



**LAKE VICTORIA SOUTH WATER WORKS DEVELOPMENT
AGENCY**

**TENDER DOCUMENT
FRAMEWORK AGREEMENT**

**RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO
PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI
COUNTY**

TENDER No: LVSWWDA/T/10/2024-2025: FA

**ALL TENDERERS ARE ADVISED TO READ CAREFULLY THIS TENDER
DOCUMENT IN ITS ENTIRETY BEFORE MAKING ANY BID**

FEBRUARY, 2025

(Procurement Reserved for Women owned firms only)

**RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY
SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY**

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ABBREVIATIONS AND ACRONYMS

CDS	Contract Data Sheet
GCC	General Conditions of Contract
IFT	Invitation for Tender
ITT	Instruction to Tenderers
PE	Procuring Entity
PM	Project Manager
PPADA 2015	Public Procurement and Asset Disposal Act, 2015
PPDR 2020	Public Procurement and Asset Disposal Regulations, 2020
PPRA	Public Procurement Regulatory Authority
STD	Standard Tender Documents
SOR	Statement of Requirements
SP	Service Provider
TDS	Tender Data Sheet
VAT	Value Added Tax

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

SECTION I: INVITATION FOR TENDERS (IFT)

LAKE VICTORIA SOUTH WATER WORKS DEVELOPMENT AGENCY

The Lake Victoria South Water Works Development Agency (LVSWWDA) now invites sealed Tenders from contractors duly registered in the Republic of Kenya with National Construction Authority NCA category 6 (Water Works) or above and listed under Framework Agreement for Maintenance, Rehabilitation/Drilling and Equipping of Boreholes and Shallow Wells within Lake Victoria South Water Works Development Agency Area of Jurisdiction on A Framework Agreement of Two (2) Years.

The LVSWWDA has funds for use during this financial year 2024-2025. It is intended that part of the proceeds of the fund will be used to cover eligible payments under the contract for Rainwater Harvesting and Sanitation for Bogambero Primary School in Kuria West Constituency, Migori County

1. Tendering will be conducted through the procurement procedures specified in the Public Procurement and Asset Disposal Act, 2015 and the Public Procurement and Asset Disposal Regulations, 2020.
2. Qualified and interested tenderers may obtain further information and inspect the Tender Documents during office hours from 9.00am to 5.00pm at the address given below.
3. Tender documents will be dispatched to tenderers through their official email addresses free of charge.
5. Dully completed tender document in plain sealed envelopes to be delivered to the **tender box** situated in address below;

Lake Victoria South Water Works Development Agency
Lavictors house, Off-Ring Road, Milimani
P.O. Box 3325, Kisumu-Kenya
Tel: +254-57-2025128, Fax: +254-57-2025127
Email: info@lvswda.go.ke

Or be deposited in the tender box situated on the First Floor of Lavictor's House so as to be received on or before, **11th February 2025 at 10.00am Kenya Time.**

6. **Late Tenders shall not be accepted.**
7. The Tenderer shall chronologically serialize all pages of the tender documents submitted.
8. Tenders will be opened immediately after the deadline date and time specified above or any deadline date and times specified later. Tenders will be publicly opened in the presence of the Tenderers' designated representatives who choose to attend at the address above.

CHIEF EXECUTIVE OFFICER
LAKE VICTORIA SOUTH WATER WORKS DEVELOPMENT AGENCY

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Introduction

Scope of Tender

- 1.1 The Lake Victoria South Water Works Development Agency indicated in the **Tender Data Sheet** (TDS) invites Tenders for the construction of works as specified in the **Tender Data Sheet** and Sections VI (Technical Specifications) and VII (Drawings).
- 1.2 The successful Tenderer will be expected to complete the works by the required COMPLETION date specified in the **Tender Data Sheet**.
- 1.3 The objectives of the works are listed in the **Tender Data Sheet**. These are mandatory requirements. Any subsequent detail is offered to support these objectives and must not be used to dilute their importance.

Source of Funds

- 2.1 The Government of Kenya has set aside funds for the use of the Lake Victoria South Water Works Development Agency named in the **Tender Data Sheet** during the Financial Year indicated in the **Tender Data Sheet**. It is intended that part of the proceeds of the funds will be applied to cover eligible payments under the contract for the works as described in the **Tender Data Sheet**.

Or

The Government of Kenya through Lake Victoria South Water Works Development Agency named in the **Tender Data Sheet** has applied for/received/ intends to apply for a [loan/credit/grant] from the financing institution named in the **Tender Data Sheet** towards the cost of the Project named in the **Tender Data Sheet**. The Government of Kenya intends to apply a part of the proceeds of this [loan/credit/grant] to payments under the Contract described in the **Tender Data Sheet**.

- 2.2 Payments will be made directly by the Lake Victoria South Water Works Development Agency (or by financing institution specified in the **Tender Data Sheet** upon request of the Lake Victoria South Water Works Development Agency to so pay) and will be subject in all respects to the terms and conditions of the resulting contract placed by the Lake Victoria South Water Works Development Agency.

Eligible Tenderers

- 3.1 A Tenderer may be a natural person, private or public company, government-owned institution, subject to sub-Clause 3.4 or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a joint venture, consortium, or association. In the case of a joint venture, consortium, or association, unless otherwise specified in the **Tender Data Sheet**, all parties shall be jointly and severally liable.
- 3.2 The Invitation for Tenders is open to all suppliers as defined in the Public Procurement and Asset Disposal Act, 2015 and the Public Procurement and Disposal Regulations, 2006 except as provided hereinafter.
- 3.3 National Tenderers shall satisfy all relevant licensing and/or registration with the appropriate statutory bodies in Kenya, such as the Ministry of Public Works or the Energy Regulatory Commission.

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- 3.4** A Tenderer shall not have a conflict of interest. All Tenderers found to have a conflict of interest shall be disqualified. A Tenderer may be considered to have a conflict of interest with one or more parties in this Tendering process, if they:

Are associated or have been associated in the past directly or indirectly with employees or agents of the Lake Victoria South Water Works Development Agency or a member of a board or committee of the Lake Victoria South Water Works Development Agency;

Are associated or have been associated in the past, directly or indirectly with a firm or any of its affiliates which have been engaged by the Lake Victoria South Water Works Development Agency to provide consulting services for the preparation of the design, specifications and other documents to be used for the procurement of the works under this Invitation for Tenders;

Have controlling shareholders in common; or

Receive or have received any direct or indirect subsidy from any of them; or

Have the same legal representative for purposes of this Tender; or

Have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Tender of another Tenderer, or influence the decisions of the Lake Victoria South Water Works Development Agency regarding this Tendering process; or

Submit more than one Tender in this Tendering process, However, this does not limit the participation of subcontractors in more than one Tender, or as Tenderer and subcontractor simultaneously.

- 3.5** A Tenderer will be considered to have a conflict of interest if they participated as a consultant in the preparation of the design or technical specification of the project and related services that are the subject of the Tender.
- 3.6** Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices issued by the Government of Kenya in accordance with GCC sub-Clause 3.2.
- 3.7** Government owned enterprises in Kenya may participate only if they are legally and financially autonomous, if they operate under commercial law, are registered by the relevant registration board or authorities and if they are not a dependent agency of the Government.
- 3.7** Tenderers shall provide such evidence of their continued eligibility satisfactory to the Lake Victoria South Water Works Development Agency, as the Lake Victoria South Water Works Development Agency shall reasonably request.
- One Tender per Tenderer** **4.1** A firm shall submit only one Tender, in the same Tendering process, either individually as a Tenderer or as a partner in a joint venture pursuant to ITT Clause 5.

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- 4.2 No firm can be a subcontractor while submitting a Tender individually or as a partner of a joint venture in the same Tendering process.
- 4.3 A firm, if acting in the capacity of subcontractor in any Tender, may participate in more than one Tender but only in that capacity.
- 4.4 A Tenderer who submits or participates in more than one Tender (other than as a subcontractor or in cases of alternatives that have been permitted or requested) will cause all the Tenders in which the Tenderer has participated to be disqualified.
- Alternative Tenders by Tenderers**
- 5.1 Tenderers shall submit offers that comply with the requirements of the Tendering documents, including the basic Tenderer's technical design as indicated in the specifications and Drawings and Bill of Quantities. Alternatives will not be considered, unless specifically allowed for in the **Tender Data Sheet**. If so allowed, sub-Clause 5.2 and 5.3 shall govern.
- 5.2 When alternative times for COMPLETION are explicitly invited, a statement to that effect will be included in the **Tender Data Sheet** as will the method of evaluating different times for COMPLETION.
- 5.3 If so allowed in the **Tender Data Sheet**, Tenderers wishing to offer technical alternatives to the requirements of the Tendering documents must also submit a Tender that complies with the requirements of the Tendering documents, including the basic technical design as indicated in the specifications. In addition to submitting the basic Tender, the Tenderer shall provide all information necessary for a complete evaluation of the alternative by the Lake Victoria South Water Works Development Agency, including technical specifications, breakdown of prices, and other relevant details. Only the technical alternatives, if any, of the lowest evaluated Tenderer conforming to the basic technical requirements shall be considered by the Lake Victoria South Water Works Development Agency.
- Cost of Tendering**
- 6.1 The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the Lake Victoria South Water Works Development Agency shall in no case be responsible or liable for those costs, regardless of the conduct or outcome of the Tendering process.
- Site Visit and Pre-Tender Meeting**
- 7.1 The Tenderer, at the Tenderer's own responsibility and risk, is advised to visit and examine the Site of Works and its surroundings and obtain all information that may be necessary for preparing the Tender and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Tenderer's own expense.
- 7.2 The Lake Victoria South Water Works Development Agency may conduct a site visit and a pre-Tender meeting. The purpose of the pre-Tender meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 7.3 The Tenderer's designated representative is invited to attend a site visit and pre-Tender meeting which, if convened, will take place at the venue and time stipulated in the **Tender Data Sheet**.
- 7.4 The Tenderer is requested as far as possible, to submit any questions in writing or by electronic means to reach the Lake Victoria South Water

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Works Development Agency before the pre-Tender meeting. It may not be practicable at the meeting to answer all questions, but questions and responses will be transmitted in accordance with sub-Clause 7.5.

- 7.5 Minutes of the pre-Tender meeting, including the text of the questions raised and the responses given together with any responses prepared after the pre-Tender meeting will be transmitted within the time stated in the **Tender Data Sheet** to all purchasers of the Tendering documents. Any modification of the Tendering documents listed in sub-Clause 8.1 that may become necessary as a result of the pre-Tender meeting shall be made by the Lake Victoria South Water Works Development Agency exclusively through the issue of an Addendum pursuant to ITT sub Clause 10.2 and not through the minutes of the pre-Tender meeting.
- 7.6 Non-attendance during the site visit or pre-Tender meeting will not be a cause for disqualification of a Tenderer unless specified to the contrary in the **Tender Data Sheet**.

Tendering Documents

Content of Tendering Documents

- 8.1 The works required, Tendering procedures, and contract terms are prescribed in the Tendering Documents. In addition to the Section I Invitation for Tenders, Tendering documents which should be read in conjunction with any addenda issued in accordance with ITT sub Clause 10.2 include:
- Section II Instructions to Tenderers
 - Section III Tender Data Sheet
 - Section IV General Conditions of Contract
 - Section V Contract Data Sheet
 - Section VI Specifications
 - Section VII Drawings
 - Section VIII Bill of Quantities
 - Section IX Forms of Tender
 - Form of Tender
 - Appendix to Tender
 - Confidential Business Questionnaire
 - Integrity Declaration
 - Letter of Acceptance
 - Form of Contract Agreement
 - Section X Forms of Security
 - Tender Security Form
 - Tender Securing Declaration
 - Performance Bank or Insurance Guarantee
 - Advance Payment Guarantee
 - Section XI Form RB 1 Application to Public Procurement Administrative Review Board
- 8.2 The number of copies to be completed and returned with the Tender is specified in the **Tender Data Sheet**.
- 8.3 The Invitation for Tenders (Section I) issued by the Lake Victoria South Water Works Development Agency is not part of the Tendering Documents and is included for reference purposes only. In case of discrepancies between the Invitation for Tenders and the Tendering

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Documents listed in sub-Clause 8.1 above, the said Tendering Documents will take precedence.

8.4 The Lake Victoria South Water Works Development Agency is not responsible for the completeness of the Tendering Documents and their addenda, if they were not obtained directly from the authorized staff of the Lake Victoria South Water Works Development Agency.

8.5 The Tenderer is expected to examine all instructions, forms, terms and specifications in the Tendering documents. Failure to furnish all information required by the Tendering Documents or to submit a Tender substantially responsive to the Tendering documents in every respect will be at the Tenderer's risk and may result in the rejection of its Tender.

Clarification of Tendering Documents

9.1 A prospective Tenderer requiring any clarification of the Tendering documents may notify the Lake Victoria South Water Works Development Agency in writing, e-mail or facsimile at the Lake Victoria South Water Works Development Agency's address indicated in the **Tender Data Sheet**.

9.2 The Lake Victoria South Water Works Development Agency will within the period stated in the **Tender Data Sheet** respond in writing to any request for clarification provided that such request is received no later than the period indicated in the **Tender Data Sheet** prior to the deadline for the submission of Tenders prescribed in sub-Clause 22.1.

9.3 Copies of the Lake Victoria South Water Works Development Agency's response will be forwarded to all Purchasers of the Tendering documents, including a description of the inquiry, but without identifying its source.

9.4 Should the Lake Victoria South Water Works Development Agency deem it necessary to amend the Tendering documents as a result of a clarification, it shall do so following the procedure under ITT Clause 10.

Amendments of the Tendering Documents

10.1 Before the deadline for submission of Tenders, the Lake Victoria South Water Works Development Agency may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Tenderer, modify the Tendering documents by issuing addenda.

10.2 Any addendum issued shall be part of the Tender documents pursuant to sub-Clause 8.1 and shall be communicated in writing, by e-mail or facsimile to all who have obtained the Tendering documents directly from the Lake Victoria South Water Works Development Agency.

10.3 In order to allow prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the Lake Victoria South Water Works Development Agency at its discretion shall extend, as necessary, the deadline for submission of Tenders, in accordance with sub-Clause 22.2

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Preparation of Tenders

Language of Tender 11.1 The Tender, and all correspondence and documents related to the Tender exchanged by the Tenderer and the Lake Victoria South Water Works Development Agency shall be written in the Tender language stipulated in the **Tender Data Sheet**. Supporting documents and printed literature furnished by the Tenderer may be in another language provided they are accompanied by an accurate translation of the relevant passages in the above stated language, in which case, for purposes of interpretation of the Tender, the translation shall prevail.

**Documents
Constituting the
Tender**

12.1 The Tender submitted by the Tenderer shall consist of the following components:

The Form of Tender (in the format indicated in Section IX) completed in accordance with ITT Clause 15, 16 and 17;

Information requested by Instructions to Tenderers ITT sub-Clause 13.2; 13.3 and 13.4;

Tender Security or Tender Securing Declaration in accordance with Instructions to Tenderers ITT Clause 19;

Priced Bill of Quantities;

Qualification Information Form and Documents;

Alternative offers where invited in accordance with Instructions to Tenderers ITT Clause 5;

Written confirmation authorizing the signatory of the Tender to commit the Tenderer in accordance with Instructions to Tenderers ITT sub Clause 19.2; and

And any information or other materials required to be completed and submitted by Tenderers, as specified in the **Tender Data Sheet**.

**Documents
Establishing
Eligibility and
Qualifications of the
Tenderer**

13.1 Pursuant to ITT Clause 13, the Tenderer shall furnish, as part of its Tender, documents establishing the Tenderer's eligibility to Tender and its qualifications to perform the contract if its Tender is accepted.

13.2 In the event that pre-qualification of potential Tenderers has been undertaken, only Tenders from pre-qualified Tenderers will be considered for award of contract. These qualified Tenderers should submit their Tenders with any information updating the original pre-qualification applications or, alternatively, confirm in their Tenders that the originally submitted pre-qualification information remains essentially correct as of the date of Tender submission. The update or confirmation should be provided in Section IX.

13.3 If the Lake Victoria South Water Works Development Agency

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has not undertaken pre-qualification of potential Tenderers, to qualify for award of the contract, Tenderers shall meet the minimum qualifying criteria specified in the **Tender Data Sheet**:

- 13.4** Tenders submitted by a joint venture of two or more firms as partners shall comply with the following requirements, unless otherwise stated in the **Tender Data Sheet**:

The Tender shall include all the information listed in the **Tender Data Sheet** pursuant to sub-Clause 13.3 above for each joint venture partner;

The Tender shall be signed so as to be legally binding on all partners;

One of the partners will be nominated as being in charge, and this authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the partners;

The partner in charge shall be authorized to incur liabilities and receive instructions for and on behalf of any and all partners of a joint venture and the entire execution of the Contract, including payment, shall be done exclusively with the partner in charge;

All partners of the joint venture shall be liable jointly and severally for the execution of the contract in accordance with the contract terms and a statement to this effect shall be included in the authorization mentioned under (c) above as well as in the Tender and in the Agreement (in case of a successful Tender); and

A copy of the joint venture agreement entered into by all partner shall be submitted with the Tender. Alternatively, a Letter of Intent to execute a joint venture agreement in the event of a successful Tender shall be signed by all partners and submitted with the Tender, together with a copy of the proposed Agreement.

The Tender Security and Tender Securing Declaration as stated in accordance with ITT Clause 19, and in case of a successful Tender, the Agreement, shall be signed so as to be legally binding on all partners.

Lots Package

- 14.1** When Tendering for more than one contract under the lots arrangements, the Tenderer must provide evidence that it meets or exceeds the sum of all the individual requirements for the lots being tendered in regard to:

Average annual turnover;
Particular experience including key production rates;
Financial means, etc;
Personnel capabilities; and
Equipment capabilities.

- 14.2** In case the Tenderer fail to fully meet any of these criteria, it may

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		be qualified only for those lots for which the Tenderer meets the above requirement.
Form of Tender	15.1	The Tenderer shall fill the Form of Tender furnished in the Tendering Documents. The Form of Tender must be completed without any alterations to its format and no substitute shall be accepted.
Tender Prices	16.1	The Contract shall be for the whole Works, as described in sub-Clause 1.1, based on the priced Bill of Quantities submitted by the Tenderer.
	16.2	The Tenderer shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items for which no rate or price is entered by the Tenderer will not be paid for by the Lake Victoria South Water Works Development Agency when executed and shall be deemed covered by the other rates and prices in the Bill of quantities.
	16.3	All duties, taxes and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 15 days prior to the deadline for submission of Tenders, shall be included in the rates, prices and total Tender price submitted by the Tenderer.
	16.4	The rates and prices quoted by the Tenderer shall be subject to adjustment during the performance of the Contract if provided for in the Tender Data Sheet and the provisions of the Conditions of Contract. The Tenderer shall submit with the Tender all the information required under the Contract Data Sheet .
Tender Currencies	17.1	The unit rates and prices shall be quoted by the Tenderer in the currency as specified in the Tender Data Sheet .
	17.2	Tenderers shall indicate details of their expected foreign currency requirements in the Tender, if any. The rates of exchange to be used by the Tenderers in arriving at the local currency equivalent shall be the selling rates for similar transactions established by the authority specified in the Tender Data Sheet prevailing on the date 28 days prior to the latest deadline for submission of Tenders. These exchange rates shall apply for all payments so that no exchange risk will be borne by the Tenderer. In any case, payments will be computed using the rates quoted in the Tender.
	17.3	Tenderers may be required by the Lake Victoria South Water Works Development Agency to clarify their foreign currency requirements and to substantiate that the amounts included in the rates and prices and in the Contract Data Sheet are reasonable and responsive to sub-Clause 17.1.
Tender Validity Period	18.1	Tenders shall remain valid for the period specified in the Tender Data Sheet after the Tender submission deadline prescribed by the Lake Victoria South Water Works Development Agency, pursuant to ITT Clause 22. A Tender valid for a shorter period shall be rejected by the Lake Victoria South Water Works

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Development Agency as non-responsive.

18.2 In exceptional circumstances, prior to expiry of the original Tender validity period, the Lake Victoria South Water Works Development Agency may request that the Tenderers extend the period of validity for a specified additional period. The request and the Tenderers' responses shall be made in writing or by cable. A Tenderer may refuse the request without forfeiting its Tender Security or causing to be executed its Tender Securing declaration. A Tenderer agreeing to the request will not be required or permitted to otherwise modify the Tender, but will be required to extend the validity of its Tender Security or Tender Securing declaration for the period of the extension, and in compliance with ITT Clause 19 in all respects.

18.3 In the case of fixed price contracts, if the award is delayed by a period exceeding sixty (60) days beyond the expiry of the initial Tender validity period, the contract price will be increased by a factor specified in the request for extension. The Tender evaluation shall be based on the Tender price without taking into consideration on the above correction.

