LESOTHO HIGHLANDS WATER PROJECT

TENDER DOCUMENTS

CONTRACT LHDA No. 2177

SUPPLY, INSTALLATION AND COMMISSIONING OF ONLINE DISSOLVED GAS MONITORING EQUIPMENT FOR GENERATOR STEP-UP TRANSFORMERS AT ‘MUELA HYDROPOWER STATION

LHDA
Lesotho Bank Tower
Kingsway
Maseru, Lesotho

September, 2017
LETTER OF INVITATION

LHDA CONTRACT NO. 2177

SUPPLY, INSTALLATION AND COMMISSIONING OF THE OLINE DISSOLVED GAS MONITORING EQUIPMENT FOR GENERATOR STEP-UP TRANSFORMERS AT ‘MUELA HYDROPOWER STATION’

The Lesotho Highlands Development Authority (LHDA) requires a competent Contractor to Supply, Install and Commission online dissolved gas detectors for generator step-up transformers at ‘Muela hydropower station.

The Lesotho Highlands Water Project (LHWP) is a multi-purpose project which, by a series of dams and tunnels is developing the water resources of the Highlands Region of Lesotho. The LHWP is redirecting a portion of the surplus water in the Senqu/Orange river towards population centres in the Republic of South Africa north of Lesotho and generating hydropower for Lesotho’s needs.

The LHDA would like to install online dissolved gas monitoring equipment for three(3) generator step-up transformers at ‘Muela hydropower station. The purpose of the equipment will be to monitor the eight (8) standard key gases of a transformer, total dissolved combustible gases(TDCG) as well as moisture content and alert Control Room personnel when the set limit
for the level of any of the gases, rate of change of each gas, TDCG and moisture content is reached.

1. You are hereby invited to submit Technical and Financial Proposals to Supply, Install and Commission the online dissolved gas monitoring equipment.

2. The objectives of the contract are to:
   a) Supply, install and commission the online dissolved gas monitoring equipment.
   b) Train employees/users on operation and maintenance of the equipment.

3. To enable you to submit tenders please find enclosed:
   a) Tendering procedures
   b) Works requirements
   c) Conditions of Contract and Contract forms
   d) LHWP anti-corruption policy
   e) Tax requirements

   The proposals shall be prepared and submitted in strict accordance with the Instructions to Tenderers and the Conditions of Contract. The proposals must be made for the complete Scope of Work specified under Works Requirements in Section VI.

4. **The proposals must be submitted by 12.00pm (noon) Lesotho Time on the 23rd October, 2017.** Submissions are to be made at the offices of the Lesotho Highlands Development Authority, in the Tender Deposit Box situated on the 7th Floor, LHDA Tower Building (formerly the Lesotho Bank Tower Building), Kingsway Road, Maseru, where a register of receipt of proposals will be maintained. The proposals can also be couriered at the Tenderer’s own risk to the same location.

   Late submissions will not be considered.
Yours faithfully,

R. TLALI
CHIEF EXECUTIVE
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Section I. Instructions to Tenderers

A. General

1. Scope of Tender  1.1 In connection with the Invitation to Tenders (ITT) indicated in the Tender Data Sheet (TDS), the Employer, as indicated in the TDS, issues these Tendering Documents for the procurement of Works as specified in Section VI, Works Requirements. The name and contract number are provided in the TDS.

1.2 Throughout these Tendering Documents:

i. the term “in writing” means communicated in written form and delivered against receipt;

ii. except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular; and

iii. “day” means calendar day.

2. Source of Funds  2.1 LHDA has secured funding for the implementation of the project.

3. Fraud and Corruption  3.1 LHDA requires that tenderers, suppliers, and contractors and their agents (whether declared or not), personnel, subcontractors, sub-consultants and service providers under LHDA contracts, to observe the highest standard of ethics during the procurement and execution of LHDA contracts. In pursuance of this, LHDA includes its Anti Corruption Policy in this document which should be observed and adhered to.

4. Eligible Tenderers  4.1 A Tenderer may be a natural person, private entity, government-owned entity subject to ITT 4.5 - or any combination of such entities in the form of a joint venture or association (JVA) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. In the case of a joint venture or association:
Section I. Instructions to Tenderers

(a) unless otherwise specified in the TDS, all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms, and

(b) the JVA shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the partners of the JVA during the tendering process and, in the event the JVA is awarded the Contract, during contract execution.

4.2 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:

(a) they have at least one controlling partner in common; or

(b) they receive or have received any direct or indirect subsidy from any of them; or

(c) they have the same legal representative for purposes of this Tender; or

(d) they 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 Employer regarding this tendering process; or

(e) a Tenderer participates in more than one Tender in this tendering process. Participation by a Tenderer in more than one Tender will result in the disqualification of all Tenders in which such Tenderer is involved. However, this does not limit the inclusion of the same subcontractor in more than one Tender; or

(f) a Tenderer participated as a Consultant/Engineer in the preparation of the design or technical specifications of the works that are the subject of the Tender;

(g) a Tenderer or any of its affiliates has been hired (or is proposed to be hired) by the Employer as Engineer for the Contract implementation.

4.3 A Tenderer that has been sanctioned by the LHDA in accordance with the above ITT 4.2(d), or in accordance with the LHDA Anti-Corruption Policy, shall be ineligible to be awarded a
LHDA contract, or benefit from the contract, financially or otherwise, during such period of time as LHDA shall determine.

4.4 Government-owned entities in the Employer’s country shall be eligible only if they can establish that they are legally and financially autonomous and operate under commercial law. Also, they shall not be dependent agencies of the Employer.

4.5 Tenderers shall provide evidence of their continued eligibility satisfactory to the Employer, as the Employer shall reasonably request.

4.6 Tenderers shall be excluded if:

(a) as a matter of law or official regulation, the Kingdom of Lesotho prohibits commercial relations with that country; or

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

5. Eligible Materials, Equipment, and Services

5.1 The materials, equipment and services to be supplied under the Contract may have their origin in any country subject to the restrictions specified in Section V, Eligible Countries, and all expenditures under the Contract will not contravene such restrictions. At the Employer’s request, Tenderers may be required to provide evidence of the origin of materials, equipment and services.
## B. Contents of Tendering Documents

6. **Sections of Tendering Documents**

6.1 The Tendering Documents consist of Parts 1, 2, and 3, which include all the Sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITT8.

**PART 1 Tendering Procedures**
- Section I. Instructions to Tenderers (ITT)
- Section II. Tender Data Sheet (TDS)
- Section III. Evaluation Criteria and Qualification Criteria
- Section IV. Tendering Forms
- Section V. Eligible Countries

**PART 2 Works Requirements**
- Section VI. Works Requirements

**PART 3 Conditions of Contract and Contract Forms**
- Section VII. Annex to the Particular Conditions - Contract Forms
- Section VIII. Particular Conditions (PC)
- Section IX. General Conditions (GC)

**PART 4 LHWP Anti-Corruption Policy**
- Section X. LHWP Anti-Corruption Policy

**PART 5 Tax Requirements**
- Tax Requirements

6.2 The Invitation for Tenders issued by the Employer is not part of the Tendering Documents.

6.3 The Employer is not responsible for the completeness of the Tendering Documents and their addenda, if they were not obtained directly from the source stated by the Employer in the Invitation for Tenders.

6.4 The Tenderer is expected to examine all instructions, forms, terms, and specifications in the Tendering Documents. Failure to furnish all information or documentation required by the Tendering Documents may result in the rejection of the Tender.

7. **Clarification of Tendering**

7.1 A prospective Tenderer requiring any clarification of the Tendering Documents shall contact the Employer in writing.
at the Employer’s address indicated in the TDS or raise his enquiries during the pre-Tender meeting if provided for in accordance with ITT 7.4. The Employer will respond in writing to any request for clarification, provided that such request is received no later than the number of days specified in the TDS. The Employer shall forward copies of its response to all Tenderers who have acquired the Tendering Document in accordance with ITT 6.3, including a description of the inquiry but without identifying its source. Should the clarification result in changes to the essential elements of the Tendering Documents, the Employer shall amend the Tendering Documents following the procedure under ITT 8 and ITT 22.2.

7.2 The Tenderer is advised to visit and examine the Site of Works and its surroundings and obtain for itself on its own responsibility 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.

7.3 The Tenderer and any of its personnel or agents will be granted permission by the Employer to enter upon its premises and lands for the purpose of such visit, but only upon the express condition that the Tenderer, its personnel, and agents will release and indemnify the Employer and its personnel and agents from and against all liability in respect thereof, and will be responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the inspection.

7.4 The Tenderer’s designated representative is invited to attend a pre-Tender meeting and/or pre-tender site inspection, if provided for in the TDS. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.

7.5 The Tenderer is requested, as far as possible, to submit any questions in writing, to reach the Employer not later than the date provided in the TDS.
7.6 Minutes of the pre-Tender meeting, including the text of the questions raised, without identifying the source, and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Tenderers who have acquired the Tendering Documents in accordance with ITT 6.3. Any modification to the Tendering Documents that may become necessary as a result of the pre-Tender meeting shall be made by the Employer exclusively through the issue of an Addendum pursuant to ITT 8 and not through the minutes of the pre-Tender meeting.

7.7 Nonattendance of the pre-Tender meeting and/or pre-tender site inspection may be a cause for disqualification of a Tenderer.

8. Amendment of Tendering Documents

8.1 At any time prior to the deadline for submission of Tenders, the Employer may amend the Tendering Documents by issuing addenda.

8.2 Any addendum issued shall be part of the Tendering Documents and shall be communicated in writing to all who have obtained the Tendering Document from the Employer in accordance with ITT 6.3.

8.3 To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their tenders, the Employer may extend the deadline for the submission of tenders, pursuant to ITT 22.2

C. Preparation of Tenders

9. Cost of Tendering

9.1 The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the Employer shall not be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.

10. Language of Tender

10.1 The Tender, as well as all correspondence and documents relating to the tender exchanged by the Tenderer and the Employer, shall be written in the language specified in the TDS.
11. Documents Comprising the Tender

11.1 The Tender shall comprise the following:

(a) Letter of Tender and Appendix to Tender
(b) completed schedules as required, including priced Bill of Quantities, in accordance with ITT 12 and 14;
(c) Tender Security, in accordance with ITT 19;
(d) alternative tenders, if permissible, in accordance with ITT 13;
(e) written confirmation authorizing the signatory of the Tender to commit the Tenderer, in accordance with ITT 20.2;
(f) documentary evidence in accordance with ITT 17 establishing the Tenderer’s continued qualified status;
(g) Technical Proposal in accordance with ITT 16; and
(h) any other document required in the TDS.

11.2 In addition to the requirements under ITT 11.1, tenders submitted by a JVA shall include a copy of the Joint Venture Agreement entered into by all partners. 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.

12. Letter of Tender and Schedules

12.1 The Letter of Tender and Schedules, including the Bill of Quantities, shall be prepared using the relevant forms furnished in Section IV, Tendering Forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITT 20.2. All blank spaces shall be filled in with the information requested.

13. Alternative Tenders

13.1 Unless otherwise indicated in the TDS, alternative tenders shall not be considered.

13.2 When alternative times for completion are explicitly invited, a statement to that effect will be included in the TDS, as will the method of evaluating different times for completion.

13.3 Except as provided under ITT 13.4 below, Tenderers wishing to offer technical alternatives to the requirements of the
Tendering Documents must first price the Employer’s design as described in the Tendering Documents and shall further provide all information necessary for a complete evaluation of the alternative by the Employer, including drawings, design calculations, technical specifications, breakdown of prices, and proposed construction methodology and other relevant details. Only the technical alternatives, if any, of the lowest evaluated Tenderer conforming to the basic technical requirements shall be considered by the Employer.

13.4 **When specified in the TDS**, Tenderers are permitted to submit alternative technical solutions for specified parts of the Works, and such parts will be identified in the TDS, as will the method for their evaluating, and described in Section VI, Work’s Requirements.

14. **Tender Prices and Discounts**

14.1 The prices and discounts quoted by the Tenderer in the Letter of Tender and in the Bill of Quantities shall conform to the requirements specified below.

14.2 The price to be quoted in the Letter of Tender, in accordance with ITT 12.1, shall be the total price of the Tender, excluding any discounts offered.

14.3 The Tenderer shall quote any unconditional discounts and the methodology for their application in the Letter of Tender, in accordance with ITT 12.1.

14.4 For Contracts with a duration exceeding eighteen (18) months, escalation for foreign and/or local inflation for the rates and prices quoted by the Tenderer shall apply, unless stated otherwise in the TDS.

15. **Currencies of Tender and Payment**

15.1 The currency(ies) of the tender and the currency(ies) of payments shall be as specified in the TDS.

15.2 Tenderers may be required by the Employer to justify, to the Employer’s satisfaction, their local and foreign currency requirements, and to substantiate that the amounts included in the unit rates and prices and shown in the Schedule of Adjustment Data in the Appendix to Tender are reasonable, in which case a detailed breakdown of the foreign currency requirements shall be provided by Tenderers.
15.3 The Tenderer must express the price for the Works, in the national currency (Maloti), using the selling exchange rate as per the Central Bank of Lesotho thirty (30) days prior to the date of submission of the Tender (the closing date). It should be noted that the Lesotho Loti (LSL) is equivalent (pegged one to one) to the South African Rand (ZAR).

16. Documents Comprising the Technical Proposal

16.1 The Tenderer shall furnish a Technical (including Design) Proposal including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in Section IV, in sufficient detail to demonstrate the adequacy of the Tenderers’ proposal to meet the work requirements and the completion time.

17. Documents Establishing the Qualifications of the Tenderer

17.1 In accordance with Section III, Evaluation and Qualification Criteria, the Tenderer shall provide updated information requested in the information sheets included in Section IV, Tendering Forms.

17.2 If a margin of preference applies as indicated in accordance with ITT 33.1, Tenderers, individually or in joint ventures, shall supply all information required to satisfy the criteria for eligibility indicated in accordance with ITT 33.1.

17.3 All tenders must be accompanied by valid copies of trader’s licence, certification of incorporation and tax clearance certificate duly certified and authenticated at source.

18. Period of Validity of Tenders

18.1 Tenders shall remain valid for the period specified in the TDS after the tender submission deadline date prescribed by the Employer in accordance with ITT 22.1. A tender valid for a shorter period shall be rejected by the Employer as non-responsive.

18.2 In exceptional circumstances, prior to the expiration of the tender validity period, the Employer may request Tenderers to extend the period of validity of their tenders. The request and the responses shall be made in writing. If a tender security is requested in accordance with ITT 19, it shall also be extended for twenty-eight (28) days beyond the deadline of the extended validity period. A Tenderer may refuse the request without forfeiting its tender security. A Tenderer
granting the request shall not be required or permitted to modify its tender.

**19. Tender Security**

19.1 The Tenderer shall furnish as part of its tender, a tender security as specified in the TDS, in original form and in the amount and currency specified in the TDS.

