

# **KISUMU WATER AND SANITATION COMPANY LIMITED**



**KIWASCO**  
*Refresh Life*

**TENDER NO KWSC/02/2020 - 2021**

**SUPPLY AND DELIVERY OF WATER PIPES  
(HDPE & PPR)**

**JULY 2020**

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## **INTRODUCTION**

Dear Applicant,

The Kisumu Water and Sanitation Company Ltd. hereinafter also referred to as the “Purchaser,” invites tenders from interested firms with the necessary financial resources, experiences and technical expertise for the **supply and delivery of Water Pipes (HDPE & PPR)**.

Tenderers must ensure that their submission fully includes the necessary documentation to demonstrate their experience and capabilities.

In order to be considered for award, prospective tenderers must submit all the information hereinafter requested. Tenders which are not filled out completely, or which omit requested information without suitable explanation, will not be considered.

**Thomas Odongo**

**Managing Director.**

**Kisumu Water and Sanitation Company Ltd (KIWASCO)**

## **SECTION I – INVITATION FOR TENDERS**

1. The Kisumu Water and Sanitation Company Limited invites sealed tenders from eligible tenderers for Tender No. **KWSC/02/2020 - 2021; Supply and Delivery of Water Pipes (HDPE & PPR)**.
2. This invitation to Tender is open to Suppliers who satisfy the following Conditions: -
  - i) Supplier is incorporated in Kenya and has previously supplied the items to various firms.
  - ii) Evidence of this, eg. Testimonial letters from such authority must be attached to the tender document.
  - iii) Must possess the technical requirements stated in the instructions to tenderers
3. Interested eligible candidates may obtain further information and inspect tender documents at Kisumu Water and Sanitation Company Ltd (KIWASCO) website, [www.kiwasco.co.ke](http://www.kiwasco.co.ke).
4. A complete set of Tender Documents may be downloaded by any interested eligible bidder from our website [www.kiwasco.co.ke](http://www.kiwasco.co.ke). Interested bidders who download the documents **MUST** send their particulars immediately through email [aogwang@kiwasco.co.ke](mailto:aogwang@kiwasco.co.ke) for registration purposes before the tender closing date. **Bidders are advised to visit the website regularly to check any additional information, clarifications or addenda.**
5. Prices quoted should be net inclusive of all taxes and delivery costs, must be expressed in Kenya shillings and shall remain valid for a period of 90 days from the closing date of the tender.
6. All tenders must be accompanied by a tender security of **Two Hundred and Twenty Thousand Kenya Shillings (Ksh. 220,000)** in the form of banker's cheque, bank guarantee or Insurance and in the format attached.
7. Completed tender documents are to be enclosed in plain sealed envelopes, marked with the tender number and be deposited in the tender box provided at the entrance opposite the Managing Director's office properly addressed to ;

**Managing Director  
Kisumu Water and Sanitation Company  
P.O. Box 3210  
KISUMU**

**To be received on or before Thursday 13<sup>th</sup> August 2020 at 11.00am.**

8. Tenders will be opened immediately thereafter in the presence of Tenderer's representatives who choose to attend the opening shortly after the deadline on the date specified in the invitation at the Company Boardroom.
9. **KIWASCO is committed to the fight against COVID-19. All bidders must comply with all the MOH preventive guidelines and regulations by PPRA on COVID-19.**
10. **For this Tender:**

The Purchaser's Technical Representative is:-

THE HEAD OF TECHNICAL SERVICES  
KISUMU WATER AND SANITATION COMPANY LIMITED  
P O BOX 3210  
KISUMU, KENYA.  
TELEPHONE: 057- 2023977/ 2024100 / 2023456  
FAX: 057- 2024604

## **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 relative (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.

### **2.3 Cost 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 Because of the current COVID-19 pandemic, hard copies of the tender document will not be available. Bidders are expected to download the document from our website [www.kiwasco.co.ke](http://www.kiwasco.co.ke) free of charge.

## **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) Tender Security Form
- (ix) Contract Form
- (x) Performance Security Form
- (xi) Manufacturer's Authorization Form
- (xii) 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 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 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 2.2 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. The Tender form and price schedule page must be signed and official stamp put on the particular page.

## **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 entity.

2.10.3 Prices quoted by the tenderer shall be fixed during the Tender's performance of the contract and subject to variation only on account as stipulated under the special conditions to the contract. 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.

