



REPUBLIC OF KENYA



NORTHERN WATER WORKS DEVELOPMENT AGENCY

PROVISION OF CONFERENCE AND HOTEL SERVICES

Framework Contract

TENDER NO. NWWDA/FC/06/2021-2023

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Section A: Invitation to Tenders

Reference: NWWDA/FC/06/2021-2023

1. The NORTHERN WATER WORKS DEVELOPMENT AGENCY invites sealed tenders from eligible candidates for **the Provision of Conference and Hotel Services**.
2. Interested eligible candidates can view and download the documents from the website WWW.NWWDA.GO.KE at no cost. Bidders will be required to email their detailed contact information to info@nwwda.go.ke for recording, further clarifications and addenda. **No other email addresses shall be used and NWWDA shall not be liable if bidders choose to send their information and/or queries to other email**
3. Prices quoted should be **net inclusive of all taxes** and shall remain valid for **2 YEARS** from the closing date of the tender.

Completed tender documents are to be enclosed in plain sealed envelopes marked with tender reference number and be deposited in the Tender Box at:

**Northern Water Works Development Agency,
Po Box 495- 70100 Garissa, Maji House, Kismayu Road
Procurement Office, Ground Floor, Room A3
so as to be received on or before **21ST July 2021 at 11.00am.****

4. Tenders will be opened immediately thereafter in the presence of candidates' representatives who choose to attend at **11:00 a.m. on 21ST July, 2021** at the offices of:

**NORTHERN WATER WORKS DEVELOPMENT AGENCY
Maji House, Kismayu Road
PO Box 495 – 70100 Garissa, Kenya
Tel: +254-46-2103598/3797
E-mail: info@nwwda.go.ke**

Section B: General Information

Introduction

1. Eligible Tenderers

- 1.1 This Invitation for Tenders is open to all Tenderers eligible as described in the tender documents. Successful Tenderers shall provide the services for the stipulated duration from the date of commencement (hereinafter referred to as the term) specified in the tender documents.
- 1.2 Tenderers shall provide the Qualification Information Statement that the Tenderer (including all members of a joint venture and subcontractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by KPC to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the services under this Invitation for tenders.
- 1.3 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices.
- 1.4 The tenderers shall submit the following documents as a mandatory requirement for participation:
 - **Certificate of Incorporation of the company.**
 - **Valid KRA tax compliance certificate for local Firms.**
 - **CR12 form from Registrar of companies**
 - **A copy of valid Food handling certificates**
 - **Self declaration that the person/tenderer is not debarred in the matter of the public procurement and asset disposal act**
 - **Self declaration that the person/tenderer not to engage in any corrupt or fraudulent practice**
 - **Bidders must sequentially paginate and initial each page of their documents**

2. Eligible materials and spares

- 2.1 All goods to be supplied under the contract shall have their origin in eligible source countries.
- 2.2 For purposes of this clause, “origin” means the place where the materials are mined, grown, or produced. Materials are produced when, through

manufacturing, processing, or substantial and major assembly of components, a commercially-recognized product results that is substantially different in basic characteristics or in purpose or utility from its components.

2.3 The Origin of materials is distinct from the Nationality of the Tenderer.

3. Cost of Tendering

The Tenderer shall bear all costs associated with the preparation and submission of its tender, and KPC, will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.

The Tender Document

4. Contents

4.1 The tender document comprises the documents listed below, and addenda issued in accordance with clause 6 of these instructions to tenders.

- i). Invitation for Tenders
- ii). General information
- iii). General Conditions of Contract
- iv). Special Conditions of Contract
- v). Schedule of requirements
- vi). Technical Specifications
- vii). Tender Form and Price Schedules
- viii). Tender Securing Form
- ix). Contract Form
- x). Performance Security Form
- xi). Declaration Form
- xii). Tender Evaluation Criteria
- xiii). Confidential Business Questionnaire

4.2 The Tenderer is expected to examine all instructions, forms, terms, and specifications in the tender documents. Failure to furnish all information required by the tender documents or to submit a tender not substantially responsive to the tender documents in every respect will be at the Tenderers' risk and may result in the rejection of its tender.

5. Clarification of Documents

- 5.1 A prospective Tenderer requiring any clarification of the tender document may request for such clarification by sending it to:

NORTHERN WATER WORKS DEVELOPMENT AGENCY

Maji House, Kismayu Road

PO Box 495 – 70100 Garissa, Kenya

Tel: +254-46-2103598/3797

E-mail: info@nwwda.go.ke

In writing, email, NWWDA telephone and address indicated in the Invitation for tenders. NWWDA will respond in writing to any request for clarification of the tender documents, which it receives no later than seven (7) days prior to the deadline for the submission of tenders, prescribed by NWWDA. Written copies of the NWWDA response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective Tenderers who have received the tender document.

