

**NORTHERN WATER WORKS DEVELOPMENT
AGENCY**



P.O BOX 495 GARISSA

TENDER DOCUMENT

FOR

**DRILLING AND EQUIPPING OF RESMI
BOREHOLE IN SAMBURU EAST IN SAMBURU
COUNTY**

TENDER NO: NWWDA/T/CW/026/2020 – 2021

SEPTEMBER 2020

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ABBREVIATIONS AND ACRONYMS

CDS	Contract Data Sheet
GCC	General Conditions of Contract
IFT	Invitation for Tender
ITT	Instruction to Tenderers
PE	Procuring Entity
PM	Project Manager
PPADA 2015	Public Procurement and Asset Disposal Act, 2015
PPDR 2006	Public Procurement and Disposal Regulations, 2006
PPOA	Public Procurement Oversight Authority
STD	Standard Tender Documents
SOR	Statement of Requirements
SP	Service Provider
TDS	Tender Data Sheet
VAT	Value Added Tax

INTRODUCTION

**NORTHERN WATER WORKS DEVELOPMENT AGENCY
TENDER NOTICE**

TENDER REF NO. NWWDA/T/CW/026/2020 – 2021

**TENDER NAME. DRILLING AND EQUIPPING OF RESMI BOREHOLE
AT SAMBURU EAST IN SAMBURU COUNTY**

Northern Water Works Development Agency has received funding from the National Treasury towards the cost of financing water projects under different programmes and intends to use part of these funds to drilling and equipping of Resmi borehole, in Samburu County.

Lot No.	Site Name	Constituency	Eligibility	Tender Security In Kshs	Closing Date/Time
1	Drilling and Equipping of Resmi	Samburu East	Citizen Contractors	100,000.00	16/10/2020 11.00 am

The works will include drilling, casing and capping. Bidders should meet the following conditions

- i. Registered as a drilling contractor with NCA Water Works/Ministry of Water and Sanitation Class B (up to 300m)
- ii. Have Rotary Rigs capable of both air and mud drilling to depth of 300 meters
- iii. Evidence of past experience in similar works of same nature and complexity.
- iv. Have certificate of incorporation and tax compliance certificate.

Interested eligible candidates may obtain further information from and inspect the tender documents at **Northern Water Works Development Agency, P.o Box 495-70100, Kismayu Road, Maji House Garissa, Tel 046 210 3598, Fax : 046 210 3197** during normal working hours from the Procurement office.

A Complete set of tender documents can be obtained by interested candidates upon payment of non-refundable fees of **Kshs 1,000.00 per set of documents** in cash or banker's cheque payable to Northern Water Works Development Agency or download from our web free of charge www.nwwda.go.ke . All bidders who download the document should register with office to info@nwwda.go.ke for purposes of receiving any further clarifications or addendums.

The completed tender document in plain sealed envelope clearly marked “**TENDER FOR DRILLING AND EQUIPPING OF RESMI BOREHOLE IN SAMBURU COUNTY accompanied by a Bank Bid security of Kshs 100,000.00 (One Hundred thousand only)**” should be addressed and sent to:

**The Chief Executive Officer
Northern Water Works development Agency
P.O. Box 495-70100
GARISSA**

Or may be deposited in tender box situated on the ground floor at Northern Water Works Development Agency office Garissa so as to be received on or before

16th October 2020 at 11.00 am. Prices quoted should be inclusive of all taxes and shall remain valid for 120 days from the closing date of the tender.

The tenders will be opened immediately thereafter in NWWDA conference room in presence of bidders or their representatives who may wish to attend. Late bids will not be accepted

SECTION II: INSTRUCTIONS TO TENDERERS (ITT)

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A. Introduction

- 1. Scope of Tender**
 - 1.1** The Procuring Entity indicated in the **Tender Data Sheet** (TDS) invites Tenders for the construction of works as specified in the **Tender Data Sheet** and Sections VI (Technical Specifications) and VII (Drawings).
 - 1.2** The successful Tenderer will be expected to complete the works by the required completion date specified in the **Tender Data Sheet**.
 - 1.3** The objectives of the works are listed in the **Tender Data Sheet**. These are mandatory requirements. Any subsequent detail is offered to support these objectives and must not be used to dilute their importance.
- 2. Source of Funds**
 - 2.1** The Government of Kenya through Northern Water Work Development Agency received a funds from the **GoK** towards the cost of the Project named in the **Tender Data Sheet**. The Government of Kenya intends to apply a part of the proceeds of this grant to payments under the Contract described in the **Tender Data Sheet**.
 - 2.2** Payments will be made directly by the Procuring Entity (or by financing institution specified in the **Tender Data Sheet** upon request of the Procuring Entity to so pay) and will be subject in all respects to the terms and conditions of the resulting contract placed by the Procuring Entity.
- 3. Eligible Tenderers**
 - 3.1** A Tenderer may be a natural person, private or public company, government-owned institution, subject to sub-Clause 3.4 or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a joint venture, consortium, or association. In the case of a joint venture, consortium, or association, unless otherwise specified in the **Tender Data Sheet**, all parties shall be jointly and severally liable.
 - 3.2** The Invitation for Tenders is open to all suppliers as defined in the Public Procurement and Disposal Act, 2005 and the Public Procurement and Disposal Regulations, 2006 except as provided hereinafter.
 - 3.3** National Tenderers shall satisfy all relevant licensing and/or registration with the appropriate statutory bodies in Kenya, such as the Ministry of Public Works or the Energy Regulatory Commission.
 - 3.4** A Tenderer shall not have a conflict of interest. All Tenderers found to have a conflict of interest shall be disqualified. A Tenderer may be considered to have a conflict of interest with one or more parties in this Tendering process, if they:
 - a) Are associated or have been associated in the past directly or indirectly with employees or agents of the Procuring Entity or a member of a board or committee of the Procuring Entity;
 - b) Are associated or have been associated in the past, directly or

indirectly with a firm or any of its affiliates which have been engaged by the Procuring Entity to provide consulting services for the preparation of the design, specifications and other documents to be used for the procurement of the works under this Invitation for Tenders;

- c) Have controlling shareholders in common; or
- d) Receive or have received any direct or indirect subsidy from any of them; or
- e) Have the same legal representative for purposes of this Tender; or
- f) Have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Tender of another Tenderer, or influence the decisions of the Procuring Entity regarding this Tendering process; or
- g) Submit more than one Tender in this Tendering process, However, this does not limit the participation of subcontractors in more than one Tender, or as Tenderer and subcontractor simultaneously.

3.5 A Tenderer will be considered to have a conflict of interest if they participated as a consultant in the preparation of the design or technical specification of the project and related services that are the subject of the Tender.

3.6 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices issued by the Government of Kenya in accordance with GCC sub-Clause 3.2.

3.7 Government owned enterprises in Kenya may participate only if they are legally and financially autonomous, if they operate under commercial law, are registered by the relevant registration board or authorities and if they are not a dependent agency of the Government.

3.7 Tenderers shall provide such evidence of their continued eligibility satisfactory to the Procuring Entity, as the Procuring Entity shall reasonably request.

4. One Tender per Tenderer

4.1 A firm shall submit only one Tender, in the same Tendering process, either individually as a Tenderer or as a partner in a joint venture pursuant to ITT Clause 5.

4.2 No firm can be a subcontractor while submitting a Tender individually or as a partner of a joint venture in the same Tendering process.

4.3 A firm, if acting in the capacity of subcontractor in any Tender, may participate in more than one Tender but only in that capacity.

4.4 A Tenderer who submits or participates in more than one Tender (other than as a subcontractor or in cases of alternatives that have been permitted or requested) will cause all the Tenders in which the Tenderer has participated to be disqualified.

- 5. Alternative Tenders by Tenderers**
 - 5.1** Tenderers shall submit offers that comply with the requirements of the Tendering documents, including the basic Tenderer's technical design as indicated in the specifications and Drawings and Bill of Quantities. Alternatives will not be considered, unless specifically allowed for in the **Tender Data Sheet**. If so allowed, sub-Clause 5.2 and 5.3 shall govern.
 - 5.2** When alternative times for completion are explicitly invited, a statement to that effect will be included in the **Tender Data Sheet** as will the method of evaluating different times for completion.
 - 5.3** If so allowed in the **Tender Data Sheet**, Tenderers wishing to offer technical alternatives to the requirements of the Tendering documents must also submit a Tender that complies with the requirements of the Tendering documents, including the basic technical design as indicated in the specifications. In addition to submitting the basic Tender, the Tenderer shall provide all information necessary for a complete evaluation of the alternative by the Procuring Entity, including technical specifications, breakdown of prices, and other relevant details. Only the technical alternatives, if any, of the lowest evaluated Tenderer conforming to the basic technical requirements shall be considered by the Procuring Entity.
- 6. Cost of Tendering**
 - 6.1** The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the Procuring Entity shall in no case be responsible or liable for those costs, regardless of the conduct or outcome of the Tendering process.
- 7. Site Visit and Pre-Tender Meeting**
 - 7.1** The Tenderer, at the Tenderer's own responsibility and risk, is advised to visit and examine the Site of Works and its surroundings and obtain all information that may be necessary for preparing the Tender and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Tenderer's own expense.
 - 7.2** The Procuring Entity may conduct a site visit and a pre-Tender meeting. The purpose of the pre-Tender meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
 - 7.3** The Tenderer's designated representative is invited to attend a site visit and pre-Tender meeting which, if convened, will take place at the venue and time stipulated in the **Tender Data Sheet**.
 - 7.4** The Tenderer is requested as far as possible, to submit any questions in writing or by electronic means to reach the procuring Entity before the pre-Tender meeting. It may not be practicable at the meeting to answer all questions, but questions and responses will be transmitted in accordance with sub-Clause 7.5.
 - 7.5** Minutes of the pre-Tender meeting, including the text of the questions raised and the responses given together with any responses prepared after the pre-Tender meeting will be transmitted within the time stated in the **Tender Data Sheet** to all purchasers of the Tendering documents. Any modification of the Tendering documents listed in sub-Clause 8.1 that may become necessary as a result of the pre-Tender meeting shall be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to ITT sub Clause 10.2 and not through the minutes of the pre-Tender meeting.

- 7.6 Non attendance during the site visit or pre-Tender meeting will not be a cause for disqualification of a Tenderer unless specified to the contrary in the **Tender Data Sheet**.

B. Tendering Documents

8. Content of Tendering Documents

- 8.1 The works required, Tendering procedures, and contract terms are prescribed in the Tendering Documents. In addition to the Section I Invitation for Tenders, Tendering documents which should be read in conjunction with any addenda issued in accordance with ITT sub Clause 10.2 include:
- | | |
|--------------|---|
| Section II | Instructions to Tenderers |
| Section III | Tender Data Sheet |
| Section IV | General Conditions of Contract |
| Section V | Contract Data Sheet |
| Section VI | Specifications |
| Section VII | Drawings |
| Section VIII | Bill of Quantities |
| Section IX | Forms of Tender |
| | <ul style="list-style-type: none">• Form of Tender• Appendix to Tender• Confidential Business Questionnaire• Integrity Declaration• Letter of Acceptance• Form of Contract Agreement |
| Section X | Forms of Security |
| | <ul style="list-style-type: none">• Tender Security Form• Tender Securing Declaration• Performance Bank or Insurance Guarantee• Advance Payment Guarantee |
| Section XI | Form RB 1 Application to Public Procurement Administrative Review Board |
- 8.2 The number of copies to be completed and returned with the Tender is specified in the **Tender Data Sheet**.
- 8.3 The Invitation for Tenders (Section I) issued by the Procuring Entity is not part of the Tendering Documents and is included for reference purposes only. In case of discrepancies between the Invitation for Tenders and the Tendering Documents listed in sub-Clause 8.1 above, the said Tendering Documents will take precedence.
- 8.4 The Procuring Entity is not responsible for the completeness of the Tendering Documents and their addenda, if they were not obtained directly from the authorized staff of the Procuring Entity.
- 8.5 The Tenderer is expected to examine all instructions, forms, terms and specifications in the Tendering documents. Failure to furnish all information required by the Tendering Documents or to submit a

Tender substantially responsive to the Tendering documents in every respect will be at the Tenderer's risk and may result in the rejection of its Tender.

9. Clarification of Tendering Documents

- 9.1** A prospective Tenderer requiring any clarification of the Tendering documents may notify the Procuring Entity in writing, e-mail or facsimile at the Procuring Entity's address indicated in the **Tender Data Sheet**.
- 9.2** The Procuring Entity will within the period stated in the **Tender Data Sheet** respond in writing to any request for clarification provided that such request is received no later than the period indicated in the **Tender Data Sheet** prior to the deadline for the submission of Tenders prescribed in sub-Clause 22.1.
- 9.3** Copies of the procuring entity's response will be forwarded to all Purchasers of the Tendering documents, including a description of the inquiry, but without identifying its source.
- 9.4** Should the Procuring Entity deem it necessary to amend the Tendering documents as a result of a clarification, it shall do so following the procedure under ITT Clause 10.

10. Amendments of the Tendering Documents

- 10.1** Before the deadline for submission of Tenders, the Procuring Entity may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Tenderer, modify the Tendering documents by issuing addenda.
- 10.2** Any addendum issued shall be part of the Tender documents pursuant to sub-Clause 8.1 and shall be communicated in writing, by e-mail or facsimile to all who have obtained the Tendering documents directly from the Procuring Entity.
- 10.3** In order to allow prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the Procuring Entity at its discretion shall extend, as necessary, the deadline for submission of Tenders, in accordance with sub-Clause 22.2

C. Preparation of Tenders

11. Language of Tender

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

12. Documents Constituting the Tender

- 12.1** The Tender submitted by the Tenderer shall consist of the following components:
- a) The Form of Tender (in the format indicated in Section IX)

completed in accordance with ITT Clause 15, 16 and 17;

- b) Information requested by Instructions to Tenderers ITT sub-Clause 13.2; 13.3 and 13.4;
- c) Tender Security or Tender Securing Declaration in accordance with Instructions to Tenderers ITT Clause 19;
- d) Priced Bill of Quantities;
- e) Qualification Information Form and Documents;
- f) Alternative offers where invited in accordance with Instructions to Tenderers ITT Clause 5;
- g) Written confirmation authorizing the signatory of the Tender to commit the Tenderer in accordance with Instructions to Tenderers ITT sub Clause 19.2; and
- h) And any information or other materials required be completing and submitting by Tenderers, as specified in the **Tender Data Sheet**.

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

- 13.1** Pursuant to ITT Clause 13, the Tenderer shall furnish, as part of its Tender, documents establishing the Tenderer's eligibility to Tender and its qualifications to perform the contract if its Tender is accepted.
- 13.2** In the event that pre-qualification of potential Tenderers has been undertaken, only Tenders from pre-qualified Tenderers will be considered for award of contract. These qualified Tenderers should submit their Tenders with any information updating the original pre-qualification applications or, alternatively, confirm in their Tenders that the originally submitted pre-qualification information remains essentially correct as of the date of Tender submission. The update or confirmation should be provided in Section IX.
- 13.3** If the Procuring Entity has not undertaken pre-qualification of potential Tenderers, to qualify for award of the contract, Tenderers shall meet the minimum qualifying criteria specified in the **Tender Data Sheet**:
- 13.4** Tenders submitted by a joint venture of two or more firms as partners shall comply with the following requirements, unless otherwise stated in the **Tender Data Sheet**:
 - a) The Tender shall include all the information listed in the **Tender Data Sheet** pursuant to sub-Clause 13.3 above for each joint venture partner;
 - b) The Tender shall be signed so as to be legally binding on all partners;
 - c) One of the partners will be nominated as being in charge, and this authorization shall be evidenced by submitting a power of

attorney signed by legally authorized signatories of all the partners;

- d) The partner in charge shall be authorized to incur liabilities and receive instructions for and on behalf of any and all partners of a joint venture and the entire execution of the Contract, including payment, shall be done exclusively with the partner in charge;
- e) All partners of the joint venture shall be liable jointly and severally for the execution of the contract in accordance with the contract terms and a statement to this effect shall be included in the authorization mentioned under (c) above as well as in the Tender and in the Agreement (in case of a successful Tender); and
- f) A copy of the joint venture agreement entered into by all partner shall be submitted with the Tender. Alternatively, a Letter of Intent to execute a joint venture agreement in the event of a successful Tender shall be signed by all partners and submitted with the Tender, together with a copy of the proposed Agreement.
- g) The Tender Security and Tender Securing Declaration as stated in accordance with ITT Clause 19, and in case of a successful Tender, the Agreement, shall be signed so as to be legally binding on all partners.

14. Lots Package

- 14.1** When Tendering for more than one contract under the lots arrangements, the Tenderer must provide evidence that it meets or exceeds the sum of all the individual requirements for the lots being tendered in regard to:
- a) Average annual turnover;
 - b) Particular experience including key production rates;
 - c) Financial means, etc;
 - d) Personnel capabilities; and
 - e) Equipment capabilities.

- 14.2** In case the Tenderer fail to fully meet any of these criteria, it may be qualified only for those lots for which the Tenderer meets the above requirement.

15. Form of Tender

- 15.1** The Tenderer shall fill the Form of Tender furnished in the Tendering Documents. The Form of Tender must be completed without any alterations to its format and no substitute shall be accepted.

16. Tender Prices

- 16.1** The Contract shall be for the whole Works, as described in sub-Clause 1.1, based on the priced Bill of Quantities submitted by the Tenderer.
- 16.2** The Tenderer shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items for which no rate or price

is entered by the Tenderer will not be paid for by the Procuring Entity when executed and shall be deemed covered by the other rates and prices in the Bill of quantities.

- 16.3** All duties, taxes and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 15 days prior to the deadline for submission of Tenders, shall be included in the rates, prices and total Tender price submitted by the Tenderer.
- 16.4** The rates and prices quoted by the Tenderer shall be subject to adjustment during the performance of the Contract if provided for in the **Tender Data Sheet** and the provisions of the Conditions of Contract. The Tenderer shall submit with the Tender all the information required under the **Contract Data Sheet**.

17. Tender Currencies

- 17.1** The unit rates and prices shall be quoted by the Tenderer in the currency as specified in the **Tender Data Sheet**.
- 17.2** Tenderers shall indicate details of their expected foreign currency requirements in the Tender, if any. The rates of exchange to be used by the Tenderers in arriving at the local currency equivalent shall be the selling rates for similar transactions established by the authority specified in the **Tender Data Sheet** prevailing on the date 28 days prior to the latest deadline for submission of Tenders. These exchange rates shall apply for all payments so that no exchange risk will be borne by the Tenderer. In any case, payments will be computed using the rates quoted in the Tender.
- 17.3** Tenderers may be required by the Procuring Entity to clarify their foreign currency requirements and to substantiate that the amounts included in the rates and prices and in the Contract Data Sheet are reasonable and responsive to sub-Clause 17.1.

18. Tender Validity Period

- 18.1** Tenders shall remain valid for the period specified in the **Tender Data Sheet** after the Tender submission deadline prescribed by the Procuring Entity, pursuant to ITT Clause 22. A Tender valid for a shorter period shall be rejected by the Procuring Entity as non responsive.
- 18.2** In exceptional circumstances, prior to expiry of the original Tender validity period, the Procuring Entity may request that the Tenderers extend the period of validity for a specified additional period. The request and the Tenderers' responses shall be made in writing or by cable. A Tenderer may refuse the request without forfeiting its Tender Security or causing to be executed its Tender Securing declaration. A Tenderer agreeing to the request will not be required or permitted to otherwise modify the Tender, but will be required to extend the validity of its Tender Security or Tender Securing declaration for the period of the extension, and in compliance with ITT Clause 19 in all respects.
- 18.3** In the case of fixed price contracts, if the award is delayed by a period exceeding sixty (60) days beyond the expiry of the initial Tender validity period, the contract price will be increased by a factor specified in the request for extension. The Tender evaluation

shall be based on the Tender price without taking into consideration on the above correction.

19. Tender Security and Tender Securing Declaration

- 19.1** Pursuant to ITT Clause 12, where required in the **Tender Data Sheet**, the Tenderer shall furnish as part of its Tender, a Tender Security in original form and in the amount and currency specified in the **Tender Data Sheet** .
A Tender Securing Declaration as specified in the **Tender Data Sheet** in the format provided in section X shall be provided as a mandatory requirement.
- 19.2** The Tender Security or Tender Securing Declaration is required to protect the Procuring Entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to ITT sub-Clause 19.9.
- 19.3** The Tender Security shall be denominated in the currency of the Tender and shall be in one of the following forms:
- a) A Bank Guarantee;
 - b) An Insurance Bond issued by an insurance firm approved by the PPOA located in Kenya
 - c) An irrevocable letter of credit issued by a reputable bank.
- 19.4** The Tender Security shall be in accordance with the Form of the Tender Security included in Section X or another form approved by the Procuring Entity prior to the Tender submission.
- 19.5** The Tender Security shall be payable promptly upon written demand by the Procuring Entity in case any of the conditions listed in sub-Clause 19.8 are invoked.
- 19.6** Any Tender not accompanied by a Tender Security in accordance with sub-Clauses 19.1 or 19.3 shall be rejected by the Procuring Entity as non-responsive, pursuant to ITT Clause 28.
- 19.7** The Procuring Entity shall immediately release any Tender Security if:
- a) The procuring proceedings are terminated;
 - b) The Procuring Entity determines that none of the submitted Tenders is responsive;
 - c) A contract for the procurement is entered into.
- 19.8** The Tender Security shall be forfeited and the Tender Securing Declaration executed if the Tenderer:
- a) Withdraws its Tender after the deadline for submitting Tenders

but before the expiry of the period during which Tenders must remain valid;

- b) Rejects a correction of an arithmetic error pursuant to sub-Clause 29.2;
- c) Refuse to enter into a written contract in accordance with ITT Clause 40;
- d) Fails to furnish the Performance Security in accordance with ITT Clause 41.

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

19.10 A Tenderer shall be suspended from being eligible for Tendering in any contract with the Procuring Entity for the period of time indicated in the Tender Securing Declaration:

- a) If the Tenderer withdraws its Tender, except as provided in ITT sub-Clauses 18.2 and 29.2; or
- b) In the case of a successful Tenderer, if the Tenderer fails within the specified time limit to:
 - (i) Sign the contract; or
 - (ii) Furnish the required Performance Security.

20. Format and Signing of Tender

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

20.2 The original and all copies of the Tenders shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Tenderer. This authorization shall consist of a written confirmation as specified in the **Tender Data Sheet** and shall be attached to the Tender. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Tender, except for un-amended printed literature, shall be initialled by the person or persons signing the Tender.

20.3 Any interlineations, erasures, or overwriting shall be valid only if they are initialled by the person or persons signing the Tender.