Tender Security and Tender Securing Declaration

19.1 Pursuant to ITT Clause 12, where required in the **Tender Data Sheet**, the Tenderer shall furnish as part of its Tender, a Tender Security in original form and in the amount and currency specified in the **Tender Data Sheet**.
A Tender Securing Declaration as specified in the **Tender Data Sheet** in the format provided in section X shall be provided as a mandatory requirement.

19.2 The Tender Security or Tender Securing Declaration is required to protect the Lake Victoria South Water Works Development Agency against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to ITT sub-Clause 19.9.

19.3 The Tender Security shall be denominated in the currency of the Tender and shall be in one of the following forms:

Cash;

A Bank Guarantee;

An Insurance Bond issued by an insurance firm approved by the PPOA located in Kenya;

An irrevocable letter of credit issued by a reputable bank.

19.4 The Tender Security shall be in accordance with the Form of the Tender Security included in Section X or another form approved by the Lake Victoria South Water Works Development Agency prior to the Tender submission.

19.5 The Tender Security shall be payable promptly upon written

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demand by the Lake Victoria South Water Works Development Agency in case any of the conditions listed in sub-Clause 19.8 are invoked.

19.6 Any Tender not accompanied by a Tender Security in accordance with sub-Clauses 19.1 or 19.3 shall be rejected by the Lake Victoria South Water Works Development Agency as non-responsive, pursuant to ITT Clause 28.

19.7 The Lake Victoria South Water Works Development Agency shall immediately release any Tender Security if:

The procuring proceedings are terminated;

The Lake Victoria South Water Works Development Agency determines that none of the submitted Tenders is responsive;

A contract for the procurement is entered into.

19.8 The Tender Security shall be forfeited and the Tender Securing Declaration executed if the Tenderer:

Withdraws its Tender after the deadline for submitting Tenders but before the expiry of the period during which Tenders must remain valid;

Rejects a correction of an arithmetic error pursuant to sub-Clause 29.2;

Refuse to enter into a written contract in accordance with ITT Clause 40;

Fails to furnish the Performance Security in accordance with ITT Clause 41.

19.9 The Tender Security and Tender Securing Declaration of a joint venture must be in the name of the joint venture submitting the Tender.

19.10 A Tenderer shall be suspended from being eligible for Tendering in any contract with the Lake Victoria South Water Works Development Agency for the period of time indicated in the Tender Securing Declaration:

If the Tenderer withdraws its Tender, except as provided in ITT sub-Clauses 18.2 and 29.2; or

In the case of a successful Tenderer, if the Tenderer fails within the specified time limit to:

Sign the contract; or

(ii) Furnish the required Performance Security.

Format and Signing

20.1 The Tenderer shall prepare one original of the documents

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of Tender

comprising the Tender as described in ITT Clause 12 of these Instructions to Tenderers, with the Form of Tender, and clearly marked “**ORIGINAL**”. In addition, the Tenderer shall submit copies of the Tender, in the number specified in the **Tender Data Sheet**, and clearly marked as “**COPIES**”. In the event of discrepancy between them, the original shall prevail.

- 20.2** The original and all copies of the Tenders shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Tenderer. This authorization shall consist of a written confirmation as specified in the **Tender Data Sheet** and shall be attached to the Tender. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Tender, except for un-amended printed literature, shall be initialled by the person or persons signing the Tender.
- 20.3** Any interlineations, erasures, or overwriting shall be valid only if they are initialled by the person or persons signing the Tender.
- 20.4** The Tenderer shall furnish information as described in the Form of Tender on commissions or gratuities, if any, paid or to be paid to agents relating to this Tender and to contract execution if the Tenderer is awarded the contract

Submission of Tenders

Sealing and Marking of Tenders

- 21.1** The Tenderer shall seal the original and each copy of the Tender in separate envelopes, duly marking the envelopes as “**ORIGINAL**” and “**COPY**”. The envelopes shall then be sealed in an outer envelope securely sealed in such a manner that opening and resealing cannot be achieved undetected.
- 21.2** The inner and outer envelopes shall:
- Be addressed to the Lake Victoria South Water Works Development Agency at the address given in the **Tender Data Sheet**; and
- Bear the Project name indicated in the **Tender Data Sheet**, the Invitation for Tenders (IFB) title and number indicated in the **Tender Data Sheet**, and a statement: “**DO NOT OPEN BEFORE,**” to be completed with the time and the date specified in the **Tender Data Sheet**, pursuant to ITT sub-Clause 22.1.
- 21.3** In addition to the identification required in sub-Clause 21.2, the inner envelopes shall also indicate the name and address of the Tenderer to enable the Tender be returned unopened in case it is declared late, pursuant to sub-Clause 22.1 and for matching purpose under ITT Clause 23
- 21.4** If the outer envelope is not sealed and marked as required by ITT sub clause 21.2, the Lake Victoria South Water Works Development Agency shall assume no responsibility for misplacement or premature opening of the Tender.

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Deadline for Submission of Tenders

- 22.1** Tenders shall be received by the Lake Victoria South Water Works Development Agency at the address specified under ITT sub-Clause 21.2 no later than the date and time specified in the **Tender Data Sheet**.
- 22.2** The Lake Victoria South Water Works Development Agency may, in exceptional circumstances and at its discretion, extend the deadline for the submission of Tenders by amending the Tendering documents in accordance with ITT Clause 9, in which case all rights and obligations of the Lake Victoria South Water Works Development Agency and Tenderers previously subject to the deadline will thereafter be subject to the new deadline.
- 22.3** The extension of the deadline for submission of Tenders shall not be made later than the period specified in the **Tender Data Sheet** before the expiry of the original deadline.

Late Tenders

- 23.1** The Lake Victoria South Water Works Development Agency shall not consider for evaluation any Tender that arrives after the deadline for submission of Tenders, in accordance with ITT Clause 22.
- 23.2** Any Tender received by the Lake Victoria South Water Works Development Agency after the deadline for submission of Tenders shall be declared late, rejected and returned unopened to the Tenderer.

Modification, Substitution and Withdrawal of Tenders

- 24.1** A Tenderer may modify or substitute or withdraw its Tender after it has been submitted, provided that written notice of the modification, including substitution or withdrawal of the Tender, is received by the Lake Victoria South Water Works Development Agency prior to the deadline prescribed for submission of Tenders prescribed under ITT sub-Clause 22.1.
- 24.2** The Tenderer's modification or substitution or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of ITT Clauses 20 and 21 with the outer and inner envelopes additionally marked "**MODIFICATION**" or "**SUBSTITUTION**" or "**WITHDRAWAL**" as appropriate. The notice may also be sent by electronic mail and facsimile, but followed by a signed confirmation copy, postmarked no later than the deadline for submission of Tenders.
- 24.3** No Tender may be withdrawn, replaced or modified in the interval between the deadline for submission of Tenders and the expiration of the period of Tender validity specified by the Tenderer on the Tender Form. Withdrawal of a Tender during this interval shall result in the Tenderer's forfeiture of its Tender Security or execution of Tender Securing Declaration, pursuant to the ITT sub-Clause 19.9.
- 24.4** Withdrawal of a Tender between the deadline for submission of Tenders and the expiration of the period of Tender validity specified in the **Tender Data Sheet** or as extended pursuant to sub-Clause 22.2 shall result in the forfeiture of the Tender Security and execution of Tender Securing Declaration pursuant to ITT sub-Clause 19.9.
- 24.5** Tenderers may only offer discounts to, or otherwise modify the prices

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of their Tenders by submitting Tender modifications in accordance with this Clause, or included in the original Tender submission.

Opening and Evaluation of Tenders

Opening of Tenders

- 25.1 The Lake Victoria South Water Works Development Agency will open all Tenders including modifications, substitution or withdraw notices made pursuant to ITT Clause 24, in public, in the presence of Tenderers or their representatives who choose to attend and other parties with legitimate interest and Tender proceedings, at the place on the date and at time specified in the **Tender Data Sheet**. The Tenderers' representatives who are present shall sign a register as proof of their attendance.
- 25.2 Envelopes marked "**WITHDRAWAL**" shall be opened and read out first. Tenders for which an acceptable notice of withdrawal has been submitted pursuant to ITT Clause 24 shall not be opened but returned to the Tenderer. If the withdrawal envelope does not contain a copy of the "Power of Attorney" confirming the signature as a person duly authorized to sign on behalf of the Tenderer, the corresponding Tender will be opened. Subsequently, all envelopes marked "**MODIFICATION**" shall be opened and the submissions therein read out in appropriate detail. Thereafter all envelopes marked or "**SUBSTITUTION**" opened and the submissions therein read out in appropriate detail.
- 25.3 All other envelopes shall be opened one at a time. The Tenderers' names, the Tender prices, the total amount of each Tender and of any alternative Tender (if alternatives have been requested or permitted), any discounts, the presence or absence of Tender security, and such other details as the appropriate tender opening committee may consider appropriate, will be announced by the Secretary of the Tender Opening Committee at the opening.
- 25.4 Tenders or modifications that are not opened and not read out at Tender opening shall not be considered further for evaluation, irrespective of the circumstances. In particular, any discount offered by a Tenderer which is not read out at Tender opening shall not be considered further.
- 25.5 Tenderers are advised to send in a representative with the knowledge of the content of the Tender who shall verify the information read out from the submitted documents. Failure to send a representative or to point out any un-read information by the sent Tenderer's representative shall indemnify the Lake Victoria South Water Works Development Agency against any claim or failure to read out the correct information contained in the Tenderer's Tender.
- 25.6 No Tender will be rejected at Tender opening except for late Tenders which will be returned unopened to the Tenderer, pursuant to ITT Clause 23.
- 25.7 The Secretary of the appropriate tender opening committee shall prepare minutes of the Tender opening. The record of the Tender opening shall include, as a minimum: the name of the Tenderers and

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whether or not there is a withdrawal, substitution or modification, the Tender price per Lot if applicable, including any discounts and alternative offers and the presence or absence of a Tender Security or Tender Securing Declaration.

25.8 The Tenderers' representatives who are present shall be requested to sign the record. The omission of a Tenderer's signature on the record shall not invalidate the contents and affect the record.

25.9 A copy of the minutes of the Tender opening shall be furnished to individual Tenderers upon request.

Confidentiality

26.1 Information relating to the examination, clarification, evaluation, and comparison of Tenders and recommendations for the award of a Contract shall not be disclosed to Tenderers or any other persons not officially concerned with such process until the award to the successful Tenderer has been announced.

26.2 Any effort by a Tenderer to influence the Lake Victoria South Water Works Development Agency's processing of Tenders or award decisions may result in the rejection of his Tender.

26.3 Notwithstanding sub-Clause 26.2, from the time of Tender opening to the time of Contract award, if any Tenderer wishes to contact the Lake Victoria South Water Works Development Agency on any matter related to the Tendering process, it should do so in writing.

Clarification of Tenders

27.1 To assist in the examination, evaluation, comparison of Tenders and post-qualification of the Tenderer, the Lake Victoria South Water Works Development Agency may, at its discretion, ask a Tenderer for clarification of its Tender including breakdown of prices. Any clarification submitted by a Tenderer that is not in response to a request by the Lake Victoria South Water Works Development Agency shall not be considered.

27.2 The request for clarification and the response shall be in writing. No change in the prices or substance of the Tender shall be sought, offered, or permitted except to confirm the correction of arithmetic errors discovered by the Lake Victoria South Water Works Development Agency in the evaluation of Tenders in accordance with ITT Clause 29.

27.3 From the time of Tender opening to the time of Contract award if any Tenderer wishes to contact the Lake Victoria South Water Works Development Agency on any matter related to the Tender it should do so in writing.

Preliminary Examination of Tenders

28.1 Prior to the detailed evaluation of Tenders, the Lake Victoria South Water Works Development Agency will determine whether:

The Tender has been submitted in the required format;

Any Tender Security submitted is in the required form, amount and validity period;

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The Tender has been signed by the person lawfully authorized to do so;

The required number of copies of the Tender have been submitted;

The Tender is valid for the period required;

All required documents and information have been submitted; and

Any required samples have been submitted.

28.2 The Lake Victoria South Water Works Development Agency will confirm that the documents and information specified under ITT Clause 12 and ITT Clause 13 have been provided in the Tender. If any of these documents or information is missing, or is not provided in accordance with the Instructions to Tenderers, the Tender shall be rejected.

28.3 The Lake Victoria South Water Works Development Agency may waive any minor informality, nonconformity, or irregularity in a Tender which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any Tenderer

28.4 A substantially responsive Tender is one which conforms to all the terms, conditions, and specifications of the Tendering documents, without material deviation or reservation. A material deviation or reservation is one that:

Affects in any substantial way the scope, quality, or execution of the Works;

Limits in any substantial way, inconsistent with the Tendering documents, the Lake Victoria South Water Works Development Agency's rights or the Tenderer's obligations under the Contract; or

If rectified, would affect unfairly the competitive position of other Tenderers presenting substantially responsive Tenders.

28.5 If a Tender is not substantially responsive, it will be rejected by the Lake Victoria South Water Works Development Agency, and may not subsequently be made responsive by correction or withdrawal of the non-conforming deviation or reservation.

Correction of Errors

29.1 Tenders determined to be substantially responsive will be checked by the Lake Victoria South Water Works Development Agency for any arithmetic errors. Errors will be corrected by the Lake Victoria South Water Works Development Agency as follows:

If there is a discrepancy between unit prices and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected, unless in the opinion of the Lake Victoria South Water Works Development Agency there is an obvious misplacement of the decimal point in the unit price, in which the total price as quoted shall govern and the unit

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price shall be corrected;

If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and

Where there is a discrepancy between the amounts in figures and in words, the amount in words will govern.

- 29.2** The amount stated in the Tender will, be adjusted by the Lake Victoria South Water Works Development Agency in accordance with the above procedure for the correction of errors and, with, the concurrence of the Tenderer, shall be considered as binding upon the Tenderer. If the Tenderer does not accept the corrected amount, its Tender will then be rejected, and the Tender Security may be forfeited and the Tender Securing Declaration may be executed in accordance with sub-Clause 19.9.

Conversion to Single Currency

- 30.1** To facilitate the evaluation and comparison, the Lake Victoria South Water Works Development Agency will convert all Tender prices expressed in the amounts in various currencies in which the Tender prices are payable to Kenya Shillings at the selling exchange rate established for similar transactions by the Central Bank of Kenya ruling on the date specified in the **Tender Data Sheet**.

Comparison of Tenders

- 31.1** The Lake Victoria South Water Works Development Agency shall evaluate and compare only the Tenders determined to be substantially responsive in accordance with ITT Clause 28.
- 31.2** In evaluating the Tenders, the Lake Victoria South Water Works Development Agency will determine for each Tender the evaluated Tender price by adjusting the Tender price as follows:
Making any correction for errors pursuant to ITT Clause 29;
Excluding provisional sums and the provision, if any for contingencies in the Bill of Quantities, but including Day work, where priced competitively; and
Making appropriate adjustments to reflect discounts or other price modifications offered in accordance with sub-Clause 24.5.
- 31.3** The Lake Victoria South Water Works Development Agency may waive any minor informality or non-conformity, which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative standing of any Tenderer. Variations, deviations, and alternative offers and other factors, which are in excess of the requirements of the Tendering documents or otherwise result in unsolicited benefits for the Lake Victoria South Water Works Development Agency will not be taken into account in Tender evaluation.

National Preference

- 32.1** In the evaluation of Tenders, the Lake Victoria South Water Works Development Agency shall apply exclusive preference to citizens of Kenya where:

The funding is 100% from the Government of Kenya or a Kenyan body;

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The amounts are below the prescribed threshold of KShs.200 million;

- 32.2** To qualify for the preference the candidate shall provide evidence of eligibility by:

Proving Kenyan citizenship by production of a Kenyan Identity Card;
or

Providing proof of being a “citizen contractor” in terms of section 3(1) of the Act, i.e. being a natural person or an incorporated company wholly owned and controlled by persons who are citizens of Kenya.

- 32.3** The Minister of Finance may prescribe additional preference and/or reservation schemes, for example for procurements above these thresholds. If such additional preference schemes apply, details will be given in the **Tender Data Sheet**.

Determination of the Lowest Evaluated Tender **Post-qualification of Tenderer**

- 33.1** The Tender with the lowest evaluated price from among those which are eligible, compliant and substantially responsive shall be the lowest evaluated Tender.

- 34.1** If specified in the **Tender Data Sheet**, post-qualification shall be undertaken.

- 34.2** The Lake Victoria South Water Works Development Agency will determine to its satisfaction whether the Tenderer that is selected as having submitted the lowest evaluated responsive Tender is qualified to perform the contract satisfactorily, in accordance with the criteria listed in sub-Clause 13.3.

- 34.3** The determination will take into account the Tenderer’s financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the Tenderer’s qualifications submitted by the Tenderer, pursuant to sub-Clause 13.3, as well as such other information as the Lake Victoria South Water Works Development Agency deems necessary and appropriate. Factors not included in these Tendering documents shall not be used in the evaluation of the Tenderer’s qualifications.

- 34.4** An affirmative determination will be a prerequisite for award of the contract to the Tenderer. A negative determination will result in rejection of the Tenderer’s Tender, in which event the Lake Victoria South Water Works Development Agency will proceed to the next lowest evaluated Tender to make a similar determination of that Tenderer’s capabilities to perform satisfactorily.

Award of Contract

Criteria of Award

- 35.1** Subject to ITT Clause 35 and 36, the Lake Victoria South Water Works Development Agency will award the Contract to the Tenderer whose Tender has been determined to be substantially responsive to the

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Tendering documents and who has offered the lowest Evaluated Tender Price, provided that such Tenderer has been determined to be:

Eligible in accordance with the provisions of ITT Clause 3;

Is determined to be qualified to perform the Contract satisfactorily;

Successful negotiations have been concluded.

- 35.2** If, pursuant to sub-Clause 14.1, this Contract is being awarded on a “lot and package” basis, the lowest evaluated Tender price will be determined when evaluating this Contract in conjunction with other Contracts to be awarded concurrently, taking into account any discounts offered by the Tenderer for award of more than one Contract.

Clarifications

- 36.1** Clarifications may be undertaken with the lowest evaluated Tenderer relating to the following areas:

A minor alteration to the technical details of the statement of requirements;

Reduction of quantities for budgetary reasons, where the reduction is in excess of any provided for in the Tendering documents;

A minor amendment to the Contract Data Sheet;

Finalizing payment arrangements;

Mobilization arrangements;

Agreeing final delivery or work schedule to accommodate any changes required by the Lake Victoria South Water Works Development Agency;

The methodology or staffing; or

Clarifying details that were not apparent or could not be finalized at the time of Tendering.

- 36.2** Clarifications shall not change the substance of the tender.

Lake Victoria South Water Works Development Agency's Right to Accept any Tender and to Reject any or all Tenders

- 37.1** Notwithstanding ITT Clause 35, the Lake Victoria South Water Works Development Agency reserves the right to accept or reject any Tender, and to cancel the Tendering process and reject all Tenders, at any time prior to the award of Contract, without thereby incurring any liability to the affected Tenderer or Tenderers.

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- 37.2** Notice of the rejection of all Tenders shall be given promptly within 14 days to all Contractors that have submitted Tenders.
- 37.3** The Lake Victoria South Water Works Development Agency shall upon request communicate to any Tenderer the grounds for its rejection of its Tenders, but is not required to justify those grounds.
- Procuring Entities Right to Vary Quantities at the Time of Award**
- 38.1** The Lake Victoria South Water Works Development Agency reserves the right at the time of contract award to increase or decrease the quantity of goods or related services originally specified in these Tendering documents (schedule of requirements) provided this does not exceed by the percentage indicated in the **Tender Data Sheet**, without any change in unit price or other terms and conditions of the Tender and Tendering documents.
- Notification of Award**
- 39.1** The Tenderer whose Tender has been accepted will be notified of the award by the Lake Victoria South Water Works Development Agency prior to expiration of the Tender validity period by e-mail or facsimile confirmed by registered letter. This letter (hereinafter and in the Conditions of Contract called the "Letter of Acceptance") will state the sum that the Lake Victoria South Water Works Development Agency will pay the Contractor in consideration of the provision and maintenance of the Work(s) as prescribed by the Contract (hereinafter and in the Contract called the "Contract Price").
- 39.2** The notification of award will constitute the formation of the Contract, subject to the Tenderer furnishing the Performance Security in accordance with ITT Clause 41 and signing the Contract in accordance with sub-Clause 40.2
- 39.3** At the same time as the person submitting the successful Tender is notified, the Lake Victoria South Water Works Development Agency will notify each unsuccessful Tenderer, the name of the successful Tenderer and the Contract amount and will discharge the Tender Security and Tender Securing Declaration of the Tenderer pursuant to ITT sub Clause 19.7.
- 39.4** If, after notification of award, a Tenderer wishes to ascertain the grounds on which it's Tender or application for pre-qualification was unsuccessful, it should address its request to the secretary of the Tender Committee that authorized the award of contract. The secretary of the Tender Committee shall, within fourteen days after a request, provide written reasons as to why the Tender, proposal or application to be pre-

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qualified was unsuccessful. However, failure to take this opportunity to clarify the grounds for rejection does not affect the Tenderer's right to seek immediate review by the Public Procurement Administrative Review Board under Clause 45.