## **2.11 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 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 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.

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;
- (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.

2.13.2 For purposes of the documentary evidence to be furnished pursuant to paragraph 2.13.1(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**

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 **Kshs 220,000/=**.

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 2.14.8

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 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.

- 2.14.5 Any tender not secured in accordance with paragraph 2.14.1, 2.14.3 and 2.14.4 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 as 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 tenderer shall prepare one copy of the tender, clearly marking it "ORIGINAL TENDER", as appropriate.
- 2.16.2 The original 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. Also, all pages of the tender document shall be serialized and signed.

- 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 insert the original of the tender in an envelope, duly marking the envelope as "ORIGINAL". The envelope 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," the date and time specified in the Invitation to Tender.

- 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 the day, date and time specified in the Invitation to Tender.

- 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 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 cable, 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, at the time, day and date and in the location specified in the Invitation to Tender.

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 required sureties have been furnished, whether the documents have been properly signed, and whether the tenders are generally in order.

2.22.2 The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be subject of correction, adjustment or amendment in any way by any person or entity.

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, 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**

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 financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the tenderers 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 Schedule of requirements without any change in unit price or other terms and conditions

(d) **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 When a person submitting the successful tender is notified under subsection 2.28.1 above, the accounting officer of the procuring entity shall also notify in writing all other persons submitting tenders that their tenders were not successful.

**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 fourteen (14) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to the Procuring entity.

**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.

## 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

INSTRUCTIONS TO TENDERERS REFERENCE	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
2.11	Eligible bidders must: <ul style="list-style-type: none"> <li>• Be incorporated in Kenya</li> <li>• Have complied with all tax requirements that shall be confirmed from KRA</li> <li>• Be an established business and show proof</li> </ul>
2.1.3	The qualification statement shall be drawn on bidder's letterhead, signed and stamped
2.1.4	A statement declaring bidder is not ineligible for corrupt and fraudulent practices shall be drawn on bidder's letterhead, signed and stamped
2.2.1	Must disclose the source of goods or state if manufacturer
2.4.1 - xi	This shall be attached and is mandatory
2.4.1 - xii	This shall be filled and stamped and is mandatory
2.10.2	Prices quoted shall be inclusive of all taxes, duties, incidentals etc. and shall be delivered prices to the company stores within Kisumu.
2.10.3	No price variations are applicable in the performance of this contract
2.11.1	The bid price shall be in Kenya Shillings only.
2.12	The requirements of this clause shall form part of the evaluation criteria.
2.13.3 (a & b)	The requirements of this clause shall form part of the evaluation criteria.
2.16.1	Bidders shall prepare and submit one copy and mark it clearly as <b>“ORIGINAL BID”</b>
2.16.2	This shall be checked and is mandatory
2.16.3	Any alterations shall be initialed by the person or persons signing the bid. Any alterations not initialed shall lead to disqualification of the bid.
2.18.1	Bids shall be closed by <b>11.00am, on Thursday, the 13<sup>th</sup> of August 2020</b>
2.20.1	Bids shall be opened immediately thereafter at <b>11.10am, Thursday, the 13<sup>th</sup> of August 2020.</b>
2.22.4	Under evaluation, proof of legal existence shall be checked.
2.22.5	For a bid to be determined to be responsive and award recommended, it shall: <ol style="list-style-type: none"> <li>a) Meet the requirements of 2.22.4 above</li> <li>b) Meet all the requirements of the technical evaluation criteria.</li> <li>c) Have offered the lowest price for all items within a lot and is among the qualifying evaluated firms.</li> </ol>
2.22.6	This is applicable and shall be determined by the evaluation committee.
2.23.1	The company shall allow bids quoted in Kenya Shillings only
2.25	This is not applicable
2.27.2	Bidder shall provide the detailed technical capability information of the manufacturer as well as two immediate years signed audited accounts or a letter from the bank indicating the amount of deposit available at short notice