20.4 The Tenderer shall furnish information as described in the Form of Tender on commissions or gratuities, if any, paid or to be paid to agents relating to this Tender and to contract execution if the Tenderer is awarded the contract

D. Submission of Tenders

21. Sealing and Marking of Tenders

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

22. Deadline for Submission of Tenders

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

23. Late Tenders

- 23.1** The Procuring Entity shall not consider for evaluation any Tender that arrives after the deadline for submission of Tenders, in accordance with ITT Clause 22.

23.2 Any Tender received by the Procuring Entity after the deadline for submission of Tenders shall be declared late, rejected and returned unopened to the Tenderer

24. Modification, Substitution and Withdrawal of Tenders

24.1 A Tenderer may modify or substitute or withdraw its Tender after it has been submitted, provided that written notice of the modification, including substitution or withdrawal of the Tender, is received by the Procuring Entity prior to the deadline prescribed for submission of Tenders prescribed under ITT sub-Clause 22.1.

24.2 The Tenderer's modification or substitution or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of ITT Clauses 20 and 21 with the outer and inner envelopes additionally marked "**MODIFICATION**" or **SUBSTITUTION** or "**WITHDRAWAL**" as appropriate. The notice may also be sent by electronic mail and facsimile, but followed by a signed confirmation copy, postmarked not later than the deadline for submission of Tenders.

24.3 No Tender may be withdrawn, replaced or modified in the interval between the deadline for submission of Tenders and the expiration of the period of Tender validity specified by the Tenderer on the Tender Form. Withdrawal of a Tender during this interval shall result in the Tenderer's forfeiture of its Tender Security or execution of Tender Securing Declaration, pursuant to the ITT sub-Clause 19.9.

24.4 Withdrawal of a Tender between the deadline for submission of Tenders and the expiration of the period of Tender validity specified in the **Tender Data Sheet** or as extended pursuant to sub-Clause 22.2 shall result in the forfeiture of the Tender Security and execution of Tender Securing Declaration pursuant to ITT sub-Clause 19.9.

24.5 Tenderers may only offer discounts to, or otherwise modify the prices of their Tenders by submitting Tender modifications in accordance with this Clause, or included in the original Tender submission.

E. Opening and Evaluation of Tenders

25. Opening of Tenders

25.1 The Procuring Entity will open all Tenders including modifications, substitution or withdraw notices made pursuant to ITT Clause 24, in public, in the presence of Tenderers or their representatives who choose to attend and other parties with legitimate interest and Tender proceedings, at the place on the date and at time specified in the **Tender Data Sheet**. The Tenderers' representatives who are present shall sign a register as proof of their attendance.

25.2 Envelopes marked "**WITHDRAWAL**" shall be opened and read out first. Tenders for which an acceptable notice

of withdrawal has been submitted pursuant to ITT Clause 24 shall not be opened but returned to the Tenderer. If the withdrawal envelope does not contain a copy of the "Power of Attorney" confirming the signature as a person duly authorized to sign on behalf of the Tenderer, the corresponding Tender will be opened. Subsequently, all envelopes marked "**MODIFICATION**" shall be opened and the submissions therein read out in appropriate detail. Thereafter all envelopes marked or "**SUBSTITUTION**" opened and the submissions therein read out in appropriate detail.

- 25.3 All other envelopes shall be opened one at a time. The Tenderers' names, the Tender prices, the total amount of each Tender and of any alternative Tender (if alternatives have been requested or permitted), any discounts, the presence or absence of Tender security, and such other details as the appropriate tender opening committee may consider appropriate, will be announced by the Secretary of the Tender Opening Committee at the opening.
- 25.4 Tenders or modifications that are not opened and not read out at Tender opening shall not be considered further for evaluation, irrespective of the circumstances. In particular, any discount offered by a Tenderer which is not read out at Tender opening shall not be considered further.
- 25.5 Tenderers are advised to send in a representative with the knowledge of the content of the Tender who shall verify the information read out from the submitted documents. Failure to send a representative or to point out any un-read information by the sent Tenderer's representative shall indemnify the Procuring Entity against any claim or failure to read out the correct information contained in the Tenderer's Tender.
- 25.6 No Tender will be rejected at Tender opening except for late Tenders which will be returned unopened to the Tenderer, pursuant to ITT Clause 23.
- 25.7 The Secretary of the appropriate tender opening committee shall prepare minutes of the Tender opening. The record of the Tender opening shall include, as a minimum: the name of the Tenderers and whether or not there is a withdrawal, substitution or modification, the Tender price per Lot if applicable, including any discounts and alternative offers and the presence or absence of a Tender Security or Tender Securing Declaration.
- 25.8 The Tenderers' representatives who are present shall be requested to sign the record. The omission of a Tenderer's signature on the record shall not invalidate the contents and affect the record.
- 25.9 A copy of the minutes of the Tender opening shall be

furnished to individual Tenderers upon request.

26. Confidentiality

- 26.1** Information relating to the examination, clarification, evaluation, and comparison of Tenders and recommendations for the award of a Contract shall not be disclosed to Tenderers or any other persons not officially concerned with such process until the award to the successful Tenderer has been announced.
- 26.2** Any effort by a Tenderer to influence the Procuring Entity's processing of Tenders or award decisions may result in the rejection of his Tender.
- 26.3** Notwithstanding sub-Clause 26.2, from the time of Tender opening to the time of Contract award, if any Tenderer wishes to contact the Procuring Entity on any matter related to the Tendering process, it should do so in writing.

27. Clarification of Tenders

- 27.1** To assist in the examination, evaluation, comparison of Tenders and post-qualification of the Tenderer, the Procuring Entity may, at its discretion, ask a Tenderer for clarification of its Tender including breakdown of prices. Any clarification submitted by a Tenderer that is not in response to a request by the Procuring Entity shall not be considered.
- 27.2** The request for clarification and the response shall be in writing. No change in the prices or substance of the Tender shall be sought, offered, or permitted except to confirm the correction of arithmetic errors discovered by the Procuring Entity in the evaluation of Tenders in accordance with ITT Clause 29.
- 27.3** From the time of Tender opening to the time of Contract award if any Tenderer wishes to contact the Procuring Entity on any matter related to the Tender it should do so in writing.

28. Preliminary Examination of Tenders

- 28.1** Prior to the detailed evaluation of Tenders, the Procuring Entity will determine whether:
- a) The Tender has been submitted in the required format;
 - b) Any Tender Security submitted is in the required form, amount and validity period;
 - c) The Tender has been signed by the person lawfully authorized to do so;
 - d) The required number of copies of the Tender have been submitted;
 - e) The Tender is valid for the period required;
 - f) All required documents and information have been

submitted; and

g) Any required samples have been submitted.

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

28.3 The Procuring Entity may waive any minor informality, nonconformity, or irregularity in a Tender which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any Tenderer

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

- a) Affects in any substantial way the scope, quality, or execution of the Works;
- b) Limits in any substantial way, inconsistent with the Tendering documents, the Procuring Entity's rights or the Tenderer's obligations under the Contract; or
- c) If rectified, would affect unfairly the competitive position of other Tenderers presenting substantially responsive Tenders.

28.5 If a Tender is not substantially responsive, it will be rejected by the Procuring Entity, and may not subsequently be made responsive by correction or withdrawal of the non-conforming deviation or reservation.

29. Correction of Errors

29.1 Tenders determined to be substantially responsive will be not be checked by the Procuring Entity for any arithmetic errors. Errors will be not corrected by the Procuring Entity as follows:

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

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

- 30. Conversion to Single Currency**
- 30.1** To facilitate the evaluation and comparison, the Procuring Entity will convert all Tender prices expressed in the amounts in various currencies in which the Tender prices are payable to Kenya Shillings at the selling exchange rate established for similar transactions by the Central Bank of Kenya ruling on the date specified in the **Tender Data Sheet**.
- 31. Comparison of Tenders**
- 31.1** The Procuring Entity shall evaluate and compare only the Tenders determined to be substantially responsive in accordance with ITT Clause 28.
- 31.2** In evaluating the Tenders, the Procuring Entity will determine for each Tender the evaluated Tender price by adjusting the Tender price as follows:
 Making any correction for errors pursuant to ITT Clause 29;
 Excluding provisional sums and the provision, if any for contingencies in the Bill of Quantities, but including Day work , where priced competitively ; and
 Making appropriate adjustments to reflect discounts or other price modifications offered in accordance with sub-Clause 24.5.
- 31.3** The Procuring Entity may waive any minor informality or non-conformity, which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative standing of any Tenderer. Variations, deviations, and alternative offers and other factors, which are in excess of the requirements of the Tendering documents or otherwise result in unsolicited benefits for the Procuring Entity will not be taken into account in Tender evaluation.
- 32. National Preference**
- 32.1** In the evaluation of Tenders the Procuring Entity shall apply exclusive preference to citizens of Kenya where:
- a) The funding is 100% from the Government of Kenya or a Kenyan body;
 - b) The amounts are below the prescribed threshold of KShs.200 million;
- 32.2** To qualify for the preference the candidate shall provide evidence of eligibility by:
- a) Proving Kenyan citizenship by production of a Kenyan Identity Card; or
 - b) Providing proof of being a “citizen contractor” in terms of section 3(1) of the Act, i.e. being a natural person or an incorporated company wholly owned and controlled by persons who are citizens of Kenya.

- 32.3** The Minister of Finance may prescribe additional preference and/or reservation schemes, for example for procurements above these thresholds. If such additional preference schemes apply, details will be given in the **Tender Data Sheet**.
- 33. Determination of the Lowest Evaluated Tender** **33.1** The Tender with the lowest evaluated price from among those which are eligible, compliant and substantially responsive shall be the lowest evaluated Tender.
- 34. Post-qualification of Tenderer** **34.1** If specified in the **Tender Data Sheet**, post-qualification shall be undertaken.
- 34.2** 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, in accordance with the criteria listed in sub-Clause 13.3.
- 34.3** The determination will take into account the Tenderer's financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to sub-Clause 13.3, as well as such other information as the Procuring Entity deems necessary and appropriate. Factors not included in these Tendering documents shall not be used in the evaluation of the Tenderer's qualifications.
- 34.4** An affirmative determination will be a prerequisite for award of the contract to the Tenderer. A negative determination will result in rejection of the Tenderer's Tender, in which event the Procuring Entity will proceed to the next lowest evaluated Tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

F. Award of Contract

- 35. Criteria of Award** **35.1** Subject to ITT Clause 35 and 36, the Procuring Entity will award the Contract to the Tenderer whose Tender has been determined to be substantially responsive to the Tendering documents and who has offered the lowest Evaluated Tender Price, provided that such Tenderer has been determined to be:
- a) Eligible in accordance with the provisions of ITT Clause 3;
 - b) Is determined to be qualified to perform the Contract satisfactorily;
 - c) Successful negotiations have been concluded.

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

36. Clarifications

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

- a) A minor alteration to the technical details of the statement of requirements;
- b) Reduction of quantities for budgetary reasons, where the reduction is in excess of any provided for in the Tendering documents;
- c) A minor amendment to the Contract Data Sheet;
- d) Finalizing payment arrangements;
- e) Mobilization arrangements;
- f) Agreeing final delivery or work schedule to accommodate any changes required by the Procuring Entity;
- g) The methodology or staffing; or
- h) Clarifying details that were not apparent or could not be finalized at the time of Tendering.

36.2 Clarifications shall not change the substance of the tender.

37. Procuring Entity’s Right to Accept any Tender and to Reject any or all Tenders

37.1 Notwithstanding ITT Clause 35, the Procuring Entity reserves the right to accept or reject any Tender, and to cancel the Tendering process and reject all Tenders, at any time prior to the award of Contract, without thereby incurring any liability to the affected Tenderer or Tenderers.

37.2 Notice of the rejection of all Tenders shall be given promptly within 14 days to all Contractors that have submitted Tenders.

37.3 The Procuring Entity shall upon request communicate to any Tenderer the grounds for its rejection of its Tenders, but is not required to justify those grounds.

38. Procuring Entities Right

38.1 The Procuring Entity reserves the right at the time

to Vary Quantities at the Time of Award

of contract award to increase or decrease the quantity of goods or related services originally specified in these Tendering documents (schedule of requirements) provided this does not exceed by the percentage indicated in the **Tender Data Sheet**, without any change in unit price or other terms and conditions of the Tender and Tendering documents.

39. Notification of Award

39.1 The Tenderer whose Tender has been accepted will be notified of the award by the Procuring Entity prior to expiration of the Tender validity period by e-mail or facsimile confirmed by registered letter. This letter (hereinafter and in the Conditions of Contract called the "Letter of Acceptance") will state the sum that the Procuring Entity will pay the Contractor in consideration of the provision and maintenance of the Work(s) as prescribed by the Contract (hereinafter and in the Contract called the "Contract Price").

39.2 The notification of award will constitute the formation of the Contract, subject to the Tenderer furnishing the Performance Security in accordance with ITT Clause 41 and signing the Contract in accordance with sub-Clause 40.2

39.3 At the same time as the person submitting the successful Tender is notified, the Procuring Entity will notify each unsuccessful Tenderer, the name of the successful Tenderer and the Contract amount and will discharge the Tender Security and Tender Securing Declaration of the Tenderer pursuant to ITT sub Clause 19.7.

39.4 If, after notification of award, a Tenderer wishes to ascertain the grounds on which it's Tender or application for pre-qualification was unsuccessful, it should address its request to the secretary of the Tender Committee that authorized the award of contract. The secretary of the Tender Committee shall, within fourteen days after a request, provide written reasons as to why the Tender, proposal or application to be pre-qualified was unsuccessful. However, failure to take this opportunity to clarify the grounds for rejection does not affect the Tenderer's right to seek immediate review by the Public Procurement Administrative Review Board under Clause 45.

40. Signing of Contract

40.1 Promptly, and in no case later than 14 days, after notification, Procuring Entity shall send the successful Tenderer the Agreement and Contract Data Sheet, incorporating all agreements between the parties obtained as a result of Contract

negotiations.

- 40.2** Within the period specified in the notification or Tender Data Sheet but not earlier than fourteen (14) days since notification of award of contract, the successful Tenderer shall sign and date the contract and return it to the Procuring Entity.

41. Performance Security

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

42. Advance Payment

- 42.1** The Procuring Entity will provide an Advance Payment as stipulated in the Conditions of Contract, subject to a maximum amount, as stated in the Tender Data Sheet.
- 42.2** The Advance Payment request shall be accompanied by an Advance Payment Security (Guarantee) in the form provided in Section X. For the purpose of receiving the Advance Payment, the Tenderer shall make an estimate of, and include in its Tender, the expenses that will be incurred in order to commence work. These expenses will relate to the purchase of equipment, machinery, materials, and on the engagement of labour during the first month beginning with the date of the

Procuring Entity's "Notice to Commence" as specified in the Contract Data Sheet.

43. Adjudicator

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

G. Review of Procurement Decisions

44. Right to Review

- 44.1** A Tenderer who claims to have suffered or risk suffering, loss or damage or injury as a result of breach of a duty imposed on a Procuring Entity or an Approving Authority by the Public Procurement and Disposal Act, 2005 and the Public Procurement and Disposal Regulations 2006, the procurement proceedings or processes, may seek administrative review as prescribed by the Act. The following matters, however, shall not be subject to the administrative review:
- a) The choice of procurement method;
 - b) a decision by the Procuring Entity to reject all Tenders, proposals or quotations;
 - c) Where a contract is signed in accordance to Section 68 of the Public Procurement and Disposal Act, 2005;
 - d) Where an appeal is frivolous.

45. Time Limit on Review

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

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

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

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

- a) Reasons for the complaint, including any alleged breach of the Act or Regulations;
- b) An explanation of how the provisions of the Act and or Regulation has been breached or omitted, including the dates and name of the responsible public officer, where known;
- c) Statements or other evidence supporting the complaint where available as the applicant considers necessary in support of its request;
- d) Remedies sought;
- e) Any other information relevant to the complaint.

**47. Decision by the
Public Procurement
Administrative
Review Board**

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

- a) Annuling anything the Procuring Entity has done in the procurement proceedings, including annulling the procurement proceedings in their entirety;
- b) Giving directions to the Procuring Entity with respect to anything to be done or redone in the procurement proceedings;
- c) Substituting the decision of the Review Board for any decision of the Procuring Entity in the procurement proceedings;
- d) Order the payment of costs as between parties to the review.

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

**48. Appeal on the
decision of the
Review Board**

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

SECTION III: TENDER DATA SHEET

Tender Data Sheet (TDS)

Instructions to Tenderers Clause Reference

TDS Reference Number	ITT Clause Number	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
A. Introduction		
1.	1.1	The Procuring Entity is The Northern Water Works Development Agency
2.	1.1	Name of Project is Drilling and Equipping of Resmi borehole in Samburu County
3.	1.2	The expected completion date of the works is 6 months after signing the contract
4.	1.3	The Objectives of the Project is to <i>increase access of water to the Resmi community Samburu County</i>
5.	2.1	Name of financing institution is GOK Name of the Procuring is Northern Water Works Development Agency Financial Year is 2020/2021 Describe works under the contracts- Drilling, casing capping and Test Pumping borehole in Samburu East
6.	2.2	The loan/ credit number is N/A.
7.	5.1	Alternative Tenders are <i>Not Allowed</i>
8.	5.2	Alternative time for completion Not applicable
9.	3.1	Only Tenderers registered with the NCA Water Works and Class B up to 300M depth from Ministry of Water need apply
10.	7.3	Pre-Tender meeting shall not be held
11.	7.5	N/A
	7.6	N/A

B. Tendering Documents		
12.	8.2	The number of copies to be completed and returned with the Tender is Two.
13.	8.1	Address for clarification of Tendering Document is Chief Executive Officer, Northern Water Works Development Agency P.O Box 495 Garissa
14.	8.2	Period to Respond to request for clarification by the Procuring Entity 14 days Period Prior to deadline for submission of Tenders for Tenderers to request clarification 7 days

C. Preparation of Tenders																										
15.	11.1	Language of Tender and all correspondence shall be English																								
16.	13.3	<p>Other information or materials required to be completed and submitted by Tenderers and of which will form the EVALUATION CRITERIA The following requirements must be met by the tenderer notwithstanding other requirements in the tender documents-:, bidders must serialize all document sub mitted Mandatory Requirements (MR)</p> <table> <tr> <th>No.</th><th>Requirement</th><th>Responsive orNon Responsive</th></tr> <tr> <td>MR 1</td><td>Must submit a copy of certificate of registration/Incorporation</td><td></td></tr> <tr> <td>MR 2</td><td>Must submit a copy of valid tax compliance certificate</td><td></td></tr> <tr> <td>MR 3</td><td>Must fill the bill of quantities in the format provided(partial filled Boq will be rejected)</td><td></td></tr> <tr> <td>MR 4</td><td>Must fill the form of tender in the format provided and signed by the authorized person</td><td></td></tr> <tr> <td>MR 5</td><td>Provide a tender security of Kshs 100,000.00 (bank guarantee) valid for 150 days</td><td></td></tr> <tr> <td>MR 6</td><td>Power of attorney proof authorizing the signatory of the tender to commit the tenderer (Must attach CR12)</td><td></td></tr> <tr> <td>MR 7</td><td>Must submit a copy of valid registration from NCA Water Works and Ministry of Water Class B – up 300 metres</td><td></td></tr> </table> <p>At this stage, the tenderer's submission will either be responsive in the entire mandatory requirement (MR) above or non – responsive. The non- responsive submission will be eliminated from the</p>	No.	Requirement	Responsive orNon Responsive	MR 1	Must submit a copy of certificate of registration/Incorporation		MR 2	Must submit a copy of valid tax compliance certificate		MR 3	Must fill the bill of quantities in the format provided(partial filled Boq will be rejected)		MR 4	Must fill the form of tender in the format provided and signed by the authorized person		MR 5	Provide a tender security of Kshs 100,000.00 (bank guarantee) valid for 150 days		MR 6	Power of attorney proof authorizing the signatory of the tender to commit the tenderer (Must attach CR12)		MR 7	Must submit a copy of valid registration from NCA Water Works and Ministry of Water Class B – up 300 metres	
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entire evaluation process and will not be considered further.

Technical Evaluation.

