NYERI WATER & SANITATION COMPANY LIMITED

BUILDING MATERIALS, HARDWARE & TOOLS TENDER REF NO: NWSC/OT/07/2020/2021

ORIGINAL TENDER

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2020/2021

ISO 9001:2015 Certified

ISO/IEC 17025:2005 Accredited

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SECTION I INVITATION TO TENDER
DATE: 24th July, 2020

TENDER REF NO: NWSC/OT/07/2020/2021
TENDER NAME : BUILDING MATERIALS, HARDWARE & TOOLS

1.1 The **Nyeri Water and Sanitation Company Limited (NYEWASCO**) invites sealed bids from interested eligible bidders for **BUILDING MATERIALS, HARDWARE & TOOLS**

1.2 Interested eligible bidders may obtain tender documents by downloading from the company's website www.nyewasco.co.ke .Applicants who download the tender and registration of suppliers' document shall email their names, contacts details and tender number to info@nyewasco.co.ke

1.3 Completed tender documents should be serialized and be enclosed in plain sealed envelopes marked with tender reference number and be deposited in the Tender Box located at the MAIN OFFICE Reception situated off Kenyatta Off Road Nyeri Town, P. O. Box 1520-10100 NYERI or be addressed to The **Managing Director Nyeri Water and Sanitation Co. Ltd. P. O. Box 1520-10100 Nyeri** so as to be received on or before **10th Aug, 2020 at 11.00am**

1.4 Prices quoted should be inclusive of all taxes and delivery must be in Kenya Shillings and shall remain valid for **90 days** from the closing date of the tender.

1.5 Tenders will be opened immediately thereafter in the presence of the Candidates or their representatives who choose to attend at our main office situated Off Kenyatta Road, Behind Nyeri County Fire Offices, P. O. Box 1520-10100 NYERI at our Company's Conference Hall.

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FOR MANAGING DIRECTOR
NYERI WATER AND SANITATION COMPANY LIMITED

SECTION II - INSTRUCTIONS TO TENDERERS

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SECTION II - INSTRUCTIONS TO TENDERERS

2.1 Eligible Tenderers

2.1.1 This Invitation for Tenders is open to all tenderers eligible as described in the Invitation to Tender. Successful tenderers shall complete the supply of goods by the intended completion date specified in the Schedule of Requirements Section VI.

2.1.2 The procuring entity's employees, committee members, board members and their relatives (spouse and children) are not eligible to participate in the tender.

2.1.3 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 the Procuring entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods under this Invitation for tenders.

2.1.4 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices.

2.2 Eligible Goods

2.2.1 All goods to be supplied under the contract shall have their origin in eligible source countries.

2.2.2 For purposes of this clause, "origin" means the place where the goods are mined, grown, or produced. Goods 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.

2.2.3 The origin of goods is distinct from the nationality of the tenderer.

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2.3Cost of Tendering

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

2.3.2 All firms found capable of performing the contract satisfactorily in accordance to the set registration criteria shall be registered.

2.4. The Tender Document

2.4.1 The tender document comprises the documents listed below and addenda issued in accordance with clause 2.6 of these instructions to Tenderers

(i) Invitation to Tender
(ii) Instructions to tenderers
(iii) General Conditions of Contract
(iv) Special Conditions of Contract
(v) Schedule of requirements
(vi) Technical Specifications
(vii) Tender Form and Price Schedules
(viii) Contract Form (Issued if awarded the tender)
(ix) Bank Guarantee for Advance Payment Form
(x) Confidential Business Questionnaire

2.4.2 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.

2.5 Clarification of Documents

2.5.1 A prospective tenderer requiring any clarification of the tender document may notify the Procuring entity in writing or by post at the entity's address indicated in the Invitation to Tender. The Procuring entity will respond in writing to any request for clarification of the tender documents, which it receives not later than seven (7) days prior to the deadline for the submission of tenders, prescribed by the procuring entity. Written copies of the Procuring entities response (including an explanation of the query but

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without identifying the source of inquiry) will be sent to all prospective tenderers that have received the tender document.

2.5.2 The procuring entity shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.

2.6 Amendment of Documents

2.6.1 At any time prior to the deadline for submission of tenders, the Procuring entity, 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.

