



CONTRACT FOR INDIVIDUAL CONSULTANT

SHORT TERM CONSULTANCY TO IDENTIFY AND EVALUATE TECHNOLOGY TOOLS AND SOLUTIONS IN AGRICULTURAL VALUE ADDITION PRODUCTS IN EAC REGION.

Between

East African Science and Technology Commission (EASTEKO)

And

XXXXXXXXXXXXXXXXXX

Contract Number: EAC/ESTECO/CONS/005/2020

THIS Contract (“Contract”) is made on.....day of the month of **October, 2020**, between, **on the one hand,**

East African Science and Technology Commission (EASTEKO) (Hereinafter called the “Procuring Entity”) with the registered business on **2ND floor, Telecom House, Kacyiru, Kigali, Rwanda;**

And, on the other hand,

xxxxxxx, (Hereinafter called the “Individual Consultant”), with the residence **of xxxxxxxx, of Email:xxxx and Tel xxxxxx**, citizen of **the Republic of xxxx** and owner of the ID/Passport Number **xxxxxxx** issued in **xxxx** by **the Republic of xxxxxx**,

WHEREAS, the Procuring Entity wishes to have the Individual Consultant perform the services hereinafter referred to, and WHEREAS, the Individual Consultant is willing to perform these services,

NOW THEREFORE THE PARTIES hereby agree as follows:

1. Definitions

For the purpose of this contract the following definitions shall be used:

- 1.1 **Procuring Entity** means the legal entity, namely **EASTEKO** who purchase the Services described in **Annex 1** to this contract.
- 1.2 **Contract** means the agreement covered by these Terms including the **Annexes** and documents incorporated and/or referred to therein, and attachments thereto.
- 1.3 **Contract value** means the total price of **USD. xxxxxx as negotiated** on **xxxxxx** from the fee of **USD. xxxx** indicated on the Financial Proposal included in the Individual Consultant’s Expression of Interests dated **xxxx**, for the above consultancy and as reflected in the minutes/report of the negotiation attached as **Annex 3** of this contract.
- 1.4 **Individual Consultant** means the individual to whom the Procuring Entity has awarded this contract following the Request for Expression of Interest **EAC/ESTECO/CONS/005/2020: Consultancy to identify and evaluate technology tools and solutions in agricultural value addition products in EAC region.**
- 1.5 **Services** means the Services to be performed by the Individual Consultant as more particularly described in **Annex 1**; for the avoidance of doubt the Services to be performed include all obligations referred to in this Contract (as defined above).

2. The Services

The Individual Consultant will undertake the performance of the Services in accordance with the provisions of the **Annex 1** of this Contract and shall in the performance of the Services exercise all the reasonable skill, care and diligence to be expected of an Individual Consultant carrying out such services.

3. Payment

- 3.1 The Individual Consultant shall be paid for the Services at the rates and upon the terms set out in **Annex 2**.
- 3.2 Payment shall be made to the Individual Consultant in US \$ unless otherwise provided by this contract and where applicable VAT or other taxes shall be payable on such sums at the

applicable rate. The Individual Consultant must, in all cases, provide their VAT/PIN registration number on all invoices.

- 3.3 Unless otherwise provided in this Contract, invoices shall be delivered to and made out to Procuring Entity and shall be paid within 30 days of receipt by Principal Officer, Scientific Research and Development (POSRD), subject to the Individual Consultant having complied with its obligations hereunder in full as stated in the **Annex I** to this Contract. Procuring Entity reserves the right to delay and/or withhold, fully or partially, payments that have not been supported by full and appropriate supporting evidence that the services provided were delivered and accepted by the Procuring Entity.

