



KENYA PETROLEUM REFINERIES LIMITED

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OPEN TENDER

REGISTRATION FOR PROVISION OF LEGAL SERVICES

TENDER NUMBER

KPRL/OT/023.006/2022-2023

**ALL LAW FIRMS ARE ADVISED TO READ CAREFULLY
THIS TENDER DOCUMENT IN ITS ENTIRETY BEFORE
SUBMITTING ANY APPLICATION**

MARCH 2023

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ABBREVIATIONS AND ACRONYMS

1.	CLE	Council of Legal Education
2.	EA	Engagement Agreement
3.	EPRA	Energy and Petroleum Regulatory Authority
4.	GCA	General Conditions of Appointment
5.	GoK	Government of Kenya
6.	ICPAK	Institute of Certified Public Accountants of Kenya
7.	ICSK	Institute of Certified Secretaries of Kenya
8.	ITA	Instructions to Applicants
9.	KPRL	Kenya Pipeline Company Limited
10.	KPRL	Kenya Petroleum Refineries Limited
11.	KPRPTL	Kenya Petroleum Refineries Pension Trust Limited
12.	KRA	Kenya Revenue Authority
13.	KSH. /KES	Kenya Shillings
14.	KSL	Kenya School of Law
15.	LSK	Law Society of Kenya
16.	ODPP	Office of the Director of Public Prosecutions
17.	PFMA	Public Finance Management Act, 2002
18.	PPADA	Public Procurement and Asset Disposal Act, 2015
19.	PPRA	Public Procurement Regulatory Authority
20.	SLA	Service Level Agreement
21.	TCC	Tax Compliance Certificate
22.	VAT	Value Added Tax

A. FOREWORD INTRODUCTION

Dear Prospective Lawyer / Law Firm,

1. Description of Kenya Petroleum Refineries Limited and its Affiliates

- 1.1. The Kenya Petroleum Refineries Limited (KPRL), formerly known as East African Oil Refineries Limited was incorporated as a limited liability company in Kenya under the Companies Act in 1960; with the Government of Kenya (GoK) holding fifty percent (50%) in shareholding.
- 1.2. On 24th June 2016, the GoK entered into an agreement with Essar Energy Overseas Limited (Essar), Essar Energy Holdings Limited (EEHL) and Kenya Petroleum Refineries Limited (KPRL) for the transfer of the legal and beneficial interest in all of the shares owned by Essar in KPRL to GoK. The agreement and the disposal of the shares converted KPRL to a state-owned entity. The entity is currently under the Ministry of Energy and Petroleum.
- 1.3. KPRL is a petroleum refinery located in Changamwe, Mombasa mandated to process crude oil mainly imported for oil marketing companies (OMCs). KPRL's main products include Liquefied Petroleum Gas, unleaded premium gasoline, regular petrol, automotive gasoil, industrial diesel, fuel oil and special products like bitumen and grease.
- 1.4. The company's refining operations stopped on 4th September, 2013, however the company continued operating by rendering storage of imported petroleum products services and leasing its storage tanks and pipelines.
- 1.5. On 11th August, 2016, when the Cabinet of the GoK (as the sole shareholder of KPRL) directed that KPRL be taken over by Kenya Pipeline Company Limited (KPRL). KPRL initiated a due diligence process which was conducted by Price Water House Coopers (PWC), to facilitate evaluation of KPRL, and form the basis for the takeover decision. As an interim measure, KPRL signed an operating lease agreement with KPRL so as to allow the finalization of the due diligence and decision making on the pending takeover of KPRL by KPRL.
- 1.6. The Kenya Pipeline Company Limited (KPRL) is a Limited Liability Company incorporated under the Companies Act in 1973, wholly owned by the GoK; set up to provide the Kenyan economy with the most efficient, reliable, and safe and least cost means of transporting petroleum products from Mombasa to the hinterland.
- 1.7. Pending the finalization of the take-over process, KPRL remains a corporate entity with responsibilities to its shareholder amongst other regulatory, statutory and corporate obligations.
- 1.8. KPRL is wholly owned by the GoK and as such subject to the State Corporations Act, Chapter 442 of the laws of Kenya and the laws governing procurement by public bodies, mainly the Public Procurement and Asset Disposal Act, 2015 together with various regulations there-under and the Public Finance Management Act 2002.
- 1.9. KPRL is the sole shareholder of Kenya Petroleum Refineries Pension Trust Limited (KPRPTL) incorporated as a limited liability company in Kenya under the Companies Act; and by virtue of its shareholding, KPRPTL is a non-trading state owned entity.

- 1.10. KPRPTL is the Corporate Trustee of the Kenya Petroleum Refineries Defined Contribution Pension Fund and Kenya Petroleum Refineries Provident Fund (Closed Fund). The principal activity of the Corporate Trustee is the management of the two funds aforementioned for the benefit of its members, with the aid of several service providers.

2. Legal and Regulatory Framework

- 2.1 Our business is mainly governed by the Constitution 2010, Petroleum Act 2019 and Energy Act 2019, Company Act 2015, Employment Act, Public Procurement and Asset Disposal Act 2015, Public Finance Management Act, 2002 and the State Corporations Act, among other laws and GoK circulars. The Regulator for the petroleum sector is the Energy and Petroleum Regulatory Authority (EPRA).
- 2.2 With respect to pension matters, the Corporate Trustee is mainly governed by the Constitution 2010, Retirement Benefits Act Chapter 197, Company Act 2015, Public Procurement and Asset Disposal Act 2015 and the State Corporations Act, among other laws and GoK circulars. The Regulator for the pension sector is the Retirement Benefits Authority (RBA).

3. Nature and Scope of the Tender Application

- 3.1 KPRL intends to enlist by way of Tender, the services of competent law firms -
- 3.1.1. to be on its Panel for a three-year period being FY2023/2024 to FY2025/2026 or as may be extended.
 - 3.1.2. to be called upon to offer a myriad of legal and associated consultancy services (hereafter referred to as the Services) as may from time to time be required over the period in question.
- 3.2 The scope of the Services includes, but not limited to the fields of Energy Law, Company and Commercial Law, Constitutional and Administrative Law; Construction and Engineering law; Conveyancing; Debt Recoveries; Employment and Labour laws; Pension Administration; Health and Safety laws; law relating to Information Technology; Land Law, Public-Private Partnership, Procurement law, Arbitration and other forms of Alternative Dispute Resolution; Environmental Law; Insurance law; associated civil litigation; criminal and traffic prosecutions; devolution and public policy.
- 3.3 This will also include provision of expert advice and opinions on specific cases, transactions, events including projects. It may involve carrying out searches locally and abroad in both the land and company registries as well as liaising with other relevant bodies and authorities.
- 3.4 The law firms will be expected to primarily work closely and under the auspices of the Head of Legal Services in the Legal Department. In some circumstances, the law firm will be expected to work together with or under the instructions of the Office of the Attorney General of Kenya, to protect to interest of the Company and the Government of Kenya.

4. The Objectives

- 4.1 The main objective is to provide legal services under relevant tenders or proposals or request for quotations to KPRL on an ‘**As and When required**’ basis during the three-year period ending 30th June 2026.

- 4.2 The Tender and enlisting on KPRL's Panel shall not constitute a retainer. KPRL does not bind itself to request for provision of any service. Performance of the enlisted lawyers will be assessed.

5. Professionalism and Experience

- 5.1 The law firm should be adequately competent, possess substantial relevant experience and be able to promptly offer the Services and/or associated consultancy.
- 5.2 The law firm shall always during the period of the engagement conduct itself in a manner suited to the best interests of KPRL. Any perceptions of conflict of interest are strongly undesirable and will be swiftly remedied.
- 5.3 The law firm should demonstrate the capability of conducting presentations and/or providing training to staff on relevant legal aspects in the various fields.
- 5.4 The enlisted law firm should have good credentials in handling relevant Kenyan cases and matters.

6. Requirements, Reports and Schedules (Contract for Legal Services)

- 6.1 It is expected that the selected law firms may enter into discussion and agreement with KPRL on the approach and action plans to realize the objectives of their appointment.
- 6.2 The law firms will be required to enter into a Contract for Legal Services with KPRL detailing the standard terms of engagement of outsourced legal counsels (the Contract). The law firms will also execute the Letter of Engagement as read together with the Contract for each matter assigned to them signifying the work to be done, agreed legal fees and mode of payment. Law firms will be required to indicate their acceptance by signing the Letter of Engagement.
- 6.3 The law firms will be expected to give periodic reports and review of legal matters that they are handling and timely submission within specified schedules.
- 6.4 The law firms currently in the KPRL panel with ongoing matters they are handling on behalf of KPRL will continue to handle the same to determination. They however will not be assigned any other matter if they have not successfully registered in this Tender Process.
- 6.5 The law firms who have previously been removed from the KPRL panel or had all matters transferred away from such law firm will not be considered in this Tender Process.

7. The Evaluation and Selection Process

- 7.1 The Evaluation and Selection Process of the law firms will be conducted largely along the following lines: -
- 7.1.1 Desk evaluation of all submitted application documents
- 7.1.2 Where deemed necessary, confirmatory/inspection visits of the lawyers' premises or any other places deemed appropriate by the Evaluation Team.
- 7.2 All law firms that participate by submission of their applications shall be deemed to have consented to this process. KPRL therefore requests that participating firms grant reasonable access to their facilities by KPRL staff for this purpose.

8. Confirmation and Verification of Application Documents

- 8.1 All law firms are strongly advised to: -
- 8.1.1. Conform to the information contained in the Tender Document in preparing and submitting its application.
 - 8.1.2. Ensure that they verify accuracy, authenticity and validity of all documentation, certification or information obtained from third parties e.g. KRA, LSK, letters from referees that they intend to or submit to KPRL as part/in support of their application.
- 8.2 The lawyers are also encouraged to demonstrate high degree of integrity, fidelity and observe the rule of law in the information supplied to KPRL as part of their application. The information should be as clear and concise as possible.
- 8.3 KPRL advises law firms that any deviations from the contents of this paragraph may lead to automatic disqualification of such applicant.

Yours faithfully,

SUPPLY CHAIN MANAGER

SECTION I - INVITATION TO TENDER

14th March 2023

REGISTRATION FOR PROVISION OF LEGAL SERVICES

TENDER NUMBER: KPRL/OT/023.006/2022-2023

1.1. Invitation and Contact Address

The Kenya Petroleum Refineries Limited (KPRL) hereby invites eligible law firms to enlist on its Panel for the **Registration of Legal Services (hereinafter referred to as “the Services”)** for a period of two (2) years. Interested eligible law firms may obtain further information from the Supply Chain Manager, Kenya Petroleum Refineries Limited, Refinery Road, Changamwe, Mombasa, P.O. Box 90401 - 80100 Mombasa, Kenya.

