5
2.5.	Five (5) years' experience within compliance, IT Risk Management or legal function, <ul style="list-style-type: none"> Five or more years – 5 points Two to four years – 3 points Less than two years – 0 points 	5
2.6	At least 18 months experience in privacy compliance in the last 3 years	5
3.	Adequacy of proposed Work Plan and methodology in response to TOR	30
3.1.	The proposed methodology reflects a clear understanding of the assignment and suitably responds to each element of the scope of work and deliverables.	20
3.2.	Description of the Consultant's approach to the major issues that may arise during the project.	10
4.	Professional References	20
4.1.	The Consultant will submit two (2) client references for relevant projects executed within the last two (2) years	20
	TOTAL	100

Section 3 Letter of Application

Date: _____

Ref No.: MSETT/CS/JUL2023-01

To: Ministry of Science Energy, Telecommunications and Transport

I, the undersigned, declare that:

- (a) I have examined and have no reservations to the Invitation, including Addenda issued in accordance with Instructions to Consultant (ITC);
- (b) I offer to supply, in conformity with the Invitation for Applications, the following services:

_____;

- (c) The total price of the services, including all applicable taxes is:

[amount of Jamaican Dollars in words], [amount in figures];

- (d) I do not have any conflict of interest in accordance with ITC 1;
- (e) I have not been declared ineligible procuring entity in accordance with ITC 2;
- (f) I hereby agree that in competing for (and, if the award is made to me, in executing) the contract, I undertake to observe the laws against fraud and corruption, including bribery, in force in Jamaica;
- (g) We have paid all taxes, duties, fees and other impositions as may be levied in Jamaica and attach a copy of our TCL to this Form.
- (h) I understand that this application, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract is prepared and executed.
- (i) I understand that you are not bound to accept the most responsive application or any other application that you may receive. I understand that the procuring entity may cancel a procurement at any time prior to the acceptance of the successful application or after the successful application is accepted if
 - (i) the Consultant presenting the application is disqualified under the Act or the regulations of the Public Procurement Act, 2015;
 - (ii) the procurement is cancelled;

- (iii) the Consultant presenting the successful application is excluded on the grounds of corruption, unfair competition and a conflict of interest; or
- (iv) the procurement, the application or the Consultant contravenes or is otherwise not compliant with the provisions of the Public Procurement Act, 2015.

Name _____ In the capacity of _____

Signed _____

Dated on _____ day of _____, 2023

Section 4 Form of Contract Agreement

Contract No. _____

between

[Name of the procuring entity]

and

[Name of the Consultant]

Dated:

Form of Contract

This CONTRACT (the “Contract”) is made the *[number]* day of the month of *[month]*, *[year]*, between, on the one hand, *[name of procuring entity]* (the “procuring entity”) and, on the other hand, *[name of Consultant]* (the “Consultant”) for the provision of *[include title of the consulting assignment/services]* (the “consulting services”) described in the Terms of Reference in the Appendix A.

WHEREAS, the procuring entity has accepted the Consultant’s application for the performance of the consulting services, and the Consultant is capable and willing to perform said consulting services.

The procuring entity and the Consultant (the “parties”) agree as follows:

1. This Contract, its meaning, interpretation and the relation between the Parties shall be governed by the applicable law of Jamaica.
2. The Contract is signed and executed in the English language, and all communications, notices and modifications related to this Contract shall be made in writing and in the same language.
3. The total Contract price is JMD *[insert amount]* and is *[indicate: inclusive or exclusive]* of local indirect taxes. The Contract price breakdown is provided in Appendix C.
4. The expected date for the commencement of the consulting services is *[insert date, month and year]* at *[insert location]*. The time period shall be *[insert time period, e.g.: twelve months]*.
5. The procuring entity designates *[insert the name and title]* as procuring entity’s coordinator for the purpose of coordination of activities with the Consultant under this Contract.
6. Any dispute, controversy or claim arising out of, or relating to this Contract or the breach, termination or invalidity thereof, shall be settled by *[dispute resolution in accordance with the applicable law]* or *[arbitration in accordance with the [insert applicable arbitration rules, e.g., UNCITRAL, ICC, national rules governing arbitration] as in force and effect on the date of this Contract]]*.
7. The following documents form an integral part of this Contract:
 - (a) The General Conditions of Contract;
 - (b) Appendix:

Appendix A: Terms of Reference

SIGNED:

For and on behalf of

[Name of procuring entity] _____

[Authorized Representative of the procuring entity – name, title and signature]

For and on behalf of

[Name of Consultant] _____

[Consultant –signature]

General Conditions of Contract

A. General Provisions

1. Definitions

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

- (a) “Expert” means the Consultant.

2. Eligibility

It is the Consultant’s responsibility to ensure that meets the eligibility requirements throughout the implementation of this Contract as established by the Government of Jamaica.

3. Fraud and Corruption and Prohibited Practices

The Government of Jamaica requires that all parties involved in the procurement proceedings and execution of such contracts observe the highest standard of ethics.

For the purposes of this provision, offences of fraud and corruption are defined in Part VI of the Public Procurement Act, 2015 (Act) and any other Act relating to corrupt activities in Jamaica.

A person who commits an offence under the Act or any other Act relating to corrupt activities in Jamaica shall ---

- a. be liable for conviction under the provisions of the Act or any other Act relating to corrupt activities in Jamaica;
- b. have their application rejected if it is determined that the Consultant is not in compliance with the provisions of the Act, the regulations or any other Act relating to corrupt activities in Jamaica;
- c. risk other sanctions provided for in the Act or the regulations.