6. Amendment of Documents

- 6.1 At any time prior to the deadline for submission of tenders, NWWDA, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Tenderer, may modify the tender documents by amendment.

- 6.2 All prospective candidates who have received the tender documents will be notified of the amendment in writing or by cable, and such amendment will be binding on them.

- 6.3 In order to allow prospective Tenderers reasonable time in which to take the amendment into account in preparing their tenders, NWWDA, at its discretion, may extend the deadline for the submission of tenders.

- 6.3. If the tender documents are amended when the time remaining before the deadline for submitting tenders is less than one third of the time allowed for the preparation of tenders, or the time remaining is less than the period indicated in instructions to tenderers, **NORTHERN WATER WORKS DEVELOPMENT AGENCY**

shall extend the deadline as necessary to allow the amendment of the tender documents to be taken into account in the preparation or amendment of tenders

Preparation of Tenders

7. Language of Tender

7.1 The tender prepared by the Tenderer, as well as all correspondence and documents relating to the tender exchanged by the Tenderer and NWWDA, shall be written in English language, provided that any printed literature furnished by the Tenderer may be written in another language provided they are accompanied by an accurate English translation of the relevant passages in which case, for purposes of interpretation of the tender, the English translation shall govern.

8. Documents Comprising the Tender

8.1 The tender prepared by the Tenderer shall comprise the following components:

- a) A Tender Form and a Price Schedule completed in accordance with paragraph 9, 10 and 11 below.
- b) Documentary evidence established in accordance with paragraph 12 that the Tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;
- c) Documentary evidence established in accordance with paragraph 13 that the materials and spares to be used by the Tenderer for the services contract conform to the tender documents; and
- d) Tender security furnished is in accordance with paragraph 14.

9. Tender Form

9.1 The Tenderer shall complete the Tender Form and the appropriate Price Schedule furnished in the tender documents, indicating the goods to be supplied, a brief description of the goods, their country of origin, quantity, and prices.

10. Tender Prices

10.1 The Tenderer shall indicate on the appropriate Price Schedule the unit prices and total tender price of the goods it proposes to supply under the contract.

10.2 Prices indicated on the Price Schedule shall be the cost of the goods quoted including all customs duties and VAT and other taxes payable and delivery to NWWDA.

11. Tender Currencies

11.1 Prices shall be quoted in Kenya shillings unless otherwise specified in the Appendix to Instruction to tenders

12. Tenderers Eligibility and Qualifications.

12.1 Pursuant to paragraph 1 of section C, the Tenderer shall furnish, as part of its tender, documents establishing the Tenderers eligibility to tender and its qualifications to perform the contract if its tender is accepted.

12.3 The documentary evidence of the Tenderers qualifications to perform the contract if its tender is accepted shall establish to NWWDA satisfaction that the Tenderer has the financial and technical capability necessary to perform the contract. In case the Tenderer is not doing business in Kenya, the tenderer is or will be (if awarded the contract) represented by an Agent in Kenya equipped, and able to carry out the Tenderer's maintenance, repair, and spare parts-stoking obligations prescribed in the Conditions of Contract and/or Technical Specifications.

13. Materials' Eligibility Conformity to Tender Document.

13.1 Pursuant paragraph 2 of this section, the Tenderer shall furnish, as part of its tender, documents establishing the eligibility and conformity to the tender documents of all materials and spares which the Tenderer proposes to use under the contract.

13.2 The documentary evidence of the eligibility of the goods shall consist of a statement in the Price Schedule of the country of origin of the materials and spares offered which shall be confirmed by a certificate of origin issued at the time of shipment.

13.3 The documentary evidence of conformity of the goods to the tender documents may be in the form of literature, drawings, and data, and shall consist of:

- a) A detailed description of the essential technical and performance characteristics of the goods;
- b) A clause-by-clause commentary on NWWDA Technical Specifications demonstrating substantial responsiveness of the goods and services to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications.

13.4 For purposes of the commentary to be furnished pursuant to paragraph 13.3(b) above, the Tenderer shall note that standards for workmanship, material, and

equipment, as well as references to brand names or catalogue numbers designated by the Procurement entity in its Technical Specifications, are intended to be descriptive only and not restrictive. The Tenderer may substitute alternative standards, brand names, and/or catalogue numbers in its tender, provided that it demonstrates to KPC's satisfaction that the substitutions ensure substantial equivalence to those designated in the Technical Specifications.

14. Tender Security

14.1 The tender security is required to protect NWWDA against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 14.6.

14.2 The tender security shall be denominated in Kenya Shillings and shall be in the form of a bank guarantee or a bank draft issued by a reputable bank located in Kenya or abroad, in the form provided in the tender documents or another form acceptable to NWWDA and valid for thirty (30) days beyond the validity of the tender.