2.6.2 All prospective candidates that have received the tender documents will be notified of the amendment in writing or by post and will be binding on them.

2.6.3 In order to allow prospective tenderers reasonable time in which to take the amendment into account in preparing their tenders, the Procuring entity, at its discretion, may extend the deadline for the submission of tenders.

2.7 Language of Tender

2.7.1 The tender prepared by the tenderer, as well as all correspondence and documents relating to the tender exchange by the tenderer and the Procuring entity, 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.

2.8 Documents Comprising of Tender

2.8.1 The tender prepared by the tenderers shall comprise the following components

(a) a Tender Form and a Price Schedule completed in accordance with paragraph 2.9, 2.10 and 2.11 below

(b) documentary evidence established in accordance with paragraph 2.1.2 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;

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(c) documentary evidence established in accordance with paragraph 2..2.1 that the goods and ancillary services to be supplied by the tenderer are eligible goods and services and conform to the tender documents; and

(d) tender security furnished in accordance with paragraph 2.14

2.9 Tender Forms

2.9.1 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.

2.10 Tender Prices

2.10.1 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.

2.10.2 Prices indicated on the Price Schedule shall include all costs including taxes, insurances and delivery to the premises of the procuring entity.

2.10.3 Prices quoted by the tender shall be fixed during the Tender's performance of the contract and not subject to variation on any account. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.22.

2.10.4 The validity period of the tender shall be 90 days from the date of opening of the tender.

2.10.5 All Tenderers should fill their Tender prices in permanent ink and NOT pencil.

2.11 Tender Currencies

2.11.1 Prices shall be quoted in Kenya Shillings unless otherwise specified in the Appendix to Instructions to Tenderers.

2.12 Tenderers Eligibility and Qualifications

2.12.1 Pursuant to paragraph 2.1 the tenderer shall furnish, as part of its tender, documents establishing the tenderers eligibility to tender and

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its qualifications to perform the contract if its tender is accepted.

2.12.2 The documentary evidence of the tenderers eligibility to tender shall establish to the Procuring entity's satisfaction that the tenderer, at the time of submission of its tender, is from an eligible source country as defined under paragraph 2.1.

2.12.3 The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall be established to the Procuring entity's satisfaction;

(a) that, in the case of a tenderer offering to supply goods under the contract which the tenderer did not manufacture or otherwise produce, the tenderer has been duly authorized by the goods' Manufacturer or producer to supply the goods.

(b) that the tenderer has the financial, technical, and production capability necessary to perform the contract;

(c) that, in the case of a tenderer not doing business within 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-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications.

2.13 Goods Eligibility and Conformity to Tender Documents

2.13.1 Pursuant to paragraph 2.2 of this section, the tenderer shall furnish, as part of its tender, documents establishing the eligibility and conformity to the tender documents of all goods which the tenderer proposes to supply under the contract.

2.13.2 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 goods and services offered which shall be confirmed by a certificate of origin issued at the time of shipment.

2.13.3 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 characteristic of the goods;

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(b) a list giving full particulars, including available source and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the goods for a period of two (2) years, following commencement of the use of the goods by the Procuring entity; and

(c) a clause-by-clause commentary on the Procuring Entity's Technical Specifications demonstrating substantial responsiveness of the goods and service to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications.

2.13.4 For purposes of the documentary evidence to be furnished pursuant to paragraph 2.13.3(c) 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 the Procurement entity's satisfaction that the substitutions ensure substantial equivalence to those designated in the Technical Specifications.

2.14 Tender Security (Kindly Ignore)

2.14.1 The tenderer shall furnish, as part of its tender, a tender security for the amount specified in the Appendix to Invitation to Tenderers.

2.14.2 The tender security shall be in the amount of 0.5 – 2 per cent of the tender price.

2.14.3 The tender security is required to protect the Procuring entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.14.7

2.14.4 The tender security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be in the form of a bank guarantee or a bank draft issued by a reputable bank located in Kenya or abroad, or a guarantee issued by a reputable insurance company in the form provided in the tender documents or another form acceptable to the Procuring entity and valid for thirty (30) days beyond the validity of the tender.