19.2 A Tender-Securing Declaration shall use the form included in Section IV, Tendering Forms.

19.3 If a tender security is specified pursuant to ITT 19.1, the tender security shall be a demand guarantee in any of the following forms at the Tenderer’s option:

(a) an unconditional bank guarantee issued by a bank or insurance company;

(b) an irrevocable letter of credit;

(c) another security indicated in the TDS,

from a reputable source from an eligible country. If the unconditional guarantee is issued by an insurance company or a bonding company located outside the Employer’s Country, the issuer shall have a correspondent financial institution located in the Employer’s Country to make it enforceable. In the case of a bank guarantee, the tender security shall be submitted using the Tender Security Form included in Section IV, Tendering Forms. In either case, the form must include the complete name of the Tenderer. The tender security shall be valid for twenty-eight (28) days beyond the original validity period of the tender, or beyond any period of extension if requested under ITT 18.2.

19.4 If a tender security is specified pursuant to ITT 19.1, any tender not accompanied by a substantially responsive tender security shall be rejected by the Employer as non-responsive.

19.5 If a tender security is specified pursuant to ITT 19.1, the tender security of unsuccessful Tenderers shall be returned as promptly as possible upon the successful Tenderer’s furnishing of the performance security pursuant to ITT 41.

19.6 The tender security of the successful Tenderer shall be returned as promptly as possible once the successful Tenderer has signed the Contract and furnished the required performance security.
19.7 The tender security may be forfeited:
   (a) if a Tenderer withdraws its tender during the period of tender validity specified by the Tenderer on the Letter of Tender or
   (b) if the successful Tenderer fails to:
       (i) sign the Contract in accordance with ITT 40; or
       (ii) furnish a performance security in accordance with ITT 41.

19.8 The tender security of a JVA shall be in the name of the JVA that submits the tender. If the JVA has not been legally constituted into a legally enforceable JVA at the time of tendering, the tender security shall be in the names of all future partners as named in the letter of intent referred to in ITT 4.1.

19.9 If a tender security is not required in the TDS pursuant to ITT 19.1, and
   (a) if a Tenderer withdraws its tender during the period of tender validity specified by the Tenderer on the Letter of Tender Form, except as provided in ITT 18.2, or
   (b) if the successful Tenderer fails to sign the Contract in accordance with ITT 40; or furnish a performance security in accordance with ITT 41;

   the Employer may, if provided for in the TDS, declare the Tenderer disqualified to be awarded a contract by the Employer for a period of time as stated in the TDS.

20. Format and Signing of Tender

20.1 The Tenderer shall prepare one original of the documents comprising the tender as described in ITT 11 and clearly mark it “ORIGINAL.” Alternative tenders, if permitted in accordance with ITT 13, shall be clearly marked “ALTERNATIVE.” In addition, the Tenderer shall submit copies of the tender, in the number specified in the TDS and clearly mark them “COPY.” In the event of any discrepancy between the original and the copies, the original shall prevail.

20.2 The original and all copies of the tender shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Tenderer. This authorization shall consist of a written confirmation as specified in the TDS and shall be attached to the tender. The name and position held by
each person signing the authorization must be typed or printed below the signature. All pages of the tender where entries or amendments have been made shall be signed or initialled by the person signing the tender. Failure to sign the Tender document shall result in the disqualification of the Tender.

20.3 A tender submitted by a JVA shall comply with the following requirements:

(a) Unless not required in accordance with ITT 4.1 (a), be signed so as to be legally binding on all partners and

(b) Include the Representatives’ authorization referred to in ITT 4.1 (b), consisting of a power of attorney signed by those legally authorized to sign on behalf of the JVA.

20.4 Any inter-lineation, erasures, or overwriting shall be valid only if they are signed or initialled by the person signing the tender.

D. Submission and Opening of Tenders

21. Sealing and Marking of Tenders

21.1 The Tenderer shall enclose the original and all copies of the tender, including alternative tenders, if permitted in accordance with ITT 13, in separate sealed envelopes, duly marking the envelopes as “ORIGINAL”, “ALTERNATIVE” and “COPY.” These envelopes containing the original and the copies shall then be enclosed in one single envelope.

21.2 The inner and outer envelopes shall:

(a) bear the name and address of the Tenderer;

(b) be addressed to the Employer in accordance with ITT 22.1;

(c) bear the specific identification of this tendering process indicated in the TDS 1.1; and

(d) bear a warning not to open before the time and date for tender opening.

21.3 If all envelopes are not sealed and marked as required, the Employer will assume no responsibility for the misplacement or premature opening of the tender.
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<th>Description</th>
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| **22. Deadline for Submission of Tenders** | 22.1 Tenders must be received by the Employer at the address and no later than the date and time **indicated in the TDS. When so specified in the TDS**, tenderers shall have the option of submitting their tenders electronically. Tenderers submitting tenders electronically shall follow the electronic tender submission procedures **specified in the TDS**.  
22.2 The Employer may, at its discretion, extend the deadline for the submission of tenders by amending the Tendering Documents in accordance with ITT 8, in which case all rights and obligations of the Employer and Tenderers previously subject to the deadline shall thereafter be subject to the deadline as extended. |
| **23. Late Tenders** | 23.1 The Employer shall not consider any tender that arrives after the deadline for submission of tenders, in accordance with ITT 22. Any tender received by the Employer after the deadline for submission of tenders shall be declared late, rejected, and returned unopened to the Tenderer. |
| **24. Withdrawal, Substitution, and Modification of Tenders** | 24.1 A Tenderer may withdraw, substitute, or modify its tender after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITT 20.2, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the tender must accompany the respective written notice. All notices must be:  
(a) prepared and submitted in accordance with ITT 20 and ITT 21 (except that withdrawals notices do not require copies), and in addition, the respective envelopes shall be clearly marked “WITHDRAWAL,” “SUBSTITUTION,” “MODIFICATION;” and  
(b) received by the Employer prior to the deadline prescribed for submission of tenders, in accordance with ITT 22.  
24.2 Tenders requested to be withdrawn in accordance with ITT 24.1 shall be returned unopened to the Tenderers.  
24.3 No tender may be withdrawn, substituted, or modified in the interval between the deadline for submission of tenders and the expiration of the period of tender validity specified by the Tenderer on the Letter of Tender or any extension thereof. |
| **25. Tender Opening** | 25.1 The Employer shall open the tenders in public, in the presence of Tenderers’ designated representatives and anyone who choose to attend, and at the address, date and time **specified in the TDS**. Any specific electronic tender opening
procedures required if electronic tendering is permitted in accordance with ITT 22.1, shall be as specified in the TDS.

25.2 First, envelopes marked “WITHDRAWAL” shall be opened and read out and the envelope with the corresponding tender shall not be opened, but returned to the Tenderer. No tender withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at tender opening. Next, envelopes marked “SUBSTITUTION” shall be opened and read out and exchanged with the corresponding tender being substituted, and the substituted tender shall not be opened, but returned to the Tenderer. No tender substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at tender opening. Envelopes marked “MODIFICATION” shall be opened and read out with the corresponding tender. No tender modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at tender opening. Only tenders that are opened and read out at tender opening shall be considered further.

25.3 All other envelopes shall be opened one at a time, reading out: the name of the Tenderer and whether there is a modification; the Tender Price(s), including any discounts and alternative offers; the presence or absence of a tender security, if required; and any other details as the Employer may consider appropriate. Only discounts and alternative offers read out at tender opening shall be considered for evaluation. If so requested by the Employer in the TDS, the Letter of Tender and the Bill of Quantities are to be initialled by representatives of the Employer attending tender opening in the manner indicated in the TDS. No tender shall be rejected at tender opening except for late tenders, in accordance with ITT 23.1.

25.4 The Employer shall prepare a record of the tender opening that shall include, as a minimum: the name of the Tenderer and whether 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, if one was required. 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 effect of the record.
E. Evaluation and Comparison of Tenders

26. Confidentiality

26.1 Information relating to the evaluation of tenders and recommendation of contract award shall not be disclosed to Tenderers or any other persons not officially concerned with such process until information on Contract award is communicated to all Tenderers.

26.2 Any attempt by a Tenderer to influence the Employer in the evaluation of the tenders or Contract award decisions may result in the rejection of its tender.

26.3 Notwithstanding ITT 26.2, from the time of tender opening to the time of Contract award, if any Tenderer wishes to contact the Employer on any matter related to the tendering process, it may do so in writing.

27. Clarification of Tenders

27.1 To assist in the examination, evaluation, and comparison of the tenders, and qualification of the Tenderers, the Employer may, at its discretion, ask any Tenderer for a clarification of its tender. Any clarification submitted by a Tenderer that is not in response to a request by the Employer shall not be considered. The Employer’s 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 Employer in the evaluation of the tenders, in accordance with ITT 31.

27.2 If a Tenderer does not provide clarifications of its tender by the date and time set in the Employer’s request for clarification, its tender may be rejected.

28. Deviations, Reservations, and Omissions

28.1 During the evaluation of tenders, the following definitions apply:

(a) “Deviation” is a departure from the requirements specified in the Tendering Document;

(b) “Reservation” is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Tendering Document; and

(c) “Omission” is the failure to submit part or all of the information or documentation required in the Tendering Document.
29. Determination of Responsiveness

29.1 The Employer’s determination of a tender’s responsiveness is to be based on the contents of the tender itself, as defined in ITT11.

29.2 A substantially responsive tender is one that meets the requirements of the Tendering Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that,

(a) if accepted, would

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

(ii) limit in any substantial way, inconsistent with the Tendering Document, the Employer’s rights or the Tenderer’s obligations under the proposed Contract; or

(b) if rectified, would unfairly affect the competitive position of other Tenderers presenting substantially responsive tenders.

29.3 The Employer shall examine the technical aspects of the tender submitted in accordance with ITT 16, Technical Proposal, in particular, to confirm that all requirements of Section VI, Works Requirements have been met without any material deviation, reservation or omission.

29.4 If a tender is not substantially responsive to the requirements of the Tendering Document, it shall be rejected by the Employer and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

30. Nonmaterial Nonconformities

30.1 Provided that a tender is substantially responsive, the Employer may waive any non-conformities in the tender that do not constitute a material deviation, reservation or omission.

30.2 Provided that a tender is substantially responsive, the Employer may request that the Tenderer submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities in the tender related to documentation requirements. Requesting information or documentation on such nonconformities shall not be related to any aspect of the price of the tender. Failure of the Tenderer to comply with the request may result in the rejection of its tender.
30.3 Provided that a tender is substantially responsive, the Employer shall rectify quantifiable nonmaterial nonconformities related to the Tender Price. To this effect, the Tender Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component. The adjustment shall be made using the method indicated in Section III, Evaluation and Qualification Criteria.

31. Correction of Arithmetical Errors

31.1 Provided that the tender is substantially responsive, the Employer shall correct arithmetical errors on the following basis:

(a) if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Employer there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;

(b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and

(c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.

31.2 If the Tenderer that submitted the lowest evaluated tender does not accept the correction of errors, its tender shall be rejected.

32. Conversion to Single Currency

32.1 For evaluation and comparison purposes, the Tenderer shall express the price for the works as a single currency as specified in the ITT 15.3.

33. Margin of Preference

33.1 Unless otherwise specified in the TDS, a margin of preference shall apply.

34. Evaluation of Tenders

34.1 The Employer shall use the criteria and methodologies listed in this Clause. No other evaluation criteria or methodologies shall be permitted.
34.2 To evaluate a tender, the Employer shall consider the following:

(a) price adjustment for correction of arithmetic errors in accordance with ITT 31.1;

(b) price adjustment due to discounts offered in accordance with ITT 14.3;

(c) converting the amount resulting from applying (a) to (c) above, if relevant, to a single currency in accordance with ITT 32;

(d) price adjustment due to quantifiable nonmaterial nonconformities in accordance with ITT 30.3;

(e) the evaluation factors indicated in Section III, Evaluation and Qualification Criteria;

34.3 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be taken into account in tender evaluation.

34.4 If these Tendering Documents allow Tenderers to quote separate prices for different lots (contracts), and the award to a single Tenderer of multiple lots (contracts), the methodology to determine the lowest evaluated price of the lot (contract) combinations, including any discounts offered in the Letter of Tender Form, is specified in Section III, Evaluation and Qualification Criteria.

34.5 If the tender, which results in the lowest Evaluated Tender Price, is seriously unbalanced or front loaded in the opinion of the Employer, the Employer may require the Tenderer to produce detailed price analyses for any or all items of the Bill of Quantities, to demonstrate the internal consistency of those prices with the construction methods and schedule proposed. After evaluation of the price analyses, taking into consideration the schedule of estimated Contract payments, the Employer may require that the amount of the performance security be increased at the expense of the Tenderer to a level sufficient to protect the Employer against financial loss in the event of default of the successful Tenderer under the Contract.
<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Paragraph</th>
</tr>
</thead>
<tbody>
<tr>
<td>35.</td>
<td>Comparison of Tenders</td>
<td>35.1 The Employer shall compare all substantially responsive tenders in accordance with ITT 34.2 to determine the lowest evaluated tender.</td>
</tr>
</tbody>
</table>
| 36. | Qualification of the Tenderer | 36.1 The Employer shall determine to its satisfaction whether the Tenderer that is selected as having submitted the lowest evaluated and substantially responsive tender either continues to meet (if prequalification applies) or meets (if post qualification applies) the qualifying criteria specified in Section III, Evaluation and Qualification Criteria.  
36.2 The determination shall be based upon an examination of the documentary evidence of the Tenderer’s qualifications submitted by the Tenderer, pursuant to ITT 17.1.  
36.3 An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative determination shall result in disqualification of the tender, in which event the Employer shall proceed to the next lowest evaluated tender to make a similar determination of that Tenderer’s qualifications to perform satisfactorily. |
| 37. | Employer’s Right to Accept Any Tender, and to Reject Any or All Tenders | 37.1 The Employer reserves the right to accept or reject any tender, and to annul the tendering process and reject all tenders at any time prior to contract award, without thereby incurring any liability to Tenderers. In case of annulment, all tender securities, shall be promptly returned to the Tenderers. |
| 38. | Award Criteria | 38.1 Subject to ITT 37.1, the Employer shall award the Contract to the Tenderer whose tender obtains the highest Combined Evaluation Score and is substantially responsive to the Tendering Document, provided further that the Tenderer is determined to be qualified to perform the Contract satisfactorily. |
| 39. | Notification of Award | 39.1 Prior to the expiration of the period of tender validity, the Employer shall notify the successful Tenderer, in writing, that its tender has been accepted. The notification letter (hereinafter and in the Conditions of Contract and Contract Forms called the “Letter of Acceptance”) shall specify the sum that the Employer will pay the Contractor in consideration of the execution and completion of the Works (hereinafter and in the Conditions of Contract and Contract Forms called “the Contract Price”) and the requirement for... |
the Contractor to remedy any defects therein as prescribed by the Contract.