14.3 Any tender not secured in accordance with paragraph 14.1 and 14.3 will be rejected by NWWDA as non-responsive, pursuant to paragraph 22.

14.4 Unsuccessful Tenderer's tender security will be discharged or returned as promptly as possible as but not later than thirty (30) days after the expiry of the period of tender validity prescribed by NWWDA.

14.5 The successful Tenderer's tender security will be discharged upon the Tenderer signing the contract, pursuant to paragraph 30, and furnishing the performance security, pursuant to paragraph 31.

14.6 The tender security may be forfeited:

a) If a Tenderer withdraws its tender during the period of tender validity specified by NWWDA on the Tender Form; or

b) In the case of a successful Tenderer, if the Tenderer fails:

(i) To sign the contract in accordance with paragraph 30 or;

(ii) To furnish performance security in accordance with paragraph 31.

c) If the tenderer is engaged in corrupt and/or fraudulent practice in procuring the tender

15. Validity of Tenders

- 15.1 Tenders shall remain valid for 150 days or as specified in the tender documents after date of tender opening prescribed by NWWDA, pursuant to paragraph 18. A tender valid for a shorter period shall be rejected by NWWDA as non-responsive.
- 15.2 In exceptional circumstances, NWWDA may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The tender security provided under paragraph 14 shall also be suitably extended. A Tenderer may refuse the request without forfeiting its tender security. A Tenderer granting the request will not be required nor permitted to modify its tender.

16. Format and Signing of Tender

- 16.1 This is a single envelope tender, having mandatory requirements, technical bid and financial bid combined. The Tenderer shall prepare two copies of the tender, clearly marking each “**ORIGINAL TENDER**” and “**COPY OF TENDER,**” as appropriate. In the event of any discrepancy between them, the original shall prevail.
- 16.2 The original and the copy of the tender shall be typed or written in indelible ink and shall be signed by the Tenderer or a person or persons duly authorized to bind the Tenderer to the contract. The latter authorization shall be indicated by written power-of-attorney accompanying the tender. All pages of the tender, except for un-amended printed literature, shall be initialed by the person or persons signing the tender.
- 16.3 The tender shall have no interlineations, erasures, or overwriting except as necessary to correct errors made by the Tenderer, in which case such corrections shall be initialed by the person or persons signing the tender.

Submission of Tenders

17. Sealing and Marking of Tenders

- 17.1 Completed tender documents in PDF format are to be uploaded on the Supplier Relationship Management (SRM) Collaboration Folder before the due date.
- 17.2 Bidders who are not registered in should first register using this link (Instruction manual for Supplier registration and the bidding process are available on NWWDA website on www.nwwda.go.ke).

17.3 Tenders will be opened immediately thereafter in the presence of candidates' representatives who choose to attend at **11:00am on 21ST July, 2021** at the offices of:

NORTHERN WATER WORKS DEVELOPMENT AGENCY

Maji House, Kismayu Road

PO Box 495 – 70100 Garissa, Kenya

Tel: +254-46-2103598/3797

E-mail: info@nwwda.go.ke

18. Deadline for Submission of Tenders

18.1 Tenders must be received by NWWDA at the address specified under paragraph 17.2 no later than 10:00 am on the **21ST July 2021 at 11.00am.**

18.2 KPC may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 6, in which case all rights and obligations of NWWDA and candidates previously subject to the deadline will thereafter be subject to the deadline as extended.

19. Modification and Withdrawal of Tenders

19.1 The Tenderer may modify or withdraw its tender after the tender's submission, provided that written notice of the modification, including substitution or withdrawal of the tenders, is received by NWWDA prior to the deadline prescribed for submission of tenders.

19.2 The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 17. A withdrawal notice may also be sent by e-mail, but followed by a signed confirmation copy, postmarked no later than the deadline for submission of tenders.

19.3 No tender may be modified after the deadline for submission of tenders.

19.4 No tender may be withdrawn in the interval between the deadline for submission of tenders and the expiration of the period of tender validity specified by the Tenderer on the Tender Form. Withdrawal of a tender during this interval may

result in the Tenderer's forfeiture of its tender security, pursuant to paragraph 14.6.

19.5 NWWDA may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.

19.6 NWWDA shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

Opening and Evaluation of Tenders

20. Opening of Tenders

20.1 NWWDA will open all tenders in the presence of Tenderers' representatives who choose to attend, on the same date, within two (2) hours after submission, and the amount of each tender will be read and recorded. Any Tender received after the closing date and time stated above will not be considered. The Tenderers' representatives who are present shall sign a register evidencing their attendance.

20.2 The Tenderers' names, tender modifications or withdrawals, tender prices, discounts, and the presence or absence of requisite tender security and such other details as NWWDA, at its discretion, may consider appropriate, will be announced at the opening.