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2.14.5 Any tender not secured in accordance with paragraph 2.14.1 and 2.14.3 will be rejected by the Procuring entity as non-responsive, pursuant to paragraph 2.22

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

2.14.7 The successful Tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.27 and furnishing the performance security, pursuant to paragraph 2.28

2.14.8 The tender security may be forfeited:

(a) if a tenderer withdraws its tender during the period of tender validity specified by the procuring entity 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 2.27; or

(ii) to furnish performance security in accordance with paragraph 2.28

2.15 Validity of Tenders

2.15.1 Tenders shall remain valid for 90 days or as specified in the Invitation to Tender after the date of tender opening prescribed by the Procuring entity, pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by the Procuring entity as non-responsive.

2.15.2 In exceptional circumstances, the Procuring entity 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 2.14 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.

2.16 Format and Signing of Tender

2.16.1 The Procuring entity 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 govern.

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2.16.2 The original and all copies 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 amended printed literature, shall be initialed by the person or persons signing the tender.

2.16.3 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.

2.17 Sealing and Marking of Tenders

2.17.1 The Tenderer shall seal the original and each copy of the tender in separate envelopes, duly marking the envelopes as "ORIGINAL" and "COPY." The envelopes shall then be sealed in an outer envelope.

2.17.2 The inner and outer envelopes shall:

(a) be addressed to the Procuring entity at the address given in the Invitation to Tender;

(b) bear, tender number and name in the Invitation for Tenders and the words, DO NOT OPEN BEFORE," **10th Aug, 2020 at 11.00am**

2.17.3 The inner envelopes shall also indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declared "late".

2.17.4 If the outer envelope is not sealed and marked as required by paragraph 2.17.2, the Procuring entity will assume no responsibility for the tender's misplacement or premature opening.

2.18 Deadline for Submission of Tenders

2.18.1 Tenders must be received by the Procuring entity at the address specified under paragraph 2.17.2 no later than **10th Aug, 2020 at 11.00am**

2.18.2 The Procuring entity may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 2.6, in which case all rights and obligations of the Procuring

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entity and candidates previously subject to the deadline will therefore be subject to the deadline as extended.

2.19 Modification and Withdrawal of Tenders

2.19.1 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 the Procuring entity prior to the deadline prescribed for submission of tenders.

2.19.2 The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.17. A withdrawal notice may also be sent by email (info@nyewasco.co.ke or, telex but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.

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

2.19.4 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 2.14.7

2.19.5 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.

2.19.6 The procuring entity 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.

2.20 Opening of Tenders

2.20.1 The Procuring entity will open all tenders in the presence of tenderers' representatives who choose to attend, on **10th Aug, 2020 at 11.00am** and in the location specified in the Invitation to Tender at the Company's Conference Hall.

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The tenderers' representatives who are present shall sign a register evidencing their attendance.

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

2.20.3 The Procuring entity will prepare minutes of the tender opening.

2.21 Clarification of Tenders

2.21.1 To assist in the examination, evaluation and comparison of tenders the Procuring entity may, at its discretion, ask the tenderer 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.

2.21.2 Any effort by the tenderer to influence the Procuring entity in the Procuring entity's tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderers' tender.

2.22 Preliminary Examination

2.22.1 The Procuring entity 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.

2.22.2 Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected. If the candidate does not accept the correction of the errors, its tender will be rejected, and its tender security forfeited. If there is a discrepancy between words and figures the amount in words will prevail.

2.22.3 The Procuring entity may waive any minor informality or non-conformity or irregularity in a tender which does not constitute a material deviation,

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provided such waiver does not prejudice or affect the relative ranking of any tenderer.

2.22.4 Prior to the detailed evaluation, pursuant to paragraph 2.23 the Procuring entity 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. The Procuring entity's determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.

2.22.5 If a tender is not substantially responsive, it will be rejected by the Procuring entity and may not subsequently be made responsive by the tenderer by correction of the non-conformity.

2.23 Conversion to Single Currency

2.23.1 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.

2.24 Evaluation and Comparison of Tenders

2.24.1 The Procuring entity will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.22

2.24.2 The tender evaluation committee shall evaluate the tender within 30 days of the validity period from the date of opening the tender.