39.2 Until a formal contract is prepared and executed, the notification of award shall constitute a binding Contract.

39.3 The Employer shall promptly respond in writing to any unsuccessful Tenderer who, after notification of award in accordance with ITT 39.1, requests in writing the grounds on which its tender was not selected.

40. Signing of Contract

40.1 Promptly upon notification, the Employer shall send the successful Tenderer the Contract Agreement.

40.2 Within twenty-eight (28) days of receipt of the Contract Agreement, the successful Tenderer shall sign, date, and return it to the Employer.

41. Performance Security

41.1 Within twenty-eight (28) days of the receipt of notification of award from the Employer, the successful Tenderer shall furnish the performance security in accordance with the General Conditions of Contract, subject to ITT 34.5, using for that purpose the Performance Security Form included in Section IX, Annex to the Particular Conditions - Contract Forms, or another form acceptable to the Employer. If the performance security furnished by the successful Tenderer is in the form of a bond, it shall be issued by a bank, financial institution or insurance company that has been determined by the successful Tenderer to be acceptable to the Employer. A foreign institution providing a bond shall have a correspondent financial institution located in the Employer’s Country.

41.2 Failure of the successful Tenderer to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security. In that event the Employer may award the Contract to the next lowest evaluated Tenderer whose offer is substantially responsive and is determined by the Employer to be qualified to perform the Contract satisfactorily.
## Section II. Tender Data Sheet

### A. Introduction

<table>
<thead>
<tr>
<th>ITT 1.1</th>
<th>The number of the Invitation for Tenders is: <strong>Contract LHDA No. 2177</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>ITT 1.1</td>
<td>The Employer is: Lesotho Highlands Development Authority</td>
</tr>
<tr>
<td>ITT 1.1</td>
<td>The number and identification of the Contract comprising this ITT is: <strong>LHDA CONTRACT NO. 2177 SUPPLY, INSTALLATION AND COMMISSIONING OF ONLINE DISSOLVED GAS MONITORING EQUIPMENT AT ‘MEULA HYDROPOWER STATION</strong></td>
</tr>
<tr>
<td>ITT 2.1</td>
<td>The name of the Project is: <strong>Supply, installation and commissioning of online dissolved gas monitoring equipment as ‘Muela hydropower station</strong></td>
</tr>
<tr>
<td>ITT 4.1 (a)</td>
<td>The individuals or firms in a joint venture or association shall be jointly and severally liable.</td>
</tr>
</tbody>
</table>

### B. Tendering Documents

<table>
<thead>
<tr>
<th>ITT 7.1</th>
<th>For <strong>clarification purposes</strong> only, the Employer’s address is:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Electronic mail address: <a href="mailto:procurement@lhda.org.ls">procurement@lhda.org.ls</a></td>
</tr>
<tr>
<td></td>
<td>The minimum number of days prior to the deadline for submission of Tenders to receive any request for clarification is: <strong>Twenty-one (21) days.</strong></td>
</tr>
<tr>
<td></td>
<td>The minimum number of days prior to the deadline for submission of Tenders that the Employer will respond is: <strong>Fourteen (14) days.</strong></td>
</tr>
<tr>
<td>ITT 7.4</td>
<td>A <strong>Compulsory</strong> Pre-Tender meeting <strong>shall</strong> take place at the following date, time and place:</td>
</tr>
<tr>
<td></td>
<td><strong>Date:</strong> 21&lt;sup&gt;st&lt;/sup&gt; September 2017.</td>
</tr>
<tr>
<td></td>
<td><strong>Time:</strong> 12:00 noon</td>
</tr>
<tr>
<td></td>
<td><strong>Place:</strong> ‘Muela Hydropower Station, Butha Buthe</td>
</tr>
<tr>
<td></td>
<td>A <strong>Compulsory</strong> Pre-Tender site inspection <strong>shall</strong> take place at the following date, time and place:</td>
</tr>
<tr>
<td></td>
<td><strong>Date:</strong> 21&lt;sup&gt;st&lt;/sup&gt; September 2017</td>
</tr>
<tr>
<td></td>
<td><strong>Time:</strong> 10:00 am</td>
</tr>
<tr>
<td></td>
<td><strong>Place:</strong> ‘Muela Hydropower Station, Butha Buthe</td>
</tr>
</tbody>
</table>

### C. Preparation of Tenders

| ITT 10.1 | The language of the tender is: **English** |
| ITT 11.1 (h) | The Tenderer shall submit with its tender the following additional documents: |
| ITT 13.1 | Alternative tenders **are** permitted. |
| | • **Financial Statements of the last 5 years and a demonstration that the Tenderer has a financial capacity to execute the Contract** |
### D. Submission and Opening of Tenders

| ITT 13.2 | Alternative times for completion are not permitted. If alternative times for completion are permitted, the evaluation method will be as specified in Section III, Evaluation and Qualification Criteria. |
| ITT 13.4 | Alternative technical solutions shall be permitted for the following parts of the Works: **All works**. If alternative technical solutions are permitted, the evaluation method will be as specified in Section III, Evaluation and Qualification Criteria. |
| ITT 14.4 | The prices quoted by the tenderer shall be: **fixed** |
| ITT 15.1 | The currency(ies) of the tender and the payment currency(ies) shall be in accordance with Alternative _A_ as described below:

**Alternative A (Tenderers to quote entirely in local currency):**

(a) The unit rates and the prices shall be quoted by the Tenderer in the Bill of Quantities, entirely in **Lesotho Loti (LSL)**, the name of the currency of the Kingdom of Lesotho, and further referred to as “the local currency”.

It should be noted that the Lesotho Loti (LSL) is equivalent (pegged one to one) to the South African Rand (ZAR) |
| ITT 18.1 | The tender validity period shall be **120** days. |
| ITT 18.3 (a) | The tender price shall be adjusted by the following factor: **N/A** |
| ITT 18.3 (b) | The fixed portion of the tender price shall be adjusted by the following factor: **N/A** |
| ITT 19.1 | A tender security **shall be** required. The amount and currency of the tender security shall be: **M 2,000.00** |
| ITT 19.2 (c) | Other types of acceptable securities: **Bank Guaranteed Cheque** |
| ITT 19.9 | If the Tenderer incurs any of the actions prescribed in subparagraphs (a) or (b) of this provision, the Employer will declare the Tenderer ineligible to be awarded contracts by the Employer for a period of **N/A** years. |
| ITT 20.1 | The Tenderer shall submit one (1) original of the tender plus five (5) copies and one (1) electronic copy in the form of a CD ROM in portable document format (pdf); however the Work Programme should also be submitted in its native format (MS Project). |
| ITT 20.2 | The written confirmation of authorization to sign on behalf of the Tenderer shall consist of: **Power of Attorney or any official document that can indicate that the signatory has obtained the authority to sign the documents on behalf of the company. A tender which does not have the said document will be disqualified.** |
**ITT 22.1**  
For **tender submission purposes** only, the Employer’s address is:

LHDA  
Lesotho Bank Tower  
7th Floor  
Kingsway Road  
Maseru  
Lesotho.

**The deadline for tender submission is:**  
Date: 23rd October 2017.  
Time: **12:00 noon**

Tenderers **shall not** have the option of submitting their tenders electronically.

If tenderers have the option of submitting their tenders electronically, the electronic tendering submission procedures shall be: **N/A**

<table>
<thead>
<tr>
<th>ITT 25.1</th>
<th>The tender opening shall take place at:</th>
</tr>
</thead>
</table>
|          | LHDA  
Lesotho Bank Tower  
7th Floor  
Kingsway Road  
Maseru  
Lesotho.  
Date: 23rd October **2017**  
Time: **14:30hrs**  
If tenderers have the option of submitting their tenders electronically, the electronic tender opening procedures shall be: **N/A** |

**ITT 25.3**  
The Letter of Tender and Bill of Quantities **shall not** be initialled by representatives of the Employer attending Tender opening. If initialization is required, it shall be conducted as follows: **N/A**

### E. Evaluation, and Comparison of Tenders

| ITT 33.1 | A margin of preference shall apply as follows:  
The application methodology shall be as stipulated in Section III – Evaluation and Qualification Criteria. |
Section III. *Evaluation and Qualification Criteria*  
*(Without Prequalification)*

This Section contains all the criteria that the Employer shall use to evaluate tenders and qualify Tenderers. In accordance with ITT 34 and ITT 36, no other factors, methods or criteria shall be used. The Tenderer shall provide all the information requested in the forms included in Section IV, Tendering Forms.
Part 1. Evaluation

EVALUATION AND QUALIFICATION CRITERIA

This Section contains criteria that the Employer will use to qualify Tenderers, evaluate Technical Offers, and evaluate Tenders. To demonstrate its qualifications and develop its Technical Offer, each Tenderer shall provide all the information requested in the forms provided in Section IV, Tendering Forms.

All the Tenders received will first go through a preliminary evaluation process, where the submitted Tenders will be checked for compliance with the basic requirements mentioned under the ITT. The Tenders which pass the preliminary evaluation will undergo thorough detailed evaluation and post qualification verification.

A. Eligibility and Qualifications

1. Information on Tenderers

The Tender Evaluation Committee shall first establish that the Tenderers meet the eligibility and qualification criteria in accordance with the eligibility and qualifications factors set out in Part 2 of this Section III:

   i. Eligibility

   ii. Historical Contract Performance

   iii. Financial Capability

   iv. Experience - general, similar and specific, as it relates to both design and construction/implementation of similar projects.

2. Personnel

The Tenderer must demonstrate that it has the personnel for the key positions that meet the following requirements:

<table>
<thead>
<tr>
<th>No</th>
<th>Position</th>
<th>Qualification</th>
<th>Total Related Work Experience (years)</th>
<th>Experience in Similar Designs and/or Works (years)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Project Manager</td>
<td>Bachelor’s Degree in Electrical Engineering or equivalent with appropriate project management industry related experience plus registration with an internationally recognized professional accreditation association</td>
<td>15</td>
<td>10</td>
</tr>
<tr>
<td>1</td>
<td>Electrical Engineer</td>
<td>Bachelor’s Degree in Electrical Engineering plus relevant experience.</td>
<td>8</td>
<td>5</td>
</tr>
</tbody>
</table>
The Tenderer shall provide details of the proposed personnel and their experience records in the relevant Forms included in Section IV, Tendering Forms.

Submittals of Tenderers found by the Tender Evaluation Committee not to meet the eligibility requirements shall not be considered further.

**B. Evaluation of Technical Proposals**

**1. Technical Proposals**

The Technical Proposal shall be comprised of the Preliminary Design Proposal for the Works and other forms as called for in Section IV, Tendering Forms. The Employer, with the assistance of the Tender Evaluation Committee, shall then consider the Technical Offers of the Tenderers who have been found qualified. In so doing, they will examine and analyse the technical aspects of each Tender on the basis of the information supplied by Tenderers, taking into account the completeness, consistency and level of detail provided with respect to the requirements of the Tendering documents. Consideration shall be given to the following:

a) **Adequacy of Preliminary Design Proposal with Employer’s Requirements**, as it relates to the Works, in accordance with ITT 16 and details requested in Section IV, C Technical Offer Forms.

   In addition, the design proposal shall clearly indicate that the Employer's Requirements have been achieved in terms of the following as a minimum, for each of the components of works:

   - Number of gases the system measures ≥ 8.
   - Measurement of Total Dissolved Combustible Gases (TDCG) in ppm
   - Measurement of moisture content

b) **Adequacy of Technical Offer with Works Requirements**, as it relates to the whole of the Works, in accordance with ITT 16 and details requested in Section IV, C Technical Offer Forms. The Tenderer’s submission on how this will be achieved in respect of:

   (i) Method Statement
   (ii) Program and Schedule
   (iii) Cash Flow
Section III. Evaluation and Qualification Criteria (without prequalification)

(iv) Project Management Organization; and
(v) Key Personnel

All in accordance with the requirements in Section IV: Tendering Forms

c) Adequacy of Environmental & Social Impact Documents, as submitted by the Tenderer, in accordance with requirements in Section IV: Tendering Forms. (NOT APPLICABLE DURING THE TENDERING STAGE)

d) Adequacy of Health & Safety Documents, as submitted by the Tenderer, in accordance with requirements in Section IV: Tendering Forms.

e) Adequacy of Quality Assurance Plan Documents, as submitted by the Tenderer, in accordance with requirements in Section IV: Tendering Forms.

Each element of the Technical Proposal listed above shall be evaluated in respect of the points basis for each criterion. Technical Proposals of Tenderers found by the Technical Review Panel not to meet the threshold minimum number of points shall not be considered further, the threshold points shall be 70 points. The point allocation shall be as follows:

<table>
<thead>
<tr>
<th>CRITERIA</th>
<th>POINT ALLOCATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Adequacy of Preliminary Design Proposal</td>
<td></td>
</tr>
<tr>
<td>1. System type:</td>
<td></td>
</tr>
<tr>
<td>• Combined multigas(minimum of eight (8) gases) and moisture content monitoring equipment</td>
<td>6</td>
</tr>
<tr>
<td>2. Measured variables:</td>
<td></td>
</tr>
<tr>
<td>• Eight standard key gases</td>
<td>[10]</td>
</tr>
<tr>
<td>• Total Dissolved Combustible Gases(TDCG) in ppm</td>
<td>[3]</td>
</tr>
<tr>
<td>• Moisture content</td>
<td>[5]</td>
</tr>
<tr>
<td>• Estimation of nitrogen gas (N₂)</td>
<td>[2]</td>
</tr>
<tr>
<td></td>
<td>20</td>
</tr>
<tr>
<td>3. Range of measurements:</td>
<td></td>
</tr>
<tr>
<td>• Hydrogen (H₂) 5 - 5,000 ppm</td>
<td>[0.5]</td>
</tr>
<tr>
<td>• Carbon Monoxide (CO) 2 - 50,000 ppm</td>
<td>[0.5]</td>
</tr>
<tr>
<td>• Carbon Dioxide (CO₂) 20 - 50,000 ppm</td>
<td>[0.5]</td>
</tr>
<tr>
<td>• Methane (CH₄) 2 - 50,000 ppm</td>
<td>[0.5]</td>
</tr>
<tr>
<td></td>
<td>5</td>
</tr>
<tr>
<td>Gas</td>
<td>Concentration Range (ppm)</td>
</tr>
<tr>
<td>------------------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>Acetylene (C₂H₂)</td>
<td>0.5 - 50,000</td>
</tr>
<tr>
<td>Ethane (C₂H₆)</td>
<td>2 - 50,000</td>
</tr>
<tr>
<td>Ethylene (C₂H₄)</td>
<td>2 - 50,000</td>
</tr>
<tr>
<td>Oxygen (O₂)</td>
<td>100 - 50,000</td>
</tr>
<tr>
<td>Nitrogen (N₂)</td>
<td>10,000 - 100,000</td>
</tr>
<tr>
<td>Moisture (H₂O)</td>
<td>0 - 100% RS (given in ppm)</td>
</tr>
</tbody>
</table>