No.	PARAMETER			MAXIMUM SCORE
1	Relevant Experience			
	Experience as prime contractor in the drilling and equipping of at least 3 successful boreholes last 3 years (attach contracts and completion certificates)			20
	General Experience Experience in other works(attach contracts and completion certificates)			10
2	Equipments			
	1no.Drilling Rig, Lorry, Water bowser,4XWD Pickup, Test pumping unit - proof of ownership and lease must be provided i.e logbooks	Owned(Max 25 marks)		0 - 25
		50% owned 50% leased (Mx 20 marks)		0 - 20
		100% leased(Max 15 marks)		0 - 15
3	Key Personnel			
	Hydrogeologist Max (8 marks)	Qualification – Hydrgeologist	Degree	5
			HND	4
			Diploma	3
		Relevant experience – (5 years)	3 – 5 years	3
			0-2	2
	Drilling supervisor	Qualification-plant mechanic	Certificate	3
	Operator	Qualification	Certificate	2
	Driver	Qualification	Driving Licence	2
4	Financial Capacity			
	Audited Accounts- financial capability of the firm based on information provided in the last 3 years audited account (2016 – 2019) Current Ratio = $\frac{\text{Current asset}}{\text{Current Liabilities}}$			6
	Line of credit of 6 million			3
	annual volume(turn over) of construction work for the successful Tenderer in any of the last 2 years shall be: Ksh 10 million. others			6
	Bank statements (last six months to date of tender)			5
	Proposed program (Work methodology and schedule)			10

		<table border="1"> <tr> <td></td><td>Total</td><td>100%</td></tr> </table> <p>Only bidders who score 70% and above will be subject to financial evaluation. Those who score below 70% will be eliminated at this stage from the entire evaluation process and will not be considered further</p> <p>If a bidder applies for more than one tender the aggregate capacity to undertake the works will be taken in to consideration during evaluation</p> <p>The authority will verify information submitted. Any form of forgery or misinformation will lead to disqualification in the technical stage.</p>		Total	100%
	Total	100%			
17.	13.4	<p>In the case of joint venture each partner shall submit information required under Clause ITT Clause 13.4. In addition the Tenderer shall furnish the following ,</p> <p>a) The Power of the attorney.....</p> <p>b) Audited books of account with a turnover of at least Ksh 10 Million for the last two years.</p>			
18.	16.4	<p>The price shall be <i>fixed</i></p> <p>Information to be submitted with the Tender are:</p> <p>i) The basic rates of materials and services</p>			
19.	17.1	<p>The currency in which the prices shall be quoted shall be:</p> <p><i>Kenyan Shilling</i></p>			
20.	17.2 30.2	<p>The authority for establishing the rates of exchange shall be</p> <p>N/A.</p> <p>The applicable date for exchange rates for tendering and evaluation purposes N/A</p>			
21.	18.1	<p>The Tender validity period shall be 120 days.</p>			
22.	19.1	<p>The amount of Tender Security shall Kshs 100,000.00 One Hundred thousand bank bind bond</p>			
23.	20.1	<p>In addition to the original of the Tender, the Tenderer should submit 2 copies of the Tender</p>			
24.	20.2	<p>Written confirmation of authorization are</p> <p><i>power of attorney</i></p> <p><i>power of attorney – copies of original documents to be provided as proof authorizing the signatory of the tender to commit the tenderer.</i></p> <p><i>The form of tender must be fully filled and signed by the authorized person</i></p>			

D. Submission of Tenders		
25.	21.2 a)	<p>Tenders shall be submitted to <i>Northern Water Works Development Agency</i></p> <p style="text-align: center;">P.o Box 495 Garissa.....</p> <p>Street Address ...Kisimayu Road.....</p> <p>Building/Plot No. ...Maji House.....</p> <p>Floor/Room No.Fist Floor in the Boardroom.....</p> <p>City/TownGarissa.....</p>
26.	21.2 b)	<p>Project name..... Drilling of Borehole in Samburu County</p> <p>Tender number...NWWDA/T/CW/026/2020 - 2021</p> <p>Time and date for submission...16th October 2020 at 11.00 AM</p>
27.	22.1	<p>The deadline for Tender submission is</p> <p>a) Day</p> <p>b) Date...16th October 2020</p> <p>c) Time ...11.00A.M.....</p>
28.	22.3	The extension of the deadline for submission of Tenders shall be made not later than N/A.
29	24.4	Expiry of Tender validity is 120 days

E. Opening and Evaluation of Tenders		
29.	25.1	<p>The Tender opening shall take place at:</p> <p>Street address ...Kisimayu Road.....</p> <p>Building/Plot No. Maji House Building.....</p> <p>Floor/Room No. ...First Floor.....</p> <p>City/TownGarissa.....</p> <p>Country Kenya</p> <p>Date...16th October 2020. Time 11.30AM</p>
30.	32.3	Additional Preference <i>Not applicable</i>
31.	34.1	Post- qualification <i>will be undertaken</i>
32.	38.1	Percentage for quantities increase or decrease is 15%

F. Award of Contract		
33.	41.1	The amount of Performance Security shall be <i>10% of the contract price</i>
34.	42.1	The Advance Payment shall be ... N/A
35.	43.1	The proposed adjudicator for the project is: The Institution of Engineers of Kenya... <i>[insert name of the proposed adjudicator] whose hourly rate shall be determined by the Institution</i>
G. Review of Procurement Decisions		
37.	46.1	The address for submitting appeals to Administrative Review Board : The Secretary, Public Procurement Administrative Review Board , The Public Procurement Oversight Authority, 10 th Floor ,National Bank House, P.O. Box 58583-00200, NAIROBI, Kenya

SECTION IV: GENERAL CONDITIONS OF CONTRACT

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A. General

1. Definitions

1.1 Boldface type is used to identify defined terms.

The **Adjudicator** is the person appointed jointly by the Procuring Entity and the Contractor to resolve disputes in the first instance, as provided for in Clauses 27 and 28 hereunder.

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

Compensation Events are those defined in Clause 47 hereunder.

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

The **Contract** is the Contract between the Procuring Entity and the Contractor to execute, complete, and maintain the Works. It consists of the documents listed in Clause 2.3 below.

The **Contractor** is a person or corporate body whose Tender to carry out the Works has been accepted by the Procuring Entity.

The **Contractor's Tender** is the completed Tendering document submitted by the Contractor to the Procuring Entity.

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

Days are calendar days; months are calendar months.

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

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

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

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

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

The **Procuring Entity** is the party who employs the Contractor to carry out the Works.

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

The **Initial Contract Price** is the Contract Price listed in the Procuring Entity's Letter of Acceptance.

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

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

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

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

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

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

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

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

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

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

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

The **Works** are what the Contract requires the Contractor to construct, install, and turn over to the Procuring Entity, as defined in the **Contract Data Sheet**.

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

2. Interpretation

2.1 In interpreting these Conditions of Contract, singular also

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

- 2.2 If sectional completion is specified in the **Contract Data Sheet**, references in the Conditions of Contract to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).
- 2.3 The documents forming the Contract shall be interpreted in the order of priority given in the **Contract Data Sheet**:
- (1) Agreement;
 - (2) Letter of Acceptance;
 - (3) Contract Data Sheet;
 - (4) Conditions of Contract;
 - (5) Technical Specifications;
 - (6) Contractor's Tender;
 - (7) Drawings;
 - (8) Bill of Quantities; and
 - (9) Any other document listed in the **Contract Data Sheet** as forming part of the Contract.

3. Language, Law, Fraud and Corruption

- 3.1 The language of the Contract and the law governing the Contract are stated in the **Contract Data Sheet**.
- 3.2 The Government requires that Procuring Entities (including beneficiaries of Government funded projects) as well as Tenderers/Suppliers/Contractors under Government financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. It is the responsibility of the Procuring Entity to ensure that Tenderers, suppliers, and contractors and their subcontractors observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy:

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

- (i). **"Corruption"** has the meaning assigned to it in the Anti Corruption and Economic Crime Act 2003 and includes the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement or disposal process or in contract execution;
- (ii). **"Fraudulent Practice"** includes a misrepresentation

of fact in order to influence a procurement or disposal process or the execution of a contract to the detriment of the Procuring Entity and includes collusive practices amongst Tenderers prior to or after Tender submission designed to establish Tender prices at artificial non competitive levels and deprive the Procuring Entity of the benefits of free and open competition;

- (iii). **“Collusive Practice”** means an arrangement between two or more suppliers, contractors and subcontractors designed to achieve an improper purpose, including to influence improperly the actions of the Procuring Entity prior to or after Tender submission , designed to establish Tender prices at artificial non competitive levels and to deprive the Procuring Entity of the benefit of free and open competition;
- (iv). **“Coercive Practice”** means impairing or harming, or threatening to impair or harm, directly or indirectly a supplier, contractor or subcontractor or the property of any of them to influence improperly the actions of a Procuring Entity;
- (v). **“Obstructive Practice”** means deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and /or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation.

A Procuring Entity has the right to require that Tenderers, suppliers, and contractors and their subcontractors permit persons duly appointed by KACC/PPOA/KNAO to inspect their accounts and records and other documents relating to the Tender submission and contract performance;

The Procuring Entity will reject a proposal for award if it determines that the Tenderer recommended for award has engaged in corrupt, fraudulent practices or others stated under Clause 44.1.a in competing for the contract;

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

In the event that the Procuring Entity or Approving Authority does not take timely and appropriate action satisfactory to the Government of Kenya to remedy the situation, then the

Director-General may order an investigation of procurement proceedings for the purpose of determining whether there has been a breach of the Public Procurement and Disposal Act, 2005.

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

3.4 Any communication between the Tenderers and the Procuring Entity related to matters of alleged fraud or corruption must be made in writing.

- | | |
|---------------------------------------|---|
| 4. Confidentiality | 4.1 The Service Providers, their Subcontractors, and the Personnel of either of them shall not disclose any proprietary or confidential information relating to the Project, the Services, this Contract, or the Procuring Entity's business or operations without the prior written consent of the Procuring Entity. |
| 5. Project Manager's Decisions | 5.1 Except where otherwise specifically stated, the Project Manager will decide contractual matters between the Procuring Entity and the Contractor in the role representing the Procuring Entity. |
| 6. Delegation | 6.1 The Project Manager may delegate any of his duties and responsibilities to other people except to the Adjudicator, after notifying the Contractor, and may cancel any delegation after notifying the Contractor. |
| 7. Communications | 7.1 Communications between parties that are referred to in the Conditions shall be effective only when in writing. A notice shall be effective only when it is delivered. |
| 8. Subcontracting | 8.1 The Contractor may subcontract with the approval of the Project Manager, but may not assign the Contract without the approval of the Procuring Entity in writing. Subcontracting shall not alter the Contractor's obligations. |
| 9. Other Contractors | 9.1 The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Procuring Entity between the dates given in the Schedule of Other Contractors, as referred to in the Contract Data Sheet . The Contractor shall also provide facilities and services for them as described in the Schedule. The Procuring Entity may modify the Schedule of Other Contractors, and shall notify the Contractor of any such modification |
| 10. Personnel | 10.1 The Contractor shall employ the key personnel named in the Schedule of Key Personnel, as referred to in the Contract Data Sheet , who shall be appropriately qualified and registered with the appropriate bodies to carry out the functions stated in the |

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

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

11. Procuring Entity's and Contractor's Risks

- 11.1 The Procuring Entity carries the risks which this Contract states are Procuring Entity's risks, and the Contractor carries the risks which this Contract states are Contractor's risks.

12. Procuring Entity's Risks

- 12.1 From the Start Date until the Defects Correction Certificate has been issued, the following are Procuring Entity's risks:

- a) The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to:
 - (i) Use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works; or
 - (ii) Negligence, breach of statutory duty, or interference with any legal right by the Procuring Entity or by any person employed by or contracted to him except the Contractor.
- b) The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Procuring Entity or in the Procuring Entity's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.

- 12.2 From the Completion Date until the Defects Correction Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is an Procuring Entity's risk except loss or damage due to:

- (a) A Defect which existed on the Completion Date;
- (b) An event occurring before the Completion Date, which was not itself an Procuring Entity's risk; or
- (c) The activities of the Contractor on the Site after the Completion Date.

13. Contractor's Risks

- 13.1 From the Starting Date until the Defects Correction Certificate has been issued, the risks of personal injury, death, and loss of or damage to property (including, without limitation, the Works, Plant, Materials, and Equipment) which are not Procuring Entity's risks are Contractor's risks.

14. Insurance	<p>14.1 The Contractor shall provide, in the joint names of the Procuring Entity and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles stated in the Contract Data Sheet for the following events which are due to the Contractor's risks:</p> <ul style="list-style-type: none"> (a) Loss of or damage to the Works, Plant, and Materials; (b) Loss of or damage to Equipment; (c) Loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and (d) Personal injury or death. <p>14.2 Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.</p> <p>14.3 If the Contractor does not provide any of the policies and certificates required, the Procuring Entity may effect the insurance which the Contractor should have provided and recover the premiums the Procuring Entity has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.</p> <p>14.4 Alterations to the terms of insurance shall not be made without the approval of the Project Manager.</p> <p>14.5 Both parties shall comply with any conditions of the insurance policies.</p>
15. Site Investigation Reports	<p>15.1 The Contractor, in preparing the Tender, shall rely on any Site Investigation Reports referred to in the Contract Data Sheet, supplemented by any information available to the Tenderers.</p>
16. Queries about the Contract Data Sheet	<p>16.1 The Project Manager will clarify queries on the Contract Data Sheet.</p>
17. Contractor to Construct the Works	<p>17.1 The Contractor shall construct and install the Works in accordance with the Specifications and Drawings.</p>
18. Commencement and Completion	<p>18.1 The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Programme submitted by the Contractor, as updated with the approval of the Project Manager, and complete them by the Intended Completion Date.</p>
19. Approval by the Project Manager	<p>19.1 The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager, who is to approve them if they comply with the Specifications and Drawings.</p>

- 19.2 The Contractor shall be responsible for the design of Temporary Works.
- 19.3 The Project Manager's approval shall not alter the Contractor's responsibility for design of the Temporary Works.
- 19.4 The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.
- 19.5 All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, are subject to prior approval by the Project Manager before their use.
- 20. Protection of the Environment**
- 20.1 The Contractors shall take all reasonable steps to protect the environment and to limit damage and nuisance to people and property resulting from pollution, noise and other results of his operations.
- 20.2 The Contractors shall ensure that emissions, surface discharges and effluent from his activities shall not exceed prescribed values in the environmental laws.
- 21. Labour Laws**
- 21.2 The Contractor shall comply with all the relevant labour laws applicable in the Country, including laws relating to workers employment, working hours, health, safety, welfare, and immigration, and shall allow them all their legal rights.
- 21.2 The Contractor shall require his employees to obey all applicable laws, including those concerning safety at work.
- 22. Health and Safety**
- 22.1 The Contractor shall at all times take all reasonable precautions to maintain the health and safety of his personnel.
- 22.2 The Contractor shall ensure that first aid facilities are available at all times at the site and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics.
- 22.3 The Contractor shall notify the Procuring Entity details of any accident as soon as practicable after its occurrence. The Contractor shall maintain records and make reports concerning health, safety, and welfare of persons, and damage to the property, as the Procuring Entity may reasonably require.
- 22.4 The Contractor shall conduct an HIV-Aids awareness programme, and shall take other such measures as specified in the **Contract Data Sheet** to reduce the risk of transfer of HIV virus between and among Contractor personnel, the Procuring Entity's Staff and the surrounding community.
- 23. Discoveries**
- 23.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site shall be the property of the Procuring Entity. The Contractor shall notify the Project Manager of such discoveries and carry out the Project Manager's instructions for dealing with them.

24. Possession of the Site	24.1 The Procuring Entity shall give possession of all parts of the Site to the Contractor. If possession of a part is not given by the date stated in the Contract Data Sheet , the Procuring Entity will be deemed to have delayed the start of the relevant activities, and this will be a Compensation Event.
25. Access to the Site	25.1 The Contractor shall allow the Project Manager and any person authorized by the Project Manager access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.
26. Instructions, Inspections and Audits	<p>26.1 The Contractor shall carry out all instructions of the Project Manager which comply with the applicable laws where the Site is located.</p> <p>26.2 The Contractor shall permit the Kenya Government to inspect the Contractor's accounts and records relating to the performance of the Contractor and to have them audited by auditors appointed by the Kenya Government, if so required by the Kenya Government</p>
27. Disputes	27. 1 If the Contractor believes that a decision taken by the Project Manager was either outside the authority given to the Project Manager by the Contract or that the decision was wrongly taken, the decision shall be referred to the Adjudicator within 14 days of the notification of the Project Manager's decision.
28. Procedure for Disputes	<p>28.1 The Adjudicator shall give a decision in writing within 28 days of receipt of a notification of a dispute.</p> <p>28.2 The Adjudicator shall be paid by the hour at the rate specified in the Tender Data Sheet and Contract Data Sheet, together with reimbursable expenses of the types specified in the Contract Data Sheet, and the cost shall be divided equally between the Procuring Entity and the Contractor, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 28 days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above 28 days, the Adjudicator's decision will be final and binding.</p> <p>28.3 The arbitration shall be conducted in accordance with the arbitration procedure published by the institution named and in the place shown in the Contract Data Sheet.</p>
29. Replacement of Adjudicator	29.1 Should the Adjudicator resign or die, or should the Procuring Entity and the Contractor agree that the Adjudicator is not functioning in accordance with the provisions of the Contract, a new Adjudicator will be jointly appointed by the Procuring Entity and the Contractor. In case of disagreement between the Procuring Entity and the Contractor, within 30 days, the Adjudicator shall be designated by the Appointing Authority designated in the Contract Data Sheet at the request of either party, within 14 days of receipt of such request.

B. Time Control

- 30. Programme**
- 30.1 Within the time stated in the **Contract Data Sheet**, the Contractor shall submit to the Project Manager for approval a Programme showing the general methods, arrangements, order, and timing for all the activities in the Works.
- 30.2 An update of the Programme shall be a programme showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.
- 30.3 The Contractor shall submit to the Project Manager for approval an updated Programme at intervals no longer than the period stated in the **Contract Data Sheet**. If the Contractor does not submit an updated Programme within this period, the Project Manager may withhold the amount stated in the **Contract Data Sheet** from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Programme has been submitted.
- 30.4 The Project Manager's approval of the Programme shall not alter the Contractor's obligations. The Contractor may revise the Programme and submit it to the Project Manager again at any time. A revised Programme shall show the effect of Variations and Compensation Events
- 31. Extension of the Intended Completion Date**
- 31.1 The Project Manager shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining work, which would cause the Contractor to incur additional cost.
- 31.2 The Project Manager shall decide whether and by how much to extend the Intended Completion Date within 21 days of the Contractor asking the Project Manager for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.
- 32. Acceleration**
- 32.1 When the Procuring Entity wants the Contractor to finish before the Intended Completion Date, the Project Manager will obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Procuring Entity accepts these proposals, the Intended Completion Date will be adjusted accordingly and confirmed by both the Procuring Entity and the Contractor.
- 32.2 If the Contractor's priced proposals for acceleration are accepted by the Procuring Entity, they shall be incorporated in the Contract Price and treated as a Variation.
- 33. Delays**
- 33.1 The Project Manager may instruct the Contractor to delay the start

**Ordered by
the Project
Manager**

or progress of any activity within the Works.

**34. Management
Meetings**

- 34.1 Either the Project Manager or the Contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining work and to deal with matters raised in accordance with the early warning procedure.
- 34.2 The Project Manager shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Procuring Entity. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.

**35. Early
Warning**

- 35.1 The Contractor shall warn the Project Manager at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the Contract Price or delay the execution of the Works. The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible.
- 35.2 The Contractor shall cooperate with the Project Manager in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Project Manager.

C. Quality Control

**36. Identifying
Defects**

- 36.1 The Project Manager shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Project Manager may instruct the Contractor to search for a Defect and to uncover and test any work that the Project Manager considers may have a Defect.

37. Tests

- 37.1 If the Project Manager instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test shall be a Compensation Event.

**38. Correction of
Defects**

- 38.1 The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the **Contract Data Sheet**. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.
- 38.2 Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by

the Project Manager's notice.

- 38.3 If the Contractor has not corrected a defect within the time specified in the Procuring Entity's notice, a penalty for lack of performance will be paid by the Contractor. The amount to be paid will be calculated as a percentage of the cost of having the defect correct, assessed as described in Clause 39.

39. Uncorrected Defects

- 39.1 If the Contractor has not corrected a Defect within the time specified in the Project Manager's notice, the Project Manager will assess the cost of having the Defect corrected, and the Contractor will pay this amount.

D. Cost Control

40. Bill of Quantities

- 40.1 The Bill of Quantities shall contain items for the construction, installation, testing, and commissioning work to be done by the Contractor.
- 40.2 The Bill of Quantities is used to calculate the Contract Price. The Contractor shall be paid for the quantity of the work done at the rate in the Bill of Quantities for each item.

41. Changes in the Quantities

- 41.1 If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than 25 percent, provided the change exceeds 1 percent of the Initial Contract Price, the Project Manager shall adjust the rate to allow for the change.
- 41.2 The Project Manager shall not adjust rates from changes in quantities if thereby the Initial Contract Price is exceeded by more than 15 percent, except with the prior approval of the Procuring Entity.
- 41.3 If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost breakdown of any rate in the Bill of Quantities.

42. Variations

- 42.1 All Variations shall be included in the updated Programmes produced by the Contractor.

43. Payments for Variations

- 43.1 The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the quotation, which shall be given within seven days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.
- 43.2 If the work in the Variation corresponds with an item description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work is above the limit stated in Sub-Clause 41.1 or the timing of its execution do not cause the cost per unit of quantity to change, the rate in the Bill of Quantities shall be used to calculate the value of the Variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the Variation does not correspond with items in

the Bill of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of work.

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

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

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

44. Cash Flow Forecasts

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

45. Payment Certificates

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

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

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

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

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

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

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

46. Payments

46.1 Payments shall be adjusted for deductions for advance payments and retention. The Procuring Entity shall pay the Contractor the amounts certified by the Project Manager within 28 days of the date of each certificate. If the Procuring Entity makes a late payment, the Contractor shall be paid interest on the late payment in the next payment Interest shall be calculated from

the date by which the payment should have been made up to the date when the late payment is made at the prevailing rate of interest for commercial borrowing for each of the currencies in which payments are made as indicated in the **Contract Data Sheet**..

- 46.2 If an amount certified is increased in a later certificate or as a result of an award by the Adjudicator or an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.
- 46.3 Unless otherwise stated, all payments and deductions will be paid or charged in the proportions of currencies comprising the Contract Price.
- 46.4 Items of the Works for which no rate or price has been entered in will not be paid for by the Procuring Entity and shall be deemed covered by other rates and prices in the Contract.

47. Compensation Events

- 47.1 The following shall be Compensation Events:
 - (a) The Procuring Entity does not give access to a part of the Site by the Site Possession Date stated in the **Contract Data Sheet**.
 - (b) The Procuring Entity modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under the Contract.
 - (c) The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time.
 - (d) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects.
 - (e) The Project Manager unreasonably does not approve a subcontract to be let.
 - (f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Letter of Acceptance from the information issued to Tenderers (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.
 - (g) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Procuring Entity, or additional work required for safety or other reasons.
 - (h) Other contractors, public authorities, utilities, or the Procuring Entity does not work within the dates and other constraints stated in the Contract, and they cause delay or

extra cost to the Contractor.

- (i) The advance payment is delayed.
- (j) The effects on the Contractor of any of the Procuring Entity's Risks.
- (k) The Project Manager unreasonably delays issuing a Certificate of Completion.
- (l) Other Compensation Events described in the Contract or determined by the Project Manager shall apply.

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

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

47.4 The Contractor shall not be entitled to compensation to the extent that the Procuring Entity's interests are adversely affected by the Contractor's not having given early warning or not having cooperated with the Project Manager.

48. Taxes

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

49. Currencies

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

50. Price Adjustment

50.1 The amounts payable to the Contractor, in various currencies pursuant to Sub-Clause 45.1, shall be adjusted in respect of the rise or fall in the cost of labour, Contractor's Equipment, Plant, materials, and other inputs to the Works, by applying to such amounts the formulae prescribed in this clause based on the prevailing consumer price index obtained from the Central Bureau of Statistics or the monthly inflation rate issued by the

Central Bank of Kenya.

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

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

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

where;

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

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

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

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

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

The value of net work done, certified by the Project Manager, in any monthly Interim or Final Certificate as payable by the Procuring Entity to the Contractor before deduction of any retention money shall be increased or decreased by an amount of ‘**F**’.

$$F = P_n \times P_c$$

where;

The effective value **P_c** of work done which is to be subjected to increase or decrease shall be the difference between:

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

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

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

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

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

51. Retention

51.1 The Procuring Entity shall retain from each payment due to the

Contractor the proportion stated in the **Contract Data Sheet** until Completion of the whole of the Works.