4. Status of the Individual Consultant

- 4.1 For the duration of the Contract the Individual Consultant is NOT entitled to have a status similar to the Procuring Entity's employees with regards to their legal obligations, privileges and indemnities in the Procuring Entity's country.
- 4.2 The Procuring Entity will be responsible for ensuring all visas, work permits and other legal requirements to enable The Individual Consultant to live and work in the countries of the assignment as per the duties under the contract.
- 4.3 The Individual Consultant shall be responsible for paying any tax and social security contributions in its country of residence, for any activity deriving from this contract. Such costs shall be assumed included in the Individual Consultant's fees.
- 4.4 The Procuring Entity shall be responsible for paying any taxes resulting from the activities performed under this contract imposed to the Individual in the country (ies) of the assignment with the exception of the ones set out in paragraph 4.3 above.

5. Supervision of the Services

The Individual Consultant undertakes to deliver the Services in compliance with a system of quality assurance acceptable to Procuring Entity which shall include any steps to comply with the standards operated by Procuring Entity. The Individual Consultant shall be informed of the specific requirements in relation to this, and at the request of Procuring Entity shall afford such access to its information, records and other materials during normal office working hours as Procuring Entity may require in order to confirm that the work in progress is in accordance with these quality procedures.

6. Compliance with this contract

Procuring Entity will be entitled to seek confirmation from the Individual Consultant, at any time during the delivery of this contract, and for a period of 1 year after its completion, that the Individual Consultant has complied with the terms of this contract. Procuring Entity may also request the provision of reasonable documentary evidence to support this. As stated in article 2.3 of this Contract, Procuring Entity may delay or withhold payments in the event of non-compliance.

7. Assignment and Subcontracting

- 7.1 The Individual Consultant shall under no circumstances sub-contract, sublet, assign or transfer the Contract or any part share or interest in it. Where the Individual Consultant considers it necessary to use the services of a third party the Individual Consultant shall inform the Procuring Entity the Principal Officer, Scientific Research and Development (POSRD) in writing, and only once written approval is provided can the Individual Consultant proceed to use a third party.
- 7.2 When the Executive Secretary agrees that the activities under the contract can be performed by third party, the third party involved in the delivery of services in this contract, will be under the direct control of Individual Consultant. Procuring Entity will not be responsible for the third party performance of duties or Services assigned to third party, and neither for ensuring conditions of employment are met nor for any

other employment obligations relating to that person including, but not restricted to, taxation and insurance including professional indemnity insurance, employer's liability insurance and public liability insurance.

8. Breach of the Terms

In the event of a breach of any Terms of the Contract the party not in breach may serve a notice on the party in breach requiring the breach to be remedied within a period specified in the notice, not normally being longer than 30 days. If the breach has not been remedied before the expiry of the specified period, the party not in breach may then terminate the Contract in writing and may take appropriate steps to remedy the breach.

9. Liability of the Individual Consultant

9.1 Procuring Entity will be relying on the Individual Consultant's skills, expertise and experience in relation to the performance of the Services in accordance with this contract and also upon the accuracy of all representations and statements made and the advice given by the Individual Consultant in connection with the provision of the Services.

9.2 In view of the reliance by Procuring Entity set out in 10.1 above the Individual Consultant agrees at its own expense to indemnify, protect and defend Procuring Entity, its agents and employees, from and against all actions, claims, losses or damages arising out of the Individual Consultant's performance of this contract provided that:

- a) the Individual Consultant is notified of such actions, claims, losses or damages not later than 30 days after Procuring Entity becomes aware of them;
- b) the ceiling on the Individual Consultant's liability to Procuring Entity shall be limited to an amount equal to the contract value, and such ceiling shall not apply to any losses or damages caused to third parties by the Individual Consultant or by the Individual Consultant's willful misconduct; and
- c) the Individual Consultant's liability shall be limited to actions, claims, losses or damages directly caused by such failure to perform its obligations under the contract and shall not include liability arising from unforeseeable occurrences incidental or indirectly consequential to such failure.

9.3 At its own expense, the Individual Consultant shall, upon request of Procuring Entity, remedy any defect in the performance of the services in the event of the Individual Consultant's failure to perform its obligations under the contract.

9.4 The Individual Consultant shall have no liability whatsoever for actions, claims, losses or damages occasioned by Procuring Entity omitting to act on any recommendation, or overriding any act, decision or recommendation, of the Individual Consultant, or requiring the Individual Consultant to implement a decision or recommendation with which the Individual Consultant disagrees or on which it expresses a serious reservation.