4. Accuracy of measurement:
   - Oxygen (O₂) ±10%       [1]
   - Nitrogen (N₂) ±15%    [1]
   - All other gases ±5%   [1]
   - Moisture (H₂O) ±3%    [1]

5. Frequency of measurement:
   - At least configurable from once per hour to once per four weeks and fully automatic. Manual operation shall be possible [1]

6. Display:
   - LCD screen for local display of measurements and messages (warnings and alarms) [1]

7. Indications:
   - LED indication lights (at least two, one for Power ON and another for alarm) [1]

8. Communication:
   - At least 1 x Ethernet port for downloading data from the device to a laptop computer [1]

9. Alarms:
   - At least six alarm setting scenarios for setting alarms based on the level of any of the nine gases, TDCG, moisture and rates of change for each gas. [2]
10. Relay outputs:
   - At least six voltage free contacts. Each of the six alarm scenarios should be able to activate any of the six relay contacts. | 2

11. Data storage:
   - Non-volatile internal memory enough to store data for at least five years if sampling is conducted once per day. | 1

12. Enclosure rating:
   - At least IP 55 | 1

13. Equipment supplied with diagnostic software | 5

| Subtotal A: | 50 Points |

---

**CRITERIA** | **POINT ALLOCATION**
--- | ---

**B. Adequacy of Technical Proposal:**

1. Technical Proposal

   (a) Method Statement - A clear description of the features of the system, installation and commissioning procedures. | 15

   (b) Program and Schedule | 5

   (c) Project Management Organization | 5

   (d) Key Personnel Experience | 10

   (e) Company Experience | 10

2. Quality Assurance Plan including a clear description of all the factory tests and on site tests | 5

| Subtotal B: | 50 Points |

**TOTAL POINTS (A + B)** | **100 Points**

The Tender Evaluation Committee shall then consider the Tenders of only those qualifying Tenderers whose Technical proposals scored more than the threshold minimum score.
2. **Alternative Completion Times**

Alternative Completion Times, if permitted under ITT 13.2, will be evaluated as follows:

Not Applicable

3. **Technical Alternatives**

Technical Alternatives, if permitted under ITT 13.4, will be evaluated as follows:

All parts, must comply with the minimum Employer Requirements specified.

4. **Multiple Lots**

Multiple Lots, if permitted under ITT 34.3, will be evaluated as follows:

Not applicable.

5. **Presentation**

The Employer reserves the right to request the lowest responsive and qualified Tenderer or other responsive Tenderers as is applicable to make a presentation of their submission to the Technical Review Panel at the offices of the LHDA in Maseru, Lesotho. The Tenderer shall be given a minimum of 7 days’ notice of the presentation date. The cost of presentation will be borne by the Tenderer.

6. **Negotiations**

The Employer will enter into negotiations as specified in ITT 43. Apart from any other issues, all shortcomings identified by the Tender Evaluation Committee during evaluation will be negotiated.

C. **Evaluation of Price Proposal**

The Tender Evaluation Committee shall then consider the **Tenders of qualified Tenderers whose Technical Offers have been determined to be substantially** responsive and meet the minimum threshold score, specified above. The Tender Evaluation Committee shall first determine whether the financial submissions are complete and compliant with the Instructions to Tenderers. Then, they shall examine the following:

1. The Tender Price, Lump sum.

2. Price adjustment for correction of arithmetic errors in accordance with ITT 31.1.

3. Price adjustment due to discounts offered in accordance with ITT 14.4, if any.
4. Adjustment for nonconformities in accordance with ITT 30.3.

As provided in the Schedule of Prices, Tenderers shall submit:

(a) a lump sum fixed price for the whole Works, including design and construction; plus

(b) any alternative offered

This sum of item (a) or (b), above is the total Tender Price for each Tenderer and, subject to any adjustments pursuant to the Instructions to Tenderers and Conditions of Contract, shall be the Accepted Contract Amount of the successful Tenderer.

Financial Proposals will be evaluated using the following formula:

\[
F_s = \frac{P_0 \times 100}{P}
\]

Where,
- \(F_s\) = Financial score of company being considered
- \(P_0\) = Lowest Price
- \(P\) = Price of the company being considered

Tender Evaluation Panel shall recommend award of the Contract to the Tenderer which obtains the highest evaluation score, resulting from a Tender that has been determined to be eligible, qualified, and substantially and technically responsive.

D. Evaluation of Preferential Margin

In keeping with the Procurement Policy for the Lesotho Highlands Water Project, an objective of which is to encourage socio economic change in the region, the LHDA will apply a margin of preference to benefit Tenderers from the implementing countries (Lesotho and South Africa).

The margin to be applied for this contract will comprise 5% of the total evaluation score, and will be calculated as follows:

1) Local Registration (SLR) – Maximum 5 points
   
   i) Lesotho Registration: proportion of joint venture share assigned to firms that are “Lesotho Nationals” as defined in Article 1 of the Phase II Agreement.
      
      a. 100% Lesotho owned firm - 5 points
      b. \(\geq 35\%\) JV share by Lesotho National firms – 4 points
      c. \(\geq 30\%\) and <35% JV share by Lesotho National firms – 3.5 points
Section III. Evaluation and Qualification Criteria (without prequalification)

d. \( \geq 25\% \) and \(<30\%\) JV share by Lesotho National firms – 3 points

e. \( \geq 20\% \) and \(<25\%\) JV share by Lesotho National firms – 2 points

f. \( \geq 15\% \) and \(<20\%\) JV share by Lesotho National firms – 1 point

g. \(<15\%\) JV share by Lesotho National firms – 0 points

Details of any Joint Ventures must be submitted with the Tender Forms

ii) **South African Registration**: for firms based in the Republic of South Africa, points will be allocated based on accreditation under the Broad-Based Black Economic Empowerment Amendment Act (using a weighted average for the JV in the case of multiple RSA-based firms). Points to be awarded as follows:

<table>
<thead>
<tr>
<th>B-BBEE Status Level</th>
<th>Point Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>5.0</td>
</tr>
<tr>
<td>2</td>
<td>4.5</td>
</tr>
<tr>
<td>3</td>
<td>4.0</td>
</tr>
<tr>
<td>4</td>
<td>2.5</td>
</tr>
<tr>
<td>5</td>
<td>2.0</td>
</tr>
<tr>
<td>6</td>
<td>1.5</td>
</tr>
<tr>
<td>7</td>
<td>1.0</td>
</tr>
<tr>
<td>8</td>
<td>0.5</td>
</tr>
</tbody>
</table>

In the case of a Lesotho/RSA JV points for i) and ii) above will be according to the proportions of the JV. For example a JV of 50/50 with the RSA company having a level 3 B-BBEE status will be awarded \(4 \times 0.5 = 2\) points for Lesotho registration and \(4 \times 0.5 = 2\) points for B-BBEE status, making a total of 4 points.

2) **Local Participation – Maximum 5 points**

i) **Procurement Plan (SPP) – 3 Points**

The Tenderer must specify a plan for procuring materials, consumables, plant, equipment and services directly related to the Works from Lesotho Nationals. The procurement plan shall indicate the – type/nature and total value of goods and services to be procured from Lesotho.

i) \( \geq 35\%\) of Tender Value – 5 points

ii) \( \geq 30\% \) and \(<35\%\) of Tender Value – 4 points

iii) \( \geq 25\% \) and \(<30\%\) of Tender Value – 3 points
iv) \( \geq 20\% \) and \(< 25\% \) of Tender Value – 2 points

v) \( \geq 15\% \) and \(< 20\% \) of Tender Value – 1 point

vi) \(< 15\% \) of Tender Value – 0 points

ii) **Labour and Skills Development (\( S_{LD} \)) – 2 Points**

The Tenderer shall engage local labour directly in the execution of the Work. The Tenderer must submit details of how local labour will be engaged. This shall include a plan for workforce skills development, including engagement of LHDA staff in-training.

Details of Local Participation must be reflected on the Tender Forms.

The Tenderer is advised that the Employment (or a representative) may audit the Contractor’s records at any time after contract award. Misrepresentation by the Contractor with respect to local participation during execution of the works may result in sanctions by the Employer, up to and including cancellation of the contract in accordance with Paragraph 23 of the LHWP Anti-Corruption Policy.

3) **Total Preference Score**

The total preference score to be applied to the tender shall be calculated as follows:

\[
P_s = S_{LR} + S_{PP} + S_{LD}
\]

where

\[
F_p = \text{Total Preferential Score to be applied}
\]

\[
S_{LR} = \text{Score for Local Registration and Broad-Based Black Economic Empowerment}
\]

\[
S_{PP} = \text{Score for Local Participation in Tenderer’s Procurement Plan}
\]

\[
S_{LD} = \text{Score for Local Labour and Skills Development}
\]

E. **Combined Evaluation Score for Technical and Financial Proposals**

The Combined Scores for each qualifying proposal shall be the sum of the weighted Technical Score, the weighted Financial Score and weighted Total Preferential Score. The Combined Score is calculated as outlined below:

\[
\text{Final Combined Score } (C_s) = (0.6 \times T_s) + (0.35 \times F_s) + (0.05 \times P_s)
\]
Where

\[ T_s = \text{Technical score} \]
\[ F_s = \text{Financial score} \]
\[ P_s = \text{ Preferential score} \]
## 2. Qualification

<table>
<thead>
<tr>
<th>Sub-Factor</th>
<th>Requirement</th>
<th>Criteria</th>
<th>Tenderer</th>
<th>Documentation Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Nationality</td>
<td>Nationality in accordance with ITT 4.6</td>
<td>Must meet requirement</td>
<td>Existing or intended JVA must meet requirement</td>
<td>Must meet requirement</td>
</tr>
<tr>
<td>b. Conflict of Interest</td>
<td>No- conflicts of interests as described in ITT 4.2</td>
<td>Must meet requirement</td>
<td>Existing or intended JVA must meet requirement</td>
<td>Must meet requirement</td>
</tr>
<tr>
<td>c. LHDA Ineligibility</td>
<td>Not having been declared ineligible by the LHDA as described in ITT 4.3</td>
<td>Must meet requirement</td>
<td>Existing JVA must meet requirement</td>
<td>Must meet requirement</td>
</tr>
<tr>
<td>d. Government Owned Entity</td>
<td>Compliance with conditions of ITT 4.4</td>
<td>Must meet requirement</td>
<td>Must meet requirement</td>
<td>Must meet requirement</td>
</tr>
<tr>
<td>e. Ineligibility based on a United Nations resolution</td>
<td>Not having been excluded as a result of the official regulations, or by an act of compliance with UN Security Council resolution, in accordance with ITT 4.6</td>
<td>Must meet requirement</td>
<td>Existing JVA must meet requirement</td>
<td>Must meet requirement</td>
</tr>
</tbody>
</table>
### 2.2 Historical Contract Non-Performance

<table>
<thead>
<tr>
<th>Sub-Factor</th>
<th>Requirement</th>
<th>Criteria</th>
<th>Tenderer</th>
<th>Documentation Required</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>2.2.1 History of non-performing contracts</strong></td>
<td>Non-performance of a contract did not occur within the last five (5) years prior to the deadline for application submission, based on all information on fully settled disputes or litigation. A fully settled dispute or litigation is one that has been resolved in accordance with the Dispute Resolution Mechanism under the respective contract, and where all appeal instances available to the tenderer have been exhausted.</td>
<td>Must meet requirement by itself or as partner to past or existing JVA</td>
<td>Must meet requirement by itself or as partner to past or existing JVA</td>
<td>N / A</td>
</tr>
<tr>
<td><strong>2.2.2 Pending Litigation</strong></td>
<td>All pending litigation shall in total not represent more than ten percent (10%) of the Tenderer’s net worth and shall be treated as resolved against the Tenderer.</td>
<td>Must meet requirement by itself or as partner to past or existing JVA</td>
<td>Must meet requirement by itself or as partner to past or existing JVA</td>
<td>N / A</td>
</tr>
<tr>
<td>Factor</td>
<td>2.3 Financial Capability</td>
<td>Criteria</td>
<td>Tenderer</td>
<td>Documentation Required</td>
</tr>
<tr>
<td>--------</td>
<td>--------------------------</td>
<td>----------</td>
<td>----------</td>
<td>------------------------</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Single Entity</td>
<td>Joint Venture or Association</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>All partners combined</td>
<td>Each partner</td>
</tr>
<tr>
<td>Sub-Factor</td>
<td>Requirement</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.3.1 Historical Financial Performance</td>
<td>Submission of audited balance sheets or if not required by the law of the tenderer’s country, other financial statements acceptable to the Employer, for the last three [3] years to demonstrate the current soundness of the tenderers financial position and its prospective long term profitability.</td>
<td>Must meet requirement</td>
<td>N / A</td>
<td>Must meet requirement</td>
</tr>
<tr>
<td></td>
<td>(a) Average coefficient of Current ratio (Current Assets/Current Liabilities) ≥ 0.8</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) Average coefficient of Debt ratio (Total Debt / Total Assets) &lt; 0.7</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.3.2. Average Annual Turnover</td>
<td>Minimum average annual turnover of LSL 1,000,000.00, calculated as total certified payments received for contracts in progress or completed, within the last three (3) years</td>
<td>Must meet requirement</td>
<td>Must meet requirement</td>
<td>Must meet twenty five percent (25%) of the requirement</td>
</tr>
</tbody>
</table>
### 2.3 Financial Capability

<table>
<thead>
<tr>
<th>Sub-Factor</th>
<th>Requirement</th>
<th>Criteria</th>
<th>Tenderer</th>
<th>Documentation Required</th>
</tr>
</thead>
</table>
| 2.3.3. Financial Resources | The Tenderer must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet: (i) the following cash-flow requirement: LSL 1,000,000.00 and (ii) the overall cash flow requirements for this contract and its current commitments. | Must meet requirement | Must meet requirement | Must meet twenty five percent (25%) of the requirement | Form FIN –3  
<p>|                             |                                                                                              |                                                                                                |                                                                           | Form FIN-4             |</p>
<table>
<thead>
<tr>
<th>Sub-Factor</th>
<th>Requirement</th>
<th>Criteria</th>
<th>Tenderer</th>
<th>Documentation Required</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>2.4 EXPERIENCE</strong></td>
<td></td>
<td></td>
<td>Single Entity</td>
<td>Joint Venture or Association</td>
</tr>
<tr>
<td><strong>2.4.1 General Installations Experience</strong></td>
<td>Experience under contracts in the role of installations Contractor for at least the last five (5) years prior to Bid submission deadline, and with activity in at least nine (9) months each year.</td>
<td>Must meet requirement</td>
<td>N/A</td>
<td>Must meet requirement</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>2.4.2 Similar Installations Experience</strong></td>
<td>Participation as Installations Contractor in at least two (2) contracts within the last five (5) years, each with a value of at least <strong>LSL3,000,000</strong> or equivalent, that have been successfully and substantially completed and that are similar to the proposed Works. Similarity shall be based on the physical size, complexity, methods, technology or</td>
<td>Must meet requirement</td>
<td>Must meet requirements for all characteristics</td>
<td>N/A</td>
</tr>
</tbody>
</table>
### Section III. Evaluation and Qualification Criteria (without prequalification)