20.3 NWWDA will prepare minutes of the tender opening.

21. Clarification of Tenders

21.1 To assist in the examination, evaluation and comparison of tenders NWWDA may, at its discretion, ask the tender for a clarification of its tender. The request for clarification and the response shall be in writing, and no change in the prices or substance of the tender shall be sought, offered, or permitted.

21.2 Any effort by the tenderer to influence NWWDA in the tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderers' tender.

22. Preliminary Examination

- 22.1 NWWDA will examine the tenders to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the tenders are generally in order.
- 22.2 Arithmetical errors will not be rectified. The tender sum read during tender opening is absolute. If there is a discrepancy between words and figures, the amount in words will prevail.
- 22.3 NWWDA may waive any minor informality or non-conformity or irregularity in a tender which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any tenderer.
- 22.4 Prior to the detailed evaluation, pursuant to paragraph 23, NWWDA will determine the substantial responsiveness of each tender to the tender documents. For purposes of these paragraphs, a substantially responsive tender is one which conforms to all the terms and conditions of the tender documents without material deviations. NWWDA determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.
- 22.5 If a tender is not substantially responsive, it will be rejected by NWWDA and may not subsequently be made responsive by the tenderer by correction of the nonconformity.

23. Conversion to Single Currency

- 23.23 Where other currencies are used, the procuring entity will convert these currencies to Kenya Shillings using the selling exchange rate on the date of tender closing provided by the Central Bank of Kenya.

23. Evaluation and Comparison of Tenders

- 23.1 NWWDA will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 22.
- 23.2 The comparison shall be of the price to including all costs, as well as duties and taxes payable on all the goods to be used in the provision of the services.
- 23.3 NWWDA evaluation of a tender will take into account, in addition to the tender price, the following factors, in the manner and to the extent indicated in paragraph 23.4 and in the technical specifications:

- (a) Delivery plan and effectiveness of the technical specifications in the tender;
- (b) Deviations in payment schedule from that specified in the Special Conditions of Contract;

23.4 Pursuant to paragraph 23.3 the following evaluation methods will be applied:

- (a) *Delivery Plan.*

NWWDA requires that the goods under the Invitation for Tenders shall be delivered at the time specified in the tender. Tenders offering to deliver after delivery time will be treated as non-responsive and rejected.

- (b) *Deviation in payment schedule.*

Tenderers shall state their tender price for the payment on a schedule outlined in the **special conditions of contract**. Tenders will be evaluated on the basis of this base price in addition to that of technical specifications. Tenderers are, however, permitted to state an alternative payment schedule and indicate the reduction in tender price they wish to offer for such alternative payment schedule. NWWDA may consider the alternative payment schedule offered by the selected Tenderer.

24. Contacting NWWDA

24.1 Subject to paragraph 21, no Tenderer shall contact NWWDA on any matter relating to its tender, from the time of the tender opening to the time the contract is awarded.

24.2 Any effort by a Tenderer to influence NWWDA in its decisions on tender evaluation, tender comparison, or contract award may result in the rejection of the Tenderer's tender.

Award of Contract

25. Post-qualification

25.1 In the absence of pre-qualification, NWWDA will determine to its satisfaction whether the Tenderer that is selected as having submitted the lowest evaluated responsive tender is qualified to perform the contract satisfactorily.

25.2 The determination will take into account the Tenderer's financial and technical capabilities. It will be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to

paragraph 12.3, as well as such other information as NWWDA deems necessary and appropriate.

25.3 An affirmative determination will be a prerequisite for award of the contract to the Tenderer. A negative determination will result in rejection of the Tenderer's tender, in which event NWWDA will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

26. Award Criteria

26.1 Subject to paragraph 10, 23 and 28 NWWDA will award the contract to the successful Tenderer whose tender has been determined to be substantially responsive and has been determined to be the lowest evaluated tender, provided further that the Tenderer is determined to be qualified to perform the contract satisfactorily.

27. NWWDA Right to Vary quantities

27.1 NWWDA reserves the right at the time of contract award to increase or decrease the quantity of services originally specified in the Schedule of requirements without any change in unit price or other terms and conditions.

28. NWWDA Right to accept or Reject any or All Tenders

28.1 NWWDA reserves the right to accept or reject any tender, and to annul the tendering process and reject all tenders at any time prior to contract award, without thereby incurring any liability to the affected Tenderer or Tenderers or any obligation to inform the affected Tenderer or Tenderers of the grounds for NWWDA action.

29. Notification of Award

29.1 Prior to the expiration of the period of tender validity, NWWDA will notify the successful Tenderer in writing that its tender has been accepted and at the same time notify all other tenderers that their tenders were unsuccessful.

29.2 The notification of award will NOT constitute the formation of the Contract until a written contract is signed by the parties.

29.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 31 NWWDA will discharge its tender security, pursuant to paragraph 14.

