REPUBLIC OF KENYA

THE COUNTY GOVERNMENT OF GARISSA

K-WASH PROGRAM

THE WORLD BANK

DIRECTORATE OF WATER, ENVIRONMENT, NATURAL RESOURCES AND CLIMATE CHANGE
KENYA WATER SANITATION AND HYGIENE (K - WASH) PROGRAM

STANDARD TENDER DOCUMENT FOR PROCUREMENT OF SMALL WORKS

FOR

PROPOSED PIPELINE EXTENSION FOR MASALANI

TENDER NO. CGG/KWASH/T/002/2026-2027

SUBMISSION DEADLINE –
TUESDAY 15TH SEPTEMBER, 2026 AT 10.00 A.M. E.A.T

AT TENDER BOX LOCATED AT THE URBAN PLANING ASSEMBLY GROUND,
KISMAYU ROAD
P.O.BOX 563 -70100
GARISSA, KENYA
E-mail:
info@garissa.go.ke
Website. www.garissa.go.ke

OPEN COMPETITIVE TENDER

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PREFACE

1. This Standard Tender Document (STD) document has been prepared by the Public Procurement Regulatory Authority (PPRA) for use by Procuring Entities (PEs) for procurement of small works under Open Competitive Tendering Methods, as defined in the Public Procurement and Asset Disposal Act 2015 (the Act). No international competition is expected under these contracts.

2. On Joint Ventures, (JVs), County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme should allow not too high a number of JV members, a number above 5 is considered an unmanageable crowd, perhaps a crowd of small tenderers gathered to meet the qualification criteria; two or three JV Members are considered reasonable numbers.

3. Regarding cases being considered for abnormally low or high tenders, the benchmark should be County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's estimate in the Procurement Plan or other estimate based on commercial rates. It is expected that a County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme should call for Tenders with a clear idea of what to expect as a reasonable tender price. In case of abnormally low or high tenders, the Procurement Entity should (a) review the specifications, and conditions of tender, or correctness of the estimate or (b) possibility of a collusion, formation of cartels, or other form of fraudulent and corrupt activity in the tendering process or (c) perception of the firms on the credibility of County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme. The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall treat abnormally low and high tenders in accordance with procedures provided for in this tender document.

5. The procedures and practices presented in this STD reflect the requirements in the said Act and its Regulations. This STD will be used by Procuring Entities on a mandatory basis. Procuring Entities and other Users should ensure that they are using the latest version of the STD, which can be verified with PPRA. Lack of its use could be basis for challenging decision on contract award.

6. The STD is comprised of the parts indicated on the Table of Contents. Before using this STD, the Users are advised to familiarize themselves with the Act and its Regulations and any manuals prepared and issued by PPRA and other government agencies to guide Public Entities in the conduct of the public procurement process.

7. This STD is to be used for the procurement of the works of admeasurement (unit price or rate) type with or without a pre-qualification process having taken place.

8. The document includes a lump sum contract where the Works can be defined in their full physical and qualitative characteristics before tenders are called, or where the risks of substantial design variations are minimal. In lump-sum contracts, the concept of priced “activity schedules” is used, to enable payments to be made on the basis of percentage completion of each activity.

10. This document will be used for National Tendering Procedures for contracts below Kenya shillings……. Foreign currency, and margin of domestic preference will not be allowed. Preference and Reservations as allowed in the Act have been taken care of in this document.

11. During preparation of the tender document, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme should specify whether to allow the following:
    i) International Tender,
    ii) Margin of Preference,
    iii) Reservations
    iv) Pre-qualification
    v) Alternative tenders
    vi) requirement on Foreign tenderers to source at least 40% of their supplies from citizen contractors

10. This document will be customized to suit the needs of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme. **No changes should be made** to Instructions to Tenderers (ITT) and to the General Conditions of Contract (GCC). These two sections will be modified to suit the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's requirement in the Tender Data Sheets (**TDS**) and in the Special Conditions of Contract (SCC), respectively. The Cover Page of this document, the Preface and Guidelines or notes to users should not be part of the tender Document to be issued to Tenderers. Refer to Appendix to the Preface for more details.

11. The Public Procurement Regulatory Authority welcomes any comments from the Users of this STD which will assist in revising (if need be) and improving the structure and contents of the STD.

12. In this document, the term Project Manager may be substituted with Architect if the contract is for building works or Engineer if the contract is for civil engineering works.

Director General
Public Procurement Regulatory Authority (PPRA)

APPENDIX TO THE PREFACE

GUIDELINES FOR PREPARATION OF TENDER DOCUMENTS

1. GENERAL

Page 1 (The Heading of the Document), the Preface and the Appendix shall not be included in the Document to be issued to Tenderers. The Document to be issued to Tenderers shall star with the page titled "This Page, NAME, LOGO AND ADDRESS OF THE COUNTY GOVERNMENT OF GARISSA_DEPARTMENT OF WATER_THE KENYA WATER SANITATION AND HYGIENE (K-WASH) PROGRAMME, NAME AND IDENTIFICATION OF TENDER", including all the other material on the page completed appropriately.

If in the course of preparing a Tender Document or evaluating a tender/tenders following the criteria in the standard tender document, a County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme finds a provision it does not understand or agree with, it shall contact PPRA for clarifications before it changes anything, otherwise it will be considered as violating procurement rules.

The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme should confirm that the works to be procured is in its approved Procurement Plan and budgeted for. It should also confirm the estimated cost of the contract(s), including the estimated time for executing the contract. The cost estimate helps the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme determine the applicable procurement method to be used and the determination if the lowest evaluated cost is unrealistically too low or too high. Prior to finalizing the Tender Document, it is advisable for the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme to recheck these estimates

The estimates must be prepared by an expert in the field of the subject contract; i.e. by Engineers or Quantity Surveyors or Architects. The Estimates should be based on current market prices or on data collected by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme based on past (*but not historic*) contracts.

The purpose of the estimates is to enable the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme determine amounts of money to be inserted in the Tender Document for:

i) The Tender Security to be inserted in the Tender Document *should be expressed in absolute value which should not be more than 2% of the tender as valued by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme. It is advisable that the larger the estimated contract value, the smaller the required percentage of the tender security.*

ii) The minimum amount of money required for the tenderer to demonstrate that the tenderer has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the contract execution cash flow requirements, net of the Tenderer's other commitments. *Usually the assets should be about 2-3 months cash flow requirements based on the estimated completion time.*

iii) The minimum amount of money required as an average annual turnover for the tenderer to demonstrate that the tenderer is a prime contractor. *Usually the minimum amount of money is about 2.50 times the estimated cost of the contract(s).*

iv) The amount of money required to determine specific experience of the tenderer based on the minimum size of contract(s) substantially completed and that are similar to the proposed contract. *Normally the minimum amount of money required is about 80% of the estimated cost of the contract.*

2. PART 1 - TENDERING PROCEDURES

i) Section I - Instructions to Tenderers (ITT)

This Section provides relevant information to help tenderers prepare their tenders. Information is also provided on the submission, opening, and evaluation of tenders and on the award of Contracts. Section I contains provisions that are to be used without modification by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme or by a

Tenderer.

ii) Section II - Tender Data Sheet (TDS)

This Section includes provisions that are specific to each procurement and that supplement Section I, Instructions to Tenderers. This section shall be completed appropriately by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme and not by a Tenderer. In any case, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall not add any item in the **TDS** not included in the Standard Tender Document.

iii) Section III - Evaluation and Qualification Criteria

This Section specifies the criteria to determine the Lowest Evaluated Tender that would be considered for contract award; that is the tenderer that meets the qualification criteria and whose tender has been determined to be:

a) substantially responsive to the bidding document, and

b) the lowest evaluated cost.

No other criterion shall be added by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme. Some parts of this section may be omitted by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme (and not by a Tenderer) to suit the subject procurement. For example, in some cases evaluation may not include Margin of Preference, so any reference to considerations for Margin of Preference will be omitted. The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme will complete the parts of the Criterion only as guided and allowed in this section. For example, if the criterion provides "Post qualification and Contract ward" and lists an item that says "Other conditions…….", the Entity shall only include the conditions that are allowed in the Standard Tender Document.

iv) Section IV – Tendering Forms

This Section includes the Form of Tender and other forms to be submitted; e.g. priced Schedules of Requirements, Bills of Quantities, Schedules of technical proposal, including technical and financial qualifications, personnel, financial resources, equipment, Tender Security and others to be completed and submitted by the Tenderer as part of its Tender.

3. PART 2 - PROCUREMENT ENTITY'S REQUIREMENTS

This Section contains the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's Schedules of Requirements, Specifications, Drawings, and supplementary information that describe the items to be procured. The Requirements shall also include (if so required) the environmental, social, health and safety requirements to be satisfied by the Tenderer in executing the contract.

4. PART 3 - CONDITIONS OF CONTRACT AND CONTRACT FORMS

i) **Section VIII - General Conditions of Contract (GCC)**

This Section contains the general clauses to be applied in all contracts. This Section contains provisions that are to be used without modification by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme or by a Tenderer.

iii) Section IX - Special Conditions of Contract (SCC)

The contents of this Section supplement the General Conditions of Contract and shall be prepared by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme.

iv) Section X - Contract Forms

This Section contains forms which, once completed, will form part of the Contract. The forms, when required, shall only be completed by the successful Tender after Contract award.

REPUBLIC OF KENYA

THE COUNTY GOVERNMENT OF GARISSA

K-WASH PROGRAM

THE WORLD BANK

TENDER DOCUMENTS FOR PROCUREMENT OF SMALLWORKS

1) THE COUNTY GOVERNMENT OF GARISSA_DEPARTMENT OF WATER_THE KENYA WATER SANITATION AND HYGIENE (K-WASH) PROGRAMME

2) County Government of Garissa
Department of Water
Kenya Water Sanitation and Hygiene (K-WASH) Programme
P.O. Box 563-70100
Garissa.
Email address: *waterservices@garissa.go.ke*

2) **Invitation to Tender (ITT) No: CGG/K-WASH/T/002/2026-2027**

3) **Tender Name: Proposed Pipeline Extension for Masalani,**

INVITATION TO TENDER

Date: 1ST September 2026

COUNTY GOVERNMENT OF GARISSA_DEPARTMENT OF WATER_THE KENYA WATER

SANITATION AND HYGIENE (K-WASH) PROGRAMME:

County Government of Garissa
Department of Water
Kenya Water Sanitation and Hygiene (K-WASH) Programme
P.O. Box 563-70100
Garissa.

CONTRACT NAME: PROPOSED PIPELINE EXTENSION FOR MASALANI.

TENDER NO. CGG/KWASH/T/002/2026-2027

1. The ***Kenya Water, Sanitation and Hygiene (K-WASH) Programme Programme in Garissa County*** invites sealed tenders for the ***Proposed Pipeline Extension for Masalani..***

2. Tendering will be conducted under open competitive method (National) using a standardized tender document. Tendering is open to all qualified and interested Tenderers.

3. Qualified and interested tenderers may obtain further information and inspect the Tender Documents during office hours *[i.e. 0800 to 1700 hours]* at the address given below.

4. A complete set of tender documents may be obtained electronically **FREE OF CHARGE** from the County's Website (www.garissa.go.ke) or (www.tenders.go.ke). Tender documents obtained electronically will be free of charge.

5. Tender documents may be viewed and downloaded for free from the website (www.garissa.go.ke) or (www.tenders.go.ke). Tenderers who download the tender document must forward their particulars immediately to email: *waterservices@garissa.go.ke, telephone: +254 726 952528 and postal address: 563-70100 Garissa)* to facilitate any further clarification or addendum.

6. Tenders shall be quoted be in Kenya Shillings and shall include all taxes. Tenders shall remain valid for (120) days from the date of opening of tenders.

7. All Tenders must be accompanied by a tender Security of **Kshs. 160,000 (Kenya Shillings One hundred and Sixty Thousand Only)** in the form of:
    - Cash
    - A bank guarantee
    - A guarantee by an insurance company registered and licensed by the Insurance Regulatory Authority listed by the Authority

8. A guarantee issued by a Financial Institution Approved and Licensed by the Central Bank of Kenya

9. The Tenderer shall chronologically serialize all pages of the tender documents submitted.

10. Completed tenders must be delivered to the address below on or before ***Tuesday 15th September, 2026 at 10.00 a.m. E.A.T.*** Electronic Tenders *will not* be permitted.

11. Tenders will be opened immediately after the deadline date and time specified above or any dead line date and time specified later. Tenders will be publicly opened in the presence of the Tenderers' designated representatives who choose to attend at the address below.

12. Late tenders will be rejected.

10. The addresses referred to above are:

A. Address for obtaining further information and for purchasing tender documents

County Government of Garissa
Department of Water
Kenya Water Sanitation and Hygiene (K-WASH) Programme
P.O. Box 563-70100
Garissa.
Email address: *waterservices@garissa.go.ke*

B. Address for Submission of Tenders.

AT TENDER BOX LOCATED AT THE URBAN PLANING ASSEMBLY GROUND,
KISMAYU ROAD
P.O.BOX 563 -70100
GARISSA, KENYA
E-mail:
info@garissa.go.ke
Website. www.garissa.go.ke



[Authorized Official (name, designation, Signature and date)]

Name_____

(*Official of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme issuing the invitation)*

Designation_____ Signature

Date_____

PART 1 - TENDERING PROCEDURES

SECTION I: INSTRUCTIONS TO TENDERERS

A General Provisions

1. Scope of Tender

1.1 The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme as defined in the Appendix to Conditions of Contract invites tenders for Works Contract as described in the tender documents. The name, identification, and number of lots (contracts) of this Tender Document are **specified in the TDS.**

2. Fraud and Corruption

2.1 The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme requires compliance with the provisions of the Public Procurement and Asset Disposal Act, 2015, Section 62 "Declaration not to engage in corruption". The tender submitted by a person shall include a declaration that the person shall not engage in any corrupt or fraudulent practice and a declaration that the person or his or her sub-contractors are not debarred from participating in public procurement proceedings.

2.2 The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme requires compliance with the provisions of the Competition Act 2010, regarding collusive practices in contracting. Any tenderer found to have engaged in collusive conduct shall be disqualified and criminal and/or civil sanctions may be imposed. To this effect, Tenders shall be required to complete and sign the "Certificate of Independent Tender Determination" annexed to the Form of Tender.

2.3 Unfair Competitive Advantage - Fairness and transparency in the tender process require that the firms or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to this tender. To that end, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall indicate in the **Data Sheet** and make available to all the firms together with this tender document all information that would in that respect give such firm any unfair competitive advantage over competing firms.

2.4 Unfair Competitive Advantage -Fairness and transparency in the tender process require that the Firms or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to this tender being tendered for. The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall indicate in the **TDS** firms (if any) that provided consulting services for the contract being tendered for. The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall check whether the owners or controllers of the Tenderer are same as those that provided consulting services. The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall, upon request, make available to any tenderer information that would give such firm unfair competitive advantage over competing firms.

3. Eligible Tenderers

3.1 A Tenderer may be a firm that is a private entity, a state-owned enterprise or institution subject to ITT 3.7 or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. Public employees and their close relatives *(spouses, children, brothers, sisters and uncles and aunts)* are not eligible to participate in the tender. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the entire Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the tendering process and, in the event the JV is awarded the Contract, during contract execution. The maximum number of JV members shall be specified in the **TDS.**

3.2 Public Officers of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme, their Spouses, Child, Parent, Brothers or Sister. Child, Parent, Brother or Sister of a Spouse, their business associates or agents and firms/organizations in which they have a substantial or controlling interest shall not be eligible to tender or be awarded a contract. Public Officers are also not allowed to participate in any procurement proceedings.

3.3 A Tenderer shall not have a conflict of interest. Any tenderer found to have a conflict of interest shall be disqualified. A tenderer may be considered to have a conflict of interest for the purpose of this tendering process, if the tenderer:

a) Directly or indirectly controls, is controlled by or is under common control with another tenderer; or

b) Receives or has received any direct or indirect subsidy from another tenderer; or

c) Has the same legal representative as another tenderer; or

d) Has a relationship with another tenderer, directly or through common third parties, that puts it in a position to influence the tender of another tenderer, or influence the decisions of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme regarding this tendering process; or

e) Any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the tender; or

f) any of its affiliates has been hired (or is proposed to be hired) by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme as Engineer for the Contract implementation; or

g) Would be providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the contract specified in this Tender Document or

h) Has a close business or family relationship with a professional staff of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme who:

i) are directly or indirectly involved in the preparation of the Tender document or specifications of the Contract, and/or the Tender evaluation process of such contract; or

ii) would be involved in the implementation or supervision of such Contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme throughout the tendering process and execution of the Contract.

3.4 A tenderer shall not be involved in corrupt, coercive, obstructive, collusive or fraudulent practice. A tenderer that is proven to have been involved any of these practices shall be automatically disqualified.

3.5 A Tenderer (either individually or as a JV member) shall not participate in more than one Tender, except for permitted alternative tenders. This includes participation as a subcontractor in other Tenders. Such participation shall result in the disqualification of all Tenders in which the firm is involved. A firm that is not a tenderer or a JV member may participate as a subcontractor in more than one tender. Members of a joint venture may not also make an individual tender, be a subcontractor in a separate tender or be part of another joint venture for the purposes of the same Tender.

3.6 A Tenderer may have the nationality of any country, subject to the restrictions pursuant to ITT 4.8.A Tenderer shall be deemed to have the nationality of a country if the Tenderer is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination of the nationality of proposed subcontractors or sub-consultants for any part of the Contract including related Services.

3.7 Tenderer that has been debarred from participating in public procurement shall be ineligible to tender or be awarded a contract. The list of debarred firms and individuals is available from the website of PPRA www.ppra.go.ke.

3.8 Tenderers that are state-owned enterprises or institutions may be eligible to compete and be awarded a Contract(s) only if they are accredited by PPRA to be (i) a legal public entity of the state Government and/or public administration, (ii) financially autonomous and not receiving any significant subsidies or budget support from any public entity or Government, and (iii) operating under commercial law and vested with legal rights and liabilities similar to any commercial enterprise to enable it compete with firms in the private sector on an equal basis.

3.9 A Firms and individuals may be ineligible if their countries of origin (a) as a matter of law or official regulations, Kenya prohibits commercial relations with that country, or (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods or contracting of works or services from that country, or any payments to any country, person, or entity in that country. A tenderer shall provide such documentary evidence of eligibility satisfactory to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme, as the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall reasonably request.

3.10 Foreign tenderers are required to source at least forty (40%) percent of their contract inputs (in supplies, subcontracts and labor) from national suppliers and contractors. To this end, a foreign tenderer shall provide in its tender documentary evidence that this requirement is met. Foreign tenderers not meeting this criterion will be automatically disqualified. Information required to enable the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme determine if this condition is met shall be provided in for this purpose is be provided in *"SECTION III - EVALUATION AND QUALIFICATION CRITERIA, Item 9".*

3.11 Pursuant to the eligibility requirements of ITT 4.10, a tender is considered a foreign tenderer, if the tenderer is not registered in Kenya or if the tenderer is registered in Kenya and has less than 51 percent ownership by Kenyan Citizens. JVs are considered as foreign tenderers if the individual member firms are not registered in Kenya or if are registered in Kenya and have less than 51 percent ownership by Kenyan citizens. The JV shall not subcontract to foreign firms more than 10 percent of the contract price, excluding provisional sums.

3.12 The National Construction Authority Act of Kenya requires that all local and foreign contractors be registered with the National Construction Authority and be issued with a Registration Certificate before they can undertake any construction works in Kenya. Registration shall not be a condition for tender, but it shall be a condition of contract award and signature. A selected tenderer shall be given opportunity to register before such award and signature of contract. Application for registration with National Construction Authority may be accessed from the website www.nca.go.ke.

3.13 The Competition Act of Kenya requires that firms wishing to tender as Joint Venture undertakings which may prevent, distort or lessen competition in provision of services are prohibited unless they are exempt in accordance with the provisions of Section 25 of the Competition Act, 2010. JVs will be required to seek for exemption from the Competition Authority. Exemption shall not be a condition for tender, but it shall be a condition of contract award and signature. A JV tenderer shall be given opportunity to seek such exemption as a condition of award and signature of contract. Application for exemption from the Competition Authority of Kenya may be accessed from the website www.cak.go.ke

3.14 A Kenyan tenderer shall provide evidence of having fulfilled his/her tax obligations by producing a valid tax clearance certificate or tax exemption certificate issued by the Kenya Revenue Authority.

4. Eligible Goods, Equipment, and Services

4.1 Goods, equipment and services to be supplied under the Contract may have their origin in any country that is not eligible under ITT 3.9. At the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's request, Tenderers may be required to provide evidence of the origin of Goods, equipment and services.

4.2 Any goods, works and production processes with characteristics that have been declared by the relevant national environmental protection agency or by other competent authority as harmful to human beings and to the environment shall not be eligible for procurement.

5. Tenderer's Responsibilities

5.1 The tenderer shall bear all costs associated with the preparation and submission of his/her tender, and the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme will in no case be responsible or liable for those costs.

5.2 The tenderer, at the tenderer's own responsibility and risk, is encouraged to visit and examine the Site of the 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.

5.3 The Tenderer and any of its personnel or agents will be granted permission by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme to enter upon its premises and lands for the purpose of such visit. The Tenderer shall indemnify the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme against all liability arising from death or personal injury, loss of or damage to property, and any other losses and expenses incurred as a result of the inspection.

5.4 The tenderer shall provide in the Form of Tender and Qualification Information, a preliminary description of the proposed work method and schedule, including charts, as necessary or required.

B. Contents of Tender Documents

6. Sections of Tender Document

6.1 The tender document consists of Parts 1, 2, and 3, which includes all the sections specified below, and which should be read in conjunction with any Addenda issued in accordance with ITT 8.

PART 1 Tendering Procedures

i) Section I - Instructions to Tenderers (ITT)
ii) Section II - Tender Data Sheet (TDS)
iii) Section III - Evaluation and Qualification Criteria
iv) Section IV - Tendering Forms

PART 2 Works Requirements

i) Section V - Drawings
ii) Section VI - Specifications
iii) Section VII - Bills of Quantities

PART 3 Conditions of Contract and Contract Forms

i) Section VIII - General Conditions of Contract (GCC)
ii) Section IX - Special Conditions of Contract (SC)
iii) Section X - Contract Forms

6.2 The Invitation to Tender Document (ITT) issued by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme is not part of the Contract documents.

6.3 Unless obtained directly from the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme is not responsible for the completeness of the Tender document, responses to requests for clarification, the minutes of the pre-Tender meeting (if any), or Addenda to the Tender document in accordance with ITT 8. In case of any contradiction, documents obtained directly from the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall prevail.

The Tenderer is expected to examine all instructions, forms, terms, and specifications in the Tender Document and to furnish with its Tender all information and documentation as is required by the Tender document.

7. Site Visit

7.1 The Tenderer, at the Tenderer's own responsibility and risk, is encouraged to visit and examine and inspect the Site of the Required Services and its surroundings and obtain all information that may be necessary for preparing the Tender and entering into a contract for the Services. The costs of visiting the Site shall be at the Tenderer's own expense.

8. Pre-Tender Site Meeting

County Government of Garissa, Department of Water under The Kenya Water Sanitation and Hygiene (K-WASH) Programme invites bidders for a Site Visit Meeting to be Held on: -

Date: Wenesday 9th September 2026 to 11th September, 2026
Time: 10.00 a.m. E.A.T
Venue: Department of Water Services

8.1 The Tenderer is requested to submit any questions in writing, to reach the County Government of Garissa Department of Water under The Kenya Water Sanitation and Hygiene (K-WASH) Programme not later than the period specified in the TDS before the meeting.

8.2 Minutes of the pre-Tender meeting and the pre-arranged pretender site visit of the site of the works, if applicable, including the text of the questions asked by Tenderers and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Tenderers who have acquired the Tender Documents in accordance with ITT 6.3. Minutes shall not identify the source of the questions asked.

8.3 The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall also promptly publish anonym zed (*no names*) Minutes of the pre-Tender meeting and the pre-arranged pretender visit of the site of the works at the web page identified in the TDS. Any modification to the Tender Documents that may become necessary as a result of the pre-tender meeting and the pre-arranged pretender site visit, shall be made by the County Government of Garissa_Department of

Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme exclusively through the issue of an Addendum pursuant to ITT 8 and not through the minutes of the pre-Tender meeting. Nonattendance at the pre-Tender meeting will not be a cause for disqualification of a Tenderer.

9. Clarification and amendments of Tender Documents

9.1 A Tenderer requiring any clarification of the Tender Document shall contact the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme in writing at the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's address specified in the TDS or raise its enquiries during the pre-Tender meeting and the pre- arranged pretender visit of the site of the works if provided for in accordance with ITT 8.4. The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme will respond in writing to any request for clarification, provided that such request is received no later than the period specified in the TDS prior to the deadline for submission of tenders. The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall forward copies of its response to all tenderers who have acquired the Tender Documents in accordance with ITT 6.3, including a description of the inquiry but without identifying its source. If specified in the TDS, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall also promptly publish its response at the web page identified in the TDS. Should the clarification result in changes to the essential elements of the Tender Documents, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall amend the Tender Documents appropriately following the procedure under ITT 8.4.

10. Amendment of Tendering Document

10.1 **At any time prior to the deadline for submission of Tenders, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme may amend the Tendering document by issuing addenda.**

10.2 **Any addendum issued shall be part of the tendering document and shall be communicated in writing to all who have obtained the tendering document from the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme in accordance with ITT 6.3. The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall also promptly publish the addendum on the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's web page in accordance with ITT 8.4.**

10.3 **To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall extend, as necessary, the deadline for submission of Tenders, in accordance with ITT 25.2 below.**

C. Preparation of Tenders

11. Cost of Tendering

11.1 The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall not be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.

12. Language of Tender

12.1 The Tender, as well as all correspondence and documents relating to the tender exchanged by the tenderer and the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme, shall be written in the English Language. Supporting documents and printed literature that are part of the Tender may be in another language provided they are accompanied by an accurate and notarized translation of the relevant passages into the English Language, in which case, for purposes of interpretation of the Tender, such translation shall govern.

13. Documents Comprising the Tender

13.1 **The Tender shall comprise the following:**

a) Form of Tender prepared in accordance with ITT 14;
b) Schedules including priced Bill of Quantities, completed in accordance with ITT 14 and ITT 16;
c) Tender Security or Tender-Securing Declaration, in accordance with ITT 21.1;
d) Alternative Tender, if permissible, in accordance with ITT 15;
e) Authorization: written confirmation authorizing the signatory of the Tender to commit the Tenderer, in accordance with ITT 22.3;
f) Qualifications: documentary evidence in accordance with ITT 19establishing the Tenderer's qualifications

to perform the Contract if its Tender is accepted;

g) Conformity: a technical proposal in accordance with ITT 18;

h) Any other document required in the **TDS**.

13.2 **In addition to the requirements under ITT 11.1, Tenders submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of a successful Tender shall be signed by all members and submitted with the Tender, together with a copy of the proposed Agreement. The Tenderer shall chronologically serialize pages of all tender documents submitted.**

13.3 **The Tenderer shall furnish in the Form of Tender information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Tender.**

14. Form of Tender and Schedules

14.1 The Form of Tender and Schedules, including the Bill of Quantities, shall be prepared using the relevant forms furnished in Section IV, Tendering Forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITT 20.3. All blank spaces shall be filled in with the information requested.