2.24.3 A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement.

2.25 Preference

2.25.1 Preference where allowed in the evaluation of tenders shall not exceed 15%.

2.26 Contacting the Procuring entity

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2.26.1 Subject to paragraph 2.21 no tenderer shall contact the Procuring entity on any matter related to its tender, from the time of the tender opening to the time the contract is awarded.

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

2.27 Award of Contract

(a) Post-qualification

2.27.1 In the absence of pre-qualification, the Procuring entity 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.

2.27.2 The determination will take into account the tenderer's financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the tenderer's qualifications submitted by the tenderer, pursuant to paragraph 2.12.3 as well as such other information as the Procuring entity deems necessary and appropriate.

2.27.3 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 the Procuring entity will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

(b) Award Criteria

2.27.4 The Procuring entity will award the contract to the successful tenderer(s) 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.

(c) Procuring entity's Right to Vary quantities

2.27.5 The Procuring entity reserves the right at the time of contract award to increase or decrease the quantity of goods originally specified in the

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Schedule of requirements without any change in unit price or other terms and conditions.

(c) **Procuring Entity's Right to Accept or Reject Any or All Tenders**

2.27.6 The Procuring entity 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 the Procuring entity's action.

2.28 Notification of Award

2.28.1 Prior to the expiration of the period of tender validity, the Procuring entity will notify the successful tenderer in writing that its tender has been accepted.

2.28.2 The notification of award will constitute the formation of the Contract but will have to wait until the contract is finally signed by both parties.

2.28.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 2.28, the Procuring entity will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 2.14

2.29 Signing of Contract

2.29.1 At the same time as the Procuring entity notifies the successful tenderer that its tender has been accepted, the Procuring entity will send the tenderer the Contract Form provided in the tender documents, incorporating all agreements between the parties.

2.29.2 The parties to the contract shall have it signed within 14 days from the date of notification of contract award unless there is an administrative review request.

2.29.3 Within thirty (30) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to the Procuring entity.

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2.30 Performance Security

2.30.1 Within Fourteen (14) days of the receipt of notification of award from the Procuring entity, 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 the Procuring entity.

2.30.2 Failure of the successful tenderer to comply with the requirements of paragraph 2.27 or paragraph 2.28 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Procuring entity may make the award to the next lowest evaluated Candidate or call for new tenders.

2.31 Corrupt or Fraudulent Practices

2.31.1 The Procuring entity requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts. When used in the present regulations, the following terms are defined 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 the Procuring entity of the benefits of free and open competition;

2.31.2 The procuring entity 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.

2.31.3 Further a tenderer who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.

2.31.4 Tenderers shall not be allowed to bid for the same tender with the different firms (multi-bidding). This will lead to automatic disqualification.

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Appendix to Instructions to Tenderers

The following information regarding the particulars of the tender shall complement supplement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provision 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

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INSTRUCTIONS TO TENDERERS REFERENCE	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
2.1.3	Ignore
2.4.1 (x)	Ignore
2.4.1 (xi)	Added advantage
2.4.2	- Pre-qualified in the prequalification process - Goods must meet the specifications
2.14 2.14.1(xi) (xii)	Ignore Ignore Added advantage
2.12.3(a)	Added advantage
2.13.2	Not mandatory
2.13.3 (b)	Ignore
2.14	Ignore
2.14.2	Ignore
2.15.1	60 days
2.29.1	Ignore
2.29.3	Delete……. thirty (30)…… and insert ….fourteen (14)…..
2.30	Ignore
2.30.1	Ignore
2.30.2	Ignore
1.3	Ignore
2.3.2	Ignore
2.15.2	Applies only up to end of 2nd sentence
2.23	Do not apply ignore
3.13.3	Ignore
3.13.4	Ignore
3.7	Kindly Ignore

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SECTION III: GENERAL CONDITIONS OF CONTRACT

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SECTION III - GENERAL CONDITIONS OF CONTRACT

3.1 Definitions

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

(a) "The Contract" means the agreement entered into between the Procuring entity 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 Procuring entity under the Contract.

(d) "The Procuring entity" means the organization purchasing the Goods under this Contract.

(e) "The Tenderer' means the individual or firm supplying the Goods under this Contract.