1.2. Obtaining Tender Documents

The Tender documents detailing the requirements may be viewed and downloaded for free from our Website www.kprl.co.ke. Tenderers who download the tender document must forward their particulars immediately to tenders@kprl.co.ke to facilitate any further clarification or addendum. No other email address shall be used.

1.3. Submission of Application Documents

Completed Applications must be delivered to the address below on or before **1000hrs on TUESDAY, 28TH MARCH 2023**. Electronic Tenders will not be permitted.

1.4. Prices and Validity

Any charges or fees quoted should be in Kenya Shillings. The validity of the Application shall be for a hundred and fifty (150) days from the closing date of this Tender Process.

1.5. Opening of Submitted Applications

Applications will be opened immediately after the deadline date and time specified above or any deadline date and time specified later. Tenders will be publicly opened in the presence of the Tenderers' designated representatives who choose to attend at the address below on or before **1000hrs on TUESDAY, 28TH MARCH 2023**.

1.6 Late submissions will be rejected.

1.7 The addresses referred to above are:

- A. **Address for obtaining further information and for purchasing tender documents**
Supply Chain Manager

Kenya Petroleum Refineries Ltd,
Refinery Road, Changamwe,
P. O. Box 90401 - 80100,
Mombasa, Kenya.
Email: tenders@kprl.co.ke
Telephone: 0724 257 102

B. Address for Submission of Tenders.

The Chief Executive Officer
Kenya Petroleum Refineries Ltd,
Refinery Road, Changamwe,
P. O. Box 90401 - 80100,
Mombasa, Kenya.

Completed applications are to be dropped in the Tender Box at KPRL Offices Reception in Changamwe, Mombasa **on or before the CLOSING DATE on TUESDAY, 28TH MARCH 2023 at 1000hrs.**

C. Address for Opening of Tenders.

Kenya Petroleum Refineries Ltd,
Refinery Road, Changamwe,
KPRL Boardroom,
Mombasa, Kenya.
Contact: Supply Chain Manager

Yours sincerely,

SUPPLY CHAIN MANAGER

FOR: CHIEF EXECUTIVE OFFICER

SECTION II – PRELIMINARY REQUIREMENTS

APPLICATION SUBMISSION CHECKLIST

No.	Item	Tick Where Provided
1.	Declaration Form	
2.	Duly completed Application Form	
3.	Copy of law firm's Registration Certificate	
4. *	Copy of law firm's PIN Certificate OR law firm's PIN Number	
5. *	Copy of the law firm's Valid KRA Tax Compliance Certificate	
6.	Duly filled Confidential Business Questionnaire	
7.	List with full contacts as well as physical addresses of law firm's clients	
8.	Curriculum Vitae of lawyers, also attach valid copy of LSK practicing certificate	
9.	Any other document or item required by the Tender Document that is non-financial. (The Law firm shall specify such other documents or items it has submitted)	

***Notes to Law Firms on Application Submission Checklist**

1. Valid Tax Compliance Certificate (TCC) shall be one issued by KRA in respect of the law firm and not the individual lawyer. It must have been valid as at the closing date of the tender.
2. All law firms are required to provide the Personal Identification Number Certificate (PIN Certificate) of the Firm

SECTION III - INSTRUCTIONS TO APPLICANTS (ITA)

3.1 Definitions

In this Tender Document, unless the context or express provision otherwise requires: -

- a) Any reference to any Act shall include any statutory extension, amendment, modification, re-amendment or replacement of such Act and any rule, regulation or order made there-under
- b) **“Day”** means calendar day and **“month”** means calendar month
- c) **“Date of Tender Document”** shall begin with the first day and end on the last day of the month appearing on the cover page of the Tender Document
- d) **“Government”** wherever appearing in the Tender document shall include the National and/or County Governments and any lawfully recognized foreign government as the context may so deem fit.
- e) **“Tender”** or the **“Tender Document”** includes its appendices and documents mentioned hereunder and any reference to this Tender or to any other document includes a reference to the other document as varied supplemented and/or replaced in any manner from time to time
- f) The expression **“law firm”** shall include “lawyers” and vice-versa and may be used interchangeably
- g) **“The law firm”** means the law firm submitting its application for enlisting to provide the Services in response to the Invitation to Register. Where there are two or more persons included in the expression the “law firm”, any act or default or omission by the law firm shall be deemed to be an act, default or omission by any one or more of such lawyers
- h) **“The Procuring Entity”** means The Kenya Petroleum Refineries Limited (hereinafter abbreviated as **‘KPRL’**)
- i) **“The Services”** refers to the myriad of legal and associated consultancy services
- j) Words importing the masculine gender only, include the feminine gender or (as the case may be) the neutral gender
- k) Words importing the singular number only include the plural number and vice versa and where there are two or more persons included in the expression the “law firm” the covenants, agreements and obligations expressed to be made or performed by the law firm shall be deemed to be made or performed by such persons jointly and severally.

3.2. Eligible Law Firms

3.2.1. All law firms that are duly registered in Kenya and recognized by LSK are eligible to participate.

3.2.2. Successful law firms shall be eligible to provide the Services guided by this Tender and the ensuing Contract for Legal Services as may be entered between the law firm and KPRL.

3.2.3. All eligible law firms shall provide the following as part of their application:

- (i) Has two (2) or more admitted lawyers (Essential Condition-EC)
- (ii) Scope of work done by the respective firm
- (iii) Has Branches in either one or both Mombasa and Nairobi Counties.

Note: Professional Indemnity Cover of KSh.20 Million shall be submitted by successful law firms. Refer to GCA 8.5

3.2.4. For purposes of this categorization and the Tender Document-

- a) 'Admitted lawyers' shall mean qualified lawyers who have been admitted to the Bar and hold a valid year 2023 Practicing Certificate. It means all lawyers (including Partner(s)) in the law firm who will be responsible for and handling the KPRL docket and matters.
 - b) Documents for lawyers who will ordinarily or on a day-to-day basis not handling or responsible for the KPRL docket need not be submitted in the application.
- 3.2.5. A law firm that substantially meets the above requirements will be considered for prequalification
- 3.2.6. Law firms shall satisfy all relevant licensing and/or registration with LSK, the Office of the Attorney General of Kenya, and any relevant County or other authority.
- 3.2.7. Law firms shall provide such evidence of their continued eligibility satisfactory to KPRL or as KPRL may reasonably request.

3.3. Declarations of Eligibility

- 3.3.1. Law firms shall not be under declarations of ineligibility for corrupt, fraudulent practices or any other reasons prescribed by the PPADA, 2015 or any other law.
- 3.3.2. Law firms who are not under these declarations shall complete the Declaration Form strictly in the form and content as prescribed at Section XV.
- 3.3.3. Those that are under the Declaration for corrupt and fraudulent practices whether currently or in the past shall not complete the Form. They will submit a suitable Form giving details, the nature and present status of their circumstances.

3.4. Pre-Submission Meeting

- 3.4.1. KPRL will conduct a pre-submission meeting. The purpose of the pre-submission meeting shall be to clarify issues and answer any questions that may be raised at that stage.
- 3.4.2. The law firm's designated signatory or representative is advised to attend the pre-submission meeting which will take place at KPRL office in Changamwe, Mombasa at **1000hrs on Monday, 20th March 2023.**
- 3.4.3. Any clarification arising from the pre-submission meeting including the responses to the questions raised, together with response prepared after the pre-submission meeting shall be posted on our website www.kprl.co.ke.
- 3.4.4. Non-attendance during the pre-submission meeting will not be a cause of disqualification or denial to submit the application.

3.5. Cost of Applying

- 3.5.1. The law firm shall bear all costs associated with the preparation and submission of its application. KPRL will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the Tender process.
- 3.5.2. There are no charges for the Tender Document which can be downloaded free of charge from our website www.kprl.co.ke

3.6. Obtaining the Tender Document

- 3.6.1. The Tender document detailing the requirements shall be obtained by downloading online from the KPRL website (www.kprl.co.ke). No Tender documents will be issued from any KPRL office.
- 3.6.2. Firms who download the tender document must forward their particulars (*Law firm's name, physical location, postal address, email and name of contact person*) immediately to tenders@kprl.co.ke to facilitate any further clarification or addendum. No other email address shall be used.

3.7. Contents of the Tender Document

- 3.7.1. The Tender Document comprises the documents listed below and Addendum (where applicable) issued in accordance with paragraph 3.9 of these Instructions to law firms: -

- a) Introduction
- b) Invitation to Register
- c) Application Submission Checklist
- d) Instructions to Applicants
- e) Schedule of Requirements
- f) Method of Charging for Services
- g) Evaluation Criteria
- h) Confirmation/Inspection Visits
- i) Conditions of Appointment
- j) Application Form
- k) Confidential Business Questionnaire Form
- l) Evaluation Criteria Table 6.2.2 Forms
- m) List of Law Firm's References
- n) Declaration Form
- o) Conditions of Appointment Form
- p) Professional Indemnity Cover

- 3.7.2. The law firm shall be expected to examine all instructions, forms, provisions, terms and specifications in the Tender Document. Failure to furnish all information required by the Tender Document or to submit an application not substantially responsive to the Tender Document in every respect will be at the law firm's risk and may result in the rejection of its application.
- 3.7.3. All recipients of the documents for the proposed engagement for the purpose of applying (whether they submit an application or not) shall treat the details of the documents as "Private and Confidential".

3.8. Clarification of Documents

- 3.8.1. A prospective law firm requiring any clarification of the Tender Document may notify the Supply Chain Manager in writing through email tenders@kprl.co.ke No other email address shall be used.

3.8.3. KPRL will respond in writing to any request for clarification of the Tender documents, which it receives not later than five (5) working days prior to the deadline for the submission of Applications, prescribed by KPRL.

3.9. Amendment of Documents

3.9.1. At any time prior to the deadline for submission of applications, KPRL, for any reason, whether at its own initiative or in response to a clarification requested by a prospective law firm, may modify the Tender Documents by amendment.

3.9.2. All prospective law firms that have received the Tender Documents will be notified of the amendment(s) (hereinafter referred to or otherwise known as addendum) in writing and the same will be binding on them.

3.9.3. In order to allow prospective law firms reasonable time in which to take the amendment into account in preparing their applications, KPRL, at its discretion, may extend the deadline for the submission of applications.

3.10. Language of Application

3.10.1. The application prepared by the law firm, as well as all correspondence and documents relating to the Tender, exchanged between the law firm and KPRL, shall be written in the English language.