15. Alternative Tenders

15.1 **Unless otherwise specified in the TDS, alternative Tenders shall not be considered.**

15.2 **When alternative times for completion are explicitly invited, a statement to that effect will be included in the TDS, and the method of evaluating different alternative times for completion will be described in Section III, Evaluation and Qualification Criteria.**

15.3 **Except as provided under ITT 13.4 below, Tenderers wishing to offer technical alternatives to the requirements of the Tender Documents must first price the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's design as described in the Tender Documents and shall further provide all information necessary for a complete evaluation of the alternative by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme, including drawings, design calculations, technical specifications, breakdown of prices, and proposed construction methodology and other relevant details. Only the technical alternatives, if any, of the Tenderer with the Winning Tender conforming to the basic technical requirements shall be considered by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme. When specified in the TDS, Tenderers are permitted to submit alternative technical solutions for specified parts of the Works, and such parts will be identified in the TDS, as will the method for their evaluating, and described in Section VII, Works' Requirements.**

16. Tender Prices and Discounts

16.1 **The prices and discounts (including any price reduction) quoted by the Tenderer in the Form of Tender and in the Bill of Quantities shall conform to the requirements specified below.**

16.2 **The Tenderer shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items against which no rate or price is entered by the Tenderer shall be deemed covered by the rates for other items in the Bill of Quantities and will not be paid for separately by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme. An item not listed in the priced Bill of Quantities shall be assumed to be not included in the Tender, and provided that the Tender is determined substantially responsive notwithstanding this omission, the average price of the item quoted by substantially responsive Tenderers will be added to the Tender price and the equivalent total cost of the Tender so determined will be used for price comparison.**

16.3 **The price to be quoted in the Form of Tender, in accordance with ITT 14.1, shall be the total price of the Tender, including any discounts offered.**

16.4 **The Tenderer shall quote any discounts and the methodology for their application in the Form of Tender, in accordance with ITT 14.1.**

16.5 **It will be specified in the TDS if the rates and prices quoted by the Tenderer are or are not subject to adjustment during the performance of the Contract in accordance with the provisions of the Conditions of Contract, except in cases where the contract is subject to fluctuations and adjustments, not fixed price. In such a case, the Tenderer shall furnish the indices and weightings for the price adjustment formulae in the Schedule of Adjustment Data and the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme may require the Tenderer to justify its proposed indices and weightings.**

16.6 **Where tenders are being invited for individual lots (contracts)or for any combination of lots (packages), tenderers wishing to offer discounts for the award of more than one Contract shall specify in their Tender the price reductions applicable to each package, or alternatively, to individual Contracts within the package. Discounts shall be submitted in accordance with ITT 16.4, provided the Tenders for all lots (contracts) are opened at the same time.**

16.7 **All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause,**

as of the date 30 days prior to the deadline for submission of Tenders, shall be included in the rates and prices and the total Tender Price submitted by the Tenderer.

17. Currencies of Tender and Payment

17.1 Tenderers shall quote entirely in Kenya Shillings. The unit rates and the prices shall be quoted by the Tenderer in the Bill of Quantities, entirely in Kenya shillings. A Tenderer expecting to incur expenditures in other currencies for inputs to the Works supplied from outside Kenya shall device own ways of getting foreign currency to meet those expenditures.

18. Documents Comprising the Technical Proposal

18.1 The Tenderer shall furnish a technical proposal including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in Section IV, Tender Forms, in sufficient detail to demonstrate the adequacy of the Tenderer's proposal to meet the work's requirements and the completion time.

19. Documents Establishing the Eligibility and Qualifications of the Tenderer

19.1 **Tenderers shall complete the Form of Tender, included in Section IV, Tender Forms, to establish Tenderer's eligibility in accordance with ITT 4.**

19.2 **In accordance with Section III, Evaluation and Qualification Criteria, to establish its qualifications to perform the Contract the Tenderer shall provide the information requested in the corresponding information sheets included in Section IV, Tender Forms.**

19.3 **A margin of preference will not be allowed. Preference and reservations will be allowed, individually or in joint ventures. Applying for eligibility for Preference and reservations shall supply all information required to satisfy the criteria for eligibility specified in accordance with ITT 33.1.**

19.4 **Tenderers shall be asked to provide, as part of the data for qualification, such information, including details of ownership, as shall be required to determine whether, according to the classification established by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme, a contractor or group of contractors qualifies for a margin of preference. Further the information will enable the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme identify any actual or potential conflict of interest in relation to the procurement and/or contract management processes, or a possibility of collusion between tenderers, and thereby help to prevent any corrupt influence in relation to the procurement process or contract management.**

19.5 **The purpose of the information described in ITT 19.4 above overrides any claims to confidentiality which a tenderer may have. There can be no circumstances in which it would be justified for a tenderer to keep information relating to its ownership and control confidential where it is tendering to undertake public sector work and receive public sector funds. Thus, confidentiality will not be accepted by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme as a justification for a Tenderer's failure to disclose, or failure to provide required information on its ownership and control.**

19.6 **The Tenderer shall provide further documentary proof, information or authorizations that the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme may request in relation to ownership and control which information on any changes to the information which was provided by the tenderer under ITT 6.3. The obligations to require this information shall continue for the duration of the procurement process and contract performance and after completion of the contract, if any change to the information previously provided may reveal a conflict of interest in relation to the award or management of the contract.**

19.7 **All information provided by the tenderer pursuant to these requirements must be complete, current and accurate as at the date of provision to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme. In submitting the information required pursuant to these requirements, the Tenderer shall warrant that the information submitted is complete, current and accurate as at the date of submission to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme.**

19.8 **If a tenderer fails to submit the information required by these requirements, its tender will be rejected. Similarly, if the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme is unable, after taking reasonable steps, to verify to a reasonable degree the information submitted by a tenderer pursuant to these requirements, then the tender will be rejected.**

19.9 **If information submitted by a tenderer pursuant to these requirements, or obtained by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme (whether through its own enquiries, through notification by the public or otherwise), shows any conflict of interest which could materially and improperly benefit the tenderer in relation to the procurement or contract management process, then:**

i) if the procurement process is still ongoing, the tenderer will be disqualified from the procurement process,

ii) if the contract has been awarded to that tenderer, the contract award will be set aside,

iii) the tenderer will be referred to the relevant law enforcement authorities for investigation of whether the tenderer or any other persons have committed any criminal offence.

19.10 **If a tenderer submits information pursuant to these requirements that is incomplete, inaccurate or out-of-date, or attempts to obstruct the verification process, then the consequences ITT 6.7 will ensue unless the tenderer can show to the reasonable satisfaction of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme that any such act was not material, or was due to genuine error which was not attributable to the intentional act, negligence or recklessness of the tenderer.**

20. Period of Validity of Tenders

20.1 **Tenders shall remain valid for the Tender Validity period specified in the TDS. The Tender Validity period starts from the date fixed for the Tender submission deadline (as prescribed by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme in accordance with ITT 24). A Tender valid for a shorter period shall be rejected by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme as non-responsive.**

20.2 **In exceptional circumstances, prior to the expiration of the Tender validity period, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme may request Tenderers to extend the period of validity of their Tenders. The request and the responses shall be made in writing. If a Tender Security is requested in accordance with ITT 21.1, it shall also be extended for thirty (30) days beyond the deadline of the extended validity period. A Tenderer may refuse the request without forfeiting its Tender security. A Tenderer granting the request shall not be required or permitted to modify its Tender, except as provided in ITT 20.3.**

20.3 **If the award is delayed by a period exceeding the number of days to be specified in the TDS days beyond the expiry of the initial tender validity period, the Contract price shall be determined as follows:**

a) in the case of **fixed price** contracts, the Contract price shall be the tender price adjusted by the factor specified in the **TDS**;

b) in the case of **adjustable price** contracts, no adjustment shall be made; or in any case, tender evaluation shall be based on the tender price without taking into consideration the applicable correction from those indicated above.

21. Tender Security

21.1 **The Tenderer shall furnish as part of its Tender, either a Tender-Securing Declaration or a Tender Security as specified in the TDS, in original form and, in the case of a Tender Security, in the amount and currency specified in the TDS. A Tender-Securing Declaration shall use the form included in Section IV, Tender Forms.**

21.2 **If a Tender Security is specified pursuant to ITT 19.1, the Tender Security shall be a demand guarantee in any of the following forms at the Tenderer's option:**

a) an unconditional Bank Guarantee issued by reputable commercial bank); or

b) an irrevocable letter of credit;

c) a Banker's cheque issued by a reputable commercial bank; or

d) another security specified **in the TDS**,

21.3 **If an unconditional bank guarantee is issued by a bank located outside Kenya, the issuing bank shall have a correspondent bank located in Kenya to make it enforceable. The Tender Security shall be valid for thirty (30) days beyond the original validity period of the Tender, or beyond any period of extension if requested under ITT 20.2.**

21.4 **If a Tender Security or Tender-Securing Declaration is specified pursuant to ITT 19.1, any Tender not accompanied by a substantially responsive Tender Security or Tender-Securing Declaration shall be rejected by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme as non-responsive.**

21.5 **If a Tender Security is specified pursuant to ITT 21.1, the Tender Security of unsuccessful Tenderers shall be returned as promptly as possible upon the successful Tenderer's signing the Contract and furnishing the Performance Security and any other documents required in the TDS. The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall also promptly return the tender security to the tenderers where the procurement proceedings are terminated, all tenders were determined nonresponsive or a bidder declines to extend tender validity period.**

21.6 **The Tender Security of the successful Tenderer shall be returned as promptly as possible once the successful Tenderer has signed the Contract and furnished the required Performance Security, and any other documents required in the TDS.**

21.7 **The Tender Security may be forfeited or the Tender-Securing Declaration executed:**

e) if a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer on the Form of Tender, or any extension thereto provided by the Tenderer; or

f) if the successful Tenderer fails to:

i) sign the Contract in accordance with ITT 50; or

ii) furnish a Performance Security and if required in the **TDS**, and any other documents required in the **TDS**.

21.8 **Where tender securing declaration is executed, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall recommend to the PPRA that PPRA debars the Tenderer from participating in public procurement as provided in the law.**

21.9 **The Tender Security or the Tender-Securing Declaration of a JV shall be in the name of the JV that submits the Tender. If the JV has not been legally constituted into a legally enforceable JV at the time of tendering, the Tender Security or the Tender-Securing Declaration shall be in the names of all future members as named in the letter of intent referred to in ITT 4.1 and ITT 11.2.**

21.10 **A tenderer shall not issue a tender security to guarantee itself.**

22. Format and Signing of Tender

22.1 The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT 13 and clearly mark it "ORIGINAL." Alternative Tenders, if permitted in accordance with ITT 15, shall be clearly marked "ALTERNATIVE." In addition, the Tenderer shall submit copies of the Tender, in the number specified in the TDS and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.

22.2 Tenderers shall mark as "CONFIDENTIAL" all information in their Tenders which is confidential to their business. This may include proprietary information, trade secrets, or commercial or financially sensitive information.

22.3 The original and all copies of the Tender shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Tenderer. This authorization shall consist of a written confirmation as specified in the TDS 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 where entries or amendments have been made shall be signed or initialed by the person signing the Tender.

22.4 In case the Tenderer is a JV, the Tender shall be signed by an authorized representative of the JV on behalf of the JV, and to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives.

22.5 Any inter-lineation, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Tender.

D. Submission and Opening of Tenders

23. Sealing and Marking of Tenders

23.1 **Depending on the sizes or quantities or weight of the tender documents, a tenderer may use an envelope, package or container. The Tenderer shall deliver the Tender in a single sealed envelope, or in a single sealed package, or in a single sealed container bearing the name and Reference number of the Tender, addressed to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme and a warning not to open before Wednesday 8th September 2026 time 10.00a.m for Tender opening date. Within the single envelope, package or container, the Tenderer shall place the following separate, sealed envelopes:**

a) in an envelope or package or container marked "ORIGINAL", all documents comprising the Tender no., as described in ITT 11; and

b) in an envelope or package or container marked "COPIES", all required copies of the Tender; and

c) if alternative Tenders are permitted in accordance with ITT 15, and if relevant:

i) in an envelope or package or container marked "ORIGINAL –ALTERNATIVE TENDER", the alternative Tender; and

ii) in the envelope or package or container marked "COPIES- ALTERNATIVE TENDER", all required copies of the alternative Tender.

The inner envelopes or packages or containers shall:

a) bear the name and address of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme.

b) bear the name and address of the Tenderer; and

c) bear the name and Reference number of the Tender.

23.2 **If an envelope or package or container is not sealed and marked as required, the *County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme* will assume no responsibility for the misplacement or premature opening of the Tender. Tenders that are misplaced or opened prematurely will not be accepted.**

24. Deadline for Submission of Tenders

24.1 Tenders must be received by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme at the address specified in the TDS and no later than the 15TH September 2026 at 10.00 A.m.

24.2 The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme may, at its discretion, extend the deadline for the submission of Tenders by amending the Tender Documents in accordance with ITT 8, in which case all rights and obligations of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme and Tenderers previously subject to the deadline shall thereafter be subject to the deadline as extended.

25. Late Tenders

25.1 The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall not consider any Tender that arrives after the deadline for submission of tenders, in accordance with ITT 24. Any Tender received by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme after the deadline for submission of Tenders shall be declared late, rejected, and returned unopened to the Tenderer.

26. Withdrawal, Substitution, and Modification of Tenders

26.1 **A Tenderer may withdraw, substitute, or modify its Tender after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITT 22.3, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the Tender must accompany the respective written notice. All notices must be:**

a) prepared and submitted in accordance with ITT 22 and ITT 23 (except that withdrawals notices do not require copies), and in addition, the respective envelopes shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," "MODIFICATION;"and

b) received by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme prior to the deadline prescribed for submission of Tenders, in accordance with ITT 24.

26.2 **Tenders requested to be withdrawn in accordance with ITT 26.1 shall be returned unopened to the Tenderers.**

26.3 **No Tender may be withdrawn, substituted, 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 Form of Tender or any extension thereof.**

27. Tender Opening

27.1 **Except in the cases specified in ITT 23 and ITT 26.2, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall publicly open and read out all Tenders received by the deadline, on 8th September 2026 at 10.00a.m, at urban planning**

27.2 **assembly ground) specified in the TDS, in the presence of Tenderers' designated representatives who chooses to attend. Any specific electronic Tender opening procedures required if electronic Tendering is permitted in accordance with ITT 24.1, shall be as specified in the TDS.**

27.3 **First, envelopes marked "WITHDRAWAL" shall be opened and read out and the envelopes with the corresponding Tender shall not be opened, but returned to the Tenderer. No Tender withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Tender opening.**

27.4 **Next, envelopes marked "SUBSTITUTION" shall be opened and read out and exchanged with the corresponding Tender being substituted, and the substituted Tender shall not be opened, but returned to the Tenderer. No Tender substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Tender opening.**

27.5 **Next, envelopes marked "MODIFICATION" shall be opened and read out with the corresponding Tender. No Tender modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Tender opening.**

27.6 **Next, all remaining envelopes shall be opened one at a time, reading out: the name of the Tenderer and whether there is a modification; the total Tender Price, per lot (contract) if applicable, including any discounts and alternative Tenders; the presence or absence of a Tender Security or Tender-Securing Declaration, if required; and any other details as the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme may consider appropriate.**

27.7 **Only Tenders, alternative Tenders and discounts that are opened and read out at Tender opening shall be considered further for evaluation. The Form of Tender and pages of the Bills of Quantities are to be initialed by the members of the tender opening committee attending the opening. The number of representatives of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme to sign shall be specified in the TDS.**

27.8 **At the Tender Opening, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall neither discuss the merits of any Tender nor reject any Tender (except for late Tenders, in accordance with ITT 25.1).**

27.9 **The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall prepare minutes of the Tender Opening that shall include, as a minimum:**

a) the name of the Tenderer and whether there is a withdrawal, substitution, or modification;
b) the Tender Price, per lot (contract) if applicable, including any discounts;
c) any alternative Tenders;
d) the presence or absence of a Tender Security, if one was required.
e) number of pages of each tender document submitted.

27.10 **The Tenderers' representatives who are present shall be requested to sign the minutes. The omission of a Tenderer's signature on the minutes shall not invalidate the contents and effect of the minutes. A copy of the tender opening register shall be distributed to all Tenderers upon request.**

E. Evaluation and Comparison of Tenders

28. Confidentiality

28.1 **Information relating to the evaluation of Tenders and recommendation of contract award shall not be disclosed to Tenderers or any other persons not officially concerned with the Tender process until information on Intention to Award the Contract is transmitted to all Tenderers in accordance with ITT 46.**

28.2 **Any effort by a Tenderer to influence the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme in the evaluation of the Tenders or Contract award decisions may result in the rejection of its tender.**

28.3 **Notwithstanding ITT 28.2, from the time of tender opening to the time of contract award, if a tenderer wishes to contact the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme on any matter related to the tendering process, it shall do so in writing.**

29. Clarification of Tenders

29.1 To assist in the examination, evaluation, and comparison of the tenders, and qualification of the tenderers, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme may, at its discretion, ask any tenderer for a clarification of its tender, given a reasonable time for a response. Any clarification submitted by a tenderer that is not in response to a request by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall not be considered. The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's request for clarification and the response shall be in writing. No change, including any voluntary increase or decrease, 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 County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme in the evaluation of the tenders, in accordance with ITT 33.

29.2 If a tenderer does not provide clarifications of its tender by the date and time set in the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's request for clarification, its Tender may be rejected.

30. Deviations, Reservations, and Omissions

30.1 **During the evaluation of tenders, the following definitions apply:**

a) "Deviation" is a departure from the requirements specified in the tender document;
b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the tender document; and
c) "Omission" is the failure to submit part or all of the information or documentation required in the Tender document.

31. Determination of Responsiveness

31.1 **The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's determination of a Tender's responsiveness is to be based on the contents of the tender itself, as defined in ITT 13.**

31.2 **A substantially responsive Tender is one that meets the requirements of the Tender document without**

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

a) affect in any substantial way the scope, quality, or performance of the Works specified in the Contract; or

b) limit in any substantial way, inconsistent with the tender document, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's rights or the tenderer's obligations under the proposed contract; or

c) if rectified, would unfairly affect the competitive position of other tenderers presenting substantially responsive tenders.

31.3 **The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall examine the technical aspects of the tender submitted in accordance with ITT 18, to confirm that all requirements of Section VII, Works' Requirements have been met without any material deviation, reservation or omission.**

31.4 **If a tender is not substantially responsive to the requirements of the tender document, it shall be rejected by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.**

32. Non-material Non-conformities

32.1 Provided that a tender is substantially responsive, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme may waive any non-conformities in the tender.

32.2 Provided that a Tender is substantially responsive, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme may request that the tenderer submit the necessary information or documentation, within a reasonable period, to rectify nonmaterial non-conformities in the tender related to documentation requirements. Requesting information or documentation on such non- conformities shall not be related to any aspect of the price of the tender. Failure of the tenderer to comply with the request may result in the rejection of its tender.

32.3 Provided that a tender is substantially responsive, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall rectify quantifiable nonmaterial non-conformities related to the Tender Price. To this effect, the Tender Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component in the manner specified in the TDS.

33. Arithmetical Errors

33.1 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 by any person or entity.

33.2 Provided that the Tender is substantially responsive, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall handle errors on the following basis:

a) Any error detected if considered a major deviation that affects the substance of the tender, shall lead to disqualification of the tender as non-responsive.

b) Any errors in the submitted tender arising from a miscalculation of unit price, quantity, and subtotal and total bid price shall be considered as a major deviation that affects the substance of the tender and shall lead to disqualification of the tender as non-responsive. and

c) if there is a discrepancy between words and figures, the amount in words shall prevail

33.3 Tenderers shall be notified of any error detected in their bid during the notification of a ward.

34. Currency provisions

34.1 **Tenders will priced be in Kenya Shillings only. Tenderers quoting in currencies other than in Kenya shillings will be determined non-responsive and rejected.**

35. Margin of Preference and Reservations

35.1 No margin of preference shall be allowed on contracts for small works.

35.2 Where it is intended to reserve the contract to specific groups under Small and Medium Enterprises, or enterprise of women, youth and/or persons living with disability, who are appropriately registered as such by the authority to be specified in the TDS, a County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall ensure that the invitation to tender specifically indicates that only businesses/firms belonging to those specified groups are the only ones eligible to tender. Otherwise if no so stated, the invitation will be open to all tenderers.

36. Nominated Subcontractors

36.1 Unless otherwise stated in the TDS, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme does not intend to execute any specific elements of the Works by subcontractors selected in advance by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme.

36.2 **Tenderers may propose subcontracting up to the percentage of total value of contracts or the volume of works as specified in the TDS. Subcontractors proposed by the Tenderer shall be fully qualified for their parts of the Works.**

36.3 **The subcontractor's qualifications shall not be used by the Tenderer to qualify for the Works unless their specialized parts of the Works were previously designated by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme in the TDS as can be met by subcontractors referred to hereafter as 'Specialized Subcontractors', in which case, the qualifications of the Specialized Subcontractors proposed by the Tenderer may be added to the qualifications of the Tenderer.**

37. Evaluation of Tenders

37.1 **The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall use the criteria and methodologies listed in this ITT and Section III, Evaluation and Qualification Criteria. No other evaluation criteria or methodologies shall be permitted. By applying the criteria and methodologies the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall determine the Best Evaluated Tender in accordance with ITT 40.**

37.2 **To evaluate a Tender, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall consider the following:**

a) price adjustment due to discounts offered in accordance with ITT 16;
b) converting the amount resulting from applying (a) and (b) above, if relevant, to a single currency in accordance with ITT 39;
c) price adjustment due to quantifiable nonmaterial non-conformities in accordance with ITT 30.3; and
d) any additional evaluation factors specified **in the TDS** and Section III, Evaluation and Qualification Criteria.

37.3 **The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be considered in Tender evaluation.**

37.4 **In the case of multiple contracts or lots, Tenderers shall be allowed to tender for one or more lots and the methodology to determine the lowest evaluated cost of the lot (contract) combinations, including any discounts offered in the Form of Tender, is specified in Section III, Evaluation and Qualification Criteria.**

38. Comparison of Tenders

38.1 **The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall compare the evaluated costs of all substantially responsive Tenders established in accordance with ITT 38.2 to determine the Tender that has the lowest evaluated cost.**

39. Abnormally Low Tenders

39.1 **An Abnormally Low Tender is one where the Tender price, in combination with other elements of the Tender, appears so low that it raises material concerns as to the capability of the Tenderer in regards to the Tenderer's ability to perform the Contract for the offered Tender Price or that genuine competition between Tenderers is compromised.**

39.2 **In the event of identification of a potentially Abnormally Low Tender, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall seek written clarifications from the Tenderer, including detailed price analyses of its Tender price in relation to the subject matter of the contract, scope, proposed methodology, schedule, allocation of risks and responsibilities and any other requirements of the Tender document.**

39.3 **After evaluation of the price analyses, in the event that the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme determines that the Tenderer has failed to demonstrate its capability to perform the Contract for the offered Tender Price, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall reject the Tender.**

40. Abnormally High Tenders

40.1 **An abnormally high price is one where the tender price, in combination with other constituent elements of the Tender, appears unreasonably too high to the extent that the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme is concerned that it (the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme) may not be getting value for money or it may be paying too high a price for the contract compared with market prices or that genuine competition between Tenderers is compromised.**

40.2 **In case of an abnormally high tender price, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall make a survey of the market prices, check if the estimated cost of the contract is correct and review the Tender Documents to check if the specifications, scope of work and conditions of contract are contributory to the abnormally high tenders. The County Government of Garissa_Department of Water_The Kenya Water Sanitation**

and Hygiene (K-WASH) Programme may also seek written clarification from the tenderer on the reason for the high tender price. The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall proceed as follows:

i) If the tender price is abnormally high based on wrong estimated cost of the contract, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme may accept or not accept the tender depending on the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's budget considerations.

ii) If specifications, scope of work and/or conditions of contract are contributory to the abnormally high tender prices, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall reject all tenders and may retender for the contract based on revised estimates, specifications, scope of work and conditions of contract, as the case may be.

40.3 **If the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme determines that the Tender Price is abnormally too high because genuine competition between tenderers is compromised (*often due to collusion, corruption or other manipulations*), the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall reject all Tenders and shall institute or cause competent Government Agencies to institute an investigation on the cause of the compromise, before retendering.**

41. Unbalanced and/or Front-Loaded Tenders

41.1 **If in the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's opinion, the Tender that is evaluated as the lowest evaluated price is seriously unbalanced and/or front loaded, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme may require the Tenderer to provide written clarifications. Clarifications may include detailed price analyses to demonstrate the consistency of the tender prices with the scope of works, proposed methodology, schedule and any other requirements of the Tender document.**

41.2 **After the evaluation of the information and detailed price analyses presented by the Tenderer, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme may as appropriate:**

a) accept the Tender; or

b) require that the total amount of the Performance Security be increased at the expense of the Tenderer to a level not exceeding a 30% of the Contract Price; or

c) agree on a payment mode that eliminates the inherent risk of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme paying too much for undelivered works; or

d) reject the Tender,

42. Qualifications of the Tenderer

42.1 **The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall determine to its satisfaction whether the eligible Tenderer that is selected as having submitted the lowest evaluated cost and substantially responsive Tender, meets the qualifying criteria specified in Section III, Evaluation and Qualification Criteria.**

42.2 **The determination shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT 19. The determination shall not take into consideration the qualifications of other firms such as the Tenderer's subsidiaries, parent entities, affiliates, subcontractors (other than Specialized Subcontractors if permitted in the Tender document), or any other firm(s) different from the Tenderer.**

42.3 **An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative determination shall result in disqualification of the Tender, in which event the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall proceed to the Tenderer who offers a substantially responsive Tender with the next lowest evaluated price to make a similar determination of that Tenderer's qualifications to perform satisfactorily.**

42.4 **An Abnormally Low Tender is one where the Tender price, in combination with other elements of the Tender, appears so low that it raises material concerns as to the capability of the Tenderer in regards to the Tenderer's ability to perform the Contract for the offered Tender Price.**

42.5 **In the event of identification of a potentially Abnormally Low Tender, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall seek written clarifications from the Tenderer, including detailed price analyses of its Tender price in relation to the subject matter of the contract, scope, proposed methodology, schedule, allocation of risks and responsibilities and any other requirements of the Tender document.**

42.6 **After evaluation of the price analyses, if the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme determines that the Tenderer has failed to demonstrate its capability to perform the Contract for the offered Tender Price, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall reject the Tender.**

43. Best Evaluated Tender

43.1 **Having compared the evaluated prices of Tenders, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall determine the Best Evaluated Tender. The Best Evaluated Tender is the Tender of the Tenderer that meets the Qualification Criteria and whose Tender has been determined to be:**

a) Most responsive to the Tender document; and
b) the lowest evaluated price.