30. Signing of Contract

30.1 At the same time as NWWDA notifies the successful Tenderer that its tender has been accepted, NWWDA will send the Tenderer the Contract Form provided in the tender documents, incorporating all agreements between the parties.

30.2 Within thirty (30) days of the receipt of notification of award but not until 14 days have lapsed following the notification, the successful tenderer shall sign and date the contract and return it to the procuring entity.

31. Performance Security (Not applicable)

31.1 Within thirty (30) days of the receipt of notification of award from NWWDA, the successful Tenderer shall furnish the performance security in accordance with the Conditions of Contract, in the Performance Security Form provided in the tender documents, or in another form acceptable to NWWDA.

31.2 Failure of the successful Tenderer to comply with the requirement of paragraph 30 or paragraph 31 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event NWWDA may make the award to the next lowest evaluated Candidate or call for new tenders.

32. Corrupt Fraudulent Practices

32.1 KPC requires that Tenderers observe the highest standard of ethics during the procurement process and execution of contracts. In pursuance of this policy, NWWDA:-

(a) Defines, for the purposes of this provision, the terms set forth below as follows:

- i. "corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution and;
- ii. "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring entity, and includes collusive practice among Tenderer (prior to or after tender submission) designed to establish tender

prices at artificial non-competitive levels and to deprive NWWDA of the benefits of free and open competition.

- (b) NWWDA will reject a proposal for award if it determines that the Tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;
- (c) NWWDA will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded any contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a contract.

32.2 Furthermore, Tenderers shall be aware of the provision stated in the General Conditions of Contract.

Appendix to instructions to tenderers

The following information for procurement of services shall complement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provisions of the instructions to tenderers and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to tenderers

Instructions to tenderers	Particulars of appendix to instructions to tenderers
2.1	This tender is open to local tenderers
2.2	Tenderers can view and download the documents from the website www.nwwda.go.ke at no cost.
2.4	Request for Clarification should be sent to E-mail: info@nwwda.go.ke
2.10	Tenderer shall quote in Kenya Shillings
2.11	Tenderer shall furnish the following mandatory documents with their technical bid: <ul style="list-style-type: none"> • Certificate of Incorporation of the company. • Valid KRA tax compliance certificate for local Firms.

	<ul style="list-style-type: none"> • CR12 form from Registrar of companies • A copy of valid Food handling certificates • Self declaration that the person/tenderer is not debarred in the matter of the public procurement and asset disposal act • Self declaration that the person/tenderer not to engage in any corrupt or fraudulent practice • Bidders must sequentially paginate and initial each page of their documents
2.16	Tender shall close on 21ST July 2021 at 11:00am
2.17	Bidders may withdraw and re-submit bids before the submission deadline.
2.20	Only bidders who comply with all the mandatory requirements, technical requirements and pass the Due diligence stage shall be eligible for consideration in the financial evaluation.
2.24	i) NWWDA reserves the right at the time of contract award to change the scope of the of services originally specified in the Schedule of requirements.
2.27	Performance Security is N/A of the contract sum valid for the duration of the Contract.

Section C: General Conditions of Contract

1. Definitions

1.1 In this Contract, the following terms shall be interpreted as indicated:

- (a) ***“The Contract”*** means the agreement entered into between NWWDA and the Tenderer, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.

- (b) ***“The Contract Price”*** means the price payable to the Tenderer under the Contract for the full and proper performance of its contractual obligations.
- (c) ***“The goods”*** means all of the equipment machinery, and/or other materials, which the tenderer is required to supply to the NWWDA under the Contract.
- (d) ***“NWWDA”*** means Northern Water Works Development Agency, the organization sourcing for the goods under this Contract.
- (e) ***“The Tenderer”*** means the individual or firm supplying the goods under this Contract.

2. Application

These General Conditions shall apply in all Contracts made by NWWDA for the procurement of goods under this Tender.

3. Country of Origin

- 3.1 For purposes of this Clause, ***“Origin”*** means the place where the goods were mined, grown or produced.
- 3.2 The origin of goods is distinct from the Nationality of the Tenderer.

4. Standards

- 4.1 The goods provided under this Contract shall conform to the standards mentioned in the Technical Specifications.

5. Use of Contract Documents and Information

- 5.1 The Candidate shall not, without NWWDA prior written consent, disclose the Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of NWWDA in connection therewith, to any person other than a person employed by the Tenderer in the performance of the Contract.
- 5.2 The Tenderer shall not, without NWWDA prior written consent, make use of any document or information enumerated in paragraph 5.1 above.

- 5.3 Any document, other than the Contract itself, enumerated in paragraph 5.1 shall remain the property of NWWDA and shall be returned (all copies) to NWWDA on completion of the Tenderer's performance under the Contract if so required by NWWDA.

6. Patent Rights

The Tenderer shall indemnify NWWDA against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof in NWWDA country.