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

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

52. Liquidated Damages

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

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

52.3 If the Contractor has not corrected a defects within the time specified in the Procuring Entity’s notice, the Procuring Entity will assess the cost of having the defect corrected, the Contractor will pay this amount, and a penalty for lack of performance calculated as described in Clause 38.

53. Bonus

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

54. Advance Payment

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

54.2 The Contractor is to use the advance payment only to pay for

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

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

55. Performance Securities

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

56. Dayworks

- 56.1 If applicable, the Dayworks rates in the Contractor's Tender shall be used for small additional amounts of work only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.
- 56.2 All work to be paid for as Dayworks shall be recorded by the Contractor on forms approved by the Project Manager. Each completed form shall be verified and signed by the Project Manager within two days of the work being done.
- 56.3 The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.

57. Cost of Repairs

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

E. Finishing the Contract

58. Completion Certificate

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

59. Taking Over

- 59.1 The Procuring Entity shall take over the Site and the Works within seven days of the Project Manager's issuing a certificate of Completion.

60. Final Account

- 60.1 The Contractor shall supply the Project Manager with a detailed

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

61. Operating and Maintenance Manuals

- 61.1 If "as built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the **Contract Data Sheet**.
- 61.2 If the Contractor does not supply the Drawings and/or manuals by the dates stated in the **Contract Data Sheet**, or they do not receive the Project Manager's approval, the Project Manager shall withhold the amount stated in the **Contract Data Sheet** from payments due to the Contractor.

62. Termination

- 62.1 The Procuring Entity or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.
- 62.2 Fundamental breaches of Contract shall include, but shall not be limited to, the following:
- (a) The Contractor stops work for 28 days when no stoppage of work is shown on the current Programme and the stoppage has not been authorized by the Project Manager;
 - (b) The Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 28 days;
 - (c) The Procuring Entity or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
 - (d) A payment certified by the Project Manager is not paid by the Procuring Entity to the Contractor within 84 days of the date of the Project Manager's certificate;
 - (e) The Project Manager gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Project Manager;
 - (f) The Contractor does not maintain a Security, which is required; and
 - (g) The Contractor has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid, as defined in the **Contract Data Sheet**.

- (h) If the Contractor, in the judgment of the Procuring Entity has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this paragraph:

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

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

- 62.3 When either party to the Contract gives notice of a breach of Contract to the Project Manager for a cause other than those listed under Sub-Clause 62.2 above, the Project Manager shall decide whether the breach is fundamental or not.
- 62.4 Notwithstanding the above, the Procuring Entity may terminate the Contract for convenience.
- 62.5 If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as reasonably possible.

63. Payment upon Termination

- 63.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Project Manager shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as indicated in the **Contract Data Sheet**. Additional Liquidated Damages shall not apply. If the total amount due to the Procuring Entity exceeds any payment due to the Contractor, the difference shall be a debt payable to the Procuring Entity.
- 63.2 If the Contract is terminated for the Procuring Entity’s convenience or because of a fundamental breach of Contract by the Procuring Entity, the Project Manager shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor’s personnel employed solely on the Works, and the Contractor’s costs of protecting and securing the Works, and less advance payments received up to the date of the certificate.

64. Property

- 64.1 All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the Procuring Entity if the Contract is terminated because of the Contractor’s

default.

**65. Release from
Performance**

65.1 If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Procuring Entity or the Contractor, the Project Manager shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which a commitment was made.

**66. Suspension of
Financing**

66.1 In the event that the source of financing is suspended to the Procuring Entity, from which part of the payments to the Contractor are being made:

- (a) The Procuring Entity is obligated to notify the Contractor of such suspension within 7 days of having received the financing agency's suspension notice.
- (b) If the Contractor has not received sums due it within the 28 days for payment provided for in Sub-Clause 46.1, the Contractor may immediately issue a 14-day termination notice.

SECTION V: CONTRACT DATA SHEET (CDS)

Contract Data Sheet

Instructions for completing the Contract Data Sheet

CDS Clause	GCC Clause	Description
1	1.1	<p>A. General</p> <p>(Itemise Definitions to take the same numbering as per the General Conditions)</p> <p>The Procuring Entity is <i>The Northern Water Works Development Agency</i></p> <p>The Adjudicator is <i>The Institution of Engineers of Kenya (IEK)</i></p> <p>The Defects Liability Period is 90 days.</p> <p>The Project Manager is <i>The Technical Services Manager Northern Water Works Development Agency</i></p> <p>The name and identification number of the Contract is Drilling and Equipping of Resmi borehole Tender No NWWDA/T/CW/026/2020- 2021.</p> <p>The Works consist of , drilling, Casing ,Capping Test pumping and Equipping</p> <p>The objectives of the contract are <i>to increase access to portable water Resmi Community Samburu west.</i></p> <p>The Start Date shall be <i>Notified by the Project Manager.</i></p> <p>The Intended Completion Date for the whole of the Works shall be <i>End of 6 Month from the start date</i></p> <p>The following documents also form part of the Contract:</p> <p>1. The Bills of quantities 2. The Specifications 3. Hydrogeological Surveys</p> <p>The Site is located <i>in Samburu East Resmi in Samburu County</i></p>
2.	2.2	<p>Indicate whether there is sectional completion [<i>specified/not specified</i>].</p> <p><i>Not applicable</i></p>
3.	2.3(9)	<p>List other documents that form part of the contract if any:</p> <p>a) Minutes of Negotiation</p>
4.	3.1	<p>The language of the Contract documents is <i>English</i>.</p> <p>The law that applies to the Contract is the Kenyan Law.</p>

5.	9.1	Include the Schedule of Other Contractors, if any. <i>Not Applicable</i>
6.	10.1	Include the Schedule of Key Personnel. <i>1. Hydrogeologist</i> <i>2. Drilling Supervisor</i> <i>3. Drivers –</i> <i>4. Operator</i>
7.	14.1	The minimum insurance covers shall be: (a) loss of or damage to the Works, Plant, and Materials <i>Ksh 500,000</i> (b) loss of or damage to Equipment <i>Ksh 200,000</i> (c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract <i>Ksh 200,000</i> and (d) personal injury or death <i>Ksh 100,000</i>
8.	15.1	Site Investigation Reports available to the Tenderers are: a) Hydrogeological surveys
9.	22.4	The other measures include: a. Minimising the number of migrant workers employed on the project and household in the site camp b. Providing access to voluntary counselling and testing (VCT) c. Providing psychological support and health care including prevention and treatment of opportunistic infections for workers infected and affected, as well as their families d. Providing condoms (male and female) to workers
10.	24.1 & 47.1	The Site Possession Date shall be notified by the Project Manager
11.	28.2	Hourly rate of Fees payable to the Adjudicator is: Ksh 2000..... Types of reimbursable expenses to be paid to the Adjudicator include: a)... Transport..... b)... Reports Production..... c)... Accommodation
12.	28.3	Arbitration will take place at <i>Northern Water Services Board offices</i>

		in accordance with rules and regulations published by The Kenya Government as contained in the Arbitration act
13.	29.1	Appointing Authority for the Adjudicator: <i>The Institution of Engineers of Kenya</i>
B. Time Control		
14.	30.1	The Contractor shall Submit a Programme for the Works within 7 days of delivery of the Letter of Acceptance.
15.	30.3	The period between Programme updates is <i>monthly</i> .
16.	30.3	The amount to be withheld by the Project Manager in the case the contractor does not submit an updated programme is: N/A.
C. Quality Control		
17.	38.1	The Defects Liability Period is 180 days.
D. Cost Control		
18.	45.7	Minimum Amount of Interim Payment Certificate will be 20% percent of contract price
19.	46.1	The interest rate shall be 2% above prevailing interest rate for commercial borrowing from the contractors bank
20.	47.1(a)	The Site Possession Date shall be notified by the Project manager
21.	50	The contract <i>is not</i> subject to price adjustment in accordance with Clause 50 of the General Conditions of Contract.
22.	51.1	The amount of retention is 10% of value of works of Interim Payment Certificate'.
		Limit of retention will be 10% of contract price.
23.	52.1	The rate of liquidated damages is 0.1 percent of contract price per day
	52.1 62.2 (g)	The maximum amount of liquidated damages is 5% of Contract Price]
24.	53.1	The bonus for early completion is ... Nil
25.	54.1	The amount of advance payment shall be N/A of the contract sum payable within
		Recovery of Advance Payment shall be N/A of amount of Interim Payment Certificate.
26.	55.1	The Performance Security shall be 10% of the contract price
E. Finishing the Contract		
27.	61.1	As built drawings shall be supplied by the contractor within N/A

		Operating manual shall be supplied by the contractor by N/A
28.	61.2	The amount to be withheld by the Project Manager in the case the contractor does not submit as built drawings is: N/A . The amount to be withheld by the Project Manager in the case the contractor does not submit operating manual is N/A
29.	63.1	The percentage to apply to the value of the work not completed, representing the Procuring Entity's additional cost for completing the Works, is 10%

SECTION VI: TECHNICAL SPECIFICATIONS

TECHNICAL SPECIFICATIONS

1. BOREHOLE DRILLING

1.1 GENERAL

Wherever reference is made in the Contract to specific standards and codes to be met by the goods and materials to be furnished, and work performed or tested, the provisions of the latest current edition or revision of the relevant standards and codes in effect shall apply, unless otherwise expressly stated in the Contract. Where such standards and codes are national, or relate to a particular country or region, other authoritative standards that ensure a substantially equal or higher quality than the standards and codes specified will be accepted subject to the Project Manager's prior review and written consent.

This contract comprises the drilling, construction, development; test pumping, water quality analysis and erection of a gantry. The drill sites are indicated in the zone allocation list.

1.2 REGULATIONS AND STANDARDS

The borehole shall be drilled at the site to be identified by the Project Manager. Each borehole shall be drilled to a depth specified in the hydrogeological survey report. It shall be drilled through all strata encountered.

The Employer will acquire the relevant permits and Government authorizations.

1.2 MOBILIZATION, DEMOBILIZATION AND RESTITUTION

1.2.1 The Contractor shall mobilize to the site in accordance with the Agreed Programme. The sum for mobilization/demobilization shall include transportation of machinery, erection, dismantling and preparation of temporary camps as the Contractor deems necessary, provision of drilling and development fluids (bentonite, foam, water), water for camping, personnel sanitary facilities.

1.2.2 The Contractor shall minimize disturbance to neighbouring plots. This shall particularly include ensuring that bailed fines and pumped test water are discharged in a manner that does not create a nuisance either to the public or private property.

1.2.3 Site re-instatement under the conditions of contract shall include the removal of all hydrocarbons spilled, leaked or otherwise released and associated packaging and cotton waste. Site re-instatement is deemed an integral part of mobilization. This activity shall be costed taking into account the items above and expressed as a lump sum.

1.3. DRILLING

1.3.1 Unless otherwise approved by the Project Manager, drilling shall be by the Mud drilling method. Drilling shall continue through all strata encountered. Drilling fluids and additives used must be approved by the Project Manager prior to use. The Contractor shall provide the appropriate tools and equipment and maintain them in good condition capable of operating to the manufacturer's rating to ensure a smooth, a smooth, straight hole.

1.3.2 Drilling shall continue to the stipulated total depth at a minimum diameter of **12 inches** diameter to provide for a finished borehole of a cased internal diameter of **8 inches diameter** after allowing for **100mm thick gravel pack** and temporary casings as found necessary. The Project Manager reserves the right to stop drilling operation if he considers that further drilling is unlikely to be advantageous. In this event payment shall only be made for the amount of work actually executed.

1.3.3 All materials used in the borehole construction other than temporary works shall comply with the relevant standard specifications. A tolerance in dimensions will be permitted provided that the material quality is not inferior to specification and work is in no way impaired.

1.3.4 The boreholes shall be drilled straight and vertical.

1.4 SAMPLE COLLECTION, STORAGE AND RECORD KEEPING

1.4.1 **Samples** of the drill cuttings returned to the surface shall be collected at two (2) metre intervals, dried and bagged. Each bag shall be clearly marked with the sample depth interval and borehole number. The Contractor shall record the depth and any zone of lost circulation for which no sample was taken.

1.4.2 The Contractor shall maintain a log of the penetration rate on a metre by metre basis, in minutes per meter drilled. A stopwatch shall be used for this purpose so that only the net drilling time is recorded, excluding any time taken in drilling disruptions.

1.4.3 The depth of any voids, or of particular rapid penetration, or significant changes in rig noise shall also be noted.

1.4.4 Water level shall be measured and recorded at the start and end of every shift, after significant breaks in activity (such as meal breaks), and during periods of plant downtime (as appropriate). The water levels shall be measured using a sounding and/or lighting dipper approved for use by the Project Manager.

1.5 SUPPLY AND INSTALLATION OF CASINGS AND SCREENS

1.5.1 CASING AND SCREEN SPECIFICATIONS

a). Casings shall be new, **1500mm (6 inches)** internal diameter, black pipe class B, with a minimum wall thickness of 4.0mm in 6 meter lengths.

b). Mill slotted screens shall be constructed from new **200mm** internal diameter black pipe class B with a minimum wall thickness of 4.0mm. Slots shall not exceed 1.0 mm in width, and should constitute not less than 6.0% open space area. Gas slotted casing screens are not acceptable.

1.5.2 CASINGS AND SCREEN INSTALLATION

a). Before installation of the casings and screens, the Contractor shall ensure that the hole is clear to the total depth and shall flush out any backfilled materials present. The Project Manager shall provide the design of the casings and screens string prior to installation by the Contractor.

b). Casing jointing shall be by either flush square-section threading or tree pass electric arc welding. Screens may be welded to casing, or screw-jointed by means of flush square-section threads. Externally socket joints may be welded to the casing, or screw-jointed by means of flush square-section threads. Externally socketed joints will not be accepted. Where screwed joints are deemed by the Project Manager to be below standard, joint shoulders shall be spot welded at 900mm interval around the casing circumference at no extra cost. If screens and casing are to be welded, the appropriate welding electrode must be used.

c). During welding, casing and screen lengths must be held absolutely vertical in order to ensure a plumb installation. All joints to be welded must be levelled at the butt end; three continuous weld passes must be made to ensure a sound joint and the oxide coating be removed before the second and third passes.

d). Burn-through and subsequent deposition of metal on the inside of the casings and screens must be avoided. The base of the casing shall be sealed, unless otherwise directed by the Project Manager, with a circular plate of black pipe class B of thickness not less than 4.0mm (¹/₄ inch) fixed with a continuous weld to the casing strip. The appropriate welding electrode shall be used. The weld passes will be made, with oxide coating removed prior to the second and third passes. The top of the casing straight shall terminate not less than 600mm above the highest recorded level of ground at the site.

e). The contractor shall be responsible for the provision of temporary casings as necessary, including the insertion and removal. Where the Project Manager deems it necessary to have temporary casings left in the borehole as a measure of securing the borehole, this will be indicated in the item for other works in the bill of quantity.

1.5.3 ADMISSIBLE RATES

a). Rates shall be expressed as supply and installation of casing or screen per Unit Linear Metre.

SUPPLY AND INSTALLATION OF GRAVEL PACK

1.6.1 SPECIFICATIONS

a). The Contractor shall supply and install filter pack/formation stabilizer. The material shall be 2-4 mm diameter, clean well rounded riverbed siliceous gravel with no more than 5.0% non-siliceous material. The pack must be approved by the Project Manager prior to installation. Granular calcium hypochlorite will be introduced into the annular space along the pack material at a concentration of 500 grammes per cubic metre of pack.

The gravel pack shall be placed in the production boreholes to a thickness of 50mm around the casing upto where all screen zones are covered with the gravel as per the Project Manager's satisfaction.

This will initiate the process of sterilizing the wellbore. The Contractor shall provide the Project Manager with the bulk density of the pack material (Kg/M^3).

b). Installation of the filter pack/formation stabiliser may be water wash down or reverse circulation methods. In the latter case a pump set or airlift string shall be installed in the bore so as to encourage material settlement. The filter pack shall terminate not less than 3.0 metres above the uppermost screen when stabilized, or as otherwise directed by the Project Manager. The Contractor shall provide a means by which this level shall be measured.

1.6.2 ADMISSIBLE RATES

Rates shall be expressed as supply and installation of gravel pack per Unit Cubic Metre.

1.7 INSTALLATION OF BACKFILL

1.7.1 SPECIFICATIONS

a). Backfill material shall comprise of fine clayey drill cuttings and shall be installed from the top of the filter pack to 3.0 metres below ground level unless otherwise directed by the Project Manager. The installation method must ensure that no bridging occurs within the annular space.

b). The Contractor shall measure the depth to the top of the backfill and provide the means by which this level may be measured.

1.7.2 ADMISSIBLE RATES

Rates shall be expressed as installation of backfill per Unit Linear Metre.

1.8 DEVELOPMENT

Development shall comprise both Physical and Chemical development, and shall include the following operations:-

1.8.1 BOREHOLE CLEANING

a). The Contractor shall clean the borehole to its “completed depth” using any of the methods listed below or as otherwise authorized by the Project Manager:-

- By bailer with percussion drilling rig
- By means of airlift, which may use a light or stable foam to assist in the removal of materials from the borehole.
- By means of educator airlift, with or without light or stable foam.

b). Bailers and other down hole plant shall adopt diameter limits of half a normal size or smaller (12.5mm or ½ inch) than the smallest casing or screen diameter.

c). Water levels shall be measured and recorded at the start and end of every shift, at significant breaks in activity (such as meal breaks), and during periods of plant downtime (as appropriate). Water levels be measured using a sounding and/or lighting dipper previously approved by the Project Manager.

d). The borehole shall be deemed clean when measured drilled depth has been reached and when insignificant or no materials is removed from the base of the borehole. Cleaning costs shall be expressed as a rate Per Hour.

1.8.2 CHEMICAL DEVELOPMENT

a).When the Project Manager has deemed the borehole clean; he may instruct the Contractor to commence with Chemical development. Chemical development shall comprise of an approved Polyphosphate as a desaggregate that shall break down the silty concentrations, any buildup clay or silts, or other fine materials within and adjacent to the borehole. The decision as whether chemical development shall be adopted and what dosage rates shall be made by the Project Manager.

b). Typical dosage shall comprise of powdered Sodium Hexametaphosphate dissolve in hot water. The polyphosphate shall be dosed at 10 to 15 Kg/m³ of water depending on the concentration of clays in the aquifer matrix. This shall be mixed with calcium hypochlorite at a dose of 200grammes per cubic metre to inhibit bacteria activity. The volume of polyphosphate dosed water shall be one and a half times the Volume of water within the screen section.

- a) Both polyphosphate and added water shall be introduced by means of a pipe, the bottom end of that shall be located in the middle of the screen section of the borehole. The Contractor may get the liquids into the screened section using a jetting head if he wishes.

d). After dosing, the borehole shall be left overnight to allow disaggregation to occur. The borehole shall then be subject to physical development.

e). Chemical development costs shall be expressed as an Hour rate, and include all labour and materials (including clean water) required for the operation. Chemical development undertaken by a Contractor familiar with the technique shall take no longer than three (3) hours.

1.8.3 PHYSICAL DEVELOPMENT

a). Physical development may adopt any of the commonly used methods, including but not necessarily restricted to the following:-

-
- Surging
 - Bailing
 - High Velocity Water Jetting
 - Airlift raw hiding
 - Airlift raw hiding with educator pipe.

b). Development shall be considered complete when the water discharged is clear and contains no more than an estimated 5 parts per million of suspended solids and the borehole has been restored to the cleaned total depth or as otherwise directed by the Project Manager.

c) The Contractor shall describe the method he proposes to adopt and the plant required for physical development in his method statement. **Over pumping** shall not be considered a development method. The rate submitted by the Contractor for physical development is deemed to include installation and removal of necessary plant. The quantities given in the bills of quantities only apply to actual development time. Costs for physical development shall be expressed as an Hour Rate.

1.9 **AQUIFER TESTING**

Borehole testing will be conducted according to British Standard BS 6316 (1992) (Code of Practice for Test Pumping of Water Wells). The following elements are required.

- A pre-test
- A step drawdown test
- A constant discharge test
- A recovery test

1.9.1 **INSTALLATION, PLANT AND METHODOLOGY**

Pumping plant and dipping tube shall be installed in the borehole to be tested. The Contractor shall investigate and agree with the Project Manager the anticipated discharge and pump intake depth.

a) **PUMPING PLANT**

- a) Pumps used for test pumping should be electrical submersible.
- a) The pump used in tests must have a fully functioning **non-return valve** either in the pump itself or in the rising main immediately above the top of the pump.
- a) The Contractor must have pumps covering the anticipated discharge range.
- a) The water pumped from the borehole shall be discharged to waste at a distance and in such a manner that it does not pond or flow back towards the borehole.
- a) The Contractor must provide a generator or other prime mover for powering the pump, as power is not necessarily available at the sites.

a) **DISCHARGE MEASUREMENT AND CONTROL**

Discharge measurements shall be by an approved accurate method, such as an Orifice Plate, calibrated flow meter or a V-notch weir. If volumetric methods are proposed, the Contractor will ensure the container to be used has been calibrated. When time to fill measurements is made, each discharge measurement shall be calculated from the average of three time measurements. Discharge shall vary by no more than 15% across each step of step drawdown test, and across the constant discharge test.

a) **WATER LEVEL MEASUREMENT**

Water level measurements shall be by electric sounding and/or lighting dipper, and shall be made in a dipper tube installed alongside the test pump rising main and tied securely to it. The Project Manager will check the dipper for stretch and any other inaccuracies prior to accepting its use. Accuracy measurements must not be less than 1.0 cm. Water level measurements using an air line will not be acceptable on the grounds of poor precision.

a) **TIME MEASUREMENT**

All times shall be measured by means of a stopwatch. The Contractor shall ensure that spare batteries etc for all equipment are available prior to commencing tests.

a) **CONSTANT DISCHARGE TEST**

Constant discharge test shall typically last not less than twenty four (24) hours, or as otherwise determined by the Project Manager. A water sample will be procured towards the end of the test for subsequent analysis by a competent laboratory.

a) **RECOVERY TEST AND REMOVAL OF PLANT**

Recovery tests shall not continue for more than twenty four (24) hours, or as otherwise directed by the Project Manager. Only after the completion of recovery data collection may pumping and ancillary plant be removed from the borehole, though above ground components may be dismantled during the recovering phase.

a) **ADMISSIBLE RATES**

Rates of pumping and recovery are deemed to include the cost of plant installation and removal. The rates are deemed inclusive of installation, removal, plant use, testing and data collection.

1.10 WATER SAMPLING AND ANALYSIS

- In the closing hour of the constant discharge test a water sample shall be collected for chemical and bacteriological analysis by a competent laboratory. The water samples shall be collected in containers supplied by the laboratory, in the manner conventionally used by the laboratory.
- The Contractor's unit rate of sampling and analysis will include the cost of analysis and transportation to and from the laboratory for the sampling exercise.