44. County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's Right to Accept Any Tender, and to Reject Any or All Tenders.

44.1 The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme reserves the right to accept or reject any Tender and to annul the Tender process and reject all Tenders at any time prior to Contract Award, without thereby incurring any liability to Tenderers. In case of annulment, all Tenderers shall be notified with reasons and all Tenders submitted and specifically, Tender securities, shall be promptly returned to the Tenderers.

F. Award of Contract

45. Award Criteria

45.1 The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall award the Contract to the successful tenderer whose tender has been determined to be the Lowest Evaluated Tender.

46. Notice of Intention to enter into a Contract

46.1 Upon award of the contract and Prior to the expiry of the Tender Validity Period the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall issue a Notification of Intention to Enter into a Contract / Notification of award to all tenderers which shall contain, at a minimum, the following information:

a) the name and address of the Tenderer submitting the successful tender;
b) the Contract price of the successful tender;
c) a statement of the reason(s) the tender of the unsuccessful tenderer to whom the letter is addressed was unsuccessful, unless the price information in (c) above already reveals the reason;
d) the expiry date of the Standstill Period; and
e) instructions on how to request a debriefing and/or submit a complaint during the standstill period;

47. Standstill Period

47.1 **The Contract shall not be signed earlier than the expiry of a Standstill Period of 14 days to allow any dissatisfied tender to launch a complaint. Where only one Tender is submitted, the Standstill Period shall not apply.**

47.2 **Where a Standstill Period applies, it shall commence when the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme has transmitted to each Tenderer the Notification of Intention to Enter into a Contract with the successful Tenderer.**

48. Debriefing by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme

48.1 **On receipt of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's Notification of Intention to Enter into a Contract referred to in ITT 46, an unsuccessful tenderer may make a written request to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme for a debriefing on specific issues or concerns regarding their tender. The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall provide the debriefing within five days of receipt of the request.**

48.2 **Debriefings of unsuccessful Tenderers may be done in writing or verbally. The Tenderer shall bear its own costs of attending such a debriefing meeting.**

49. Letter of Award

49.1 Prior to the expiry of the Tender Validity Period and upon expiry of the Standstill Period specified in ITT 42.1, upon addressing a complaint that has been filed within the Standstill Period, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall transmit the Letter of Award to the successful Tenderer. The letter of award shall request the successful tenderer to furnish the Performance Security within 21days of the date of the letter.

50. Signing of Contract

50.1 Upon the expiry of the fourteen days of the Notification of Intention to enter into contract and upon the parties meeting their respective statutory requirements, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall send the successful Tenderer the Contract Agreement.

50.2 Within fourteen (14) days of receipt of the Contract Agreement, the successful Tenderer shall sign, date, and return it to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme.

50.3 The written contract shall be entered into within the period specified in the notification of award and before expiry of the tender validity period

51. Appointment of Adjudicator

51.1 The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme proposes the person named in the TDS to be appointed as Adjudicator under the Contract, at the hourly fee specified in the TDS, plus reimbursable expenses. If the Tenderer disagrees with this proposal, the Tenderer should so state in his Tender. If, in the Letter of Acceptance, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme does not agree on the appointment of the Adjudicator, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme will request the Appointing Authority designated in the Special Conditions of Contract (SCC) pursuant to Clause 23.1 of the General Conditions of Contract (GCC), to appoint the Adjudicator.

52. Performance Security

52.1 **Within twenty-one (21) days of the receipt of the Letter of Acceptance from the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme, the successful Tenderer shall furnish the Performance Security and, any other documents required in the TDS, in accordance with the General Conditions of Contract, subject to ITT 40.2 (b), using the Performance Security and other Forms included in Section X, Contract Forms, or another form acceptable to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme. A foreign institution providing a bank guarantee shall have a correspondent financial institution located in Kenya, unless the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme has agreed in writing that a correspondent bank is not required.**

52.2 **Failure of the successful Tenderer to submit the above-mentioned Performance Security and other documents required in the TDS, or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security. In that event the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme may award the Contract to the Tenderer offering the next Best Evaluated Tender.**

52.3 **Performance security shall not be required for contracts estimated to cost less than Kenya shillings five million shillings.**

53. Publication of Procurement Contract

53.1 Within fourteen days after signing the contract, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall publish the awarded contract at its notice boards and websites; and on the Website of the Authority. At the minimum, the notice shall contain the following information:

a) name and address of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme;
b) name and reference number of the contract being awarded, a summary of its scope and the selection method used;
c) the name of the successful Tenderer, the final total contract price, the contract duration.
d) dates of signature, commencement and completion of contract;
e) names of all Tenderers that submitted Tenders, and their Tender prices as read out at Tender opening.

54. Procurement Related Complaints and Administrative Review

54.1 The procedures for making Procurement-related Complaints are as specified in the TDS.

54.2 A request for administrative review shall be made in the form provided under contract forms.

Section II - Tender Data Sheet (TDS)

The following specific data shall complement, supplement, or amend the provisions in the Instructions to Tenderers (ITT). Whenever there is a conflict, the provisions herein shall prevail over those in ITT.

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	A. General
ITT 1.1	**PROPOSED PIPELINE EXTENSION FOR MASALANI.** **TENDER NO. CGG/KWASH/T/002/2026-2027**
ITT 2.3	The Information made available on competing firms is as follows:
ITT 2.4	The firms that provided consulting services for the contract being tendered for are: **_NOT APPLICABLE**
ITT 3.1	Maximum number of members in the Joint Venture (JV) shall be: ***[insert a number].***
B. Contents of Tender Document	
8.1	(A pre-arranged pretender visit of the site of the works *[insert "shall" or "shall not"]* take place at the following date, time and place: County Government of Garissa, Department of Water under The Kenya Water Sanitation and Hygiene (K-WASH) Programme invites bidders for a Site Visit Meeting to be Held on: - **Date: From 9th September 2026 to 11th September 2026** **Time: 10.00 a.m. E.A.T** **Venue: Water Services Office**
ITT 8.2	The Tenderer will submit any questions in writing, to reach the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme not later than Tuesday 15th September, 2026.
ITT 8.4	The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's website where Minutes of the pre-Tender meeting and the pre-arranged pretender site visit will be published is **_NOT APPLICABLE**
ITT 9.1	For Clarification of Tender purposes, for obtaining further information and for purchasing tender documents, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's address is: **County Government of Garissa** **Department of Water** **Kenya Water Sanitation and Hygiene (K-WASH) Programme** **P.O. Box 563-70100** **Garissa.**
C. Preparation of Tenders	
ITP 13.1 (h)	The Tenderer shall submit the following additional documents in its Tender: *[list any additional document not already listed in ITT 11.1 that must be submitted with the Tender. The list of additional documents should include the following:]* *NOT APPLICABLE*
ITT 15.1	Alternative Tenders ***"shall not be"*** considered. *[If alternatives shall be considered, the methodology shall be defined in Section III, Evaluation and Qualification Criteria.]*
ITT 15.2	Alternative times for completion ***"shall not be"*** permitted. *[If alternative times for completion are permitted, the evaluation method will be as specified in Section III, Evaluation and Qualification Criteria.]*

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
ITT 15.4	Alternative technical solutions shall be permitted for the following parts of the Works: **NOT APPLICABLE** *[insert parts of the Works]:* *[If alternative technical solutions are permitted, the evaluation method will be as specified in Section III, Evaluation and Qualification Criteria.]*
ITT 16.5	The prices quoted by the Tenderer shall be: _____ *[insert "subject to adjustment" or "fixed"]*
ITT 20.1	The Tender validity period shall be **120 days**
ITT 20.3 (a)	(a) The delayed to exceeding _____number of days. (b) The Tender price shall be adjusted by the following percentages of the tender price: (i) By _____% of t*he local currency portion of the Contract price adjusted to reflect local inflation during the period of extension,* *and* *(ii) By_____% the foreign currency portion of the Contract price adjusted to reflect the international inflation during the period of extension.*
ITT 21.1	*[If a Tender Security shall be required, a Tender-Securing Declaration shall not be required, and vice versa.]* A Tender Security ***"shall be" r***equired. A Tender-Securing Declaration ***"shall be"*** required. If a Tender Security shall be required, the amount and currency of the Tender Security shall be **Kshs. 160,000 (Kenya Shillings One Hundred and Sixty Thousand Only).**
ITT 21.2 (d)	The other Tender Security shall be NIL_____
ITT 21.5	On the Performance Security, other documents required shall be_____
ITT 22.1	In addition to the original of the Tender, the number of copies is: One Copy;
ITT 22.3	The written confirmation of authorization to sign on behalf of the Tenderer shall consist of: . *[insert the name and description of the documentation required to demonstrate the authority of the signatory to sign the Tender]*
D. Submission and Opening of Tenders	
ITT 24.1	(A) For Tender submission purposes only, **AT TENDER BOX LOCATED AT THE URBAN PLANING ASSEMBLY GROUND,** **KISMAYU ROAD** **P.O.BOX 563 -70100** **GARISSA, KENYA** **E-mail: info@garissa.go.ke** Website. www.garissa.go.ke (4) Date and time for submission of Tenders: **Tuesday 15th September, 2026 at 10.00 a.m. E.A.T.**

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	(5) Tenders shall **submit/shall not submit** tenders electronically.
ITT 27.1	The Tender opening shall take place at the time and the address for Opening of Tenders provided below: **AT TENDER BOX LOCATED AT THE URBAN PLANING ASSEMBLY GROUND,** **KISMAYU ROAD** **P.O.BOX 563 -70100** **GARISSA, KENYA.**
ITT 27.1	If Tenderers are allowed to submit Tenders electronically, they shall follow the electronic tender submission procedures specified below: ***NOT APPLICABLE*** _____
ITT 27.6	The number of representatives of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme to sign is **NOT APPLICABLE**
E. Evaluation, and Comparison of Tenders	
ITT 32.3	The adjustment shall be based on the *_Average_ [insert "average" or "highest"]* price of the item or component as quoted in other substantially responsive Tenders. If the price of the item or component cannot be derived from the price of other substantially responsive Tenders, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall use its best estimate.
ITT 35.2	The invitation to tender is extended to the following groups that qualify for Reservations- **NOT APPLICABLE.** *This is an Open Competitive Tender.*
ITT 36.1	At this time, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme ***"does not intend"*** to execute certain specific parts of the Works by subcontractors selected in advance.
ITT 36.2	Contractor's may propose subcontracting: Maximum percentage of subcontracting permitted is: ____*0*___*% of the total contract amount.* Tenderers planning to subcontract more than 10% of total volume of work shall specify, in the Form of Tender, the activity (ies) or parts of the Works to be subcontracted along with complete details of the subcontractors and their qualification and experience.
ITT 36.3	*[Indicate N/A if not applicable]* The parts of the Works for which the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme permits Tenderers to propose Specialized Subcontractors are designated as follows: **NOT APPLICABLE** _____ _____ _____ For the above-designated parts of the Works that may require Specialized Subcontractors, the relevant qualifications of the proposed Specialized Subcontractors will be added to the qualifications of the Tenderer for the purpose of evaluation.
ITT 37.2 (d)	Additional requirements apply. These are detailed in the evaluation criteria in Section III, Evaluation and Qualification Criteria.
ITT 51.1	The person named to be appointed as Adjudicator is **not applicable**
ITT 52.2	Other documents required are _____
ITT 54.1	The procedures for making a Procurement-related Complaints are detailed in the "Regulations" available from the PPRA Website www.ppra.go.ke or email

ITT Reference	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	complaints@ppra.go.ke. If a Tenderer wishes to make a Procurement-related Complaint, the Tenderer should submit its complaint following these procedures, in writing (by the quickest means available, that is either by hand delivery or email to: For the attention: *[insert full name of person receiving complaints]* **County Director** **Procurement and Supply Chain Management** **County Headquarters** **Lamu Road, Opposite Young Muslim** **P.O. Box 563-70100** **Garissa.** **Email: procuremnt@garissa.go.ke**

SECTION III - EVALUATION AND QUALIFICATION CRITERIA

After tender opening, the tenders will be evaluated in 4 stages, namely:

Preliminary examination.
Detailed Technical Examination.
Financial Evaluation.
Recommendation for award

1. STAGE 1-PRELIMINARY EXAMINATION

This stage of evaluation shall involve examination of the pre-qualification conditions as set out in the Tender Advertisement Notice or Letter of Invitation to Tender and any other conditions stated in the bid document.

ITEM	MANDATORY REQUIREMENT (MR)	MUST SUBMIT(YES/NO)
MR 1	Submit a copy of valid company's Certificate of Registration/ Incorporation	**YES**
MR 2	Must provide copy of valid Tax Compliance certificate or tax exemption certificate issued by the Kenya Revenue Authority	**YES**
MR 3	Must Submit a completed company's profile and a copy of CR12/CR13 issued by the Registrar of companies (Not older than 6 Months)	**YES**
MR 4	Must attach the current business permit/Trade License from the county government.	**YES**
MR 5	**Must attach a duly filled, signed and stamped** Form of Tender in the format provided	**YES**
	Must fill and submit the Tenderer's Eligibility-Confidential Business Questionnaire in the format provided	**YES**
	Must fill and submit the Certificate of Independent Tender Determination in the format provided	**YES**
MR 6	Must fill and submit the Self-declaration form that the person/tenderer is Not debarred in the matter of the Public Procurement and Asset Disposal Act 2015 in the format provided - Form SD1.	**YES**
	Must fill and submit the Self-declaration form that the person/tenderer will not engage in any corrupt or fraudulent practice in the format provided - Form SD2	**YES**
	Must fill and submit the Self declaration and commitment to the code of Ethics in the format provided Self-Declaration of the Tenderer: - Form SD3.	**YES**

ITEM	MANDATORY REQUIREMENT (MR)	MUST SUBMIT(YES/NO)
MR 7	All Tenders must be accompanied by a tender Security of **Kshs. 160,000 (Kenya Shillings One hundred and Sixty Thousand Only)** in the form of: • Cash • A bank guarantee • A guarantee by an insurance company registered and licensed by the Insurance Regulatory Authority listed by the Authority	**YES**
MR 8	Must submit **one original** copy of the Tender Document and **one copy.** Submission of Original and Copy (all Volumes) in the format required by the procuring entity and all the tender document (all volumes) to be TAPE/BOOK (Use of Spring or box files will not be accepted and will lead to automatic disqualification;	**YES**
MR 9	Must fill and submit Form CON–2 Historical Contract Non-Performance and Pending Litigation in the Format Provided.	**YES**
MR 10	Must fill and submit his/her tender document as follows: - The tender must be downloaded as issued without altering the format- both original and the copy and shall written in indelible ink and be signed by an Authorized person	**YES**
MR 11	The Authorized person to sign the tender on behalf of the tenderer and **mus**t sign or Initialized all the pages of the Tender where entries (i.e., all the forms, priced Bills of Quantities) or amendments have been made.	**YES**
	The entire/complete original and copy (including attachments) Must be serialized/paginated using a numbering machine, handwritten pagination will be deemed non-responsive	**YES**
	In case the Tenderer is a JV, the Tender shall be signed by an authorized representative of the JV on behalf of the JV, and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives.	**YES**
MR 12	Tenderer must fill **Form ELI-1**: -Tenderer Information Form and must attach copies of original documents of the below listed where applicable as instructed: - Articles of Incorporation (or equivalent documents of constitution or association), and or documents of registration of the legal entity named above, in accordance with ITT4.1.4	**YES**
	Include organizational chart, Board of Directors and Beneficial ownership	**YES**
	In case of JV, form of intent to form JV or JV agreement, in accordance with ITT4.1.6	**YES**
	In case of state-owned enterprise or institution, in accordance with ITT 4.10 documents establishing	**YES**
MR 13	Power of attorney/ Authorization Letter duly signed (should be signed by directors appearing in CR12/13) or by the director of the firm with the highest shares, giving the name of person who has been authorized to submit/execute this agreement as a binding document and this person should sign all the documents related to this tender.	**YES**
MR 14	Must submit duly filled and stamped **Tenderers Qualification without Prequalification form**	**YES**
MR 15	Main Contractor must attach duly signed and stamped pre-contract agreement to work together with the Domestic Sub-Contractors Not Joint Venture if awarded the Tender (where Applicable). (The agreement should be signed by both parties for it to be valid)	**YES**
MR 16	Must submit a detailed Gant Chart for the works	**YES**
MR 17	Must Fill Beneficial Ownership Disclosure Form	**YES**

Note:

The employer may seek further clarification/confirmation, if necessary, to confirm authenticity/ compliance of any condition of the tender.

1. ***Tenderers who do not satisfy any of the above requirements shall be considered non- responsive and their tenders will not be evaluated further.***
2. ***Illegible and forged documents shall be treated as nil and non-responsive***

Note:
On compliance with Technical Specifications, bidders shall supply equipment/items which comply with the technical specifications set out in the bid document. In this regard, the bidder will be required to submit relevant technical brochure/catalogues with the tender document, highlighting (using a mark-pen or highlighter) the Catalogue Number/model of the proposed items. Such brochures/ catalogues should indicate comprehensive relevant data of the proposed equipment/items which should include but not limited to the following:

i) Standards of manufacture;
ii) Performance ratings/characteristics;
(iii)Material of manufacture;
iv) Electrical power ratings; and
v) All other requirements as indicated in the technical specifications of the bid.

The bids will then be analyzed, using the information in the technical brochures, to determine compliance with technical specifications for the works/items as indicated in the tender document. Bidders not complying with any of the technical specifications shall be adjudged technically non-responsive while those meeting all technical specifications shall be considered technically responsive.
The tenderer shall also fill in the Technical Schedule as specified in the tender document for Equipment and Items indicating the Country of Origin, Model/Make/Manufacturer and catalogue numbers of the Items/Equipment they propose to supply.

a. Any bidder whose Sub Contractor are Nonresponsive at this stage shall not be evaluated further

2. STAGE 2: TECHNICAL EVALUATION

Evaluation of the Main Contractor and Domestic Sub- Contractors

The award of points for the **STANDARD FORMS** considered in this section shall be as shown below:

	PARAMETER	**MAXIMUM POINTS**
(i)	Key Personnel……	20
(ii)	No. of Contracts……..	20
(iii)	Ongoing projects……..	10
(iv)	Plant and Equipment……	20
(v)	Financial Capacity……	20
(vi)	Bank Details…….	2
(vii)	Litigation History…….	2
(viii)	Works Programme and Methodology…….	3
(ix)	Health, Safety and Protection of The Environment……	3
	TOTAL	**100**

Note: -

The Main Contractor MUST ensure that sub-contractors provide requirements for Domestic Subcontracting in the
Key Personnel, Completed and Ongoing Projects to incorporate in Technical Evaluation.

TECHNICAL CRITERIA:

Item	Description	MARKS
I	**Key Personnel (Attach evidence)**	
	Project Manager **(Degree/diploma in Civil, Water, Electrical or Mechanical Engineering Related Field)** with a minimum of 10 years' experience • Holder of degree in relevant Engineering field----------5 • Holder of diploma in relevant Engineering field----------4 • Holder of certificate in relevant Engineering field----------3 • Holder of trade test certificate in relevant Engineering field--2 • No relevant certificate----------0	**5**
	Site Agent (Degree/diploma in Civil, Water, Electrical or Mechanical Engineering Related Field) with a minimum of 10 years' experience. • With over 10 years relevant experience----------5 • With over 5 years relevant experience----------3 • With under 5 years relevant experience----------1	**5**
	At least 2 no. key personnel with minimum certificate in a relevant in **Civil, Water, Electrical or Mechanical Engineering Related Field** with a minimum 10 years' experience. • With over 10 years relevant experience----------5 • With over 5 years relevant experience----------3 • With under 5 years relevant experience----------1	**5**
	At least 3No key personnel with a minimum Artisan (trade test certificate in relevant (Engineering field) • Artisan with over 10 yearsrelevant experience----------5 • Artisan with under 10 years relevant experience----------3 • Non skilled worker with over 10 years relevant experience–1	**5**
ii	Minimum of 5 No. contracts of similar nature, size or complexity completed in the last five (5) years **Provide Evidence (Award letters, Contract Agreement and Completion Certificates)** • Project of similar nature, complexity or magnitude-------4 • Project of similar nature but of lower value than the one in consideration----------2 • No completed project of similar nature----------0	**20**
iii	Proof of any on-going projects including Sub-Contracts - **Provide Evidence (Award letter and Contract Agreement)** • Four and above Project of similar nature, complexity and magnitude----------10 • Three and below Projects of similar, nature complexity and magnitude ---------- 5 • No Projects of similar nature, complexity and magnitude-0	**10**
Iv	**Schedule of contractor's equipment and transport (proof or evidence of ownership/Lease)** **a) Relevant Transport** • Means of transport (Vehicle) ---------- 10 • No means of transport----------0	**10**

Item	Description	MARKS
	b) **Relevant Equipment** • Has relevant equipment for workbeing tendered---------- 10 • No relevant equipment for work being tendered-------0	**10**
V	**Financial report (Main Contractor)**	**8**
	a) Average Annual Turnover **(Attach Audited Accounts for the last 3 years -, (2023, 2024 and 202 for Main Contractor only** • **Average Annual Turn-over equal to or greater than the cost of the project----------8** • **Average Annual Turn-over above 50% but below 100% of the cost of the project ---------- 4** • **Average Annual Turn-over below 50% of the cost of the project** **----------1**	
	b) Provide Evidence of Financial Resources (cash in hand, lines of credit, over draft facility etc.)**- Bank/Creditors/Letters dated not earlier than August 2025)** • **Has financial resources to finance the projected monthly cash flow for three months----------12** • **Has financial resources equal to the projected monthly cash flow ----------9** • **Has financial resources less the projected monthly cash flow -6** • **Has not indicated sources of financial resources----------0**	**12**
Vi	Attach Bank Details and letter of authorization to seek authority from the bank **(Main Contractor)** • Information Provided---------- 2 • No Information Provided----------0	**2**
Vii	Attach Litigation History/Affidavit signed and Stamped by an Attorney/ Commissioner for Oaths **(Main Contractor)** • Duly Filled----------2 • Not filled----------0	**2**
Viii	**Works Programme and Methodology** Methodology must capture all scope of works, approach and execution • Detailed methodology - 2 Marks • Shallow methodology – 1 Marks	**3**
ix	**Health, Safety and Protection of The Environment** • Environmental and Social Performance Declaration-1 mark • Specific experience in managing environmental and social aspects-2 marks	**3**
	TOTAL	**100**

1. ***Tenderers who will not attain a minimum of 70 points shall be considered non- responsive and their tenders will not be evaluated further.***
2. ***Illegible and forged documents shall be treated as nil and non-responsive***

1. **Tender Evaluation (ITT 35) Price evaluation**: in addition to the criteria listed in ITT 35.2 (a) – (c) the

following criteria shall apply:

i) **Alternative Completion Times, i**f permitted under ITT 13.2, will be evaluated as follows: ……

ii) **Alternative Technical Solutions** for specified parts of the Works, if permitted under ITT 13.4, will be evaluated as follows: ……

iii) **Other Criteria; i**f permitted under ITT 35.2(d): ……

2. **Multiple Contracts**

Multiple contracts will be permitted in accordance with ITT 35.4. Tenderers are evaluated on basis of Lots and the lowest evaluated tenderer identified for each Lot. The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme will select one Option of the two Options listed below for award of Contracts.

OPTION 1

i) If a tenderer wins only one Lot, the tenderer will be awarded a contract for that Lot, provided the tenderer meets the Eligibility and Qualification Criteria for that Lot.

ii) If a tenderer wins more than one Lot, the tender will be awarded contracts for all won Lots, provided the tenderer meets the aggregate Eligibility and Qualification Criteria for all the Lots. The tenderer will be awarded the combination of Lots for which the tenderer qualifies and the others will be considered for award to second lowest the tenderers.

OPTION 2

The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme will consider all possible combinations of won Lots [contract(s)] and determine the combinations with the lowest evaluated price. Tenders will then be awarded to the Tenderer or Tenderers in the combinations provided the tenderer meets the aggregate Eligibility and Qualification Criteria for all the won Lots.

3. **Alternative Tenders (ITT 13.1)**

An alternative if permitted under ITT 13.1, will be evaluated as follows:

The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall consider Tenders offered for alternatives as specified in Part 2- Works Requirements. Only the technical alternatives, if any, of the Tenderer with the Best Evaluated Tender conforming to the basic technical requirements shall be considered by the County Government of Garissa_Department of Water The Kenya Water Sanitation and Hygiene (K-WASH) Programme.

4. **Margin of Preference** is not applicable

5. **Post qualification and Contract ward (ITT 39), more specifically,**

a) In case the tender was subject to post-qualification, the contract shall be awarded to the lowest evaluated tenderer, subject to confirmation of pre-qualification data, if so required.

b) In case the tender was not subject to post-qualification, the tender that has been determined to be the lowest evaluated tenderer shall be considered for contract award, subject to meeting each of the following conditions.

i) The Tenderer shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the construction cash flow of Kenya Shillings

_____.

ii) Minimum average annual construction turnover of Kenya Shillings_____ *[insert amount]*, equivalent calculated as total certified payments received for contracts in progress and/or completed within the last_____*[insert of year]* years.

iii) At least_____(*insert number)* of contract(s) of a similar nature executed within Kenya, or the East African Community or abroad, that have been satisfactorily and substantially completed as a prime contractor, or joint venture member or sub-contractor each of minimum value Kenya shillings_____equivalent.

iv) Contractor's Representative and Key Personnel, which are specified as _____

v) Contractors key equipment listed on the table "Contractor's Equipment" below and more

specifically listed as *[specify requirements for each lot as applicable]* _____

vi) Other conditions depending on their seriousness.

a) History of non-performing contracts:

Tenderer and each member of JV in case the Tenderer is a JV, shall demonstrate that Non- performance of a contract did not occur because of the default of the Tenderer, or the member of a JV in the last_____(*specify years*). The required information shall be furnished in the appropriate form.

b) Pending Litigation

Financial position and prospective long-term profitability of the Single Tenderer, and in the case the Tenderer is a JV, of each member of the JV, shall remain sound according to criteria established with respect to Financial Capability under Paragraph (i) above if all pending litigation will be resolved against the Tenderer. Tenderer shall provide information on pending litigations in the appropriate form.

c) Litigation History

There shall be no consistent history of court/arbitral award decisions against the Tenderer, in the last_____(*specify years*). All parties to the contract shall furnish the information in the appropriate form about any litigation or arbitration resulting from contracts completed or ongoing under its execution over the years specified. A consistent history of awards against the Tenderer or any member of a JV may result in rejection of the tender.