#### 2.4 EXPERIENCE

<table>
<thead>
<tr>
<th>Sub-Factor</th>
<th>Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>2.4.3 Specific Installations Experience in Key Activities</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Tenderer</td>
</tr>
<tr>
<td></td>
<td>Single Entity</td>
</tr>
<tr>
<td></td>
<td>All partners combined</td>
</tr>
<tr>
<td></td>
<td>Must meet requirements</td>
</tr>
</tbody>
</table>

For the above or other contracts executed during the period stipulated in 2.4.2 above, experience in the following key activities:

- **Supply, installation and commissioning of transformer online gas monitoring equipment or similar equipment**

Other characteristics as described in Section VIII, Employer’s Requirements.
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Tender Submission Sheet

Date: ______________________

LESOTHO HIGHLANDS DEVELOPMENT AUTHORITY

CONTRACT LHDA NO. 2177

SUPPLY, INSTALLATION AND COMMISSIONING OF ONLINE GAS MONITORING EQUIPMENT FOR GENERATOR STEP-UP TRANSFORMERS AT ‘MUELA HYDROPOWER STATION

TO: THE CHIEF EXECUTIVE

We, the undersigned, declare that:

(a) We have examined and have no reservations to the Tendering Document, including Addenda issued in accordance with Instructions to Tenderers (ITT 8) ________________;

(b) We offer to execute in conformity with the Tendering Document the following Works: ________________________________;

(c) The total price of our Tender, excluding any discounts offered in item (d) below is: ______ ____________________________;

(d) The discounts offered and the methodology for their application are: ________________

(e) Our tender shall be valid for a period of ________________ days from the date fixed for the tender submission deadline in accordance with the Tendering Document, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;

(f) If our tender is accepted, we commit to obtain a performance security in accordance with the Tendering Document;

(g) We, including any subcontractors or suppliers for any part of the contract, have or will have nationalities from eligible countries, in accordance with ITT 4.2
(h) We, including any subcontractors or suppliers for any part of the contract, do not have any conflict of interest in accordance with ITT 4.3;

(i) We are not participating, as a Tenderer or as a subcontractor, in more than one tender in this tendering process in accordance with ITT 4.3, other than alternative offers submitted in accordance with ITT 13;

(j) We, including any of our subcontractors or suppliers for any part of the contract, have not been declared ineligible by the LHDA and its donors, under the Kingdom of Lesotho’s laws or official regulations or by an act of compliance with a decision of the United Nations Security Council;

(k) We are not a government owned entity/ We are a government owned entity but meet the requirements of ITT-4.5;¹

(l) We have paid, or will pay the following commissions, gratuities, or fees with respect to the tendering process or execution of the Contract:

<table>
<thead>
<tr>
<th>Name of Recipient</th>
<th>Address</th>
<th>Reason</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
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<td></td>
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<tr>
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<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(If none has been paid or is to be paid, indicate “none.”)

(m) We understand that this tender, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract is prepared and executed; and

(n) We understand that you are not bound to accept the lowest evaluated tender or any other tender that you may receive.

(o) We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf will engage in bribery. We further declare that we shall abide by LHDA anti-corruption policy

Name ___________________________ In the capacity of ___________________________

Signed ___________________________

Duly authorized to sign the tender for and on behalf of ___________________________

Dated on __________________________ day of _______________________, _____

¹ Tenderer to use as appropriate
Appendix to Tender

Schedule of Adjustment Data

Table A. Local Currency

NOT APPLICABLE FOR THIS TENDER
Table B. Foreign Currency (FC)

NOT APPLICABLE FOR THIS TENDER
Table C. Summary of Payment Currencies

Table: Alternative A
For ……………………… [insert name of Section of the Works]

<table>
<thead>
<tr>
<th>Name of payment currency</th>
<th>A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local currency</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Net Tender Price</td>
<td></td>
</tr>
<tr>
<td>Provisional sums expressed in local currency</td>
<td></td>
</tr>
<tr>
<td>TENDER PRICE</td>
<td></td>
</tr>
</tbody>
</table>

Table: Alternative B
To be used only with Alternative B Prices directly quoted in the currencies of payment. (Clause ITT 15.1)

Summary of currencies of the tender for ____________ [insert name of Section of the Works]

<table>
<thead>
<tr>
<th>Name of currency</th>
<th>Amounts payable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local currency:</td>
<td></td>
</tr>
</tbody>
</table>
Schedule of Prices

The Contractor shall provide a schedule of prices for the whole scope of work (Work Requirement) in this Contract.

The schedule shall separate supply, installation and commissioning cost for the Contract.

The Tenderers rates shall be inclusive of all costs associated with the following:

(i) Installation;

(ii) Commissioning; and

(iii) Related labour and project management cost.

The final price for the whole works to be carried out shall be included in the Letter of Tender, inclusive of all costs associated with completing the works in accordance with the Work Requirements.
Technical Proposal

- Site Organization
- Method Statement
- Technical Schedule for Technical Specification
- Quality Assurance Plan
- Mobilization Schedule
- Construction Schedule
- Environmental Documents
- Health Safety Documents
- Equipment
- Others
Site Organization

The Tenderer shall provide the Project Organizational structure, together with the Curriculum Vitae ("CV") for each key member of the Project.

CVs are provided for the key personnel for the following positions, using the forms provided for that purpose:

<table>
<thead>
<tr>
<th>No.</th>
<th>Position</th>
<th>Total Related Work Similar Experience (years)</th>
<th>Experience in Similar Designs and/or Works (years)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Project Manager</td>
<td>15</td>
<td>10</td>
</tr>
<tr>
<td>2</td>
<td>Electrical Engineer</td>
<td>8</td>
<td>5</td>
</tr>
<tr>
<td>3</td>
<td>Electrical Technician</td>
<td>8</td>
<td>5</td>
</tr>
</tbody>
</table>

In addition, the Tenderer shall provide the following information:

(a) organizational chart showing lines of communications as well as communications plan for managing communications with key stakeholders;

(b) plans for subcontracting any parts of the Works and the services to be carried out or the Plant and Equipment to be provided by subcontractors;

(c) quality management system, describing the basis and operation of the proposed quality management system, including management reviews, procedural audits, checking, procedures for monitoring, reporting and dealing with nonconformities, corrective actions, and feedback.
Method Statement

Each Tenderer shall set out details of the Method Statement for the Works to demonstrate how it will meet the Employer’s objective and requirements. At a minimum, the Method Statement shall address the following:

(a) Details of the arrangements and methods which the Tenderer proposes to adopt for the supply, installation and commissioning of the Works, in sufficient detail to demonstrate their adequacy to achieve the requirements of the Contract including completion within the Time for Completion stated in the Contract Data, if provided.

(b) Outline of the arrangements which the Tenderer proposes to adopt to manage coordination of Site access.

(c) Outline of the arrangements which the Tenderer proposes to adopt to ensure compliance with the Employer’s Requirements.

(d) Outline of the arrangements which the Tenderer proposes for testing upon completion as called for in the Employer’s Requirements.

(e) Outline of arrangements which the Tenderer proposes for conducting training as specified in the Employer’s Requirements.

(f) Outline of arrangements for handover, including completion of as-built drawings, preparation of operation and maintenance manuals, and any additional matters.
Technical Schedule for Technical Specification

*(Failure to complete all relevant sections of this form may result in the Tender being disqualified.)*

**GENERAL**

1. Brand or model  
   ________________________________________________

2. Manufacturer's name and  
   Address of Local Workshop  
   ________________________________________________  
   ________________________________________________

3. Country of manufacture:  
   ________________________________________________

4. Agent’s name  
   ________________________________________________

5. Is online gas monitoring equipment manufactured under licence?  
   YES/NO *

6. Name of firm responsible for licence  
   ________________________________________________

7. Is the Tenderer a bona fide online gas monitoring equipment supplier?  
   YES/NO *

8. Does the Tenderer have his own manufacturing and service workshop in S.A. with regard to the equipment offered?  
   YES/NO *

9. Does the Tenderer offer a local service and spare parts network?  
   YES/NO *

10. Number and date of similar online gas monitoring equipment manufactured and installed in South Africa  
    ________________________________________________
Mobilization Schedule

The Tender shall be required to provide a mobilization Schedule.
Construction Schedule

Each Tenderer shall set out a detailed Program and Schedule for design, supply, installation and commissioning of the Works to be undertaken, including estimated start and finish dates for individual components and identification of major milestones and critical path. The proposed Program and Schedule shall be developed according to Employer’s Requirements and shall address the following:

(a) Details of the proposed timeline for carrying out the Works within the Time for Completion, in the form of a Gantt (bar) chart showing notably the critical path.

(b) Details of the proposed timeline for the testing, commissioning and handing over of the completed Works, as well as any key milestones.

(c) Confirm that all program submissions shall be in MS-Project.
Environmental Documents

NOT APPLICABLE FOR THIS TENDER
Health Safety Documents

The successful Tenderer will be required to carry out Site Works in accordance with the Health and Safety Plan to be developed by it following Contract award, and approved by the Employer, as well as adhering to the Employer’s Health and Safety requirements.
Personnel

Form PER-1: Proposed Personnel

Tenderers should provide the names of suitably qualified personnel to meet the specified requirements stated in Section III.

The data on their experience should be supplied using the Form below and Form PER-2: CV of Proposed Personnel that follows for each candidate.

<table>
<thead>
<tr>
<th></th>
<th>Title of position*</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Name</td>
</tr>
<tr>
<td>1.</td>
<td></td>
</tr>
<tr>
<td>2.</td>
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<td>3.</td>
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<tr>
<td>4.</td>
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</tr>
</tbody>
</table>

*As listed in Section III.
Form PER-2: Resume of Proposed Personnel

| Personnel information | | |
|-----------------------|------------------|
| Name                  | Date of birth    |
| Professional qualifications |                     |

<table>
<thead>
<tr>
<th>Present employment</th>
<th>Name of employer</th>
<th>Current Employer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address of employer</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Telephone</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fax</td>
<td></td>
<td>E-mail</td>
</tr>
<tr>
<td>Job title</td>
<td></td>
<td>Years with present employer</td>
</tr>
</tbody>
</table>

Name of Tenderer

Position

[Table contents continued on the next page]
Summarize professional experience over the last 20 years, in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

<table>
<thead>
<tr>
<th>From</th>
<th>To</th>
<th>Company / Project / Position / Relevant technical and management experience</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>
Tenderers Qualification without prequalification

To establish its qualifications to perform the contract in accordance with Section III (Evaluation and Qualification Criteria) the Tenderer shall provide the information requested in the corresponding Information Sheets included hereunder.
### Form ELI – 1: Tenderer’s Information Sheet

<table>
<thead>
<tr>
<th>Tenderer’s Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tenderer’s legal name</td>
</tr>
<tr>
<td>In case of JV, legal name of each partner</td>
</tr>
<tr>
<td>Tenderer’s country of constitution</td>
</tr>
<tr>
<td>Tenderer’s year of constitution</td>
</tr>
<tr>
<td>Tenderer’s legal address in country of constitution</td>
</tr>
<tr>
<td>Tenderer’s authorized representative (name, address, telephone numbers, fax numbers, e-mail address)</td>
</tr>
</tbody>
</table>

**Attached are copies of the following original documents.**

- 1. In case of single entity, articles of incorporation or constitution of the legal entity named above, in accordance with ITT 4.1 and 4.2.
- 2. Authorization to represent the firm or JV named in above, in accordance with ITT 20.2.
- 3. In case of JV, letter of intent to form JV or JV agreement, in accordance with ITT 4.1.
- 4. In case of a government-owned entity, any additional documents not covered under 1 above required to comply with ITT 4.5.
Form ELI – 2: JV Information Sheet

Each member of a JV must fill in this form

<table>
<thead>
<tr>
<th>Tenderer’s legal name</th>
<th>JV / Specialist Subcontractor Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>JV Partner’s or Subcontractor’s legal name</td>
<td></td>
</tr>
<tr>
<td>JV Partner’s or Subcontractor’s country of constitution</td>
<td></td>
</tr>
<tr>
<td>JV Partner’s or Subcontractor’s year of constitution</td>
<td></td>
</tr>
<tr>
<td>JV Partner’s or Subcontractor’s legal address in country of constitution</td>
<td></td>
</tr>
<tr>
<td>JV Partner’s or Subcontractor’s authorized representative information (name, address, telephone numbers, fax numbers, e-mail address)</td>
<td></td>
</tr>
</tbody>
</table>

Attached are copies of the following original documents.

- 1. Articles of incorporation or constitution of the legal entity named above, in accordance with ITT 4.1 and 4.2.
- 2. Authorization to represent the firm named above, in accordance with ITT 20.2.
- 3. In the case of government-owned entity, documents establishing legal and financial autonomy and compliance with commercial law, in accordance with ITT 4.5.
Form CON – 2: Historical Contract Non-Performance

[The following table shall be filled in for the Tenderer and for each partner of a Joint Venture]

Tenderer’s Legal Name: ________________
Date: ________________
Joint Venture Party Legal Name: ________________
Contract No. and title: ________________
Page ________________ of ________________ pages

Non-Performing Contracts in accordance with Section III, Qualification Criteria and Requirements

- Contract non-performance did not occur during the ____ years specified in Section III, Qualification Criteria and Requirements, Sub-Factor 2.1.
- Contract(s) not performed during the ____ years specified in Section III, Qualification Criteria and Requirements, requirement 2.1

<table>
<thead>
<tr>
<th>Year</th>
<th>Non performed portion of contract</th>
<th>Contract Identification</th>
<th>Total Contract Amount (current value, LSL equivalent)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Contract Identification:</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Name of Employer:</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Address of Employer:</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Reason(s) for non performance:</td>
<td></td>
</tr>
</tbody>
</table>

Pending Litigation, in accordance with Section III, Qualification Criteria and Requirements

- No pending litigation in accordance with Section III, Qualification Criteria and Requirements, Sub-Factor 2.2.
- Pending litigation in accordance with Section III, Qualification Criteria and Requirements, Sub-Factor 2.2 as indicated below.