3.2 Application

3.2.1 These General Conditions shall apply in all Contracts made by the Procuring entity for the procurement installation and commissioning of equipment

3.3 Country of Origin

3.3.1 For purposes of this clause, "Origin" means the place where the Goods were mined, grown or produced.

3.3.2 The origin of Goods and Services is distinct from the nationality of the tenderer

3.4 Standards

3.4.1 The Goods supplied under this Contract shall conform to the standards mentioned in the Technical Specifications.

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3.5 Use of Contract Documents and Information

3.5.1 The tenderer shall not, without the Procuring entity's prior written consent, disclose the Contract, or any provision therefore, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Procuring entity in connection therewith, to any person other than a person employed by the tenderer in the performance of the Contract.

3.5.2 The tenderer shall not, without the Procuring entity's prior written consent, make use of any document or information enumerated in paragraph 3.5.1 above

3.5.3 Any document, other than the Contract itself, enumerated in paragraph 3.5.1 shall remain the property of the Procuring entity and shall be returned (all copies) to the Procuring entity on completion of the Tenderer's performance under the Contract if so required by the Procuring entity

3.6 Patent Rights

3.6.1 The tenderer shall indemnify the Procuring entity 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 the Procuring entity's country

3.7 Performance Security (Kindly Ignore)

3.7.1 Within thirty (30) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the Procuring entity the performance security in the amount specified in Special Conditions of Contract.

3.7.2 The proceeds of the performance security shall be payable to the Procuring entity as compensation for any loss resulting from the Tenderer's failure to complete its obligations under the Contract.

3.7.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to the Procuring entity 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 the Procuring entity, in the form provided in the tender documents.

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3.7.4 The performance security will be discharged by the Procuring entity 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

3.8 Inspection and Tests

3.8.1 The Procuring entity or its representative shall have the right to inspect and/or to test the goods to confirm their conformity to the Contract specifications. The Procuring entity shall notify the tenderer in writing in a timely manner, of the identity of any representatives retained for these purposes.

3.8.2 The inspections and tests may be conducted in the premises of the tenderer or its subcontractor(s), at point of delivery, and/or at the Goods' final destination. If conducted on the premises of the tenderer or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring entity.

3.8.3 Should any inspected or tested goods fail to conform to the Specifications, the Procuring entity may reject the equipment, and the tenderer shall either replace the rejected equipment or make alternations necessary to make specification requirements free of costs to the Procuring entity.

3.8.4 The Procuring entity's right to inspect, test and where necessary, reject the goods after the Goods' arrival shall in no way be limited or waived by reason of the equipment having previously been inspected, tested and passed by the Procuring entity or its representative prior to the equipment delivery.

3.8.5 Nothing in paragraph 3.8 shall in any way release the tenderer from any warranty or other obligations under this Contract.

3.9 Packing

3.9.1 The tenderer shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract.

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3.9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract

3.10 **Delivery and Documents**

3.10.1 Delivery of the Goods shall be made by the tenderer in accordance with the terms specified by Procuring entity in its Schedule of Requirements and the Special Conditions of Contract

3.11 **Insurance**

3.11.1 The Goods supplied under the Contract shall be fully insured against loss or damage incidental to manufacturer or acquisition, transportation, storage, and delivery in the manner specified in the Special conditions of contract.

3.12 Payment

3.12.1 The method and conditions of payment to be made to the tenderer under this Contract shall be specified in Special Conditions of Contract

3.12.2 Payments shall be made promptly by the Procuring entity as specified in the contract

3.13 Prices

3.13.1 Prices charged by the tenderer for goods delivered and services performed 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.

3.13.2 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)

3.13.3 Where contract price variation is allowed, the variation shall not exceed 10% of the original contract price.

3.13.4 Price variation request shall be processed by the procuring entity within 30 days of receiving the request.

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3.14. Assignment

3.14.1 The tenderer shall not assign, in whole or in part, its obligations to perform under this Contract, except with the Procuring entity's prior written consent

3.15 Subcontracts

3.15.1 The tenderer shall notify the Procuring entity 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

3.16 Termination for default

3.16.1 The Procuring entity 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 periods) specified in the Contract, or within any extension thereof granted by the Procuring entity

(b) if the tenderer fails to perform any other obligation(s) under the Contract

(c) if the tenderer, in the judgment of the Procuring entity has engaged in corrupt or fraudulent practices in competing for or in executing the Contract

3.16.2 In the event the Procuring entity terminates the Contract in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, equipment similar to those undelivered, and the tenderer shall be liable to the Procuring entity for any excess costs for such similar goods.