6. QUALIFICATION FORM SUMMARY

1	2	3	*4*	*5*
Item No.	**Qualification Subject**	**Qualification Requirement**	***Document To be Completed by Tenderer***	***For County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's Use (Qualification met or Not Met)***
1	Nationality	Nationality in accordance with ITT 3.6	Forms ELI – 1.1 and 1.2, with attachments	
2	Tax Obligations for Kenyan Tenderers	Has produced a current tax clearance certificate or tax exemption certificate issued by the the Kenya Revenue Authority in accordance with ITT 3.14.	Form of Tender	
3	Conflict of Interest	No conflicts of interest in accordance with ITT 3.3	Form of Tender	
4	PPRA Eligibility	Not having been declared ineligible by the PPRA as described in ITT 3.8	Form of Tender	
5	State- owned Enterprise	Meets conditions of ITT 3.7	Forms ELI – 1.1 and 1.2, with attachments	
6	Goods, equipment and services to be supplied under the contract	To have their origin in any country that is not determined ineligible under ITT 4.1	Forms ELI – 1.1 and 1.2, with attachments	
7	History of Non-Performing Contracts	Non-performance of a contract did not occur as a result of contractor default since 1st January [*…….]*.	Form CON-2	
8	Suspension Based on Execution of Tender/Proposal Securing Declaration by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme	Not under suspension based on-execution of a Tender/Proposal Securing Declaration pursuant to ITT 19.9	Form of Tender	
9	Pending Litigation	Tender's financial position and prospective long-term profitability still sound according to criteria established in 3.1 and assuming that all pending litigation will NOT be resolved against the Tenderer.	Form CON – 2	
10	Litigation History	No consistent history of court/arbitral award decisions against the Tenderer since 1st January *[insert year]*	Form CON – 2	
11	Financial Capabilities	(i) The Tenderer shall demonstrate that it has access to, or	Form FIN – 3.1, with	

1	2	3	*4*	*5*
Item No.	**Qualification Subject**	**Qualification Requirement**	***Document To be Completed by Tenderer***	***For County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's Use (Qualification met or Not Met)***
		has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the construction cash flow requirements estimated as Kenya Shillings *[insert amount]* equivalent for the subject contract(s) net of the Tenderer's other commitments. (ii) The Tenderers shall also demonstrate, to the satisfaction of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme, that it has adequate sources of finance to meet the cash flow requirements on works currently in progress and for future contract commitments. (iii) The audited balance sheets or, if not required by the laws of the Tenderer's country, other financial statements acceptable to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme, for the last *[insert number of years]* years shall be submitted and must demonstrate the current soundness of the Tenderer's financial position and indicate its prospective long-term profitability.	attachments	
12	Average Annual Construction Turnover	Minimum average annual construction turnover of Kenya Shillings *[insert amount]*, equivalent calculated as total certified payments received for contracts in progress and/or completed within the last *[insert of year]* years, divided by *[insert number of years]* years	Form FIN – 3.2	
13	General Construction Experience	Experience under construction contracts in the role of prime contractor, JV member, sub-contractor, or management contractor for at least the last *[insert number of years]*	Form EXP – 4.1	

1	2	3	*4*	*5*
Item No.	**Qualification Subject**	**Qualification Requirement**	***Document To be Completed by Tenderer***	***For County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's Use (Qualification met or Not Met)***
		years, starting 1st January *[insert year]*.		
14	Specific Construction & Contract Management Experience	A minimum number of *[state the number]* similar contracts specified below that have been satisfactorily and substantially completed as a prime contractor, joint venture member, management contractor or sub-contractor between 1st January [*insert year*] and tender submission deadline i.e. …. (number) contracts, each of minimum value Kenya shillings…….. equivalent. [*In case the Works are to be tender as individual contracts under multiple contract procedure, the minimum number of contracts required for purposes of evaluating qualification shall be selected from the options mentioned in ITT 35.4]* The similarity of the contracts shall be based on the following: [*Based on Section VII, Scope of Works, specify the minimum key requirements in terms of physical size, complexity, construction method, technology and/or other characteristics including part of the requirements that may be met by specialized subcontractors, if permitted in accordance with ITT 34.3]*	Form EXP 4.2(a)	
15	Environmental and Social	Environmental and Social Performance Declaration		
	Environmental and Social	Specific Experience in Managing Environmental and Social aspects		

QUALIFICATION FORMS

1. FORM EQU: EQUIPMENT

The Tenderer shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for the key equipment listed in Section III, Evaluation and Qualification Criteria. A separate Form shall be prepared for each item of equipment listed, or for alternative equipment proposed by the Tenderer.

Item of equipment		
Equipment information	Name of manufacturer	Model and power rating
	Capacity	Year of manufacture
Current status	Current location	
	Details of current commitments	
Source	Indicate source of the equipment ☐ Owned ☐ Rented ☐ Leased ☐ Specially manufactured	

Omit the following information for equipment owned by the Tenderer.

Owner	Name of owner	
	Address of owner	
	Telephone	Contact name and title
	Fax	Telex
Agreements	Details of rental / lease / manufacture agreements specific to the project	

2. FORM PER -1

Contractor's Representative and Key Personnel Schedule

Tenderers should provide the names and details of the suitably qualified Contractor's Representative and Key Personnel to perform the Contract. The data on their experience should be supplied using the Form PER-2 below for each candidate.

Contractor' Representative and Key Personnel

1.	**Title of position: Contractor's Representative**	
	Name of candidate:	
	Duration of appointment:	[*insert the whole period (start and end dates) for which this position will be engaged*]
	Time commitment: for this position:	[*insert the number of days/week/months/ that has been scheduled for this position*]
	Expected time schedule for this position:	[*insert the expected time schedule for this position (e.g. attach high level Gantt chart*]
2.	**Title of position:** *[_____]*	
	Name of candidate:	
	Duration of appointment:	[*insert the whole period (start and end dates) for which this position will be engaged*]
	Time commitment: for this position:	[*insert the number of days/week/months/ that has been scheduled for this position*]
	Expected time schedule for this position:	[*insert the expected time schedule for this position (e.g. attach high level Gantt chart*]
3.	**Title of position:** *[_____]*	
	Name of candidate:	
	Duration of appointment:	[*insert the whole period (start and end dates) for which this position will be engaged*]
	Time commitment: for this position:	[*insert the number of days/week/months/ that has been scheduled for this position*]
	Expected time schedule for this position:	[*insert the expected time schedule for this position (e.g. attach high level Gantt chart*]
4.	**Title of position:** *_____]*	
	Name of candidate:	
	Duration of appointment:	[*insert the whole period (start and end dates) for which this position will be engaged*]
	Time commitment: for this position:	[*insert the number of days/week/months/ that has been scheduled for this position*]
	Expected time schedule for this position:	[*insert the expected time schedule for this position (e.g. attach high level Gantt chart*]
5.	**Title of position:**	
	Name of candidate	
	Duration of appointment:	[*insert the whole period (start and end dates) for which this position will be engaged*]
	Time commitment: for this position:	[*insert the number of days/week/months/ that has been scheduled for this position*]
	Expected time schedule for this position:	[*insert the expected time schedule for this position (e.g. attach high level Gantt chart*]

3. FORM PER-2:

Resume and Declaration - Contractor's Representative and Key Personnel.

Summarize professional experience in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

Name of Tenderer

Position [*#1*]: [*title of position from Form PER-1*]		
Personnel information	Name:	Date of birth:
	Address:	E-mail:
	Professional qualifications:	
	Academic qualifications:	
	Language proficiency: *[language and levels of speaking, reading and writing skills]*	
Details		
	Address of County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme:	
	Telephone:	Contact (manager / personnel officer):
	Fax:	
	Job title:	Years with present County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme:

Summarize professional experience in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

Project	**Role**	**Duration of involvement**	**Relevant experience**
[main project details]	*[role and responsibilities on the project]*	*[time in role]*	*[describe the experience relevant to this position]*

Declaration

I, the undersigned *[insert either "Contractor's Representative" or "Key Personnel" as applicable]*, certify that to the best of my knowledge and belief, the information contained in this Form PER-2 correctly describes myself, my qualifications and my experience.

I confirm that I am available as certified in the following table and throughout the expected time schedule for this position as provided in the Tender:

Commitment	**Details**
Commitment to duration of contract:	*[insert period (start and end dates) for which this Contractor's Representative or Key Personnel is available to work on this contract]*
Time commitment:	*[insert period (start and end dates) for which this Contractor's Representative or Key Personnel is available to work on this contract]*

I understand that any misrepresentation or omission in this Form may:

a) be taken into consideration during Tender evaluation;
b) result in my disqualification from participating in the Tender;
c) result in my dismissal from the contract.

Name of Contractor's Representative or Key Personnel: [*insert name*]

Signature: _____

Date: (day month year): _____ Countersignature

of authorized representative of the Tenderer:

Signature: _____ Date: (day month

year): _____

4. TENDERER'S QUALIFICATION WITHOUT PRE-QUALIFICATION

To establish its qualifications to perform the contract in accordance with Section III, Evaluation and Qualification Criteria the Tenderer shall provide the information requested in the corresponding Information Sheets included hereunder.

4.1 FORM ELI -1.1

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: *[indicate country of Constitution]*
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 County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme 2. Included are the organizational chart and a list of Board of Directors.

4.2 FORM ELI -1.2

Tenderer's JV Information Form
(to be completed for each member of Tenderer's JV)
Date: _____

ITT No. and title: _____

Tenderer's JV name:
JV member's name:
JV member's country of registration:
JV member's year of constitution:
JV member's legal address in country of constitution:
JV member'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 registration documents of the legal entity named above, in accordance with ITT 3.6. ☐ In case of a state-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with commercial law, and that they are not under the supervision of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme, in accordance with ITT 3.8. 2. Included are the organizational chart and a list of Board of Directors.

4.3 FORM CON – 2

Historical Contract Non-Performance, Pending Litigation and Litigation History

Tenderer's Name: _____
Date: _____
JV Member's Name_____
ITT No. and title: _____

Non-Performed Contracts in accordance with Section III, Evaluation and Qualification Criteria			
☐ Contract non-performance did not occur since 1st January *[insert year]* specified in Section III, Evaluation and Qualification Criteria, Sub-Factor 2.1. ☐ Contract(s) not performed since 1st January *[insert year]* specified in Section III, Evaluation and Qualification Criteria, requirement 2.1			
Year	**Non- performed portion of contract**	**Contract Identification**	**Total Contract Amount (current value, currency, exchange rate and Kenya Shilling equivalent)**
[insert year]	*[insert amount and percentage]*	Contract Identification: *[indicate complete contract name/ number, and any other identification]* Name of County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme: *[insert full name]* Address of County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme: *[insert street/city/country]* Reason(s) for nonperformance: *[indicate main reason(s)]*	*[insert amount]*
Pending Litigation, in accordance with Section III, Evaluation and Qualification Criteria			
☐ No pending litigation in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.3. ☐ Pending litigation in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.3 as indicated below.			

Year of dispute	**Amount in dispute (currency)**	**Contract Identification**	**Total Contract Amount (currency), Kenya Shilling Equivalent (exchange rate)**
		Contract Identification: _____ Name of County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme: _____ Address of County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme: _____ Matter in dispute: _____ Party who initiated the dispute: ____ Status of dispute: _____	

		Contract Identification: Name of County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme: Address of County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme: Matter in dispute: Party who initiated the dispute: Status of dispute:	

Litigation History in accordance with Section III, Evaluation and Qualification Criteria

☐ No Litigation History in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.4.

☐ Litigation History in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.4 as indicated below.

Year of award	**Outcome as percentage of Net Worth**	**Contract Identification**	**Total Contract Amount (currency), Kenya Shilling Equivalent (exchange rate)**
[insert year]	*[insert percentage]*	Contract Identification: [indicate complete contract name, number, and any other identification] Name of County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme: *[insert full name]* Address of County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme: *[insert street/city/country]* Matter in dispute: *[indicate main issues in dispute]* Party who initiated the dispute: *[indicate "County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme" or "Contractor"]* Reason(s) for Litigation and award decision *[indicate main reason(s)]*	*[insert amount]*

4.4 FORM FIN – 3.1:

Financial Situation and Performance

Tenderer's Name: _____
Date: _____
JV Member's Name_____
ITT No. and title: _____

4.4.1. Financial Data

Type of Financial information in_____ (currency)	**Historic information for previous _____*years*, _____ (amount in currency, currency, exchange rate*, USD equivalent)**				
	Year 1	**Year 2**	**Year 3**	**Year 4**	**Year 5**
Statement of Financial Position (Information from Balance Sheet)					
Total Assets (TA)					
Total Liabilities (TL)					
Total Equity/Net Worth (NW)					
Current Assets (CA)					
Current Liabilities (CL)					
Working Capital (WC)					
Information from Income Statement					
Total Revenue (TR)					
Profits Before Taxes (PBT)					
Cash Flow Information					
Cash Flow from Operating Activities					

*Refer to ITT 15 for the exchange rate

4.4.2 Sources of Finance

Specify sources of finance to meet the cash flow requirements on works currently in progress and for future contract commitments.

No.	**Source of finance**	**Amount (Kenya Shilling equivalent)**
1		
2		
3		

4.4.3 Financial documents

The Tenderer and its parties shall provide copies of financial statements for _____years pursuant Section III, Evaluation and Qualifications Criteria, Sub-factor 3.1. The financial statements shall:

(a) reflect the financial situation of the Tenderer or in case of JV member, and not an affiliated entity (such as parent company or group member).

(b) be independently audited or certified in accordance with local legislation.

(c) be complete, including all notes to the financial statements.

(d) correspond to accounting periods already completed and audited.

☐ Attached are copies of financial statements[1] for the _____years required above; and complying with the requirements

[1] If the most recent set of financial statements is for a period earlier than 12 months from the date of Tender, the reason for this should be justified.

4.5 FORM FIN – 3.2:

Average Annual Construction Turnover

Tenderer's Name: _____
Date: _____
JV Member's Name_____
ITT No. and title: _____

	Annual turnover data (construction only)		
Year	**Amount Currency**	**Exchange rate**	**Kenya Shilling equivalent**
[indicate year]	*[insert amount and indicate currency]*		
Average Annual Construction Turnover *			

* See Section III, Evaluation and Qualification Criteria, Sub-Factor 3.2.

4.6 FORM FIN – 3.3:

Financial Resources

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject contract or contracts as specified in Section III, Evaluation and Qualification Criteria

Financial Resources		
No.	**Source of financing**	**Amount (Kenya Shilling equivalent)**
1		
2		
3		

4.7 FORM FIN – 3.4:

Current Contract Commitments / Works in Progress

Tenderers and each member to a JV should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

Current Contract Commitments					
No.	Name of Contract	County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's Contact Address, Tel,	Value of Outstanding Work [Current Kenya Shilling /month Equivalent]	Estimated Completion Date	Average Monthly Invoicing Over Last Six Months [Kenya Shilling /month)]
1					
2					
3					
4					
5					

4.8 FORM EXP - 4.1

General Construction Experience

Tenderer's Name: _____
Date: _____
JV Member's Name_____
ITT No. and title: _____

Page _____of _____pages

Starting Year	Ending Year	Contract Identification	Role of Tenderer
		Contract name: _____ Brief Description of the Works performed by the Tenderer: _____ Amount of contract: _____ Name of County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme: _____ Address: _____	
		Contract name: _____ Brief Description of the Works performed by the Tenderer: _____ Amount of contract: _____ Name of County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme: _____ Address: _____	
		Contract name: _____ Brief Description of the Works performed by the Tenderer: _____ Amount of contract: _____ Name of County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme: _____ Address: _____	

4.9 FORM EXP - 4.2(a)

Specific Construction and Contract Management Experience

Tenderer's Name: _____
Date: _____
JV Member's Name_____
ITT No. and title: _____

Similar Contract No.	**Information**			
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor ☐	Member in JV ☐	Management Contractor ☐	Sub-contractor ☐
Total Contract Amount			**Kenya Shilling**	
If member in a JV or sub-contractor, specify participation in total Contract amount				
County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's Name:				
Address: Telephone/fax number E-mail:				

4.10 FORM EXP - 4.2 (a) (cont.)

Specific Construction and Contract Management Experience (cont.)

Similar Contract No.	**Information**
Description of the similarity in accordance with Sub-Factor 4.2(a) of Section III:	
1. Amount	
2. Physical size of required works items	
3. Complexity	
4. Methods/Technology	
5. Construction rate for key activities	
6. Other Characteristics	

4.11 FORM EXP - 4.2(b)

Construction Experience in Key Activities

Tenderer's Name: _____
Date: _____
Tenderer's JV Member Name: _____
Sub-contractor's Name[2] (as per ITT 34): _____
ITT No. and title: _____

All Sub-contractors for key activities must complete the information in this form as per ITT 34 and Section III, Evaluation and Qualification Criteria, Sub-Factor 4.2.

1. Key Activity No One: _
_____

	Information			
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor ☐	Member in JV ☐	Management Contractor ☐	Sub-contractor ☐
Total Contract Amount			**Kenya Shilling**	
Quantity (Volume, number or rate of production, as applicable) performed under the contract per year or part of the year	Total quantity in the contract (i)	Percentage participation (ii)		Actual Quantity Performed (i) x (ii)
Year 1				
Year 2				
Year 3				
Year 4				
County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's Name:				
Address: Telephone/fax number E-mail:				

[2] If applicable

	Information
Description of the key activities in accordance with Sub-Factor 4.2(b) of Section III:	

2. Activity No. Two
3. ……

Environmental and Social Performance Declaration

in accordance with Section III, Qualification Criteria, and Requirements

☐ **No suspension or termination of contract**: An employer has not suspended or terminated a contract and/or called the performance security for a contract for reasons related to Environmental, or Social (ES) performance since the date specified in Section III, Qualification Criteria, and Requirements, Sub-Factor 2.5.

☐ **Declaration of suspension or termination of contract**: The following contract(s) has/have been suspended or terminated and/or Performance Security called by an employer(s) for reasons related to Environmental, or Social (ES)performance since the date specified in Section III, Qualification Criteria, and Requirements, Sub-Factor 2.5. Details are described below:

Year	**Suspended or terminated portion of contract**	**Contract Identification**	**Total Contract Amount (current value, currency, exchange rate and US$ equivalent)**
[insert year]	*[insert amount and percentage]*	Contract Identification: *[indicate complete contract name/ number, and any other identification]* Name of Employer: *[insert full name]* Address of Employer: *[insert street/city/country]* Reason(s) for suspension or termination: *[indicate main reason(s) e.g. for gender-based violence; sexual exploitation or sexual abuse breaches]*	*[insert amount]*
[insert year]	*[insert amount and percentage]*	Contract Identification: *[indicate complete contract name/ number, and any other identification]* Name of Employer: *[insert full name]* Address of Employer: *[insert street/city/country]* Reason(s) for suspension or termination: *[indicate main reason(s)]*	*[insert amount]*
…	…	*[list all applicable contracts]*	…

Performance Security called by an employer(s) for reasons related to ES performance

Year	Contract Identification	Total Contract Amount (current value, currency, exchange rate and US$ equivalent)
[insert year]	Contract Identification: *[indicate complete contract name/ number, and any other identification]* Name of Employer: *[insert full name]* Address of Employer: *[insert street/city/country]* Reason(s) for calling of performance security: *[indicate main reason(s) e.g. for gender-based violence; sexual exploitation, or sexual abuse breaches]*	*[insert amount]*

Form EXP - 4.2(c): Specific Experience in Managing ES aspects

[The following table shall be filled in for contracts performed by the Bidder, and each member of a Joint Venture]

Bidder's Name: _____
Date: _____
Bidder's JV Member Name: _____
RFB No. and title: _____

Page _____ of _____ pages

1. Key Requirement no 1 in accordance with 4.2 (c): _____

Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor ☐	Member in JV ☐	Management Contractor ☐	Subcontractor ☐
Total Contract Amount			US$	
Details of relevant experience				

2. Key Requirement no 2 in accordance with 4.2 (c): _____
3. Key Requirement no 3 in accordance with 4.2 (c): _____
4. ...

OTHER FORMS

5. FORM OF TENDER

(Amended and issued pursuant to PPRA CIRCULAR No. 02/2022)

INSTRUCTIONS TO TENDERERS

i) All italicized text is to help the Tenderer in preparing this form.

ii) The Tenderer must prepare this Form of Tender on stationery with its letterhead clearly showing the Tenderer's complete name and business address. Tenderers are reminded that this is a mandatory requirement.

iii) Tenderer must complete and sign CERTIFICATE OF INDEPENDENT TENDER DETERMINATION and the SELF DECLARATION FORMS OF THE TENDERER as listed under (s) below.

Date of this Tender submission:.....*[insert date (as day, month and year) of Tender submission]* **Tender Name and Identification**:.....*[insert identification]* **Alternative No.**:.....*[insert identification No if this is a Tender for an alternative]*

To: ..... *[Insert complete name of County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme]*

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 Shillings *[amount in words]*_____.

   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.

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 County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme based on execution of a Tender-Securing or Proposal-Securing Declaration in the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme'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 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) **Beneficial Ownership Information:** We commit to provide to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme the Beneficial Ownership Information in conformity with the Beneficial Ownership Disclosure Form upon receipt of notification of intention to enter into a contract in the event we are the successful tenderer in this subject procurement proceeding.

xxii) We, the Tenderer, have duly completed, signed and stamped the following Forms as part of our Tender:
- a) Tenderer's Eligibility; Confidential Business Questionnaire – to 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.*

A. TENDERER'S ELIGIBILITY- CONFIDENTIAL BUSINESS QUESTIONNAIRE

Instruction to Tenderer

Tender is instructed to complete the particulars required in this Form, *one form for each entity if Tender is a JV.* Tenderer is further reminded that it is an offence to give false information on this Form.

(a) Tenderer's details

	ITEM	DESCRIPTION
1	Name of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme	
2	Reference Number of the Tender	
3	Date and Time of Tender Opening	
4	Name of the Tenderer	
5	Full Address and Contact Details of the Tenderer.	1. Country 2. City 3. Location 4. Building 5. Floor 6. Postal Address 7. Name and email of contact person.
6	Current Trade License Registration Number and Expiring date	
7	Name, country and full address (*postal and physical addresses, email, and telephone number*) of Registering Body/Agency	
8	Description of Nature of Business	
9	Maximum value of business which the Tenderer handles.	
10	State if Tenders Company is listed in stock exchange, give name and full address (*postal and physical addresses, email, and telephone number*) of state which stock exchange	

General and Specific Details

b) Sole Proprietor, provide the following details.

Name in full_____Age_____ Nationality _____Country of Origin_____ Citizenship _____

c) Partnership, provide the following details.

	Names of Partners	Nationality	Citizenship	% Shares owned
1				
2				
3				

d) Registered Company, provide the following details.

i) Private or public Company_____

ii) State the nominal and issued capital of the Company_____

Nominal Kenya Shillings (Equivalent)..... Issued

Kenya Shillings (Equivalent).....

iii) Give details of Directors as follows.

	Names of Director	Nationality	Citizenship	% Shares owned
1				
2				
3				

(e) DISCLOSURE OF INTEREST- Interest of the Firm in the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme.

i) Are there any person/persons in …… …… (*Name of County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme)* who has/have an interest or relationship in this firm? Yes/No……

If yes, provide details as follows.

	Names of Person	Designation in the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme	Interest or Relationship with Tenderer
1			
2			
3			

ii) Conflict of interest disclosure

	Type of Conflict	Disclosure YES OR NO	If YES provide details of the relationship with Tenderer
1	Tenderer is directly or indirectly controls, is controlled by or is under common control with another tenderer.		
2	Tenderer receives or has received any direct or indirect subsidy from another tenderer.		
3	Tenderer has the same legal representative as another tenderer		
4	Tender has a relationship with another tenderer, directly or		

	Type of Conflict	Disclosure YES OR NO	If YES provide details of the relationship with Tenderer
	through common third parties, that puts it in a position to influence the tender of another tenderer, or influence the decisions of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme regarding this tendering process.		
5	Any of the Tenderer's affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the tender.		
6	Tenderer would be providing goods, works, non-consulting services or consulting services during implementation of the contract specified in this Tender Document.		
7	Tenderer has a close business or family relationship with a professional staff of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme who are directly or indirectly involved in the preparation of the Tender document or specifications of the Contract, and/or the Tender evaluation process of such contract.		
8	Tenderer has a close business or family relationship with a professional staff of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme who would be involved in the implementation or supervision of the such Contract.		
9	Has the conflict stemming from such relationship stated in item 7 and 8 above been resolved in a manner acceptable to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme throughout the tendering process and execution of the Contract.		

f) Certification

On behalf of the Tenderer, I certify that the information given above is complete, current and accurate as at the date of submission.

Full Name_____ Title or

Designation_____

_____ _____

(Signature) *(Date)*

B. CERTIFICATE OF INDEPENDENT TENDER DETERMINATION

I, the undersigned, in submitting the accompanying Letter of Tender to the_____[Name of County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme] for:_____[Name and number of tender] in response to the request for tenders made by:_____[Name of Tenderer] do hereby make the following statements that I certify to be true and complete 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 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].

C. SELF - DECLARATION FORMS

FORM SD1

SELF DECLARATION THAT THE PERSON/TENDERER IS NOT DEBARRED IN THE MATTER OF THE PUBLIC PROCUREMENTAND ASSET DISPOSALACT 2015.

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

1. THAT I am the Company Secretary/ Chief Executive/Managing Director/Principal Officer/Director of ……...…….. *(insert name of the Company)* who is a Bidder in respect of Tender No.
…….. for ……. *(insert tender title/description)* for ……. *(insert name of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme)* and duly authorized and competent to make this statement.

2. THAT the aforesaid Bidder, its Directors and subcontractors have not been debarred from participating in procurement proceeding under Part IV of the Act.

3. THAT what is deponed to herein above is true to the best of my knowledge, information and belief.

……. ……. …… (Title)
(Signature) (Date)

Bidder Official Stamp

FORM SD2

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

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

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

…… ……..…… .....……

(Title) (Signature) (Date)

Bidder's Official Stamp

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……

D. APPENDIX 1- FRAUD AND CORRUPTION

(Appendix 1 shall not be modified)

1. Purpose

2. The Government of Kenya's Anti-Corruption and Economic Crime laws and their sanction's policies and procedures, Public Procurement and Asset Disposal Act *(no. 33 of 2015)* and its Regulation, and any other Kenya's Acts or Regulations related to Fraud and Corruption, and similar offences, shall apply with respect to Public Procurement Processes and Contracts that are governed by the laws of Kenya.

3. Requirements

The Government of Kenya requires that all parties including Procuring Entities, Tenderers, (applicants/proposers), Consultants, Contractors and Suppliers; any Sub-contractors, Sub-consultants, Service providers or Suppliers; any Agents (whether declared or not); and any of their Personnel, involved and engaged in procurement under Kenya's Laws and Regulation, observe the highest standard of ethics during the procurement process, selection and contract execution of all contracts, and refrain from Fraud and Corruption and fully comply with Kenya's laws and Regulations as per paragraphs 1.1 above.