<table>
<thead>
<tr>
<th>Year</th>
<th>Outcome as Percentage of Total Assets</th>
<th>Contract Identification</th>
<th>Total Contract Amount (current value, LSL equivalent)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Contract Identification:</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Name of Employer:</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Address of Employer:</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Matter in dispute:</td>
<td></td>
</tr>
</tbody>
</table>
Form FIN – 1: Financial Capability

Each Tenderer or member of a JV must fill in this form

<table>
<thead>
<tr>
<th>Year 1:</th>
<th>Year 2:</th>
<th>Year 3:</th>
</tr>
</thead>
</table>

### Information from Balance Sheet

- Total Assets
- Total Liabilities
- Net Worth
- Current Assets
- Current Liabilities

### Information from Income Statement

- Total Revenues
- Profits Before Taxes
- Profits After Taxes

- Attached are copies of financial statements (balance sheets including all related notes, and income statements) for the last three years, as indicated above, complying with the following conditions.
  - All such documents reflect the financial situation of the Tenderer or partner to a JV, and not sister or parent companies.
  - Historic financial statements must be audited by a certified accountant.
  - Historic financial statements must be complete, including all notes to the financial statements.
  - Historic financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).
Form FIN – 2: Average Annual Construction Turnover

*Each Tenderer or member of a JV must fill in this form*

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount Currency</th>
<th>Exchange Rate</th>
<th>LSL Equivalent</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>

**Average Annual Construction Turnover**

The information supplied should be the Annual Turnover of the Tenderer or each member of a JV in terms of the amounts billed to clients for each year for work in progress or completed, converted to LSL at the rate of exchange at the end of the period reported.
Form FIN – 3: Financial Resources

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

<table>
<thead>
<tr>
<th>No.</th>
<th>Source of financing</th>
<th>Amount (LSL equivalent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Form FIN – 4: Current Contract Commitments / Works in Progress

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

<table>
<thead>
<tr>
<th>No.</th>
<th>Name of Contract</th>
<th>Employer’s Contact Address, Tel, Fax</th>
<th>Value of Outstanding Work [Current LSL Equivalent]</th>
<th>Estimated Completion Date</th>
<th>Average Monthly Invoicing Over Last Six Months [LSL/month]</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
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<tr>
<td>3</td>
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<tr>
<td>4</td>
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<tr>
<td>5</td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>
Form EXP – 1: General Installations Experience

*Each Tenderer or member of a JV must fill in this form*

<table>
<thead>
<tr>
<th>General Installations Experience</th>
</tr>
</thead>
<tbody>
<tr>
<td>Starting Month Year</td>
</tr>
<tr>
<td>----------------------</td>
</tr>
<tr>
<td></td>
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<tr>
<td></td>
</tr>
</tbody>
</table>
**Form EXP – 2(a): Specific Installations Experience**

Fill up one (1) form per contract.

<table>
<thead>
<tr>
<th>Contract No. . . . . of . . . .</th>
<th>Contract Identification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Award Date</td>
<td>Completion Date</td>
</tr>
<tr>
<td>Role in Contract</td>
<td></td>
</tr>
<tr>
<td>Total Contract Amount</td>
<td>LSL</td>
</tr>
<tr>
<td>If partner in a JV or subcontractor, specify participation of total contract amount</td>
<td>Percent of Total</td>
</tr>
</tbody>
</table>
| Employer’s Name
  Address
  Telephone/Fax Number
  E-mail | |

Description of the similarity in accordance with Criteria 2.4.2(a) of Section III
Form EXP – 2(b): Specific Installations Experience in Key Activities

Fill up one (1) form per contract

<table>
<thead>
<tr>
<th>Contract with Similar Key Activities</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Contract No. . . . of . . . . . .</strong></td>
</tr>
<tr>
<td>Award Date</td>
</tr>
<tr>
<td>Role in Contract</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>Total Contract Amount</td>
</tr>
<tr>
<td>If partner in a JV or subcontractor, specify participation of total contract amount</td>
</tr>
<tr>
<td>Employer’s Name</td>
</tr>
<tr>
<td>Address</td>
</tr>
<tr>
<td>Telephone Number</td>
</tr>
<tr>
<td>Fax Number</td>
</tr>
<tr>
<td>E-mail</td>
</tr>
</tbody>
</table>

Description of the key activities in accordance with Criteria 2.4.2(b) of Section III
Form of Tender Security

(Bank Guarantee)

__________________________

Beneficiary: __________________________

Date: __________________________

TENDER GUARANTEE No.: __________________________

We have been informed that __________________________ (hereinafter called "the Tenderer") has submitted to you its tender dated __________ (hereinafter called "the Tender") for the execution of ________________ and that the conditions of your invitation to tender requires the offer to be supported by a tender security.

At the request of the Tenderer, we ____________________ hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of ___________ (____________) 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) having been notified of the acceptance of its Tender by the Employer during the period of tender validity, (i) fails or refuses to execute the Contract Agreement or (ii) fails or refuses to furnish the performance security, in accordance with the ITT.

This guarantee will expire: (a) if the Tenderer is the successful Tenderer, upon our receipt of copies of the contract signed by the Tenderer and the performance security issued to you upon the instruction of the Tenderer; and (b) if the Tenderer is not the successful Tenderer, upon the earlier of (i) our receipt of a copy your notification to the Tenderer to that effect or (ii) twenty-eight 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.

This guarantee is subject to the Uniform Rules for Demand Guarantees, International Chamber of Commerce (ICC) Publication No. 458.
[signature(s)]

**Note:** *All italicized text is for use in preparing this form and shall be deleted from the final product.*
Form of Tender-Securing Declaration

Date: _________________
Tender No.: _________________
Alternative No.: _________________

To:

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 may be suspended from being eligible for tendering in any contract with the LHDA, 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 Letter of Tender; or

(b) having been notified of the acceptance of our Tender by the Employer 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 (i) our receipt of your notification to us to this effect or (ii) twenty-eight days after the expiration of our Tender.

Signed: ________________________________________________

In the capacity of ________________________________________________

Name: _______________________________________________________

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

Dated on _______ day of ____________________________, ______________

Corporate Seal (where appropriate)

[Note: In case of a Joint Venture, the Tender-Securing Declaration must be in the name of all partners to the Joint Venture that submits the tender.]
Section V. Eligible Countries

Eligibility for the Provision of Goods, Works and Services in LHDA Procurements

Tenderers, Firms and individuals of a country or goods manufactured in a country may be ineligible if:

1. As a matter of law or official regulations, if the Kingdom of Lesotho prohibits commercial relations with that country; or

2. By an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Kingdom of Lesotho prohibits any import of goods from that country or any payments to any country, person, or entity in that country.
PART 2 – WORKS REQUIREMENTS
Section VI. Works Requirements

Contents

Scope of Works ......................................................... 80
Specification ......................................................... 83
Drawings .............................................................. 86
Supplementary Information ........................................ 87
A. Scope of Works

1. Background

The Lesotho Highlands Development Authority (LHDA) wishes to install online gas monitoring equipment on the three (3) generator step up transformers at the ‘Muela hydropower station. The transformers are rated at 32MVA. The purpose of the equipment will be to monitor the eight (8) standard key gases of a transformer, total dissolved combustible gases(TDCG) as well as moisture content and alert Control Room personnel when the set limit for the level of any of the gases, rate of change of each gas, TDCG and moisture content is reached. The system shall also provide a trip signal to isolate the transformer if the level of any of the gases rises beyond a set limit.

2. General Scope of Works

The scope of works for the project comprises the following:

- Supply and deliver to ‘Muela hydropower station ALL equipment and material needed for the successful completion of the works. Main equipment to be supplied shall at least include the following:
  - Online gas monitoring equipment
  - Diagnostic software compatible with windows 7 or later versions. The software licence shall not expire.
- Installation of equipment on THREE(3) generator transformers. Installation of equipment shall comprise the following:
  - Installation of cubicle(s) for the equipment
  - Installation of junction boxes
  - Erection of stands for the equipment
  - Installation of circuit breakers in the Employers cubicle(s) for protection of supply cables to the online gas detector.
  - Pulling and laying of cables on cable trays/ladders
  - Erection of oil circulation pipework and connection of pipes to the transformers
  - Draining of transformer oil for purposes of installations (if necessary) and refilling afterwards.
  - Any other installation work not listed above that is needed for the successful completion of the works.
- Commissioning of installations.
- Provide on-site training for eight(8) Employer’s technicians, on the operation and maintenance of the equipment and issue competency certificates after training.
completion of the Works. The cost of such training shall be deemed to have been included in the Tender price.

3. **Documentation**

a. **Detailed Design Report and Drawings**
After signing of the Contract, but before installations on site commence, design report and drawings shall be submitted for approval in principle by the Employer. The drawings shall cover the general arrangement of installations and circuit diagrams.

The drawings shall, where applicable, substantially conform to the Tender Drawings.

14 days after submission by the Contractor, the Employer will return a print of the above documents with his certified approval or else with his comments regarding any amendments that may be required. Drawings returned to the Contractor for amendment purposes shall be re-submitted in their amended form within 14 days of the date of receipt of the drawings by the Contractor.

Approval of the above mentioned report and drawings by the Employer shall only signify approval of the general design and layout and shall not make the Employer liable for any error by the Contractor.

b. **Commissioning Procedures**
The Contractor shall submit commissioning procedures to the Employer for approval. Commissioning shall not commence on site unless the Employer has approved the commissioning procedures.

c. **Completion Report**
The Contractor shall provide LHDA with three (3) hard copies of the Completion Report and two (2) soft copies on compact disc(CD) within 30 days after Practical Completion of Works. The completion report shall include commissioning records.

d. **Operation and Maintenance Manuals**
The Contractor shall provide LHDA with three (3) hard copies of the Operation and Maintenance Manuals and two (2) soft copies on compact disc(CD) within 60 days after Practical Completion of Works. The Manuals shall be securely bound A4 size, with A3 size “As-Built” drawings. A draft copy of the manuals shall be submitted for approval within 30 days after Practical Completion of the Works.

As a minimum the manuals shall contain the following:
- Functional description of the installations
Section VI. Works Requirements

- Assembly drawings
- Assembly specifications
- Circuit diagrams and wiring tables
- Operation and maintenance procedures of the installed system
- Reference documents of all equipment supplied
- Commissioning Report
- Factory test certificates of equipment

4. Supervision of Construction

The employer, through his appointed Contract Technical Supervisor, shall be fully responsible for monitoring and observing construction activities to ensure that:
- The works are carried out in accordance with Contract.
- The quality of workmanship and materials in all Works conforms with the Contract Specification taking into account all issues pertaining to the environment.
- The work is carried out by the construction Contract in a healthy, safe and appropriate way to international standards.
- The equipment and staff used by the Contractor are adequate to construct the Works, maintain the programme and satisfy quality control requirement.
- Quality control requirements are satisfied.

Monitoring and observation of construction activities by the Technical Supervisor shall not relieve the Contractor from his obligation to ensure that Works are carried out in accordance with the Conditions of the Contract.

5. Spare Parts

The Tenderer shall recommend and provide a quotation of wear and tear items as well as customary spare parts in his Financial Proposal. The spare parts quotation shall not form part of the Tender Price as the Employer may choose to defer purchase of recommended spare parts to a later date.

The spare parts recommended by the Tenderer shall be available for at least ten (10) years from the time of Tender closing. The Tenderer shall confirm that an established service and spare parts network for the equipment offered shall be available in the Republic of South Africa at the time of Tender closing.
B. Specification

2. Introduction

The following information and technical requirements shall be observed as far as they are applicable to the online gas monitoring equipment to be offered. The dissolved gases monitoring system shall be installed to provide functional design and neat appearance.

3. Specification of installed transformers

- Power rating: 32MVA
- Voltage rating: 11/132kV
- Equipment oil volume: 17620 litres
- Type of cooling: OFWF
- Manufacturer: ABB-Powertech
- Year of manufacture: 1994
- Installation environment: Underground hydropower station

4. Specification of the required system

- System type: Multigas and moisture content monitoring equipment
- Measured variables: Eight standard key gases, Total Dissolved Combustible Gases (TDCG), moisture content, estimation of nitrogen gas (N₂)
- Range of measurements: (Minimum requirements)
  - Hydrogen (H₂) 5 - 50,000 ppm
  - Carbon Monoxide (CO) 2 - 50,000 ppm
  - Carbon Dioxide (CO₂) 20 - 50,000 ppm
  - Methane (CH₄) 2 - 50,000 ppm
  - Acetylene (C₂H₂) 0.5 - 50,000 ppm
  - Ethane (C₂H₆) 2 - 50,000 ppm
  - Ethylene (C₂H₄) 2 - 50,000 ppm
  - Oxygen (O₂) 100 - 50,000 ppm
  - Nitrogen (N₂) 10,000 - 100,000 ppm
  - Moisture (H₂O) 0 - 100% RS (given in ppm)
Accuracy of measurement:

- Oxygen ($O_2$) ±10%
- Nitrogen ($N_2$) ±15%
- All other gases ±5%
- Moisture ($H_2O$) ±3%

Frequency of measurement: At least configurable from once per hour to once per four weeks and fully automatic. Manual operation shall be possible.

Display: LCD screen for local display of measurements and messages (warnings and alarms)

Indications: LED indication lights (at least two, one for Power ON and another for alarm)

Communication: At least 1 x Ethernet port for downloading data from the device to a laptop computer

Alarms: At least six alarm setting scenarios for setting alarms based on the level of any of the nine gases, TDCG, moisture and rates of change for each gas. A control cable for general alarm and trip signal shall be supplied and installed by the Contracor. The cable shall run from the equipment to the unit control cubicle of each generator unit.

Relay outputs: At least six voltage free contacts. Each of the six alarm scenarios should be able to activate any of the six relay contacts.
Data storage: Non-volatile internal memory enough to store data for at least five years if sampling is conducted once per day.

Enclosure rating: At least IP 55

Mounting stand: The equipment cubicle shall be fixed on a mounting stand. The stand shall be appropriately protected against corrosion.

5. **Compliance with legislation and standards**

All equipment and material supplied shall conform with the requirements of the SABS or CENELEC. The equipment shall bear the SABS or CE mark where appropriate.

Installations shall comply with the relevant SABS/SANS or IEC standards.
Drawings

Drawings have not been provided for this Request for Proposals.
Supplementary Information

No supplementary information at the time of tendering.
PART 3 – CONDITIONS OF CONTRACT AND CONTRACT FORMS
Section VII. Particular Conditions (PC)

The Clauses referred to in the General Conditions will apply unless an alternative solution is given in the Conditions of Particular Application. The Clauses in this section need therefore not be completed, but must be completed if alternative solutions to relevant Part I provisions are necessary. The provisions of Part II take precedence over the provisions of Part I.