3.10.2. Any printed literature furnished by a law firm may be written in another language so long as they are accompanied by an accurate English translation of the relevant passages in which case, for purposes of interpretation of the application, the English translation shall govern. The English translation shall be on the law firm's letterhead and shall be signed by the duly authorized signatory signing the application and stamped with the law firm's stamp.

3.11. Documents Comprising the Application

3.11.1. The application prepared and submitted by the law firm shall include but not be limited to all the following components: -

- a) Declaration Form, application Form and a Method of Charging for Services completed in compliance with paragraphs 3.3, 3.12 and 3.13.
- b) Documentary evidence established in accordance with paragraph 3.2 that the law firm is eligible to apply and is qualified to perform the Services when called upon to do so if its Application is accepted.
- c) Documentary evidence established in accordance with paragraph 3.15 that the Services that may be provided by the law firm conform to the Tender Document, and,
- d) Professional Indemnity Cover furnished in accordance with paragraph 3.18
- e) For purposes of reference and evaluation, the law firm shall submit a list of at least six (6) names with details as per Section VI Evaluation Criteria, Part II, Sub-Part B, Table 6.2.2.

3.12. Application Form

3.12.1. The Law firm shall complete and sign the application form and all other documents furnished in the Tender Document, indicating the services to be performed, and methodology of charging for services amongst other information required.

3.13. Charges for Services

3.13.1. The law firm shall provide a declaration indicating that all charges shall be based on the Advocates Remuneration Order in force then. Indicate on the appropriate table labelled as Method of Charging for Services the unit prices and rates (where applicable) when called upon to render such Services.

3.13.2 The rates and prices shall be of costs for the Services excluding VAT but inclusive of all other taxes and insurances payable. No other basis shall be accepted.

3.14. Currencies

3.14.1. For Services that the law firm will provide from within or outside Kenya, the rates and prices shall be quoted in Kenya Shillings.

3.15. Law Firm's Competence and Qualifications

3.15.1. Pursuant to paragraph 3.2, the law firm shall furnish, as part of its application, documents establishing the law firm's eligibility, competence to apply and its qualifications to perform well in any ensuing assignment if its application is accepted.

3.15.2. The documentary evidence of the law firm's qualifications to be appointed and perform well if its application is accepted shall be established to KPRL's satisfaction are -

- a) Valid and current Tax Compliance Certificate issued by KRA.
- b) That the law firm has the technical and professional capability necessary to be appointed and perform the Services well when called upon to do so.
- c) That the law firm is duly registered, recognized and is a current member of the body or institution accredited and or pertaining to the Services.

3.15.3. The law firm will furnish KPRL with a copy of the registration certificate and LSK's recognition whether by hard copy letter or on the internet. KPRL reserves the right to subject the certificate and recognition to authentication.

- a) Recognition is by listing at the LSK the law firm as declared by the Partner(s) and, in the name of the law firm.
- b) All lawyers in the firm must also be recognized by LSK as belonging to or being in that law firm by the Date of the Tender Document unless satisfactorily explained otherwise by the law firm.

3.15.4. Law firms with a record of unsatisfactory or default in performance obligations in any contract or service delivery shall not be considered for evaluation or enlisting. For the avoidance of doubt, this shall include any law firm with unresolved case(s) in its obligations to KPRL

3.15.5. The law firm shall furnish, as part of its application, documents establishing the conformity to the Tender Document of all services that the law firm proposes its ability to perform if appointed to KPRL's Panel.

3.15.6. The documentary evidence of conformity to the Tender Document may be in the form of literature.

3.15.7. For purposes of the documentary and other evidence to be furnished the law firm shall note that standards for competence, professionalism, material, and equipment, designated by KPRL in its Evaluation Criteria are intended to be descriptive only and not restrictive. The law firm may adopt higher standards in its application, if it demonstrates to KPRL's

satisfaction that the substitutions ensure substantial and/or higher equivalence to those designated in the Tender Document.

3.16. Deviations

- 3.16.1. Where a law firm deems that it possesses competency that may not aptly fit into any of the evaluation criteria set out in the Tender document, it is at liberty to provide a statement of deviations from the Tender requirements on a separate sheet of paper clearly marked as “Statement of Deviations”.
- 3.16.2. The Statement should include the following: -
- a) the specific Tender requirement
 - b) the deviation proposed by the law firm
 - c) the details of the deviation
 - d) justification or reason for the deviation
 - e) where possible, the law firm’s cost of that deviation and the law firm’s estimate of the cost of complying with KPRL’s requirement without the deviation.

3.17. Demonstration(s), Inspection(s) and Test(s)

- 3.17.1. Where required in the Tender, all law firms shall demonstrate ability of performance of the required service in conformity with the Details of Services.
- 3.17.2. KPRL or its representative(s) after giving reasonable notice to the law firm shall have the right to inspect/ test the law firm’s capacity, equipment, premises, and to confirm their conformity to the Tender requirements. This shall include any quality management system. KPRL’s representative(s) retained for these purposes shall provide appropriate identification at the time of such inspection/ test/visitation.
- 3.17.3. KPRL shall meet its own costs of the due diligence. Where conducted on the premises of the law firm(s), all reasonable facilities and assistance, including access to literature and documentation save for client’s confidential information shall be furnished to the inspectors at no charge to KPRL.
- 3.17.4. Demonstration, Inspection/ Test/ Visitation Report(s) shall be completed by KPRL upon conclusion of the inspection/ tests/ visitations. This Report will be considered prior to enlisting.

3.18. Professional Indemnity Cover

- 3.18.1. Every law firm shall furnish, as part of its Tender, a Professional Indemnity Cover (hereinafter referred to as the PI Cover) of a minimum of Kshs.20 million.
- 3.18.2. The PI Cover is required to demonstrate the law firm’s commitment, ability to perform the Services together with its compliance with the law as well as guidelines regarding establishment and operation of law firms in Kenya.
- 3.18.3. The PI Cover shall be denominated in Kenya Shillings or in another freely convertible currency and shall be issued by an insurance firm registered by the Insurance Regulatory Authority and approved by PPRA. The insurance company must be located in Kenya.
- 3.18.4. The PI Cover shall be valid as at the closing date of the Tender.
- 3.18.5. KPRL shall seek authentication of the PI Cover from the issuing insurance company. It is the responsibility of the law firm to sensitize its issuing insurance company on the need to

respond directly and expeditiously to queries from KPRL. The period for response may not exceed three (3) days from the date of KPRL's query. Should there be no conclusive response by the insurance company within this period, such law firm's PI Cover may be deemed as invalid, and the Application rejected.

3.18.6. Any application not secured in accordance with this paragraph will be rejected by KPRL as non-responsive, pursuant to paragraph 3.27.

3.18.7. The successful law firm's PI Cover will be required to be updated and valid at all times for the period of engagement and rendering of services to KPRL.

3.19. Validity of Applications

3.19.1. Applications shall remain valid for one hundred and twenty (120) days after the date of opening as specified in the Invitation to Register or as otherwise may be prescribed by KPRL, pursuant to paragraph 3.22. An Application that is valid for a shorter period shall be rejected by KPRL as non-responsive.

3.19.2. In exceptional circumstances, KPRL may extend the Tender validity period. The extension shall be made in writing. For the purposes of evaluation and enlisting/appointment, the PI Cover provided under paragraph 3.18 shall not be affected by any extension. A law firm shall not be required nor permitted to modify its Application during the extended period.

3.20. Application Format

3.20.1. The Application shall be divided clearly in descending order as listed in the Application Submission Checklist. The divisions are for clear identification and marking of the respective documents or information that are serially numbered in the Checklist.

3.20.2. The order and arrangement as indicated in the Application Submission Checklist will be considered as the Application Format.

3.20.3. Any Application not prepared and signed in accordance with this paragraph may be rejected by KPRL as non-responsive, pursuant to paragraph 3.27.

3.21. Preparation and Signing of the Application

3.21.1. The Application shall be signed by any Partner(s) of the law firm. For purposes of this Tender, only a Partner can sign where a signature is required unless any other person is expressly permitted by the Tender document to do so.

3.21.2. The name of the Partner(s) must appear either in the Registration Certificate or the Change of Particulars Certificate (both issued by the Office of the Attorney General and Department of Justice) or the law firm's Confidential Business Questionnaire Part 2 (a) or (b).

3.21.3. All pages of the Application, including un-amended printed literature, shall be initialed by the Partner(s) signing the Application and serially numbered.

3.21.4. The Application shall have no interlineations, erasures, or overwriting except as necessary to correct errors made by the law firm, in which case such corrections shall be initialed by the Partner(s) signing the Application.

3.21.5. KPRL will assume no responsibility whatsoever for the law firm's failure to comply with or observe the entire contents of this paragraph.

3.21.6. Any Application not prepared and signed in accordance with this paragraph may be rejected by KPRL as non-responsive, pursuant to paragraph 3.27.

3.22. Deadline for Submission of Applications

- 3.22.1. Applications must be received by KPRL by the time and at the place specified in the Invitation to tender.
- 3.22.2. KPRL may, at its discretion, extend this deadline for submission of Applications by amending the Tender documents in accordance with paragraph 3.9, in which case all rights and obligations of KPRL and the law firm's previously subject to the initial deadline, will therefore be subject to the deadline as extended.

3.23. Modification and Withdrawal of Applications

- 3.23.1. The law firm may modify or withdraw its application after it has submitted it, provided that written notice of the modification, including substitution or withdrawal of the Application is received by KPRL prior to the deadline prescribed for submission of applications.
- 3.23.2. The law firm's modification or withdrawal notice shall be prepared, sealed, marked and dispatched in accordance with the provisions of paragraphs 3.20, 3.21 and 3.22. A withdrawal notice may also be sent by electronic mail but followed by an original signed confirmation copy, postmarked no later than the deadline for submission of applications.
- 3.23.3. No Application shall be modified after the deadline for submission of applications.

3.24. Opening of Applications

- 3.24.1. KPRL shall open all applications promptly at the date and time specified in the tender advertisement and at the location specified in the Invitation to tender or as may otherwise be indicated.
- 3.24.2. The law firm's names, application modifications or withdrawals, the presence or absence of requisite Professional Indemnity Cover and such other details as KPRL, at its discretion, may consider appropriate, will be announced at the opening.
- 3.24.3. KPRL shall assign an identification number to each application received.
- 3.24.4. The applicants or their representatives may attend the opening and those present shall sign a register evidencing their attendance.

3.25. Process to be Confidential

- 3.25.1. After the opening of applications, information relating to the examination, clarification, evaluation and comparisons of Applications and recommendations arising there-from shall not be disclosed to a law firm or other person(s) not officially concerned with such process until conclusion of that process.
- 3.25.2. Conclusion of that process shall be deemed to have occurred, by the date and time KPRL notifies the qualified law firm(s).
- 3.25.3. In any event, official disclosure by KPRL of any information upon conclusion of that process shall be on request by the law firm and only be in summary form to the extent permissible by law.
- 3.25.4. Any effort by a law firm to influence KPRL or any of its staff members in the process of examination, evaluation and comparison of Applications and information or decisions concerning appointment to the Panel may result in the rejection of the law firm's Application.