	for this contract. Failure shall render the bid non-responsive.
2.27.4	<p><b>Evaluation criteria</b></p> <p>There will be <b>preliminary evaluation</b> where we will check proof of legal existence of the bidder. The following will be checked at this stage:</p> <ul style="list-style-type: none"> <li>• Certificate of Registration/Incorporation</li> <li>• Valid PIN certificate</li> <li>• Valid VAT Certificate</li> <li>• Valid and Current Business permit</li> <li>• Bid Bond of Kshs. 220,000.00</li> <li>• Confidential business questionnaire filled, signed and stamped</li> <li>• Valid and Current Tax Compliance Certificate</li> <li>• Form of tender dully filled, signed and stamped</li> <li>• All pages serialized, initialed and stamped.</li> </ul> <p>The above mentioned are mandatory and lack of any of them will lead to automatic disqualification.</p> <p>We will also conduct <b>technical evaluation</b> where the following will be checked:</p> <ul style="list-style-type: none"> <li>• Show of proof of similar assignments in value and nature in the last 3 years. Evidence of this e.g award letters, signed contracts, testimonial letters or copies of orders from such institutions shall be presented with the bid on submission</li> <li>• Compliance to the offered technical specifications will be checked for conformity. Bidders must indicate a response for each technical requirement in the bid document.</li> <li>• Delivery plan</li> <li>• Form of tender fully filled, signed and stamped</li> </ul> <p><b>Financial evaluation</b> will be the last stage of evaluation. Only firms who qualify from the technical evaluation will be eligible to proceed to financial evaluation. The firm with the lowest evaluated bid will be awarded at this stage.</p>
2.30.1	Performance bond shall be 10% of the contract sum and shall be received within 14 days from the date of contract award.
2.31	This shall lead to rejection of the bid in total and bidder may be subject to debarment in future.

**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.

### **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**

3.7.1 Within fourteen (14) 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.

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 alterations 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.
- 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.

### **3.14. 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 period(s) 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 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 If any dispute or difference of any kind whatsoever shall arise between the Purchaser and the Supplier in connection with or arising out of the Contract (whether during the progress of the Contract or after its completion and whether before or after the termination, abandonment or breach of the Contract), the two parties shall meet to attempt to resolve the same by mutual agreement.

Save as hereinafter provided such mutual agreement in respect of every matter so resolved shall be final and binding upon the Purchaser and the Supplier until the completion of delivery of the goods and shall forthwith be given effect to by the Supplier who shall proceed with the supply and delivery of the goods with all due diligence.

In the event that an issue in dispute shall arise which the parties in dispute are unable to resolve by the above stated mutual agreement within sixty days of the date thereof, then it shall immediately be referred by either party for settlement by an Umpire mutually agreed upon.

If any issue in dispute is referred to the Umpire, it shall be settled by the same Umpire who will be required within sixty days after the referral to give written notice of his decision to the parties in dispute.

Either party may, if dissatisfied with the decision of the Umpire, require the issue in dispute be referred to arbitration by written notice to the other party but, pending the making of an arbitration award, the decision of the Umpire shall be binding on the parties in dispute and shall forthwith be given effect to by such parties. If neither party requires the issue in dispute to be referred to arbitration within thirty days of the written notice of the Umpire's decision the said decision shall become final and binding on the parties in dispute.

The umpire shall act as an expert and not as arbitrator and shall reach his decision on the basis of such procedure as he may think fit in the light of the expressed intention of the parties that his decision should be reached as rapidly and in as informal a manner as possible.

Any issue in dispute which under these Conditions of Contract is required to be referred to arbitration and shall be finally settled as follows:-

- (a) in the case of a dispute between the Purchaser and the Supplier which is a national of the Purchaser's country, the dispute shall be referred to

adjudication/arbitration in accordance with the laws of the Purchaser's country;  
and

(b) in the case of a dispute between the Purchaser and a foreign Supplier, the dispute shall be settled by arbitration in accordance with the laws of the provisions of the UNCITRAL Arbitration Rules.

The reference to an Umpire or to arbitration may proceed notwithstanding that the Contract shall not then be or alleged to be complete, provided always that the obligations of the Purchaser and Supplier shall not be altered by reason of the reference to the Umpire or the arbitration being conducted during the progress of the Contract.

### **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 its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

## **SECTION IV-SPECIAL CONDITIONS OF CONTRACT**

### **Notes on Special Conditions of Contract**

The clauses in this section are intended to assist the procuring entity in providing contract-specific information in relation to corresponding clauses in the General Conditions of Contract.

The provisions of Section IV complement the General Conditions of Contract included in Section III, specifying contractual requirements linked to the special circumstances of the procuring entity and the goods being procured. In preparing Section IV, the following aspects should be taken into consideration.