10. Insurance (only if it's necessary to the consultant. This is NOT a requirement)

10.1 ONLY IF NECESSARY to him, the Individual Consultant will ensure that full and appropriate professional indemnity insurance, third party liability insurance, life/travel and health insurance is in place for all Services provided.

10.2 The cost of such insurances will be covered under the quoted man-day fee of the contract.

10.3 Where national requirements or practices provide for different regulations/practices concerning insurance, the Individual Consultant may provide written confirmation of all insurances held and a signed declaration that these are in line with regulations/practices in their country of operation. Only if such confirmation has been provided, and written confirmation of its acceptance provided to the Individual Consultant by Procuring Entity, will this remove the obligation to meet the requirements of clause 11.1 of this Contract in full.

- 10.4 All insurances effected by the Individual Consultant shall be effected with an insurer of good repute and the Individual Consultant agrees to maintain such insurances for a period of 1 year from the completion of the Services under this Contract so long as such insurance continues to be available upon reasonable terms at reasonable commercial rates failing which Procuring Entity shall be entitled to take out insurance itself to cover any potential liability to its own Procuring Entity in relation to the performance of the Services under this contract. The cost of such insurance shall be a debt immediately due from the Individual Consultant.
- 10.5 The provisions of this clause shall remain in full force and effect notwithstanding the completion of the performance of the Services hereunder and the satisfaction of all other provisions of this contract.

11. Copyright

- 11.1 Unless otherwise specified in the Contract, the title of the copyright and any other intellectual property rights arising out of the performance of this Contract shall be vested in Procuring Entity which shall have the unfettered right to assign and grant sub-licenses in respect of the same. Except as permitted by the Terms of this Contract, the said materials shall not be reproduced or disseminated without proper consultation with, and written permission from, the Procuring Entity. This provision shall apply to the title to rights arising from the performance under this contract but shall not apply to the internal systems or rights in relation to the Individual Consultant's own systems not created specifically for this purpose and where the same are an important part of the Services the Individual Consultant shall grant a free and irrevocable license to Procuring Entity and its assigns for the use of the same in that connection.
- 11.2 The Individual Consultant warrants that it is free of any duties or obligations to third parties which may conflict with this contract and, without prejudice to the generality of Term 9 above, agrees to indemnify Procuring Entity against any and all actions, costs damages, direct, indirect or consequential, and other expenses of any nature whatsoever which Procuring Entity may incur or suffer as a result of the breach by the Individual Consultant of this warranty.

12. Non-Disclosure & Confidentiality

- 12.1 The Individual Consultant will treat as confidential all information and results obtained in discharging the Services under this Contract and will not disclose by any means whatsoever such results or material to any third party without the prior written consent of the Procuring Entity and will only use such information for the purposes of this Contract. In addition the Individual Consultant shall not make any communication to the press or any broadcast (including, but not limited to, inclusion of information on a website) about the Services without the prior agreement in writing of the Principal Officer, Scientific Research and Development (POSRD).
- 12.2 If the Individual Consultant violates clause 12.1, then it will automatically and legally be held to pay the amount estimated as the minimum reasonable damages resulting from a breach of confidentiality. This is without prejudice to the right of Procuring Entity to demonstrate that a higher amount of loss has or may be incurred as a result of liabilities held by Procuring Entity in relation to the Procuring Entity.