Signing of Contract

- 40.1** Promptly, and in no case later than 14 days, after notification, Lake Victoria South Water Works Development Agency shall send the successful Tenderer the Agreement and Contract Data Sheet, incorporating all agreements between the parties obtained as a result of Contract negotiations.
- 40.2** Within the period specified in the notification or Tender Data Sheet but not earlier than fourteen (14) days since notification of award of contract, the successful Tenderer shall sign and date the contract and return it to the Lake Victoria South Water Works Development Agency.

Performance Security

- 41.1** Within thirty (30) days but after 14 days after receipt of the Letter of Acceptance, the successful Tenderer shall deliver to the Lake Victoria South Water Works Development Agency a Performance Security in the amount and in the form stipulated in the Tender Data Sheet and the Contract Data Sheet, denominated in the type and proportions of currencies in the Letter of Acceptance and in accordance with the Conditions of Contract.
- 41.2** If the Performance Security is provided by the successful Tenderer in the form of a Bank Guarantee or Insurance Bond, it shall be issued either:
- At the Tenderer's option, by a bank or insurance firm located in Kenya, or a foreign bank or insurance firm through a correspondent bank or insurance firm located in Kenya;
- With the consent of the Lake Victoria South Water Works Development Agency, directly by a foreign bank acceptable to the Lake Victoria South Water Works Development Agency.
- 41.3** Failure of the successful Tenderer to comply with the requirement of sub-Clause 41.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security, in which event the Lake Victoria South Water Works Development Agency may make the award to the next lowest evaluated Tenderer or call for new Tenders.

Advance Payment

- 42.1** The Lake Victoria South Water Works Development Agency will provide an Advance Payment as stipulated in the Conditions of Contract, subject to a maximum

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amount, as stated in the Tender Data Sheet.

- 42.2** The Advance Payment request shall be accompanied by an Advance Payment Security (Guarantee) in the form provided in Section X. For the purpose of receiving the Advance Payment, the Tenderer shall make an estimate of, and include in its Tender, the expenses that will be incurred in order to commence work. These expenses will relate to the purchase of equipment, machinery, materials, and on the engagement of labour during the first month beginning with the date of the Lake Victoria South Water Works Development Agency's "Notice to Commence" as specified in the Contract Data Sheet.

Adjudicator

- 43.1** The Lake Victoria South Water Works Development Agency proposes the person named in the Tender Data Sheet to be appointed as Adjudicator under the Contract, at an hourly fee specified in the Tender Data Sheet, plus reimbursable expenses. If the Tenderer disagrees with this proposal, the Tenderer should so state in the Tender. If, in the Letter of Acceptance, the Lake Victoria South Water Works Development Agency has not agreed on the appointment of the Adjudicator, the Adjudicator shall be appointed by the Appointing Authority designated in the Contract Data Sheet at the request of either party.

Review of Procurement Decisions

Right to Review

- 44.1** A Tenderer who claims to have suffered or risk suffering, loss or damage or injury as a result of breach of a duty imposed on a Lake Victoria South Water Works Development Agency or an Approving Authority by the Public Procurement and Disposal Act, 2005 and the Public Procurement and Disposal Regulations 2006, the procurement proceedings or processes, may seek administrative review as prescribed by the Act. The following matters, however, shall not be subject to the administrative review:

The choice of procurement method;

a decision by the Lake Victoria South Water Works Development Agency to reject all Tenders, proposals or quotations;

Where a contract is signed in accordance to Section 68 of the Public Procurement and Disposal Act, 2005;

Where an appeal is frivolous.

Time Limit on Review

- 45.1** The Tenderer shall submit an application for review in the number of copies and pay fees as prescribed by the Public Procurement and Disposal Regulations 2006 within fourteen (14) days of the time the Tenderer became or should have become aware of the circumstances giving rise to the

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complaint or dispute.

Submission of Applications for Review by the Public Procurement Administrative Review Board

46.1 Any application for administrative review shall be submitted in writing to the Secretary, Public Procurement Administrative Review Board on Form RB 1 at the address shown in the Tender Data Sheet. The secretary to the review board shall immediately after filing of the request, serve a copy thereof on the Lake Victoria South Water Works Development Agency or Director-General as the case may be.

46.2 The application for administrative review shall be in accordance with the requirements of Regulation 73 of the Public Procurement and Disposals Regulations, 2006, including:

Reasons for the complaint, including any alleged breach of the Act or Regulations;

An explanation of how the provisions of the Act and or Regulation has been breached or omitted, including the dates and name of the responsible public officer, where known;

Statements or other evidence supporting the complaint where available as the applicant considers necessary in support of its request;

Remedies sought;

Any other information relevant to the complaint.

Decision by the Public Procurement Administrative Review Board

47.1 The Administrative Review Board shall within thirty days after receipt of an application for administrative review deliver a written decision which shall indicate:

Annuling anything the Lake Victoria South Water Works Development Agency has done in the procurement proceedings, including annulling the procurement proceedings in their entirety;

Giving directions to the Lake Victoria South Water Works Development Agency with respect to anything to be done or redone in the procurement proceedings;

Substituting the decision of the Review Board for any decision of the Lake Victoria South Water Works Development Agency in the procurement proceedings;

Order the payment of costs as between parties to the review.

47.2 The decision made by the Review Board shall, be final and binding on the parties unless judicial review thereof commences within fourteen (14) days from the date of the Review Board's decision.

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**Appeal on the decision of
the Review Board** **48.1** Any party to the review aggrieved by the decision of the
Review Board may appeal to the High Court and the decision
of the High Court shall be final.

SECTION III: TENDER DATA SHEET

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Tender Data Sheet (TDS)

Instructions to Tenderers Clause Reference

TDS Reference Number	ITT Clause Number	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
A. Introduction		
1.	1.1	The Procuring Entity is Lake Victoria South Water Works Development Agency
2.	1.1	Rainwater Harvesting and Sanitation for Bogambero Primary School in Kuria West Constituency, Migori County
3.	1.2	The expected Completion date of the works is: Six (6) Months from commencement date.
4.	1.3	The Objectives of the project is to increase accessibility of water for domestic use and reduce the distance covered to reach the nearest water point.
5.	2.1	Name of the Procuring Entity is Lake Victoria South Water Works Development Agency Financial Year: 2024/2025 <u>Description of works under the contract:</u> The works comprise; • Bill No. 1 Preliminary & General Items • Bill No. 2 Rainwater Harvesting • Bill No. 3 Girl's VIP Latrine Block • Bill No. 4 Boy's VIP Latrine Block
6.	2.2	The loan/ credit number: Not Applicable.
7.	5.1	Alternative Tenders: Not allowed in this Tender
8.	5.2	Alternative time for Completion: Not Applicable.
9.	3.2	This tender is for mini competition among contractors duly registered in the Republic of Kenya with the National Construction Authority (NCA) category 6 (Water Works) or above and listed under Framework Agreement for Maintenance, Rehabilitation/Drilling and Equipping of Boreholes and Shallow Wells within Lake Victoria South Water Works Development Agency Area of Jurisdiction on A Framework Agreement of Two (2) Years.

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10.	7.3	There will be no pre-tender site visit but the bidders are free to visit the proposed site.
11.	7.5	The minutes of the pre-Tender meeting will not be applicable in this case.
	7.6	Non-attendance at the pre-tender meeting will not result in disqualification.

B. Tendering Documents

12.	8.2	The number of copies to be completed and returned with the Tender is One (1) Original.
13.	9.1	Address for clarification of Tender Document is: The Chief Executive Officer Lake Victoria South Water Works Development Agency Lavictors House, Off Ring Road Milimani P.O. Box 3325, Kisumu, Kenya; Telephone +254 57 2025127, fax +254 572025128 Email: info@lvswwda.go.ke cc to procurement@lvswwda.go.ke
14.	9.2	Period to Respond to request for clarification by LVSWWDA: 2 days . Period Prior to deadline for submission of Tenders for Tenderers' request for clarification: 3 days .

C. Preparation of Tenders

15.	11.1	Language of Tender and all correspondence shall be in English.					
16.	13.3	Other information or materials required to be completed and submitted by the Tenderers and of which will form the EVALUATION CRITERIA: <u>A. MANDATORY REQUIREMENTS</u> <table><tr><td>Proof of Registration with Registrar of Companies. Companies Incorporated under the Company’s Act must in addition submit Copy of recent Certificate of Confirmation of Directors and Shareholding (CR12) issued within the last 12 months from the date of tender opening. <i>(This may be verified with the Registrar of Companies)</i></td></tr><tr><td>NCA Registration Category 6 (water works) and above</td></tr><tr><td>Must submit a copy of relevant current National Construction Authority Practicing License (NCA Category as per Tender Notice).</td></tr><tr><td>Copy of Valid Tax Compliance Certificate issued by the Kenya Revenue Authority <i>(Will be verified on the KRA TCC Checker)</i>. The Tax Compliance Certificate shall be valid at least up to the Tender Closing date.</td></tr><tr><td>Form of Tender duly Completed, Signed and Stamped by the Tenderer in the format provided.</td></tr></table>	Proof of Registration with Registrar of Companies. Companies Incorporated under the Company’s Act must in addition submit Copy of recent Certificate of Confirmation of Directors and Shareholding (CR12) issued within the last 12 months from the date of tender opening. <i>(This may be verified with the Registrar of Companies)</i>	NCA Registration Category 6 (water works) and above	Must submit a copy of relevant current National Construction Authority Practicing License (NCA Category as per Tender Notice).	Copy of Valid Tax Compliance Certificate issued by the Kenya Revenue Authority <i>(Will be verified on the KRA TCC Checker)</i> . The Tax Compliance Certificate shall be valid at least up to the Tender Closing date.	Form of Tender duly Completed, Signed and Stamped by the Tenderer in the format provided.
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Copy of Valid Tax Compliance Certificate issued by the Kenya Revenue Authority <i>(Will be verified on the KRA TCC Checker)</i> . The Tax Compliance Certificate shall be valid at least up to the Tender Closing date.							
Form of Tender duly Completed, Signed and Stamped by the Tenderer in the format provided.							

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		Must submit a Duly Completed, Signed and Stamped Tenderer's Eligibility - Confidential Business Questionnaire in format the provided Submit a duly completed, signed and stamped Certificate of Independent Tender Determination in the format provided Submit a duly completed, signed and stamped Self Declaration that the person/tenderer is not debarred in the matter of the Public Procurement and Asset Disposal Act 2015 (Form SD1) Submit a duly completed, signed and stamped Self Declaration that the person/tenderer will not engage in any corrupt or fraudulent practice (Form SD2) Submit a duly completed, signed and stamped Declaration and Commitment to Code of Ethics Code Form in the format provided Bills of Quantities duly Completed, Signed and Stamped by the Tenderer in the format provided Must submit a Duly Completed, Signed and Stamped Tenderer Information Form in the format provided Submit a duly completed, signed and stamped Tender Securing Declaration Form attached to this tender document. Submit a Tender Specific Written Power of Attorney Relevant AGPO Certificate for Women Owned Firms Proof of Registration within County of residence. Submit a valid relevant current Trading License / Single Business Permit issued by the County Government. Properly bound, good-presented document. The tender document shall be paginated / serial numbered. All bidders are required to submit their documents paginated in a continuous ascending order i.e. sequentially paginated, from the first page to the last in this format; (<i>i.e. 1, 2, 3... .. n where n is the last page</i>) <i>Tenderers are notified that failure to meet mandatory requirements will lead to disqualification</i> <i>The tender shall be awarded to the lowest bidder who meets the mandatory requirements,</i>
17.	13.4	In the case of joint venture each partner shall submit information required under Clause ITT Clause 13.4. In addition, the Tenderer shall furnish the following, A Joint Venture deed executed by the Commissioner of Oaths Payment modality Specific responsibility of each partner in Joint Venture
18.	16.4	The price shall be fixed.
19.	17.1	The currency in which the prices shall be quoted shall be: <i>Kenyan Shilling</i>
20.	17.2	The authority for establishing the rates of exchange shall be Central Bank of Kenya. The applicable date for exchange rates for tendering and evaluation purposes is 28 days earlier than the final deadline for the submission of tenders. N/A
21.	18.1	The Tender validity period shall be 98 days after tender opening.
22.	19.1	The amount of Tender Security shall be Not applicable.

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		Instead, bidders are required to attach a duly completed Tender Securing Declaration Form.
23.	20.1	In addition to the original of the Tender, the Tenderer should submit one copy of the Tender
24.	20.2	Written confirmation of authorization is: Power of Attorney .

D. Submission of Tenders

25.	21.1	Tenders shall be deposited in the tender box situated at the reception area , Ground Floor of; Lake Victoria South Water Works Development Agency Lavictors House, Off Ring Road Milimani P.O. Box 3325, Kisumu, Kenya; Telephone +254 57 2025127, fax +254 572025128 Email: info@lvswwda.go.ke
26.	21.2(a)	Tenders shall be addressed to: Chief Executive Officer, Lake Victoria South Water Works Development Agency Lavictors House, Off Ring Road Milimani P.O. Box 3325, Kisumu, Kenya; Telephone +254 57 2025127, fax +254 572025128 Email: info@lvswwda.go.ke
27.	21.2 b)	Project name: RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY Tender number: LVSWWDA/T/10/2024-2025: FA
27.	22.1	The deadline for Tender submission is Day: Tuesday Date: 11th February 2025 Time: 10.00am
28.	22.3	The extension of the deadline for submission of Tenders shall be made not later than 1 day before the expiry of the original deadline.
29	24.4	Expiry of Tender validity is 98 days from the date of bid opening .

E. Opening and Evaluation of Tenders

29.	25.1	The Tender opening shall take place at: Lake Victoria South Water Works Development Agency office Street address: Off Ring Road Milimani, Kisumu Building: Lavictors House Floor/Room: 1st Floor, Board Room Wing B
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		City/Town: Kisumu Country: Kenya Date: 11/2/2025 Time: 10.00 am
30.	29.1&29.2	<i>The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way.</i>
30.	32.3	Apart from AGPO, there shall be No additional preference schemes
31.	34.1	Post- qualification: Not Applicable
32.	38.1	Percentage for quantities increase or decrease is 20%
F. Award of Contract		
33.	41.1	The amount of Performance Security shall be: 1% of the Contract Sum.
34.	42.1	No Advance Payment. Payment shall be made on measured certified works and inspection and acceptance report
35.	43.1	The proposed adjudicator for the project is: Appointee by Chairman Institute of Arbitrators Kenya.
G. Review of Procurement Decisions		
37.	46.1	The address for submitting appeals to Administrative Review Board: The Secretary, Public Procurement Administrative Review Board, The Public Procurement Regulatory Authority, 10 th Floor, National Bank House, P.O. Box 58583-00200, NAIROBI, Kenya. Tel: +254 (0) 20 3244000 Email: info@ppra.go.ke Website: www.ppra.go.ke

SECTION IV: GENERAL CONDITIONS OF CONTRACT

General

Definitions

1.1 Boldface type is used to identify defined terms.

The **Adjudicator** is the person appointed jointly by the Lake Victoria South Water Works Development Agency and the Contractor to resolve disputes in the first instance, as provided for in Clauses 27 and 28 hereunder.

Bill of Quantities means the priced and completed Bill of Quantities forming part of the Tender.

Compensation Events are those defined in Clause 47 hereunder.

The Equipping Date is the date of commencement of the Works as certified by the Project Manager, in accordance with Sub-Clause 58.1.

The **Contract** is the Contract between the Lake Victoria South Water Works Development Agency and the Contractor to execute, complete, and maintain the Works. It consists of the documents listed in Clause 2.3 below.

The **Contractor** is a person or corporate body who's Tender to carry out the Works has been accepted by the Lake Victoria South Water Works Development Agency.

The **Contractor's Tender** is the completed Tendering document submitted by the Contractor to the Lake Victoria South Water Works Development Agency.

The **Contract Price** is the price stated in the Letter of Acceptance and thereafter as adjusted in accordance with the provisions of the Contract.

Days are calendar days; months are calendar months.

Dayworks are varied work inputs subject to payment on a time basis for the Contractor's employees and Equipment, in addition to payments for associated Materials and Plant.

A **Defect** is any part of the Works not completed in accordance with the Contract.

The **Defects Liability Certificate** is the certificate issued by the Project Manager upon correction of defects by the Contractor.

The **Defects Liability Period** is the period named in the **Contract Data Sheet** and calculated from the Commencement Date.

Drawings include calculations and other information provided or approved by the Project Manager for the execution of the Contract.

The **Lake Victoria South Water Works Development Agency** is the party who employs the Contractor to carry out the Works.

Equipment is the Contractor's machinery and vehicles brought

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temporarily to the Site to construct the Works.

The **Initial Contract Price** is the Contract Price listed in the Lake Victoria South Water Works Development Agency's Letter of Acceptance.

The **Intended COMPLETION Date** is the date on which it is intended that the Contractor shall complete the Works. The Intended COMPLETION Date is specified in the **Contract Data Sheet**. The Intended COMPLETION Date may be revised only by the Project Manager by issuing an extension of time or an acceleration order.

Materials are all supplies, including consumables, used by the Contractor for incorporation in the Works.

Plant is any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function.

The **Project Manager** is the person named in the **Contract Data Sheet** (or any other competent person appointed by the Lake Victoria South Water Works Development Agency and notified to the Contractor, to act in replacement of the Project Manager) who is responsible for supervising the execution of the Works and administering the Contract and shall be an "Architect" or a "Quantity Surveyor" registered under the Architects and Quantity Surveyors Act Cap 525 or an "Engineer" registered under Engineers Registration Act Cap 530.

The **Site** is the area defined as such in the **Contract Data Sheet**.

Site Investigation Reports are those that were included in the Tendering documents and are factual and interpretative reports about the surface and subsurface conditions at the Site.

Specification means the Specification of the Works included in the Contract and any modification or addition made or approved by the Project Manager.

The **Start Date** is given in the **Contract Data Sheet**. It is the latest date when the Contractor shall commence execution of the Works. It does not necessarily coincide with any of the Site Possession Dates.

A **Subcontractor** is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site.

Temporary Works are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Works.

A **Variation** is an instruction given by the Project Manager that varies the Works.

The **Works** are what the Contract requires the Contractor to construct, install, and turn over to the Lake Victoria South Water Works Development Agency, as defined in the **Contract Data Sheet**.

"Force Majeure" means an event which is beyond the reasonable control of a Party and which makes a Party's performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.

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Interpretation

2.1 In interpreting these Conditions of Contract, singular also means plural, male also means female or neuter, and the other way round. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager will provide instructions clarifying queries about these Conditions of Contract.

2.2 If sectional Completion is specified in the **Contract Data Sheet**, references in the Conditions of Contract to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).

2.3 The documents forming the Contract shall be interpreted in the order of priority given in the **Contract Data Sheet**:

- (1) Agreement;
- (2) Letter of Acceptance;
- (3) Contract Data Sheet;
- (4) Conditions of Contract;
- (5) Technical Specifications;
- (6) Contractor's Tender;
- (7) Drawings;
- (8) Bill of Quantities; and
- (9) Any other document listed in the **Contract Data Sheet** as forming part of the Contract.

Language, Law, Fraud and Corruption

3.1 The language of the Contract and the law governing the Contract are stated in the **Contract Data Sheet**.

3.2 The Government requires that Procuring Entities (including beneficiaries of Government funded projects) as well as Tenderers/Suppliers/Contractors under Government financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. It is the responsibility of the Lake Victoria South Water Works Development Agency to ensure that Tenderers, suppliers, and contractors and their subcontractors observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy:

For the purpose of this provision, the following definitions are provided:

“**Corruption**” has the meaning assigned to it in the Anti Corruption and Economic Crime Act 2003 and includes the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement or disposal process or in contract execution;

“**Fraudulent Practice**” includes a misrepresentation of fact in order to influence a procurement or disposal process or the execution of a

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contract to the detriment of the Lake Victoria South Water Works Development Agency and includes collusive practices amongst Tenderers prior to or after Tender submission designed to establish Tender prices at artificial non-competitive levels and deprive the Lake Victoria South Water Works Development Agency of the benefits of free and open competition;

“Collusive Practice” means an arrangement between two or more suppliers, contractors and subcontractors designed to achieve an improper purpose, including to influence improperly the actions of the Lake Victoria South Water Works Development Agency prior to or after Tender submission, designed to establish Tender prices at artificial non-competitive levels and to deprive the Lake Victoria South Water Works Development Agency of the benefit of free and open competition;

“Coercive Practice” means impairing or harming, or threatening to impair or harm, directly or indirectly a supplier, contractor or subcontractor or the property of any of them to influence improperly the actions of a Lake Victoria South Water Works Development Agency;

“Obstructive Practice” means deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and /or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation.