3.26. Clarification of Applications and Contacting KPRL

- 3.26.1. To assist in the examination, evaluation and comparison of applications KPRL may, at its discretion, ask the law firm or any institution for a clarification of the law firm's application. The request for clarification and the response shall be in writing, and no change in the Method of Charging for Services or substance of the application shall be sought, offered, or permitted.
- 3.26.2. The law firm is required to provide timely clarification or substantiation of the information that is essential for effective evaluation of its qualifications. It is the responsibility of the law firm to provide in writing the clarification or substantiation which should reach KPRL within twenty-four hours (24hr) from the time of KPRL's query or any such period expressly indicated by KPRL. Such writing may include by electronic mail or hand delivered mail. Should there be no conclusive response within this period, it may result in the law firm's disqualification.
- 3.26.3. Save as is provided in this paragraph and paragraph 3.25 above, no law firm shall contact KPRL on any matter related to its Application, from the time of the Opening to the time the Appointment is declared.
- 3.26.4. Any effort by a law firm to influence KPRL in its decisions on evaluation, Tender recommendation(s) or appointment may result in the rejection of the law firm's application.

3.27. Preliminary Evaluation and Responsiveness

- 3.27.1. Prior to the detailed Technical Evaluation, KPRL will determine the substantial responsiveness of each application. For purposes of this Tender, a substantially responsive application is one that materially conforms to the requirements of Preliminary Evaluation. KPRL's determination of an applicant's responsiveness is to be based on the contents of application itself without recourse to extrinsic evidence.
- 3.27.2. KPRL will examine the applications to determine whether they conform to the Preliminary Evaluation Criteria set out in Section VI Evaluation Criteria.
- 3.27.3. Notwithstanding the contents of the foregoing sub-paragraphs, if an application is not substantially responsive, it will be rejected at the earliest stage of evaluation by KPRL and cannot subsequently be made responsive by the law firm by correction of any non-conformity.

3.28. Minor Deviations, Errors or Oversights

- 3.28.1. KPRL may waive any minor deviation in an application that does not materially depart from the requirements of the Services set out in the Tender Document.
- 3.28.2. Such minor deviation –
 - a) shall be quantified to the extent possible
 - b) shall be considered in the evaluation process and comparison of Applications, and
 - c) shall be applied uniformly and consistently to all qualified Applications duly received by KPRL.
- 3.28.3. KPRL may waive errors and oversights that can be corrected without affecting the substance of the Application.
- 3.28.4. A material deviation or reservation is one –

- a) which affects in any substantial way the scope, quality, or ability of performance of the Services;
- b) which limits in any substantial way, inconsistent with the Application documents, KPRL's rights or the law firm's obligations under any ensuing engagement; or,
- c) whose rectification would affect unfairly the competitive position of other law firms presenting responsive Applications.

3.29. Technical Evaluation and Comparison of Tenders

3.29.1. KPRL will further evaluate and compare the Applications that have been determined to be substantially responsive, in compliance to the Technical Evaluation Criteria as set out in the Tender Document.

3.30. Preferences

3.30.1. Preferences for the certified Youth, Women and Persons with Disabilities will be applied as per the PPADA, 2015.

3.31. Tender Process Evaluation Period

3.31.1. The Evaluation Committee may conduct and complete evaluation of the Tender Process within thirty (30) days of opening the tenders and within the validity period.

3.32. Debarment of a law firm

3.32.1. A law firm that gives false information in the application about its qualification or which refuses to enter into a contract after notification of appointment shall be considered for debarment from participating in future public procurement.

3.33. Confirmation of Qualification for Appointment

3.33.1. KPRL may confirm to its satisfaction whether a law firm that is selected as having submitted the highest compliant evaluated responsive Application is qualified to be appointed and perform any eventual assignment satisfactorily.

3.33.2. The confirmation will take into account the law firm's technical and performance capabilities. It will be based upon an examination of the documentary evidence of the law firm's qualifications submitted by it pursuant to paragraphs 3.11 and 3.15 as well as confirmation of such other information as KPRL deems necessary and appropriate. This may include offices and other facilities inspection and audits, cleanliness, orderliness of its offices, and, general satisfaction and good welfare of its non-lawyer staff.

3.33.3. An affirmative confirmation will be a prerequisite for appointment of the law firm to the KPRL Panel. A negative confirmation will result in rejection of the law firm's Application, in which event KPRL will proceed to fill in the available gap by the next available highest evaluated responsive Application to make a similar confirmation of that law firm's capabilities to perform satisfactorily.

3.34. Notification of Appointment

3.34.1. Prior to the expiration of the period of the Tender validity, KPRL shall notify the successful law firm(s) in writing that its application has been accepted.

3.34.2. Subject to paragraph 3.34.3, the successful law firms shall be those whose Applications have been determined to be substantially responsive, compliant with the evaluation criteria and have been determined to be the highest evaluated application and further, where deemed

necessary, that the law firms are confirmed to be qualified for appointment to the KPRL Panel of Lawyers.

3.34.3. The appointment of law firms shall take into account the need for KPRL to have appropriate representation in Nairobi and Mombasa.

3.34.4. The notification of appointment shall not constitute the formation of any specific contract.

3.34.5. Simultaneously and without prejudice to the contents of paragraph 3.34.1, on issuance of Notification of Appointment to the successful law firms, KPRL shall formally notify each unsuccessful law firm.

3.35. Termination of Tender Proceedings

3.35.1. KPRL may at any time terminate the Tender proceedings before Notice of Appointment or Rejection and shall not be liable to any person for the termination.

3.35.2. KPRL shall give prompt notice of the termination to the law firms.

3.36. Acceptance of Appointment

3.36.1. At the same time as KPRL notifies the successful law firm that its application has been accepted, KPRL will send the law firm the Contract for Legal Services together with any other necessary documents incorporating all agreements between the Parties.

3.36.2. Within seven (7) working days of the date of notification of appointment, the successful law firm shall indicate its acceptance by –

- a) writing a formal acceptance letter to KPRL, and
- b) returning it to KPRL within that period of seven (7) working days.

3.37. Corrupt or Fraudulent Practices

3.37.1. KPRL requires that law firms observe the highest standard of ethics during the procurement process and execution of contracts. When used in the Regulations, the following terms are defined as follows: -

- 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;
- 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 KPRL and includes collusive practice among law firms (prior to or after Application submission) designed to establish prices or other content at artificial non-competitive levels and to deprive KPRL of the benefits of free and open competition.

3.37.2. KPRL will reject a proposal for appointment if it determines that the law firm recommended for appointment has engaged in corrupt or fraudulent practices in applying to be enlisted.

3.37.3. Further, a law firm which is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.

3.38. Conflict of Interest

3.38.1. A law firm applying for provision of Legal Services shall ensure that it does not have any conflict of interest with respect to KPRL.

- 3.38.2. For purposes of this paragraph, a conflict of interest with respect to KPRL includes, but is not limited to circumstances, where the law firm, after thirty (30) days of the law firm's acceptance of KPRL's Appointment to its Panel, is still a provider of professional services to a party with conflicting interests to KPRL.
- 3.38.3. The law firm shall be required to state in the prescribed form, details of any case or assignment in which it on its own behalf or it has acted on behalf of a party with conflicting or adverse interests to KPRL within the last two (2) years of the Date of the Tender Document.

SECTION IV - SCHEDULE OF REQUIREMENTS

4. Brief Schedule of Services Required

- 4.1. KPRL requires legal services with the assignments spread across the country and are organized administratively as indicated in table 4.5.1. Assignments are categorized as indicated in table 4.3.1. The scope of the Services includes, but not limited to the fields of Energy Law, Company and Commercial Law, Constitutional and Administrative Law; Construction and Engineering law; Conveyancing; Debt Recoveries; Employment and Labour laws; Pension Administration; Health and Safety laws; law relating to Information Technology; Land Law, Public-Private Partnership, Procurement law, Arbitration and other forms of Alternative Dispute Resolution; Environmental Law; Insurance law; associated civil litigation; criminal and traffic prosecutions; devolution and public policy.
- 4.2. Representation may be at the Magistrates Court, High Court, Employment & Labour Relations Court, Environment & Land Court, Court of Appeal, Supreme Court, Tribunals, Review Boards or Arbitral or Mediation or Conciliation fori and any quasi-judicial forum afforded by law.
- 4.3. The Services to be rendered by the successful law firms are as categorized in Tables 4.3.1

Table 4.3.1

ITEM	CATEGORIES	KPRL REQUIREMENTS (as and when required)
1.	A.	Representation in labour related disputes
2.	B.	Representation in land disputes including wayleaves, easements or rights of way, trespass, and damages.
3.	C.	Representation in land disputes including ownership disputes, lease disputes, rates disputes and damages.
4.	D.	Representation in tenancies and rent disputes.
5.	E.	Representation in judicial reviews matters.

ITEM	CATEGORIES	KPRL REQUIREMENTS (as and when required)
6.	F.	Representation in constitutional and human rights petitions.
7.	G.	Provision of debt recovery services.
8.	H.	Conveyancing.
9.	I.	Drafting and follow up on execution of agreements, contracts and MoU.
10.	J.	Representation in contractual or procurement disputes.
11.	K.	Provision of expert advice and opinion on specific matters, transactions, events and on provisions of law.
12.	L.	Provision of legal compliance audit services.
13.	M.	Provision of governance audit services.
14.	N.	Statutory Health Checks
15.	O.	Training: Policy and law review, Legislative Drafting, Compliance and Legislation
16.	P.	Carrying out searches locally and abroad in land and company registries and liaising with other relevant bodies and authorities.
17.	Q.	Representation in tax disputes and in matters before agencies such as KRA, RBA, EPRA, NEMA, CAK etc.
18.	R.	Representation in personal injury claims, claims of malicious prosecution, succession matters, maintenance matters, criminal matters, traffic matters.