- (a) Information that complement provisions of Section III must be incorporated and
- (b) Amendments and/or supplements to provisions of Section III, as necessitated by the circumstances of the goods being procured must also be incorporated.

## **SECTION IV-SPECIAL CONDITIONS OF CONTRACT**

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 these in the GCC.

4.2 Special conditions of contract as relates to the GCC

<b>REFERENCE OF GCC</b>	<b>SPECIAL CONDITIONS OF CONTRACT</b>
3.7.1	Within fourteen (14) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the Procuring entity the performance security an amount of 10% of the contract sum
3.12.1	Payments shall be made by the procuring entity within forty five (45) days of submission of a correct invoice by the Supplier. Payments shall be made in Kenya shillings
3.18	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
3.13.1	Variations shall be allowable only on basis of change in statutory regulations.

4.3 Successful tenderer shall enter into contract with KIWASCO, thereafter the contract shall be evaluated against the performance indicators listed here below for the purposes of continuous assessment;

- (i) Ability to deliver ordinary orders within KIWASCO's 4 days delivery period.
- (ii) Ability to deliver urgent orders enabling KIWASCO operations.
- (iii) Communicating supply chain events on time.
- (iv) Ability to deliver orders as per KIWASCO specifications

4.4 The supplier at no extra cost shall replace materials not conforming to KIWASCO specifications

## **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.

### **5.2 Particulars:**

Items supplied shall conform to KS 06-149 Kenya Bureau of Standards requirements.

### **5.3 Technical Specifications**

- 5.3.1** HDPE pipes shall be PN 16 and in 50m rolls for DN 100 and above and 100m rolls for <DN100. All PE pipes to be in accordance to the ISO 4427:2007, ISO 4427-1, ISO 3127PE100 (8MPa), Density 0.958g/cm<sup>3</sup>, PN 16
- 5.3.2** PPR Pipes shall be Pressure 2.5MPa, Temp -40 to +95 deg, and in 100M rolls.

## **SECTION VI - SCHEDULE OF REQUIREMENTS**

1. Each consignment to be confirmed by issue of L.P.O
2. The delivery of the goods will be as requested by a Local Purchase Order to be issued by us from time to time.
3. The first LPO shall be given any time after the release of the Letter of Acceptance to the successful tenderer.

**SECTION VII - BILL OF QUANTITIES**

**Supply and Delivery of Water Pipes (HDPE & PPR)**

**Name of Tenderer:**.....

**Address:** .....

**Tender Number:**.....**KWSC/03/2020-2021**.....

<b>No.</b>	<b>ITEM DESCRIPTION</b>	<b>UOM</b>	<b>QTY</b>	<b>UNIT PRICE (KSH)</b>	<b>LINE TOTAL (KSH)</b>
<b>32</b>	14" HDPE PN 16 (12m Length)	No	150		
<b>33</b>	12" HDPE PN 16 (12m Length)	No	40		
<b>34</b>	10" HDPE PN 16 (12m Length)	No	50		
<b>35</b>	9" HDPE PN 16 (12m Length)	No	100		
<b>36</b>	8" HDPE PN 16 (12m Length)	No	100		
<b>37</b>	6" HDPE PN 16 (50m roll)	Rolls	100		
<b>38</b>	4" HDPE PN 16 (100m roll)	Rolls	100		
<b>39</b>	3 ½" HDPE PN 16 (100m roll)	Rolls	50		
<b>40</b>	3" HDPE PN 16 (100m roll)	Rolls	150		
<b>41</b>	2 ½" HDPE PN 16 (100m roll)	Rolls	100		
<b>42</b>	2" HDPE PN16 (100m roll)	Rolls	100		
<b>43</b>	1 ½" HDPE PN 16 (100m roll)	Rolls	100		
<b>44</b>	1" HDPE PN 16 (100m roll)	Rolls	100		
<b>45</b>	¾" HDPE PN 16 (100m roll)	Rolls	100		
<b>46</b>	½" HDPE PN 16 (100m roll)	Rolls	100		
<b>65</b>	PPR Pipes 1 ½" (Pressure 2.5MPA, Temp -40 to +95 deg)	Rolls	100		
<b>66</b>	PPR Pipes 1" (Pressure 2.5MPA, Temp -40 to +95 deg)	Rolls	100		
<b>67</b>	PPR Pipes ¾" (Pressure 2.5MPA, Temp -40 to +95 deg)	Rolls	100		
<b>68</b>	PPR Pipes ½" (Pressure 2.5MPA, Temp -40 to +95 deg)	Rolls	100		