A Lake Victoria South Water Works Development Agency has the right to require that Tenderers, suppliers, and contractors and their subcontractors permit persons duly appointed by KACC/PPOA/KNAO to inspect their accounts and records and other documents relating to the Tender submission and contract performance;

The Lake Victoria South Water Works Development Agency will reject a proposal for award if it determines that the Tenderer recommended for award has engaged in corrupt, fraudulent practices or others stated under Clause 44.1.a in competing for the contract;

In pursuit of the policy defined in sub-Clause 44.1 the Lake Victoria South Water Works Development Agency will cancel the portion of the funds allocated to a contract for goods, works, or services if it at any time determines that corrupt or fraudulent practices were engaged in by representatives of the Lake Victoria South Water Works Development Agency or Approving Authority or of a beneficiary of the funds during the procurement or the execution of that contract;

In the event that the Lake Victoria South Water Works Development Agency or Approving Authority does not take timely and appropriate action satisfactory to the Government of Kenya to remedy the situation, then the Director-General may order an investigation of procurement proceedings for the purpose of determining whether there has been a breach of the Public

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Procurement and Disposal Act, 2005.

3.3 The Director-General may, on the advice of the Advisory Board, debar a person from participating in procurement proceedings on the ground that the person has committed an offence under the Public Procurement and Disposal Act, 2005. A debarment shall be for a period of time of not less than five years. Before a person is so debarred, he/she will be given an opportunity to make representations to the Director-General and may request the Review Board to review the debarment.

3.4 Any communication between the Tenderers and the Lake Victoria South Water Works Development Agency related to matters of alleged fraud or corruption must be made in writing.

Confidentiality

4.1 The Service Providers, their Subcontractors, and the Personnel of either of them shall not disclose any proprietary or confidential information relating to the Project, the Services, this Contract, or the Lake Victoria South Water Works Development Agency's business or operations without the prior written consent of the Lake Victoria South Water Works Development Agency.

Project Manager's Decisions

5.1 Except where otherwise specifically stated, the Project Manager will decide contractual matters between the Lake Victoria South Water Works Development Agency and the Contractor in the role representing the Lake Victoria South Water Works Development Agency.

Delegation

6.1 The Project Manager may delegate any of his duties and responsibilities to other people except to the Adjudicator, after notifying the Contractor, and may cancel any delegation after notifying the Contractor.

Communications

7.1 Communications between parties that are referred to in the Conditions shall be effective only when in writing. A notice shall be effective only when it is delivered.

Subcontracting

8.1 The Contractor may subcontract with the approval of the Project Manager, but may not assign the Contract without the approval of the Lake Victoria South Water Works Development Agency in writing. Subcontracting shall not alter the Contractor's obligations.

Other Contractors

9.1 The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Lake Victoria South Water Works Development Agency between the dates given in the Schedule of Other Contractors, as referred to in the **Contract Data Sheet**. The Contractor shall also provide facilities and services for them as described in the Schedule. The Lake Victoria South Water Works Development Agency may modify the Schedule of Other Contractors, and shall notify the Contractor of any such modification

Personnel

10.1 The Contractor shall employ the key personnel named in the Schedule of Key Personnel, as referred to in the **Contract Data Sheet**, who shall be appropriately qualified and registered with the

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appropriate bodies to carry out the functions stated in the Schedule or other personnel approved by the Project Manager. The Project Manager will approve any proposed replacement of key personnel only if their relevant qualifications and abilities are substantially equal to or better than those of the personnel listed in the Schedule.

If the Project Manager asks the Contractor to remove a person who is a member of the Contractor's staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the work in the Contract.

Lake Victoria South Water Works Development Agency's and Contractor's Risks

11.1 The Lake Victoria South Water Works Development Agency carries the risks which this Contract states are Lake Victoria South Water Works Development Agency's risks, and the Contractor carries the risks which this Contract states are Contractor's risks.

Lake Victoria South Water Works Development Agency's Risks

12.1 From the Start Date until the Defects Correction Certificate has been issued, the following are Lake Victoria South Water Works Development Agency's risks:

The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to:

- (i) Use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works; or
- (ii) Negligence, breach of statutory duty, or interference with any legal right by the Lake Victoria South Water Works Development Agency or by any person employed by or contracted to him except the Contractor.

The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Lake Victoria South Water Works Development Agency or in the Lake Victoria South Water Works Development Agency's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.

12.2 From the COMPLETION Date until the Defects Correction Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is a Lake Victoria South Water Works Development Agency's risk except loss or damage due to:

- (a) A Defect which existed on the COMPLETION Date;
- (b) An event occurring before the COMPLETION Date, which was not itself a Lake Victoria South Water Works Development Agency's risk; or
- (c) The activities of the Contractor on the Site after the COMPLETION Date.

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Contractor's Risks	13.1 From the Starting Date until the Defects Correction Certificate has been issued, the risks of personal injury, death, and loss of or damage to property (including, without limitation, the Works, Plant, Materials, and Equipment) which are not Lake Victoria South Water Works Development Agency's risks are Contractor's risks.
Insurance	14.1 The Contractor shall provide, in the joint names of the Lake Victoria South Water Works Development Agency and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles stated in the Contract Data Sheet for the following events which are due to the Contractor's risks: (a) Loss of or damage to the Works, Plant, and Materials; (b) Loss of or damage to Equipment; (c) Loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and (d) Personal injury or death. 14.2 Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred. 14.3 If the Contractor does not provide any of the policies and certificates required, the Lake Victoria South Water Works Development Agency may effect the insurance which the Contractor should have provided and recover the premiums the Lake Victoria South Water Works Development Agency has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due. 14.4 Alterations to the terms of insurance shall not be made without the approval of the Project Manager. 14.5 Both parties shall comply with any conditions of the insurance policies.
Site Investigation Reports	15.1 The Contractor, in preparing the Tender, shall rely on any Site Investigation Reports referred to in the Contract Data Sheet, supplemented by any information available to the Tenderers.
Queries about the Contract Data Sheet	16.1 The Project Manager will clarify queries on the Contract Data Sheet.
Contractor to Construct the Works	17.1 The Contractor shall construct and install the Works in accordance with the Specifications and Drawings.
Commencement and COMPLETION	18.1 The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Programme submitted by the Contractor, as updated with the approval of the Project Manager, and complete them by the Intended

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COMPLETION Date.

Approval by the Project Manager

19.1 The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager, who is to approve them if they comply with the Specifications and Drawings.

19.2 The Contractor shall be responsible for the design of Temporary Works.

19.3 The Project Manager's approval shall not alter the Contractor's responsibility for design of the Temporary Works.

19.4 The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.

19.5 All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, are subject to prior approval by the Project Manager before their use.

Protection of the Environment

20.1 The Contractors shall take all reasonable steps to protect the environment and to limit damage and nuisance to people and property resulting from pollution, noise and other results of his operations.

20.2 The Contractors shall ensure that emissions, surface discharges and effluent from his activities shall not exceed prescribed values in the environmental laws.

Labour Laws

The Contractor shall comply with all the relevant labour laws applicable in the Country, including laws relating to workers employment, working hours, health, safety, welfare, and immigration, and shall allow them all their legal rights.

The Contractor shall require his employees to obey all applicable laws, including those concerning safety at work.

Health and Safety

22.1 The Contractor shall at all times take all reasonable precautions to maintain the health and safety of his personnel.

22.2 The Contractor shall ensure that first aid facilities are available at all times at the site and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics.

22.3 The Contractor shall notify the Lake Victoria South Water Works Development Agency details of any accident as soon as practicable after its occurrence. The Contractor shall maintain records and make reports concerning health, safety, and welfare of persons, and damage to the property, as the Lake Victoria South Water Works Development Agency may reasonably require.

22.4 The Contractor shall conduct an HIV-Aids awareness programme, and shall take other such measures as specified in the **Contract Data Sheet** to reduce the risk of transfer of HIV virus between and among Contractor personnel, the Lake Victoria South Water Works Development Agency's Staff and the surrounding community.

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Discoveries	23.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site shall be the property of the Lake Victoria South Water Works Development Agency. The Contractor shall notify the Project Manager of such discoveries and carry out the Project Manager's instructions for dealing with them.
Possession of the Site	24.1 The Lake Victoria South Water Works Development Agency shall give possession of all parts of the Site to the Contractor. If possession of a part is not given by the date stated in the Contract Data Sheet, the Lake Victoria South Water Works Development Agency will be deemed to have delayed the start of the relevant activities, and this will be a Compensation Event.
Access to the Site	25.1 The Contractor shall allow the Project Manager and any person authorized by the Project Manager access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.
Instructions, Inspections and Audits	26.1 The Contractor shall carry out all instructions of the Project Manager which comply with the applicable laws where the Site is located. 26.2 The Contractor shall permit the Kenya Government to inspect the Contractor's accounts and records relating to the performance of the Contractor and to have them audited by auditors appointed by the Kenya Government, if so required by the Kenya Government
Disputes	27. 1 If the Contractor believes that a decision taken by the Project Manager was either outside the authority given to the Project Manager by the Contract or that the decision was wrongly taken, the decision shall be referred to the Adjudicator within 14 days of the notification of the Project Manager's decision.
Procedure for Disputes	28.1 The Adjudicator shall give a decision in writing within 28 days of receipt of a notification of a dispute. 28.2 The Adjudicator shall be paid by the hour at the rate specified in the Tender Data Sheet and Contract Data Sheet, together with reimbursable expenses of the types specified in the Contract Data Sheet, and the cost shall be divided equally between the Lake Victoria South Water Works Development Agency and the Contractor, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 28 days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above 28 days, the Adjudicator's decision will be final and binding. 28.3 The arbitration shall be conducted in accordance with the arbitration procedure published by the institution named and, in the place, shown in the Contract Data Sheet.
Replacement of Adjudicator	29.1 Should the Adjudicator resign or die, or should the Lake Victoria South Water Works Development Agency and the Contractor agree that the Adjudicator is not functioning in accordance with the

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provisions of the Contract, a new Adjudicator will be jointly appointed by the Lake Victoria South Water Works Development Agency and the Contractor. In case of disagreement between the Lake Victoria South Water Works Development Agency and the Contractor, within 30 days, the Adjudicator shall be designated by the Appointing Authority designated in the **Contract Data Sheet** at the request of either party, within 14 days of receipt of such request.

Time Control

Programme

30.1 Within the time stated in the **Contract Data Sheet**, the Contractor shall submit to the Project Manager for approval a Programme showing the general methods, arrangements, order, and timing for all the activities in the Works.

An update of the Programme shall be a programme showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.

30.3 The Contractor shall submit to the Project Manager for approval an updated Programme at intervals no longer than the period stated in the **Contract Data Sheet**. If the Contractor does not submit an updated Programme within this period, the Project Manager may withhold the amount stated in the **Contract Data Sheet** from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Programme has been submitted.

30.4 The Project Manager's approval of the Programme shall not alter the Contractor's obligations. The Contractor may revise the Programme and submit it to the Project Manager again at any time. A revised Programme shall show the effect of Variations and Compensation Events

Extension of the Intended COMPLETION Date

31.1 The Project Manager shall extend the Intended COMPLETION Date if a Compensation Event occurs or a Variation is issued which makes it impossible for COMPLETION to be achieved by the Intended COMPLETION Date without the Contractor taking steps to accelerate the remaining work, which would cause the Contractor to incur additional cost.

31.2 The Project Manager shall decide whether and by how much to extend the Intended COMPLETION Date within 21 days of the Contractor asking the Project Manager for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended COMPLETION Date.

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Acceleration	32.1 When the Lake Victoria South Water Works Development Agency wants the Contractor to finish before the Intended COMPLETION Date, the Project Manager will obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Lake Victoria South Water Works Development Agency accepts these proposals, the Intended COMPLETION Date will be adjusted accordingly and confirmed by both the Lake Victoria South Water Works Development Agency and the Contractor. 32.2 If the Contractor's priced proposals for acceleration are accepted by the Lake Victoria South Water Works Development Agency, they shall be incorporated in the Contract Price and treated as a Variation.
Delays Ordered by the Project Manager	33.1 The Project Manager may instruct the Contractor to delay the start or progress of any activity within the Works.
Management Meetings	34.1 Either the Project Manager or the Contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining work and to deal with matters raised in accordance with the early warning procedure. 34.2 The Project Manager shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Lake Victoria South Water Works Development Agency. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.
Early Warning	35.1 The Contractor shall warn the Project Manager at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the Contract Price or delay the execution of the Works. The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and COMPLETION Date. The estimate shall be provided by the Contractor as soon as reasonably possible. 35.2 The Contractor shall cooperate with the Project Manager in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Project Manager.
Quality Control	
Identifying Defects	36.1 The Project Manager shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Project Manager may instruct the Contractor to search for a Defect and to uncover and test any work that the Project Manager considers may have a Defect.
Tests	37.1 If the Project Manager instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a

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	Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test shall be a Compensation Event.
Correction of Defects	The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at COMPLETION, and is defined in the Contract Data Sheet. The Defects Liability Period shall be extended for as long as Defects remain to be corrected. Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Project Manager's notice. If the Contractor has not corrected a defect within the time specified in the Lake Victoria South Water Works Development Agency's notice, a penalty for lack of performance will be paid by the Contractor. The amount to be paid will be calculated as a percentage of the cost of having the defect correct, assessed as described in Clause 39.
Uncorrected Defects	39.1 If the Contractor has not corrected a Defect within the time specified in the Project Manager's notice, the Project Manager will assess the cost of having the Defect corrected, and the Contractor will pay this amount.
Cost Control	
Bill of Quantities	40.1 The Bill of Quantities shall contain items for the construction, installation, testing, and commissioning work to be done by the Contractor. 40.2 The Bill of Quantities is used to calculate the Contract Price. The Contractor shall be paid for the quantity of the work done at the rate in the Bill of Quantities for each item.
Changes in the Quantities	41.1 If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than 25 percent, provided the change exceeds 1 percent of the Initial Contract Price, the Project Manager shall adjust the rate to allow for the change. 41.2 The Project Manager shall not adjust rates from changes in quantities if thereby the Initial Contract Price is exceeded by more than 15 percent, except with the prior approval of the Lake Victoria South Water Works Development Agency. 41.3 If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost breakdown of any rate in the Bill of Quantities.
Variations	42.1 All Variations shall be included in the updated Programmes produced by the Contractor.
Payments for Variations	43.1 The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the quotation, which shall be given within seven days of the request or within any

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longer period stated by the Project Manager and before the Variation is ordered.

43.2 If the work in the Variation corresponds with an item description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work is above the limit stated in Sub-Clause 41.1 or the timing of its execution do not cause the cost per unit of quantity to change, the rate in the Bill of Quantities shall be used to calculate the value of the Variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the Variation does not correspond with items in the Bill of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of work.

43.3 If the Contractor's quotation is unreasonable, the Project Manager may order the Variation and make a change to the Contract Price, which shall be based on the Project Manager's own forecast of the effects of the Variation on the Contractor's costs.

43.4 If the Project Manager decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event.

43.5 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning.

Cash Flow Forecasts

44.1 When the Programme is updated, the Contractor shall provide the Project Manager with an updated cash flow forecast. The cash flow forecast shall include different currencies, as defined in the Contract, converted as necessary using the Contract exchange rates.

Payment Certificates

45.1 The Contractor shall submit to the Project Manager monthly statements of the estimated value of the work executed less the cumulative amount certified previously.

45.2 The Project Manager shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor within twenty eight 28 days of receipt of the certificate from the contractor.

45.3 The value of work executed shall be determined by the Project Manager.

45.4 The value of work executed shall comprise the value of the quantities of the items in the Bill of Quantities completed.

45.5 The value of work executed shall include the valuation of Variations and Compensation Events.

45.6 The Project Manager may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.

45.7 The Project Manager shall not be bound to certify any payment, if the net amount, after all retentions and deductions would be less than minimum amount of Interim Payment Certificate stated in the

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Contract Data Sheet.

Payments

46.1 Payments shall be adjusted for deductions for advance payments and retention. The Lake Victoria South Water Works Development Agency shall pay the Contractor the amounts certified by the Project Manager within 28 days of the date of each certificate. If the Lake Victoria South Water Works Development Agency makes a late payment, the Contractor shall be paid interest on the late payment in the next payment. Interest shall be calculated from the date by which the payment should have been made up to the date when the late payment is made at the prevailing rate of interest for commercial borrowing for each of the currencies in which payments are made as indicated in the **Contract Data Sheet**.

If an amount certified is increased in a later certificate or as a result of an award by the Adjudicator or an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.

46.3 Unless otherwise stated, all payments and deductions will be paid or charged in the proportions of currencies comprising the Contract Price.

46.4 Items of the Works for which no rate or price has been entered in will not be paid for by the Lake Victoria South Water Works Development Agency and shall be deemed covered by other rates and prices in the Contract.

Compensation Events

47.1 The following shall be Compensation Events:

- (a) The Lake Victoria South Water Works Development Agency does not give access to a part of the Site by the Site Possession Date stated in the **Contract Data Sheet**.
- (b) The Lake Victoria South Water Works Development Agency modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under the Contract.
- (c) The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time.
- (d) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects.
- (e) The Project Manager unreasonably does not approve a subcontract to be let.
- (f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Letter of Acceptance from the information issued to Tenderers (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.
- (g) The Project Manager gives an instruction for dealing with

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an unforeseen condition, caused by the Lake Victoria South Water Works Development Agency, or additional work required for safety or other reasons.

(h) Other contractors, public authorities, utilities, or the Lake Victoria South Water Works Development Agency does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.

(i) The advance payment is delayed.

(j) The effects on the Contractor of any of the Lake Victoria South Water Works Development Agency's Risks.

(k) The Project Manager unreasonably delays issuing a Certificate of COMPLETION.

(l) Other Compensation Events described in the Contract or determined by the Project Manager shall apply.

47.2 If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended COMPLETION Date, the Contract Price shall be increased and/or the Intended COMPLETION Date shall be extended. The Project Manager shall decide whether and by how much the Contract Price shall be increased and whether and by how much the Intended COMPLETION Date shall be extended.

47.3 As soon as information demonstrating the effect of each Compensation Event upon the Contractor's forecast cost has been provided by the Contractor, it shall be assessed by the Project Manager, and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Project Manager shall adjust the Contract Price based on the Project Manager's own forecast. The Project Manager will assume that the Contractor will react competently and promptly to the event.

47.4 The Contractor shall not be entitled to compensation to the extent that the Lake Victoria South Water Works Development Agency's interests are adversely affected by the Contractor's not having given early warning or not having cooperated with the Project Manager.

Taxes

48.1 The Project Manager shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 28 days before the submission of Tenders for the Contract and the date of the last COMPLETION certificate. The adjustment shall be the change in the amount of tax payable by the Contractor, provided such changes are not already reflected in the Contract Price or are a result of Clause 50.

Currencies

49.1 Where payments are made in currencies other than the Kenya Shillings, the exchange rates used for calculating the amounts to be paid shall be the exchange rates stated in the Contractor's Tender.

Price Adjustment

50.1 The amounts payable to the Contractor, in various currencies pursuant to Sub-Clause 45.1, shall be adjusted in respect of the rise or

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fall in the cost of labour, Contractor's Equipment, Plant, materials, and other inputs to the Works, by applying to such amounts the formulae prescribed in this clause based on the prevailing consumer price index obtained from the Central Bureau of Statistics or the monthly inflation rate issued by the Central Bank of Kenya.

50.2 To the extent that full compensation for any rise or fall in costs to the Contractor is not covered by the provisions of this or other clauses in the Contract, the unit rates and prices included in the Contract shall be deemed to include amounts to cover the contingency of such other rise or fall of costs.