SECTION V – METHOD OF CHARGING FOR SERVICES

PART A

5.1. The Advocates (Remuneration)(Amendment) Order, 2014 or its amendment under the Advocates Act, CAP 16, Laws of Kenya

- 5.1.1. KPRL recognizes that as per the PPADA, 2015, fees and remuneration payable to lawyers is regulated by the Advocates Act. Hence, the contents of Section V Parts A and B are for informative and not evaluation purposes. It will be used as a guide when considering fees payable at the appropriate time.
- 5.1.2. KPRL's appointment will consider firm's that offer the right balance of value for money as measured by the quality of legal service rendered. Law firms will be expected to identify ways in which legal costs for any significant or complex cases may be mitigated.
- 5.1.3. KPRL expects that legal fees and charges payable shall be in accordance with the Order as applicable to the specific matter.
- 5.1.4. The mode of billing shall be considered on a case by case basis and subject to agreement between KPRL and the firm. Should there be a difference on this, then KPRL and the law firm may refer the issue to Taxation with each Party bearing their own costs for the Taxation.

PART B

5.2. The Advocates (Remuneration) (Amendment) Order, 2014 (Schedule V) under the Advocates Act, CAP 16 (or as may be amended)

- 5.2.1. Without prejudice to the contents of paragraph 5.1, KPRL recognizes that the present 5th Schedule of the Order provides for an hourly billing system or an amount fixed by agreement between KPRL and the firm.
- 5.2.2. Law firms are required to fill in the table below (Hourly Billing Table). If and when, the issue of hourly billing arises from the performance of services instructed within the two-year period, where KPRL consents, the Parties will refer to the Table 5.2.2 below as a basis for discussion and determination of fees payable.

Table 5.2.2

Sr. No.	Name of Professional Staff	Position (Partner or Associate or Assistant)	Hourly Remuneration Rate (KSh.)
1.			
2.			

PART C

5.3 Application Form

Date:

Application Number and Name:

To:

Chief Executive Officer

Kenya Petroleum Refineries Ltd,

P. O. Box 90401 - 80100,

Mombasa.

Dear Sirs and Madams,

Having read, examined and understood the Tender Document including all Addenda, receipt of which we hereby acknowledge, we, the undersigned law firm, apply to be enlisted to provide Legal Services for the sums as may be ascertained in accordance with the Method of Charging for Services accepted and inserted by me/ us above.

Yours sincerely,

Full name of law firm

Name and Capacity of authorized person signing the Application

Signature of authorized person signing the Application

Stamp of the law firm

SECTION VI - EVALUATION CRITERIA

Evaluation of duly submitted Applications will be conducted as follows: -

6.1. Part 1 - Preliminary Evaluation under Paragraph 3.27 of the ITA.

This shall include confirmation of the following: -

- 6.1.1. Checking general orderliness and tidiness of the Application
- 6.1.2. Submission of copy of a valid Professional Indemnity Cover
- 6.1.3. Submission of Declaration Form(s) duly completed and signed
- 6.1.4. Submission and considering that Application Form is duly completed and signed
- 6.1.5. Submission and considering the following: -
 - a) Firm's Registration Certificate/ Incorporation
 - b) PIN Certificate or Taxpayer's Registration Certificate issued by KRA
 - c) Valid Tax Compliance or Clearance Certificate issued by KRA
 - d) Firms profile
- 6.1.6. That the Application is valid for the period required
- 6.1.7. Submission of evidence of physical address and premises through eg. copy of utility bills i.e. electricity, water, telephone; copy of title deed; lease or tenancy agreement etc. (For detailed requirements please see the relevant Notes)
- 6.1.8. Submission and considering the Confidential Business Questionnaire:
 - a) Is filled
 - b) That details correspond to the related information in the Application
 - c) That the law firm is not ineligible as per paragraphs 3.3 and 3.4 of the ITA.
- 6.1.9. Evidence of recognition of the law firm by LSK (excluding the law firm's own statement to this effect).
- 6.1.10. Submission of copies of the following documents in respect of each and all the law firm's qualified Advocates who is/are likely to be engaged on a day-to-day basis in providing services if successful –
 - a) Curriculum Vitae (C.V.) as provided in the sample format
 - b) For Partners - Letter of the law firm signed as prescribed in the relevant notes in the Tender Document.
 - c) All other admitted lawyers, employment contracts or Service Agreements, whichever exists, signed by the Partner and the lawyer in question.
 - d) Current (2023) Practicing Certificate issued by the LSK.
- 6.1.11. Submission and considering the details on Conflict-of-Interest Form.
- 6.1.12. Submission of list of clients as evidence of the law firm's performance and experience on legal matters in the last three years from the Date of the Tender Document.
- 6.1.13. Record of unsatisfactory or default in performance obligations in respect of any client shall be considered. This shall include any law firm with unresolved disputes with any client in its obligations for more than four (4) months. This excludes any dispute before a competent judicial or quasi-judicial or adjudicatory body or any dispute on fees.

6.2. Part II – Technical Evaluation under Paragraph 3.29 of the ITA.

Sub-Part A - Verification of Information and Documentation

1. Relevant requested certificates and or documents
2. Any other details required in the Tender document

Sub-Part B - Detailed Evaluation

- 1.** Technical issues in the Application will be evaluated using the tables and criteria below.
- 2.** To assist the law firms in responding, they may be guided, use or adopt the Tables below when responding to Sub-Part B.
- 3.** In any event, where the law firm adopts any other mode of responding, the format and content of its response should be in summary; specific to the criterion in question; avoid as far as possible extensive use of prose, unnecessary literature or marketing material.

4. General Notes/Guidelines to Sub-Part B

- 4.1. These notes (in bold below) apply generally across the board to all the Tables below.
- 4.2. They are in addition to the specific notes/guidelines for each Table.

5. Certification/ Certified copies

- 5.1. Wherever certified copies are requested or acceptable to KPRL, it is preferable for the certification to be original.
- 5.2. However, copies whether from electronic scanning, photocopying or other means of reproduction of an original may be accepted.
- 5.3. Any lawyer who is also a Commissioner of Oaths in the Applicant law firm may certify any document on behalf of his/her own law firm, which documents, the law firm intends to submit.

6. Curriculum Vitae (CV)

- 6.1. Some lawyers may have long careers and experience. However, all lawyers are strongly advised to furnish their CV's in the format provided and which should not be more than two (2) single sided A4 size pages at font 12 Century Gothic with spacing 1.2.
- 6.2. Any information in the CV that is beyond the 2 pages may stand disregarded for purposes of evaluation. (The 2 pages includes the signing portions).
- 6.3. Any CV that is not signed by both the owner of the CV and the person authorized to sign the Application may be disregarded. Where the owner and authorized person are the same, the signature by such same person will suffice.

7. Definition of Partner

- 7.1. Where the term "Partner" is used in Technical Evaluation and its attendant Tables shall mean Senior or Managing Partner. This Partner shall be the one who has equity in the law firm AND shares its profits as well as losses. All other definitions of "Partner" however styled or of whatever nature shall be excluded from the definition of Partner.

- 7.2. Where a law firm has both a Senior and Managing Partner in different persons, it has a discretion to use any one of them whom it deems would more advance and enhance its Application in this Tender Process.
- 7.3. Conversely, where a law firm has only one Partner, that Partner shall be considered the Managing or Senior Partner for purposes of this Tender Process.

8. Combining Information in Single Document

- 8.1. KPRL recognizes that there could be several letters which are required to be authored by the law firm whereas the information may be combined in one document or letter. Where the law firm feels that the information may be adequately contained in one letter or document, the law firms may do so. The law firm must state that the information variously requested is in the submitted single letter or document and identify that document or letter.
- 8.2. Where the law firm exercises this option of combining, care must be taken to ensure that all the information required of the several separate documents is included in the composite letter or document.
 - 8.2.1. No information sought should be omitted at all
 - 8.2.2. The requirements as to several signatures and certifications in the different documents may be dispensed with. Instead a single signature (and co-signature where required) together with a single certification, all on each printed page of the letter or document may suffice.

9. Staff Nature of Engagement with the Law Firm

- 9.1. It is recommended that the staff (including lawyers who are not Partners) be permanent employees or at least have an extended and stable relationship with the law firm.

10. Qualification and Scoring

- 10.1. To qualify for further evaluation and any appointment, law firms scores will be as follows: -
 - 10.1.1. Technical evaluation score: minimum of 70 marks from the Tables.
- 10.2. To earn any mark,
 - 10.2.1 the law firm should satisfy the tenets of each criterion to obtain the full award or marks
 - 10.2.2 where any single material tenet is not fulfilled for any criterion, the marks may not be awarded. For instance, where a law firm submits the correct document but lacks a signature or fails in certification or absence of letter, the firm may lose the full marks for that criterion.
- 10.3. Where after completion of all calculations and the Grand Total in the tables is obtained that contains a decimal mark, such decimal will be rounded off to the nearest whole. Where the decimal mark is not decimal five (0.5), this shall be treated as a full mark upwards.

11. Third Party Documents

- 11.1. Where any document is required unless expressly permitted, the law firm's own letters or documents originating from it may not be reckoned for purposes of evaluation.

Tables, Criteria and Scores

1. Physical Presence and Networking

Maximum awardable marks are 6 broken down as per the table below

Table 6.2.1 Sub –Part B

Sr. No.	Criteria	KPRL Requirement (Full scores for compliance and graduated scores for partial compliance)	Law Firm's Response	Marks awarded
1.	Main Office in Nairobi, Mombasa (State location; attach proof)	3 marks For any irrespective of whether the firm has more than one main office in any of these towns.		
2.	Main office in any other town. (State location; attach proof)	2 marks For any irrespective of whether the firm has more than one main office in that town.		
3.	Branches in major towns i.e. Nairobi and Mombasa (State location; attach proof)	1 mark Whether firm has one or more branches in one or more towns		

Law Firm's total score for Table 6.2.1 Sub-Part B is _____

Notes to Table 6.2.1 Sub-Part B

1. Evidence of main office and branches, whether Kenyan or within the EAC region shall be through -
 - 1.1 if building/premise is not owned by the law firm, a signed lease or tenancy agreement for a period exceeding three (3) months beyond the Date of the Tender Document.
 - 1.2 if building/premise is owned by the law firm, the firm's own statement to that effect in its separate cover letter, together with:-
 - a) a copy of the title document, and,
 - b) a valid utility (electricity or water or telephone or cable television) bill that is not more than three (3) months prior to the Date of the Tender Document.
 - 1.3 if acquired but ownership documents are yet to be obtained or not easily available, then a registered sale agreement or other registered document or other confirmatory proof of ownership of the building/ premise eg. letter from a bank or financial institution if the title is charged or mortgaged.

- 1.4 Tender shall be manifested by necessary stamping or lodging at the relevant registry at the Ministry of Lands or National Land Commission.
2. If the lease/tenancy is set to or has expired within three (3) months of the Date of the Tender Document –
 - 2.1 where the lease is renewable, the law firm should submit a copy of that lease/tenancy agreement together with a letter from the owner/manager of the building/premise confirming that the tenancy/lease is renewable or has been renewed.
 - 2.2 where the law firm is moving to another premises, a letter from the proposed new premises confirming such intention.
3. Where a law firm has more than one office in the same town, that other office shall not be considered as a branch for purposes of evaluation.