<b>TOTAL AMOUNT (KSH)</b>	
<b>AMOUNT IN WORDS –</b>	

**Signature of Tenderer .....**      **Official Stamp.....**

**In the Capacity of.....**

**SECTION VIII – SUSTAINABLE PROCUREMENT PRACTISES**

KIWASCO has a Sustainable Procurement Policy in place. This Sustainable Procurement Policy is a commitment by KIWASCO to attain its vision by *procuring goods, services and works in a manner that creates value for society and the organization, while minimizing negative effects to the environment.* KIWASCO has incorporated sustainable procurement practices in its procurement system. The Sustainable Procurement Policy is also the Company’s commitment to the Sustainable Development Goal number 12 on *Responsible Consumption and Production.*

For the purpose of this procurement, KIWASCO requires all the prospective bidders to provide the following information alongside their bid. *(Indicate if you are a manufacturer/ dealer/ re-seller)*

<b>No</b>	<b>Sustainability Issue/Impact</b>	<b>Sustainability Criteria Questions</b>	<b>Bidder’s comment</b> <i>(Further explanations can be provided separately if the space provided is not enough)</i>
<b>1</b>	<b>Systems for environmental management</b>	Describe the system, processes and practices that enable your organization to reduce environmental impacts, meet your legal environmental requirements and achieve continual improvement of your	

		environmental performance.	
		In the last two years has your organization been subject to any court proceedings related to breaches of environmental legislation? If so, what was the outcome?	
		Does your organization maintain records of potential environmental hazards and have mitigation strategies and systems in place to reduce environmental hazards such as carcinogens, irritants? Please provide examples.	
<b>2</b>	<b>Corporate Social Responsibility (CSR)</b>	Describe the formalized programs or initiatives that your organization has in place that are directed towards meeting social and ethical responsibilities and objectives.	
<b>3</b>	<b>Commitment to sustainability and demonstrated sustainability improvements</b>	Describe the processes and practices that demonstrate your organization's commitment to and delivery of sustainability principles, including improving the sustainability performance of your organization.	
		Describe programs or initiatives that your organization has implemented across the supply chain that are directed towards becoming aware of– and improving – the sustainability performance of its products and/or services (including from a whole-of-life perspective and ethical sourcing).	
<b>4</b>	<b>Packaging</b>	Describe any initiatives that your organization has in place to	

		minimize/reduce the amount of packaging used.	
<b>5</b>	<b>Transport and logistics</b>	Describe initiatives that the organization has implemented to reduce the environmental impacts directly associated with the transportation of raw materials/component parts and/or finished products.	
<b>6</b>	<b>'Green' product reporting</b>	Does your organization provide a 'green' product range? If so, please describe the criteria used to determine that a product can be classified as 'green'.	
<b>7</b>	<b>Energy</b>	What actions/initiatives have been taken to address energy use during product manufacturing?	
		What actions/initiatives have been taken to improve product water efficiency during use?	
		Do the offered products qualify for energy efficiency rating labels (e.g. Energy Star label) or are they rated by the Energy Rating Scheme? Please provide details of the Energy Rating.	
		Are there any other energy-saving features associated with the offered products?	
<b>8</b>	<b>Water use and quality</b>	What actions/initiatives have you taken to address water use during product manufacture?	
		What actions/initiatives have you taken to improve product water efficiency during use?	
		What actions/initiates have you	

		taken to address water pollution during manufacture and at the end of product life?	
<b>9</b>	<b>Waste</b>	What actions/initiatives have you implemented to reduce waste during manufacture of the offered products?	
		Can the offered products be recycled at the end-of-life?	
		Are the offered products manufactured to facilitate reuse or repair/replacement of components?	
		Provide details on the dismantling and/or disassembling of the products (e.g. are plastic parts separable by hand, no mixed plastics, metals not mixed, etc.)	
		Do you offer a take back service/scheme at the end of product life? Are there any special provisions/conditions/exclusions in this scheme?	
		How does the offered scheme achieve highest and best value for its clients? For example, does it benchmark used market prices and return (trade-in) value to the client?)	
		What happens to the products once they are returned? Is there an auditable process over the treatment of the returned products? Please provide evidence.	