50.3 The adjustment to be applied to amount payable to the Contractor as certified in Payment Certificates shall be determined formulae for each of the currencies in which the Contract Price is payable. No adjustment is to be applied to work valued on the basis of Cost or current prices. The formulae shall be as follows;

$$P_n = a + b \frac{L_n - L_o}{L_o} + c \frac{M_n - M_o}{M_o} + d \frac{E_n - E_o}{E_o} + \text{etc.}$$

where;

P_n is a price adjustment factor to be applied to the amount in each specific currency for the payment of the work carried out in the subject month, where such variations and daywork are not otherwise subject to adjustment;

a is a constant, specified in the **Appendix to Tender**, representing the nonadjustable portion in contractual payments;

b, c, d, etc., are weightings or coefficients representing the estimated proportion of each cost element (labour, materials, equipment usage, etc.) in the Works or sections thereof, net of Provisional Sums, as specified in the **Appendix to Tender**; the sum of a, b, c, d, etc., shall be one;

L_n, M_n, E_n, etc., are the current cost indices or reference prices of the cost elements in the specific currency of origin for month "**n**," determined pursuant to Sub-Clause 50.5, applicable to each cost element; and

L_o, M_o, E_o, etc., are the base cost indices or reference prices corresponding to the above cost elements at the date specified in Sub-Clause 50.5

The value of net work done, certified by the Project Manager, in any monthly Interim or Final Certificate as payable by the Lake Victoria South Water Works Development Agency to the Contractor before deduction of any retention money shall be increased or decreased by an amount of '**F**'.

$$F = P_n \times P_c$$

where;

The effective value **Pc** of work done which is to be subjected to increase or decrease shall be the difference between:
the amount which, in the opinion of the Project Manager, is due to the Contractor under Clause 45 (before deduction of retention money and before deducting sums previously paid on account) less:
any amount for payment or repayment of any advance payment;
any amount for materials on site (if any);
any amounts for nominated sub-contractors (if any)
any amounts for any other items based on actual cost or current prices;
or
any sums for increase or decrease in the Contract Price paid under this Sub-Clause
and
the amount calculated in accordance with (i) above of this Sub-clause and included in the last preceding statement.

50.4 The sources of indices shall be those listed in the **Appendix to Tender**, as approved by the Engineer. Indices shall be appropriate for their purpose and shall relate to the Contractor's proposed source of supply of inputs on the basis of which his Contract Price and expected foreign currency requirements shall have been computed. As the proposed basis for price adjustment, the Contractor shall have submitted with his Tender the tabulation of Weightings and Source of Indices in the **Appendix to Tender**, which shall be subject to approval by the Engineer.

50.5 The base cost indices or prices shall be those prevailing on the day 28 days prior to the latest date for submission of Tenders. Current indices or prices shall be those prevailing on the day 28 days prior to the last day of the period to which a particular Interim Payment Certificate is related. If at any time the current indices are not available, provisional indices as determined by the Engineer will be used, subject to subsequent correction of the amounts paid to the Contractor when the current indices become available.

50.6 If the Contractor fails to complete the Works within the time for COMPLETION prescribed under Clause 58 adjustment of prices thereafter until the date of COMPLETION of the Works shall be made using either the indices or prices relating to the prescribed time for COMPLETION, or the current indices or prices, whichever is more favourable to the Lake Victoria South Water Works Development Agency, provided that if an extension of time is granted pursuant to Clause 28, the above provision shall apply only to adjustments made after the expiry of such extension of time.

50.7 The weightings for each of the factors of cost given in the **Appendix to Tender** shall be adjusted if, in the opinion of the Engineer, they have been rendered unreasonable, unbalanced, or inapplicable as a result of varied or additional work already executed or instructed under Clause 43 or for any other reason.

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Retention

51.1 The Lake Victoria South Water Works Development Agency shall retain from each payment due to the Contractor the proportion stated in the **Contract Data Sheet** until COMPLETION of the whole of the Works.

51.2 On COMPLETION of the whole of the Works, half the total amount retained shall be repaid to the Contractor and the other half when the Defects Liability Period has passed and the Project Manager has certified that all Defects notified by the Project Manager to the Contractor before the end of this period have been corrected.

51.3 On COMPLETION of the whole Works, the Contractor may substitute retention money with an “on demand” Bank guarantee.

Liquidated Damages

52.1 The Contractor shall pay liquidated damages to the Lake Victoria South Water Works Development Agency at the rate per day stated in the **Contract Data Sheet** for each day that the COMPLETION Date is later than the Intended COMPLETION Date. The total amount of liquidated damages shall not exceed the amount defined in the **Contract Data Sheet**. The Lake Victoria South Water Works Development Agency may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor’s liabilities.

If the Intended COMPLETION Date is extended after liquidated damages have been paid, the Project Manager shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate. The Contractor shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in Sub-Clause 46.1.

If the Contractor has not corrected a defect within the time specified in the Lake Victoria South Water Works Development Agency’s notice, the Lake Victoria South Water Works Development Agency will assess the cost of having the defect corrected, the Contractor will pay this amount, and a penalty for lack of performance calculated as described in Clause 38.

Bonus

53.1 The Contractor shall be paid a Bonus calculated at the rate per calendar day stated in the **Contract Data Sheet** for each day (less any days for which the Contractor is paid for acceleration) that the Completion is earlier than the Intended Completion Date. The Project Manager shall certify that the Works are complete, although they may not be due to be complete.

Advance Payment

54.1 The Lake Victoria South Water Works Development Agency shall make advance payment to the Contractor of the amounts stated in the **Contract Data Sheet** by the date stated in the **Contract Data Sheet**, against provision by the Contractor of an Unconditional Bank Guarantee in a form and by a bank acceptable to the Lake Victoria South Water Works Development Agency in amounts and currencies equal to the advance payment. The Guarantee shall remain effective until the advance payment has been repaid, but the amount of the Guarantee shall be progressively reduced by the amounts repaid by the Contractor. Interest will not be charged on the advance payment.

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54.2 The Contractor is to use the advance payment only to pay for Equipment, Plant, Materials, and mobilization expenses required specifically for execution of the Contract. The Contractor shall demonstrate that advance payment has been used in this way by supplying copies of invoices or other documents to the Project Manager.

54.3 The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, following the schedule of completed percentages of the Works on a payment basis. No account shall be taken of the advance payment or its repayment in assessing valuations of work done, Variations, price adjustments, Compensation Events, Bonuses, or Liquidated Damages.

Performance Securities

55.1 The Performance Security shall be provided to the Lake Victoria South Water Works Development Agency no later than the date specified in the Letter of Acceptance and shall be issued in an amount and form and by a bank or surety acceptable to the Lake Victoria South Water Works Development Agency, and denominated in the types and proportions of the currencies in which the Contract Price is payable. The Performance Security shall be valid until a date 28 days from the date of issue of the Certificate of COMPLETION in the case of a Bank Guarantee, and until one year from the date of issue of the COMPLETION Certificate in the case of a Performance Bond.

Dayworks

56.1 If applicable, the Dayworks rates in the Contractor's Tender shall be used for small additional amounts of work only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.

56.2 All work to be paid for as Dayworks shall be recorded by the Contractor on forms approved by the Project Manager. Each completed form shall be verified and signed by the Project Manager within two days of the work being done.

56.3 The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.

Cost of Repairs

57.1 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Correction periods shall be remedied by the Contractor at the Contractor's cost if the loss or damage arises from the Contractor's acts or omissions.

Finishing the Contract

COMPLETION Certificate

58.1 The Contractor shall request the Project Manager to issue a certificate of COMPLETION of the Works, and the Project Manager will do so upon deciding that the work is completed.

Taking Over

59.1 The Lake Victoria South Water Works Development Agency shall take over the Site and the Works within seven days of the Project Manager's issuing a certificate of COMPLETION.

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Final Account

60.1 The Contractor shall supply the Project Manager with a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Project Manager shall issue a Defects Liability Certificate and certify any final payment that is due to the Contractor within 56 days of receiving the Contractor's account if it is correct and complete. If it is not, the Project Manager shall issue within 56 days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Project Manager shall decide on the amount payable to the Contractor and issue a payment certificate.

Operating and Maintenance Manuals

61.1 If "as built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the **Contract Data Sheet**.

61.2 If the Contractor does not supply the Drawings and/or manuals by the dates stated in the **Contract Data Sheet**, or they do not receive the Project Manager's approval, the Project Manager shall withhold the amount stated in the **Contract Data Sheet** from payments due to the Contractor.

Termination

62.1 The Lake Victoria South Water Works Development Agency or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.

62.2 Fundamental breaches of Contract shall include, but shall not be limited to, the following:

- (a) The Contractor stops work for 28 days when no stoppage of work is shown on the current Programme and the stoppage has not been authorized by the Project Manager;
- (b) The Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 28 days;
- (c) The Lake Victoria South Water Works Development Agency or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
- (d) A payment certified by the Project Manager is not paid by the Lake Victoria South Water Works Development Agency to the Contractor within 84 days of the date of the Project Manager's certificate;
- (e) The Project Manager gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Project Manager;
- (f) The Contractor does not maintain a Security, which is required; and
- (g) The Contractor has delayed the COMPLETION of the Works by the number of days for which the maximum amount of liquidated damages can be paid, as defined in the **Contract Data**

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

Sheet.

(h) If the Contractor, in the judgment of the Lake Victoria South Water Works Development Agency has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this paragraph:

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

“fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Lake Victoria South Water Works Development Agency, and includes collusive practice among Tenderers (prior to or after Tender submission) designed to establish Tender prices at artificial non-competitive levels and to deprive the Lake Victoria South Water Works Development Agency of the benefits of free and open competition.

62.3 When either party to the Contract gives notice of a breach of Contract to the Project Manager for a cause other than those listed under Sub-Clause 62.2 above, the Project Manager shall decide whether the breach is fundamental or not.

62.4 Notwithstanding the above, the Lake Victoria South Water Works Development Agency may terminate the Contract for convenience.

62.5 If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as reasonably possible.

Payment upon Termination

63.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Project Manager shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as indicated in the **Contract Data Sheet**. Additional Liquidated Damages shall not apply. If the total amount due to the Lake Victoria South Water Works Development Agency exceeds any payment due to the Contractor, the difference shall be a debt payable to the Lake Victoria South Water Works Development Agency.

63.2 If the Contract is terminated for the Lake Victoria South Water Works Development Agency’s convenience or because of a fundamental breach of Contract by the Lake Victoria South Water Works Development Agency, the Project Manager shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor’s personnel employed solely on the Works, and the Contractor’s costs of protecting and securing the Works, and less advance payments received up to the date of the certificate.

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Property	64.1 All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the Lake Victoria South Water Works Development Agency if the Contract is terminated because of the Contractor's default.
Release from Performance	65.1 If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Lake Victoria South Water Works Development Agency or the Contractor, the Project Manager shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which a commitment was made.
Suspension of Financing	66.1 In the event that the source of financing is suspended to the Lake Victoria South Water Works Development Agency, from which part of the payments to the Contractor are being made: (a) The Lake Victoria South Water Works Development Agency is obligated to notify the Contractor of such suspension within 7 days of having received the financing agency's suspension notice. (b) If the Contractor has not received sums due it within the 28 days for payment provided for in Sub-Clause 46.1, the Contractor may immediately issue a 14-day termination notice.

SECTION V: CONTRACT DATA SHEET (CDS)

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

Contract Data Sheet

Instructions for completing the Contract Data Sheet

CDS Clause	GCC Clause	Description															
1	1.1	Name of the Procuring Entity is Lake Victoria South Water Works Development Agency Financial Year: 2024/2025 <u>Description of works under the contract:</u> RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY The works comprise; • Bill No. 1 Preliminary & General Items • Bill No. 2 Rainwater Harvesting • Bill No. 3 Girl's VIP Latrine Block • Bill No. 4 Boy's VIP Latrine Block															
2.	2.2	Indicate whether there is sectional Completion: N/A															
3.	3.1	The language of the Contract documents is English. The law that applies to the Contract is the Kenyan Law.															
4.	9.1	Include the Schedule of Other Contractors, if any: N/A															
5.	10.1	Include the Schedule of Key Personnel. <table> <thead> <tr> <th></th><th>General Experience</th><th>Specific Experience</th></tr> </thead> <tbody> <tr> <td>Project Manager</td><td>10 Yrs</td><td>5 yrs</td></tr> <tr> <td>Site Manager</td><td>8 Yrs</td><td>5 yrs</td></tr> <tr> <td>Foremen</td><td>8 Yrs</td><td>5 yrs</td></tr> <tr> <td>Engineer Surveyor</td><td>8 Yrs</td><td>5 yrs</td></tr> </tbody> </table>		General Experience	Specific Experience	Project Manager	10 Yrs	5 yrs	Site Manager	8 Yrs	5 yrs	Foremen	8 Yrs	5 yrs	Engineer Surveyor	8 Yrs	5 yrs
	General Experience	Specific Experience															
Project Manager	10 Yrs	5 yrs															
Site Manager	8 Yrs	5 yrs															
Foremen	8 Yrs	5 yrs															
Engineer Surveyor	8 Yrs	5 yrs															
6.	14.1	The minimum insurance covers shall be: (a) loss of or damage to the Works, Plant, and Materials <i>[insert amount]</i>; _____ (b) loss of or damage to Equipment <i>[insert amount]</i>; _____ (c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract															

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		_____ and (d)personal injury or death _____ <i>[insert amount]</i> .
7.	15.1	Site Investigation Reports available to the Tenderers are: a)..... b)..... c).....
8.	22.4	The other measures include: Minimising the number of migrant workers employed on the project and household in the site camp Providing access to voluntary counselling and testing (VCT) Providing psychological support and health care including prevention and treatment of opportunistic infections for workers infected and affected, as well as their families Providing condoms (male and female) to workers
9.	24.1 & 47.1	The Site Possession Date shall be <i>[14 Days from Commencement Date]</i> .
11.	28.2	Hourly rate of Fees payable to the Adjudicator is:..... <i>[insert hourly fee in KShs..]</i> Types of reimbursable expenses to be paid to the Adjudicator include: <i>[insert types of reimbursable expenses]</i> . a)..... b)..... c).....
12.	28.3	Arbitration will take place at <i>[insert the place]</i> in accordance with rules and regulations published by <i>[state the institutions]</i> and <i>[insert rules and regulations]</i>
13.	29.1	Appointing Authority for the Adjudicator: <i>[Insert the name of Authority]</i>
Time Control		
14.	30.1	The Contractor shall Submit a Programme for the Works within 7 days of delivery of the Letter of Acceptance.
15.	30.3	The period between Programme updates is <i>Thirty (30) days</i> .
16.	30.3	The amount to be withheld by the Project Manager in case the contractor does not submit an updated programme is Kshs 100,000
Quality Control		

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17.	38.1	The Defects Liability Period is 6 <i>months</i> .
Cost Control		
18.	45.7	Minimum Amount of Interim Payment Certificate will be 30% of the Contract Sum . Payments shall be made once after the LVSWWDA undertakes Inspection and Acceptance of the works upon the contractor submitting: 1. Request for inspection of work done. 2. Submitting invoice for work intended to be paid
19.	46.1	The interest rate shall be % above prevailing interest rate for commercial borrowing from the contractor's bank N/A
20.	47.1(a)	The Site Possession Date shall be: not more than Fourteen days (14) after signing of Contract
21.	50	The contract <i>is not</i> subject to price adjustment in accordance with Clause 50 of the General Conditions of Contract.
22.	51.1	The amount of retention is 10% of value of works of Interim Payment Certificate'.
		Limit of retention will be 5% of contract price.
23.	52.1	The rate of liquidated damages is: 0.1% of contract Sum Per Day
	52.1 62.2 (g)	The maximum amount of liquidated damages is: 10% of Contract Sum .
24.	53.1	The bonus for early COMPLETION is: N/A
25.	54.1	The amount of advance payment shall be per cent of the contract sum payable by N/A
		Monthly Recovery of Advance Payment: percent of amount of Interim Payment Certificate. N/A
26.	55.1	The Performance Security shall be 1% of the contract price.
		Finishing the Contract
27.	61.1	The following documents shall be submitted by the Contractor: Fourteen (14) days after Completion Date; 1. Pressure Testing Results of Pipeline 2. As built drawings
28.	61.2	The amount to be withheld by the Project Manager in the case the contractor does not submit the is N/A The amount to be withheld by the Project Manager in the case the contractor does not submit operating manual is N/A
29.	63.1	The percentage to apply to the value of the work not completed,

**RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY
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		representing the Lake Victoria South Water Works Development Agency's additional cost for completing the Works, is <i>[percent]</i> .N/A
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SECTION VI: TECHNICAL SPECIFICATIONS

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

A. GENERAL

Provision of equipment material and labour

The Contractor shall provide all equipment, transport, consumable materials and labour necessary for the satisfactory completion of the works in compliance with the specifications herein. The Engineer reserves the right to inspect plant and materials prior to Contractor selection, and may reject plant or material that in his/her opinion is substandard or inappropriate. The Contractor shall provide full descriptions of all plants to be deployed for these works. The Contractor shall present method statements describing in detail the proposed approach to work.

The Contractor shall provide summary detail of the experience of key personnel to be deployed for these works.

Occupation of site

The Employer will provide land on which the works shall be constructed. The Contractor shall be given possession of such parts of the site that he requires for activities related to construction works including storage of raw materials, equipment and setting up of camp during the period of Contract provided his operation does not interfere with the daily activities of the Employer.

The Contractor shall not enter upon or occupy with men, tools, equipment and materials any land other than the land or right of way provided by the Employer

Diligent performance

The Contractor shall at all times perform the Works diligently and in accordance with sound professional practice. He/she shall not proceed from one stage of works to another without the express permission of the Engineer.

Decisions regarding temporary halt, discontinuing of any element or part of any element of these works, or abandonment of these works, shall be discussed jointly between the Contractor and the Engineer before any further actions are authorised by the Engineer. The Engineer's decision shall be final.

The Engineer will require a written submission justifying any steps taken by the successful bidder without the Engineer's approval. An unsatisfactory explanation shall lead to non-payment for works undertaken without prior agreement, and may be included for consideration as liquidated damages.

Drawings

The project drawings shall comprise

- (a) The drawings provided in the book of drawings issued for Tender
- (b) Such other drawings and/or sketches as are issued from time to time by the Engineer to deal with design modifications in response to on-site conditions

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Record drawing

As the work proceeds the Contractor shall mark up 'As Built' details on a set of prints of the Contract Drawings modified to portray the works as actually constructed and issue to the Engineer's representatives for approval within 7 days of completion of the works covered by each drawing.

Level datum

It shall be the responsibility of the Contractor before commencing work to obtain from the Engineer in writing the values and locations of the benchmarks to be used in these works. All temporary benchmarks shall be referred thereto.

The Contractor shall construct such temporary benchmarks as the Engineer may direct and shall agree the levels thereof with the Engineer. The establishment of such temporary benchmarks shall be deemed part of the Contractor's responsibility in setting out the works.

The reduced levels are shown on the drawing are believed but not guaranteed to be correct. In the event of any discrepancies between the drawing and the specification, the specification shall have precedence over the drawing.

Setting out

The Contractor shall appoint and employ the necessary qualified and experienced staff to set out the works accurately.

The Contractor shall establish and locate all lines and levels and be responsible for the correct location of all works.

Where directed by the Engineer, the Contractor shall take such levels and dimensions as may be required for the purposes of measurement before disturbance of the ground. These shall be agreed between the Contractor and the Engineer in writing before any ground surface is disturbed or covered up. Any work commenced without taking the said levels and dimensions shall be measured on the Engineer's reckoning of their values before disturbance. The Engineer's decision on this matter shall be final.

Construction and checking of work

The Contractor shall be solely responsible for and shall provide all labour, tools, lifting tackle, and other equipment required for the construction and checking of the works.

No operative shall be allowed to execute any type of work which is normally carried out by a skilled trades man, unless the operative is thoroughly experienced and proficient in the trade concerned. Supervisors and operatives may be required to demonstrate their proficiency or produce certificates of competence to the satisfaction of the Engineer.

As each part of the work is carried out, it shall be subject to the approval of the Engineer.

Survey equipment

The Contractor shall provide for the sole use of the Engineers representative the survey equipment and appliance and these shall revert to the Contractor upon COMPLETION of the Contract.

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The Contractor shall provide all labour and materials as may be required by the Engineer representative for survey work in connection with works.

Supervision and labour

The Contractor will be required to maintain a competent supervising engineer and staff on Site throughout the construction period until completion of the works, and thereafter as may be required during the Defects Liability Period. The Engineer shall give prior approval to the appointment of this supervising engineer and shall have the authority to withdraw this approval at any time in accordance with the Conditions of Contract.

All staff and labour employed on the works shall be employed in accordance with the labour and employment laws and regulations of the Republic of Kenya

Contractor's site offices, staff, workshops, storage and working areas, communication, etc

General

The Contractor shall advise the Engineer at which of his offices any notices may be served in accordance with the Conditions of Contract.

Language of correspondence and records

All communication from Contractor to the Engineer and the Engineer's Representative shall be in English language.

All site books, time sheets, records, notes drawings, documents, specifications etc. shall be in English language

Contractor's duty staff & offices

At least one responsible senior representative of the Contractor shall be immediately available at all times and he shall be on site during normal working hours.

To such representative shall be delegated full authority to confer with Engineer's Representatives or his deputy and to take all steps and to issue all those instructions which may be required in an emergency to ensure the safety of all personnel of the works and of all the Employer's and other property on the site and in the immediate vicinity thereof. The Engineer's Representative may from time to time at his discretion after taking into consideration all the prevailing conditions allow some relaxation of this clause but such relaxation shall be made only with his written permission and subject to any special conditions which he may then require.