1.11 BOREHOLE DISINFECTION

After removal of test equipment, the borehole shall be disinfected with Chlorine/water solution at a concentration of 50 milligrams per litre or greater of free chlorine. This will be sprayed into the borehole so as to ensure that all exposed borehole wall surfaces are coated. In preparing their Tenders, Contractors should allow for one (1) cubic metre of solution per borehole. This item shall be costed as a unit Lump Sum

1.12 BOREHOLE HEAD WORKS

a) SANITARY SEAL CASING

A sanitary seal shall be constructed at the wellhead. This shall comprise the following elements:

- A 3.2 metre length of internal diameter 205 mm (8 inch) plain black pipe class B sanitary steel casing installed around the permanent casing string.
- A grout seal between the 254mm sanitary seal casing and the 152 mm permanent casing string.
- A 1.0x1.0x1.0 metre reinforced concrete block (Y8/1:2:4) cast around the Sanitary seal casings.
- A lockable steel cap.

b). GROUT SEAL

A sanitary ground seal shall be installed between the 152 mm (6 inch) and 205 mm (8 inch) casings and grouted into place. Grout shall be a cement slurry, or cement and fine sand and shall have a density of at least 1175 Kg/lit. This shall be introduced into the annular space from the top of the inert backfill to the ground level, using a method that must be approved by the Project Manager.

a) CONCRETE PLINTH

The ground surface at the wellhead shall be excavated to a depth of one (1) metre, and be one metre square, to allow a Concrete Plinth to be cast. The 1.0x1.0x1.0 metre pit will be filled with concrete, to be finished flush with the ground surface. Concrete shall be 1:2:4 OPC: sand: half-inch ballast. This must be cast with two 0.8 metre lengths of 12 mm reinforcing steel bar welded to the 205 mm (8 inch) casing, 0.7 metre below ground level.

d). TEMPORARY CAP

The top of the borehole shall be sealed with a cap that shall comprise a round plate of mild steel, of thickness not less than 3.0mm. This will be continuously welded in single pass to the mild steel borehole casing or should be lockable.

1.13 RECORDS

After completion of all works at the borehole, the Contractor shall submit to the Project Manager within four (4) days a complete document with the following additions:-

- Drilling penetration Log
- Geological Log
- WAB 28 Borehole Completion Record (Three Complete Sets of Completion Reports shall be submitted.

1.14 TECHNICAL LITERATURE

- a) A Tenderer **must** submit the following information together with the Tender documents to assist in fair evaluation:-
- Technical specifications on drilling rig and other ancillary equipment (make, model, rated capacity etc)
 - Particulars and specifications of materials used in the construction of the borehole.
 - Any other information the tenderer may deem is important in evaluation as well as BOOSTING his/her chances of winning the tender.

BOREHOLE GANTRY

The gantry shall be fabricated from double flanged GI class 'B' water pipes. The total length of the gantry shall be 8.7 metres while the height above the ground shall be 7.5 metres. The top cross bar shall have a movable hook of capacity 4.0 tons. The gantry shall be held together using high tensile strength galvanized steel bolts and nuts. The access steps to the top cross bar shall be made from DN13 GI class 'B' water pipes firmly welded at 350mm interval along the entire length of the two vertical pipe columns starting from 600mm height above the ground level. The gantry shall be installed in square holes of size 1200x1200x1200mm depth using concrete of mix ratio 1:2:4.

SECTION 5

BILLS OF QUANTITIES

PREAMBLE TO BILLS OF QUANTITIES

1. The Bills of Quantities is an integral part of the Bidding documents and must be read in conjunction with the rest of the document contents.
2. The brief descriptions of works under the items in the Bill of Quantities are purely for the purpose of identification only, and shall in no way modify or supersede the descriptions given under the sections of the document.
3. The rates and prices inserted by the Bidder in the Bill of Quantities are to be full inclusive of the work described under the items and shall cover all overhead charges, incidentals, contingency expenses and profits.
4. The words "TAKE CUSTODY" shall be taken to mean delivery, unloading, stocking, getting from the store, transporting, unloading, getting into position for fixing all the materials concerned and all other contingency expenses.
5. Where dimensions are entered:-
 - mm - means millimetres
 - RM - means Running Metre
 - L - means Length
 - W - means Width
 - LS - means Lump Sum.
 - LM - means Linear Metre
6. Provisional sums (including Dayworks) in the bill of Quantities shall be expended in whole or in part at the discretion of the engineer in accordance with Sub-clause 52.4 and clause 58 of the conditions of Contract.

SECTION IX: TENDER FORMS

A. Form of Tender

[date]

To:

**THE CHIEF EXECUTIVE OFFICER
NORTHERN WATER WORKS DEVELOPMENT AGENCY
P.O BOX 495-70100
GARISSA**

We offer to execute the [name and identification number of contract] in accordance with the Conditions of Contract accompanying this Tender for the Contract Price of [amount in numbers], [amount in words] [name of currency].

The Contract shall be paid in the following currencies:

Currency	Percentage payable in currency	Rate of exchange: one foreign equals [insert local]	Inputs for which foreign currency is required
(a)			
(b)			

The advance payment required is:-

Amount	Currency
(a)	
(b)	

We accept the appointment of The Institution of Engineer's of Kenya as the adjudicator.

or

We do not accept the appointment The Institution of Engineer's of Kenya as the Adjudicator, and propose instead that [name] be appointed as Adjudicator, whose daily fees and biographical data are attached.

We are not participating, as Tenders, in more than one Tender in this Tendering process other than alternative Tenders in accordance with the Tendering documents.

Our firm, its affiliates or subsidiaries, including any subcontractors or suppliers for any part of the contract has not been declared ineligible by the Kenya Government under Kenya's laws or any other official regulations.

This Tender and your written acceptance of it shall constitute a binding Contract between us.

We understand that you are not bound to accept the lowest or any Tender you receive.

We hereby confirm that this Tender complies with the Tender validity and Tender Security required by the Tendering documents and specified in the Tender Data Sheet.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Tenderer: _____

Address: _____

Appendix to Tender

Schedule of Adjustment Data

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

Table A. Local Currency

Index code	Index description	Source of index	Base value and date	Tenderer's related currency amount	Range of weighting Proposed by the Procuring Entity	Tenderer's proposed weighting
	Nonadju-stable	—	—	—	a: _____* b: ----- to ----- * c: ----- to ----- * d: ----- to ----- * e: ----- to ----- * etc.	a: _____* b: _____ c: _____ d: _____ e: _____ etc.
Total						1.00

Table B. Foreign Currency

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

Index code	Index description	Source of index	Base value and date	Tenderer's related source currency in type/ Amount	Equivalent in Foreign Currency 1	Range of weighting Proposed by the Procuring Entity	Tenderer's proposed weighting
	Nonadjustable	—	—	—		a: _____* b: ----- to --- -----* c: ----- to -- -----* d: ----- to -- -----* e: ----- to -- -----* etc.	a: _____ b: _____ c: _____ d: _____ e: _____ etc.
Total							1.00

Table C. Summary of Payment Currencies

For[insert name of Section of the Works]

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

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

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Tenderer: _____

Address: _____

B. Tender-Securing Declaration

Date: *[insert **date** (as day, month and year)]*

Tender No.: *[insert **number of Tendering process**]*

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

To:

Northern Water Works Development Agency

We, the undersigned, declare that:

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

We accept that we will automatically be suspended from being eligible for Tendering in any contract with the Procuring Entity for the period of time of *[insert **number of months or years**]* starting on *[insert **date**]*, if we are in breach of our obligation(s) under the Tender conditions, because we;

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

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

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

Signed: *[insert **signature of person whose name and capacity are shown**]* In the capacity of *[insert **legal capacity of person signing the Tender Securing Declaration**]*

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

Duly authorized to sign the Tender for and on behalf of: *[insert **complete name of Tenderer**]*

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

Corporate Seal (where appropriate)

C. Confidential Business Questionnaire

- 1 **Individual Tenderer or Individual Members of joint Ventures**
- 1.1 Constitution or legal status of Tenderer: *[attach copy]*
- Place of registration: *[insert]*
- Principal place of business: *[insert]*
- Power of attorney of signatory of Tender: *[attach]*
- Registration certificate *[attach]* current Business License *[attach]*
- 1.2 Total annual volume of construction work performed in two years, in Kenyan shillings as specified in the Tender Data Sheet; *[insert]*
- 1.3 Work performed as prime Contractor on works of a similar nature and volume over the last two years or as specified in the Tender Data Sheet in Kenyan Shillings. Also list details of work under way or committed, including expected completion dates.

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

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

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

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

Instructions to Tenderers and Sub- Clause 10.1 of the General Conditions of Contract.

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

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

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

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

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

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

D. Integrity Declaration

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

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

-
6. Tenderers shall make available, as part of their Tender, copies of their anti-Bribery Policy/Code of Conduct, if any, and of their-general or project - specific - Compliance Program.
 7. The Government of Kenya has made special arrangements for adequate oversight of the procurement process and the execution of the contract, and has invited civil society and other competent Government Departments to participate in the oversight. Those charged with the oversight responsibility will have full access to all documentation submitted by Tenderers for this contract, and to which in turn all Tenderers and other parties involved or affected by the project shall have full access (provided, however, that no proprietary information concerning a Tenderer may be disclosed to another Tenderer or to the public).

ANTI-CORRUPTION DECLARATION COMMITMENT/ PLEDGE

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

I/We/Messrs.....

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

.....

Contact/Phone/E mail.....

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

I/We

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

Tender/Tender No

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

Authorized Signature.....

Name and Title of Signatory.....

E. Letter of Acceptance

[Letter head paper of the Procuring Entity]

[date]

To: *[name and address of the Contractor]*

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

We confirm that *[insert name proposed by the procuring entity]* to be the Adjudicator.

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

Or

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

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

Please return the contract dully signed.

Authorized Signature: _____

Name and Title of Signatory:_____

Name of Agency:_____

Attachment: Form of Contract

F. Form of Contract Agreement

This Agreement, made the [day] day of [month], [year] between [name and address of Procuring Entity] (hereinafter called "the Procuring Entity") and [name and address of Contractor] (hereinafter called "the Contractor") of the other part.

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

NOW THIS AGREEMENT WITNESSES AS FOLLOWS:

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

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

The Common Seal of _____

Was hereunto affixed in the presence of: _____

Signed, Sealed, and Delivered by the said _____

In the presence of: _____

Tendering Signature of Procuring Entity _____

Binding Signature of Contractor _____

SECTION X: FORMS OF SECURITY

G. Tender Security (Bank Guarantee)

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

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

Beneficiary: *[insert name and address of Procuring Entity]*

Date: *[insert date]*

TENDER GUARANTEE No.: *[insert number]*

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

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

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

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

This Guarantee shall expire;

-
- a) If the Tenderer is the successful Tenderer, upon our receipt of copies of the Contract signed by the Tenderer and of the Performance Security issued to you by the Tenderer; or
 - b) If the Tenderer is not the successful Tenderer, upon the earlier of;
 - (i) Our receipt of a copy of your notification to the Tenderer that the Tenderer was unsuccessful, or
 - (ii) Thirty days after the expiration of the Tenderer's Tender.

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

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

H. Performance Bank

[The **Bank successful Tenderer** providing the Guarantee shall fill in this form in accordance with the instructions indicated in brackets, if the Procuring Entity requires this type of security.]

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

Beneficiary: *[insert name and address of Procuring Entity]*

Date: *[insert date]*

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

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

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

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

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

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

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

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

SECTION VIII: BILL OF QUANTITIES

**BILLS OF QUANTITIES FOR DRILLING, DEVELOPMENT AND TEST PUMPING OF
BOREHOLE AT RESMI IN SAMBURU EAST CONSTITUENCY, SAMBURU COUNTY 200
METERS (AIR DRILLING)**

No.	Item description	Unit	Qty	Rate (KES)	Amount (KES)
A1.1	Mobilization, transportation of machinery and personnel, erection of camps and sanitary facilities and demobilization within the same zone.	Ls	1		
A1.2	Erection and dismantling of drilling equipment and allied machinery at site including drilling of borehole of 205mm minimum diameter through all types of strata including disposal of excavated materials, taking any remedial measures to overcome caving-in, or over-drilling to accommodate sloughed material and keeping drilling records as specified between the ground level and 100 meters below the ground level.	M	100		
A1.3	Ditto item A1.2 but between 100meters and 200meters below ground level.	M	100		
A1.4	Supply and install 152 mm internal diameter plain steel casings in the borehole.	M	120		
A1.5	Supply and installation of 152mm internal diameter slotted steel borehole casings.	M	80		
A1.6	Allow for taking samples of borehole drill cuttings at 2-meter intervals.	LS	1		
A1.7	Supply and insert rounded 2-4mm diameter gravel pack.	Ton	20		
A1.8	Grout between the casing and the borehole for the top ten (10) meters.	LS	1		
A1.9	Allow for physical and chemical development of the borehole.	Hr	12		
A1.10	Undertake constant discharge borehole test pumping.	Hr	24		
A1.11	Undertake recovery water level observations.	Hr	8		
A1.12	Carry out sterilization	Ls	1		
A1.13	Install wellhead, well cap serial number, cement slab dimensions 1.0mx1.0x1.0m around the well.	Ls	1		
A1.14	Supply water and drilling fluids for drilling operations and field camp.	Ls	1		
A1.15	Allow for 15 liters water sample laboratory analysis (1No. sample for bacteriological and 1No. for chemical analysis- 15 liters each)	Ls	1		
A1.16	Supply and install an approved gantry	No	1		
A1.17	Supply and install Standard Signboard	No	1		
A1.18	Allow for making good surface reinstatement at the borehole to the Project Manager's Satisfaction	LS	1		
A1.19	Supervision of civil works by a hydrogeologist	Ls	1	200,000	200,000
				Sub Total	
				VAT 14%	
				Total Bill	

Equipping will be undertaken for successful boreholes only

EQUIPPING OF RESMI COMMUNITY BOREHOLE					
Item No.	Description	Unit	Qty	Rate (Kshs)	Amount (Kshs)
A1	PRELIMINARY REQUIREMENTS				
	Mobilization				
A101.1	Mobilisation of plant, material and human capital to site as required. Rate to include demobilization after borehole equipping	Sum	1		
	Signboard				
A102.1	Provide and maintain a project Sign Board	No.	1		
	Others				
	Insuurance of works	sum	Item	300,000.00	300,000.00
	supervision of works	sum	Item	300,000.00	300,000.00
	Borehole Equipping				
	<i>Allow for Supply and Installation of the following. The cost should include all the required fittings</i>				
	Pumps				
A201.1	Allow for Supply and Installation of the pumping equipment. The cost should include all the required fittings, pump acessories as will be specified by the project manager upon completion of test pumping. (Provisional)	sum	Item	850,000.00	850,000.00
	Solar unit				
A202.2	Allow for Solar-Unit connection with all accessories to run the pump above. Capacity to be determined after test pumping report on site. (Provisional)	Sum	Item	1,600,000	1,600,000.00
	Drawdown Pipes				
	<i>Supply and install the following</i>				
A203.1	65mm diameter GI pipes Class B	m	190		
A203.2	uPVC dipper pipes 32.5mm Diameter	m	200		
	Borehole Surface Sundries				

A204.1	Borehole cover plate 160mm external dia. with 3/4 " GI piezometer hole with plug.	Nr	1		
A204.2	GI Plug 65mm diameter	Nr	1		
A204.3	GI bend 65mm diameter	Nr	2		
A204.4	GI union 65mm diameter	Nr	1		
A204.5	65mm diameter GI Tee	Nr	1		
A204.6	Gate valve 65mm diameter peglar type or equivalent	Nr	1		
A204.7	GI reducer tee diameter 65mm	Nr	2		
A204.8	Single orifice air valve	Nr	1		
A204.9	Non Return Valve 65mm Peglar flap type or equivalent	Nr	1		
	Electrical Sundries within a radius of 18m from borehole:				
A205.1	Junction Box complete fittings	Item	1		
A205.2	10mm ² × 4core armoured cable	m	50		
A205.3	Float Switch	Nr	1		
A205.4	Earth rod 1.2m c/w earth lead cables	set	1		
A205.5	Automatic Voltage Switch three phase (AVS)	Nr	1		
A205.6	Main switch fuse	Nr	1		
A205.7	Water meter complete with accessories 65mm	Nr	1		
	Disinfection and Testing of works				
A206.1	Allow for disinfection and testing of works	Sum	1		
	PUMP/GENERATOR HOUSE				
	<i>All works to be done in accordance with drawings and as directed by the Engineer</i>				
A301.1	Procure, supply and construct a 4mx3m control power house as per the design specications	No	1		
B	Water Distribution system				
B401.1	Design, fabricate,supply and erect on site a 10m Steel tower to support 10m ³ Plastic Tank when full to capacity	No	1		
B401.2	Supply,deliver to site and place a 10m ³ Plastic Tank on completed tower	No	1		
B401.3	Provisional sum for construction of a water kiosk with watering points as per the design	Sum	1		

B401.4	Provisional Sum for plumbing works from the elevated Tank to the point of use	Sum	1		
C	Fencing				
	2.5-3.0m High Precast Concrete fencing posts perimeter fence fitted with chain link and allied works to specifications and as directed on site	No	60		
	Procure, supply and install chainlink fitted with concrete posts as indicated above	m	132		
	Procure, supply and install barbed wire fitted with concrete posts as indicated above	m	396		
	Supply and erect on site 4 m wide double leaf gate	No	1		
	Sanitation Unit				
	Provisional sum for construction of sanitation block for hygiene promotion as per the design specifications.	No	1		
	SUB TOTAL				
	5% CONTINGENCIES				
	ADD 14% VAT				
	TOTAL				

GRAND TOTAL TABLE		
	TOTAL (DRILLING)	
	TOTAL (EQUIPING)	
	GRAND TOTAL	

HYDROGEOLOGICAL ASSESSMENT REPORT

FOR

PROPOSED RESMI BOREHOLE

CLIENT,

NORTHERN WATER WORKS DEVELOPMENT AGENCY

P.O BOX 495-70100

GARISSA

**RESMI VILLAGE, RESMI LOCATION, SAMBURU EAST CONSTITUENCY,
SAMBURU COUNTY**

REPORT NO. FMM/SBR/007/2020

18th August 2020

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SUMMARY

Northern Water Works Development Agency (NWWDA) commissioned hydrogeological/ geophysical survey for the proposed Resmi borehole located in Resmi Village, Ngaroni Location, Samburu East constituency in Samburu County.

A hydro-geological assessment is a study carried out to establish the availability of groundwater and its quality and quantity where possible. This is supplemented by a geophysical survey that investigates the rock resistivities. The data obtained from the resistivities is used to infer the geological characteristics of the rock formation below the point of investigation. The information obtained, after assessment and survey; guides the client to proceed with the drilling of the borehole. It also guides the driller to what depth to drill, the method of drilling to be used and expected lithology and thickness of the aquifer. The assessment is essential in improving the success rate of boreholes drilled.

The assessment also assists in the management and protection of groundwater in the respective area.

The study was carried out by first reviewing existing information, maps and reports, borehole data for the area followed by geophysical/hydrogeological study, analysis of geophysical data in correlation with that of neighboring boreholes and ended with final reporting.

It is important to note that the client must obtain all approvals before drilling commences. These maybe, but not limited to authorization to drill from WRA and an EIA license from NEMA.

The Village is located within Resmi location, Ngaroni Location, Samburu East Constituency, Samburu County. It within the 1:50,000 survey of Kenya topographical sheet no 78/4. The geographical location of the proposed drilling site is UTM 37N 0287750E 0113121N and an altitude of 1270M above sea level.

The water demand for the ranch is estimated to be 45 cubic meters per day for domestic and livestock use.

The project area is on the slopes of Mathews Ranges whose general topography is generally mountainous overlooking relatively flat terrain to the East.

The Loldaika-Mukagodo Hills, the Karissia hills and the Mathews range are the chief mountainous areas. They form two discontinuous parallel zones trending nearly North south across the area. These hills are formed chiefly of gneisses of granitic composition which are among the most resistant rocks of the basement system.

Between these ranges the surface has been lowered, mostly by erosion of the less metamorphosed sediments of the basement system, to plains at various lower levels, such as the *El-barta*, *Sware*, *Il banyeki* and *middle Uaso plains*. Two distinct peneplained surfaces can be categorized, showing the uplift of which the erosion to lower base levels was a consequence, took place in two stages. The Seya and Uaso Nyiro Rivers are now cutting down their valleys towards a third, much lower base level of erosion.

West of the Karissia hills but still East of the Rift valley are the extensive high Lava Plains of Laikipia and Loroki. These were built up by repeated floods of lava from the Rift Valley Region. Some of this lava poured through the gap between the Karissia and Loldaika Hills and some of it flooded across the country north of

Karissia Hills. In the extreme northwest of the area, this series of lavas is deeply incised by a series of canyons and gorges leading into the Suguta valley, which drains the Rift Valley south of Lake Rudolph (Turkana)

The hydrogeology of an area is normally dependent upon the nature of the parent rock, structural features, weathering processes, recharge mechanism and the form and frequency of precipitation (recharge). The regional hydrogeology where the project area lies is characterized by fractured volcanic and metamorphic rocks. Ground water in volcanic and metamorphic rocks is limited to weathered zones, fractures, faults and unconformities.

The most important objective of any geophysical survey for groundwater prospecting is to translate the results of the geophysical interpretations in terms of sub-surface hydro-geology. For this purpose, a location map of potential sites for drilling of boreholes has been prepared. The resistivity of subsurface rock material depends more on pore volume including fractures, degree of saturation, weathering and conductivity of the saturant than on the rock type.

Geophysical investigations as applied to this exercise were important in the determination of subsurface layering (depth and thickness) and to identify presence of subsurface water. Resistivity method was used in this investigation. In the study, a Terrameter SAS 1000 was used to carry out the geophysical investigations using Schlumberger array.

The data was interpreted using specialized software, where the collected data was correlated and finally plotted using R-software. This gave a curve of the various resistivities with respect to the geology. Three (3) number VES were carried out in the proposed area and the best one selected for purposes of this report and subsequent drilling.

The slow percolation of water through the ground results in prolonged contact with minerals in the soils and bedrock many of these minerals are dissolved slowly as the groundwater passes over them, and, in time, a quasi-chemical equilibrium can be reached between the groundwater and the minerals in the soil and rock. The groundwater composition is also affected by human polluting activities, which include agriculture, cattle breeding, industrial and domestic activities. In this case, shallow aquifers suffer most. The water from the borehole is expected to be of good portability quality.