2. Representation in Legal Matters in the Last Three Years

Maximum awardable marks are 18 broken down as per the table below.

Table 6.2.2 Sub –Part B

Sr. No.	Criteria	KPRL Requirement (Full scores for compliance and graduated scores for partial compliance)	Law Firm's Response	Marks awarded
1.	Give two (2) clients with above KSh. 5 Billion annual turnovers.	Maximum marks are 8. 4 marks for each		
2.	Give two (2) clients with above KSh. 100 Million but not more than KSh. 5 Billion annual turnovers.	Maximum marks are 6. 3 marks for each		
3.	Give two (2) clients with between KSh. 10-100 Million annual turnover.	Maximum marks are 4. 2 marks for each		

Law Firm's total score for Table 6.2.2 Sub-Part B is _____

Notes to Table 6.2.2 Sub-Part B

1. Evidence of Representation in Legal Matters in the Last Three Years shall be through the following –
 - 1.1 List prepared by the law firm giving the full names of the clients.
 - 1.2 The List shall contain the current full physical, postal, facsimile (if available) and website (if any) and e-mail address of the client. It should also include the contact person or office and his/her e-mail address.
2. Representation in “running down” cases or issues will be accepted only if the eventual final Award or Judgement exceeded KSh. 1.5 Million in a single case or series of cases arising

from the same incident. The law firm shall provide evidence of such final Judgement or Award from which there has been no or no further Appeal.

3. For lawyers who have been in private practice for no more than 18 months from the Date of the Tender Document, but were previously employed as inhouse counsel (by whatever description) for any organization(s) or Government for a continuous period of two years, before venturing into private practice, evidence of Representation shall take into account any organization or customer or client of their employer(s) that s/he was directly responsible for during his/her period of employment. This shall include his/her employer itself.

3. Satisfactory Resolution of Legal Matters from any Four out of the Six Clients Above

Maximum awardable marks are 8 broken down as per the table below.

Table 6.2.3 Sub –Part B

Sr. No.	Criteria	KPRL Requirement (Full scores for compliance and graduated scores for partial compliance)	Law Firm's Response	Marks awarded
1.	Client no. 1 (State name of client; attach proof)	2 marks		
2.	Client no. 2 (State name of client; attach proof)	2 marks		
3.	Client no. 3 (State name of client; attach proof)	2 marks		
4.	Client no. 4 (State name of client; attach proof)	2 marks		

Law Firm's total score for Table 6.2.3 Sub-Part B is _____

Notes to Table 6.2.3 Sub-Part B

1. Please give four clients who had serious or manifestly important matters that your firm handled competently and professionally in the best interests of the client. This can be past or ongoing matters.
2. Evidence of satisfactory handling and acceptance shall be through-
 - 2.1 a letter outlining/stating the following-
 - a) competence and professionalism in the handling of the matter
 - b) a very brief or general statement of the matter or issue eg. "successfully negotiated a syndicated loan agreement involving five lenders on behalf of ABCD Ltd (the client)" or "obtained an injunction (not ex parte) in favour of

XYZ against loss of land due to fraudulent sale or encroachment by unauthorized persons.”

- 2.2 the letter shall be done on the letterhead of the Applicant.
3. Serious or important is defined as:-
 - 3.1 in terms of pecuniary value, a liability that the client faced of no less than KSh. 1 Million should the client have had an adverse Judgement or Award against the client. The Judgement should be the final in the matter. Proof of the Judgement or Award will be required.
 - 3.2 where the pecuniary value cannot be determined at face value, the main issue would have had far reaching adverse consequences on the client and/or other organizations/firms/ persons who can be in a similar predicament.
 - 3.3 where the pecuniary value cannot be determined at face value, the main issue had far reaching consequences on the client and/or other organizations/firms/persons who were in a similar predicament.
 - 3.4 In commercial or non-litigious transactions involving a sum of KSh. 2 Million and above. Commercial transactions include all conveyancing of immoveable property where the amount involved is KSh. 2 Million and above (excluding lawyers professional fees).
4. The handling may include through the law firm’s advisory opinions; acting in mergers & acquisitions; litigation; share offering; restructuring, transfer of assets and liabilities between two or more organizations but does not include the conventional or traditional conveyancing of selling, buying or leasing land or other immovable property, except as provided above.
5. For lawyers who have been in private practice for no more than 18 months from the Date of the Tender Document but were previously employed as inhouse counsel (by whatever description) for any person/ organization(s) or Government for a continuous period of two years before venturing into private practice, evidence of satisfactory resolution shall take into account any organisation or customer or client of their employer(s) that s/he was responsible for during his/her period of employment. This shall include his/her employer itself.

4. Valid evidence of Partner’s Appropriate Qualification, Experience and Degree of Responsibility

Maximum awardable marks are 20 broken down as per the table below

Table 6.2.4 Sub –Part B

Sr. No.	Criteria	KPRL Requirement (Full scores for compliance and graduated scores for partial compliance)	Law Firm’s Response	Marks awarded
1.	Level in the firm must be Senior or Managing Partner. (Give full name of Partner; attach or indicate source of proof)	2 marks		

2.	Years of legal experience (State number; attach or indicate source of proof)	Maximum marks are 5 1/2 mark for each full year of legal experience. (Maximum marks in this parameter is attained irrespective of whether the Partner has actually more than ten years' experience)		
3.	Professional Membership(s) (CPS (Kenya) and/or Notary Public; attach or indicate source of proof)	Maximum marks are 2 1 mark for each i.e. CPS and Notary Public		
4.	Professional Membership (CIArb; attach or indicate source of proof)	Maximum marks are 2 a) 2 marks for Fellow b) 1 mark for Member		
5a.	Degree of Responsibility (State organizations or clients where responsibility as Lead Counsel or Lead Lawyer was in 3 completely different assignments with at least	Maximum marks are 9 3 marks each for each different assignment		
	one, being in respect of an organization or client or Government with above KSh. 5Billion, and another between KSh. 100M–5Billion, and another between KSh. 10–100 Million annual turnover; attach proof), OR			

5b.	Degree of Responsibility (State organization or client or Government where responsibility as Lead Counsel or Lead Lawyer was in less than 3 completely different assignments; attach proof)	Maximum marks are 6 2 marks each for each different assignment		
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Law Firm's total score for Table 6.2.4 Sub-Part B is _____

Notes to Table 6.2.4 Sub-Part B

1. Evidence of Partner's position shall be through –
 - 1.1 where the firm is a sole proprietorship the firm's letter to that effect.
 - 1.2 where the firm has more than one Partner a letter to that effect by the firm and such letter co-signed by any other Partner in that firm.

Please see definition of Partner and other Lawyers under General Clarifications.
2. Evidence of the Partner's years of legal experience shall be taken from the year of admission to the Bar as reflected and recorded by the Partner's admission number at LSK. Any period prior to this shall not be reckoned.
3. Evidence of Partner's professional membership or status shall be through-
 - 3.1 a letter on the letterhead of the professional organization confirming the Partner's membership or status
 - 3.2 the letter shall not be more than eleven (11) months old prior to the Date of the Tender Document.
 - 3.3 Or in lieu of 3.1 above, a copy of a valid/current certificate of membership or status in that professional organization.
 - 3.4 Or in lieu of 3.1 and 3.3 above, where such membership or status can be confirmed through the organization's website or other relevant independent website -
 - a) a printed extract of that where the Partner's name appears together with the address of the website, or,
 - b) a statement by the law firm stating the website where that membership or status of the Partner may be confirmed.

4. Evidence of Partner's degree of responsibility shall be through an appointment or confirmation or recommendation or congratulatory letter, contract or other document, either which way, from the organisation or client or Government in respect of which such responsibility was shouldered and performed. Any of the documents must clearly show that the Partner acted as such Lead Counsel in that assignment.
5. For lawyers who have been in private practice for no more than 18 months from the Date of the Tender Document, but were previously employed as inhouse counsel (by whatever description) for any organization(s) or client or Government for a continuous period of two years, before venturing into private practice, evidence of Partner's appropriate qualification, experience and degree of responsibility shall take into account any organisation or customer

or client of their employer(s) that s/he was responsible for during his/her period of employment. This shall include his/her employer itself.

5. Team's Average Years of Legal Experience (Excluding all Partners) Maximum awardable marks are 10 broken down as per the table below. Table 6.2.5 Sub –Part B

Sr. No.	Criteria	KPRL Requirement (Full scores for compliance and graduated scores for partial compliance)	Law Firm's Response	Marks awarded
1.	Years of legal experience (Give names of all lawyers; each lawyer's years of experience; attach or indicate source of proof)	2 marks for each average year. (Maximum marks in this parameter is 10 marks irrespective of whether the Team has more than five average years of legal experience)		

Law Firm's total score for Table 6.2.5 Sub-Part B is _____

Notes to Table 6.2.5 Sub-Part B

1. The Team should be composed of the lawyers in the firm who are likely to be handling KPLC matters on a day to day basis. For the avoidance of doubt, this should not include other lawyers who will not ordinarily be deployed to handle the KPLC docket.
2. To score,
 - 2.1 the years of legal experience for each admitted lawyer in the firm will be added up to obtain the total years of legal experience whether gained in the employment/service of the Applicant firm or elsewhere.
 - 2.2 Those total years will then be divided by the total number of admitted lawyers in the firm.
 - 2.3 The resulting figure will be taken as the lawyers or Team's average years of legal experience.
3. Years of legal experience of each lawyer shall be by confirming that each lawyer is engaged in the law firm through –
 - 3.1 employment/appointment letters or contract/service agreement of the lawyer in the law firm.
 - 3.2 the letter shall be on the law firm's letterhead and signed by the Partner and acknowledged/received by signing of the letter by the lawyer in question.
 - 3.3 the agreement shall be signed by both the Partner and the lawyer.
4. The years will then be computed on the same parameters as that of a Partner i.e. based on the admission number at LSK.

5. For firms in which there is only a sole qualified lawyer, the firm will be entitled to only the minimum of 2 marks under this criterion. If the sole lawyer has been in active practice for more than 10 years, such firm will be entitled to 5 marks only, provided it meets the criterion.
6. **Companies or Organizations or Clients Offered Legal Training by the Law Firm in the last Three Years of the Tender Document**
Maximum awardable marks are 6 broken down as per the table below.