The Contractor shall provide and maintain at the site, offices for the use of representative and to which written instructions by the Engineer's Representative can be delivered. Any instructions delivered to such offices shall be deemed to have been delivered to the Contractor.

Accommodation for workmen

Where the Contractor wishes to construct camp to accommodate his labour, the following requirements shall be adhered to and shall also be subject to the requirement made by the District or Provincial Administration or any local Authority.

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

Demolition of Contractor's temporary structures

The Engineer may at any time before the end of the period of maintenance give the Contractor notice in writing to demolish and remove those buildings and works which are no longer required, whereupon the title to such buildings and works and materials connected therewith shall revert to the Contractor. After the demolition and removal of building and works as required by the Engineer and Contractor shall level, clear, restore and make good the sites and surrounding ground and fill in and compact all latrines, drains, pits and similar works leaving the satisfaction of the Engineer's Representative.

Public Relations

The Contractor shall designate within his site organization competent staff whose responsibility shall be to ensure good relations.

The location of all yards, stores, workshops, offices, etc. shall be agreed beforehand with the Engineer's Representatives and shall be such as to avoid obstruction and nuisance to public and/or the client.

The Contractor shall provide and maintain at or near the site suitable and sufficient shelters, mess rooms, washrooms, latrines etc. as are necessary and customary, to the satisfaction of the Engineer and in accordance with the law and regulations of the relevant authorities.

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

Definition and use of the Site

Definition of the Site

The Site shall include all those areas of land which, being public or private:

Areas being provided by the Employer for the construction of the permanent works.

Areas

being provided by the Employer for temporary works, including camps, offices and stores.

Are acquired, leased, or operated by the Contractor as borrow pits or spoil tips for the permanent works, including all access roads.

Use of the Site

Access to the Site is gained from public and private highways. The Contractor shall be responsible for cleaning and maintaining all existing roads affected by his work while he is on Site. He shall also be responsible for repairing and making good any damage to these roads. If the Contractor, his Sub - Contractors or suppliers, causes the damage, then the repairs will be at his own cost.

The Contractor shall be responsible for the construction, maintenance and repair of any temporary Site roads.

The lands and other places outside the Site, which are the property of or under the control of the Employer, shall not be used except with the approval of the Engineer.

The Contractor shall promptly remove any vehicle, wagon, barge or vessel or any other obstruction under his control, which the Engineer may require to be moved for any purpose. The Contractor shall remove such obstruction promptly upon receiving such instruction and at his own cost, unless the Engineer shall decide otherwise.

The Contractor shall maintain access for the inspection, operation and maintenance of any of the Employer's assets within the Site or elsewhere.

The Contractor shall not use any portion of the Site for any purpose not connected with the works unless the written permission of the Engineer has been obtained.

Possession of the Site

The Contractor shall restrict his activities to those areas of the Site adjacent to the works being executed and shall avoid any encroachment upon lands outside the areas for which possession has been given. Any trespass or damage or any claim arising from such encroachment shall be the Contractor's sole responsibility and he shall hold the Employer indemnified against all claims arising from such trespass or damage.

Interference with existing works

The Contractor shall not interfere in any way, with any existing works, be it the property of the Employer or of a third party, whether such works has been shown to the Contractor by the Engineer, except where such interference is specifically described as part of the works, either in the Contract or in instructions from the Engineer to take over such works.

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

Maintenance of natural environment

Disfigurement of the natural environment of the area during construction must be kept to a minimum and special care shall be taken to avoid permanent damage. Needless adverse effects on the local ecology shall be avoided. Bushes and trees shall not be cut except where necessary for the execution of the Works, and then only after the sanction of the Engineer has been obtained.

The Engineer shall have authority to require removal from the Project of any personnel who wilfully neglect these matters.

Quality of Materials and Workmanship

All materials shall comply with the appropriate Standard Specifications and to the approval of the Engineer unless otherwise required hereinafter.

The Contractor, shall, before placing any order of materials, manufactured articles or machinery for incorporation in the works, submit for the approval of the Engineer the names of the suppliers from whom he proposes to obtain such materials, manufactured articles or machinery, together with a list of the same, giving the origin, quality, weight, strength, description and other relevant details. No materials, manufactured articles or machinery shall be ordered or obtained from any suppliers not approved in writing by the Engineer.

All materials shall be delivered to the Site a sufficient period of time before they are required for use in the works, to enable the Engineer to take such samples as he may wish for testing and approval.

Notwithstanding the fact that approval has been given to the source of supply, the Engineer may forbid the use of any materials if, upon delivery, they are found to be defective, or he considers them unsuitable for incorporation in the works. Such rejected materials shall be removed from the site forthwith.

The Contractor may propose alternative materials of equivalent quality to those specified, and subject to the Engineer's approval, such materials may be used in the works.

The Contractor shall have no claim against the Employer in respect of any financial loss which he may suffer as a result of the rejection of any such materials, and he shall also bear the cost of removing them from the Site.

The Engineer shall have the right to inspect materials and plant for the permanent works during the course of manufacture. The Contractor shall arrange for the right of access to manufacturing premises for the Engineer and his staff during normal working hours. The Contractor shall give the Engineer sufficient notice to allow him to observe the testing of any materials for the works at the place of manufacture. The Engineer shall also be given the opportunity to inspect any material or plant in their completed state before packing for transport to the site.

If requested by the Engineer, the Contractor shall provide the Engineer with copies of orders for the supply of goods or materials required for the works.

Rejected materials and defective work

Materials or work which, in the opinion of the Engineer, do not comply with the Specification, shall be classified as rejected materials or defective work, and shall be cut out and removed from the works and replaced as directed by the Engineer.

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Alternatives

The Contractor's main Bid shall comply fully with the Specification.

The Contractor is however at liberty to include alternative materials, items of Plant or methods of construction for which he claims advantages to those indicated in the Specification and Drawings, provided the modes of operation and methods of construction are fully described and are at least equal to those shown on the Drawings or Implied in the Specification.

The Contractor shall submit manufacturer's detailed descriptions of alternatives and he shall draw attention to any aspect of each component that does not fully comply with the requirements of this Specification. These detailed descriptions, including any departure from the requirements of the Specification may, after approval by the Engineer, be included among the Contract documents and each item shall be in accordance with the description of it. Approval of a manufacturer's description shall not include approval of any departure from the requirements of the Specification unless the Engineer in writing specifically approves the departure.

Where materials, Plant or methods of construction differ from those specified, the Contractor shall submit with his Bid drawings showing any amendments of system design necessary to suit the alternative. The Engineer will either approve these drawings or issue others if he approves the components concerned.

The Engineer however, may not necessarily accept any alternative put forward.

Existing works and services

The Contractor shall acquaint himself with the positions of all existing works before any excavation is commenced. he will be held responsible for any damage, however caused, in the course of the execution of the works, to such existing works and services. Any damage caused shall be made good at the Contractor's expense.

Such existing works and services, where exposed by the execution of the works, shall be properly shored, hung-up and supported to the satisfaction of the Engineer and of the authority concerned. The Contractor shall exercise special care when refilling trenches or other excavations around such existing services. Stop cock boxes, water meters and the like shall not be covered up.

Poles supporting cables and the like adjacent to the works shall be kept securely in place until the works are completed and shall then be made as safe and permanent as before.

Notwithstanding the foregoing requirements and without lessening the Contractor's responsibility, the Contractor shall inform the Engineer immediately any existing works have been exposed and shall comply with any requirements of the authority concerned.

Only when and as directed by the Engineer shall the position of existing works or services be changed by the Contractor to meet the requirements of the proposed work.

The Contractor shall make adequate provision so that when carrying out his work, no interference, damage or pollution is caused to highways and footpaths, or to any mains, drains, sewers, and the like or other parts of the works.

Wherever loads have to be carried over ground in which pipes, valves, culverts, and the like are buried, the Contractor shall take all precautions including where necessary, the provision and use of sleepered roads, light gauge railways or other means to prevent damage occurring to such underground works.

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The Contractor shall not store any plant or materials or spoil heaps over existing water mains, or in such positions that interference with access to the mains, control valves and the like is created. Approval by the Engineer to the means of protection employed shall not relieve the Contractor of any responsibility in respect of damage occasioned by his operations.

The laying of pipework, ducts, drains and the like shall be arranged so as to cause as little disruption, to traffic or public movement as possible with the smooth operation of existing works.

When breaking out and making good existing structures, the Contractor shall disturb the existing structures as little as possible. All structures shall be made good with materials similar to those used in the existing works, or such materials which are considered by the Engineer to be of similar appearance and suitable in all other respects.

Overhead power lines

Where work is being carried out in the vicinity of overhead power lines, the Contractor shall be responsible for ensuring that all persons working in such areas are aware of the safe working distances in the vicinity of high voltage overhead power lines especially when cranes or other large masses of steel are in the vicinity of the power lines.

The Contractor's attention is drawn to BS 162, which gives safe clearance for various voltages.

The Contractor shall take all necessary precautions to ensure the safety of his employees and all other persons where work is being carried out near overhead power lines.

Existing access

Existing access to lands, property and all other places shall be maintained by the Contractor for the duration of the works to the Engineer's satisfaction.

Excavation across roads and tracks

Before excavating across any public or private road or track, the Contractor shall give the Engineer ten days notice of his intention to excavate and shall include, in writing, the precautions he proposes to take for the continuance of passage and safety of traffic, and details of the warning signs and lights to be provided and operated. The excavation shall not commence until the written approval of the Engineer has been given.

Liaison with police and other officials

The Contractor shall keep in close contact with the police and other officials in the areas concerned regarding their requirements for the control of workmen, movement of traffic, or other matters and shall provide all assistance and facilities which may be required by such officials in the execution of their duties.

Preservation of trees

No tree shall be removed without prior written permission of the Engineer who will limit the removal of trees to the minimum necessary to accommodate the permanent works.

If trees are removed or damaged by the Contractor or his employees, without approval, then the Contractor shall replace such trees.

Replacement trees shall be not less than two years of age, obtained from a reputable nursery and of a species approved by the Engineer.

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The Contractor shall plant, water and ensure that the replacement trees are properly established.

General protection

It shall be the Contractor's responsibility to ascertain the existence of all improvements and facilities which may be damaged by its operations, under or above ground, and he shall protect such facilities which are not to be removed. Such objects which are damaged by the Contractor's operations shall be replaced or restored to a condition as good as when the Contractor entered upon the work, at no cost to the Employer. Damage to existing roads caused by the Contractor's equipment or operations shall be repaired by the Contractor at no cost to the Employer.

Protection from water

The Contractor shall keep the whole of the works free from water and shall be deemed to have included for all pumping, shoring, temporary drains, sumps and other measures and provisions necessary for such purposes and for clearing away and making good to the satisfaction of the Engineer any damage caused thereby.

Protection against fires

The Contractor is advised that, at all times, it is necessary to guard against fires starting within the Site or in the environs thereof, particularly as the result of the works or from the actions of his employees. The Contractor shall have available, at all times; a trained fire-fighting team provided with adequate fire-fighting equipment and shall deal with all fires on the Site howsoever caused.

Site security

The Contractor will be responsible for the security of works and of site installations during the Contract Period. He must provide fencing, watch and lighting as he deems necessary.

Description of material and workmanship

The following apply to all sections thereafter.

(a) Materials

Materials, commodities, components and equipment are to be new and unused unless otherwise specified. Handle, store, fix and protect all commodities with care to ensure that they are in perfect condition when incorporated into permanent work and handed over on COMPLETION

(b) Manufacturers recommendations

Handle, store and fix every commodity strictly in accordance with the printed or written recommendations of the manufacturers and/or suppliers. Supply the engineer with copies of the manufacturer's recommendations. Inform the engineer if the manufacturer's recommendations conflict with any other specified requirements and obtain his instructions before proceeding.

Standards

Where commodities or workmanship are specified by reference to Kenya Bureau of Standards (KS), or British Standards (BS), or Code of practice (CP), or international (ISO) or any other standard, such standards are deemed to be the latest published at the time of tendering. The Contractor will be deemed to have read and understood the standards specified, and no claim for lack of knowledge will be allowed. Substitution of commodities or standards of workmanship complying with other standards may be allowed at the discretion of the Engineer, but application for permission for such substitution must be

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made in writing in sufficient time to allow adequate irrigation. The Contractor must obtain Certificate of compliance with the standards and supply to the Engineer on request.

Water and power for use on the works

The Contractor shall be solely responsible for the location, procurement and maintenance of a water supply adequate in quality and quantity to meet his obligations under the Contract.

The Contractor shall be solely responsible for the location and continuity of the supply of water for use on the works. Supplies may be derived from boreholes, rivers and streams, but shall in all cases be to the Engineer's approval. The abstraction of water from any sources shall not interfere with any permanent water supply. The Contractor shall be solely responsible for the transporting of water from its source to the point at which it is required for construction purposes, and in such quantities and quality as to enable the works to proceed without hindrance due to the shortage of adequate water supplies.

The Contractor shall take care to avoid unnecessary use of water and to prevent any water running to waste.

The Contractor shall make his own arrangements for power supplies and shall be solely responsible for the location, procurement and maintenance of a power supply, adequate to meet his obligations under the Contract.

Fuel supplies

The Contractor shall arrange for obtaining, storing and distributing all fuel oils required for the COMPLETION of the works.

Telephone and communications

The Contractor shall obtain suitable means of communications during the course of the Contract. The use of radio communications may be permitted but the Contractor shall be responsible for obtaining all the necessary permits and licences.

Sanitation

The Contractor shall provide adequate sanitation and refuse collection and disposal facilities complying with state laws and local by-laws for all houses offices workshops, and the like, erected on the site, all to the satisfaction of the Engineer.

The toilet facilities provided at the site by the Contractor shall be made available, free of charge, to the employees of the Contractor and any of his Sub Contractors.

The Contractor shall warn his employees and Sub Contractors that any employee found fouling the site shall be removed from the site immediately in accordance with the Conditions of Contract.

First aid and medical services

The Contractor shall provide and maintain all equipment necessary to render first aid in case of accidents, snakebites or other emergencies. This equipment shall be kept in readiness at the sites of the works, at camps and wherever the Contractor's staff may regularly live and work. The Contractor shall ensure that there are persons available at all such places with knowledge of simple first aid procedures and able to administer snakebite treatment.

Health checks

The Employer may arrange for the taking of swabs, urine and stool samples from all persons who will be working in and around the works, to ensure that all such persons are free from contagious diseases.

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The Employer will pay all medical costs incurred in the taking and analyses of these samples. The Contractor shall make his employees available during normal working hours for undergoing the above-mentioned health checks. Reasonable notice will be given.

The Contractor shall keep records in respect of all his employees, showing the dates on which health checks have been and will be carried out.

Every employee whom the Contractor intends to engage on the works shall, in addition to being available for the above tests, successfully undertake a test for typhoid and paratyphoid at an approved hospital or medical centre. The medical certificate for each employee shall be submitted to the Engineer before the employee shall be allowed on Site.

Inspections by the Engineer during the Defects Liability Period

The Engineer will give the Contractor due notice of his intention to carry out any inspection during the defects liability period. The Contractor shall, upon receipt of such notice, arrange for a responsible representative to be present at the times and dates named by the Engineer.

This representative shall render all necessary assistance and shall take note of all matters and things to which the Engineer shall direct his attention.

Health and safety

General

The Contractor shall use his best endeavour to ensure, so far as is reasonably practicable and to the satisfaction of the Engineer, the health, safety and welfare at work of his employees, including those of his Sub-Contractors, and of all other persons on the Site. His responsibilities shall include:

- Provision and maintenance of safe and properly illuminated Contractor's Equipment;
- Establishment of safe and well-illuminated systems of working;
- Provision of protective clothing and equipment;
- Establishment of first aid stations, staffed and equipped to provide information, instruction, training and supervision on all aspects of safety and health on site;
- Appointing as Safety Officer one of his senior staff who shall have specific knowledge of safety regulations and have had experience of safety precautions on similar works and who shall advise the Contractor on all aspects of safety and health on Site;
- Provision and maintenance of safe access to all work areas on the Site;
- Provision of adequate sanitary facilities and maintenance of these in a clean and hygienic state for use by all persons employed by the Employer, Engineer, Contractor or other Contractors on the Site;
- Measures to control flies, mosquitoes and pests in both working and recreational areas including chemical spraying, if necessary, in compliance with the rules and regulations of the Employer;
- Reporting details of any accident to the Site Safety Officer as soon as possible after its occurrence;
- Reasonable prevention of non-site personnel from entering the work areas.

Safety equipment and training

The Contractor shall provide:

- All necessary breathing apparatus, safety harnesses and any other equipment required to ensure safe working of all his personnel on Site;
- Test certificates for all safety equipment;
- Proof that all relevant personnel have received appropriate training.

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Noise control

The Contractor will be required to employ well maintained plant on site at all times and shall undertake all works strictly in accordance with the recommendations of BS 5228 standards (all parts) Noise Control on Construction and Open Sites or other equivalent agreed standards.

Health and safety plan

The Contractor is required to produce a health and safety plan covering the hazards that may apply during the Contract, the rules and standards to be used in assessing risk and in undertaking work and the methods that he will employ to ensure compliance with his plan.

The Health and Safety Plan shall include details of the following:

Details of all potential risks and the proposals for dealing with such hazards;
Controls to regulate risks that occur during all construction, testing and commissioning activities;
Measures to avoid health risk in connection with the use, handling, storage and transportation of hazardous and harmful substances;
Safety equipment and training proposals in respect of equipment referred to above.

Sign boards

Before the erection of any signboards or posters by the Contractor, the Contractor shall obtain the approval of the Employer and the Engineer to the size, location and wording of such sign boards or posters.

Building regulations

All buildings erected by the Contractor upon the Site and campsite or sites and the layout of the buildings shall comply with the Laws of Kenya and all local by-laws as far as they are applicable.

Progress photographs

Photographs showing the progress of the works shall be taken by a competent photographer every month from positions to be selected by the Engineer.

Special photographs showing particular features of the works or matters of interest concerning the works or their surroundings shall also be taken from time to time as and when required by the Engineer.

Photographs shall not be less than 120 mm x 90 mm and shall be inscribed with the date when taken and a brief description or title.

All negatives shall be numbered; retained on the site and on COMPLETION of the works the negatives shall become the property of the Employer.

Contractor's tracked equipment

The Contractor's tracked equipment may not be run on any public or private road without the written permission of the owner or authority concerned.

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Site meetings

The Contractor shall be obliged to attend all site meetings at the appointed time.

Samples

The Contractor shall submit to the Engineer samples of materials to be used in the works, the samples must be fairly representative of the bulk to be supplied or used. Samples should be subject to relevant tests before submission and Test Certificate should accompany the samples

Testing of water retaining structures

All water retaining structures shall be tested for water tightness on COMPLETION in the following manner. The structure shall be filled with water in stages and held at each water level as the Engineer may require. Shall any dampness or leaking occur at any stage the water shall be drawn and the defects remedied to the satisfaction of the Engineer. The procedures shall be continued and finally the structure shall be allowed to remain full for seven days. Should any dampness or leakage or any other defects occur they shall be made good to the satisfaction of the Engineer and the structure retested until the water tightness is approved by the Engineer.

Cleansing and sterilisation of water retaining structures

The inside of all potable water retaining structures and all interior pipework and fittings shall be thoroughly cleaned and washed after the water tightness has been approved by the Engineer.

The structures shall be filled to overflow level with clean water containing 20 parts per million of chlorine and left shall be drained away and the structures for a period of at least 24hours. The chlorinated water refilled with clean water from which samples shall be taken for analysis to the instructions of the Engineer. If any of results of the analysis are unsatisfactory the sterilisation process shall be repeated until the results of the tests are satisfactory.

Substantial Completion

Substantial completion will mean the works are capable of being fully used by the employer in accordance with the intent of the design standards.

Test on Completion

On commissioning of the works the Contractor shall have on site personnel to ensure that all the plant is working satisfactorily. The personnel shall be on site for a minimum of 7 days or for such time as required to determine that the equipment is operating to the satisfaction of the Engineer

Site clearance upon Completion of works

On Completion of the works, the Contractor shall clear the site and remove all temporary buildings, equipment and debris. The Contractor shall level off and grade all areas used for haul roads and all building, store and workshop areas. The whole of the site shall be left in a clean and tidy condition.

SECTION VII: DRAWINGS

PROVIDED SEPARATELY!!