Water Resources Management Rules, 2007 requires that hydrogeological assessment reports must conduct an analysis of the reserve. The reserve is not expected to be exceeded if the client pumps within the stipulated thresholds. There is limited risk of physical effects of the aquifer structure provided the borehole is correctly constructed. Boreholes screened in the shallow aquifer will be more sensitive to pollution from the land surface than the deeper confined aquifer, due to the direct recharge they benefit from. Within this area any activities likely to lead to the release of pollutants (such as agrochemicals; pit latrines and septic tank leachates) will have negligible effect on the aquifer since it is confined and deep. Abstraction from this borehole is anticipated to have negligible effect on the base flow of nearby rivers.

CONCLUSIONS AND RECOMMENDATIONS

Conclusion

Based on the collected and analyzed data, the prevailing hydro-geological conditions it can be concluded as follows:

- There are fair prospects of striking groundwater within the investigated site
- Water from the borehole is expected to be of fairly good quality.

Recommendations

It is recommended that:

- Intensive groundwater investigations be carried out to identify a more suitable site before drilling commences.
- A borehole may be drilled at Point marked VES-1 identified in the land. The site is known to Mr. William Lokirenyei (0727316968), Mr. Lemeua Pius (0798020995) and various community elders. The coordinates of the site are **UTM 37N 287750E 0113121N**.
- The borehole should have a diameter of at least 8” and a maximum possible depth of **200 meters**.
- It should be lined with appropriate casings and screens.
- It should be protected from possible sources of contamination by grouting at least 10-meter length of the borehole from the ground surface.
- The borehole should be properly gravel packed to enhance yield.
- The drilling and test pumping should be supervised by a **Hydrogeologist/Licensed Water Resources Professional**.
- Upon completion the borehole must be **fitted with an airline/piezometer** and a **master** meter to facilitate **monitoring of static water level** and **groundwater abstractions** respectively.
- **At least five (5) litres sample of this water is to be collected in a sterilized container and be taken to any competent water testing laboratory for a chemical, physical and bacteriological analysis before the water is made available for use.**
- It is a **legal requirement**, stipulated in the *Water act 2016*, that the **client applies for an authorization to drill from WRA. After drilling, the borehole completion record, test pumping results, completion certificate and water quality analysis results be submitted to WRA for issuance of a permit.**
-An authorization to drill does not constitute a permit to use the water

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Definition of terms used.

Alluvial	pertaining to or composed of alluvium or deposited by a stream or running water
Aquifer	May be broadly defined as a saturated fractured rock or sand from which usable volumes of groundwater can be extracted.
Authority	Water Resources authority
Borehole	A machine drilled engineering structure designed as a conduit for groundwater abstraction from an aquifer or a series of aquifers.
Drawdown	The difference between the static water level and dynamic water level in a pumped borehole/well, expressed in meters
Dynamic water Level	The level of water in a pumped borehole/well (also called pumping water level, or pwl)
Fracture	A break or crack in the bedrock
Groundwater	Water found beneath the earth's surface in pores and fractures of soil and rocks
Hydraulic Conductivity	The rate of flow of water through a cross section of unit area under a unit hydraulic gradient expressed as volume per unit area per unit time, usually as $\text{m}^3/\text{day}/\text{m}^2$ reducing to m/day .
Igneous rocks	Rocks that solidified from molten or partly molten materials, that is from magma or Lava
Lithology	All physical properties the visible characteristics of mineral composition, structure, grain size etc. which give individuality to a rock.
Metamorphic rocks	Any rock derived from pre-existing rocks by mineralogical, chemical and/or structural changes, essentially in the solid state, in response to marked changes in temperature, pressure, shearing stress, and chemical environment, generally at depth in the earth's crust.
Pumping Test,	a test that is conducted to determine aquifer and or well characteristics.
Recharge	A general term used to describe the volume and mechanism by which water enters groundwater storage. The recharge path, and changes in environment which may affect recharge, are important considerations in ground water resources analysis. Recharge may be expressed as $\text{M}^3/\text{Yr.}$, or mm/Yr , or as a percentage of mean annual rainfall.
Regolith	The layer of incoherent rock material that nearly everywhere forms the surface of the land and rests on the bedrock, or weathered residual overburden.
Sedimentary rocks	Clastic rocks resulting from the consolidation of loose sediments that has accumulated in layers or carbonate rocks originated from chemical precipitation and accumulation of organic matter.
Static water level	the level of water in a well that is not being affected by pumping ("rest water level")
Transmissivity	A measure for the capacity of an aquifer to conduct water through its saturated thickness.
Weathering	The in-situ physical disintegration and chemical decomposition of rock materials at or near the earth's surface.
Yield	Volume of water discharged from a borehole/well

1. Baseline information

1.1 Introduction

This report describes a hydrogeological assessment study conducted in support of an application for a Water Permit in respect of a borehole within a parcel of land belonging to Resmi Community, located Ngaroni location, within Samburu East Constituency, Samburu County.

A hydro-geological assessment is a study carried out to establish the availability of groundwater and its quality and quantity where possible. This is supplemented by a geophysical survey that investigates the rock resistivities. The data obtained from the resistivities is used to infer the geological characteristics of the rock formation below the point of investigation. The information obtained, after assessment and survey; guides the client to proceed with the drilling of the borehole. It also guides the driller to what depth to drill, the method of drilling to be used and expected lithology and thickness of the aquifer. The assessment is essential in improving the success rate of boreholes drilled.

The assessment also assists in the management and protection of groundwater in the respective area.

1.2 The Client

The client is;

Northern water works Development Agency

P.O BOX 495-70100

GARISSA

1.3 Terms of Reference

The study was carried out as follows:

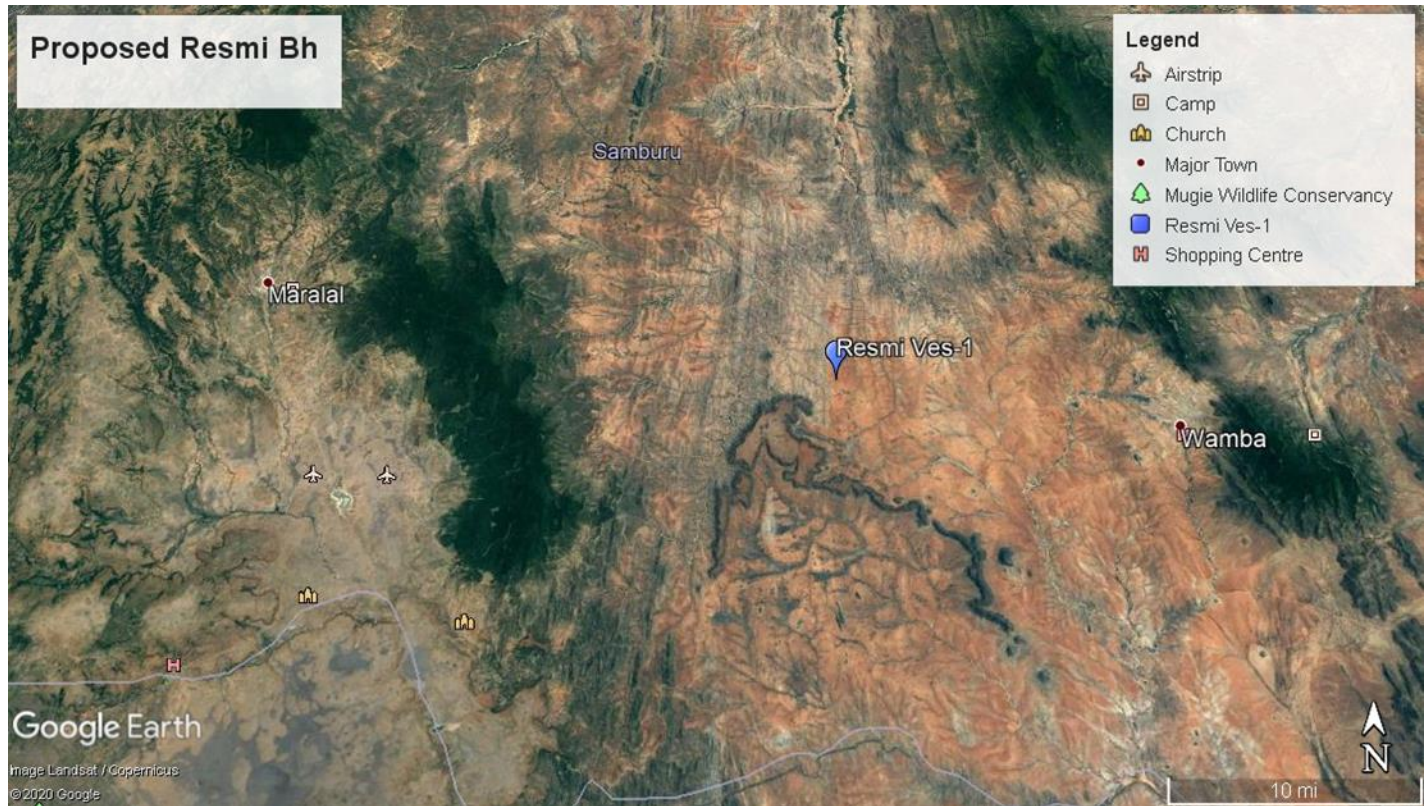
- Detailed desk study. This included review of existing information, maps and reports on the vicinity of the project area, borehole data, etc.
- Geophysical/hydrogeological study,
- Analysis of geophysical data and correlation with neighboring boreholes,
- Data analyses and reporting

It is important to note that the proponent must obtain all approvals before drilling commences. These maybe, but not limited to authorization to drill from WRA and an EIA license from NEMA.

1.4 Location

Resmi Village is located within Ngaroni location, Samburu East Constituency, Samburu County. It within the 1:50,000 survey of Kenya topographical sheet no 78/4. The geographical location of the proposed drilling site is UTM 37N 0287750E 0113121N and an altitude of 1270M above sea level.

The location of the site is shown in figure 1.1 below.



1.5 Water Demand

The water demand for the Village is estimated to be 45 cubic meters per day for domestic and livestock use.

Table 1.1. Water demand

Consumer	Number	Water demand ltrs/day	Total demand m ³ /day
persons	2000	10	20
Cattle	400	50	20
Shoats	500	10	5
			45

Water demand calculations based on Kenya water Supplies Design Manual (GOK, 2005b). People living in a low potential area with no individual connections are estimated to consume 10 liters per person per day.

The total demand for the village is estimated to be 45m³/ day. This is expected to increase when the borehole becomes operational. Ultimate demand is expected to be 50m³/day.

A borehole with a safe yield of 8M³/hr is considered sufficient to meet the water demand.

1.6 Physiography and drainage

Six physiographic provinces controlled by bedrock structure are the east and west shoulders and median graben (Suguta Valley) of the Cenozoic Gregory Rift, the Karissia Hills, Western foothills of the Musi Range and an intervening dissected plain underlain by older metamorphic rocks.

Regional drainage is related to four major river systems; the Kerio and Suguta drainages directed north through the western volcanics, and the older Korante Plains and Milgris Drainages directed Eastwards across the Eastern basement. The area is founded on late Proterozoic to Early Phanerozoic metamorphosed rocks of the Mozambique Orogenic Belt, although their exposure is essentially confined to the east. A succession of altered sediments and volcanic is cut by a series of minor felsic and mafic intrusive related to a polyphase, Upper Amphibolite Facies, tectonothermal history. The Gregory Rift Valley tends NNE across the western two thirds of the area with almost continuous early to middle Miocene through Quarternary assorted (basalt-phonolite-trachytic) volcanism, subsidiary sedimentation and contemporaneous tensional tectonism. Quarternary volcanism and tectonism are largely confined within the median graben where extensive fissuring may herald plate separation, Key (1987).

1.7 Climate

The project area is close to Wamba town from which climate of the area can be inferred from.

Wamba lies on 1297m above sea level Wamba's climate is classified as tropical. The summers are much rainier than the winters in Wamba. According to Köppen and Geiger, this climate is classified as Aw. In Wamba, the average annual temperature is 20.6 °C | 69.2 °F. About 774 mm | 30.5 inch of precipitation falls annually.

Precipitation is the lowest in July, with an average of 6 mm | 0.2 inch. The greatest amount of precipitation occurs in April, with an average of 199 mm | 7.8 inch.

Table 2.1- Climate of Wamba

	January	February	March	April	May	June	July	August	September	October	November	December
Avg. Temperature (°C)	20.6	21.3	21.7	21.6	21.2	20.2	19.5	19.6	20.4	21.1	20.4	20.1
Min. Temperature (°C)	11.5	11.9	12.7	13.3	12.9	11.9	11.6	11.5	11.5	12.2	12.3	11.7
Max. Temperature (°C)	29.7	30.7	30.8	29.9	29.5	28.5	27.5	27.8	29.3	30	28.5	28.5
Avg. Temperature (°F)	69.1	70.3	71.1	70.9	70.2	68.4	67.1	67.3	68.7	70.0	68.7	68.2
Min. Temperature (°F)	52.7	53.4	54.9	55.9	55.2	53.4	52.9	52.7	52.7	54.0	54.1	53.1
Max. Temperature (°F)	85.5	87.3	87.4	85.8	85.1	83.3	81.5	82.0	84.7	86.0	83.3	83.3
Precipitation / Rainfall (mm)	35	36	92	199	87	9	6	6	10	63	156	75

Data: 1982 - 2012

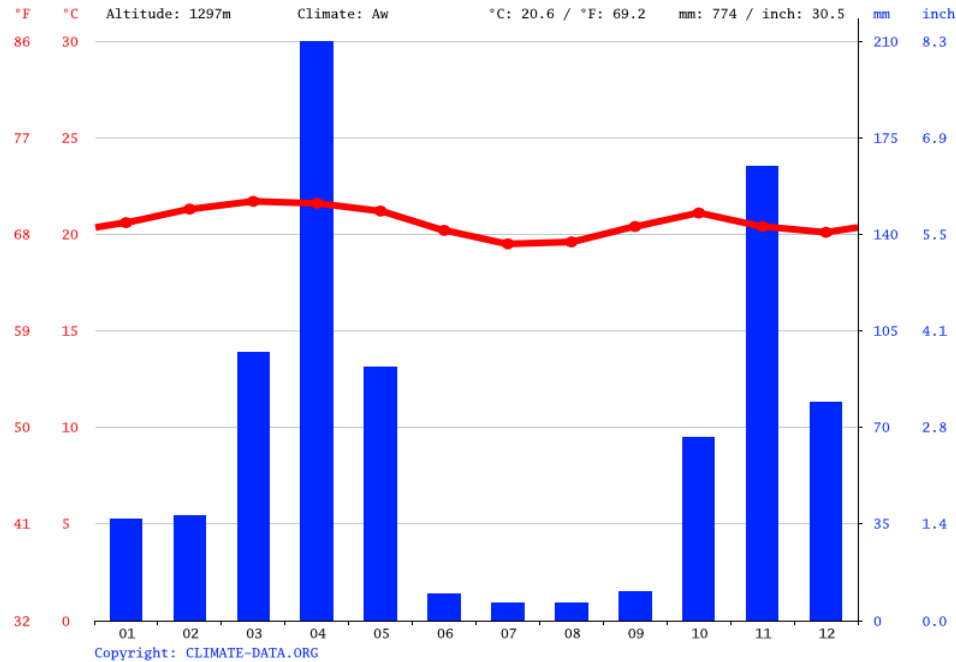


Figure 1.1: Bar-graph showing different temperatures in a year at Wamba

Between the driest and wettest months, the difference in precipitation is 193 mm | 8 inch. The variation in temperatures throughout the year is 2.2 °C | 36.0 °F.

1.8 Potential Evaporation

Potential evaporation or Potential Evapo-Transpiration (PET) is defined as the amount of evaporation that would occur if sufficient water sources were available. Woodhead (1968) developed the empirical equation relating to elevation and annual potential evaporation from 78 climate stations in Kenya, in the form:

$$E_0 = 2422 - 0.358h \quad (r^2 = 0.66),$$

Where h is the elevation above sea level E_0 is Potential evaporation in millimeters per year.

From the above formula, potential evaporation around Resmi area which lies at 1270M amsl is ~1967.3mm/yr.

2. Geology and Hydrogeology

2.1 Geology

2.1.1 Regional geology

Shackleton, 1946 in his report on the *Geology of the area between Nanyuki and Maralal*, provided the following sequence of rocks and the chief events in the history of the region.

Table 3.1 Geological Succession according to Shackleton, (1946).

Age		Formations	Earth movement and Climatic and Erosional Phase	Cultural Changes and faunas
Recent	U	Black cotton soils and Kunkar Laterite iron stone(“murram”) Gravels in Valleys Lateritic Earths	Re-excavation of valleys and erosion of red earths Gamblian Pluvial period	Lavallois
	dry.....		
Pleistocene	M	Red Lateritic earth		Kenya Fauresmith Acheulean
	L	Uaso Nyiro beds (?) Bentonitic Clay Parasitic Cones	Kumasian pluvial Period (?) (disturbance)	
		Laikipian Basalts Trachytic tuffs (Suguroi), etc. (disturbance) End-tertiary Peneplanation	
Pliocene		Thompson falls//Mount Kenya Phonolites//volcanic suite		
Miocene		Losiolo phonolites Rumuruti phonolites Samburu basalt Series Sub-volcanic sediments (disturbance) Sub-Miocene peneplanation (disturbance)	
Archaean		Basement system	Cretaceous peneplanation	

Key (1987) studied the area further north of Maralal and described the area to be founded on polyphase metamorphic rocks of the late Proterozoic to early Phanerozoic Mozambique Orogenic Belt. He explains that the western two thirds these rocks are concealed beneath Miocene through Quaternary volcanic rocks (and subsidiary Sediments of the Gregory Rift.

He recognized four major lithostratigraphic units are recognized in the eastern metamorphic terrain. The original Stratigraphic order has been muddled by subsequent tectonothermal events but a prevalent tectonic order was established to include two tectonic units as follows

6. *Augen Gneisses*

5. *Samburu complex (altered basic and ultrabasic igneous rocks and subsidiary sediments)*

4. *Undifferentiated migmatites (Sabachian sole thrust partial melts)*

3. *Ol Doinyo Ngiri Gneisses (altered shelf sediments)*

2. *Loroki Gneisses (altered arkosic sediments and granites)*

1. *Ndura Complex (altered arkosic sediments and granites)*

2.1.2 Local geology

2.1.2.1 The Karissia Hills- Loroki massif (Basement)

The hills present a steeper, more irregularly eroded face to the east than on the western side, which slopes down to lake Kisima. Founded essentially on resistant migmatites and massive quartzo-felspathic gneisses, its north westerly trend reflects Baragoian structure. It is a higher Relic of pre-moorland planation phases; Shackleton (1946) considered that the even skyline of the Karissia hills reflected the erosion surface of the Cretaceous peneplain. The soils tend to be reddish, brown, sandy and stony loams on the lower slopes and dark brown loams in the highest part of the forest. The proposed borehole is located on this formation.

2.1.2.2 The Laikipia plateau

The steeped eastern shoulder of the Gregory Rift culminates in an escarpment varying from c.2600m in the Marmanet forest to c.1900m by the Churo 'saddle' south of the Loroki plateau. To the East the Laikipia Plateau drops gradually down to an elevation of 1645m south, and, in the north near Lake Kisima, to about 1737m. In the lake Kisima area the lowermost step is not bounded by east facing escarpment, but merges into the lower slopes of the Karissia hills. Further south the Margin of the plateau is clearly demarcated by a line of lava cliffs. To the East, in the Ol-Pajeta area and east of Ewaso Ng'iro River, a series of low ridges trending WNW has been developed on a cover of Pliocene sediments.

2.2 Hydrogeology

2.2.1 Introduction

The hydrogeology of an area is normally dependent upon the nature of the parent rock, structural features, weathering processes, recharge mechanism and the form and frequency of precipitation (recharge). The regional hydrogeology where the project area lies is characterized by fractured volcanic and metamorphic rocks. Ground water in volcanic and metamorphic rocks is limited to weathered zones, fractures, faults and unconformities.

2.2.2 Groundwater Occurrence

Geology of the area is characterized by the basement system.

The local aquifers are confined and occur in weathered/fractured zones and are likely to follow the general direction of rivers draining the area.

There are few boreholes drilled within five kilometers from the area but no records to extract aquifer parameters were found.

2.2.3 Aquifer Characteristics

Aquifer characteristics enable the hydrogeologist to quantify the amount of groundwater that can be abstracted from a given aquifer. This enables the hydrogeologist calculate rather than infer the flow beneath. Characteristic specific capacity (Q/s), transmissivity (T), storage coefficient, hydraulic conductivity (K) and groundwater flux of the aquifer surrounding the investigated site are discussed below.

2.2.3.1 Specific capacity, Sc

The specific capacity (Sc) is a crude indication of the efficiency of a borehole as an engineered structure, and is calculated by dividing the discharge rate (Q) as M³/day by the total drawdown in meters.

$$Sc = Q / \Delta s$$

Where

Sc=Specific capacity, M³/day

Q =Yield in M^3/day

Δs =total drawdown in metres

High specific capacities generally indicate high transmissivities, low specific capacities the opposite.

2.2.3.2 Transmissivity, T

Transmissivity is the product of the average hydraulic conductivity (K) and the saturated thickness of the aquifer, D . Consequently; transmissivity is the rate of flow under a unit hydraulic gradient through a cross-section area of unit width over the whole saturated thickness of the aquifer. Transmissivity can also be defined as the rate of flow of water under a unit hydraulic gradient through a cross section area of unit width across the entire saturated section of the aquifer. Strictly speaking, transmissivity should be determined from the analysis of a well test.

The Thiem's formula is only applicable where the test pumping data is available and is read as follows;

$$T = 2.3 \cdot Q / 4 \cdot \pi \cdot \Delta s$$

Where T = coefficient of transmissivity in M^2/day
 Q =pumping rate or yield M^3/day
 Δs =change in drawdown between any two times on the log scale whose ratio is 10 (one log cycle)

Logan's method can also be used to estimate transmissivity where the test pumping data is not available. Logan (1964) developed a relationship between the specific capacity and transmissivity using the Logan's method a far-reaching simplified approach to Thien's method is used. It only requires input of parameters such as the yield and drawdown in the pumped well. Because of the simplifications, it is an approximate method. The Logan's formula reads as follows

$$T = 1.22 Q / S$$

Where T = Transmissivity in M^2/day
 Q =Tested yield M^3/day
 Δs =Drawdown (m)

There was no sufficient data to calculate this parameter

2.2.3.3 Storage coefficient or Specific Yield, S_y

Storage coefficient or storage yield are both defined as the volume of water released or stored per unit surface area of the aquifer per unit change in the component of head normal to that surface. Both are designated by the symbol S and are dimensionless. The storage coefficient refers only to the confined parts of an aquifer and depends on the elasticity of the aquifer material and the fluid. The specific yield refers to the unconfined parts of the aquifers. It has an order of magnitude of 10^{-4} to 10^{-6} .