7. Performance Security

- 7.1 Within thirty (30) days of receipt of the notification of Contract award, the successful Tenderer shall furnish to NWWDA the performance security in the amount specified in **Special Conditions of Contract**.
- 7.2 The proceeds of the performance security shall be payable to NWWDA as compensation for any loss resulting from the Tenderer's failure to complete its obligations under the Contract.
- 7.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to NWWDA and shall be in the form of a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in Kenya or abroad, acceptable to NWWDA, in the form provided in the tender documents.
- 7.4 The performance security will be discharged by NWWDA and returned to the Candidate not later than thirty (30) days following the date of completion of the Tenderer's performance obligations under the Contract, including any warranty obligations, under the Contract.

8. Inspection and Tests

- 8.1 NWWDA or its representative shall have the right to inspect and/or to test the goods supplied to confirm its conformity to the Contract specifications. NWWDA shall notify the Tenderer in writing, in a timely manner, of the identity of any representatives retained for these purposes.
- 8.2 The inspections and tests may be conducted on the premises of NWWDA. If conducted on the premises of the Tenderer, all reasonable facilities and

assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to NWWDA.

8.3 Should any inspected or tested goods or part of it fail to conform to the Specifications, NWWDA may reject it, and the Tenderer shall either replace the rejected items or part or make alterations necessary to meet specification requirements free of cost to NWWDA.

8.5 Nothing in paragraph 8 shall in any way release the Tenderer from any warranty or other obligations under this Contract.

9. Payment

9.1 The method and conditions of payment to be made to the Tenderer under this Contract shall be specified in Special Conditions of Contract.

9.2 Payments shall be made promptly by NWWDA as specified in the contract.

11. Prices

Prices charged by the Tenderer for goods delivered under the Contract shall not, with the exception of any price adjustments authorized in Special Conditions of Contract, vary from the prices by the Tenderer in its tender.

12. Assignment

The Tenderer shall not assign, in whole or in part, its obligations to perform under this Contract, except with NWWDA prior written consent.

13. Subcontracts

The Tenderer shall notify NWWDA in writing of all subcontracts awarded under this Contract if not already specified in the tender. Such notification, in the original tender or later, shall not relieve the Tenderer from any liability or obligation under the Contract.

14. Termination for Default

14.1 NWWDA may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Tenderer, terminate this Contract in whole or in part:

- (a) If the Tenderer fails to deliver any or all of the goods within the period(s) specified in the Contract, or within any extension thereof granted by NWWDA.
- (b) If the Tenderer fails to perform any other obligation(s) under the Contract.
- (c) If the Tenderer, in the judgment of NWWDA has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

14.2 In the event NWWDA terminates the Contract in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, goods similar to those undelivered, and the Tenderer shall be liable to NWWDA for any excess costs for such similar services.

15 Termination for convenience

15.1 Northern Water Works Development Agency by written notice sent to the supplier may terminate the contract in whole or in part, at any time for its convenience. The notice of termination shall specify that the termination is for the Northern Water Works Development Agency convenience, the extent to which performance of the contractor of the contract is terminated and the date on which such termination becomes effective.

15.2 For the remaining part of the contract after termination Northern Water Works Development Agency may elect to cancel the services and pay to the contractor an agreed amount for partially completed services.

15. Liquidated Damages

If the Tenderer fails to provide any or all of the goods within the period(s) specified in the contract, NWWDA shall, without prejudice to its other remedies under the contract, deduct from the contract prices liquidated damages sum equivalent to 0.5% of the delivered price of the delayed goods up to a maximum deduction of 10% of the delayed goods. After this NWWDA may consider termination of the contract.

16. Resolution of Disputes

16.1 NWWDA and the Tenderer shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the contract.

16.2 If, after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute either/the aggrieved part shall seek redress in the High Court of Kenya.

17. Language and Law

The language of the contract and the law governing the contract shall be English language and the Laws of Kenya respectively unless otherwise stated.

18. Force Majeure

18.1 Neither party shall be held liable for non-performance of its obligations under the contract if and to the extent that such non-performance is as a result of the event of Force Majeure.

Section D: Special Conditions of Contract

NWWDA Special Conditions of Contract

1. General Conditions of Contract

The general conditions of contract of NWWDA will apply.

2. Other Conditions of Contract

In addition to the above mentioned special NWWDA conditions of contract, the following will also similarly apply:

- 2.1 The supplier shall also be required to treat all matters in connection with the Contract as strictly confidential and shall not publish or cause to be published any information concerning the supply without the prior approval of NWWDA.

3. Payments

- 3.1 NWWDA shall make payments for the goods supplied after delivery on successful inspection of goods within 30 days.

4. Coordination

All matters relating to the Contract shall be raised by the Tenderer in writing and all instructions to the Tenderer shall be communicated to the tenderer in a similar manner too.