SECTION VIII: BILL OF QUANTITIES

**RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY
SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY**

BILL NO. 1 PRELIMINARY AND GENERAL ITEMS					
ITEM	DESCRIPTION	UNIT	QTY	RATE (KSH)	AMOUNT (KSH)
	CLASS A: GENERAL ITEMS.				
	Contractual Requirements				
1.01	Allow for provision of Insurance of Works, accident against workmen, and Third Party Insurance	Lumpsum	1		
1.02	Setting out the Works as specified or directed by the Engineer.	Lumpsum	1		
	Specified Requirements				
1.03	Allow for Provisional Sum of KSh. 250,000 for Project Supervision	P. sum	1	250,000	250,000
1.04	Allow a Provisional Sum of Ksh. 60,000 for branding of constructed facilities as instructed by the Engineer	P. sum	1	50,000	50,000
1.05	Allow for a Provisional Sum of Ksh. 10,000 for tests instructed by the engineer.	P.sum	1	10,000	10,000
1.06	Add% for profit, administration, attendance upon, overheads, etc. for Items 1.03 to 1.05 above.	%	15	310,000	
	Sign Board				
1.07	Establishment of Project Signboards, including removal after completion of project.	Nr	1	45,000	45,000
	Project Coordination				
1.08	Allow a provisional sum of Ksh. 15,000 per month as facilitation for Project Management and Coordination meetings	month	2	15,000	30,000
1.09	Add% for profit, administration, attendance upon, overheads, etc. for Item 1.08	%	15	30,000	
	Environment, Health and Safety				

**RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY
SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY**

1.10	Provision of Personal Protective Equipment for sole use by the Project Manager's Staff. The PPE shall include 2 pairs of safety shoes with steel toes, 2 pairs of gumboots, 2nr pieces of white helmets, 2nr white overalls	Lumpsum	1		
	Total Bill No.1 Carried Over To Summary Sheet				

BILL NO. 2: RAINWATER HARVESTING					
ITEM	DESCRIPTION	UNIT	QTY	RATE (KSH)	AMOUNT (KSH)
	Fascia Board,200mm				
1.01	Supply and fixing sawn,seasoned timber as well as painting	M	150		
	Plastic Gutters				
1.02	Supply and fix 140mm half round plastic gutters onto fascia boards with supports spacing not exceeding 600mm. Rate to include all requisite jointing and support fittings.	M	150		
1.03	Supply and install 140x75mm gutter running outlets at intervals not exceeding 15meters.	Nr	12		
1.04	Supply and install u-PVC gutter stop ends	Nr	6		
	Plastic Down pipe from the gutters outlets to collection pipe				
1.05	Supply and 75mm pipes. Rate to include for anchorage/support; rate to include for jointing, bends and other support	M	50		
	PIPEWORK				
	The rate entered against the items in this section shall include for stripping top soil,laying aside and subsequently replacing over refilled trench,excavation in trench in material other than rock, shuttering where necessary,refilling and compacting and spreading surplus soil evenly over and alongside pipe trench compacting,supply,lay and joint pipes to correct line and invert level.				
	Collection mains from rainwater down pipes to tanks				
1.06	PN 10,OD75 HDPE pipe In trenches,depth n.e 1200mm	M	200		
	Distribution mains within the Schools				

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

1.07	PN10,OD40HDPE pipe in trenches, depth n.e 1200mm	M	50		
	Water Points at Schools				
1.08	construct communal water point with 3Nr tap system as per the provided drawing and Engineers instruction	Nr	2		
	PIPEWORK-FITTINGS AND VALVES				
1.09	Provide and install PN 10, DN 40 gate valves in chambers, rate to include requisite fittings	Nr	4		
	CLASS K: MANHOLES AND PIPEWORK ANCILLARIES				
	Chambers				
1.10	Provide materials and construct masonry chamber with internal dimensions of 600mm x 600mm,depth not exceeding 1200mm with a 125mm thick reinforced concrete cover.	Nr	2		
1.11	Supply and install 24m³ plastic tanks to be Roto Tanks or similar equivalent approved by the Engineer. Rate to include construction of tank bases and provision for DN50 outlet complete with gate valve	Nr	2		
1.12	Provide and install 50mm dia. Tank washout outlets with endcaps	Nr	2		
	Total Bill No.2 Carried Over To Summary Sheet				

BILL NO. 3: GIRLS VIP LATRINE BLOCK

ITEM	DESCRIPTION	UNIT	QTY	RATE (KSH)	AMOUNT (KSH)
	Substructure				
	<i>Pit Excavation; rate to include for shoring, strutting, and keeping excavated surfaces dry from water, and spreading of excavated material within site</i>				
1.01	Maximum depth n.e. 1.0m	m³	20		
1.02	Maximum depth 1.0m to 2.0m	m³	16		
1.03	Maximum depth 2.0m to 3.0m	m³	10		
1.04	Maximum depth 3.0m to 4.0m	m³	10		
1.05	Maximum depth exceeding 4.0m	m³	10		
1.06	<u>Extra Over</u> Excavation in Rock, all classes	m³	50		

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

1.07	Fill and ram selected excavated materials around foundations and structures	m ³	40		
1.08	Provide and deposit approved imported hardcore in maximum 150mm thick layers in making up levels including achieving satisfactory compaction	m ³	5		
1.09	Provide, lay and level out fine crushed stone, sand or gravel blinding 50mm thick to surface of filling, including watering and rolling to achieve satisfactory compaction	m ²	16		
1.10	Chemical anti-termite treatment to surface of filling with an approved insecticide	m ²	16		
1.11	500 Gauge polythene sheeting, laid over hardcore	m ²	16		
1.12	Class 25/20 slab for 400× 200mm concrete strip	m ³	3.0		
1.13	Formwork for Strip Footing and Surface Bed n.e. 300	m	90		
1.14	Masonry Walling-200mm Thick 1350mm high	m ²	48		
1.15	Fabric Reinforcement No. A142 Mesh Size 150 x 150mm Weighing 2.22 kg/m ² , Including Bends, Tying Wire and Spacers	m ²	26		
1.16	Class 25/20 concrete for 150mm thick slab	m ³	6		
1.17	Class 25/20 concrete for strip footing, beam and foot rest	m ³	4		
1.18	Reinforcement steel for strip footing and beam	kg	310		
1.19	Formwork for strip footing, beam and foot rest	m ²	30		
1.20	Provide 400× 150mm squat hole boxout	No.	5		
	Superstructure				
1.21	200mm wide Damp-proof course (DPC)	m	35		
1.22	Masonry walling-150mm thick, max 2500mm high	m ²	75		
1.23	12.5mm cement rendering to blockwork and concrete surfaces internally	m ²	40		
1.24	12.5mm cement rendering to blockwork and concrete surfaces externally	m ²	120		
1.25	150mm Concrete Ventilation Blocks	m ²	4		
	<u>Extra Over</u> walling for ruled horizontal joints	m ²	70		
1.26	External wall painting with external quality water paint	m ²	40		
1.27	Internal wall painting with gloss paint finish	m ²	120		

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

1.28	Painting to facial boards	m ²	10		
1.29	Wrot Prime Grade Cypress 830x2075x50mm thick Batten Timber Door including 3No. 100 mm steel heavy duty washered butt hinges, internal and external latches and three coats first quality gloss paint	No.	5		
1.30	Frame to fit door opening 900mm wide × 2400mm height	No.	5		
1.31	100mm dia. uPVC ventilation pipes with fly screen and cap, 3.3m long	No.	5		
1.32	Precast Concrete Paving Slabs size 600 x 600 x 50mm Thick laid on and including 50mm thick bed of sand and jointing and pointing in cement mortar	m ²	30		
	Tiling				
	Rate to include for preparation of surfaces to receive ceramic tiles				
1.33	Tiling of floor and walls	m ²	26		
	Roof				
	Rate to include for provision and installation				
1.34	Timber 100× 50 truss and purlins	m	35		
1.35	Timber 200× 50 fascia boards	m	18		
1.36	Prepainted Corrugated iron sheets, Gauge 30	m ²	13		
	Total Bill No.3 Carried Over To Summary Sheet				

BILL NO. 4: BOYS VIP LATRINE BLOCK

ITEM	DESCRIPTION	UNIT	QTY	RATES (KSH)	AMOUNT (KSH)
	Substructure				
	<i>Pit Excavation; rate to include for shoring, strutting, and keeping excavated surfaces dry from water, and spreading of excavated material within site</i>				
1.01	Maximum depth n.e. 1.0m	m ³	20		
1.02	Maximum depth 1.0m to 2.0m	m ³	12		
1.03	Maximum depth 2.0m to 3.0m	m ³	8		

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

1.04	Maximum depth 3.0m to 4.0m	m ³	8		
1.05	Maximum depth exceeding 4m	m ³	8		
1.06	<u>Extra Over</u> Excavation in Rock, all classes	m ³	30		
1.07	Fill and ram selected excavated materials around foundations and structures	m ³	30		
1.08	Provide and deposit approved imported hardcore in maximum 150mm thick layers in making up levels including achieving satisfactory compaction	m ³	4		
1.09	Provide, lay and level out fine crushed stone, sand or gravel blinding 50mm thick to surface of filling, including watering and rolling to achieve satisfactory compaction	m ²	12		
1.10	Chemical anti-termite treatment to surface of filling with an approved insecticide	m ²	12		
1.11	500 Gauge polythene sheeting, laid over hardcore	m ²	12		
1.12	Class 25/20 slab for 400× 200mm concrete strip	m ³	2.5		
1.13	Formwork for Strip Footing and Surface Bed n.e. 300	m	70		
1.14	Masonry Walling-200mm Thick 1350mm high	m ²	40		
1.15	Fabric Reinforcement No. A142 Mesh Size 150 x 150mm Weighing 2.22 kg/m ² , Including Bends, Tying Wire and Spacers	m ²	21		
1.16	Class 25/20 concrete for 150mm thick slab	m ³	5		
1.17	Class 25/20 concrete for strip footing, beam and foot rest	m ³	3		
1.18	Class 15/20 concrete for urinal stand	m ³	1.5		
1.19	Reinforcement steel for strip footing and beam	kg	280		
1.20	Formwork for strip footing, beam and foot rest	m ²	25		

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

1.21	Provide 400× 150mm squat hole boxout	No.	4		
1.22	Superstructure				
1.23	200mm wide Damp-proof course (DPC)	m	30		
1.24	Masonry walling-150mm thick, max 2500mm high	m ²	60		
1.25	12.5mm cement rendering to blockwork and concrete surfaces internally	m ²	30		
1.26	12.5mm cement rendering to blockwork and concrete surfaces externally	m ²	100		
1.27	150mm Concrete Ventilation Blocks	m ²	3		
1.28	<u>Extra over</u> walling for ruled horizontal joints	m ²	60		
1.29	External wall painting with external quality water paint	m ²	30		
1.30	Internal wall painting with gloss paint finish	m ²	100		
1.31	Painting to facial boards	m ²	8		
1.32	Wrot Prime Grade Cypress 830x2075x50mm thick Batten Timber Door including 3No. 100 mm steel heavy duty washered butt hinges, internal and external latches and three coats first quality gloss paint	No.	4		
1.33	Frame to fit door opening 900mm wide × 2400mm height	No.	4		
1.34	100mm dia. uPVC ventilation pipes with fly screen and cap, 3.3m long	No.	4		
1.35	Precast Concrete Paving Slabs size 600 x 600 x 50mm Thick laid on and including 50mm thick bed of sand and jointing and pointing in cement mortar	m ²	20		
	Tiling				
	Rate to include for preparation of surfaces to receive ceramic tiles				
1.36	Tiling of floor and walls	m ²	30		
	Roof				
1.37	Rate to include for provision and installation				

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

1.38	Timber 100× 50 truss and purlins	m	28		
1.39	Timber 200× 50 fascia boards	m	16		
	Prepainted Corrugated iron sheets, Gauge 30	m ²	11		
	Total Bill No.4 Carried Over To Summary Sheet				

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL	
SUMMARY OF BILLS	
ITEM DESCRIPTION	AMOUNT (KSH)
Bill No. 1 Preliminary & General Items	
Bill No. 2 Rainwater harvesting	
Bill No. 3 Girls' VIP Latrine Block	
Bill No. 4 Boys' VIP Latrine Block	
Sub -Total1	
Add 2% of Sub- Total 1 for Physical Contingencies	
Sub-Total 2	
Add 16% VAT	
Add 0.03% Capacity Building Levy	
Total Carried Over to Bid (Inclusive of Taxes)	

SECTION IX: TENDER FORMS

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

A. Form of Tender

INSTRUCTIONS TO TENDERERS

- i) *The Tenderer must prepare this Form of Tender on stationery with its letterhead clearly showing the Tenderer's complete name and business address.*
- ii) *All italicized text is to help Tenderer in preparing this form.*
- iii) *Tenderer must complete and sign CERTIFICATE OF INDEPENDENT TENDER DETERMINATION and the SELF DECLARATION OF THE TENDERER attached to this Form of Tender.*
- iv) *The Form of Tender shall include the following Forms duly completed and signed by the Tenderer.*
 - *Tenderer's Eligibility- Confidential Business Questionnaire*
 - *Certificate of Independent Tender Determination*
 - *Self-Declaration of the Tenderer*

Date of this Tender submission:

Request for Tender No.:

Name and description of Tender

.....

Alternative No.: *[insert identification No if this is a Tender for an alternative]*

To: Lake Victoria South Water Works Development Agency

Dear Sirs,

1. In accordance with the Conditions of Contract, Specifications, Drawings and Bills of Quantities for the execution of the above-named Works, we, the undersigned offer to construct and complete the Works and remedy any defects therein for the sum of Kenya Shillings *[[Amount in figures]*_____ Kenya

The above amount includes foreign currency amount (s) of *[state figure or a percentage and currency]* *[figures]*_____ *[words]*_____.

The percentage or amount quoted above does not include provisional sums, and only allows not more than two foreign currencies.

2. We undertake, if our tender is accepted, to commence the Works as soon as is reasonably possible after the receipt of the Project Manager's notice to commence, and to complete the whole of the Works comprised in the Contract within the time stated in the Special Conditions of Contract.
3. We agree to adhere by this tender until _____ *[Insert date]*, and it shall remain binding upon us and may be accepted at any time before that date.

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

4. Unless and until a formal Agreement is prepared and executed this tender together with your written acceptance thereof, shall constitute a binding Contract between us. We further understand that you are not bound to accept the lowest or any tender you may receive.
5. We, the undersigned, further declare that:
- i) No reservations: We have examined and have no reservations to the tender document, including Addenda issued in accordance with ITT 28;
 - ii) Eligibility: We meet the eligibility requirements and have no conflict of interest in accordance with ITT 3 and 4;
 - iii) Tender-Securing Declaration: We have not been suspended nor declared ineligible by the Procuring Entity based on execution of a Tender-Securing or Proposal-Securing Declaration in the Procuring Entity's Country in accordance with ITT 19.8;
 - iv) Conformity: We offer to execute in conformity with the tendering documents and in accordance with the implementation and completion specified in the construction schedule, the following Works: *[insert a brief description of the Works]*;
 - v) Tender Price: The total price of our Tender, excluding any discounts offered in item 1 above is: *[Insert one of the options below as appropriate]*
 - vi Option 1, in case of one lot: Total price is: *[insert the total price of the Tender in words and figures, indicating the various amounts and the respective currencies]*; Or

Option 2, in case of multiple lots:
 - a) Total price of each lot *[insert the total price of each lot in words and figures, indicating the various amounts and the respective currencies]*; and
 - b) Total price of all lots (sum of all lots) *[insert the total price of all lots in words and figures, indicating the various amounts and the respective currencies]*;
 - vii) Discounts: The discounts offered and the methodology for their application are:
 - viii) The discounts offered are: *[Specify in detail each discount offered.]*
 - ix) The exact method of calculations to determine the net price after application of discounts is shown below: *[Specify in detail the method that shall be used to apply the discounts]*;
 - x) Tender Validity Period: Our Tender shall be valid for the period specified in TDS 18.1 (as amended, if applicable) from the date fixed for the Tender submission deadline specified in TDS 22.1 (as amended, if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
 - xi) Performance Security: If our Tender is accepted, we commit to obtain a Performance Security in accordance with the Tendering document;
 - xii) One Tender Per Tender: We are not submitting any other Tender(s) as an individual Tender, and we are not participating in any other Tender(s) as a Joint Venture member or as a subcontractor, and meet the requirements of

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

ITT 3.4, other than alternative Tenders submitted in accordance with ITT 13.3;

- xiii) **Suspension and Debarment:** We, along with any of our subcontractors, suppliers, Project Manager, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the Public Procurement Regulatory Authority or any other entity of the Government of Kenya, or any international organization.
- xiv) **State-owned enterprise or institution:** *[select the appropriate option and delete the other] [We are not a state-owned enterprise or institution] / [We are a state-owned enterprise or institution but meet the requirements of ITT 3.8];*
- xv) **Commissions, gratuities, fees:** We have paid, or will pay the following commissions, gratuities, or fees with respect to the tender process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity].*

Name of Recipient	Address	Reason	Amount

(If none has been paid or is to be paid, indicate “none.”)

- xvi) **Binding Contract:** We understand that this Tender, together with your written acceptance thereof included in your Letter of Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed;
- xvii) **Not Bound to Accept:** We understand that you are not bound to accept the lowest evaluated cost Tender, the Most Advantageous Tender or any other Tender that you may receive;
- xviii) **Fraud and Corruption:** We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption;
- xix) **Collusive practices:** We hereby certify and confirm that the tender is genuine, non-collusive and made with the intention of accepting the contract if awarded. To this effect we have signed the “Certificate of Independent Tender Determination” attached below.
- xx) We undertake to adhere by the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal, copy available from *(specify website)* during the procurement process and the execution of any resulting contract.
- xxi) We, the Tenderer, have completed fully and signed the following Forms as part of our Tender:
- a) Tenderer's Eligibility; Confidential Business Questionnaire – to

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

- establish we are not in any conflict to interest.
- b) Certificate of Independent Tender Determination – to declare that we completed the tender without colluding with other tenderers.
 - c) Self-Declaration of the Tenderer – to declare that we will, if awarded a contract, not engage in any form of fraud and corruption.
 - d) Declaration and commitment to the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal

Further, we confirm that we have read and understood the full content and scope of fraud and corruption as informed in “**Appendix 1- Fraud and Corruption**” attached to the Form of Tender.

Name of the Tenderer: *[insert complete name of person signing the Tender]

Name of the person duly authorized to sign the Tender on behalf of the Tenderer:
**[insert complete name of person duly authorized to sign the Tender]

Title of the person signing the Tender: [insert complete title of the person signing the Tender]

Signature of the person named above: [insert signature of person whose name and capacity are shown above] **Date signed** [insert date of signing] day of [insert month], [insert year]

Date signed _____ day of _____, _____

Notes

* In the case of the Tender submitted by joint venture specify the name of the Joint Venture as Tenderer

** Person signing the Tender shall have the power of attorney given by the Tenderer to be attached with the Tender.

Appendix to Tender

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

Schedule of Adjustment Data

[In Tables A, B, and C, below, the Tenderer shall (a) indicate its amount of local currency payment, (b) indicate its proposed source and base values of indices for the different foreign currency elements of cost, (c) derive its proposed weightings for local and foreign currency payment, and (d) list the exchange rates used in the currency conversion. In the case of very large and/or complex works contracts, it may be necessary to specify several families of price adjustment formulae corresponding to the different works involved.]

Table A. Local Currency

Index code	Index description	Source of index	Base value and date	Tenderer's related currency amount	Range of weighting Proposed by the Lake Victoria South Water Works Development Agency	Tenderer's proposed weighting
	Non-adjustable	—	—	—	a: _____* b: _____ to _____* c: _____ to _____* d: _____ to _____* e: _____ to _____* etc.	a: _____* b: _____ c: _____ d: _____ e: _____ etc.
Total						1.00

**RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY
SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY**

Table B. Foreign Currency

State type: [If the Tenderer wishes to quote in more than one foreign currency, this table should be repeated for each foreign currency.]

Index code	Index description	Source of index	Base value and date	Tenderer's related source currency in type/ amount	Equivalent in Foreign Currency 1	Range of weighting Proposed by the Lake Victoria South Water Works Development Agency	Tenderer's proposed weighting
	Non-adjustable	—	—	—		a: _____* b: _____ to _____* c: _____ to _____* d: _____ to _____* e: _____ to _____* etc.	a: _____ b: _____ c: _____ d: _____ e: _____ etc.
Total							1.00

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

Table C. Summary of Payment Currencies

For [insert name of Section of the Works]

[Separate tables may be required if the various sections of the Works (or of the Bill of Quantities) will have substantially different foreign and local currency requirements. The Lake Victoria South Water Works Development Agency should insert the names of each Section of the Works.]