In unconfined aquifers the water is released by gravity drainage in proportion to the amount of decline of the water table. The coefficient of storage of the water table aquifer is the specific yield of the desaturated material, given by:

$$S_w = S_y + b S_s$$

Where: S_w = storage coefficient (water table aquifers) {-}
 b = height of the water table above the impermeable layer {m}
 S_y = specific yield of the aquifer {-}

Usually $S_y \gg bS_s$, thus S_w for all practical purposes is regarded as specific yield. The specific yield is defined as the ration of volume of water that a formation would yield by gravity to its own volume. Thus, it effectively represents very closely the effective porosity. When the values of the coefficient of storage and fluctuations of the water table or piezometric surface Δh are known, the quantity of water added or released from the aquifer (ΔV) can be calculated as;

$$\Delta V = S_w \cdot \Delta h$$

Book values for storage coefficient for confined aquifers lie in the range 5×10^{-5} to 5×10^{-3} (Todd, 2005)

2.2.3.4 Hydraulic Conductivity, K

Hydraulic conductivity is the rate of flow of water through a cross section of unit area under a limited hydraulic gradient, expressed as volume per unit area per unit time and usually as $\text{m}^3/\text{day}/\text{m}^2$, simplified to m/day . Since transmissivity is a product of aquifer thickness d , and hydraulic conductivity, K we can calculate K for the aquifer exploited by the boreholes around. However, no information could be obtained from the drilling logs of the boreholes. Fig 2.2 shows representative values of hydraulic conductivity for various unconsolidated sedimentary materials, sedimentary rocks and crystalline rocks (Duffield, 2015).

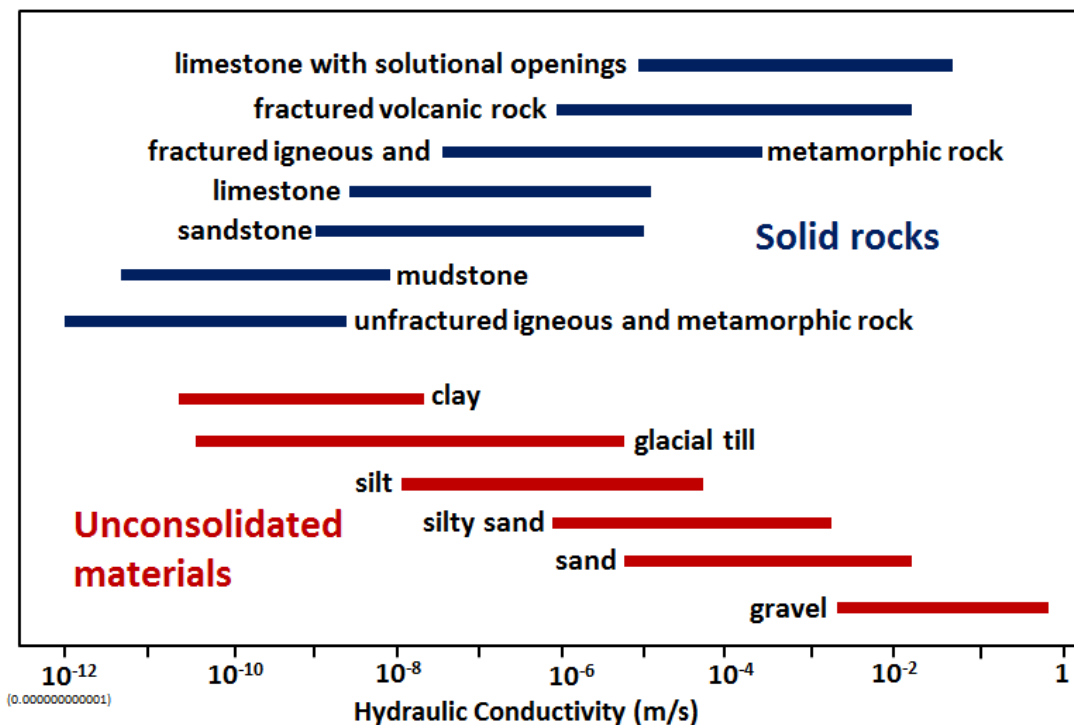


Figure 2.1: Hydraulic conductivities of various rocks.

The hydraulic conductivity of the investigated site is estimated to be 1×10^{-8} to 1×10^{-3} m/day.

2.2.3.5 Groundwater flux

Groundwater flux can be defined as the rate of discharge of groundwater per unit area of a porous medium measured perpendicular to the direction of flow. Groundwater flow can be calculated using Darcy's equation, thus:

$$Q = T \cdot I \cdot W$$

Where

T = Transmissivity (m^2/d),

i =hydraulic gradient,

W = aquifer width (m)

There was no sufficient data to calculate this parameter.

3. Geophysics

3.1 Introduction

The most important objective of any geophysical survey for groundwater prospecting is to translate the results of the geophysical interpretations in terms of sub-surface hydro-geology. For this purpose, a location map of potential sites for drilling of boreholes has been prepared. The resistivity of subsurface rock material depends more on pore volume including fractures, degree of saturation, weathering and conductivity of the saturant than on the rock type.

Geophysical investigations as applied to this exercise were important in the determination of subsurface layering (depth and thickness) and to identify presence of subsurface water. Resistivity method was used in this investigation. In the study, a Terrameter SAS 1000 was used to carry out the geophysical investigations using Schlumberger array.

3.2 Method

The electrical properties of rocks in the upper part of the earth's crust are dependent upon the lithology, porosity, the degree of pore space saturation and the salinity of the pore water. Saturated rocks have lower resistivities than unsaturated and dry rocks. The higher the porosity of the saturated rock the lower its resistivity, and the higher the salinity of the saturating fluids, the lower the resistivity. The presence of clays and conductive minerals also reduces the resistivity of the rock.

The resistivity of earth materials can be studied by measuring the electrical potential distribution produced at the earth's surface by an electric current that is passed through the earth.

The resistance R of a certain material is directly proportional to its length L and cross-sectional area A , expressed as:

$$R = R_s * L/A \quad (Ohm) \quad (1)$$

where R_s is known as the specific resistivity, characteristic of the material and independent of its shape or size. With Ohm's Law,

$$R = dV/I \quad (Ohm) \quad (2)$$

where dV is the potential difference across the resistor and I is the electric current through the resistor, the specific resistivity may be determined by:

$$R_s = (A/L) * (dV/I) \quad (Ohm.m) \quad (3)$$

3.2.1 Horizontal electrical profiling

Resistivity profiles are usually carried in Wenner configuration, i.e. an electrode set-up with a uniform distance between potential and current electrodes. The entire array is moved across the area of interest. By doing so, lateral changes in apparent resistivity are measured, which reflect variations in the lithology, the depth of weathering or the water content.

It must be noted that resistivity differences in a single profile array may largely reflect variations at the surface rather than underground. For this reason, it is usually not sufficient to carry out single-spaced profiles. Moreover, by repeating the same profile at a different configuration, it will become clear if the observed resistivity patterns are caused by surface phenomena or underground features.

3.2.2 Vertical electrical sounding

When carrying out a resistivity sounding, current is led into the ground by means of two electrodes. With two other electrodes, situated near the centre of the array, the potential field generated by the current is measured. From the observations of the current strength and the potential difference, and taking into account the electrode separations, the ground resistivity can be determined.

While carrying out the resistivity sounding the separation between the electrodes is step-wise increased (in what is known as a Schlumberger Array), thus causing the flow of current to penetrate greater depths. When plotting the observed resistivity values against depth on double logarithmic paper, a resistivity graph is formed, which depicts the variation of resistivity with depth.

This curve can be interpreted with the aid of computer software, and the actual resistivity layering of the subsoil is obtained. The depths and resistivity values provide the hydrogeologist with information on the geological layering and thus the occurrence of groundwater.

3.3 Interpretation

Field work was carried out on **7th August, 2020**. Three Vertical Electrical Sounding (VES) were executed at appropriated location as determine d through HEP. The aim of the sounding was to determine the prevailing hydrostratigraphy at the site.

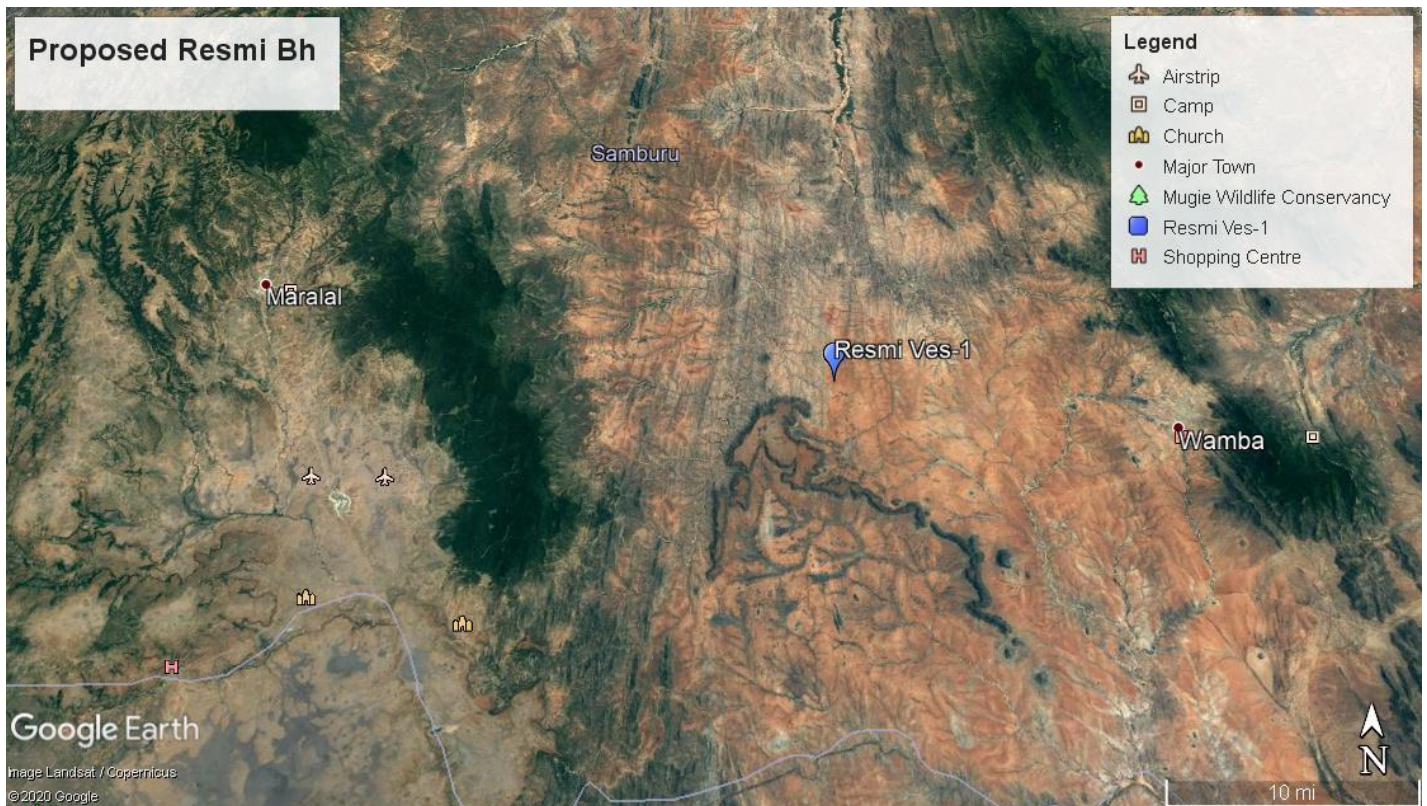


Figure 3.1: Location of Surveyed Site

3.4 Results

The value of any geophysical method of survey is measured by the amount of geological information that can be deduced from the interpretation of the data obtained.

In the study, an ABEM Terrameter SAS 1000 was used to carry out the resistivity surveys. While carrying out the resistivity sounding the separation between the electrodes was step-wise increased (in what is known as a Schlumberger Array), thus causing the flow of current to penetrate greater depths. The observed resistivity values were plotted against depth on double logarithmic paper; a resistivity curve is formed, which depicts the variation of resistivity with depth.

VES1: Naingolei

This VES was executed E-W across a depression to a maximum electrode separation of 250m. The results obtained are as shown in the table below;

Table 4.1: Raw data for VES-1

Depth (m)	rho
1.6	197
2	223
2.5	220.1
3	191
4	186.3
5	165.2
6	151.3
8	138
10	131.3
13	124.6
16	119.2
20	120.6
25	126.6
32	136.2
40	148.6
50	166.5
63	188.5
80	231.6
100	252.9
130	298.4
160	327.1
200	385.8
250	430.1

The resulted were then plotted on computer software as shown in the figure below,

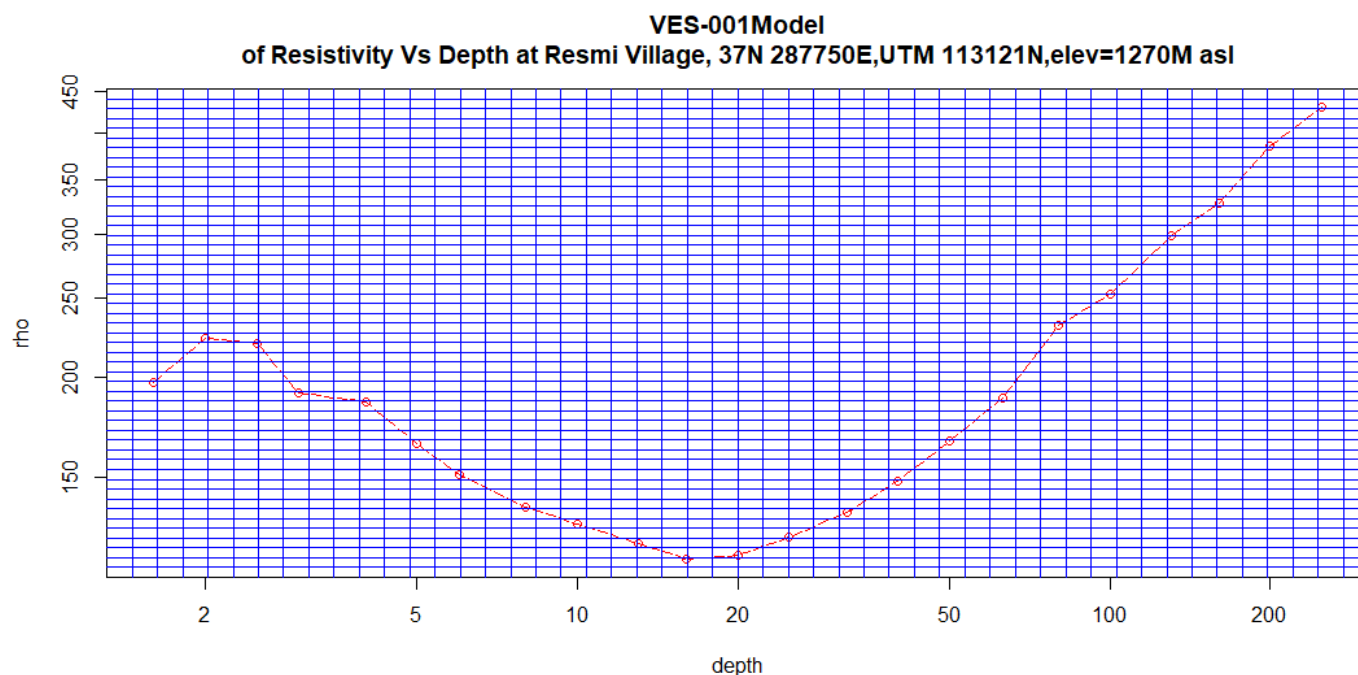


Figure 4.1: Resistivity curve for VES-1

From the above figure, an anomalous zone was detected from 6 to 16m, 32 to 50m and 63-100m. This region has high possibility of occurrence of fractures and hence probability of striking some groundwater. This point is therefore **is recommended for drilling** as the amount of water that is likely to be obtained is sufficient to meet the estimated demand. The time allocated for geophysical investigations was short hence thorough investigation was impossible. The recommended method is **air drilling** to a maximum depth of **200m**. If possible, a revised investigation before drilling commences is advised to identify all potential points of drilling and select the best. Expected formation is tabulated in Table 5.1.

Table 5.1: Results and interpretation for VES-1

Depth	Estimated Thickness	Expected Formation	Remarks
0-0.3	0.3	Top sandy loams	Dry
0.3-6	5.7	Highly weathered granites	Dry
6-16	10	Decomposed granite	Wet
16-32	16	Fissured/ weathered granite	Moist to wet
32-100	68	Fractured/ decomposed Granites	Wet
100-150	50	Fresh granites	Dry
150-170	20	Fractured granites	Moist-wet
170-200	30	Fresh granites	Top wet Base Dry

4. Estimated Mean Annual Recharge, and Sensitivity to External Factors

4.1. Introduction

Recharge estimation methods require a great deal of hard data. For example, for a typical catchment water balance, rainfall, runoff, evapotranspiration, soil moisture deficit and abstraction time-series are needed. None of these data could be available for the study area at the level of detail required, nor is the present study area able to address data shortfalls in respect of recharge estimation or calculation.

The main methods used to analyze groundwater recharge include: base flow analysis; Estimates of Evapotranspirative discharge from seepage zones using climatological data and satellite imagery; chloride balance of rainfall and groundwater (base flow, springs, boreholes and wells).

Base flow analysis has the advantage of a direct identification of a groundwater component, where reliable, provides a minimum value of recharge.

4.2 Types of Recharge

There are essentially three modes of recharge in ground water engineering:

- Direct or autogenic recharge. This is recharge directly from infiltrating rain into an aquifer unit.
- Indirect or allogenic recharge is recharge from rivers flowing from adjacent geologies over and into an aquifer unit.
- Lateral recharge from one geological unit to another at depth, and allogenic by definition.

Recharge is typically expressed as a proportion of mean annual rainfall, or as millimeters of recharge (Lane, 2011).

Table 6.1 below shows estimated recharge rates and ratios in Kenya. The recharge of the area investigated can be inferred from this.

Table 6.1: Recharge Rates and ratios

Region	Geology	Mean Annual recharge	Recharge		Remarks
			%	Mm	
KENYA	Tiwi aquifer sediments	1100	13	89	
	Laikipia Plateau Volcanics	667	5-9	34-61	
	Mombasa North Limestone	1145	13	171	
	Mt. Kenya highland zone	1500	18	270	
	Humid, volcanics	≈900	8	72	
	Arid, general	≈450	2-4	9-18	
	Arid Basement	≈450	1	4-5	Estimated for the area

The investigated site is close to a seasonal river originating from Karissia Hills to the West. Recharge is likely to be good if the site happens to be on a buried a fractured zone.

5. Groundwater quality.

The slow percolation of water through the ground results in prolonged contact with minerals in the soils and bedrock. Many of these minerals are dissolved slowly as the groundwater passes over them, and, in time, a quasi-chemical equilibrium can be reached between the groundwater and the minerals in the soil and rock. The ability of water to dissolve minerals determines the chemical nature of groundwater.

The groundwater composition is also affected by human polluting activities, which include agriculture, cattle breeding, industrial and domestic activities. In this case, shallow aquifers suffer most. The basic requirements for drinking water are that it should be;

- Free from pathogenic (disease causing organisms)
- Containing no compounds that have an adverse acute or long-term effect on human health
- Fairly clear (i.e. Low turbidity, little color).
- Not saline (salty)
- Containing no compounds that cause an offensive taste or smell.
- No causing corrosion or encrustation of the water supply system not staining clothes washed in it (GoK,2005a)

The bacteriological quality is very essential and should be tested before the selection of the sources and during the operation of a supply. In this regard microbiological quality should not be confused with aesthetically pleasing water. A good bacteriological quality is best obtained by selecting the source without contamination, by protecting the intake and by adequate treatment. Table 7.1 below shows bacteriological quality expected of drinking water.

Table 7.1: Microbiological limits of drinking water

Type of Micro-organism	Limits
Total viable counts at 37°C per ml, Max.	100
Coliforms in 250ml	Shall be absent
E-coli in 250ml	Shall be absent
Staphylococcus aureus in 250ml	Shall be absent
Sulphite reducing anaerobes in 50ml	Shall be absent
Pseudomonas aeruginosa fluorescence	Shall be absent
Streptococcus faecalis	Shall be absent
Shigella in 250ml	Shall be absent
Salmonella in 250ml	Shall be absent

Table 8.1 shows the water quality standards in Kenya

Table 8.1: Water Quality and Standards

Parameters	Unit	WHO Standards, Max allowable	KeBS(KS459-1:2007) Standards, Max allowable
pH	pH Scale	6.5-8.5	6.5-8.5
Color	Mg Pt/l	15	15
Turbidity	N.T.U	5	5
Conductivity (25°C)	µS/cm	2500	-
Iron	mg/l	0.3	0.3
Manganese	mg/l	0.1	0.5
Calcium	mg/l	100	150
Magnesium	mg/l	100	100
Sodium	mg/l	200	200
Potassium	mg/l	50	-
Total Hardness	mgCaCO ₃ /l	500	300
Total alkalinity	mgCaCO ₃ /l	500	-
Chloride	mg/l	250	250
Fluoride	mg/l	1.5	1.5
Nitrate	mgN/l	50	50
Nitrite	mgN/l	0.1	0.003
Sulphate	mg/l	450	400
Free Carbon dioxide	mg/l	-	-
Total dissolved Solids	mg/l	1500	1000
Arsenic	µg/l	0.1	0.1
Permanganate value	mgO ₂ /l		

The local and climatic conditions necessitate adaptation of Fluoride concentration in excess of 1.5mg/l. in exceptional cases, a Fluoride of 3 mg/l can be acceptable in Kenya.

The water from the borehole is expected to be of good portable quality.

6. Reserve and effects of the Borehole to Other Users

Water Resources Management Rules, 2007 requires that hydrogeological assessment reports must conduct an analysis of the reserve. The Reserve is described in the Water Act, 2016 in relation to water resources as that quantity of water required to satisfy the basic human needs for all people who are or may be supplied from the water resource and to protect aquatic ecosystems in order to secure ecologically sustainable development and use of the water resource.

The Authority has offered guidelines on the Reserve (W.R.M.A, 2009). The approach is the maximum daily amount m³/day that can be abstracted shall be calculated as 25% of the tested yield in m³/hour multiplied by 24hours or it can be defined by the maximum abstraction rate of 25% of tested yield in m³/hour.