3.17 Liquidated Damages

3.17.1. If the tenderer fails to deliver any or all of the goods within the period(s) specified in the contract, the procuring entity 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

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delayed items up to a maximum deduction of 10% of the delayed goods. After this the tenderer may consider termination of the contract.

3.18 Resolution of Disputes

3.18.1 The procuring entity 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

3.18.2 If, after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute, either party may require adjudication in an agreed national or international forum, and/or international arbitration.

3.19 Language and Law

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

3.20 Force Majeure

3.20.1 The tenderer shall not be liable for forfeiture of its performance security or termination for default if and to the extent that it's delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

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SECTION IV - SPECIAL CONDITIONS OF CONTRACT (SCC)

4.1. Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, between the GCC and the SCC, the provisions of the SCC herein shall prevail over those in the GCC.

4.2. Special conditions of contract as relates to the GCC

REFERENCE OF GCC	SPECIAL CONDITIONS OF CONTRACT
3.7.1 to 3.7.4	Ignore
3.8.3	Delete 'equipment' and insert 'goods'
3.8.4	Delete 'equipment' and insert 'goods'
3.12.1	The payment will be made within 30 days of receipt of the goods or the invoice whichever is the latter
3.13.2	Ignore
3.16.2	Delete 'equipment' and insert 'goods'
3.17.1	The liquidated damages will be charged at 0.5% per day
3.13.3	Ignore
3.13.4	Ignore

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SECTION V - TECHNICAL SPECIFICATIONS

5.1 General

5.1.1 These specifications describe the requirements for goods. Tenderers are requested to submit with their offers the detailed specifications, drawings, catalogues, etc. for the products they intend to supply

5.1.2 Tenderers must indicate on the specifications sheets whether the equipment offered comply with each specified requirement.

5.1.3 All the dimensions and capacities of the equipment to be supplied shall not be less than those required in these specifications. Deviations from the basic requirements, if any shall be explained in detail in writing with the offer, with supporting data such as calculation sheets, etc. The procuring entity reserves the right to reject the products, if such deviations shall be found critical to the use and operation of the products.

5.1.4 The tenderers are requested to present information along with their offers as follows:

(i) Shortest possible delivery period of each product
(ii) Information on proper representative and/or workshop for back-up service/repair and maintenance including their names and addresses.

REFERENCE OF GCC	TECHNICAL SPECIFICATIONS
5.1.4(ii)	Ignore

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SECTION VII - STANDARD FORMS

Notes on the sample Forms

1. Form of TENDER - The form of tender must be completed by the tenderer and submitted with the tender documents. It must also be duly signed by duly authorized representatives of the tenderer.

2. Confidential Business Questionnaire Form - This form must be completed by the tenderer and submitted with the tender documents.

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8.1 **FORM OF TENDER**

Date _____
Tender No. _____

To: _____

_____
[name and address of procuring entity]

Gentlemen and/or Ladies:

1. Having examined the tender documents Nos. ……. *[insert numbers]*. the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply and deliver: (…… (*insert Tender Number*) in conformity with the said tender documents for the sum of ……. (*total tender amount in words and figures*) or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.

2. We undertake, if our Tender is accepted, to deliver materials in accordance with the indicated prices during the fiscal year 2020/2021.

3. We agree to abide by this Tender for a period of ninety (90) [*number]* days from the date fixed for tender opening of the Instructions to tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

4. This Tender, together with your written acceptance thereof and your notification of award, shall constitute a Contract, between us. Subject to signing of the Contract by the parties.

5. We understand that you are not bound to accept the lowest or any tender you may receive.

Dated this _____ day of _____ 20 _____

_____ _____
[signature] [in the capacity of]

Duly authorized to sign tender for an on behalf of _____

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8.2 CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

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

Part 2 (a) – Sole Proprietor

Your name in full …… Age ……..
Nationality …… Country of origin ……
Citizenship details ……..

Part 2 (b) Partnership

Give details of partners as follows:

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. ……			
5 ……			

Date …….. Signature of Candidate ……..