		Can the offered products be multi-packed (for example packed with up to six units in a single box, rather than each item being individually packaged)?	
<b>10</b>	<b>Toxic substances, pollutants &amp; emissions</b>	Specify the toxic content of your product.	
		What targets are in place to reduce the hazardous substances in the offered products? What actions have you successfully implemented to achieve these targets?	
		Does your organization have a program in place that enables your products to meet industry standards in the future? Specify how this will be achieved.	
		What actions are taken to reduce emissions to atmosphere during the product manufacture and during product use?	
<b>11</b>	<b>Resource use and intensity, including protecting natural habitats</b>	Are raw materials used in the product or production sourced from legal and sustainably-managed sources? Please provide details/evidence including any certification schemes of the full chain of custody.	

## SECTION IX - 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.
- 3. *Tender Security Form:*** When required by the tender documents the tender shall provide the tender security either in the form included herein or in another format acceptable to the procuring entity.
- 4. *Contract Form:*** The Contract Form shall not be completed by the tenderer at the time of submitting the tender. The Contract Form shall be completed after contract award and should incorporate the accepted contract price.
- 5. *Performance Security Form:*** The performance security form should not be completed by the tenderers at the time of tender preparation. Only the successful tenderer will be required to provide performance security in the form provided herein or in another form acceptable to the procuring entity.

**6. Manufacturers Authorization Form:** When required this form must be completed and submitted with the tender documents. This form will be completed by the manufacturer of the goods where the tenderer is an agent.

8.1 **FORM OF TENDER**

**Date** .....

**To:** .....  
.....

**Tender No.**.....

*[name and address of procuring entity]*

Gentlemen and/or Ladies:

**1.** Having examined the tender documents including Addenda Nos. .... *[insert numbers]*, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply and deliver..... *(insert description of goods)* 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 **supply and deliver water pipes** (HDPE, PVC & GI) in accordance with the delivery schedule specified in the Schedule of Requirements.

**3.** If our Tender is accepted, we will obtain the guarantee of a bank in a sum of equivalent to **10%** percent of the Contract Price for the due performance of the Contract, in the form prescribed by **Kisumu Water and Sanitation Company Ltd.**

4. We agree to abide by this Tender for a period of **90 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.

5. 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.

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

7. We understand that the tender may be awarded as a whole to one tenderer or in separate lots to several tenderers.

**Dated this..... day of.....20.....**

.....  
[Signature]

.....  
[In the capacity of]

Duly authorized to sign tender for an on behalf of .....



**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

<b>Part 1 – General:</b>	
Business Name .....	.....
Location of business premises.....	.....
Plot No.....	Street/Road .....
Postal Address .....	Tel No. .... Fax ..... E mail .....
Nature of Business .....	.....
Registration Certificate No.....	.....
Maximum value of business which you can handle at any one time – shs.....	.....
Name of your bankers .....	Branch.....

	<b>Part 2 (a) – Sole Proprietor</b>			
	Your name in full .....	Age .....		
	Nationality .....	Country of origin .....		
	Citizenship details .....			
	<b>Part 2 (b) Partnership</b>			
	Given details of partners as follows:			
	Name	Nationality	Citizenship Details	Shares
	1.....	.....	.....	.....
	2.....	.....	.....	.....
	3.....	.....	.....	.....
	4.....	.....	.....	.....
	<b>Part 2 (c) – Registered Company</b>			
	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 Tenderer.....			

• If a Kenya Citizen, indicate under “Citizenship Details” whether by Birth, Naturalization or registration.

8.3 TENDER SECURITY FORM

(To Be Submitted On Bank’s Letterhead)

Date:.....

To: .....  
[name and address of procuring entity]

WHEREAS ..... (name of the Tenderer) (hereinafter called “the Tenderer”) has submitted its Tender dated ..... for the supply and delivery of..... (insert KIWASCO tender no. and name) (hereinafter called “the Tender”);

KNOW ALL PEOPLE by these presents that WE.....of .....having our registered office at.....(hereinafter called “the Bank”), are bound unto Kisumu Water and Sanitation Company Limited (hereinafter called “KIWASCO”) in the sum of Kshs..... for which payment well and truly to be made to the said KIWASCO, the Bank binds itself, its successors, and assignees by these present