Section E: EVALUATION CRITERIA

Northern Water Works Development Agency will consider the following three categories of criteria to evaluate the tenders and tenderers.

- a) Mandatory tender requirements
- b) Technical capability assessment
- c) Financial Evaluation.

a) MANDATORY REQUIREMENTS

Mandatory Requirements are as outlined below:

S.No	Documents to be submitted
1	Business registration certificate/ certificate of incorporation
2	Provide a copy of the company valid Tax Compliance Certificate
3	Attach copy of Company CR12 certificate (Limited Company only)
4	Self declaration that the person/tenderer is not debarred in the matter of the public procurement and asset disposal act
5	Self declaration that the person/tenderer not to engage in any corrupt or fraudulent practice
6	A copy of valid Food handling certificates
7	Bidders must sequentially paginate and initial each page of their documents
8	Must have a fully functional hotel within Garissa County

NOTE: Bidders NOT meeting the mandatory requirements shall not proceed to Technical evaluation.

(b) TECHNICAL EVALUATION

S.No	Description requirements	YES/NO
1	Experience Evidence of experience in similar assignments for at least 5 clients from Public Entity in the past 2 years (provide copies of LSOs/Contracts/award letters)	
2	Reputation Proof of satisfactory service through letters of reference from five (5) major clients from public entities. Note: The recommendations letters must be for services within the last six months	
3	Physical facilities Proof of ownership/ lease agreements covering the two-year period (Provide statement confirming that the firm shall be in the premises during the framework period)	
4	Company profile/fact sheet Provide brochures and details outlining the quality of the service being provided by the hotel	
5	Quality certificate Star rating accredited by relevant body Attach a copy of star rating certificate from Kenya association of Hotel caters	
6	Competence and experience of the key personnel (manager) a) At least diploma in hospitality/hotel management b) 5 years' experience in the industry as a manager (provide CVs and relevant certificates)	
7	Insurance Cover Provide evidence for the insurance cover for the premises and staff (WIBA)	
		TOTAL

NOTE:

- 1. Bidders MUST meet all the Technical requirements in order to proceed to Financial evaluation**
- 2. Before the award of contract NWWDA may carry out due diligence to authenticate the information given, ascertain quality of the premise and service and also confirm compliance with the specifications. Misrepresentation of information by any bidder will lead to automatic disqualification**

FINANCIAL EVALUATION

The financial proposal for the bidder who met the technical specification will be examined based on the services listed below as applicable to rate of tenderers hotel

SCHEDULE OF REQUIREMENTS AND PRICES –

Please indicate the Star rating of the Hotel (If any)

Name of the
 Hotel.....
 Location of the
 Hotel.....

DESCRIPTION	SERVICE DESCRIPTION	ROOM CAPACITY (WHERE APPLICABLE)	RATE PER PERSONS PER DAY (AMOUNT IN KSHS)
Standard Room Single occupancy	Full Board		
	Half Board		
	Bed and Breakfast		
Conference Equipment/Facilities	Full day conferencing per person		
	Half day conferencing per person		
	Hire of Projector and Screen		
	Hire of Public Address (PA) System		
	Hire of Breakout rooms		
Cocktail parties	Hosting of cocktail-Snacks only		
Hosting of Lunch/Dinner Buffet	Standard average menu inclusive of beverages		

Breakfast	Tea and Snacks		
------------------	----------------	--	--

Signature of tenderer.....

Date.....

PLEASE TAKE NOTE OF THE FOLLOWING:

- a) Prices quoted should be inclusive of all taxes and levies where applicable*
- b) The prices quoted shall remain valid throughout the period of the contract after award (2YEARS)*
- c) Bidders shall bid for all items in the respective category. Bidders omitting some items on respective category shall be declared non-responsive*
- d) Purchase order shall be on “as and when required” basis.*
- e) Bidders must provide a detailed price schedule for each item.*
- f) Bidders are required to provide accurate financial information as NO CORRECTION of arithmetical errors will done.*
- g) The contract shall be in form of framework contract and the quantities to be ordered shall vary based on need be basis.*

Section I: Contract Form

THIS AGREEMENT made on the ____ day of _____ 2021 between **Northern Water Works Development Agency** of the one part and _____ [name of Tenderer] of _____ [City and Country of Tenderer] (hereinafter called “**The Tenderer**”) of the other part:

WHEREAS the Procuring entity invited tenders for certain materials and spares, viz., **TENDER FOR THE PROVISION OF CONFERENCE AND HOTEL SERVICES FOR A PERIOD OF TWO YEARS**, and has accepted a tender by the Tenderer for the supply of those goods in the sum of _____ (hereinafter called “The Contract Price”).