Part A - Contract Data

<table>
<thead>
<tr>
<th>Conditions</th>
<th>Ref. GC</th>
<th>Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employer’s name and address</td>
<td>1.1.2.2 &amp; 1.3</td>
<td>Lesotho Highlands Development Authority</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Third Floor</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Lesotho Bank Tower</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Kingsway Road</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Box 7332</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Maseru</td>
</tr>
<tr>
<td>Engineer’s name and address</td>
<td>1.1.2.4 &amp; 1.3</td>
<td>N/A</td>
</tr>
<tr>
<td>Bank’s name</td>
<td>1.1.2.11</td>
<td>N/A</td>
</tr>
<tr>
<td>Borrower’s name</td>
<td>1.1.2.12</td>
<td>N/A</td>
</tr>
<tr>
<td>Time for Completion</td>
<td>1.1.3.3</td>
<td>To be completed by 31st March 2018.</td>
</tr>
<tr>
<td>Defects Notification Period</td>
<td>1.1.3.7</td>
<td>365 days.</td>
</tr>
<tr>
<td>Sections</td>
<td>1.1.5.6</td>
<td>N/A</td>
</tr>
<tr>
<td>Electronic transmission systems</td>
<td>1.3</td>
<td>N/A</td>
</tr>
<tr>
<td>Governing Law</td>
<td>1.4</td>
<td>Lesotho</td>
</tr>
<tr>
<td>Ruling language</td>
<td>1.4</td>
<td>English</td>
</tr>
<tr>
<td>Language for communications</td>
<td>1.4</td>
<td>English</td>
</tr>
<tr>
<td>Time for access to the Site</td>
<td>2.1</td>
<td>10 days after Commencement Date</td>
</tr>
<tr>
<td>Engineer’s Duties and Authority</td>
<td>3.1(b)(ii)</td>
<td>N/A</td>
</tr>
<tr>
<td>Performance Security</td>
<td>4.2</td>
<td>The performance security will be in the form of an unconditional bank guarantee in the amount(s) of ten percent (10%) of the Contract Price.</td>
</tr>
<tr>
<td>Normal working hours</td>
<td>6.5</td>
<td>8am – 5pm</td>
</tr>
</tbody>
</table>
### Delay damages for the Works

| 8.7 & 14.15(b) | Delay damages for the works will be charged at 0.01% of the final Contract Price per day, in the currencies and proportions in which the Contract Price is payable. |

### Maximum amount of delay damages

| 8.7 | 10% of the final Contract Price. |

### Provisional Sums

| 13.5.(b)(ii) | N/A |

### Adjustments for Changes in Cost; Table(s) of Adjustment Data

| 13.8 | N/A |

### Total advance payment

| 14.2 | An advance of 10% of the Contract Price is payable in the currencies and proportions in which the accepted Contract Amount is payable, if required. |

### Repayment amortization of advance payment

| 14.2(b) | Repayment shall be as agreed by the Parties. |

### Percentage of Retention

| 14.3 | 10% |

### Limit of Retention Money

| 14.3 | 10% of the accepted Contract Amount |

### Plant and Materials

| 14.5(b)(i) | If Sub-Clause 14.5 applies: |
| 14.5(c)(i) | N/A |

### Minimum Amount of Interim Payment Certificates

| 14.6 | N/A |

### Maximum total liability of the Contractor to the Employer

| 17.6 | Equivalent to the value of the Contract |

### Periods for submission of insurance:

| a. evidence of insurance. | 18.1 |
| b. relevant policies | 28 days |

### Maximum amount of deductibles for insurance of the Employer's risks

| 18.2(d) | Equivalent to the value of the Contract |

### Minimum amount of third party insurance

| 18.3 | M1.0 million |

### Date by which the Dispute Adjudication Board (DAB) shall be appointed

| 20.2 | N/A |

### The DAB shall be comprised of

| 20.2 | N/A |

### List of potential DB sole members

| 20.2 | N/A |

### Appointment (if not agreed) to be made by

| 20.3 | N/A |

### Rules of arbitration

Part B - Specific Provisions
Part B - Specific Provisions

Definitions 1.1 In the Contract (as defined below) the following words and expressions shall have the meanings hereby assigned to them:

1.1.1.1 **Contract** means the agreement between the Employer and the Contractor for the execution of the Works incorporating the Conditions, Specifications, Employer’s Drawings, and Contractor’s Drawings, Priced and Completed Schedules, Tender’s proposal, Letter of Acceptance, memoranda, addenda and such further documents as may be expressly incorporated by the Letter of Acceptance.

This Agreement constitutes the whole agreement between the Parties. Any variation hereto shall be agreed to in writing by the Parties, failing which the variation shall have no legal force or effect whatsoever.

Any provision of this Agreement that may be unenforceable shall be severable from the remaining provisions of the Agreement and shall not affect the operation and interpretation of such remaining provisions, provided that the Parties undertake to negotiate with one another to redraw the void provision to render such provision enforceable.

This Agreement contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.

1.1.2.2 **Employer** means the Lesotho Highlands Development Authority (LHDA).

1.1.3.7 **Contract Period** (defect liability period is 365 calendar days after Completion and works are taken over)

The Contractor shall provide warranties for the equipment to be supplied under the Contract.

1.1.5.9 **Warranty** means a written guarantee to repair or replace equipment or machinery within a specified period of time. The Contractor shall provide warranties for the equipment to be supplied and installed under this contract.
Laws and Language

1.4 This Contract, its meaning and interpretation, and the relation between the parties shall be governed by the Applicable Lesotho Law(s).

The Contractor shall comply with all laws, statutes, ordinances, acts and regulations in force as may be amended from time to time.

If, after the date of this Agreement, there is any change in the Applicable Law or introduction of a new law that increases or decreases the cost of reimbursable expenses incurred by the Contractor in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Contractor under this Agreement shall be increased or decreased accordingly by agreement between the Parties hereto.

The ruling language for this contract shall be the English language.

Compliance With Laws

1.13 In addition to provisions of Sub-Clause 1.13, the Contractor shall comply with the provisions of Part 5 – Tax Requirements

Bribes

1.15 Anti-Bribery and Corruption

The Contractor, its staff, subcontractors, agents and servants shall not accept, offer to give or agree to offer to give to any person any bribe, gift, gratuity or commission as an inducement or reward for doing or forbearing to do any action in relation to this agreement. Furthermore, the Contractor, its staff, subcontractors, agents and servants shall comply with the relevant Lesotho Anti-corruption Law and the Lesotho Highland Water Project Anti-Corruption Policy at all times.

The Employer implements processes and procedures to identify related party transactions as per the International Accounting Standard 24, Related Party Disclosure. A related party transaction is a transfer of resources, services or obligations between related parties, regardless of whether a price is charged.

A party is related to the Employer if:

The party directly, or indirectly through one or more intermediaries:
(i) Controls, is controlled by, or is under common control with, the Authority;

(ii) Has an interest in the Authority that gives it significant influence over the Authority.

The party is a member of the key management personnel of the Authority.

(iii) The party is a close member of the family of any individual referred to above

Close members of the family of an individual are those family members who may be expected to influence, or be influenced by, that individual in their dealings with the Authority. They may include:

The individual’s domestic partner and children;

Children of the individual’s domestic partner;

Dependents of the individual or the individual’s domestic partner;

The individual’s parents or domestic partner’s parents;

The individual’s brothers and sisters.

Key management personnel are those persons having authority and responsibility for planning, directing and controlling the activities of the LHDA, directly or indirectly.

Significant influence is the power to participate in the financial and operating policy decisions of the LHDA, but has no control over those policies.

In addition to the provisions of Sub Clause 4.1, the following shall apply:

The Contractor shall arrange transport, labour, materials (consumable and otherwise), tools for the works and all other materials and equipment necessary for the execution of the works.
<table>
<thead>
<tr>
<th>Section VII. Particular Conditions</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Safety Procedures</td>
<td>In addition to Sub-Clause 4.8 the Contractor and his Sub-Contractor shall observe all applicable LHDA safety regulations on Site.</td>
</tr>
<tr>
<td>Progress Reports</td>
<td>In addition to the provisions of Sub-Clause 4.21: The Contractor will attend monthly progress meetings with the Employer or such other frequency as may be agreed by the Parties.</td>
</tr>
<tr>
<td>Security of The Site</td>
<td>In addition to Sub-Clause 4.22, the Contractor shall also be aware that: Security of tools, equipment and material including cleanliness and organisation within the Contractor’s immediate work area shall be the responsibility of the Contractor.</td>
</tr>
<tr>
<td>Facilities for Staff and Labour</td>
<td>In addition to Sub-Clause 6.6, the Contractor shall also take note of the following: a. The Contractor shall arrange his own accommodation and means of subsistence for his own personnel, including meals and all other expenses. The cost of complying with this sub-clause shall be borne by the contractor. b. The Contractor shall provide and ensure that his staff wears personal protective equipment. c. The Contractor shall provide ablution facilities for the Contractors personnel</td>
</tr>
<tr>
<td>Manner of Execution</td>
<td>In addition to the provisions of Sub-Clause 7.1, the following shall also apply: The Contractor shall comply with all applicable and approved safety regulations while carrying out Works on site and according to the contract. This stipulation shall in no way release the Contractor from his contractual liability for accidents and damage. The Contractor shall be responsible for adequate protection of persons, plant and materials against injuries and damage resulting from his operations.</td>
</tr>
</tbody>
</table>
The Contractor shall ensure that the installation of the plant is properly executed in accordance with the contract.

<table>
<thead>
<tr>
<th>Making Good And Reinstatement</th>
<th>7.9</th>
</tr>
</thead>
<tbody>
<tr>
<td>Should the installation of any item of equipment call for drilling, cutting and/or chasing, the Contractor shall afterwards make good the affected area.</td>
<td></td>
</tr>
<tr>
<td>Where it is necessary for the Contractor to remove parts of flooring, hand railing, pipes, ducts, etc. in order to do the installation, the Contractor shall reinstate all the moved and or damaged parts to their original state.</td>
<td></td>
</tr>
<tr>
<td>The Contractor shall also repair any paintwork affected or damaged by him.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Suspension of Work</th>
<th>8.8</th>
</tr>
</thead>
<tbody>
<tr>
<td>In addition to the provisions of Sub-Clause 8.8:</td>
<td></td>
</tr>
<tr>
<td>The Employer may, by written Notice to the Contractor suspend all payments to the Contractor should the Contractor fail to perform any of his obligations under this Contract, provided that such Notice of Suspension shall:</td>
<td></td>
</tr>
<tr>
<td>a. Specify the nature of the failure, and</td>
<td></td>
</tr>
<tr>
<td>b. Request the Contractor to remedy such failure within a period to be specified by the Employer, after receipt by the Contractor of such Notice of Suspension.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Contractor’s Obligations</th>
<th>9.1</th>
</tr>
</thead>
<tbody>
<tr>
<td>In addition to the provisions of Sub-Clause 9.1, the following, shall also apply;</td>
<td></td>
</tr>
<tr>
<td>Commissioning of the plant shall be according to the manufacturer’s procedure, which is subject to the approval of the Employer.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Right to Vary</th>
<th>13.1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Variations to the terms and conditions of this Contract, including any variation of the Scope of Works and duration, may only be made by written agreement between the Parties. Such agreement shall be by a formal written Variation Order, issued by the Employer.</td>
<td></td>
</tr>
</tbody>
</table>
Prior to any Variation Order under Sub-Clause 13.1, the party requiring the variation shall notify the other party of the nature and form of such variation.

### Payments in Applicable Currency
1. **Currency of Payment and Rates of Exchange**
   - Payment under this Contract shall be in the Lesotho Loti (LSL). It should be noted that 1Loti is equivalent to 1South African Rand.
   - The Contractor’s quotation shall not be subject to variation in price as a result of Rate(s) of Exchange applicable to any part of the quotation. The Contract Price shall remain fixed for the duration of the Contract.

### Payment
1. **The provisions of Sub-Clause 14.7 are amended to read as follows:**
   - The Employer shall pay the amount approved by the Employer as due to the Contractor, within 28 days from the date of receipt of the Contractor’s invoice.
   - The Employer shall deduct ten percent (10%) on each Interim Payment Certificate as Retention Money until a limit of ten percent (10%) of the Contract Price has been reached.

### Payment of Retention Money
1. **The provisions of Sub-Clause 14.9 are amended to read as follows:**
   - Fifty percent (50%) of the retained amount shall be released upon completion of the Works, at the Taking Over of the Works which marks the beginning of the Defects Liability Period.
   - The outstanding fifty percent (50%) of the Retention amount shall be paid to the Contractor, on the expiry of the Defects Liability Period, provided all defects jointly identified by the Employer and Contractor’s Representatives at Taking Over of the Works and during the Defects Liability Period, have been remedied according to the contractual requirements.

### Rates of Exchange
1. **The Contractor’s quotation shall not be subject to variation in price as a result of Rate(s) of Exchange applicable to any part of the quotation. The Contract Price shall remain fixed for the duration of**
the Contract and shall vary subject to the provision of Clause 13.1 [Right to Vary].

**Terms of Payment** 14.17

In addition to the provisions under Clause 14, the terms of payment shall be:

a) Payment shall only be made for all materials and goods that are properly supplied, according to the contractual requirements. Such payments shall be made on presentation of invoice(s) with supporting documentation. For imported goods LHDA will only pay invoices for materials and goods that have been declared through the border and bearing Lesotho Revenue Authority (LRA) stamp.

Payment for transport, installation and commissioning shall be made upon completion of commissioning of the works under this Contract and presentation of invoice(s) and supporting documentation.

**Termination by Employer** 15.2

In addition to the provisions of Sub-Clause 15.2 the Employer may terminate this contract after the occurrence of either of the following events:

(a) If the Contractor fails to comply with his obligations in accordance with the contract, within fourteen (28) days of receipt of such notice or within such further period as the Employer may have subsequently approved in writing.

(b) If the Contractor fails to comply with any final decision reached as a result of arbitration proceedings.

(c) If the Contractor submits to the Employer a statement which has a material effect on the rights, obligations or interests of the Employer and which the Contractor knows to be false.

(d) If, as the result of Force Majeure, the Contractor is unable to perform a material portion of the services for a period of not less than 28 days.

(e) If it is found that there is a conflict of interest in accordance with the provisions of clause 21.
f) Non-compliance with Lesotho Anti-corruption Law and the Lesotho Highland Water Project Anti-Corruption Policy as incorporated into the contract document under Part - 4

Contractor’s Entitlement to Suspend Work 16.1 The first paragraph of Sub-Clause 16.1 is amended to read as follows:
If the Employer fails to certify in accordance with Sub-Clause 14.6 [Issue of Interim Payment Certificates] or the Employer fails to comply with Sub-Clause 2.4 [Employer’s Financial Arrangements] or Sub-Clause 14.7 [Payment] for an undisputed Payment Certificate or portion thereof, the Contractor may, after giving not less than 28 days’ notice to the Employer, suspend work (or reduce the rate of work) until the Contractor has received the Payment Certificate, evidence or payment, as the case may be and as described in the notice.