Table 6.2.6 Sub –Part B

Sr. No.	Criteria	KPRL Requirement (Full scores for compliance and graduated scores for partial compliance)	Law Firm's Response	Marks awarded
1.	Companies/organizations/clients and numbers trained in each company/organization/client (Provide list with complete contact addresses incl. website of each company/organization/client; attach proof)	Maximum marks are 3 1 mark will be given for each company or firm or organization or client.		
2.	Training material for each company/organization/client (Attach or give source of proof)	Maximum marks are 3 1 mark for the manual or material or other training document or part thereof per each company or firm or organization or client		

Law Firm's total score for Table 6.2.6 Sub-Part B is _____

Notes to Table 6.2.6 Sub-Part B

- List prepared by the law firm giving the full names of the companies or firms or clients or organizations. The List shall contain the current full physical, postal, website (if any) and e-mail address of the organization or client. It should also include the contact person or office for that training.
- The List shall also spell out the total number of persons in each company or firm or organization or client who were given the training.

3. A letter from the organization, company or firm or client confirming that the training was performed by the law firm.
4. The letter shall be done on the letterhead of that company or firm or organization or client and signed by its authorized representative who shall give his/her full names and designation in that company or firm or organization or client together with his/her full contact details.
5. Copies of relevant legal training manuals or documents or materials that were issued or imparted to the participants or companies or firms or organizations or client during or after the training.
6. The training includes any that was done for or on behalf of the CLE, ICPAK, ICPSK, KSL, LSK, or any other continuous professional development program. It includes any training in human rights, children's rights, family law, refugee or military law/issues.
7. For lawyers who have been in private practice for no more than the last 18 months from the Date of the Tender Document, but were previously employed as in-house counsel (by whatever description) for any organization(s) or Government for a continuous period of two years, before venturing into private practice, evidence of such training shall take into any organization or customer or client of their employer(s) that s/he was responsible for during his/her period of employment. This shall include his/her employer itself.

7. Appropriateness of Law Firm's Quality Management System/ Standard Operating Procedures (QMS/SOP) including File Management.

Maximum awardable marks are 12 broken down as per the table below.

Table 6.2.7 Sub –Part B

Sr. No.	Criteria	KPRL Requirement (Full scores for compliance and graduated scores for partial compliance)	Law Firm's Response	Marks awarded
1.	Overview/Mission of QMS/SOP	Maximum marks - 2		
2.	File Management - Orderliness and Flow (Should contain ascertainable details)	Maximum marks - 2		
3.	File Management -Flexibility (Should contain ascertainable details)	Maximum marks - 2		
4.	File Management -Achievability (Should contain ascertainable details)	Maximum marks - 2		

5.	File Management -Soundness (Should contain ascertainable details)	Maximum marks - 2		
6.	File Management-Comprehensive (Should contain ascertainable details)	Maximum marks - 2		

Law Firm's total score for Table 6.2.7 Sub-Part B is _____

Notes to Table 6.2.7 Sub-Part B

1. File Management refers to the handling of any matter including litigation, commercial, conveyancing, contractual, advisory, as an Arbiter, Mediator etc.
2. This should be furnished using the format provided in the Tender Document.
3. Law firms are advised to furnish all the information regarding this criterion in not more than three (3) single-sided A4 size pages at font 12 Century Gothic with spacing at 1.2.
4. This information may also be contained in the Firm Profile.

6.4 Successful Law Firms

- 6.4.1 The successful law firms eligible for appointment shall be the ones who attain highest passes in compliance with the Evaluation Criteria above.
- 6.4.2 The law firms with the highest overall scores shall be considered for appointment subject to Confirmation/Inspection visits where such visits are deemed necessary.
- 6.4.3 In case of a tie, KPRL shall opt for the firm which provides added value over and above what is set out. The added value will be determined based on: -
 - a) Achievability of the Value Add (2 marks)
 - b) Relevance of the Value Add to KPRL (2 marks); and
 - c) Cost of the Value Add. The lower the cost the more advantageous the value add (2 marks).

SECTION VII - CONFIRMATION/INSPECTION VISITS

- 7.1 KPRL may conduct a confirmatory/inspection visit to ascertain that details match with that provided in the Application submitted and comply with the confirmation requirements.
- 7.2 KPRL may also conduct proposed Service Agreement discussions after determining the successful law firms. These will be held at KPRL's offices in Changanwe, Mombasa or otherwise as may be advised. The discussions will additionally touch on Method of Charging and payment for Services.
- 7.3 The purpose of the discussions is to reach clarity and agreement on all items. The discussions will conclude with the signing the acceptance letter.

TABLE OF CLAUSES ON GENERAL CONDITIONS OF APPOINTMENT

Clause No. Headings

8.1	Definitions.....
8.2	Application....
8.3	Standards.....
8.4	Use of Documents and Information.....
8.5	Professional Indemnity Cover
8.6	Demonstration(s), Inspection(s) and Test(s).....
8.7	Nature of the Conditions
8.8	Interest.....
8.9	Fees and Rates.....
8.10	Assignment.....
8.11	Resolution of Disputes
8.12	Language and Law.....
8.13	Waiver.....
8.14	Force Majeure.....

SECTION VIII – GENERAL CONDITIONS OF APPOINTMENT TO PANEL OF LAWYERS

The General Conditions of Appointment shall form part of the Conditions of Appointment in accordance with the law and KPRL's guidelines, practices, procedures and working circumstances. The provisions in the GCA will apply unless an alternative solution or amendment is made under other parts of the Conditions including the Service Agreement.

8.1 Definitions

In these Conditions the following terms shall be interpreted as follows:-

- a) "Day" means calendar day and "month" means calendar month.
- b) "The Conditions" means the agreements entered into between KPRL and the law firm, as recorded in the Main Form signed by the Parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- c) "The Charges" means the rates and fees of which the appointed law firm is entitled to for the proper performance of its obligations as and when it is called upon by KPRL to do so.
- d) "The Services" means services or part thereof that may from time to time be duly provided by the law firm and includes all the materials and incidentals, which the law firm is required to perform and provide to KPRL as part of its assignment.
- e) "The Procuring Entity" means The Kenya Petroleum Refineries Limited or its successor(s) and assign(s) where the context so admits (hereinafter abbreviated as KPRL).
- f) "The law firm" or the lawyer" or the Consulting firm" means the individual or firm providing the Services consequent to the appointment. For the avoidance of doubt this shall mean the Successful Law firm(s) or lawyer(s) pursuant to this Tender Process.

8.2 Application

These General Conditions of Appointment shall apply to the extent that the provisions of other parts of the Conditions do not supersede them.

8.3 Standards

The Services supplied under the contract shall conform to the professional ethics and standards applicable to lawyers under the Advocates Act, Cap. 16 (as may be amended or replaced) together with the Service Agreement entered between KPLC and the law firm.

8.4 Use of Documents and Information

- 8.4.1 The law firm and each and every individual lawyer therein shall not, without KPRL's prior written consent, disclose these Conditions, or any provision thereof or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of KPRL in connection therewith, to any person other than a person employed by the law firm in the performance of any assignment arising out of this appointment.
- 8.4.2 The law firm shall not, without KPRL's prior written consent, make use of any document or information enumerated in sub-clause 8.4.1 above.

8.4.3 Any document, other than the contract itself, enumerated in sub-clause 8.4.1 shall remain the property of KPRL and shall be returned (including all copies) to KPRL on completion of the law firm's performance of any assignment which may be given to and accepted by it, where so required by KPRL.

8.5 Professional Indemnity Cover

8.5.1 Within fourteen (14) days of the date of notification of appointment from KPRL, the successful law firm shall furnish KPRL with a valid PI Cover.

8.5.2 The Professional Indemnity Cover shall be issued by an insurance company registered by the Insurance Regulatory Authority and approved by PPRA. The insurer must be located in Kenya.

8.5.3 The successful law firms shall furnish the PI Cover as set out in the paragraph 3.2.3.

8.5.4 The law firm shall ensure that the PI Cover remains valid throughout the period of Appointment and where KPRL engages it in any assignment upto the conclusion of that assignment.

8.5.5 The PI Cover is required to protect KPRL against the risk of the law firm's conduct during the performance of Services which would warrant the PI Cover's forfeiture or part thereof.

8.5.6 KPRL shall seek authentication of the PI Cover from the issuing Insurer. It is the responsibility of the successful law firm to sensitize its issuing Insurer on the need to respond directly and expeditiously to queries from KPRL. The period for response shall not exceed five (5) days from the date of KPRL's query. Should there be no conclusive response by the Insurer within this period, such successful law firm's PI Cover may be deemed as invalid.

8.5.7 Failure of the successful law firm to furnish an authentic PI Cover, the appointment shall stand annulled.

8.5.8 The law firm shall provide such evidence of the continued existence and validity of the PI Cover as KPRL may reasonably and from time to time request.

8.6 Demonstration(s), Inspection(s) and Test(s)

8.6.1 The law firm will be required to demonstrate dexterity, diligence, and professionalism in the performance of Services when called upon to do so right from receipt of instructions to conclusion of the assignment which is by closure of the file or matter by agreement between KPRL and the law firm except in cases of earlier cessation of instructions.

8.6.2 KPRL or its representative(s) shall have the right to inspect and confirm this demonstration of the law firm's performance, capacity, equipment, premises, and to confirm their conformity to the Conditions of Appointment. This shall include any Quality Management System.

8.6.3 KPRL shall meet its own costs of the inspections/ visits. These may be done on the law firm's offices, courts or any other place at the discretion of KPRL.

8.6.4 Where conducted on the premises of the law firm(s), all reasonable facilities and assistance, including access to literature and documentation save for other client's confidential information shall be furnished to KPRL representative(s) at no charge to KPRL.

8.6.5 A Demonstration/Visitation Report(s) may be completed by KPRL upon conclusion of the inspection/ visitation. This Report where done shall be considered during periodical review with the law firm for purposes of improvement in the engagement between the Parties, performance, analysis and continued empanelling or re-appointment at the end of the Period.

8.6.6 Nothing in this clause 8.6 shall in any way be construed as a Waiver of any kind whatsoever or release the law firm from any of its obligations under the Advocates Act as and when it is engaged in any matter by KPRL.

8.7 Nature of the Conditions

8.7.1 The Tender and enlisting of the law firm on KPRL's Panel shall not constitute a retainer or contract.

8.7.2 KPRL does not bind itself to request the law firm for provision of any Service during any time in which the law firm is on its Panel.

8.8 Interest

8.8.1 Where the law firm is instructed by KPRL on any assignment or matter, it is hereby agreed that interest payment by KPRL is inapplicable on any charges or fees accruing to the law firm.

8.9 Fees and Rates

8.9.1 Where professional fees, charges or payments of any kind are due and owing to the law firm, the guide for payment shall be the relevant Advocates (Remuneration)(Amendment) Order except as stated for Schedule V thereon.