Kenya's public procurement and asset disposal act *(no. 33 of 2015)* under Section 66 describes rules to be followed and actions to be taken in dealing with Corrupt, Coercive, Obstructive, Collusive or Fraudulent practices, and Conflicts of Interest in procurement including consequences for offences committed. A few of the provisions noted below highlight Kenya's policy of no tolerance for such practices and behavior: -

1) a person to whom this Act applies shall not be involved in any corrupt, coercive, obstructive, collusive or fraudulent practice; or conflicts of interest in any procurement or asset disposal proceeding;
2) A person referred to under subsection (1) who contravenes the provisions of that sub-section commits an offence;
3) Without limiting the generality of the subsection (1) and (2), the person shall be: -
   a) disqualified from entering into a contract for a procurement or asset disposal proceeding; or
   b) if a contract has already been entered into with the person, the contract shall be voidable;
4) The voiding of a contract by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme under subsection (7) does not limit any legal remedy the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme may have;
5) An employee or agent of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme or a member of the Board or committee of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme who has a conflict of interest with respect to a procurement: -
   a) shall not take part in the procurement proceedings;
   b) shall not, after a procurement contract has been entered into, take part in any decision relating to the procurement or contract; and

c) shall not be a subcontractor for the bidder to whom was awarded contract, or a member of the group of bidders to whom the contract was awarded, but the subcontractor appointed shall meet all the requirements of this Act.

6) An employee, agent or member described in subsection (1) who refrains from doing anything prohibited under that subsection, but for that subsection, would have been within his or her duties shall disclose the conflict of interest to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme;
7) If a person contravenes subsection (1) with respect to a conflict of interest described in subsection (5)(a) and the contract is awarded to the person or his relative or to another person in whom one of them had a direct or indirect pecuniary interest, the contract shall be terminated and all costs incurred by the public entity shall be made good by the awarding officer. Etc.

In compliance with Kenya's laws, regulations and policies mentioned above, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme:

a) Defines broadly, for the purposes of the above provisions, the terms set forth below as follows:
   i) “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything

of value to influence improperly the actions of another party;

ii) "fraudulent practice" is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;

iii) "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;

iv) "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

v) "obstructive practice" is:

- deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede investigation by Public Procurement Regulatory Authority (PPRA) or any other appropriate authority appointed by Government of Kenya 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; or
- acts intended to materially impede the exercise of the PPRA's or the appointed authority's inspection and audit rights provided for under paragraph 2.3 e. below.

b) Defines more specifically, in accordance with the above procurement Act provisions set forth for fraudulent and collusive practices as follows:

"fraudulent practice" includes a misrepresentation of fact in order to influence a procurement or disposal process or the exercise of a contract to the detriment of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme or the tenderer or the contractor, and includes collusive practices amongst tenderers prior to or after tender submission designed to establish tender prices at artificial non-competitive levels and to deprive the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme of the benefits of free and open competition.

c) Rejects a proposal for award[1] of a contract if PPRA determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;

d) Pursuant to the Kenya's above stated Acts and Regulations, may sanction or recommend to appropriate authority (ies) for sanctioning and debarment of a firm or individual, as applicable under the Acts and Regulations;

e) Requires that a clause be included in Tender documents and Request for Proposal documents requiring (i) Tenderers (applicants/proposers), Consultants, Contractors, and Suppliers, and their Sub-contractors, Sub-consultants, Service providers, Suppliers, Agents personnel, permit the PPRA or any other appropriate authority appointed by Government of Kenya to inspect[2] all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the PPRA or any other appropriate authority appointed by Government of Kenya; and

f) Pursuant to Section 62 of the above Act, requires Applicants/Tenderers to submit along with their Applications/Tenders/Proposals a "Self-Declaration Form" as included in the procurement document declaring that they and all parties involved in the procurement process and contract execution have not engaged/will not engage in any corrupt or fraudulent practices.

---

[1] *For the avoidance of doubt, a party's ineligibility to be awarded a contract shall include, without limitation, (i) applying for pre-qualification, expressing interest in a consultancy, and tendering, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract.*

[2] *Inspections in this context usually are investigative (i.e., forensic) in nature. They involve fact-finding activities undertaken by the Investigating*

Authority or persons appointed by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme to address specific matters related to investigations/audits, such as evaluating the veracity of an allegation of possible Fraud and Corruption, through the appropriate mechanisms. Such activity includes but is not limited to: accessing and examining a firm's or individual's financial records and information, and making copies thereof as relevant; accessing and examining any other documents, data and information (whether in hard copy or electronic format) deemed relevant for the investigation/audit, and making copies thereof as relevant; interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third party verification of information.

FORM OF TENDER SECURITY-[Option 1–Demand Bank Guarantee]

Beneficiary:_____

Request for Tenders No:

_____

Date:_____

TENDER GUARANTEE No.:_____

Guarantor: _____

1. We have been informed that_____(here inafter called "the Applicant") has submitted or will submit to the Beneficiary its Tender (here inafter called" the Tender") for the execution of_____ under Request for Tenders No._____(“the ITT”).

2. Furthermore, we understand that, according to the Beneficiary's conditions, Tenders must be supported by a Tender guarantee.

3. At the request of the Applicant, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of_____(_____) upon receipt by us of the Beneficiary's complying demand, supported by the Beneficiary's statement, whether in the demand itself or a separate signed document accompanying or identifying the demand, stating that either the Applicant:

(a) has withdrawn its Tender during the period of Tender validity set forth in the Applicant's Letter of Tender (“the Tender Validity Period”), or any extension thereto provided by the Applicant; or

b) having been notified of the acceptance of its Tender by the Beneficiary during the Tender Validity Period or any extension there to provided by the Applicant, (i) has failed to execute the contract agreement, or (ii) has failed to furnish the Performance.

4. This guarantee will expire: (a) if the Applicant is the successful Tenderer, upon our receipt of copies of the contract agreement signed by the Applicant and the Performance Security and, or (b) if the Applicant is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of the Beneficiary's notification to the Applicant of the results of the Tendering process; or (ii) thirty days after the end of the Tender Validity Period.

5. Consequently, any demand for payment under this guarantee must be received by us at the office indicated above onor before that date.

_____

[signature(s)]

Note: All italicized text is for use in preparing this form and shall be deleted from the final product.

FORMAT OF TENDER SECURITY [Option 2–Insurance Guarantee]

TENDER GUARANTEE No.: _____

1. Whereas …… [*Name of the tenderer]* (hereinafter called "the tenderer") has submitted its tender dated …… [*Date of submission of tender]* for the …… *[Name and/or description of the tender]* (hereinafter called "the Tender") for the execution of_____under Request for Tenders No._____("the ITT").

2. KNOW ALL PEOPLE by these presents that WE …… of …… [**Name of Insurance Company**] having our registered office at …… (hereinafter called "the Guarantor"), are bound unto …….. [*Name of County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme*] (hereinafter called "the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme") in the sum of …… (Currency and guarantee amount) for which payment well and truly to be made to the said County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme, the Guarantor binds itself, its successors and assigns, jointly and severally, firmly by these presents.

Sealed with the Common Seal of the said Guarantor this ___day of _____ 20 __.

3. NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Applicant:

   a) has withdrawn its Tender during the period of Tender validity set forth in the Principal's Letter of Tender ("the Tender Validity Period"), or any extension thereto provided by the Principal; or

   b) having been notified of the acceptance of its Tender by the Procuring Entity during the Tender Validity Period or any extension thereto provided by the Principal; (i) failed to execute the Contract agreement; or (ii) has failed to furnish the Performance Security, in accordance with the Instructions to tenderers ("ITT") of the Procuring Entity's Tendering document.

   then the guarantee undertakes to immediately pay to the Procuring Entity up to the above amount upon receipt of the Procuring Entity's first written demand, without the Procuring Entity having to substantiate its demand, provided that in its demand the Procuring Entity shall state that the demand arises from the occurrence of any of the above events, specifying which event(s) has occurred.

4. This guarantee will expire: (a) if the Applicant is the successful Tenderer, upon our receipt of copies of the contract agreement signed by the Applicant and the Performance Security and, or (b) if the Applicant is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of the Beneficiary's notification to the Applicant of the results of the Tendering process; or (ii)twenty-eight days after the end of the Tender Validity Period.

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

_____	_____
[Date]	*[Signature of the Guarantor]*
_____	_____
[Witness]	*[Seal]*

Note: All italicized text is for use in preparing this form and shall be deleted from the final product.

TENDER-SECURING DECLARATION FORM

[The Bidder shall complete this Form in accordance with the instructions indicated]

Date:.....*[insert date (as day, month and year) of Tender Submission]*
Tender No.:.....*[insert number of tendering process]*
To:..... *[insert complete name of Purchaser]* I/We, the undersigned, declare that:

1. I/We understand that, according to your conditions, bids must be supported by a Tender-Securing Declaration.

2. I/We accept that I/we will automatically be suspended from being eligible for tendering in any contract with the Purchaser for the period of time of [insert number of months or years] starting on [insert date], if we are in breach of our obligation(s) under the bid conditions, because we – (a) have withdrawn our tender during the period of tender validity specified by us in the Tendering Data Sheet; or (b) having been notified of the acceptance of our Bid by the Purchaser during the period of bid 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 instructions to tenders.

3. I/We understand that this Tender Securing Declaration shall expire if we are not the successful Tenderer(s), upon the earlier of:
   a) our receipt of a copy of your notification of the name of the successful Tenderer; or
   b) thirty days after the expiration of our Tender.

4. I/We understand that if I am/we are/in a Joint Venture, the Tender Securing Declaration must be in the name of the Joint Venture that submits the bid, and the Joint Venture has not been legally constituted at the time of bidding, the Tender Securing Declaration shall be in the names of all future partners as named in the letter of intent.
   Signed:……..…….....….. Capacity / title (director

   or partner or sole proprietor, etc.) …….…….....……. Name:

   …….. Duly authorized to sign the bid

   for and on behalf of: *[insert complete name of Tenderer]*

   Dated on ……. day of ……..……. *[Insert date of signing]* Seal or stamp

Appendix to Tender
Schedule of Currency requirements

Summary of currencies of the Tender for_____*[insert name of Section of the Works]*

Name of currency	***Amounts payable***
Local currency: _____	
Foreign currency #1: _____	
Foreign currency #2: _____	
Foreign currency #3: _____	
Provisional sums expressed in local currency _____	[To be entered by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme]

PART II - WORK REQUIREMENTS

SECTION V - DRAWINGS

A list of drawings should be inserted here. The actual drawings including Site plans should be annexed in a separate booklet.

SECTION VI - SPECIFICATIONS

Notes for preparing Specifications

1. Specifications must be drafted to present a clear and precise statement of the required standards of materials, and workmanship for tenderers to respond realistically and competitively to the requirements of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme and ensure responsiveness of tenders. The Specifications should require that all materials, plant, and other supplies to be permanently incorporated in the Works be new, unused, of the most recent or current models, and incorporating all recent improvements in design and materials unless provided otherwise in the Contract. Where the Contractor is responsible for the design of any part of the permanent Works, the extent of his obligations must be stated.

2. Specifications from previous similar projects are useful and may not be necessary to re-write specifications for everyWorks Contract.

3. There are considerable advantages in standardizing **General Specifications** for repetitive Works in recognized public sectors, such as highways, urban housing, irrigation and water supply. The General Specifications should cover all classes of workmanship, materials and equipment commonly involved in constructions, although not necessarily to be used in a particular works contract. Deletions or addenda should then adapt the General Specifications to the particular Works.

4. Care must be taken in drafting Specifications to ensure they are not restrictive. In the Specifications of standards for materials, plant and workmanship, existing Kenya Standards should be used as much as possible, otherwise recognized international standards may also be used.

5. The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme should decide whether technical solutions to specified parts of the Works are to be permitted. Alternatives are appropriate in cases where obvious (and potentially less costly) alternatives are possible to the technical solutions indicated in tender documents for certain elements of the Works, taking into consideration the comparative specialized advantage of potential tenderers.

6. The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme should provide a description of the selected parts of the Works with appropriate reference to Drawings, Specifications, Bills of Quantities, and Design or Performance criteria, stating that the alternative solutions shall be at least structurally and functionally equivalent to the basic design parameters and Specifications.

1. Such alternative solutions shall be accompanied by all information necessary for a complete evaluation by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme, including drawings, design calculations, technical specifications, breakdown of prices, proposed construction methodology, and other relevant details. Technical alternatives permitted in this manner shall be considered by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme each on its own merits and independently of whether the tenderer has priced the item as described in the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's design included with the tender documents.

SECTION VII- BILLS OF QUANTITIES

1. Objectives

The objectives of the Bill of Quantities are:

a) to provide sufficient information on the quantities of Works to be performed to enable tenders to be prepared efficiently and accurately; and

b) when a Contract has been entered into, to provide a priced Bill of Quantities for use in the periodic valuation of Works executed.

In order to attain these objectives, Works should be itemized in the Bill of Quantities in sufficient detail to distinguish between the different classes of Works, or between Works of the same nature carried out in different locations or in other circumstances which may give rise to different considerations of cost. Consistent with these requirements, the layout and contents of the Bill of Quantities should be as simple and brief as possible.

2. Day work Schedule

A Day work Schedule should be included only if the probability of unforeseen work, outside the items included in the Bill of Quantities, is high. To facilitate checking by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme of the realism of rates quoted by the Tenderers, the Day work Schedule should normally comprise the following:

a) A list of the various classes of labor, materials, and Constructional Plant for which basic day work rates or prices are to be inserted by the Tenderer, together with a statement of the conditions under which the Contractor shall be paid for work executed on a day work basis.

b) Nominal quantities for each item of day work, to be priced by each Tenderer at day work rates as Tender. The rate to be entered by the Tenderer against each basic day work item should include the Contractor's profit, overheads, supervision, and other charges.

3. Provisional Sums

A general provision for physical contingencies (quantity overruns) may be made by including a provisional sum in the Summary Bill of Quantities. Similarly, a contingency allowance for possible price increases should be provided as a provisional sum in the Summary priced Bill of Quantities. The inclusion of such provisional sums often facilitates budgetary approval by avoiding the need to request periodic supplementary approvals as the future need arises. Where such provisional sums or contingency allowances are used, the Special Conditions of Contract should state the manner in which they shall be used, and under whose authority (usually the Project Manager's).

The estimated cost of specialized work to be carried out, or of special goods to be supplied, by other contractors should be indicated in the relevant part of the Bill of Quantities as a particular provisional sum with an appropriate brief description. A separate procurement procedure is normally carried out by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme to select such specialized contractors. To provide an element of competition among the Tenderers in respect of any facilities, amenities, attendance, etc., to be provided by the successful Tenderer as prime Contractor for the use and convenience of the specialist contractors, each related provisional sum should be followed by an item in the Bill of Quantities inviting the Tenderer to quote a sum for such amenities, facilities, attendance, etc.

These Notes for Preparing a Bill of Quantities are intended only as information for the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme or the person drafting the tendering document. They should not be included in the final tendering document.

4. The Bills of Quantities

The Bills of Quantities should be divided generally into the following sections:

a) Preambles
b) Preliminary items
c) Work Items
c) Daywork Schedule; and
d) Provisional items
e) Summary.

5. **The Summary to the Bills of Quantities** will take this form or some other form but including these items.

EXTENSION OF WATER DISTRIBUTION NETWORK FOR TORABORA SETTLEMENTS IN MASALANI, IJARA SUB-COUNTY-GARISSA COUNTY					
Bill No. 1: Preliminaries					
-					
S/No.	**Description**	**Unit**	**Qty**	**Rate (Ksh)**	**Amount(Ksh)**
1	Provide for mobilization and demobilization	Sum	1	150,000.00	150,000.00
2	Allow for a provisional sums of Kes400,000 for supervision, including the project engineer,support staffs and the inspection committee.	sum	1	350,000.00	350,000.00
3	Allow for test running of all works (pipeline) as shall be quantified and directed to the satisfaction of the engineer during construction and after completion.	Sum	1	100,000.00	100,000.00
4	Provision for printing of documents and reports for procurement office.	SUM	1100,000	100,0000.00	100,000.000
	Total Carried forward to Grand Total For Bill No. 1				**700,000.00**
	Bill No. 2 :Equiping				
2.1	supply and installation of 15kw surface pump 65/20	No	3		
	Total Carried forward to Grand Total For Bill No. 1				
BILL NO. 3: TRANSMISSION LINE					
Item	**Description**	**Unit**	**Qnty**	**Rate (Ksh)**	**Amount (Ksh)**
A	***Clearing and Excavation***				
1	Clear pipe route of bushes, shrubs and cart away all arisings	M	4100		
2	Excavate for 600mm x 600mm channel and stockpile soil material for reuse including the hard rock areas	M	4100		
3	Prepare channel bed for pipe laying	M	4100		
B	***Supply the following pipes join and lay as required. GI pipes to be joined using sockets***				-
1	Supply & Lay joint 110mm dia. HDPE pipe PN 12.5	M	400		
2	Supply & Lay joint 50 mm dia. PVC Class C	M	2500		
	Supply,lay and join 20mm dia PVC CLASS C	M	1200		

C	***Valve chambers***				
1	Construction of STD Ministry valve chambers 1M x 1M x 1.5M deep with steel manhole cover of 600mm x 600mm size. The cover to be complete with locking system and lock (No. 265). Chamber to be of machine stones and plastered to finish.	No.	2		
D	***Pipe fittings***				
	Supply and Install the following fittings in the pipeline as shall be directed by the engineer.				
ii	160mm dia Sluice valve	No.	2		
iii	110mm dia. Sluice valve (pegler)	No.	2		
	160mm x 160mm x 110mm Reducing Tee(1HDPE&1GI)	No.	2		
iv	110mm x 1100mm x 50mm HDPE Reducing Tee (PN 12.5)	No.	16		
viii	50mm dia. flanged master meter complete with flanges bolts and nuts	No.	1		
ix	50mm dia. bends M & F	No.	2		
x	50mm dia. Plain sockets	No.	6		
xi	50 mm dia. HDPE connectors PN 12.5	No.	5		
	Supply all ancillary fittings and accessories required for a complete installation as directed by the engineer	Ls	1		
E	**Finishes**				
1	Backfilling of item (A2) above leaving joints exposed	M	4100		
3	Final backfilling of item (A2), making good of site	M	4100		
	Sub Total Carried forward to Collection page Bill No. 2(i)				

Bill No.	**Description**		**Page**	**Amount (Ksh)**	
1	Bill No. 1: Preliminaries				700,000.00
2	Bill No. 2 :Equiping				
2	BILL NO. 3: TRANSMISSION LINE				
	Sub-total				
	Add 16% VAT				
	Grand Total				

SECTION VIII ENVIRONMENTAL AND SOCIAL REQUIREMENTS

The following is a non-exhaustive list of Sub-Clauses of the Conditions of Contract that make reference to ES matters stated in the Specifications.

Sub-Clause/Clause No.	Sub-Clause/Clause
8.2	*Other Contractors*
9.4.1, 9.4.2, 9.4.7, 9.4.8	*labor*
9.4.6	*Facilities for Staff and Labor*
9.4.20	*Training of Contractor's Personnel*
15.2	*Contractor to Construct the Works*
18.2	*Health and Safety Obligations*
18.3	*Protection of the Environment*
19.1	*Archeological and Geological Findings*
29.1	*Security of the Site*

1. ESMP

1.1 Generic Mitigation Measures for Contractors

1.2 Permits and licenses

(i) The Contractor shall ensure that all pertinent permits that are the contractor's responsibility, certificates and licenses have been obtained prior to any activities commencing on site and are strictly enforced/ adhered to;

(ii) The Contractor shall maintain a database of all pertinent permits and licenses required for the contract as a whole and for pertinent activities for the duration of the contract and renew if so required.

Site preparation phase

1.3 Location of Contractor's camp site

Where the contractor will require setting up a site, the same shall be determined in collaboration with the Project Manager taking into consideration the following:

(i) Obtain and maintain NEMA license for the Contractor's Camp and other associated facilities.

(ii) Preferably to be located on land already cleared wherever

(iii) Not to be installed in the areas used as wildlife grazing areas or migratory corridors or in the area with denser vegetation or densely settled areas;

(iv) It should also avoid the areas, where the soil has higher erosion risk;

(v) The need to be more than 200 meters from watercourses in a position that will facilitate the prevention of storm-water runoff from the site from entering the watercourse;

(vi) The local administration and the community representatives shall be involved in the site location to avoid destruction of any ritual site or any other conflict;

(vii) The Contractor's Camp layout shall take into account availability of access for deliveries and services and any future works;

(viii) The Contractor's Camp should also be of sufficient size to accommodate the needs of all sub-contractors that may work on the project.

1.4 ES Training and Awareness

(i) The Contractor and sub-contractors shall be aware of the environmental requirements and constraints on construction activities

(ii) The Contractor will be required to provide for the appropriate ES Training and Awareness

(iii) An initial Environmental and Social awareness training session shall be held by the Contractor prior to any work commencing on site, with the target audience being all project personnel;

(iv) The training shall include but not limited to the following

- Awareness and understanding of the key environmental and social features of the work site and environs;
- Occupational Health and Safety awareness on the works
- Understanding the importance of and reasons why the environment must be protected;
- Ways to minimize Environmental and Social impacts;
- Relevant requirements of the ES- MSIP;
- Prevention and handling of fire.
- First aid training
- Community Health and Safety risks pertinent to the site, including prevention of communicable diseases.
- Awareness, prevention and minimization of risk with regard to the contraction and spread of HIV/AIDS and other sexually transmitted diseases.
- The Contractor shall erect and maintain Environmental, Social and Health Information Posters for his employees regarding HIV/AIDS, protection of wildlife and natural resources.

1.5 HIV/AIDS awareness and prevention campaign

(i) The Contractor shall institute HIV/AIDS awareness and prevention campaign amongst his workers for the duration of the contract, contracting and implementing organization, with preference for an organization already working on this issue in the project area.

1.6 Local Labor / Employment

(i) Wherever possible, the Contractor shall use local labour, and women must be encouraged to be involved in construction work.

1.7 Construction phase

Environmental management records shall be kept on site during the duration of construction and shall include the following:

(i) All necessary permits and licences;

(ii) All site-specific plans prepared as part of the updated C-ESMP

(iii) All written instructions and reports issued by the PM / Supervising Consultant;

(iv) A register of audit non-conformance reports and corrective actions;

(v) All related environmental, social, health and safety management registers and correspondence, including any complaints;

(vi) All records shall be kept at site premises and maintained in a legible state for the full period of construction.

1.8 Contractor's Camp

The Contractor shall implement the following as required:

(i) A suitable storm-water drainage system to prevent soil erosion, protect storage areas and to prevent stagnant ponds forming;

(ii) A suitable potable water supply;

(iii) Suitable facilities for bathing, washing clothes or vehicles – site staff will not be permitted to use open water bodies for such activities.

(iv) Suitable sanitation facilities, adequate for the number of staff on site.

(v) Facilities for cooking.

(vi) Facilities for solid waste collection.

(vii) Facilities for wastewater management.

The method for provision of these services will be approved by the PM.

1.9 Water Supply

The Contractor must adhere to water quality regulations and rules as described in Legal Notice No. 120 of the Kenya Gazette Supplement No. 68 of September 2006. These Rules describe the following:

(i) Water sources for domestic use;

(ii) Sewage treatment;

(iii) Ground water;

(iv) Water for agricultural use;

(v) Water for other uses;

(vi) Schedules depicting standards.

Abstractions from natural, municipal and/or private water resources (e.g. rivers, boreholes and springs) for potable water and construction water shall be approved by the Water Resources Authority. The Contractor shall arrange for the necessary approvals / permits from the water authorities for the abstraction of water.

1.10 Conservation of vegetation and protection of wildlife

(i) Except to the extent necessary for establishing the construction site and carrying out the construction works, vegetation shall not be removed, damaged or disturbed. Nor should any unauthorized planting of vegetation take place;

(ii) The clearance of the site for construction purposes shall be kept to a minimum. The use of existing cleared or disturbed areas for the Contractor's Camp, stockpiling of materials etc shall be encouraged;

(iii) Areas with dense indigenous vegetation are not to be disturbed unless required for construction purposes, nor shall new access routes be cut through such areas.

(iv) Trees should be trimmed rather than removed wherever possible;

(v) The use of indigenous plants as firewood is prohibited unless they are obtained from approved sources;

(vi) Where there is a possibility of encountering wildlife during the construction works, these animals should be avoided and not disturbed.

(vii) Wildlife poaching or game hunting is forbidden.

1.11 Protection of watercourses

(i) The Contractor shall ensure that the footprint of construction activities is minimised at river and stream crossings;

- Sedimentation from the construction works of perennial rivers and streams must be minimised;
- No construction materials shall be stockpiled within areas that are at risk of flooding;
- The Contractor shall ensure that all construction activities at the seasonal river crossings are commenced and completed during the dry seasons;
- All temporary and permanent fill used adjacent to, or within, the perennial river bed shall be of clean sand or larger particles. Silts and clays shall not be permitted in the fill;
- Plastic sheeting, sandbags or geo-fabric approved by the PM shall be used to prevent the migration of fines through the edges of the fill into the river;
- The Contractor shall not modify the banks or bed of a watercourse other than necessary to complete the specified works. If such unapproved modification occurs, the Contractor shall restore the affected areas to their original profile;
- The Contractor shall preserve all riparian vegetation;
- The Contractor shall not pollute the watercourse through any construction activities.

1.12 Planning Borrow Pits and Quarries

Where required, all borrow pits sites shall be clearly indicated on a plan and approved by the PM.

(i) The Contractor will be responsible for ensuring that appropriate authorization to use the proposed borrows pits and quarries has been obtained before commencing activities;

(ii) Borrow pits and quarries shall be located more than 200 meters from watercourses in a position that will facilitate the prevention of storm-water runoff from the site from entering the watercourse;

(iii) The Contractor shall give 14 days' notice to nearby communities of his intention to begin excavation in the borrow pits or quarries;

(iv) The Contractor shall prepare and implement borrow pit plans and borrow pit rehabilitation plans, which would minimise the risk of erosion.

1.13 Construction and Operation of New Borrow Pits and Quarries

(i) Topsoil shall be stripped prior to removal of borrow and stockpiled on site. The stockpiled material shall be used for rehabilitation of the borrow pit/quarry once the operation of the borrow site or quarry is complete.

(ii) Storm-water and groundwater controls shall be implemented to prevent runoff entering streams and the slumping of soil from hillside above;

(iii) The use of borrow pits or quarries for material spoil sites shall be approved by the PM (and/or with the appropriate consent of the "landowner"). Where this occurs, the materials spoiled in the borrow pit shall be profiled to fit into the surrounding landscape and covered with topsoil.

1.14 Blasting

(i) If blasting is required, the Contractor will be responsible for obtaining a current and valid authorization from the Department of Mines and Geology prior to any blasting activity. A copy of this authorization shall be given to the PM;

(ii) A qualified and registered blaster by the Department of Mines and Geology shall supervise all blasting and rock-splitting operations at all times;

(iii) The Contractor shall ensure that appropriate pre blast monitoring records are in place (i.e. photographic and inspection records of structures in close proximity to the blast area);

(iv) The Contractor shall ensure that emergency services are notified, in writing, a minimum of 24 hours prior to any blasting activities commencing on Site;

(v) The Contractor shall take necessary precautions to prevent damage to special features and the general environment, which includes the removal of fly-rock. Environmental damage caused by blasting/drilling shall be repaired at the Contractor's expense to the satisfaction of the PM and the relevant authorities;

(vi) The Contractor shall ensure that adequate warning is provided to the local communities immediately prior to all blasting. All signals shall also be clearly given;

(vii) The Contractor shall use blast mats for cover material during blasting. Topsoil shall not be used as a blast cover.