- If a Kenya Citizen, indicate under "Citizenship Details" whether by Birth, Naturalization or Registration.

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8.3 CONTRACT FORM

THIS AGREEMENT made the _____ day of _____ 20 _____ between …… [*name of Procurement entity)* of ……. [*country of Procurement entity]* (hereinafter called "the Procuring entity) on the one part and ……. [*name of tenderer]* of ……. [*city and country of tenderer]* (hereinafter called "the tenderer") on the other part;

WHEREAS the Procuring entity invited tenders for certain goods and has accepted a tender by the tenderer for the supply of those goods in the sum of …… [*contract price in words and figures]* (hereinafter called "the Contract Price).

NOW THIS AGREEMENT WITNESSETH 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 is:
(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 Procuring Entity's Notification of Award

3. In consideration of the payments to be made by the Procuring entity to the tenderer as hereinafter mentioned, the tenderer hereby covenants with the Procuring entity to provide the goods and to remedy defects therein in conformity in all respects with the provisions of the Contract

4. The Procuring entity hereby covenants to pay the tenderer in consideration of the provisions 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 Procuring entity

Signed, sealed, delivered by _____ the _____ (for the tenderer in the presence of _ _____

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EVALUATION CRITERIA I – General Public (Open)

The method of evaluation will be Merit Point System

The criteria of evaluation and the points to be awarded on each criterion will be as follows:

B.	**MANDATORY REQUIREMENTS**	**COMPLIANCE (YES/NO)**
B1	Valid Certificate of Incorporation/Business Registration (Attach copy)	YES/NO
B2	Personal Identification Number(PIN) certificate (Attach copy)	YES/NO
B3	Valid Tax Compliance Certificate (Attach copy)	YES/NO
B4	Current Business Permit/License (Attach copy)	YES/NO
B5	Physical location of business premises (**See business questionnaire**)	YES/NO
B6	Fulfillment of Special condition relevant to the category applied for	YES/NO

C.	**GENERAL REQUIREMENTS**	
C1.	**Supplier Availability: (Tested / verified during evaluation)** - Postal Address (1) - Telephone Number (1) - Contact person (1) - Website (1) - Email Address (2)	6
C2.	**Business Ownership:** Company/Business Profile relevance to the supply targeted (Max 3 points) -Disclosure of Directors/Partners /Sole Proprietor and organizational structure (Max 3 points)	6
C3.	**Financial Capability:** Audited Accounts for the last 2 years (Max 7 for each year) Bank Statements for the last 6 months (Max 1 per month)	20
C4.	**Financial Stability** – Evidence of profit making in the attached 2 years audited reports	10
C5.	**Experience: (Evidence of at least 3 fulfilled Orders in the last 2 years** Orders / Supply to similar or larger public entities (Max 6 per order) Orders / Supply to medium public entities (Max 5 points per order) Orders / Supply to other entities (Max 4 points per order) **(Attach Proof: Inspection or Completion Certificates)**	20
C6	**Supply Capacity:** Maximum Volume of Business handled in the (last two years) - 2 Million and above (12) - 1 – 1.5 Million (6) - 1.5 – 2 Million (9) - 0.5 – 1 Million (3)	12
C7.	**Credit Period:** Indicate Credit Period willing to offer - 90 Days (10) - 30 Days (5) - 60 Days (8) - Less than 30 days (3)	10
C8.	**Supplier Technical Capacity : Skilled personnel** CVs for technical personnel to support the supply – after sale services	10
C9	Eligibility & Disclosure of litigation history	6
TOTAL		**100**

Financial evaluation by the lowest evaluated of the successful bidders

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THE PASS MARK FOR REGISTRATION SHALL BE 70%
(The Technical Evaluation Team will verify the information submitted by applicants and may visit the physical premises of the applicants. This will form part of the evaluation process).

Declaration (For the Tenderer only)
(The tenderer is expected to state categorically whether he/she will/will not accept to be evaluated on the above criteria)

Q. Will you accept your bid to be evaluated based on the above criteria and abide by them during the entire period of the tender? *(Tick appropriately below)*

No	**Yes**
☐	☐

Official Stamp …….Sign…….