Name of payment currency	A Amount of currency	B Rate of exchange (local currency per unit of foreign)	C Local currency equivalent $C = A \times B$	D Percentage of Net Tender Price (NBP) $\frac{100 \times C}{NBP}$
Local currency		1.00		
Foreign currency #1				
Foreign currency #2				
Foreign currency #				
Net Tender Price				100.00
Provisional sums expressed in local currency	*	*	*	
TENDER PRICE				

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Tenderer: _____

Address: _____

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

B. Tenderer Information Form

Date: _____

ITT No. and title: _____

Tenderer's name
In case of Joint Venture (JV), name of each member:
Tenderer's actual or intended country of registration: <i>[indicate country of Constitution]</i>
Tenderer's actual or intended year of incorporation:
Tenderer's legal address [in country of registration]:
Tenderer's authorized representative information Name: _____ Address: _____ Telephone/Fax numbers: _____ E-mail address: _____
1. Attached are copies of original documents of ☐ Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITT 3.6 ☐ In case of JV, letter of intent to form JV or JV agreement, in accordance with ITT 3.5 ☐ In case of state-owned enterprise or institution, in accordance with ITT 3.8, documents establishing: • Legal and financial autonomy • Operation under commercial law • Establishing that the Tenderer is not under the supervision of the Procuring Entity
2. Included are the organizational chart and a list of Board of Directors.

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

C. Tender-Securing Declaration (Mandatory)

Date: _____

Tender No.: _____

Alternative No.: _____

To: _____

We, the undersigned, declare that:

We understand that, according to your conditions, Tenders must be supported by a Tender-Securing Declaration.

We accept that we will automatically be suspended from being eligible for Tendering in any contract with the Lake Victoria South Water Works Development Agency for the period of time of _____ starting on _____, if we are in breach of our obligation(s) under the Tender conditions, because we;

- a) Have withdrawn our Tender during the period of Tender validity specified in the Form of Tender; or
- b) Having been notified of the acceptance of our Tender by the Lake Victoria South Water Works Development Agency during the period of Tender validity,
 - (i). Fail or refuse to execute the Contract, if required, or
 - (ii). Fail or refuse to furnish the Performance Security, in accordance with the ITT.

We understand this Tender Securing Declaration shall expire if we are not the successful Tenderer, upon the earlier of;

- 1) Our receipt of your notification to us of the name of the successful Tenderer; or
- 2) Thirty days after the expiration of our Tender.

Signed: _____

In the capacity of _____

Name: _____

Duly authorized to sign the Tender for and on behalf of:

_____ *[insert complete name of Tenderer]*

Dated on _____ day of _____, _____ *[insert date of signing]*

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

Corporate Seal (where appropriate)

D. Confidential Business Questionnaire

- 1 **Individual Tenderer or Individual Members of joint Ventures**
- 1.1 Constitution or legal status of Tenderer: *[attach copy]*
- Place of registration: _____
- Principal place of business: _____
- Power of attorney of signatory of Tender: *[attach]*
- Registration certificate *[attach]* current Business License *[attach]*
- 1.2 Total annual volume of construction work performed in two years, in Kenyan shillings as specified in the Tender Data Sheet; -

- 1.3 Work performed as prime Contractor on works of a similar nature and volume over the last two years or as specified in the Tender Data Sheet in Kenyan Shillings. Also list details of work under way or committed, including expected completion dates.

Project name and country	Name of client and contact person	Contractors Participation	Type of work performed and year of completion	Value of contract
(a)				
(b)				

- 1.4 Major items of Contractor's Equipment proposed for carrying out the works. List all information requested below. Refer also to sub-Clause 12.3 of the Instructions to Tenderers.

Item of equipment	Description, make, and age (years)	Condition (new, good, Poor) and number available	Owned, leased (from whom?) or to be purchased (from whom?)
(a)			
(b)			
(c)			
(d)			

- 1.5 Qualifications and experience of key personnel proposed for administration and execution of the Contract. Attach biographical data. Refer also to sub-Clause 12.3 of the Instructions to Tenderers and Sub- Clause 10.1 of the General Conditions of

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

Contract.

Position	Name	Years of Experience (general)	Years of experience in proposed position
(a)			
(b)			

- 1.6 Proposed sub-contractor and firms involved. Refer to Clause 7 of General Conditions of Contract.

Sections of the Works	Value of subcontract	Subcontractor (name and address)	Experience in similar work
(a)			
(b)			

- 1.7 Financial reports for the number of years specified in the Tender Data Sheet.
- 1.8 Evidence of access to financial resources to meet the qualification requirements: cash in hand, lines of credit, etc. List below and attach copies of support documents.
- 1.9 Name, address, and telephone, e-mail address, and facsimile numbers of banks that may provide references if contracted by the Lake Victoria South Water Works Development Agency.
- 1.10 Information on current litigation in which the Tenderer is involved.

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Other party(ies)	Cause of dispute	Amount involved
(a)		
(b)		

- 1.11 Statement of compliance with the requirements of sub-Clause 3.2 of the Instructions to Tenderers.
- 1.12 Proposed Program (work method and schedule). Descriptions, drawings, and charts, as necessary, to comply with the requirements of the Tendering documents.
- 2. **Joint Ventures**
 - 2.1 The information listed in 1.1 – 1.11 above shall be provided for each partner of the joint venture.
 - 2.2 The information in 1.12 above shall be provided for the joint venture.
 - 2.3 Attach the power of attorney of the signatory (ies) of the Tender authorizing signature of the Tender on behalf of the joint venture.
 - 2.4 Attach the Agreement among all partners of the joint venture (and which is legally binding on all partners), which shows that:
 - (a) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
 - (b) one of the partners will be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint venture; and
 - (c) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.
- 3. **Additional Requirements**
 - 3.1 Tenderers should provide any additional information required in the **Tender Data Sheet** or to fulfil the requirements of sub-Clauses 12.1 of the Instructions to Tenderers, if applicable.

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

E. CERTIFICATE OF INDEPENDENT TENDER DETERMINATION

I, the undersigned, in submitting the accompanying Letter of Tender to the _____ [Name] in every respect:

I certify, on behalf of _____ [Name of Tenderer] that:

1. I have read and I understand the contents of this Certificate;
2. I understand that the Tender will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am the authorized representative of the Tenderer with authority to sign this Certificate, and to submit the Tender on behalf of the Tenderer;
4. For the purposes of this Certificate and the Tender, I understand that the word “competitor” shall include any individual or organization, other than the Tenderer, whether or not affiliated with the Tenderer, who:
 - a) has been requested to submit a Tender in response to this request for tenders;
 - b) could potentially submit a tender in response to this request for tenders, based on their qualifications, abilities or experience;
5. The Tenderer discloses that [check one of the following, as applicable]:
 - a) The Tenderer has arrived at the Tender independently from, and without consultation, communication, agreement or arrangement with, any competitor;
 - b) the Tenderer has entered into consultations, communications, agreements or arrangements with one or more competitors regarding this request for tenders, and the Tenderer discloses, in the attached document(s), complete details thereof, including the names of the competitors and the nature of, and reasons for, such consultations, communications, agreements or arrangements;
6. In particular, without limiting the generality of paragraphs (5)(a) or (5)(b) above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - a) prices;
 - b) methods, factors or formulas used to calculate prices;
 - c) the intention or decision to submit, or not to submit, a tender; or
 - d) the submission of a tender which does not meet the specifications of the request for Tenders; except as specifically disclosed pursuant to paragraph (5)(b) above;
7. In addition, there has been no consultation, communication, agreement or arrangement with any competitor regarding the quality, quantity, specifications or delivery particulars of the works or services to which this request for tenders relates, except as specifically authorized by the procuring authority or as specifically disclosed pursuant to paragraph (5)(b) above;
8. the terms of the Tender have not been, and will not be, knowingly disclosed by the Tenderer, directly or indirectly, to any competitor, prior to the date and time of

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the official tender opening, or of the awarding of the Contract, whichever comes first, unless otherwise required by law or as specifically disclosed pursuant to paragraph (5)(b) above.

Name_____ Title_

Date _____

[Name, title and signature of authorized agent of Tenderer and Date].

F. 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: -

- a. 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. LVSWWDA /T/7/2023 - 24 for Rehabilitation of Paga Community Water Project in Suba North Sub County, Homa Bay County for Lake Victoria South Water Works Development Agency and duly authorized and competent to make this statement.
- b. THAT the aforesaid Bidder, its directors and subcontractors have not been debarred from participating in procurement proceeding under Part IV of the Act.
- c. THAT what is deponed to herein above is true to the best of my knowledge, information and belief.

.....
..... (Title)

(Signature)

Bidder Official Stamp

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FORM SD2

G. 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 LVSWWDA /T/7/2023 - 24 for Rehabilitation of Paga Community Water Project in Suba North Sub County, Homa Bay County for Lake Victoria South Water Works Development Agency 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 Lake Victoria South Water Works Development Agency 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 Lake Victoria South Water Works Development Agency
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)

Bidder's Official Stamp

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

H. DECLARATION AND COMMITMENT TO THE CODE OF ETHICS

I (person) on behalf of
(Name of the Business/ Company/Firm)
..... declare that I have read and fully
understood the contents of the Public Procurement & Asset Disposal Act, 2015,
Regulations and the Code of Ethics for persons participating in Public Procurement
and Asset Disposal and my responsibilities under the Code.

I do hereby commit to abide by the provisions of the Code of Ethics for persons
participating in Public Procurement and Asset Disposal.

Name of Authorized signatory.....
Sign.....

Position.....
.....

Office address.....

Telephone..... E-
mail.....
.....

Name of the
Firm/Company.....
.....

Date.....

..... (Company Seal/ Rubber Stamp where applicable)

Witness

Name

Sign.....

Date.....

I. Integrity Declaration

**UNDERTAKING BY TENDERER ON ANTI – BRIBERY POLICY / CODE OF CONDUCT
AND COMPLIANCE PROGRAMME**

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

1. Each Tenderer must submit a statement, as part of the Tender documents, in either of the two given formats which must be signed personally by the Chief Executive Officer or other appropriate senior corporate officer of the Tendering company and, where relevant, of its subsidiary in the Kenya. If a Tender is submitted by a subsidiary, a statement to this effect will also be required of the parent company, signed by its Chief Executive Officer or other appropriate senior corporate officer.
2. Tenderers will also be required to submit similar No-bribery commitments from their subcontractors and consortium partners; the Tenderer may cover the subcontractors and consortium partners in its own statement, provided the Tenderer assumes full responsibility.
3.
 - a) Payment to agents and other third parties shall be limited to appropriate compensation for legitimate services.
 - b) Each Tenderer will make full disclosure in the Tender documentation of the beneficiaries and amounts of all payments made, or intended to be made, to agents or other third parties (including political parties or electoral candidates) relating to the Tender and, if successful, the implementation of the contract.
 - c) The successful Tenderer will also make full disclosure [quarterly or semi- annually] of all payments to agents and other third parties during the execution of the contract.
 - d) Within six months of the completion of the performance of the contract, the successful Tenderer will formally certify that no bribes or other illicit commissions have been paid. The final accounting shall include brief details of the goods and services provided that they are sufficient to establish the legitimacy of the payments made.
 - e) Statements required according to subparagraphs (b) and (d) of this paragraph will have to be certified by the company's Chief Executive Officer, or other appropriate senior corporate officer.
4. Tenders which do not conform to these requirements shall not be considered.
5. If the successful Tenderer fails to comply with its No-bribery commitment, significant sanctions will apply. The sanctions may include all or any of the following:
 - a) Cancellation of the contract;
 - b) Liability for damages to the public authority and/or the unsuccessful competitors in the Tendering possibly in the form of a lump sum representing a pre-set percentage of the contract value (liquidated).
6. Tenderers shall make available, as part of their Tender, copies of their anti-Bribery Policy/Code of Conduct, if any, and of their-general or project - specific - Compliance Program.
7. The Government of Kenya has made special arrangements for adequate oversight of the procurement process and the execution of the contract, and has invited civil society and other competent Government Departments to participate in the oversight. Those charged with the oversight responsibility will have full access to all documentation submitted by Tenderers for this contract, and to which in turn all Tenderers and other parties involved or affected by the project shall have full access (provided, however, that no proprietary information concerning a Tenderer may be disclosed to another Tenderer or to the public).

**RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY
SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY**

ANTI-CORRUPTION DECLARATION COMMITMENT/ PLEDGE

(Sections 39, 40, 41, 42, 43 & of the PPD Act, 2005)

I/We/Messrs.....

of Street, Building, P O Box.....

.....

Contact/Phone/E mail.....

declare that Public Procurement is based on a free and fair competitive Tendering process which should not be open to abuse.

I/We

declare that I/We will not offer or facilitate, directly or indirectly, any inducement or reward to any public officer, their relations or business associates, in connection with

Tender/Tender No

for or in the subsequent performance of the contract if I/We am/are successful.

Authorized Signature.....

Name and Title of Signatory.....

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

J. Letter of Acceptance

[Letter head paper of the Lake Victoria South Water Works Development Agency]

[date]

To: [name and address of the Contractor]

This is to notify you that your Tender dated [date] for execution of the [name of the Contract and identification number, as given in the Contract Data Sheet] for the Contract Price of the equivalent of [amount in numbers and words] [name of currency], as corrected and modified in accordance with the Instructions to Tenderers is hereby accepted by us.

We confirm that [insert name proposed by the Lake Victoria South Water Works Development Agency] to be the Adjudicator.

We accept that [name proposed by Tenderer] be appointed as Adjudicator.

Or

We do not accept that [name proposed by Tenderer] be appointed as adjudicator, and by sending a copy of this letter of acceptance to [insert the name of the Appointing Authority], we are hereby requesting [name], the Appointing Authority, to appoint the adjudicator in accordance with Clause 44.1 of the Instructions to Tenderers.

You are hereby instructed to proceed with the execution of the said works in accordance with the Contract documents.

Please return the contract dully signed.

Authorized Signature: _____

Name and Title of Signatory:_____

Name of Agency:_____

Attachment: Form of Contract

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

K. Form of Contract Agreement

This Agreement, made the [day] day of [month], [year] between [name and address of Lake Victoria South Water Works Development Agency] (hereinafter called “the Lake Victoria South Water Works Development Agency”) and [name and address of Contractor] (hereinafter called “the Contractor”) of the other part.

Whereas the Lake Victoria South Water Works Development Agency is desirous that the Contractor execute [name and identification number of contract] (hereinafter called “the Works”) with the objectives of [insert functional objectives of the works] and the Lake Victoria South Water Works Development Agency has accepted the Tender by the Contractor for the execution and completion of such works and the remedying of any defects therein in the sum of [contract price in words and figures] (hereinafter called “Contract Price”).

NOW THIS AGREEMENT WITNESSES AS FOLLOWS:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to, and they shall be deemed to form and be read and construed as part of this Agreement;
2. In consideration of the payments to be made by the Lake Victoria South Water Works Development Agency to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Lake Victoria South Water Works Development Agency to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract;
3. The Lake Victoria South Water Works Development Agency hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects wherein the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

In Witness whereof the parties thereto have caused this Agreement to be executed the day and year first before written.

The Common Seal of _____

Was hereunto affixed in the presence of: _____

Signed, Sealed, and Delivered by the said _____

In the presence of: _____

Tendering Signature of Lake Victoria South Water Works Development Agency _____

Binding Signature of Contractor _____

SECTION X: FORMS OF SECURITY

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

A. Tender Security (Bank or Insurance Guarantee) (Optional)

*[If required, the **Bank or Insurance Company/Tenderer** shall fill in this Guarantee form in accordance with the instructions indicated in brackets.]*

[insert bank's or insurance company's name, and address of issuing branch or office]

Beneficiary: *[insert name and address of Lake Victoria South Water Works Development Agency]*

Date: *[insert date]*

TENDER GUARANTEE No.: *[insert number]*

We have been informed that *[insert name of the Tenderer; if a joint venture, list complete legal names of partners]* (hereinafter called "the Tenderer") has submitted to you its Tender dated *[insert date]* (hereinafter called "the Tender") for the execution of *[insert name of Contract]* under Invitation for Tenders No. *[insert IFT number]* ("the IFT").

Furthermore, we understand that, according to your conditions, Tenders must be supported by a Tender Guarantee.

At the request of the Tenderer, we *[insert name of bank or insurance company]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[insert amount in figures expressed in the currency of the Purchaser's Country or the equivalent amount in an international freely convertible currency]* (*[insert amount in words]*) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Tenderer is in breach of its obligation(s) under the Tender conditions, because the Tenderer;

- a) Has withdrawn its Tender during the period of Tender validity specified by the Tenderer in the Form of Tender; or
- b) Does not accept the correction of errors in accordance with the Instructions to Tenderers (hereinafter "the ITT") of the IFT; or
- c) Having been notified of the acceptance of its Tender by the Lake Victoria South Water Works Development Agency during the period of Tender validity;
 - (i). Fails or refuses to execute the Contract Form, if required, or
 - (ii). Fails or refuses to furnish the Performance Security, in accordance with the ITT.

This Guarantee shall expire;

- a) If the Tenderer is the successful Tenderer, upon our receipt of copies of the Contract signed by the Tenderer and of the Performance Security issued to you by the Tenderer; or
- b) If the Tenderer is not the successful Tenderer, upon the earlier of;

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

- (i) Our receipt of a copy of your notification to the Tenderer that the Tenderer was unsuccessful, or
- (ii) Thirty days after the expiration of the Tenderer's Tender.

Consequently, any demand for payment under this Guarantee must be received by us at the office on or before that date.

[signature(s) of authorized representative(s)]

[The **Bank or Insurance Company/successful Tenderer** providing the Guarantee shall fill in this form in accordance with the instructions indicated in brackets, if the Lake Victoria South Water Works Development Agency requires this type of security.]

[insert bank's or insurance company's name, and address of issuing branch or office]

Beneficiary: *[insert name and address of Lake Victoria South Water Works Development Agency]*

Date: *[insert date]*

PERFORMANCE GUARANTEE No.: *[insert Performance Guarantee number]*

We have been informed that *[insert name of Contractor]* (hereinafter called "the Contractor") has entered into Contract No. *[insert reference number of the Contract]* dated with you, for the execution of *[insert name of Contract and brief description of Works]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a Performance Guarantee is required.

At the request of the Contractor, we *[insert name of Bank or Insurance Company]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[insert amount in figures]* (*[insert amount in words]*), such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or to show grounds for your demand or the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Contractor before presenting us with the demand.

We further agree that no change, addition or other modification of the terms of the Contract or of the Works to be performed there under or of any of the Contract documents which may be made between you and the Contractor shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any change, addition, or modification.

This guarantee shall expire not later than thirty days from the date of issuance of the Taking-Over Certificate.

RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY

[signature(s) of an authorized representative(s) of the Bank or Insurance Company]

Bank or Insurance Guarantee for Advance Payment

[Bank's or Insurance Company's Name and Address of Issuing Branch or Office]

Beneficiary: _____ *[Name and Address of Lake Victoria South Water Works Development Agency]*

Date: _____

ADVANCE PAYMENT GUARANTEE No.: _____

We have been informed that *[name of Contractor]* (hereinafter called "the Contractor") has entered into Contract No. *[reference number of the contract]* dated _____ with you, for the execution of *[name of contract and brief description of Works]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum *[amount in figures]* (____) *[amount in words]* is to be made against an advance payment guarantee.

At the request of the Contractor, we *[name of Bank or Insurance Company]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[amount in figures]* (_____) *[amount in words]* upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation under the Contract because the Contractor used the advance payment for purposes other than the costs of mobilization in respect of the Works.

We further agree that no change or addition to or other modification of the terms of the Contract or of the Works to be performed thereunder or of any of the Contract documents which may be made between _____ *[name of Lake Victoria South Water Works Development Agency]* and the Contractor, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

No drawing may be made by you under this guarantee until we have received notice in writing from you that an advance payment of the amount listed above has been paid to the Contractor pursuant to the Contract.

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractor as indicated in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that eighty (80) percent of the Contract Price has been

**RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY
SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY**

certified for payment, or on the ____ day of _____, 2____, whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

Yours truly,

Signature and seal: _____

Name of Bank or Insurance Company: _____

Address: _____

Date: _____

**SECTION XI: APPLICATION TO PUBLIC PROCUREMENT
ADMINISTRATIVE REVIEW BOARD**

**RAINWATER HARVESTING AND SANITATION FOR BOGAMBERO PRIMARY
SCHOOL IN KURIA WEST CONSTITUENCY, MIGORI COUNTY**

FORM RB 1

REPUBLIC OF KENYA

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO..... OF.....20.....

BETWEEN

..... APPLICANT

AND

.....RESPONDENT (*Lake Victoria South Water Works Development
Agency*)

Request for review of the decision of the..... (*Name of the Lake Victoria South Water Works
Development Agency*) ofdated the...day of20.....in the matter of Tender
No.....of20...

REQUEST FOR REVIEW

I/We....., the above-named Applicant(s), of address: Physical
address..... Fax No..... Tel. No..... Email, hereby request the Public
Procurement Administrative Review Board to review the whole/part of the above-mentioned decision
on the following grounds, namely: -

- 1.
- 2.
- etc.

By this memorandum, the Applicant requests the Board for an order/orders that: -

- 1.
- 2.
- etc

SIGNED (Applicant)

Dated on..... day of/...20...

FOR OFFICIAL USE ONLY

Lodged with the Secretary Public Procurement Administrative Review Board on day of
.....20.....

SIGNED

Board Secretary