1.15 Cement/Concrete Batching

(i) Where required, a Concrete batching plant shall be located more than 200m from the nearest stream/river channel;

(ii) Topsoil shall be removed from the batching plant site and stockpiled;

(iii) The concrete batching works shall be kept neat and clean at all times;

(iv) Contaminated storm-water and wastewater runoff from the batching area and aggregate stockpiles shall not be permitted to enter streams but shall be led to a pit where the water can soak away;

(v) Unused cement bags are to be stored so as not to be affected by rain or runoff events;

(vi) Used bags shall be stored and disposed of in a manner which prevents pollution of the surrounding environment (e.g. via windblown dust);

(vii) Concrete transportation shall not result in spillage;

(viii) Cleaning of equipment and flushing of mixers shall not result in pollution of the surrounding environment;

(ix) Suitable screening and containment shall be in place to prevent windblown contamination associated with any bulk cement silos, loading and batching;

(x) Waste concrete and cement sludge shall be scraped off the site of the batching plant and removed to an approved disposal site;

(xi) All visible remains of excess concrete shall be physically removed on completion of the plaster or concrete and disposed at an approved disposal site. Washing the remains into the ground is not permitted.

(xii) All excess aggregate and sand shall also be removed;

(xiii) After closure of the batching plant or any area where concrete was mixed all waste concrete/cement sludge shall be removed together with contaminated soil. The surface shall then be ripped to a depth of 150mm and the topsoil replaced evenly over the site and re-grassed.

1.16 Air and dust emissions

Air emissions from construction machinery, including dust, is regarded as a nuisance when it reduces visibility, soils private property, is aesthetically displeasing or affects palatability of grazing. Dust generated by construction related activities must be minimised.

The Contractor shall be responsible for the control of air emissions and dust arising from his operations and activities.

(i) Workers shall be trained on management of air pollution from vehicles and machinery. All construction machinery shall be maintained and serviced in accordance with the manufacturer's specifications;

(ii) Concrete batching plants shall be well sealed and equipped with a dust removal device;

(iii) Workers shall be trained on dust minimization techniques;

(iv) The removal of vegetation shall be avoided until such time as clearance is required and exposed surfaces shall be re-vegetated or stabilized as soon as practically possible;

(v) The contractor shall not carry out dust generating activities (excavation, handling and transport of soils) during times of strong winds. The PM shall suspend earthworks operations wherever visible dust is affecting properties adjoining the roads and site of works;

(vi) Water sprays shall be used on all earthworks areas within 200 meters of human settlement. Water shall be applied whenever dust emissions (from vehicle movements or wind) are visible at the site in the opinion of the PM;

(vii) Vehicles delivering soil materials shall be covered to reduce spills and windblown dust;

(viii) Vehicle speeds shall be limited to minimize the generation of dust on site and on diversion and access roads;

(ix) Any complaints received by the Contractor regarding dust will be recorded and communicated to the PM.

1.17 Disruption of Access to Property

Disruption of access to property must be kept to a minimum at all times. Where such disruption is unavoidable, the Contractor shall advise the affected parties and the PM at least seven working days in advance of such disruption and provide temporary accesses.

1.18 Spoil Sites

Where the Contractor is required to spoil material, environmentally acceptable spoil sites must be identified and approved by the PM, taking into consideration the following:

(i) Preferably to be located on land already cleared wherever possible. Communities shall be involved in the site location to avoid destruction of any ritual site or any other conflict;

(ii) The need to be more than 200 meters from watercourses and in a position that will facilitate the prevention of storm-water runoff from the site from entering the watercourse;

(iii) The development and rehabilitation of spoil areas shall include the following activities:

- Stripping and stockpiling of topsoil;
- Removal (to a nominal depth of 500mm) and stockpiling of subsoil;
- Placement of spoil material.
- Contouring of spoil site to approximate natural topography and drainage and/or reduce erosion impacts on the site;
- Placement of excavated subsoil and then topsoil over spoil material;
- Contouring and re-vegetation;

(iv) The Contractor shall ensure that the placement of spoil is done in such a manner to minimize the spread of materials and the impact on surrounding vegetation and that no materials 'creep' into 'no-go' areas.

1.19 Noise Control

(i) The Contractor shall keep noise level within acceptable limits and construction activities shall, where possible, be confined to normal working hours in the residential areas;

(ii) Schools, hospitals and other noise sensitive areas shall be notified by the Contractor at least 5 days before construction is due to commence in their vicinity. Any excessively noisy activity shall be conducted outside of school hours, where approved by the PM;

(iii) Any complaints received by the Contractor regarding noise will be recorded and communicated to the PM;

(iv) The Contractor must adhere to Noise and Excessive Vibrations Regulations 2009.

1.20 Storm-water Management and Erosion Control

The Contractor shall take reasonable measures to control storm water and the erosive effects. During construction the Contractor shall protect areas susceptible to erosion by installing necessary temporary and permanent drainage works as soon as possible and by taking measures to prevent the surface water from being concentrated in drainage channels or streams and from scouring slopes, banks or other areas.

Areas affected by construction related activities and/or susceptible to erosion must be monitored regularly for evidence of erosion, these include:

(i) Areas stripped of topsoil;

(ii) Soil stockpiles;

(iii) Spoil sites;

(iv) Borrow pits;

On any areas where the risk of erosion is evident, special measures may be necessary to stabilize the areas and prevent erosion. These may include, but not be limited to:

(i) Confining construction activities;

(ii) Using cut off drains;

(iii) Mulch or chip cover;

(iv) Constructing anti-erosion berms;

(v) The erosion prevention measures must be implemented to the satisfaction of the RE;

(vi) Where erosion does occur on any completed work/working areas, the Contractor shall reinstate such areas and areas damaged by the erosion at his own cost and to the satisfaction of the PM/RE;

(vii) The Contractor shall be liable for any damage to downstream property caused by the diversion of overland storm water flows.

1.21 Equipment Maintenance and Storage

(i) All vehicles and equipment shall be kept in good working order, are serviced regularly and stored in an area approved by the PM;

(ii) Leaking equipment shall be repaired immediately or removed from the site;

(iii) All washing of equipment shall be undertaken in the workshop or maintenance areas which shall be equipped with suitable impermeable floor and sump/oil trap. The use of detergents for washing shall be restricted to low phosphate/nitrate-type detergents;

(iv) Rivers, streams and other water bodies such as water pans, shallow wells etc. shall not be used for washing of equipment and vehicles.

1.22 Sanitation

(i) The Contractor shall comply with all laws and any by-laws relating to public health and sanitation;

(ii) All temporary/ portable toilets or pit latrines shall be secured to the ground to the satisfaction of the PM to prevent them from toppling over;

(iii) The type and exact location of the sanitation facilities shall be approved by the PM prior to establishment. The use of septic tanks is recommended in areas adjacent to water sources;

(iv) All sanitation facilities shall be maintained by the Contractor in a clean sanitary condition to the satisfaction of the PM;

(v) A wash basin with adequate clean water and soap shall be provided alongside the sanitation facilities and Staff shall be encouraged to wash their hands after use of the toilet, in order to minimize the spread of possible disease;

(vi) The Contractor shall ensure that no spillage occurs when the toilets are cleaned or emptied and that the contents are removed from the site to an appropriate location/facility for disposal;

(vii) The Contractor shall instruct their staff and sub-contractors that they must use sanitation facilities provided and not the Open Defecation.

1.23 Solid Waste Management

The site is to be kept clean, neat and tidy at all times. No burying or dumping of any waste materials, vegetation, litter or refuse shall be permitted. The Contractor must adhere to Environmental Management and Co-ordination (Waste Management) Regulations 2006 and Sustainable Waste Management Act of 2022. The Contractor shall implement measures to minimise waste and develop a waste management plan to include the following: -

(i) All personnel shall be instructed to dispose of all waste in a proper manner;

(ii) The Contractor shall engage licensed waste handler for final disposal of waste.

(iii) The provision of sufficient color-coded bins to allow for segregation, material recovery, reuse and recycling. The bins shall be vermin and weatherproof and are to be located at the camp and work sites to collect the waste produced;

(iv) The waste holding area to be vermin and weatherproof and shall incorporate leachate seepage control.

(v) Wherever possible, materials used or generated by construction shall be recycled and/or re-used.

(vi) The Contractor shall develop a separate waste management plan for hazardous wastes.

1.24 Wastewater and Contaminated Water Management

(i) No grey water runoff or uncontrolled discharges from the site/working areas (including wash down areas) to adjacent watercourses and/or water bodies shall be permitted;

(ii) The Contractor shall also prevent runoff loaded with sediment and other suspended materials from the site/working areas from discharging to adjacent watercourses and/or water bodies;

(iii) Potential pollutants of any kind and in any form shall be kept, stored and disposed as per the relevant regulations practice best practices;

(iv) Wash areas shall be placed and constructed in such a manner so as to ensure that the surrounding areas (including groundwater) are not polluted;

(v) The Contractor shall notify the RE of any pollution incidents on site.

1.25 Workshops

Where practical, all maintenance of equipment and vehicles on site shall be performed in the workshop.

(i) If it is necessary to do maintenance on site, but outside of the workshop area, the Contractor shall obtain the approval of the RE prior to commencing activities;

(ii) The Contractor shall ensure that there is no contamination of the soil, vegetation or surface water in his workshop and other plant or emergency maintenance facilities.

The workshop shall be kept tidy at all times and shall have the following as a minimum:

- ✓ A smooth impermeable floor either constructed of concrete or suitable plastic covered with sufficient gravel to protect the plastic from damage;
- ✓ The floor shall be bunded and sloped towards an oil trap or sump to contain any spillages of substances (e.g. oil);
- ✓ Drip trays shall be used to collect the waste oil and lubricants during servicing and shall also be provided in construction areas for stationary plant (such as compressors);
- ✓ The drip trays shall be inspected and emptied daily;
- ✓ Drip trays shall be closely monitored during wet weather to ensure that they do not overflow.

1.26 General Materials Handling, Use and Storage

(i) All materials shall be stored within the Contractor's camp unless otherwise approved by the RE;

(ii) Stockpile areas shall be approved by the RE;

(iii) All imported fill, soil and/or sand materials shall be free of weeds, litter and contaminants. Sources of imported materials shall be listed and approved by the RE;

(iv) The Contractor shall ensure that delivery drivers are informed of all procedures and restrictions (including 'No go' areas) required;

(v) Any electrical or petrol driven pumps shall be equipped and positioned so as not to cause any danger of ignition of the stored product;

(vi) Collection containers (e.g. drip trays) shall be placed under all dispensing mechanisms for hydrocarbons or hazardous liquid substances to ensure contamination from any leaks is reduced;

(vii) All hazardous wastes tank to be stored on an area where the ground has been protected.

1.27 Fuels, Oils, Hazardous Substances and other Liquid Pollutants

(i) Hazardous materials shall not be stored within 2 kilometres of the top water level of public water supply reservoirs;

(ii) Hazardous materials shall be stored above flood level and at least 2 kilometres from any watercourse;

(iii) Areas for the storage of fuel and other flammable materials shall comply with standard fire risk reduction rules 2007;

(iv) Chemicals and fuel shall be stored in storage tanks within a secure compound. All chemicals and fuels shall be stored in accordance with manufacturer's instructions;

(v) Appropriate training for the handling and use of fuels and hazardous material is to be provided by the Contractor as necessary. This includes providing spill response and contingency plans;

(vi) Storage areas or secondary containment shall be constructed of waterproof reinforced concrete or approved equivalent, which is not adversely affected by contact with chemicals captured within them;

(vii) The minimum volume for secondary containment shall be 110% of the capacity of the largest tank system, plus 10% of the total capacity of all other separate tanks and containers within the bund wall with closed valves for controlled draining during rains;

(viii) Tank equipment such as dispensing hoses, valves, meters, pumps, and gauges shall be located within the containment or provided with own containment;

(ix) Locks on unattended dispensing hoses;

(x) Extreme care will be taken when transferring chemicals and fuels from storage vessels to equipment and machinery on an impervious sealed area which is kerbed and graded to prevent run-off. Chemical and fuel transfer areas shall drain away from the perimeter bund to a containment pit. The design shall provide for the safe and efficient movement of vehicles;

(xi) All chemicals stored within the bunded areas shall be clearly labelled detailing the nature and quantity of chemicals within individual containers;

(xii) Any chemical or fuel spills shall be cleaned up immediately. The spilt liquid and clean-up material shall be removed, treated and transported to an appropriate site licensed for its disposal;

(xiii) Storm water shall be diverted away from the fuel handling and storage areas. An oil water interceptor shall be provided to treat any rainwater from fuel storage and handling areas.

1.28 Health, Safety and Security

General Health and Safety

(i) The Contractor shall comply with all standard and legally required health and safety regulations as promulgated by Occupational Health and Safety Act 2007;

(ii) The Contractor shall provide a standard first aid kit at the site office and all other active sites;

(iii) The Contractor shall be responsible for the protection of the public and public property from any dangers associated with construction activities, and for the safe and easy passage of pedestrians and traffic in areas affected by the construction activities;

(iv) All works which may pose a hazard to humans and domestic animals are to be protected, fenced, demarcated or cordoned off, safety and traffic signs provided as instructed by the PM;

(v) Speed limits appropriate to the vehicles driven are to be observed at all times on access and haul roads. Operators and drivers are to ensure that they limit their potential to endanger humans and animals at all times by observing strict safety precautions;

(vi) No unauthorized firearms are permitted on site;

(vii) The Contractor shall provide the appropriate Personal Protective Equipment for staff.

1.29 Fire Prevention and Control

(i) The Contractor shall take all reasonable and precautionary steps to ensure that fires are not started as a consequence of his activities on site;

(ii) The Contractor shall ensure that there is basic fire-fighting equipment available on site;

(iii) The Contractor shall supply all living quarters, site offices, kitchen areas, workshop areas, materials, stores and any other areas identified by the RE with tested and approved firefighting equipment;

(iv) Flammable materials should be stored under conditions that will limit the potential for ignition and the spread of fires;

(v) 'Hot' work activities shall be restricted to a site approved by the RE;

Smoking shall not be permitted in those areas where there is a fire hazard. These areas shall include:

- ✓ Workshop;
- ✓ Fuel storage areas;
- ✓ Any areas (e.g. park/forest areas) where vegetation or other material is such as to make liable the rapid spread of an initial flame;

(vi) The Contractor shall ensure that all site personnel are aware of the fire risks and how to deal with any fires that occur. This shall include, but not be limited to:

- ✓ Regular fire prevention talks and drills;
- ✓ Posting of regular reminders to staff;
- ✓ Any fires that occur shall be reported to the RE immediately and then to the relevant authorities;
- ✓ In the event of a fire, the Contractor shall immediately employ such plant and personnel as is at his disposal and take all necessary action to prevent the spread of the fire and bring the fire under control;
- ✓ Costs incurred through fire damage will be the responsibility of the Contractor, should the Contractor's staff be proven responsible for such a fire.

1.30 Emergency Procedures

The Contractor shall submit Method Statements covering the procedures for the main activities which could generate emergency situations through accidents or neglect of responsibilities. These situations include, but are not limited to:

(i) Accidents at the work place;

(ii) Accidental fires;

(iii) Accidental leaks and spillages;

(iv) Vehicle and plant accidents;

Specific to accidental leaks and spillages:

(i) The Contractor shall ensure that his employees are aware of the procedure for dealing with spills and leaks;

(ii) The Contractor shall also ensure that the necessary materials and equipment for dealing with the spills and leaks is available on site at all times;

PAYMENT FOR ES REQUIREMENTS

The payment for the delivery of ES requirements shall be a subsidiary obligation of the Contractor covered under the prices quoted for other Bill of Quantity items or activities. Unless provided for, separately in the Bill of Quantities or separate provisional sums are allowed for within the Bills of Quantities. Any other cost for complying with ES requirements not covered by specific items in the Bills of Quantities shall be deemed covered under the Contractor's rates.

PART III - CONDITIONS OF CONTRACT AND CONTRACT FORMS

SECTION VIII - GENERAL CONDITIONS OF CONTRACT

These General Conditions of Contract (GCC), read in conjunction with the Special Conditions of Contract (SCC) and other documents listed therein, should be a complete document expressing fairly the rights and obligations of both parties.

These General Conditions of Contract have been developed on the basis of considerable international experience in the drafting and management of contracts, bearing in mind a trend in the construction industry towards simpler, more straightforward language.

The GCC can be used for both smaller admeasurement contracts and lump sum contracts.

General Conditions of Contract

A. General

1. Definitions

1.1 Bold face type is used to identify defined terms.

a) **The Accepted Contract** Amount means the amount accepted in the Letter of Acceptance for the execution and completion of the Works and the remedying of any defects.

b) **The Activity Schedule** is a schedule of the activities comprising the construction, installation, testing, and commissioning of the Works in a lump sum contract. It includes a lump sum price for each activity, which is used for valuations and for assessing the effects of Variations and Compensation Events.

c) **The Adjudicator** is the person appointed jointly by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme and the Contractor to resolve disputes in the first instance, as provided for in GCC 23.

d) **Bill of Quantities** means the priced and completed Bill of Quantities forming part of the Bid.

e) **Compensation Events** are those defined in GCC Clause 42 hereunder.

f) **The Completion Date** is the date of completion of the Works as certified by the Project Manager, in accordance with GCC Sub-Clause 53.1.

g) **The Contract** is the Contract between the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme and the Contractor to execute, complete, and maintain the Works. It consists of the documents listed in GCC Sub-Clause 2.3 below.

h) **The Contractor** is the party whose Bid to carry out the Works has been accepted by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme.

i) **The Contractor's Bid** is the completed bidding document submitted by the Contractor to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme.

j) **The Contract Price** is the Accepted Contract Amount stated in the Letter of Acceptance and thereafter as adjusted in accordance with the Contract.

k) **Days** are calendar days; months are calendar months.

l) **Day work**s 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.

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

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

o) **The Defects Liability Period** is the period **named in the SCC** pursuant to Sub-Clause 34.1 and calculated from the Completion Date.

p) **Drawings** means the drawings of the Works, as included in the Contract, and any additional and modified drawings issued by (or on behalf of) the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme in accordance with the Contract, include calculations and other information provided or approved by the Project Manager for the execution of the Contract.

q) **The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme** is the party who employs the Contractor to carry out the Works, **as specified in the SCC,** who is also the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme.

r) **Equipment** is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works.

s) **"In writing" or "written"** means hand-written, type-written, printed or electronically made, and resulting in a permanent record;

t) The Initial Contract Price is the Contract Price listed in the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's Letter of Acceptance.

u) **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 SCC**. The Intended Completion Date may be revised only by the Project Manager by issuing an extension of time or an acceleration order.

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

w) **Plant i**s any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function.

x) **The Project Manager** is the person **named in the SCC** (or any other competent person appointed by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme 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.

y) **SCC** means Special Conditions of Contract.

z) **The Site** is the area of the works as **defined as such in the SCC**.

aa) **Site Investigation Reports** are those that were included in the bidding document and are factual and interpretative reports about the surface and subsurface conditions at the Site.

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

cc) **The Start Date** is **given in the SCC**. 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.

dd) **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.

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

ff) **A Variation** is an instruction given by the Project Manager which varies the Works.

gg) **The Works** are what the Contract requires the Contractor to construct, install, and turn over to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme, **as defined in the SCC**.

2. Interpretation

21 In interpreting these GCC, words indicating one gender include all genders. Words indicating the singular also include the plural and words indicating the plural also include the singular. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager shall provide instructions clarifying queries about these GCC.

22 If sectional completion is specified in the SCC, references in the GCC 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).

23 The documents forming the Contract shall be interpreted in the following order of priority:

a) Agreement,
b) Letter of Acceptance,
c) Contractor's Bid,
d) Special Conditions of Contract,
e) General Conditions of Contract, including Appendices,
f) Specifications,
g) Drawings,
h) Bill of Quantities[6], and
i) any other document **listed in the SCC** as forming part of the Contract.

[6] *In lump sum contracts, delete "Bill of Quantities" and replace with "Activity Schedule."*

3. Language and Law

3.1 The language of the Contract is English Language and the law governing the Contract are the Laws of Kenya.

3.2 Throughout the execution of the Contract, the Contractor shall comply with the import of goods and services prohibitions in the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's Country when

a) as a matter of law or official regulations, Kenya prohibits commercial relations with that country; or

b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods from that country or any payments to any country, person, or entity in that country.

4. Project Manager's Decisions

4.1 Except where otherwise specifically stated, the Project Manager shall decide contractual matters between the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme and the Contractor in the role representing the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme.

5. Delegation

5.1 Otherwise **specified in the SCC,** the Project Manager may delegate any of his duties and responsibilities to other people, except to the Adjudicator, after notifying the Contractor, and may revoke any delegation after notifying the Contractor.

6. Communications

6.1 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.

7. Subcontracting

7.1 The Contractor may subcontract with the approval of the Project Manager, but may not assign the Contract without the approval of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme in writing. Subcontracting shall not alter the Contractor's obligations.

8. Other Contractors

8.1 The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme between the dates given in the Schedule of Other Contractors, as **referred to in the SCC.** The Contractor shall also provide facilities and services for them as described in the Schedule. The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme may modify the Schedule of Other Contractors, and shall notify the Contractor of any such modification.

9. Personnel and Equipment

9.1 The Contractor shall employ the key personnel and use the equipment identified in its Bid, to carry out the Works or other personnel and equipment approved by the Project Manager. The Project Manager shall approve any proposed replacement of key personnel and equipment only if their relevant qualifications or characteristics are substantially equal to or better than those proposed in the Bid.

9.2 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. The Project Manager may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Key Personnel (if any), who

a) persists in any misconduct or lack of care;

b) carries out duties incompetently or negligently;

c) fails to comply with any provision of the Contract;

d) persists in any conduct which is prejudicial to safety, health, or the protection of the environment;

e) based on reasonable evidence, is determined to have engaged in Fraud and Corruption during the execution of the Works;

f) has been recruited from the Employer's Personnel;

g) undertakes behavior which breaches the Code of Conduct for Contractor's Personnel (ES).

9.3 Engagement of Staff and Labor. The Contractor shall provide and employ on the Site for the execution of the Works such skilled, semi-skilled and unskilled labor as is necessary for the proper and timely execution of the Contract. The Contractor is encouraged, to the extent practicable and reasonable, to employ staff and labor with appropriate qualifications and experience from sources within the Country.

9.4 Unless otherwise provided in the Contract, the Contractor shall be responsible for the recruitment, transportation, accommodation and welfare facilities in accordance with GCC Sub-Clause 9.4.6, of the Contractor's Personnel, and for all payments in connection therewith.

9.5 The Contractor shall provide the Contractor's Personnel information and documentation that are clear and understandable regarding their terms and conditions of employment. The information and documentation shall set out their rights under relevant labor laws applicable to the Contractor's Personnel (which will include any applicable collective agreements), including their rights related to hours of work, wages, overtime, compensation and benefits, as well as those arising from any requirements in the Specifications. The Contractor's Personnel shall be informed when any material changes to their terms or conditions of employment occur.

9.6 Conditions of Labor. The Contractor shall inform the Contractor's Personnel about any deduction to their payment and the conditions of such deductions in accordance with the applicable laws or as stated in the Specifications; and their liability to pay personal income taxes in the Country in respect of such of their salaries, wages, allowances and any benefits as are subject to tax under the laws of the Country for the time being in force.

9.7 The Contractor shall perform such duties in regard to such deductions thereof as may be imposed on him by such laws.

9.8 Where required by applicable laws or as stated in the Specifications, the Contractor shall provide the Contractor's Personnel written notice of termination of employment and details of severance payments in a timely manner. The Contractor shall have paid the Contractor's Personnel (either directly or where appropriate for their benefit) all due wages and entitlements including, as applicable, social security benefits and pension contributions, on or before the end of their engagement/ employment.

9.9 Disorderly conduct. The Contractor shall at all times during the progress of the Contract use its best endeavors to prevent any unlawful, riotous or disorderly conduct or behavior by or amongst the Contractor's Personnel.

9.10 Facilities for Staff and Labor. Except as otherwise stated in the Specifications, the Contractor shall provide and maintain all necessary accommodation and welfare facilities for the Contractor's Personnel. If stated in the Specifications, the Contractor shall give access to or provide services that accommodate the physical, social and cultural needs of the Contractor's Personnel. The Contractor shall also provide similar facilities for the Employer's Personnel if stated in the Specifications.

9.11 The Contractor shall, in all dealings with the Contractor's Personnel, pay due regard to all recognized festivals, official holidays, religious or other customs and all local laws and regulations pertaining to the employment of labor. The Contractor shall provide the Contractor's Personnel annual holiday and sick, maternity and family leave, as required by applicable laws or as stated in the Specifications.

9.12 Supply of Foodstuffs. The Contractor shall arrange for the provision of a sufficient supply of suitable food as may be stated in the Specifications at reasonable prices for the Contractor's Personnel for the purposes of or in connection with the Contract.

9.13 Supply of Water. The Contractor shall, having regard to local conditions, provide on the Site an adequate supply of drinking and other water for the use of the Contractor's Personnel.

9.14 Alcoholic Liquor or Drugs. The Contractor shall not, otherwise than in accordance with the laws of the Country, import, sell, give, barter or otherwise dispose of any alcoholic liquor or drugs, or permit or allow importation, sale, gift, barter or disposal thereto by Contractor's Personnel.

9.15 Child Labor. The Contractor, including its Subcontractors, shall not employ or engage a child under the age of 18

9.16 Employment Records of Workers. The Contractor shall keep complete and accurate records of the employment

of labor at the Site. The records shall include the names, ages, genders, hours worked, and wages paid to all workers. These records shall be summarized on a monthly basis and submitted to the project Manager.

9.17 Workers' Organizations. The contractor shall allow the workers to form and to join workers' organizations of their choosing and to bargain collectively without interference, in accordance with the Labour Relations Act 2007 that specifically guarantees the right of employees to form, join, or leave trade unions, participate in their activities, and prohibits discrimination against them for exercising these rights

9.18 Non-Discrimination and Equal Opportunity. The Contractor shall not make decisions relating to the employment or treatment of Contractor's Personnel on the basis of personal characteristics unrelated to inherent job requirements. The Contractor shall base the employment of Contractor's Personnel on the principle of equal opportunity and fair treatment, and shall not discriminate with respect to any aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, job assignment, promotion, termination of employment or retirement, and disciplinary practices.

9.19 Contractor's Personnel Grievance Mechanism. The Contractor shall have a grievance mechanism for Contractor's Personnel, and where relevant the workers' organizations stated in GCC Sub-Clause 9.4.17, to raise workplace concerns. The grievance mechanism shall be proportionate to the nature, scale, risks and impacts of the Contract. The mechanism shall address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned in a language they understand, without any retribution, and shall operate in an independent and objective manner. .

9.20 Training of Contractor's Personnel. The Contractor shall provide appropriate training to relevant Contractor's Personnel on ES aspects of the Contract, including appropriate sensitization on prohibition of SEA and SH, and health and safety training referred to in GCC Sub-Clause 18.2.