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NYERI WATER AND SANITATION COMPANY LTD TENDER FOR THE SUPPLY OF BUILDING MATERIALS, HARDWARE & TOOLS: NO. NWSC/OT/07/2020/2021						
ITEM	**DESCRIPTION**	**UNIT**	**QTY**	**UNIT RATE**	**KSHS**	**CTS**
1	Round bars 20mm	No	20			
2	Chippings ½"	Tonne	50			
3	Chippings ¾"	Tonne	50			
4	Chipping dust	Tonne	50			
5	Normal ballast	Tonne	50			
6	Triangular Manhole covers - Cast Iron heavy duty	No	10			
7	Triangular Manhole frame covers (cast Iron)	No	10			
8	Stock & Die - Presto Type	No	10			
9	Gland parking 1/4"	Ft	100			
10	Gland parking ½"	Ft	100			
11	Gland parking 5/8"	Ft	100			
12	Gland parking ¾"	Ft	50			
13	Rubber hose pipe ¾" Roll Braided	50m-Roll	10			
14	Rubber Insertion	Roll	10			
15	Building sand per ton - Delivery to Stores	M^3	20			
16	Stones 6" x 9" x 18" - Delivery to stores	Feet	100			
17	Stones 9" x 9" x 18"- Delivery to stores	Feet	100			
18	Weld mesh 12' x 7' sheet	Sheets	10			
19	Pipe Wrench 18" Record type	No	8			
20	Gland Parking 3/8	Ft	100			
21	Gland Parking 5/16	Ft	100			
22	Murram _ Delivery to Kangemi Sewerage Treatment Plant	M^3	20			
23	Hardcore - Delivery to Stores Kangemi S. Treatment Plant	M^3	20			
24	Ballast ½" x ¾"-Delivery to Stores Kangemi S. Treatment Plant	M^3	20			
25	Murram - Delivery within 12km	M^3	20			
26	Hardcore-Delivery within 12km	M^3	20			
27	Ballast ½"x¾"- Delivery within 12km	M^3	20			
28	Round Bars 68mm	No	50			
29	Building sand -Delivery within 12km	M^3	20			
30	Building stones 6x9x18-Delivery within 12km RFT	R.Ft	600			
31	Building stones 9x9x18-Delivery within 12km RFT	R.Ft	600			
32	Steel Bolts and Nuts ½x2	No	50			
33	Steel Bolts and Nuts 5/8x2½"	No	50			
34	Crusher Dust-Delivery to Stores	M^3	20			
35	Crusher Dust-Delivery 12km	M^3	20			
36	Square tube 2"x1"x2mm	No	20			
37	Nylon cutting for lawn mower	m	20			
38	Timber (Cypress) 3"x2"	Rft	1			
39	Timber (Cypress) 4"x2"	Rft	1			
40	Timber (Cypress) 3"x1"	Rft	1			
41	Timber (Cypress) 6"x1"	Rft	1			

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42	Timber (Cypress) 3"x3"	Rft	1			
43	Timber (Cypress) 2"x1"	Rft	1			
44	Facial Board (Cypress) 6"x1" - Planed & Chaffered	Rft	1			
45	Facial Board (Cypress) 8"x1" - Planed & Chaffered	Rft	1			
46	Timber (Cypress) Offcuts	Rft	1			
47	Timber (Cypress) 2"x2"	Rft	1			
48	Veneer Blockboard ¾"	No	5			
49	Veneer Blockboard 1"	No	5			
50	Resin manhole cover with frames-Trapezium	No	20			
51	Resin Manholes covers with frames - circular.	No	20			
52	Resin Manholes covers without frames - Circular	No	20			
53	Resin Manholes covers without frames-Trapezium	No	20			
54	Gabion boxes	No	5			
55	Culverts 1M x 0.6M	No.	1			
56	Culverts 1M x 0.4M	No.	1			
57	Tiles 300mm x 300mm	Pkt	1			
58	Tiles 300mm x 150mm	Pkt	1			
59	Marine Boards 8"x4"	No.	1			
60	Water proof Cement 1 kg packet	No	1			
61	Iron sheets 3m gauge 28	No	1			
62	Iron sheets 3m gauge 30	No	1			
63	Iron sheets 2m gauge 28	No	1			
64	Iron sheets 2m gauge 30	No	1			

Signature of Tenderer:……..

Stamped:

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