13. Suspension or Termination

- 13.1 In response to any factors outside the control of Procuring Entity and/or to breaches of contract, Procuring Entity may at any time, by giving 30 days' notice in writing, terminate in whole or in part the Individual Consultant's appointment hereunder but in the event of Procuring Entity doing so then the Individual Consultant shall be entitled to payment as set out in sub-clause 14.4 below.
- 13.2 In response to any factors outside the control of Procuring Entity and/or to breaches of contract, Procuring Entity may at any time, by giving 30 days' notice in writing, forthwith require the Individual Consultant to suspend the performance of the Services and in such event the Individual Consultant shall be entitled to payment pursuant to sub-clause 13.4 below and

- 13.3 provided that if such suspension continues for a period in excess of twelve months then either party may terminate this appointment forthwith by written notice to the other.
- 13.4 The Individual Consultant may also terminate the contract unilaterally, without providing any reasons for such decision, if she/he gives a 30 days prior written notice to the Principal Officer, Scientific Research and Development (POSRD).
- 13.5 In the event of early termination of the Contract under sub-clauses 13.1, 13.2 and 13.3 of this clause then the Individual Consultant shall be entitled to a fair and reasonable proportion of the fees payable for that part of the Services carried out up to the date of such termination or suspension but this shall not include any loss of profit or contracts or any other expenses, losses or claims arising out of such termination or suspension or consequential thereupon.

14. No Waiver

No forbearance shown or granted to the Individual Consultant unless in writing by an authorized officer of Procuring Entity shall in any way affect or prejudice the rights of Procuring Entity or be taken as a waiver of any of these Terms.

15. Notices and Addresses

15.1. Any notice or request required or permitted to be given or made under this contract shall be in writing.

15.2. A notice or request shall be deemed to have been duly given or made when it shall have been delivered by hand, mail, fax, or email to the party which it is addressed or made at such party's address specified above or such other address as shall be hereafter notified in writing.

16. Force Majeure

16.1. Neither of the Parties is liable for any delay of failure to perform its obligations under this contract by an event of Force Majeure, provided that such event was beyond the reasonable control, and was not reasonably foreseeable and without deliberate default or negligence of the party claiming an event of Force Majeure, and which directly results in that party's ability, notwithstanding all reasonable efforts, to perform its obligations in whole or in part.

16.2. Neither party shall be considered to be in default or breach of its obligations under this contract to the extent that performance of such obligations is prevented by an event of Force Majeure which arises after the date of execution of this contract.

16.3. If either party considers any event of Force Majeure has occurred which may affect performance of its obligations, it shall promptly notify the other party in writing thereof not later than 7 (Seven) days following the occurrence of the event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.

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

16.5. If the contract or part thereof shall become impossible to perform due to Force Majeure, the contract or part thereof may be terminated by mutual consent.

16.6. Should the services be terminated in whole or in part in accordance with this clause then any payment due for any services already provided by the Service provider shall be paid and any sums belonging to the EAC, being held by the Service Provider, for carrying out this contract shall be returned to the EAC forthwith.

16.7. Not later than 14 (Fourteen) days after the Service provider and the EAC, as a result of an event of Force Majeure, have become unable to perform a material portion of the contract, the parties shall consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.

17. Survival and Provisions

17.1. The terms and provisions of this contract that by their nature and content are intended to survive the performance hereof by any or all parties hereto shall so survive any termination of this contract.

17.2. All rights and remedies conferred under this contract or by law shall be cumulative and may be exercised singularly and concurrently.

18. Amendment

The Parties may in writing agree to vary, modify or amend this Contract.

19. Variations

Any variation to these terms or the provisions of the **Annexes** shall be subject to written Addendum and be signed by duly authorized signatories on behalf of the Individual Consultant and Procuring Entity respectively.

20. Jurisdiction

This contract shall be governed by and shall be construed in accordance with relevant provisions of the East African Treaty and Protocols and each party agrees to submit to the exclusive jurisdiction of the East African Court of Justice as regards any claim or matter arising under this contract.

IN WITNESS whereof, and intending to be legally bound, the Parties have duly executed this Contract by their authorized representatives as of the date first above mentioned.

EAST AFRICAN SCIENCE AND TECHNOLOGY COMMISSION:

THE Consultant:

Name: Mr. Fortunate Muyambi

Name: xxxxxxxxxxxxxxxxx

Signature:

Signature:.....

The following Annexes are integral part of this Contract:

- Annex 1: Terms of Reference*
- Annex 2: Payment Schedule and Requirements*
- Annex 3: Signed Minutes of negotiation.*