4. Commissions and Fees Disclosure

The procuring entity requires the Consultant to disclose any commissions, gratuities or fees that may have been paid or are to be paid to agents or any other party with respect to the selection process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee. Failure to disclose such commissions, gratuities or fees may result in termination of the Contract and/or sanctions by the Government of Jamaica.

5. Force Majeure

a. Definition

For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and makes a Party’s performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible under the circumstances, and subject to those requirements, includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action, confiscation or any other action by Government agencies.

Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

b. No Breach of Contract

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

c. Measures to be Taken

A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

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

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

During the period of their inability to perform the consulting services as a result of an event of Force Majeure, the Consultant, upon instructions by the procuring entity, shall either:

demobilize, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the procuring entity, in reactivating the consulting services; or

Continue with the consulting services to the extent reasonably possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.

6. Suspension

The procuring entity may, by written notice of suspension to the Consultant, suspend part or all payments to the Consultant hereunder if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the consulting services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultant

to remedy such failure within a period not exceeding seven (7) calendar days after receipt by the Consultant of such notice of suspension.

7. Termination

This Contract may be terminated by either Party as per provisions set below:

a. By the procuring entity

The procuring entity may terminate this Contract with at least fourteen (14) calendar days prior written notice to the Consultant after the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause:

If the Consultant does not remedy a failure in the performance of its obligations under the Contract after being notified by the procuring entity in writing by specifying the nature of the failure and requesting to remedy it within at least ten (10) calendar days after the receipt of the procuring entity's notice;

If the Consultant becomes insolvent or bankrupt;

If the Consultant, in the judgment of the procuring entity, has engaged in fraud and corruption or prohibited practices as defined in Attachment 1 in competing for or in performing the Contract;

If the procuring entity, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

b. By the Consultant

The Consultant shall promptly notify the procuring entity in writing of any situation or any event beyond the reasonable control of the Consultant, which makes it impossible for the Consultant to carry out its obligations under the Contract.

Upon written confirmation by the procuring entity or upon failure of the procuring entity to respond to such notice within 14 (fourteen) calendar days of receipt thereof, the Consultant shall be relieved from all liability and may thereupon terminate the Contract by giving no less than fourteen (14) calendar days a written termination notice.

8. Obligations of the Consultant

a. Standard of Performance

The Consultant shall carry out the consulting services with due diligence and efficiency, and shall exercise such reasonable skill and care in the performance of the consulting services as is consistent with sound professional practices.

The Consultant shall act at all times so as to protect the interests of the procuring entity and shall take all reasonable steps to keep all expenses to a minimum, consistent with sound professional practices.

b. Compliance

The Consultant shall perform the consulting services in accordance with the Contract and the Applicable Law and shall take all practicable steps to ensure they comply with the applicable law.

c. Conflict of Interest

The Consultant shall hold the procuring entity's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.

The Consultant agrees that, during the term of this Contract and after its termination, the Consultant shall be disqualified from providing goods, works or non-consulting services resulting from or directly related to the Consultant's/Firm's consulting services for the preparation or implementation of the project.

The Consultant shall not engage either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.

The Consultant has an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their procuring entity, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.

9. Confidentiality

Except with the prior written consent of the procuring entity, the Consultant shall not at any time communicate to any person or entity any confidential information acquired in the course of the services, nor shall the Consultant make public the recommendations formulated in the course of, or as a result of, the services.

10. Insurance to be Taken by the Consultant

The Consultant shall take out and maintain at its own cost adequate professional liability insurance as well as adequate insurance against third party liability and loss of or damage to equipment purchased in whole or in part with funds provided by the procuring entity. The Consultant shall ensure that such insurance is in place prior to commencing the consulting services.

The procuring entity undertakes no responsibility in respect of any life, health, accident, travel or other insurance, which may be necessary or desirable for the Consultant for purpose of the consulting services, nor for any dependent of any such person.

The procuring entity reserves the right to require original evidence that the Consultant has taken out the necessary insurance.

11. Accounting, Inspection and Auditing

The Consultant shall keep accurate and systematic accounts and records in respect of the consulting services and in such form and detail as will clearly identify relevant time changes and costs.

The Consultant shall permit the procuring entity and/or persons appointed by the procuring entity to inspect the site and/or all accounts and records relating to the performance of the Contract and the submission of the application to provide the consulting services, and to have such accounts and records audited by auditors appointed by the procuring entity.

12. Reporting Obligations

The Consultant shall submit to the procuring entity the reports and documents specified in Appendix A, in the form, in the numbers and within the time periods set forth in said Appendix.

13. Proprietary Rights of the procuring entity in Reports and Records

All reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, supporting records or material compiled or prepared by the Consultant for the procuring entity in the course of the consulting services shall be confidential and become and remain the absolute property of the procuring entity unless otherwise agreed by the procuring entity in writing. The Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the procuring entity, together with a detailed inventory thereof.

The Consultant may retain a copy of such documents, data and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the procuring entity.

14. Description of Consultant

The title, agreed job description, minimum qualification and estimated period of engagement to carry out the consulting services of the Consultant are described in Appendix B.

15. Procuring entity's Payment Obligation

In consideration of the consulting services performed by the Consultant under this Contract, the procuring entity shall make such payments to the Consultant for the services specified in Appendix A and in such manner as described in Appendix C.

16. Mode of Billing and Payment

The payments under this Contract shall be made in accordance with the payments provisions in Appendix C.

Payments do not constitute acceptance of the whole consulting services nor relieve the Consultant of its obligations.

17. Amicable Settlement

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

If, after twenty-eight (28) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the procuring entity or the Consultant may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the goods under the contract. Arbitration

proceedings shall be conducted in accordance with the rules of procedure specified in para 6 of the Contract Form.

Notwithstanding any reference to arbitration herein,

- a. the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and the procuring entity shall pay the Consultant any monies due the Consultant.