9.21 The Contractor shall take all necessary safety measures to avoid the occurrence of incidents and injuries to any third party, associated with the use of, if any, Equipment on public roads or other public infrastructure. The Contractor shall monitor road safety incidents and accidents to identify negative safety issues, and establish and implement necessary measures to resolve them.

9.22 If the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme, Project Manager or Contractor determines, that any employee of the Contractor be determined to have engaged in Fraud and Corruption during the execution of the Works, then that employee shall be removed in accordance with Clause 9.2 above.

10. County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's and Contractor's Risks

10.1 The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme carries the risks which this Contract states are County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's risks, and the Contractor carries the risks which this Contract states are Contractor's risks.

11. Procuring Entity's Risks

11.1 From the Start Date until the Defects Liability Certificate has been issued, the following are County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's risks:

a) 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 County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme or by any person employed by or contracted to him except the Contractor.

b) The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme or in the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.

11.2 From the Completion Date until the Defects Liability Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is a County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's risk except loss or damage due to

aa) a Defect which existed on the Completion Date,

bb) an event occurring before the Completion Date, which was not itself a County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's risk, or

cc) the activities of the Contractor on the Site after the Completion Date.

12. Contractor's Risks

12.1 From the Starting Date until the Defects Liability 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 County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's risks are Contractor's risks.

13. Insurance

13.1 The Contractor shall provide, in the joint names of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme 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 SCC** 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.

13.2 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.

13.3 If the Contractor does not provide any of the policies and certificates required, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme may effect the insurance which the Contractor should have provided and recover the premiums the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme 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.

13.4 Alterations to the terms of an insurance shall not be made without the approval of the Project Manager.

13.5 Both parties shall comply with any conditions of the insurance policies.

14. Site Data

14.1 The Contractor shall be deemed to have examined any Site Data **referred to in the SCC**, supplemented by any information available to the Contractor.

15. Contractor to Construct the Works

15.1 The Contractor shall construct and install the Works in accordance with the Specifications and Drawings.

16. The Works to Be Completed by the Intended Completion Date

16.1 The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Program submitted by the Contractor, as updated with the approval of the Project Manager, and complete them by the Intended Completion Date.

17. Approval by the Project Manager

17.1 The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager, for his approval.

17.2 The Contractor shall be responsible for design of Temporary Works.

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

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

17.5 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 this use.

18. Health, Safety and Protection of the Environment

18.1 The Contractor shall be responsible for the safety of all activities on the Site.

18.2 The Contractor shall:

a) comply with all applicable health and safety regulations and Laws;

b) comply with all applicable health and safety obligations specified in the Contract;

c) take care for the health and safety of all persons entitled to be on the Site and other places, if any, where the Works are being executed;

d) keep the Site and Works clear of unnecessary obstruction so as to avoid danger to these persons;

e) provide fencing, lighting, safe access, guarding and watching of the Works until the issue of the Contract Certificate of Completion;

f) provide any Temporary Works (including roadways, footways, guards and fences) which may be necessary, because of the execution of the Works, for the use and protection of the public and of owners and occupiers of adjacent land;

g) provide health and safety training of Contractor's Personnel as appropriate and maintain training records;

h) actively engage the Contractor's Personnel in promoting understanding, and methods for, implementation of health and safety requirements, as well as in providing information to Contractor's Personnel, training on occupational safety and health, and provision of personal protective equipment without expense to the Contractor's Personnel;

i) put in place workplace processes for Contractor's Personnel to report work situations that they believe are not safe or healthy, and to remove themselves from a work situation which they have reasonable justification to believe presents an imminent and serious danger to their life or health;

j) Contractor's Personnel who remove themselves from such work situations shall not be required to return to work until necessary remedial action to correct the situation has been taken. Contractor's Personnel shall not be retaliated against or otherwise subject to reprisal or negative action for such reporting or removal;

k) where the Employer's Personnel, any other contractors employed by the Employer, and/or personnel of any legally constituted public authorities and private utility companies are employed in carrying out, on or near the site, of any work not included in the Contract, collaborate in applying the health and safety requirements, without prejudice to the responsibility of the relevant entities for the health and safety of their own personnel; and

l) establish and implement a system for regular (not less than six-monthly) review of health and safety performance and the working environment.

m) The Contractor shall submit to the Project Manager for its approval a health and safety manual which has been specifically prepared for the Works, the Site and other places (if any) where the Contractor intends to execute the Works. The health and safety manual shall be in addition to any other similar document required under applicable health and safety regulations and laws.

n) The health and safety manual shall set out all the health and safety requirements under the Contract,

I) which shall include at a minimum:

II) the procedures to establish and maintain a safe working environment without risk to health at all workplaces, machinery, equipment and processes under the control of the Contractor, including control measures for chemical, physical and biological substances and agents;

III) details of the training to be provided, records to be kept;

IV) the procedures for prevention, preparedness and response activities to be implemented in the case of an emergency event (i.e. an unanticipated incident, arising from both natural and man-made hazards, typically in the form of fire, explosions, leaks or spills, which may occur for a variety of different reasons including failure to implement operating procedures that are designed to prevent their occurrence, extreme weather or lack of early warning);

V) remedies for adverse impacts such as occupational injuries, deaths, disability and disease;

VI) the measures to be taken to avoid or minimize the potential for community exposure to water-borne, water-based, water-related, and vector-borne diseases,

VII) the measures to be implemented to avoid or minimize the spread of communicable diseases (including transfer of Sexually Transmitted Diseases or Infections (STDs), such as HIV virus) and non-communicable diseases associated with the execution of the Works, taking into consideration differentiated exposure to and higher sensitivity of vulnerable groups. This includes taking measures to avoid or minimize the transmission of communicable diseases that may be associated with the influx of temporary or permanent Contract-related labor;

VIII) the policies and procedures on the management and quality of accommodation and welfare facilities if such accommodation and welfare facilities are provided by the Contractor in accordance with GCC Sub-Clause 9.4.6; and

IX) any other requirements stated in the Specifications.

19. Discoveries

19.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site shall be the property of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme. The Contractor shall notify the Project Manager of such discoveries and carry out the Project Manager's instructions for dealing with them.

19.2 All fossils, coins, articles of value or antiquity, structures, groups of structures, and other remains or items of geological, archaeological, paleontological, historical, architectural or religious interest found on the Site shall be placed under the care and custody of the Employer. The Contractor shall:

a) take all reasonable precautions, including fencing-off the area or site of the finding, to avoid further disturbance and prevent Contractor's Personnel or other persons from removing or damaging any of these findings;

b) train relevant Contractor's Personnel on appropriate actions to be taken in the event of such findings; and

c) implement any other action consistent with the requirements of the Specifications and relevant laws.

The Contractor shall, as soon as practicable after discovery of any such finding, notify the Project Manager of such discoveries and carry out the Project Manager's instructions for dealing with them.

20. Possession of the Site

20.1 The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme 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 SCC,** the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall be deemed to have delayed the start of the relevant activities, and this shall be a Compensation Event.

21. Access to the Site

21.1 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.

22. Instructions, Inspections and Audits

22.1 The Contractor shall carry out all instructions of the Project Manager which comply with the applicable laws

where the Site is located.

22.2 The Contractor shall keep, and shall make all reasonable efforts to cause its Subcontractors and sub-consultants to keep, accurate and systematic accounts and records in respect of the Works in such form and details as will clearly identify relevant time changes and costs.

22.3 The Contractor shall permit and shall cause its subcontractors and sub-consultants to permit, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme and/or persons appointed by the Public Procurement Regulatory Authority to inspect the Site and/or the accounts and records relating to the procurement process, selection and/or contract execution, and to have such accounts and records audited by auditors appointed by the Public Procurement Regulatory Authority. The Contractor's and its Subcontractors' and sub-consultants' attention is drawn to Sub-Clause 25.1 (Fraud and Corruption) which provides, inter alia, that acts intended to materially impede the exercise of the Public Procurement Regulatory Authority's inspection and audit rights constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the Public Procurement Regulatory Authority's prevailing sanctions procedures).

23. Appointment of the Adjudicator

23.1 The Adjudicator shall be appointed jointly by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme and the Contractor, at the time of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's issuance of the Letter of Acceptance. If, in the Letter of Acceptance, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme does not agree on the appointment of the Adjudicator, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme will request the Appointing Authority designated in the SCC, to appoint the Adjudicator within 14 days of receipt of such request.

23.2 Should the Adjudicator resign or die, or should the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme and the Contractor agree that the Adjudicator is not functioning in accordance with the provisions of the Contract, a new Adjudicator shall be jointly appointed by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme and the Contractor. In case of disagreement between the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme and the Contractor, within 30 days, the Adjudicator shall be designated by the Appointing Authority designated in the SCC at the request of either party, within 14 days of receipt of such request.

24. Settlement of Claims and Disputes

24.1 Contractor's Claims

24.1.1 If the Contractor considers itself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give Notice to the Project Manager, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 30 days after the Contractor became aware, or should have become aware, of the event or circumstance.

24.1.2 If the Contractor fails to give notice of a claim within such period of 30 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub- Clause shall apply.

24.1.3 The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all as relevant to such event or circumstance.

24.1.4 The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Project Manager. Without admitting the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's liability, the Project Manager may, after receiving any notice under this Sub-Clause, monitor the record- keeping and/or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Project Manager to inspect all these records, and shall (if instructed) submit copies to the Project Manager.

24.1.5 Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor

and approved by the Project Manager, the Contractor shall send to the Project Manager a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect:

a) this fully detailed claim shall be considered as interim;
b) the Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/or amount claimed, and such further particulars as the Project Manager may reasonably require; and
c) the Contractor shall send a final claim within 30 days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Project Manager.

24.1.6 Within 42 days after receiving a Notice of a claim or any further particulars supporting a previous claim, or within such other period as may be proposed by the Project Manager and approved by the Contractor, the Project Manager shall respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars, but shall nevertheless give his response on the principles of the claim within the above defined time period.

24.1.7 Within the above defined period of 42 days, the Project Manager shall proceed in accordance with Sub-Clause

24.1.8 [Determinations] to agree or determine (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with Sub-Clause 8.4 [Extension of Time for Completion], and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.

24.1.9 Each Payment Certificate shall include such additional payment for any claim as has been reasonably substantiated as due under the relevant provision of the Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim as he has been able to substantiate.

24.1.10 If the Project Manager does not respond within the timeframe defined in this Clause, either Party may consider that the claim is rejected by the Project Manager and any of the Parties may refer to Arbitration in accordance with Sub-Clause 24.4 [Arbitration].

24.1.11 The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub-Clause 24.3.

24.2 Amicable Settlement

24.2.1 Where a notice of a claim has been given, both Parties shall attempt to settle the dispute amicably before the commencement of arbitration. However, unless both Parties agree otherwise, the Party giving a notice of a claim in accordance with Sub-Clause 24.1 above should move to commence arbitration after the fifty-sixth day from the day on which a notice of a claim was given, even if no attempt at an amicable settlement has been made.

24.3 Matters that may be referred to arbitration

24.3.1 Notwithstanding anything stated herein the following matters may be referred to arbitration before the practical completion of the Works or abandonment of the Works or termination of the Contract by either party:

a) The appointment of a replacement Project Manager upon the said person ceasing to act.
b) Whether or not the issue of an instruction by the Project Manager is empowered by these Conditions.
c) Whether or not a certificate has been improperly withheld or is not in accordance with these Conditions.
e) Any dispute arising in respect of war risks or war damage.
f) All other matters shall only be referred to arbitration after the completion or alleged completion of the Works or termination or alleged termination of the Contract, unless the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme and the Contractor agree otherwise in writing.

24.4 Arbitration

24.4.1 Any claim or dispute between the Parties arising out of or in connection with the Contract not settled amicably in

accordance with Sub-Clause 24.3 shall be finally settled by arbitration.

24.4.2 No arbitration proceedings shall be commenced on any claim or dispute where notice of a claim or dispute has not been given by the applying party within ninety days of the occurrence or discovery of the matter or issue giving rise to the dispute.

24.4.3 Notwithstanding the issue of a notice as stated above, the arbitration of such a claim or dispute shall not commence unless an attempt has in the first instance been made by the parties to settle such claim or dispute amicably with or without the assistance of third parties. Proof of such attempt shall be required.

24.4.4 The Arbitrator shall, without prejudice to the generality of his powers, have powers to direct such measurements, computations, tests or valuations as may in his opinion be desirable in order to determine the rights of the parties and assess and award any sums which ought to have been the subject of or included in any certificate.

24.4.5 The Arbitrator shall, without prejudice to the generality of his powers, have powers to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision requirement or notice had been given.

24.4.6 The arbitrators shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of the Project Manager, relevant to the dispute. Nothing shall disqualify representatives of the Parties and the Project Manager from being called as a witness and giving evidence before the arbitrators on any matter whatsoever relevant to the dispute.

24.4.7 Neither Party shall be limited in the proceedings before the arbitrators to the evidence, or to the reasons for dissatisfaction given in its Notice of Dissatisfaction.

24.4.8 Arbitration may be commenced prior to or after completion of the Works. The obligations of the Parties, and the Project Manager shall not be altered by reason of any arbitration being conducted during the progress of the Works.

24.4.9 The terms of the remuneration of each or all the members of Arbitration shall be mutually agreed upon by the Parties when agreeing the terms of appointment. Each Party shall be responsible for paying one-half of this remuneration.

24.5 Arbitration with National Contractors

24.5.1 If the Contract is with national contractors, arbitration proceedings will be conducted in accordance with the Arbitration Laws of Kenya. In case of any claim or dispute, such claim or dispute shall be notified in writing by either party to the other with a request to submit it to arbitration and to concur in the appointment of an Arbitrator within thirty days of the notice. The dispute shall be referred to the arbitration and final decision of a person to be agreed between the parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed, on the request of the applying party, by the Chairman or Vice Chairman of any of the following professional institutions;

i) Architectural Association of Kenya
ii) Institute of Quantity Surveyors of Kenya
iii) Association of Consulting Engineers of Kenya
iv) Chartered Institute of Arbitrators (Kenya Branch)
v) Institution of Engineers of Kenya

24.5.2 The institution written to first by the aggrieved party shall take precedence over all other institutions.

24.6 Alternative Arbitration Proceedings

24.6.1 Alternatively, the Parties may refer the matter to the Nairobi Centre for International Arbitration (NCIA) which offers a neutral venue for the conduct of national and international arbitration with commitment to providing institutional support to the arbitral process.

24.7 Failure to Comply with Arbitrator's Decision

24.7.1 The award of such Arbitrator shall be final and binding upon the parties.

24.7.2 In the event that a Party fails to comply with a final and binding Arbitrator's decision, then the other Party may, without prejudice to any other rights it may have, refer the matter to a competent court of law.

24.8 Contract operations to continue

24.8.1 Notwithstanding any reference to arbitration herein,

a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and
b) the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall pay the Contractor any monies due the Contractor.

25. Fraud and Corruption

25.1 The Government requires compliance with the country's Anti-Corruption laws and its prevailing sanctions policies and procedures as set forth in the Constitution of Kenya and its Statutes.

25.2 The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme requires the Contractor to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the bidding process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee.

26. Stakeholder Engagement

26.1 The Contractor shall provide relevant contract-related information, as the Employer and/or Project Manager may reasonably request to conduct Stakeholder engagements. "Stakeholder" refers to individuals or groups who:

a) are affected or likely to be affected by the Contract; and

b) may have an interest in the Contract.

26.2 The Contractor may also directly participate in Stakeholder engagements, as the Employer and/or Project Manager may reasonably request.

27. Suppliers (other than Subcontractors)

a) Forced Labor: The Contractor shall take measures to require its suppliers (other than Subcontractors) not to employ or engage forced labor including trafficked persons as described in GCC Sub-Clause 9.4.14. If forced labor/trafficking cases are identified, the Contractor shall take measures to require the suppliers to take appropriate steps to remedy them. Where the supplier does not remedy the situation, the Contractor shall within a reasonable period substitute the supplier with a supplier that is able to manage such risks.

b) Child Labor: The Contractor shall take measures to require its suppliers (other than Subcontractors) not to employ or engage child labor as described in GCC Sub-Clause 9.4.15. If child labor cases are identified, the Contractor shall take measures to require the suppliers to take appropriate steps to remedy them. Where the supplier does not remedy the situation, the Contractor shall within a reasonable period substitute the supplier with a supplier that is able to manage such risks.

c) Serious Safety Issues: The Contractor, including its Subcontractors, shall comply with all applicable safety obligations, including as stated in GCC Sub-Clause 18.2. The Contractor shall also take measures to require its suppliers (other than Subcontractors) to adopt procedures and mitigation measures adequate to address safety issues related to their personnel. If serious safety issues are identified, the Contractor shall take measures to require the suppliers to take appropriate steps to remedy them. Where the supplier does not remedy the situation, the Contractor shall within a reasonable period substitute the supplier with a supplier that is able to manage such risks.

d) Obtaining natural resource materials in relation to supplier: The Contractor shall obtain natural resource materials from suppliers that can demonstrate, through compliance with the applicable verification and/ or certification requirements, that obtaining such materials is not contributing to the risk of significant conversion or significant degradation of natural or critical habitats such as unsustainably harvested wood products, gravel or sand extraction from river beds or beaches. If a supplier cannot continue to demonstrate that obtaining such materials is not contributing to the risk of significant conversion or significant degradation of natural or critical habitats, the Contractor shall within a reasonable period substitute the supplier with a supplier that is able to demonstrate that they are not significantly adversely impacting the habitats.

28. Security of the Site

28.1 The Contractor shall be responsible for the security of the Site, and:

a) for keeping unauthorized persons off the Site;

b) authorized persons shall be limited to the Contractor's Personnel, the Employer's Personnel, and to any other personnel identified as authorized personnel (including the Employer's other contractors on the Site), by a notice from the Employer or the Project Manager to the Contractor.

The Contractor shall submit for the Project Manager's No-objection a security management plan that sets out the security arrangements for the Site. The Contractor shall (i) conduct appropriate background checks on any personnel retained to provide security; (ii) train the security personnel adequately (or determine that they are properly trained) in the use of force (and where applicable, firearms), and appropriate conduct towards Contractor's Personnel, Employer's Personnel and affected communities; and (iii) require the security personnel to act within the applicable Laws and any requirements set out in the Specifications. The Contractor shall not permit any use of force by security personnel in providing security except when used for preventive and defensive purposes in proportion to the nature and extent of the threat. In making security arrangements, the Contractor shall also comply with any additional requirements stated in the Specifications."

B. Time Control

29. Program

29.1 Within the time stated in the SCC, after the date of the Letter of Acceptance, the Contractor shall submit to the Project Manager for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works. In the case of a lump sum contract, the activities in the Program shall be consistent with those in the Activity Schedule.

29.2 An update of the Program shall be a program 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.

29.3 The Contractor shall submit to the Project Manager for approval an updated Program at intervals no longer than the period stated in the SCC. If the Contractor does not submit an updated Program within this period, the Project Manager may withhold the amount stated in the SCC from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted. In the case of a lump sum contract, the Contractor shall provide an updated Activity Schedule within 14 days of being instructed to by the Project Manager.

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

30. Extension of the Intended Completion Date

30.1 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.

30.2 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.

31. Acceleration

31.1 When the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme wants the Contractor to finish before the Intended Completion Date, the Project Manager shall obtain priced proposals for achieving the necessary acceleration from the Contractor. If the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme accepts these proposals, the Intended Completion Date shall be adjusted accordingly and confirmed by both the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme and the Contractor.

31.2 If the Contractor's priced proposals for an acceleration are accepted by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme, they are incorporated in the Contract Price and treated as a Variation.

32. Delays Ordered by the Project Manager

32.1 The Project Manager may instruct the Contractor to delay the start or progress of any activity within the Works.

33. Management Meetings

33.1 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.

33.2 The Project Manager shall record the business of management meetings and provide copies of the record to those attending the meeting and to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme. 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.

34. Early Warning

34.1 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.

34.2 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.

C. Quality Control

35. Identifying Defects

35.1 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.

36. Tests

36.1 If the Project Manager instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a 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.

37. Correction of Defects

37.1 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 SCC. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.

37.2 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.

38. Uncorrected Defects

38.1 If the Contractor has not corrected a Defect within the time specified in the Project Manager's notice, the Project Manager shall assess the cost of having the Defect corrected, and the Contractor shall pay this amount.

D. Cost Control

39. Contract Price[7]

39.1 The Bill of Quantities shall contain priced items for the Works to be performed by the Contractor. The Bill of Quantities is used to calculate the Contract Price. The Contractor will be paid for the quantity of the work accomplished at the rate in the Bill of Quantities for each item.

40. Changes in the Contract Price[8]

40.1 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. 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 County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme.

40.2 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.

41. Variations

41.1 All Variations shall be included in updated Programs[9] produced by the Contractor.

41.2 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 (7) days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.

41.3 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.

41.4 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.

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[7] *In lump sum contracts, replace GCC Sub-Clauses 36.1 as follows:*

36.1 The Contractor shall provide updated Activity Schedules within 14 days of being instructed to by the Project Manager. The Activity Schedule shall contain the priced activities for the Works to be performed by the Contractor. The Activity Schedule is used to monitor and control the performance of activities on which basis the Contractor will be paid. If payment for materials on site shall be made separately, the Contractor shall show delivery of Materials to the Site separately on the Activity Schedule.

[8] *In lump sum contracts, replace entire GCC Clause 37 with new GCC Sub-Clause 37.1, as follows:*
The Activity Schedule shall be amended by the Contractor to accommodate changes of Program or method of working made at the Contractor's own discretion. Prices in the Activity Schedule shall not be altered when the Contractor makes such changes to the Activity Schedule.

[9] *In lump sum contracts, add "and Activity Schedules" after "Programs."* [10] *In lump sum contracts, delete this paragraph.*

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

41.6 If the work in the Variation corresponds to an item description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work above the limit stated in Sub-Clause 39.1 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

41.7 Value Engineering: The Contractor may prepare, at its own cost, a value engineering proposal at any time during the performance of the contract. The value engineering proposal shall, at a minimum, include the following;

a) the proposed change(s), and a description of the difference to the existing contract requirements;
b) a full cost/benefit analysis of the proposed change(s) including a description and estimate of costs (including life cycle costs) the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme may incur in implementing the value engineering proposal; and
c) a description of any effect(s) of the change on performance/functionality.

41.8 The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme may accept the value engineering proposal if the proposal demonstrates benefits that:

a) accelerate the contract completion period; or
b) reduce the Contract Price or the life cycle costs to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme; or
c) improve the quality, efficiency, safety or sustainability of the Facilities; or
d) yield any other benefits to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme, without compromising the functionality of the Works.

41.9 If the value engineering proposal is approved by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme and results in:

a) a reduction of the Contract Price; the amount to be paid to the Contractor shall be the **percentage specified in the SCC** of the reduction in the Contract Price; or

b) an increase in the Contract Price; but results in a reduction in life cycle costs due to any benefit described in (a) to (d) above, the amount to be paid to the Contractor shall be the full increase in the Contract Price.

42. Cash FlowForecasts

42.1 When the Program[11], 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.

43. Payment Certificates

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

43.2 The Project Manager shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor.

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

43.4 The value of work executed shall comprise the value of the quantities of work in the Bill of Quantities that have been completed12.

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

43.6 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.

43.7 Where the contract price is different from the corrected tender price, in order to ensure the contractor is not paid less or more relative to the contract price (which would be the tender price), payment valuation certificates and variation orders on omissions and additions valued based on rates in the Bill of Quantities or schedule of rates in the Tender, will be adjusted by a plus or minus percentage. The percentage already worked out during tender evaluation is worked out as follows: *(corrected tender price – tender price)/tender price X 100*.

44. Payments

44.1 Payments shall be adjusted for deductions for advance payments and retention. The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall pay the Contractor the amounts certified by the Project Manager within 30 days of the date of each certificate. If the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme 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.

44.2 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.

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

44.4 Items of the Works for which no rate or price has been entered in shall not be paid for by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme and shall be deemed covered by other rates and prices in the Contract.

45. Compensation Events

45.1 The following shall be Compensation Events:

d) The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme does not give access to a part of the Site by the Site Possession Date pursuant to GCC Sub-Clause 20.1.

e) The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under the Contract.

f) The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time.

g) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects.

h) The Project Manager unreasonably does not approve a subcontract to be let.

i) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Letter of Acceptance from the information issued to bidders (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.

j) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme, or additional work required for safety or other reasons.

k) Other contractors, public authorities, utilities, or the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.

l) The advance payment is delayed.

m) The effects on the Contractor of any of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's Risks.

n) The Project Manager unreasonably delays issuing a Certificate of Completion.

45.2 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.

45.3 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 shall assume that the Contractor shall react competently and promptly to the event.

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[11] *In lump sum contracts, add "or Activity Schedule" after "Program."*

[12] *In lump sum contracts, replace this paragraph with the following: "The value of work executed shall comprise the value of completed activities in the Activity Schedule."*

45.4 The Contractor shall not be entitled to compensation to the extent that the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's interests are adversely affected by the Contractor's not having given early warning or not having cooperated with the Project Manager.

46. Tax

46.1 The Project Manager shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 30 days before the submission of bids 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 GCC Clause 44.

47. Currency y of Payment

47.1 All payments under the contract shall be made in Kenya Shillings

48. Price Adjustment

48.1 Prices shall be adjusted for fluctuations in the cost of inputs only if **provided for in the SCC.** If so provided, the amounts certified in each payment certificate, before deducting for Advance Payment, shall be adjusted by applying the respective price adjustment factor to the payment amounts due in each currency. A separate formula of the type specified below applies:

P = A + B Im/Io

where: P is the adjustment factor for the portion of the Contract Price payable.

A and B are coefficients[13] **specified in the SCC,** representing the non-adjustable and adjustable portions, respectively, of the Contract Price payable and Im is the index prevailing at the end of the month being invoiced and IOC is the index prevailing 30 days before Bid opening for inputs payable.

48.2 If the value of the index is changed after it has been used in a calculation, the calculation shall be corrected and an adjustment made in the next payment certificate. The index value shall be deemed to take account of all changes in cost due to fluctuations in costs.

49. Retention

49.1 The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall retain from each payment due to the Contractor the proportion stated in the **SCC** until Completion of the whole of the Works.

49.2 Upon the issue of a Certificate of Completion of the Works by the Project Manager, in accordance with GCC 53.1, half the total amount retained shall be repaid to the Contractor and 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. The Contractor may substitute retention money with an "on demand" Bank guarantee.

50. Liquidated Damages

50.1 The Contractor shall pay liquidated damages to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme at the rate per day stated in the **SCC** 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 SCC. The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's liabilities.

50.2 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 GCC Sub-Clause 41.1.

51. Bonus

51.1 The Contractor shall be paid a Bonus calculated at the rate per calendar day **stated in the SCC** 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.

52. Advance Payment

52.1 The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall make advance payment to the Contractor of the amounts stated in the **SCC** by the date stated in the **SCC**, against provision by the Contractor of an Unconditional Bank Guarantee in a form and by a bank acceptable to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme 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 shall not be charged on the advance payment.

52.2 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.

52.3 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.