NOW THIS AGREEMENT WITNESSED AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:
 - (a) The Tender Form and the Price Schedule submitted by the Tenderer;
 - (b) The Schedule of Requirements;
 - (c) The Technical Specifications;
 - (d) The General Conditions of Contract; (e) The Special Conditions of Contract; and
 - (f) The NWWDA Notification of Award.
3. In consideration of the payments to be made by NWWDA to the Tenderer as hereinafter mentioned, the Tenderer hereby covenants with the Kenya Pipeline Company Limited to deliver the goods and to remedy defects therein in conformity in all respects with the provisions of the Contract
4. The Northern Water Works Development Agency hereby covenants to pay the Tenderer in consideration of the delivery of the goods 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 their respective laws the day and year first above written.

Signed, Sealed & Delivered by _____ the

(For The Northern Water Works Development Agency)

Signed, Sealed & Delivered by _____ the

(For the Tenderer)

In _____ the _____ presence
of _____

Section J. Performance Security Form

To: Northern Water Works Development Agency

WHEREAS _____ (hereinafter called “the Tenderer”) has undertaken, in pursuance of Contract No. _____ dated _____ 2021 to **TENDER FOR THE PROVISION OF CONFERENCE AND HOTEL SERVICES FOR A PERIOD OF TWO YEARS.** (herein after called “**The Contract**”).

AND WHEREAS it has been stipulated by you in the said Contract that the Tenderer shall furnish you with a Bank guarantee by a reputable bank for the sum specified therein as security for compliance with the Tenderer’s performance obligations in accordance with the Contract,

AND WHEREAS we have agreed to give the Tenderer a guarantee:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Tenderer, up to a total of

_____ and we undertake to pay you, upon your first written demand declaring the Tenderer to be in default under the Contract and without cavil or argument, any sum or sums within the limits of _____ as

aforsaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This guarantee is valid until the _____ day of _____ 2021.

Signature & Seal of the Guarantors

[Name of Bank or Financial Institution]

[Address]

[Date]

Section K: Declaration Forms

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

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.....who is a Bidder in respect of Tender
No.....for.....for Kenya Pipeline Company
Ltd and duly authorized and competent to make this statement.

1. THAT the aforesaid Bidder, its Directors and subcontractors have not been
debarred from participating in procurement proceedings under part IV of the Act.
2. THAT what is deponed to hereinabove is true to the best of my knowledge,
information and belief.

.....

.....

.....

Title

Signature

Date

Bidder Official Stamp

SELF DECLARATION THAT THE PERSON/TENDERER NOT TO ENGAGE IN ANY CORRUPT OR FRAUDLENT PRACTICE

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.....who is a Bidder in respect of Tender No.....for.....for Kenya Pipeline Company Ltd 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 shall not be requested to pay any inducement to any member of the Board of Management, Staff and/or employees and/or agents of the Kenya Pipeline Company Ltd which is the procuring entity.

3. THAT the aforesaid Bidder, its servants and/or agents/subcontractors have not offered any inducement to any member of the Board, Management, Staff and/or employees and/or agents of the Kenya Pipeline Company Ltd.

4. THAT the aforesaid bidder will not engage/has not engaged in any collusive practice with other bidders participating in the subject tender.

5. THAT what is deponed to hereinabove is true to the best of my knowledge, information and belief.

.....
Title

.....
Signature

.....
Date

Bidder Official Stamp

SECTION L: CONFIDENTIAL BUSINESS QUESTIONNAIRE

You are requested to give the particulars indicated in Part 1 and either Part 2 (a), 2(b) or 2(c) whichever applied to your type of business.

You are advised that it is a serious offence to give false information on this form.

Part 1 General

Business Name
 Location of
 Business Premises Plot No,
 Street/Road Postal
 address Tel No. Fax Email

.....
 Nature of Business
 Registration Certificate No.
 Maximum value of business which you can handle at any one time – Kshs. ...
 Name of your bankers

Branch

<p>Part 2 (a) – Sole Proprietor Your name in full.....Age..... Nationality.....Country of Origin..... Citizenship details</p>																							
<p>Part 2 (b) – Partnership Given details of partners as follows</p> <table border="1"> <thead> <tr> <th>Name</th> <th>Nationality</th> <th>Citizenship details</th> <th>Shares</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>2.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>3.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> <tr> <td>4.</td> <td>.....</td> <td>.....</td> <td>.....</td> </tr> </tbody> </table>				Name	Nationality	Citizenship details	Shares	1.	2.	3.	4.
Name	Nationality	Citizenship details	Shares																				
1.																				
2.																				
3.																				
4.																				

Part 2 (c) – Registered Company

Private or Public

State the nominal and issued capital of company Nominal
Kshs.

Issued Kshs.

Given details of all directors as follows

Name	Nationality	Citizenship details	Shares
1.
2.
3.
4.

Date.....Signature of Candidate.....