The abstraction rate as expressed in cubic metres per day is the same when calculated as 25% of tested yield for 24 hours or 60% of tested yield for 10 hours. The difference is that the 25% of tested yield sets a lower abstraction rate m³/hour and therefore reduces the likelihood of over-abstraction. The remaining abstraction of 40% after 10-hour pumping or 75% (after 24-hour abstraction) is defined as the reserve.

6.1 Impact of Proposed Boreholes Related to Water resources

6.1.1 Aquifer Impact

There is limited risk of physical effects of the aquifer structure provided the borehole is correctly constructed. Un-professionally and poorly constructed boreholes may increase the opportunity for groundwater pollution because of inadequate grout seals at surface. A proper grout seal will be installed on the borehole to be constructed at the proposed site.

Boreholes screened in the shallow aquifer will be more sensitive to pollution from the land surface than the deeper confined aquifer, due to the direct recharge they benefit from. Within this area any activities likely to lead to the release of pollutants (such as agrochemicals; pit latrines and septic tank leachates) will have negligible effect on the aquifer since it is confined and deep.

6.1.2 Water Quality

We expect the groundwater from a borehole drilled in metamorphic rocks will be acceptable for portable purposes; it may be relatively hard and may not infringe National Standards for drinking water with respect to Fluoride.

6.1.3 Other Abstractors, cones of Depression and any other implications

Metamorphic rocks have discontinuous aquifers. There are very few boreholes drilled within 5km of the proposed site, and any abstraction is anticipated to have negligible effect on the proposed borehole. It will similarly have negligible effect on the base flow to streams around unless if pumped at very high discharge rates.

The Proposed drill site and related works are expected to pose no impact on water quality, either Surface or groundwater resources. There is no any surface water body near the drill site that can be contaminated by waste waters generated during drilling. The entire drilling, borehole construction, pump tests, and completion works will be done under supervision to professional standards. Entry of any foreign material until completion will be avoided to avoid any entry of foreign material into the borehole and only inert materials will be used in construction. The borehole will be properly developed to open up the aquifers and clean the borehole water. Monitoring of EC during drilling will be done to detect and seal any aquifer with elevated mineralization.

The site is not located within a wetland or protected land and has minimal negative impacts on biodiversity.

7. Water Permit application process

This section discusses the water permit application process as is carried out with WRA. According to the Water act (2016), a permit is required.....for any use of water from the water source....

The Diagram below is illustrative and is explained in the following paragraphs.

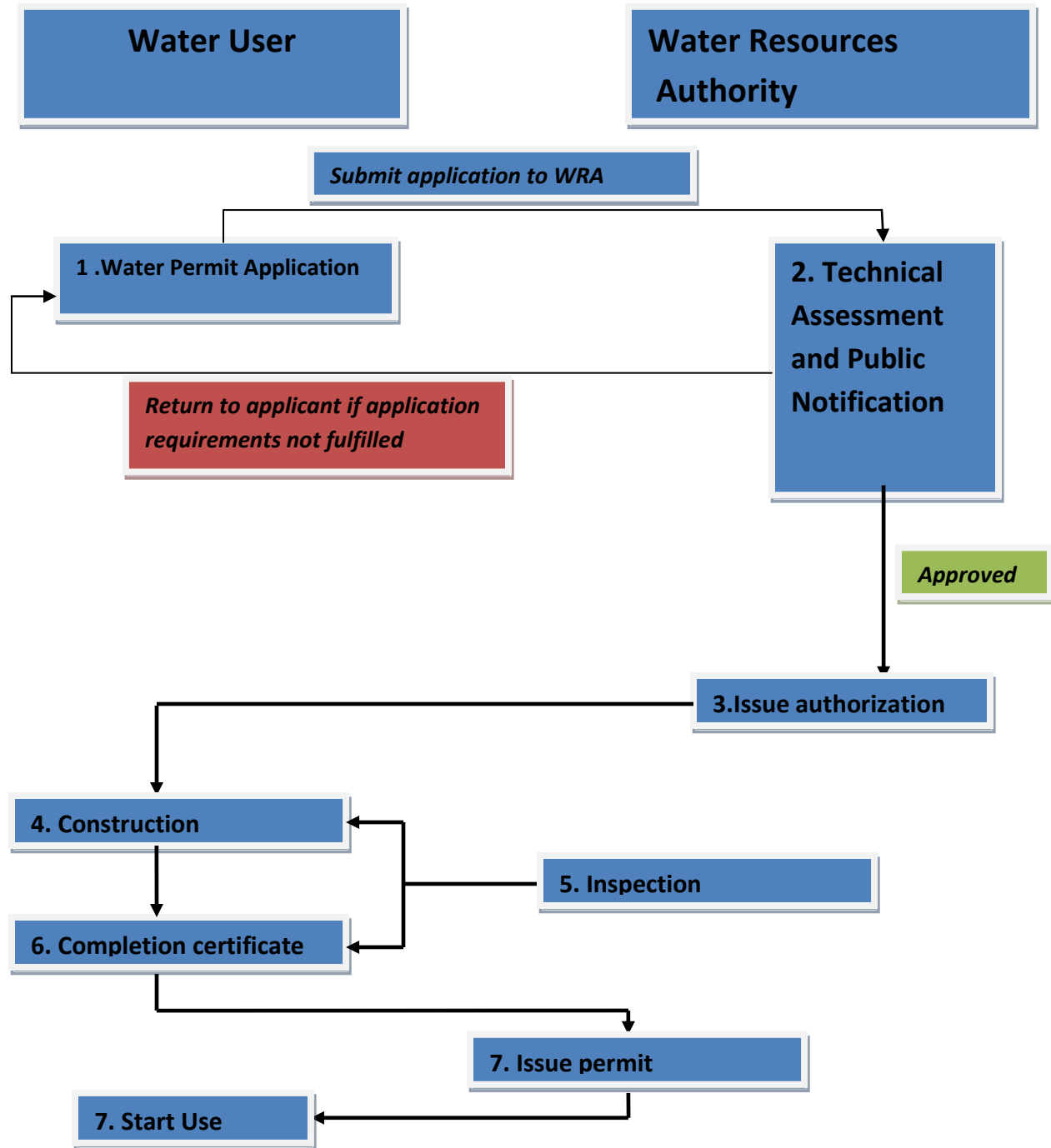


Figure 5.1: Permit application process

7.1 application for water permit

A person intending to apply for a water permit to abstract from must fill form WRMA 001A stating the type of water use, and form WRMA 003 comments on WRUA on application of water permit (GoK, 2007). Other documents required to the form are summarized in the table 9.1 below:

Table 9.1: Copies of documents required for water permit application.

	Individual	Company, Institution	Groups
PIN	PIN	PIN	PIN
Land ownership documents	Title deed or any other recognized land document	Title deed	Title deed or any other recognized land document
Identification documents	Identification Card	Certificate of registration	Group Registration Certificate Group minutes Group constitution
Other reports	Soil and water conservation report from the agricultural officer ¹ Letter of no objection from the Local Water Services Provider ² Environmental Impact assessment license ³ Hydrogeological Assessment / Survey Report		

Notes

¹This is in case the client intends to use water for irrigation.

²Where there is existing water services provider (piped Water), the water service provider has to commit he does not have the capacity to supply the water to the client; therefore, the client may seek other alternatives, in this case drill a borehole.

³An EIA report is a statutory requirement for all projects that may alter the environment as per EMCA cap. 387.

The documents must be accompanied by a prescribed fee. This is deposited in an account as advised by WRA officers and varies with the quantity of water applied for. The amount is classified depending on the use, and ranges from Class A to Class D, as illustrated in table 10.1 below (GoK, 2007).

There are guidelines WRA uses to allocate and apportion water resources. This is guided by geology and hydrology of the area, intended water use and the location of proposed borehole.

7.2 Technical Assessment and public Notification.

Once the application is complete and all fees and attachments are in order, they are submitted to the nearest WRA sub regional offices for processing. It is important for the client to ensure that all documents are in order to avoid rejection of the application or delays in processing. Where necessary, the public may be notified of the project through the media to alert them of the project. Should any objections arise, the project is temporarily suspended until all the concerns raised are addressed.

Table 10.1: Water permits classification

Class	Description	Fee (Kshs)
A	Water activity deemed by virtue of its scale to have a low risk of impacting the water resource. Application in this category will be determined by Regional Offices	1,000
B	Water activity deemed by virtue of its scale to have the potential to make significant impact on the water resource. Permit applications in this category will be determined by Regional Offices	5,000
C	Water use activity deemed by virtue of its scale to have a significant impact on the water resource. Permit applications in this category will be determined by Regional Offices in consultation with the Catchment Advisory Committee (now called Basin Water Resources Committee).	20,000
D	Water use activity which involves either two different catchments areas, or is of a large scale or complexity and which is deemed by virtue of its scale to have a measurable impact on the water resource. Permit applications in this category will be determined by Regional offices in consultation with the Catchment Area Advisory Committee and approved by Authority Headquarters.	40,000

7.3 Issue Authorization

The authorization to construct works is issued on a standard form WRMA 004. The authorization has some conditions stipulated among them depth of drilling, duration of the drilling and any other conditions that WRA may impose. The client should note that it is illegal to commence any works without first obtaining this document. Should the works fail to commence as scheduled, and there is delay and the stipulated time has lapsed, the Client is advised to apply for an Extension of Time of Authorization by filling form WRMA 005. When approved, the extension shall be issued to the client in the form WRMA 006 (Extension of Authorization to Construct Works).

7.4 Construction

The client can now engage a licensed drilling contractor. Drilling in terms and conditions shall be agreed between the client and the contractor. The client should ensure that the contractor has a good reputation of complete quality works. The fee shall depend on the depth and varies from one contractor to another. During construction, supervision services of a qualified hydrogeologist should be sought to aid in giving technical advice and compiling borehole drilling reports.

7.5 Inspection

WRA inspectors are mandated by law to visit the drilling site without prior notice. The contractor and the client should offer maximum cooperation to them. There are milestones in authorization that the Inspectors pay close attention to. An inspection report is compiled by WRA officers and submitted in form WRMA 007.

7.6 Completion Certificate

When all works are carried out as per the conditions of the authorization, and all works are complete, the client is advised to fill form WRMA008 (Completion Certificate) and submit it duly signed to the nearest WRA Sub-Regional Office. This should be accompanied by the following documents and fees.

Table 11.1: Documents required, Class of Permit and fees

Report	Class		
	B	C	D
Borehole/Well completion Report WRMA009)	7,500	25,000	50,000
Test Pumping Report			
Water quality Analysis Report			
Effluent Discharge Control Plan ⁴			

Notes

⁴This report is issued in facilities that generate wastewater.

7.7 Permit

A permit is issued when all submitted documents are in order. The permit stipulates the conditions of water use and states the limitations to which the Client may use the water. It is issued by WRA in form WRMA 010.

The permit may be renewed, transferred or varied. The permit is renewable after every five years by filling form WRMA 011 and paying the prescribed fee as shown in table 11.1 above. Should there be any changes in ownership of the land to which the permit is attached to, the Client may transfer it the new owner. The permit can also be varied when conditions of the permit are untenable under the conditions of issue at that time.

7.8 Start Use

After all the conditions are met and the permit is issued, the client can start using the water.

Section 105(1) of the WRM Rules 2007 states that any person in possession of a valid permit or who is required to have a valid permit for water use, shall be required to pay to the Authority water use charges on the basis of water abstracted, diverted, obstructed or used including energy derived from a water resource at the appropriate rate as set out in the First Schedule (GoK, 2007).

The charges are tabulated below.

Table 12.1: Water use charges

Type of water Use	Criteria	Rate
Domestic	Domestic, public and livestock purposes	50 cents/m ³
Public, livestock	Installed capacity	
Hydropower Generation	Up to 1MW	No charge
	Over 1MW	5 cents per kWh
Irrigation	First 300m ³ /day	50 cents /m ³
	Over 300m ³ /day	75 cents /m ³
Fish Farming	Amount of water supplied	5 cents /m ³
Commercial/ industrial	First 300m ³ /day	50 cents /m ³
	Over 300m ³ /day	75 cents /m ³
Effluent discharge		Nil

In conclusion, the client is expected to comply with all the rules and regulations as stipulated in the water act.

8. Conclusions and Recommendations

This section discusses the conclusions and recommendations arrived at after completion of the study

8.1 Conclusion

Based on the collected and analyzed data including the hydrogeological prevailing conditions it can be concluded as follows:

- Only one site was investigated due to time constraints
- There are fair prospects of striking groundwater within the investigated site **VES#1**
- Water from the borehole is expected to be of fairly good quality.

8.2 Recommendations

It is recommended that:

- Intensive groundwater investigations be carried out to identify a more suitable site before drilling commences.
- A borehole may be drilled at Point marked VES-1 identified in the land. The site is known to Mr. William Lokirenyei (0727316968), Mr. Lemeua Pius (0798020995) and various community elders. The coordinates of the site are **UTM 37N 287750E 0113121N**.
- The borehole should have a diameter of at least 8” and a maximum possible depth of **200 meters**.
- It should be lined with appropriate casings and screens.
- It should be protected from possible sources of contamination by grouting at least 10-meter length of the borehole from the ground surface.
- The borehole should be properly gravel packed to enhance yield.
- The drilling and test pumping should be supervised by a **Hydrogeologist/Licensed Water Resources Professional**.
- Upon completion the borehole must be **fitted with an airline/piezometer** and a **master** meter to facilitate **monitoring of static water level and groundwater abstractions respectively**.
- **At least five (5) litres sample of this water is to be collected in a sterilized container and be taken to any competent water testing laboratory for a chemical, physical and bacteriological analysis before the water is made available for use.**
- It is a **legal requirement**, stipulated in the *Water act 2016*, that the **client applies for an authorization to drill from WRA. After drilling, the borehole completion record, test pumping results, completion certificate and water quality analysis results must be submitted to WRA for issuance of a permit.**
-An authorization to drill does not constitute a permit to use the water

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Drilling, Development and Test-pumping

Drilling should be carried out with an appropriate tool. A percussion or rotary drilling machine will be suitable, though the latter is considerably faster. Geological rock samples should be collected at 2 metres intervals. Water struck and water rest levels and if possible estimates of the yield of individual aquifers encountered, should also be noted.

1. Well Design

The design of well should ensure that screens are placed against the optimum aquifer zones. The final design should be made by an experienced hydrogeologist.

2. Casing and Screens

The well should be screened with good quality screens considering the depth of the borehole; it is recommended that stainless steel casing and screens of 8" diameter be used. Slots should be of maximum 2mm in size.

We strongly advice against the use of torch-lit steel casings for screens. In general, its use will reduce well efficiency (which leads to lower yields) increase pumping costs through greater draw down, increased maintenance's cost, and eventually reduction of the potential effective life of the well.

3. Gravel pack

The use of gravel pack is recommended within the aquifer zone, because the aquifer could contain sands or silts which are finer than the screen slot size. An 8 1/2 diameter borehole screened at 6", which should be sufficient. Should the slot size chosen be too large, the well will pump sand, thus damaging the plant and leading to gradual siltation of the well. The grain size of the gravel pack should be an average 2-4mm.

4. Well Construction

Once the design has been agreed, construction can proceed. In installing screen and casing, centralizers at 6-metre intervals should be used to ensure centrality within the borehole. This is particularly important to insert the artificial gravel pack all around the screen. If installed gravel packed sections should be sealed off, top and bottom with clay (10m), the remaining annular space should be backfilled with an inert material and the top five metres grouted with cement to ensure that no surface water at the well head can enter the well and thus prevent contamination.

5. Well Development

Once screen, pack, seals and backfill have been installed, the well should be developed. Development aims at repairing the damage done to the aquifer during the course of drilling by removing clays and other additives from borehole wall. Secondly, it alters the physical characteristics of the aquifer around the screen and removes fine particles.

We do not advocate the use of over pumping as a means of development since it only increases permeability in zones, which are already permeable. Instead, we would recommend the use of air or water jetting or the use of the mechanical plunger, which physically agitates the gravel pack and adjacent aquifer material. This is an extremely efficient method of development and cleaning wells.

Wells development is an expensive element in the completion of a well, but is usually justified in longer well-life, greater efficiencies, lower operational and maintenance costs and a more constant yield.

6. Well Testing

After development and preliminary tests, a long duration well test should be carried out. Well tests have to be carried out on all newly-completed wells because not only does this give an indication of the success of the drilling, design and development, but it also yields information on aquifer parameters which are vital to a hydro geologist.

A well test consists of pumping a well from measured start (SWL) at a known or measured yield and recording the rate and pattern by which the water level within the well changes. Once as dynamic water level (DWL) is reached, rate of inflow to the well equals the rate of pumping.

The duration of the test should be 24 hours with a further 24 hours for a recovery test or less depending on the rate of recovery during which the rate discovery to SWL is recorded. The results of the test will enable a hydro geologist to calculate the aquifer various aquifer parameters such as transmissivity and flux. The results of the tests enable selection of appropriate pumping equipment, the installation depth and the drawdown for a given discharge rate.

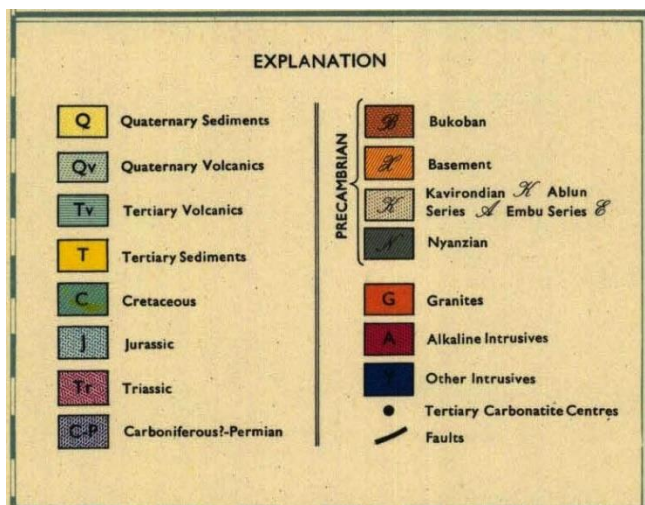
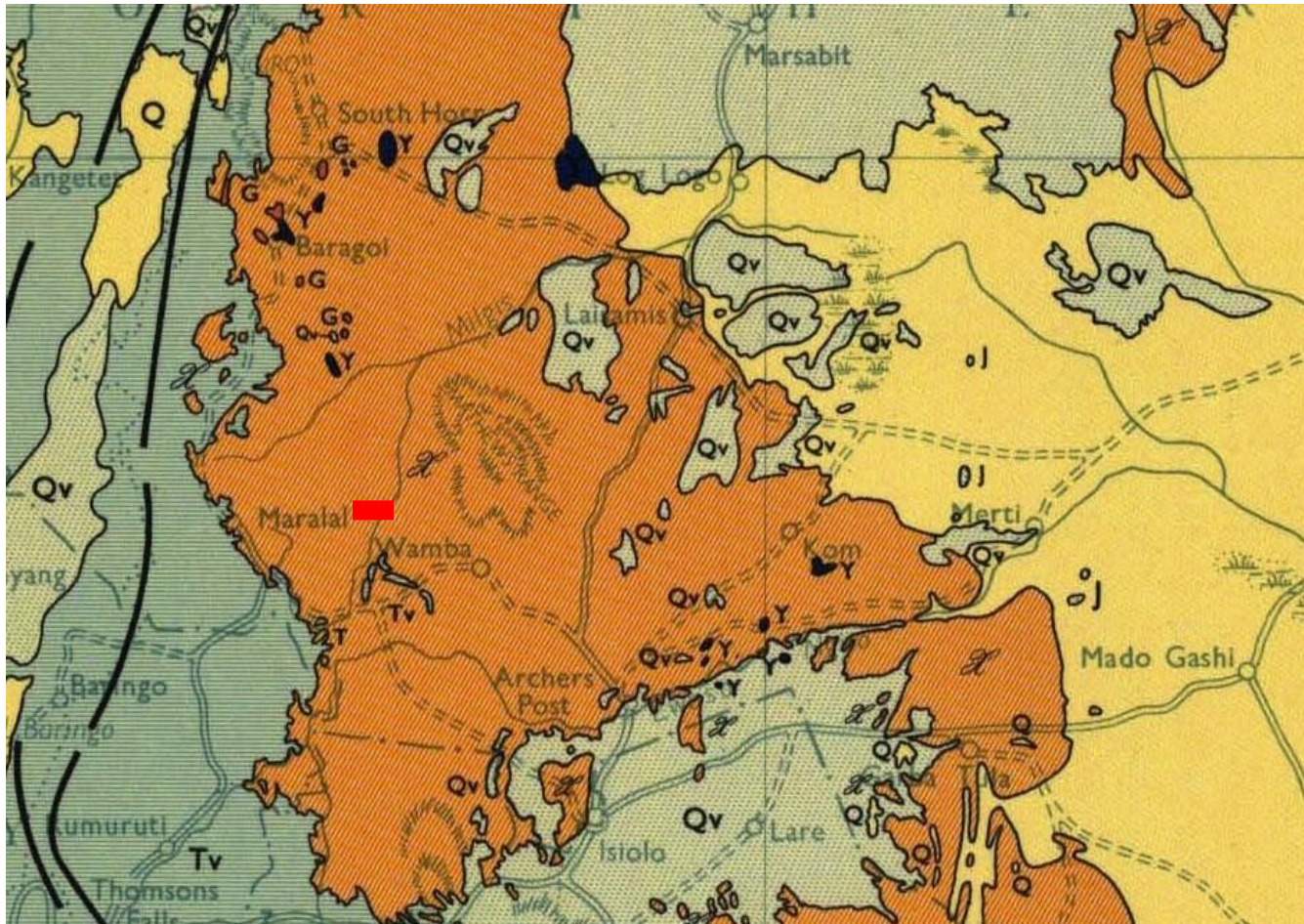
It is nowadays-common practice to carry out a so-called step draw down test, in which the yield during testing increases stepwise. Each step is continued until hydraulic equilibrium is reached after which the yield is increased wit 50 to 100% towards the end of the test a water sample of 15 litres should be collected for chemical and bacteriological analysis.

7. Pump Installation

After testing and analysis of the results the pump can be selected and installed. It is important to select the right type of pump, which matches the characteristic of the well. It should have the right capacity to lift the water directly to the storage tank. The pump should never be installed in the slotted section, but at least 2 meters above or below the screened section. The electric submersible pump should be protected with a cut-off switch 2 meters above the pump inlet level.

Appendix.

Geological Map of Samburu Area.



■ *Project Area.*