53. Securities

53.1 The Performance Security shall be provided to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme no later than the date specified in the Letter of Acceptance and shall be issued in an amount **specified in the SCC,** by a bank or surety acceptable to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme, 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 day 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.

54. Dayworks

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

54.2 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.

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

55. Cost of Repairs

55.1 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.

E. Finishing the Contract

56. Completion

56.1 The Contractor shall request the Project Manager to issue a Certificate of Completion of the Works, and the Project Manager shall do so upon deciding that the whole of the Works is completed.

57. Taking Over

57.1 The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme shall take over the Site and the Works within seven days of the Project Manager's issuing a certificate of Completion.

58. Final Account

58.1 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.

[13] *The sum of the two coefficients A and B should be 1 (one) in the formula for each currency. Normally, both coefficients shall be the same in the formulae for all currencies, since coefficient A, for the non-adjustable portion of the payments, is a very approximate figure (usually 0.15) to take account of fixed cost elements or other non-adjustable components. The sum of the adjustments for each currency are added to the Contract Price.*

59. Operating and Maintenance Manuals

59.1 If "as built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the SCC.

59.2 If the Contractor does not supply the Drawings and/or manuals by the dates stated in the SCC pursuant to GCC Sub-Clause 56.1, or they do not receive the Project Manager's approval, the Project Manager shall withhold the amount **stated in the SCC** from payments due to the Contractor.

60. Termination

60.1 The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.

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

a) the Contractor stops work for 30 days when no stoppage of work is shown on the current Program 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 30 days;

c) the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme 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 County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme 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;

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 SCC**; or

h) if the Contractor, in the judgment of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme has engaged in Fraud and Corruption, as defined in paragraph 2.2 a of the Appendix A to the GCC, in competing for or in executing the Contract, then the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme may, after giving fourteen (14) days written notice to the Contractor, terminate the Contract and expel him from the Site.

60.3 Notwithstanding the above, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme may terminate the Contract for convenience.

60.4 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.

60.5 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 GCC Sub-Clause 56.2 above, the Project Manager shall decide whether the breach is fundamental or not.

61. Payment upon Termination

61.1 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 specified in the SCC. Additional Liquidated Damages shall not apply. If the total amount due to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme exceeds any payment due to the Contractor, the difference shall be a debt payable to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme.

61.2 If the Contract is terminated for the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's convenience or because of a fundamental breach of Contract by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme, 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.

62. Property

62.1 All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme if the Contract is terminated because of the Contractor's default.

63. Release from Performance

63.1 If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme 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.

SECTION IX - SPECIAL CONDITIONS OF CONTRACT

Except where otherwise specified, all Special *Conditions of Contract should be filled in by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme prior to issuance of the bidding document. Schedules and reports to be provided by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme should be annexed.*

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	A. General
GCC 1.1 (q)	The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme is *[Abdikadir Ore Eng. Water]*.
GCC 1.1 (u)	The Intended Completion Date for the whole of the Works shall be *[25 February 2027]*
GCC 1.1 (x)	The Project Manager is *[Feisal Yabow Eng. Water]*.
GCC 1.1 (z)	The Site is located at *[Torabora Village]* and is defined in drawings No. *[N/A]*
GCC 1.1 (cc)	The Start Date shall be *[N/A]*.
GCC 1.1 (gg)	The Works consist of. • Equipping • Excavation
GCC 2.2	Sectional Completions are: *[Not, appropriate]*
GCC 5.1	The Project manager *Cannot* delegate any of his duties and responsibilities.
GCC 8.1	Schedule of other contractors: (*Not appropriate]*
GCC 9.1	**Key Personnel** GCC 9.1 is replaced with the following: 9.1 Key Personnel are the Contractor's personnel named in this GCC 9.1 of the Special Conditions of Contract. The Contractor shall employ the Key Personnel and use the equipment identified in its Bid, to carry out the Works or other personnel and equipment approved by the Project Manager. The Project Manager shall approve any proposed replacement of Key Personnel and equipment only if their relevant qualifications or characteristics are substantially equal to or better than those proposed in the Bid. [insert the name/s of each Key Personnel agreed by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme prior to Contract signature.]
GCC 13.1	The minimum insurance amounts and deductibles shall be: (a) for loss or damage to the Works, Plant and Materials: *[0]*. (b) For loss or damage to Equipment: *[0]*. (c) for loss or damage to property (except the Works, Plant, Materials, and Equipment) in connection with Contract *[insert 0]*. (d) for personal injury or death: (i) of the Contractor's employees: *[0]*. (ii) of other people: *[0]*.

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
GCC 14.1	Site Data are: {*N/A]*
GCC 20.1	The Site Possession Date(s) shall be: *[Torabora)]*
GCC 23.1 & GCC 23.2	Appointing Authority for the Adjudicator: [*NA]*.
	Hourly rate and types of reimbursable expenses to be paid to the Adjudicator: *[0]*.
B. Time Control	
GCC 26.1	The Contractor shall submit for approval a Program for the Works within *[7]* days from the date of the Letter of Acceptance.
GCC 26.3	The period between Program updates is *[7]* days. The amount to be withheld for late submission of an updated Program is *[0]*.
C. Quality Control	
GCC 34.1	The Defects Liability Period is: *[120]* days.
D. Cost Control	
GCC 38.9	If the value engineering proposal is approved by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme the amount to be paid to the Contractor shall be __10_% *(insert appropriate percentage. The percentage is normally up to 50%)* of the reduction in the Contract Price.
GCC 44.1	The currency of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's Country is: *[insert name of currency of the* County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's Country*]*.
GCC 45.1	The Contract *[insert ""is not"]* subject to price adjustment in accordance with GCC Clause 45, and the following information regarding coefficients *[specify "does" or "does not"]* apply. The coefficients for adjustment of prices are: (a) *[N/A]* percent nonadjustable element (coefficient A). (ib) *[insert percentage]* percent adjustable element (coefficient B). (c) The Index I for shall be *[insert index]*.
GCC 46.1	The proportion of payments retained is: *[insert percentage]* *[The retention amount is usually close to 5 percent and in no case exceeds 10 percent.]*
GCC 47.1	The liquidated damages for the whole of the Works are *[insert percentage of the final Contract Price]* per day. The maximum amount of liquidated damages for the whole of the Works is *[insert percentage]* of the final Contract Price. *[Usually liquidated damages are set between 0.05 percent and 0.10 percent per day, and the total amount is not to exceed between 5 percent and 10 percent of the Contract Price. If Sectional Completion and Damages per Section have been agreed, the latter should be specified here]*
GCC 48.1	The Bonus for the whole of the Works is *[insert percentage of final Contract Price]* per day. The maximum amount of Bonus for the whole of the Works is *[insert percentage]* of the final Contract Price. *[If early completion would provide benefits to the* County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme, *this clause should*

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	remain; otherwise delete. The Bonus is usually numerically equal to the liquidated damages.]
GCC 49.1	The Advance Payments shall be: *[insert amount(s)]* and shall be paid to the Contractor no later than *[insert date(s)]*.
GCC 50.1	The Performance Security amount is *[insert amount(s) denominated in the types and proportions of the currencies in which the Contract Price is payable, or in a freely convertible currency acceptable to the* County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme*]* (a) Performance Security – Bank Guarantee: in the amount(s) of *[insert related figure(s)]* percent of the Accepted Contract Amount and in the same currency(ies) of the Accepted Contract Amount. (b) Performance Security – Performance Bond: in the amount(s) of *[insert related figure(s)]* percent of the Accepted Contract Amount and in the same currency(ies) of the Accepted Contract Amount.
E. Finishing the Contract	
GCC 56.1	The date by which operating and maintenance manuals are required is *[insert date]*. The date by which "as built" drawings are required is *[insert date]*.
GCC 56.2	The amount to be withheld for failing to produce "as built" drawings and/or operating and maintenance manuals by the date required in GCC 58.1 is *[insert amount in local currency]*.
GCC 57.2 (g)	The maximum number of days is: *[insert number; consistent with Clause 47.1 on liquidated damages]*.
GCC 58.1	The percentage to apply to the value of the work not completed, representing the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's additional cost for completing the Works, is *[insert percentage]*.

FORM No 1: NOTIFICATION OF INTENTION TO AWARD

This Notification of Intention to Award shall be sent to each Tenderer that submitted a Tender. Send this Notification to the Tenderer's Authorized Representative named in the Tender Information Form on the format below.

FORMAT

1. For the attention of Tenderer's Authorized Representative
   - *i)* Name: *[insert Authorized Representative's name]*
   - *ii)* Address: *[insert Authorized Representative's Address]*
   - *iii)* Telephone: *[insert Authorized Representative's telephone/fax numbers]*
   - *iv)* Email Address: *[insert Authorized Representative's email address]*

   [IMPORTANT: insert the date that this Notification is transmitted to Tenderers. The Notification must be sent to all Tenderers simultaneously. This means on the same date and as close to the same time as possible.]

2. Date of transmission: [*email*] on [*date*] (local time)

   This Notification is sent by (*Name and designation*) _____

3. Notification of Intention to Award

   - *i)* County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme: *[insert the name of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme]*
   - *ii)* Project: *[insert name of project]*
   - *iii)* Contract title: *[insert the name of the contract]*
   - *iv)* Country: *[insert country where ITT is issued]*
   - *v)* ITT No: *[insert ITT reference number from Procurement Plan]*

   This Notification of Intention to Award (Notification) notifies you of our decision to award the above contract. The transmission of this Notification begins the Standstill Period. During the Standstill Period, you may:

4. Request a debriefing in relation to the evaluation of your tender

   Submit a Procurement-related Complaint in relation to the decision to award the contract.

   a) The successful tenderer

      i) Name of successful Tender_____

      ii) Address of the successful Tender _____

      iii) Contract price of the successful Tender Kenya Shillings _____ (in words_____)

   b) Other Tenderers

   Names of all Tenderers that submitted a Tender. If the Tender's price was evaluated include the evaluated price as well as the Tender price as read out. For Tenders not evaluated, give one main reason the Tender was unsuccessful.

SNo	Name of Tender	Tender Price as read out	Tender's evaluated price (Note a)	One Reason Why not Evaluated
1				
2				
3				
4				
5				

(Note a) State NE if not evaluated

5. How to request a debriefing

a) DEADLINE: The deadline to request a debriefing expires at midnight on [*insert date*] (*local time*).

b) You may request a debriefing in relation to the results of the evaluation of your Tender. If you decide to request a debriefing your written request must be made within three (5) Business Days of receipt of this Notification of Intention to Award.

c) Provide the contract name, reference number, name of the Tenderer, contact details; and address the request for debriefing as follows:

i) Attention: [*insert full name of person, if applicable*]

ii) Title/position: [*insert title/position*]

ii) Agency: [*insert name of County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme*]

iii) Email address: [*insert email address*]

d) If your request for a debriefing is received within the 3 Days deadline, we will provide the debriefing within five (3) Business Days of receipt of your request. If we are unable to provide the debriefing within this period, the Standstill Period shall be extended by five (3) Days after the date that the debriefing is provided. If this happens, we will notify you and confirm the date that the extended Standstill Period will end.

e) The debriefing may be in writing, by phone, video conference call or in person. We shall promptly advise you in writing how the debriefing will take place and confirm the date and time.

f) If the deadline to request a debriefing has expired, you may still request a debriefing. In this case, we will provide the debriefing as soon as practicable, and normally no later than fifteen (15) Days from the date of publication of the Contract Award Notice.

6. How to make a complaint

a) Period: Procurement-related Complaint challenging the decision to award shall be submitted by midnight, [*insert date*] (local time).

b) Provide the contract name, reference number, name of the Tenderer, contact details; and address the Procurement-related Complaint as follows:

i) Attention: [*insert full name of person, if applicable*]

ii) Title/position: [*insert title/position*]

iii) Agency: [*insert name of County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme*]

iv) Email address: [*insert email address*]

c) At this point in the procurement process, you may submit a Procurement-related Complaint challenging the decision to award the contract. You do not need to have requested, or received, a debriefing before making this complaint. Your complaint must be submitted within the Standstill Period and received by us before the Standstill Period ends.

d) Further information: For more information refer to the Public Procurement and Disposals Act 2015 and its Regulations available from the Website info@ppra.go.ke or complaints@ppra.go.ke.

You should read these documents before preparing and submitting your complaint.

e) There are four essential requirements:

i) You must be an 'interested party'. In this case, that means a Tenderer who submitted a Tender in this

tendering process, and is the recipient of a Notification of Intention to Award.

ii) The complaint can only challenge the decision to award the contract.

iii) You must submit the complaint within the period stated above.

iv) You must include, in your complaint, all of the information required to support your complaint.

7. Standstill Period

i) DEADLINE: The Standstill Period is due to end at midnight on [*insert date*] (local time).

ii) The Standstill Period lasts ten (14) Days after the date of transmission of this Notification of Intention to Award.

iii) The Standstill Period may be extended as stated in paragraph Section 5 (d) above.

If you have any questions regarding this Notification please do not hesitate to contact us. On behalf of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme:

Signature: Name: Title/position: Telephone: Email:

FORM NO. 2 - REQUEST FOR REVIEW

FORM FOR REVIEW(r.203(1))

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO……..OF……..….20……...

BETWEEN

……...…….APPLICANT

AND

……RESPONDENT (County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme)

Request for review of the decision of the…… (Name of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme of ……dated the…day of ……20…….in the matter of Tender No……..…of ……..20….. for .....(Tender description).

REQUEST FOR REVIEW

I/We……,the above named Applicant(s), of address: Physical address…….P. O. Box 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.

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

1.

2.

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

FORM NO 3: LETTER OF AWARD

[letterhead paper of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme] [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]* for the Accepted Contract Amount *[amount in numbers and words] [name of currency]*, as corrected and modified in accordance with the Instructions to Tenderers, is hereby accepted by …… (*name of County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme)*.

You are requested to furnish the Performance Security within 30 days in accordance with the Conditions of Contract, using, for that purpose, one of the Performance Security Forms included in Section VIII, Contract Forms, of the Tender Document.

Authorized Signature:.....

Name and Title of Signatory:.....

Name of County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme.....

Attachment: *Contract Agreement*.....

FORM NO 4: CONTRACT AGREEMENT

THIS AGREEMENT made the_____day of_____, 20____, between _____of _____ (hereinafter "the Procuring Entity"), of the one part, and_____of_____(hereinafter "the Contractor"), of the other part:

WHEREAS the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme desires that the Works known as_____should be executed by the Contractor, and has accepted a Tender by the Contractor for the execution and completion of these Works and the remedying of any defects therein,

The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme and the Contractor agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.

2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.
   a) the Letter of Acceptance
   b) the Letter of Tender
   c) the addenda Nos_____(if any)
   d) the Special Conditions of Contract
   e) the General Conditions of Contract;
   f) the Specifications
   g) the Drawings; and
   h) the completed Schedules and any other documents forming part of the contract.

3. In consideration of the payments to be made by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme to the Contractor as specified in this Agreement, the Contractor hereby covenants with the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.

4. The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, 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 hereto have caused this Agreement to be executed in accordance with the Laws of Kenya on the day, month and year specified above.

Signed and sealed by_____(for the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme)

Signed and sealed by_____(for the Contractor).

FORM NO. 5 - PERFORMANCE SECURITY
[Option 1 - Unconditional Demand Bank Guarantee]

[Guarantor letterhead]

Beneficiary:_____*[insert name and Address of* County Government of

Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme*]* **Date:**_____

_____*[Insert date of issue]*

Guarantor: [*Insert name and address of place of issue, unless indicated in the letterhead]*

1. We have been informed that_____(hereinafter called "the Contractor") has entered into Contract No._____dated_____with (*name of County Government of Garissa Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme*)_____(the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme as the Beneficiary), for the execution of _____(hereinafter called "the Contract").

2. Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

3. At the request of the Contractor, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of_____(*in words*),[1] such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.

4. This guarantee shall expire, no later than the …. Day of ……, 2...…[2], and any demand for payment under it must be received by us at the office indicated above on or before that date.

5. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months] [one year]*, in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

[Name of Authorized Official, signature(s) and seals/stamps].

Note: *All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.*

[1] *The Guarantor shall insert an amount representing the percentage of the Accepted Contract Amount specified in the Letter of Acceptance, less provisional sums, if any, and denominated either in the currency of the Contract or a freely convertible currency acceptable to the Beneficiary.*

[2] *Insert the date twenty-eight days after the expected completion date as described in GC Clause 11.9. The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme should note that in the event of an extension of this date for completion of the Contract, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee.*

FORM No. 6 - PERFORMANCE SECURITY
[Option 2– Performance Bond]

[Note: Procuring Entities are advised to use Performance Security – Unconditional Demand Bank Guarantee instead of Performance Bond due to difficulties involved in calling Bond holder to action]

[Guarantor letterhead or SWIFT identifier code]

Beneficiary: _____ *[insert name and Address of* County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme*]* **Date:** _____ *[Insert date of issue]*.

PERFORMANCE BOND No.: _____

Guarantor: [*Insert name and address of place of issue, unless indicated in the letterhead]*

1. By this Bond _____ as Principal (hereinafter called "the Contractor") and _____] as Surety (hereinafter called "the Surety"), are held and firmly bound unto _____] as Obligee (hereinafter called "the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme") in the amount of _____ for the payment of which sum well and truly to be made in the types and proportions of currencies in which the Contract Price is payable, the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

2. WHEREAS the Contractor has entered into a written Agreement with the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme dated the _____ day of _____, 20 , for _____ in accordance with the documents, plans, specifications, and amendments thereto, which to the extent herein provided for, are by reference made part hereof and are hereinafter referred to as the Contract.

3. NOW, THEREFORE, the Condition of this Obligation is such that, if the Contractor shall promptly and faithfully perform the said Contract (including any amendments thereto), then this obligation shall be null and void; otherwise, it shall remain in full force and effect. Whenever the Contractor shall be, and declared by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme to be, in default under the Contract, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme having performed the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:
   1) complete the Contract in accordance with its terms and conditions; or
   2) obtain a tender or tenders from qualified tenderers for submission to the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme for completing the Contract in accordance with its terms and conditions, and upon determination by the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme and the Surety of the lowest responsive Tenderers, arrange for a Contract between such Tenderer, and County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the Balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "Balance of the Contract Price," as used in this paragraph, shall mean the total amount payable by County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme to Contractor under the Contract, less the amount properly paid by County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme to Contractor; or
   3) pay the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme the amount required by County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.

4. The Surety shall not be liable for a greater sum than the specified penalty of this Bond.

5. Any suit under this Bond must be instituted before the expiration of one year from the date of the issuing of the Taking-Over Certificate. No right of action shall accrue on this Bond to or for the use of any person or corporation other than the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme named herein or the heirs, executors, administrators, successors, and assigns of the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme.

6. In testimony whereof, the Contractor has hereunto set his hand and affixed his seal, and the Surety has caused these presents to be sealed with his corporate seal duly attested by the signature of his legal representative, this day_____of_____20_____.

SIGNED ON_____on behalfof By___in the capacity of In the presence of

SIGNED ON_____on behalf of By__in the capacity of In the presence of

FORM NO. 7 - ADVANCE PAYMENT SECURITY

[Demand Bank Guarantee]

[Guarantor letterhead]

Beneficiary:_____*[Insert name and Address of* County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme*]*
Date:_____*[Insert date of issue]*

ADVANCE PAYMENTGUARANTEE No.:_____*[Insert guarantee reference number]* **Guarantor:**

_____**[***Insert name and address of place of issue, unless indicated in the letterhead]*

1. We have been informed that_____(hereinafter called "the Contractor") has entered into Contract No._____*dated*_____with the Beneficiary, for the execution of _____ (hereinafter called "the Contract").

2. Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum _____(*in words*) is to be made against an advance payment guarantee.

3. At the request of the Contractor, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of_____(*in words*_____)[1] upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating either that the Applicant:
   a) has used the advance payment for purposes other than the costs of mobilization in respect of the Works; or
   b) has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.

4. A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the advance payment referred to above has been credited to the Contractor on its account number_____at_____.

5. The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractor as specified 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 ninety (90) percent of the Accepted Contract Amount, less provisional sums, has been certified for payment, or on the _____ day of_____, 2 ,[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.

6. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months][one year]*, in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.

[Name of Authorized Official, signature(s) and seals/stamps]

Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.

[1] *The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency of the advance payment as specified in the Contract.*

[2] *Insert the expected expiration date of the Time for Completion. The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme should note that in the event of an extension of the time for completion of the Contract, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee.*

FORM NO. 8 - RETENTION MONEY SECURITY
[Demand Bank Guarantee]

[Guarantor letterhead]

Beneficiary: _____*[Insert name and Address of* County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme*]*

Date:_____*[Insert date of issue]*

Advance payment guarantee no. *[Insert guarantee reference number]*

Guarantor: [*Insert name and address of place of issue, unless indicated in the letterhead]*

1. We have been informed that_____*[insert name of Contractor, which in the case of a joint venture shall be the name of the joint venture]* (hereinafter called "the Contractor") has entered into Contract No. _____*[insert reference number of the contract]* dated_____with the Beneficiary, for the execution of_____*[insert name of contract and brief description of* Works*]* (hereinafter called "the Contract").

2. Furthermore, we understand that, according to the conditions of the Contract, the Beneficiary retains moneys up to the limit set forth in the Contract ("the Retention Money"), and that when the Taking-Over Certificate has been issued under the Contract and the first half of the Retention Money has been certified for payment, and payment of *[*insert the second half of the Retention Money] is to be made against a Retention Money guarantee.

3. At the request of the Contractor, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of *[insert amount in figures]*_____(*[insert amount in words*_____*])*[1] upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or show grounds for your demand or the sum specified therein.

4. A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the second half of the Retention Money as referred to above has been credited to the Contractor on its account number_____at_____*[insert name and address of Applicant's bank]*.

5. This guarantee shall expire no later than the …..... Day of ….....……, 2.....…[2], and any demand for payment under it must be received by us at the office indicated above on or before that date.

6. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months] [one year]*, in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.

[Name of Authorized Official, signature(s) and seals/stamps]

Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.

[1] *The Guarantor shall insert an amount representing the amount of the second half of the Retention Money.*

[2] *Insert a date that is twenty-eight days after the expiry of retention period after the actual completion date of the contract. The County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme should note that in the event of an extension of this date for completion of the Contract, the County Government of Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee.*

FORM NO. 9 BENEFICIAL OWNERSHIP DISCLOSURE FORM

(Amended and issued pursuant to PPRA CIRCULAR No. 02/2022)

INSTRUCTIONS TO TENDERERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE FORM

This Beneficial Ownership Disclosure Form ("Form") is to be completed by the successful tenderer pursuant to Regulation 13 (2A) and 13 (6) of the Companies (Beneficial Ownership Information) Regulations, 2020. In case of joint venture, the tenderer must submit a separate Form for each member. The beneficial ownership information to be submitted in this Form shall be current as of the date of its submission.

For the purposes of this Form, a Beneficial Owner of a Tenderer is any natural person who ultimately owns or controls the legal person (tenderer) or arrangements or a natural person on whose behalf a transaction is conducted, and includes those persons who exercise ultimate effective control over a legal person (Tenderer) or arrangement.

Tender Reference No.:_____[*insert identification no*]

Name of the Tender Title/Description:_____*[insert name of the assignment]* to:

_____*[insert complete name of County Government of*

Garissa_Department of Water_The Kenya Water Sanitation and Hygiene (K-WASH) Programme]

In response to the requirement in your notification of award dated__*[insert date of notification of award]* to furnish additional information on beneficial ownership:_____*[select one option as applicable and delete the options that are not applicable]*

I) We here by provide the following beneficial ownership information.

Details of beneficial ownership

	Details of all Beneficial Owners		**% of shares a person holds in the company Directly or indirectly**	**% of voting rights a person holds in the company**	**Whether a person directly or indirectly holds a right to appoint or remove a member of the board of directors of the company or an equivalent governing body of the Tenderer** (Yes / No)	**Whether a person directly or indirectly exercises significant influence or control over the Company (tenderer) (Yes / No)**
1.	Full Name		Directly---------- % of shares Indirectly---------- % of shares	Directly…… …….% of voting rights Indirectly---------- % of voting rights	1. Having the right to appoint a majority of the board of the directors or an equivalent governing body of the Tenderer: Yes -----No---- 2. Is this right held directly or indirectly?: Direct…… … Indirect…… …...	1. Exercises significant influence or control over the Company body of the Company (tenderer) Yes -----No---- 2. Is this influence or control exercised directly or indirectly? Direct…….. Indirect……
	National identity card number or Passport number					
	Personal Identification Number (where applicable)					
	Nationality					
	Date of birth *[dd/mm/yyyy]*					
	Postal address					
	Residential address					
	Telephone number					
	Email address					
	Occupation or profession					

	Details of all Beneficial Owners		% of shares a person holds in the company Directly or indirectly	% of voting rights a person holds in the company	Whether a person directly or indirectly holds a right to appoint or remove a member of the board of directors of the company or an equivalent governing body of the Tenderer (Yes / No)	Whether a person directly or indirectly exercises significant influence or control over the Company (tenderer) (Yes / No)
2.	Full Name		Directly---------- % of shares Indirectly---------- % of shares	Directly…… …….% of voting rights Indirectly---------- % of voting rights	1. Having the right to appoint a majority of the board of the directors or an equivalent governing body of the Tenderer: Yes -----No---- 2. Is this right held directly or indirectly?: Direct…… … Indirect…… …...	1. Exercises significant influence or control over the Company body of the Company (tenderer**)** Yes -----No---- 2. Is this influence or control exercised directly or indirectly? Direct……... Indirect……
	National identity card number or Passport number					
	Personal Identification Number (where applicable)					
	Nationality(ies)					
	Date of birth *[dd/mm/yyyy]*					
	Postal address					
	Residential address					
	Telephone number					
	Email address					
	Occupation or profession					
3. **e.t .c**						

II) Am fully aware that beneficial ownership information above shall be reported to the Public Procurement Regulatory Authority together with other details in relation to contract awards and shall be maintained in the Government Portal, published and made publicly available pursuant to Regulation 13(5) of the Companies (Beneficial Ownership Information) Regulations, 2020.(Notwithstanding this paragraph Personally Identifiable Information in line with the Data Protection Act shall not be published or made public). *Note that Personally Identifiable Information (PII) is defined as any information that can be used to distinguish one person from another and can be used to deanonymize previously anonymous data. This information includes National identity card number or Passport number, Personal Identification Number, Date of birth, Residential address, email address and Telephone number.*

III) In determining who meets the threshold of who a beneficial owner is, the Tenderer must consider a natural person who in relation to the company:

(a) holds at least ten percent of the issued shares in the company either directly or indirectly;

(b) exercises at least ten percent of the voting rights in the company either directly or indirectly;

(c) holds a right, directly or indirectly, to appoint or remove a director of the company; or

(d) exercises significant influence or control, directly or indirectly, over the company.

IV) What is stated to herein above is true to the best of my knowledge, information and belief.

Name of the Tenderer: .....[insert complete name of the Tenderer]*_____

*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]*

Designation 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 this ..... [insert date of signing] day of..... [Insert month], [insert year]

Bidder Official Stamp

Bidder Official Stamp