8.9.2 The billing shall be considered on a case by case basis and subject to agreement between KPRL and the law firm. Should there be a difference on this, then KPRL and the law firm, may by agreement, refer the issue to Taxation with each Party bearing their own costs for the Taxation.

8.9.3 The Parties recognize that the present 5th Schedule of the Advocates (Remuneration) (Amendment) Order, 2014 under the Advocates Act, Cap. 16 provides for an hourly billing system or an amount fixed by agreement between KPRL and the firm. Where fees or charges are due and owing to the law firm and it is agreed prior thereto between the law firm and KPRL that the same should be paid on the basis of Schedule V, then and in that event, the Parties shall discuss the quantum thereof with regard to the figures indicated by the law firm in its Application at Section V – 'Method of Charging for Services'.

8.10 Assignment

8.10.1 The law firm shall not assign or in whole or in part its appointment by virtue of its being on the Panel or assign or sub-contract its obligations to perform when instructed by KPRL except as may be prescribed.

8.10.2 In the event that a sub-contract is permissible and the law firm sub-contracts its role, the responsibility and onus over the instructions given to the law firm shall rest with the law firm that is appointed by KPRL.

8.11 Resolution of Disputes

8.11.1 KPRL and the law firm may make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with its appointment to the Panel or during the performance of any services rendered by the firm.

8.11.2 Where the Parties are of the opinion that direct informal negotiation has been unable to amicably resolve the dispute, within 30 days from the date of institution of such negotiations, or, where it is deemed not appropriate either Party may refer the matter to the High Court of Kenya for determination.

8.12 Language and Law

8.12.1 The language of the GCA and the law governing any ensuing contract shall be the English language and the laws of Kenya respectively unless otherwise stated.

8.13 Waiver

8.13.1 Any omission or failure by KPRL to exercise any of its rights or enforce any of the penalties arising from the obligations imposed on the law firm shall in no way, manner or otherwise howsoever, alter, amend, prejudice, vary, waive or be deemed to alter, amend, prejudice, vary, waive or otherwise whatsoever any of KPRL's powers and rights as expressly provided in and as regards the GCA and any ensuing contract.

8.14 Force Majeure

8.14.1 Force majeure means any circumstances beyond the control of the parties, including but not limited to:-

- a) war and other hostilities (whether war be declared or not), invasion, act of foreign enemies, mobilization, requisition or embargo;
- b) ionizing radiation or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosives or other hazardous properties of any explosive nuclear assembly or nuclear components thereof;
- c) rebellion, revolution, insurrection, military or usurped power & civil war;
- d) riot, commotion or disorder except where solely restricted to employees' servants or agents of the parties;
- e) un-navigable storm or tempest at sea.

8.14.2 Notwithstanding the provisions of the GCA, neither Party shall be considered to be in default or in breach of its obligations under the GCA or any ensuing contract to the extent that performance of such obligations is prevented by any circumstances of force majeure which arise after the GCA.

8.14.3 If either Party considers that any circumstances of force majeure are occurring or have occurred which may affect performance of its obligations it shall promptly notify the other Party and provide reasonable proof of such circumstances.

8.14.4 Upon the occurrence of any circumstances of force majeure, the law firm shall endeavour to continue to perform its obligations so far as is reasonably practicable. The law firm shall notify KPRL of the steps it proposes to take including any reasonable alternative means for performance, which is not prevented by force majeure. The law firm shall not take any such steps unless directed so to do by KPRL.

8.14.5 If the law firm incurs additional costs in complying with KPRL's directions under sub clause 8.14.4, then notwithstanding the provisions of the GCA and any ensuing contract, the amount thereof shall be agreed upon with KPRL and added to the fees and charges payable.

8.14.6 If circumstances of force majeure have occurred and shall continue for a period of twenty-one (21) days then, notwithstanding that the law firm may by reason thereof have been granted an extension of time for performance of the services, either Party shall be entitled to serve upon the other seven (7) days' notice to terminate the instructions. If at the expiry of the period of twenty-eight (28) days, force majeure shall still continue, the services at the option of either Party shall terminate.

SECTION IX - CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

All law firms are requested to give the particulars indicated in Part 1 and either Part 2 (a) or 2 (b), whichever applies to your type of business. You are advised that it is a serious offence to give false information on this form.

Part 1 – General

Business Name.....

Location of business premises.....

Plot No.Street/ Road

Postal Address Postal Code

Tel. No.....

Mobile and/ or CDMA No.....

E-mail:.....

Nature of your business

Registration Certificate No.....

Name of your BankersBranch... ..

*Names of law firm's contact person(s)

Designation/ capacity of the law firm's contact person(s).....

Address, Tel, Fax and E-mail of the law firm's contact person(s).....

<p>Part 2 (a) Sole Proprietor</p> <p>Your name in full</p> <p>Citizenship including whether by birth, marriage, registration or naturalisation.....</p>												
<p>Part 2 (b) Partnership</p> <p>Give details of partners as follows: -</p> <table border="0"> <thead> <tr> <th>Names</th> <th>Shares</th> </tr> </thead> <tbody> <tr><td>1.....</td><td></td></tr> <tr><td>2.....</td><td></td></tr> <tr><td>3.....</td><td></td></tr> <tr><td>4.....</td><td></td></tr> <tr><td>5.....</td><td></td></tr> </tbody> </table> <p>Give citizenship of each Partner including whether by birth, marriage, registration or naturalisation.....</p> <p>Name of duly authorized person to sign for and on behalf of the law firm</p> <p>Capacity of the duly authorized person.....</p> <p>Signature of the duly authorized person.....</p>	Names	Shares	1.....		2.....		3.....		4.....		5.....	
Names	Shares											
1.....												
2.....												
3.....												
4.....												
5.....												

Notes to the Law Firms on the Questionnaire

1. The address and contact person of the Law firm provided above shall at all times be used for purposes of this Application.
2. The details on this Form are essential and compulsory for all law firms. **Failure to provide all the information requested may lead to the law firm’s disqualification.**

SECTION X – LIST OF LAW FIRM’S REFERENCES

The law firm is requested to provide the list of its references. Please refer to the Tender Document including ITA paragraph 3.7 and Evaluation Criteria Table 6.2.2

- 1.
- 2.

3.

4.

5.

6.

Yours sincerely,

Full name of law firm

Signature of duly authorised person signing the Application

Name and Capacity of duly authorised person signing the Application

Stamp of the
law firm

SECTION XI – FORMAT OF CONFLICT-OF-INTEREST FORM

1. Full name of lawyer(s) involved in the matter
2. Name of third party involved in the matter
3. Nature of the matter
(E.g. Claim for negligence; personal injury; damage to property; electricity billing, commercial transaction)
4. Brief Details
(Including when and where the dispute arose; amount involved or the commercial transaction)
5. Case Number (where applicable)
6. Date of commencement of the matter where there was/is litigation
7. Present position of the matter

Yours sincerely,

Full name of law firm

Signature of duly authorised person signing the Application

Name and Capacity of duly authorised person signing the Application

Stamp of the law firm

SECTION XII FORMAT OF CURRICULUM VITAE (CV)

Position Title and No.	
Name of Expert:	<i>{Insert full name}</i>
Date of Birth:	<i>{day/month/year}</i>
Country of Citizenship	

Education: *{List college/university or other specialized education, giving names of educational institutions, dates attended, degree(s)/diploma(s) obtained}*

Employment record relevant to the assignment: *{Starting with present position, list in reverse order. Please provide dates, name of employing organization, titles of positions held, types of activities performed and location of the assignment, and contact information of previous Procuring Entity's and employing organization(s) who can be contacted for references. Past employment that is not relevant to the assignment does not need to be included.}*

Period	Employing organization and your title/position. Contact Information for references	Country	Summary of activities performed relevant to the Assignment
[e.g., May 2011-present]	[e.g., Ministry of, legal advisor/consultant to... For references: Tel...../e-mail.....; Mr. Bbbbbb, deputy manager]		

Membership in Professional Associations and Publications:

Language Skills (indicate only languages in which you can work): _____

Adequacy for the Assignment:

Detailed Tasks Assigned:	Reference to Prior Work/Assignments that Best Illustrates Capability to Handle the Assignment
{List all deliverables/tasks which the legal expert will be involved}	

Contact information :(e-mail.....
phone.....)

Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience, and I am available to undertake the assignment in case of an award. I understand that any misstatement or misrepresentation described herein may lead to my disqualification or dismissal by the Procuring Entity, and/or sanctions by the PPRA.

Name of Legal Expert _____ Signature _____ Date _____
{ day / month/year }

Name of authorized person _____

Signature. _____ Date _____

Representative of the Law firm (the same who signs the registration documents)

SECTION XIII SELF-DECLARATION FORMS

FORM SD1

SELF DECLARATION THAT THE PERSON/TENDERER IS NOT DEBARRED IN THE MATTER OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL ACT 2015.

I,, of Post Office Box being a resident of in the Republic of do hereby make a statement as follows: -

1. THAT I am the Company Secretary/Chief Executive/Managing Director/Principal Officer/Director of (Insert name of the Company) who is a Bidder in respect of **Tender No.** for (Insert tender title/description) for (Insert name of the Procuring entity) and duly authorized and competent to make this statement.
2. THAT the aforesaid Bidder, its Directors and subcontractors have not been debarred from participating in procurement proceeding under Part IV of the Act.
3. THAT what is deposed to here in above is true to the best of my knowledge, information and belief.

.....
(Title)

.....
(Signature)

.....
(Date)

Bidder Official Stamp

FORM SD2

SELF DECLARATION THAT THE PERSON/TENDERER WILL NOT ENGAGE IN ANY CORRUPT OR FRAUDULENT PRACTICE.

I, of P. O. Box.....being a resident of in the Republic of do hereby make a statement as follows: -

1. THAT I am the Chief Executive/Managing Director/Principal Officer/Director of.....
..... (*insert name of the Company*) who is a Bidder in respect of **Tender No.** for (*insert tender title/description*) for (*insert name of the Procuring entity*) and duly authorized and competent to make this statement.
2. THAT the aforesaid Bidder, its servants and/or agents /subcontractors will not engage in any corrupt or fraudulent practice and has not been requested to pay any inducement to any member of the Board, Management, Staff and/or employees and/ or agents of.....
(*insert name of the Procuring entity*) which is the procuring entity.
3. THAT the aforesaid Bidder, its servants and/or agents /subcontractors have not offered any inducement to any member of the Board, Management, Staff and/or employees and/or agents of..... (*name of the procuring entity*).
4. THAT the aforesaid Bidder will not engage /has not engaged in any corrosive practice with other bidders participating in the subject tender.
5. THAT what is deponed to herein above is true to the best of my knowledge information and belief.

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

Bidder Official Stamp