THE CONDITIONS of this obligation are:-

- 4. If the tenderer withdraws its Tender during the period of tender validity specified by the tenderer on the Tender Form; or
- 5. If the tenderer, having been notified of the acceptance of its Tender by the Procuring entity during the period of tender validity;
  - (a) fails or refuses to execute the Contract Form, if required; or
  - (b) fails or refuses to furnish the performance security in accordance with the Instructions to tenderers;

We undertake to pay to the Procuring entity up to the above amount upon receipt of its first written demand, without the Procuring entity having to substantiate its demand, provided that in its demand the Procuring entity will note that the amount claimed by it is due to it, owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This tender guarantee will remain in force up to and including thirty (30) days after the period of tender validity, and any demand in respect thereof should reach the Bank not later than the above date.

[Signature of the bank]..... [Official Rubber Stamp].....  
(Amend accordingly if provided by Insurance Company)

#### 8.4 CONTRACT FORM

THIS AGREEMENT made on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_ between ..... [*name of Procurement entity*] of ..... [*country of Procurement entity*] (hereinafter called “the Procuring entity) of the one part and ..... [*name of tenderer*] of ..... [ *address of tenderer*] (hereinafter called “the tenderer”) of the other part;

WHEREAS the Procuring entity invited tenders for **supply and delivery of water pipes** 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 viz:
  - (i) the Tender Form and the Price Schedule submitted by the tenderer
  - (ii) the Schedule of Requirements
  - (iii) the Schedules of Supplementary Information
  - (iv) the Technical Specifications
  - (v) the General Conditions of Contract
  - (vi) the Special Conditions of contract
  - (vii) the Contract Form
  - (viii) the Procuring entity’s Notification of Award
  - (ix) the Tenderer’s Acceptance Letter; and
  - (x) any other document forming part of the contact.
3. In consideration of the payments to be made by the Procuring entity to the tenderer as hereinafter mentioned, the tender 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.

The Common Seal of \_\_\_\_\_

Was hereunto affixed in the presence of: \_\_\_\_\_

Signed, Sealed, and Delivered by the said \_\_\_\_\_

In the presence of: \_\_\_\_\_

Tendering Signature of Procuring Entity \_\_\_\_\_

Binding Signature of Contractor \_\_\_\_\_

8.5 PERFORMANCE SECURITY FORM

**To: Kisumu Water & Sanitation Company Limited,  
Nafaka House,Opp. Swan Centre - Oginga Odinga Street,  
P.O Box 3210  
Kisumu - Kenya.**

WHEREAS ..... [name of tenderer] (hereinafter called “the tenderer”) has undertaken , in pursuance of Contract No..... [reference number of the contract] dated.....20.....to supply and deliver..... [description of goods] (hereinafter 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 ..... [amount of the guarantee in words and figure] 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 ..... [amount of guarantee] as aforesaid, without you 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..... 20 .....

Signed and seal of the Guarantors

.....  
[name of bank or financial institution]  
.....  
[address]  
.....  
[date]

**8.6 MANUFACTURER'S AUTHORIZATION FORM**

To *[name of the Procuring entity]* .....

WHEREAS .....*[ name of the manufacturer]*  
who are established and reputable manufacturers of ..... *[name and/or  
description of the goods]* having factories at ..... *[address of  
factory]* do hereby authorize ..... *[name and address of Agent]* to  
submit a tender, and subsequently negotiate and sign the Contract with you against  
tender No. .... *[reference of the Tender]* for the above goods  
manufactured by us.

We hereby extend our full guarantee and warranty as per the General Conditions of  
Contract for the goods offered for supply by the above firm against this Invitation for  
Tenders.

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*[Signature for and on behalf of manufacturer]*

*Note:* This letter of authority should be on the letterhead of the Manufacturer and  
should be signed by a person competent.

8.7 FORM RB 1

**REPUBLIC OF KENYA**  
**PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD**

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

BETWEEN

.....APPLICANT

AND

.....RESPONDENT (*Procuring Entity*)

Request for review of the decision of the..... (*Name of the Procuring Entity*) of  
.....dated the...day of .....20.....in the matter of Tender No.....of  
.....20...

**REQUEST FOR REVIEW**

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

- 1.
- 2.
- etc.

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

- 1.
- 2.
- etc

SIGNED .....(Applicant)

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

**FOR OFFICIAL USE ONLY**

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

SIGNED  
Board Secretary