Termination by the Contractor 16.2 The provisions of Sub-Clause 16.2 are amended to read as follows:
The Contractor may terminate this Contract after the occurrence of any of the events specified in paragraphs i) through iv) of this Sub-Clause by giving not less than fourteen (14) days’ written Notice of Termination to the Employer;
i. if the Employer fails to pay any money due to the Contractor pursuant to this Contract and not subject to dispute within fourteen (14) days after receiving written notice from the Contractor such that payment is overdue;

ii. if the Employer is in material breach of his obligations pursuant to this Contract and has not remedied the same within fourteen (14) days or such longer period as the Contractor may have subsequently agreed in writing, following the receipt by the Employer of the Contractor’s notice specifying such breach;

iii. if, as the result of Force Majeure, the Contractor is unable to perform a material portion of the service for a period of not less than twenty-eight (28) days; or

iv. if the Employer fails to comply with any final decision reached as a result of arbitration. In the event of a material default which has not been rectified by the Employer within twenty eight (28) days of notification to do so, the Contractor shall have the right to terminate this Contract and recover such costs (actual and incurred) for which the
Force Majeure 19.1  Force Majeure

(a) Definition

i. For the purposes of this Agreement, “Force Majeure” means an event that is beyond the reasonable control of a Party and that makes a Part’s performance of its obligations hereunder impossible in the circumstances, and includes, but is not limited to, war, riots, hostilities (whether war is declared or not), invasions, act of foreign enemies, rebellion, revolution, insurrection or military or usurped power, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by government agencies.

ii. Force Majeure shall not include:

a. Any event that is caused by the negligence or intentional action of a Party or such Party’s subcontractors or agents or employees; nor
b. Any event that a diligent Party could reasonably have been expected to both:
   • Take into account at the time of the execution of this Agreement, and
   • Avoid or overcome in the carrying out of its obligations hereunder.

iii. Force Majeure shall not include insufficiency of funds or failure to make a payment required hereunder.

(b) No Breach of Agreement

The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, this Agreement insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable
alternative measures, all with the objective of carrying out the terms and conditions of this Agreement.

(c) Measures to be Taken

i. A Party affected by an event of Force Majeure shall take all reasonable measures to remove such Party’s inability to fulfil its obligations hereunder with a minimum of delay.

ii. A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.

iii. The Parties shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

(d) Extension of Time

Any period within which a Party shall, pursuant to this Agreement, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

(e) Payments

During the period of its inability to perform the Services as a result of an event of Force Majeure, the Contractor shall be entitled to continue to be paid under the terms of this Agreement as well as to be reimbursed for additional costs reasonably and necessarily incurred by it during such period for the purpose of the Services and in reactivating the Services after the end of such period.

(f) Consultation

Not later than twenty-eight (28) days after a Party, as a result of an event of Force Majeure, shall have become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.
Any dispute, controversy, or claim arising out of or in connection with this contract, or the breach, termination and invalidity thereof, shall be resolved through Amicable Settlement discussions between both Parties.

Any dispute which cannot be settled amicably within sixty (60) – days after receipt by one party of the other party’s request for such amicable settlement shall be settled finally in accordance with the provisions of the Arbitration Act No. 12 of 1980 of Lesotho and the applicable Lesotho Law.

The procedural law for arbitration shall be the Arbitration Act No. 12 Law(s) of Lesotho and the applicable Lesotho Law.

The language of arbitration shall be English

The place of arbitration shall be Maseru, Lesotho.

The Contractor has an obligation to disclose to the Employer any situation of actual or potential conflict that impacts its capacity to serve the best interest of its Employer. Failure to disclose such situations may lead to the termination of the Contract.

Without limitation on the generality of the foregoing, the contract termination may arise under the circumstances set forth below:

(a) **Conflict between consulting activities and procurement of goods, works or non-consulting services**: a firm hired to provide consulting services for the preparation or
implementation of this project, or any of its Affiliates, shall not be permitted to provide goods or works or non-consulting services resulting from or directly related to the consulting services for such preparation or implementation.

(b) **Relationship with the Employer’s staff**: a Contractor (including its key staff and Sub-contractors) that has a close business or family relationship with a professional staff of the Employer, or is directly or indirectly involved in any part of

(i) the preparation of the Terms of Reference for the assignment,

(ii) the selection process for the Contract, or

(iii) the supervision of the Contract, may not be awarded a Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the LHDA throughout the selection process and the execution of the Contract.
Section VIII. General Conditions (GC)
Section VIII. General Conditions (GC)

LESOTHO HIGHLANDS DEVELOPMENT AUTHORITY

CONTRACT LHDA No. 2177.
SUPPLY, INSTALLATION AND COMMISSIONING OF ONLINE DISSOLVED GAS MONITORING EQUIPMENT FOR GENERATOR STEP-UP TRANSFORMERS AT ‘MUELA HYDROPOWER STATION

CONDITIONS OF CONTRACT

GENERAL CONDITIONS


Copies of the FIDIC Conditions of Contract can be obtained from:

FIDIC Secretariat
P.O. Box 86
1000 Lausanne 12
Switzerland
Facsimile: 41 21 653 5432
Telephone: 41 21 653 5003
Section IX. Annex to the Particular Conditions
Contract Forms

Table of Forms

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Tax Requirements ............................................................................................................................... 127
Ref.: DOD/…/…/17/CO  ............2017

{Contractors Address}

...........

...........

...........

Attention: {Contractors Authorised Representative}

Dear Sir,

LHDA CONTRACT NO. 2177
SUPPLY, INSTALLATION AND COMMISSIONING OF ONLINE DISSOLVED GAS MONITORING EQUIPMENT FOR GENERATOR STEP-UP TRANSFORMERS AT ‘MUELA HYDROPOWER STATION

Letter of Acceptance

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

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract, using for that purpose one of the Performance Security Forms included in Section IX, Annex to the Particular Conditions - Contract Forms, of the Tendering Document

Authorized Signature:  

Name and Title of Signatory:  

Name of Agency:  

Attachment: Contract Agreement

LESOTHO HIGHLANDS DEVELOPMENT AUTHORITY
CONTRACT LHDA No. 2177

SUPPLY, INSTALLATION AND COMMISSIONING OF ONLINE DISSOLVED GAS MONITORING EQUIPMENT FOR GENERATOR STEP-UP TRANSFORMERS AT ‘MUELA HYDROPOWER STATION

AGREEMENT

THIS AGREEMENT was made this __________ day of ________________ 2017 between

THE LESOTHO HIGHLANDS DEVELOPMENT AUTHORITY (LHDA),
of 3rd Floor, LHDA Tower Building, Maseru, Lesotho
(hereinafter called the "the Employer") on the one part

And

....
(hereinafter called "the Contractor") on the other part.

WHEREAS the Employer is desirous that service should be executed and other obligations more particularly specified therein be performed under LHDA CONTRACT NO. 2177: SUPPLY, INSTALLATION AND COMMISSIONING OF ONLINE DISSOLVED GAS MONITORING EQUIPMENT FOR GENERATOR STEP-UP TRANSFORMERS AT ‘MUELA HYDROPOWER STATION, (hereinafter called "the Works") for the Lesotho Highlands Water Project, and has accepted a tender by the Contractor for the execution and completion of such Works and the remedying of any defects therein and the performance of other obligations.
NOW THEREFORE it is hereby agreed and declared by and between the Parties hereto as follows:

1. The Employer hereby appoints the Contractor and the Contractor accepts the appointment to carry out the Works.

2. The following documents shall be deemed to form and be read and construed as part of the Agreement and shall have the order of precedence as defined below:

   i. Contract Agreement
   ii. Memorandum of Understanding
   iii. Letter of Acceptance
   iv. Letter of Tender
   v. Part II – Particular Conditions of Contract
   vi. Part I – General Conditions of Contract
   vii. Spare Parts
   viii. Scope of Work
   ix. Technical Specification
   x. Anticorruption Policy
   xi. Manpower Schedule
   xii. Work Programme
   xiii. Contractor’s Tender

3. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby jointly and severally agrees with the Employer and warrants to execute and complete the Works and remedy any defects therein and to perform other obligations agreed to by the Contractor in conformity with the provisions of the Contract and to carry out the Works with all reasonable skill, care and diligence.
4. The Employer hereby agree to pay or cause to be paid to the Contractor in consideration of the execution and completion of the Works and remedying of the defects therein and the performance by the Contractor of his obligations under the Contract, the Contract Price or such other sum as may be payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

5. The contract shall come into full force and effect on the date when the following conditions are satisfied:
   - the Contract agreement has been signed by the parties
   - submission of proof of Contractor’s insurance
   - submission of breakdown of contract price

The Employer shall promptly confirm to the Contractor the date on which all these conditions have been satisfied. If any of the above conditions have not been satisfied within twenty-eight (28) days of the above-mentioned date on which this Agreement is made, the Employer reserves the right to cancel the Agreement.

6. By signing this Agreement each signatory warrants that he is duly authorised to do so.

IN WITNESS whereof this Agreement has been accepted by the Parties hereto and signed by their representatives on the date first written above. Whereof the parties hereto have set their hands and seals (if any) in the presence of the subscribing witnesses:
For and on behalf of the LESOTHO HIGHLANDS DEVELOPMENT AUTHORITY:

Signature:____________________________________

Name:________________________________________

Position:______________________________________

Date:__________________________________________

As Witness:

Signature:__________________________ Signature:__________________________

Name:______________________________ Name:______________________________

Position:__________________________ Position:______________________________

Date:______________________________ Date:______________________________
For and on behalf of the {CONTRACTOR}:

Signature:______________________________

Name:______________________________

Position:______________________________

Date:______________________________

As Witness:

Signature:__________________________    Signature:__________________________

Name:______________________________    Name:______________________________

Position:______________________________    Position:______________________________

Date:______________________________    Date:______________________________
Performance Security

Option 1: (Demand Guarantee)

______________________________ [Bank’s Name, and Address of Issuing Branch or Office]

Beneficiary: _____________________ [Name and Address of Employer]

Date: __________________

PERFORMANCE GUARANTEE No.: _______________

We have been informed that __________________ [name of Contractor] (hereinafter called "the Contractor") has entered into Contract No. _____________ [reference number of the contract] dated _____________ with you, for the execution of _____________________ [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 _______________ [name of Bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of _____________ [amount in figures] (____________) [amount in words],\(^1\) such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of 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.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded.

_____________________

[signature(s)]

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

\(^1\) The Guarantor shall insert an amount representing the percentage of the Contract Price specified in the Contract and denominated either in the currency(cies) of the Contract or a freely convertible currency acceptable to the Employer.
Option 2: Performance Bond

By this Bond____________________ as Principal (hereinafter called “the Contractor”) and____________________ as Surety (hereinafter called “the Surety”), are held and firmly bound unto____________________ as Obligee (hereinafter called “the Employer”) in the amount of __________________, for the payment of which sum well and truly to be made in the types and proportions of currencies in which the Contract Price is payable, the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Contractor has entered into a written Agreement with the Employer dated the day of , 20__, for __________________ in accordance with the documents, plans, specifications, and amendments thereto, which to the extent herein provided for, are by reference made part hereof and are hereinafter referred to as the Contract.

NOW, THEREFORE, the Condition of this Obligation is such that, if the Contractor shall promptly and faithfully perform the said Contract (including any amendments thereto), then this obligation shall be null and void; otherwise, it shall remain in full force and effect. Whenever the Contractor shall be, and declared by the Employer to be, in default under the Contract, the Employer having performed the Employer’s obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

(1) complete the Contract in accordance with its terms and conditions; or

(2) obtain a Tender or tenders from qualified Tenderers for submission to the Employer for completing the Contract in accordance with its terms and conditions, and upon determination by the Employer and the Surety of the lowest responsive Tenderer, arrange for a Contract between such Tenderer and Employer and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the Balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term “Balance of the Contract Price,” as used in this paragraph, shall mean the total amount payable by Employer to Contractor under the Contract, less the amount properly paid by Employer to Contractor; or

(3) pay the Employer the amount required by Employer to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.

The Surety shall not be liable for a greater sum than the specified penalty of this Bond.
Any suit under this Bond must be instituted before the expiration of one year from the date of the issuing of the Taking-Over Certificate.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Employer named herein or the heirs, executors, administrators, successors, and assigns of the Employer.

In testimony whereof, the Contractor has hereunto set his hand and affixed his seal, and the Surety has caused these presents to be sealed with his corporate seal duly attested by the signature of his legal representative, this __________ day of _______________ 20 _________________.

SIGNED ON ______________ on behalf of ________________________________

By ___________________________ in the capacity of ___________________________

In the presence of _______________________________________________________________________________________

SIGNED ON ______________ on behalf of ________________________________

By ___________________________ in the capacity of ___________________________

In the presence of _______________________________________________________________________________________

SIGNED ON ______________ on behalf of ________________________________

By ___________________________ in the capacity of ___________________________

In the presence of _______________________________________________________________________________________
Advance Payment Security

Demand Guarantee

________________________________ [Bank’s Name, and Address of Issuing Branch or Office]

Beneficiary: ___________________ [Name and Address of Employer]

Date: ______________________

ADVANCE PAYMENT GUARANTEE No.: ________________

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

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum __________ [amount in figures] (__________) [amount in words] is to be made against an advance payment guarantee.

At the request of the Contractor, we ______________ [name of Bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of __________ [amount in figures] (__________) [amount in words]¹ 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 under the Contract because the Contractor used the advance payment for purposes other than the costs of mobilization in respect of the Works.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Contractor on its account number __________ at _________________ [name and address of Bank].

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractor as indicated in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that the full amount of the Advance Payment has been recovered.

¹ The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency(ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Employer.
This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

____________________

[signature(s)]

Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.
Retention Money Security

Demand Guarantee

________________________________ [Bank’s Name, and Address of Issuing Branch or Office]

Beneficiary: ____________________ [Name and Address of Employer]

Date: ______________________

RETENTION MONEY GUARANTEE No.: ________________

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

Furthermore, we understand that, according to the conditions of the Contract, when the Taking-Over Certificate has been issued for the Works and the first half of the Retention Money has been certified for payment, payment of [insert the second half of the Retention Money or if the amount guaranteed under the Performance Guarantee when the Taking-Over Certificate is issued is less than half of the Retention Money] is to be made against a Retention Money guarantee.

At the request of the Contractor, we ________________ [name of Bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of ____________ [amount in figures] (_________________) [amount in words] 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 under the Contract because the Contractor used the advance payment for purposes other than the costs of mobilization in respect of the Works.

It is a condition for any claim and payment under this guarantee to be made that the payment of the second half of the Retention Money referred to above must have been received by the

1 The Guarantor shall insert an amount representing the amount of the second half of the Retention Money or or if the amount guaranteed under the Performance Guarantee when the Taking-Over Certificate is issued is less than half of the Retention Money, the difference between half of the Retention Money and the amount guaranteed under the Performance Security and denominated either in the currency(ies) of the second half of the Retention Money as specified in the Contract, or in a freely convertible currency acceptable to the Employer.
Contractor on its account number __________ at _______________ [name and address of Bank].

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

________________

[signature(s)]

Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.
PART 4 – LHWP ANTI-CORRUPTION POLICY
SECTION X - LHWP ANTI-CORRUPTION POLICY

Adopted by the Lesotho Highlands Water Commission on October 2011

1. This Policy has been adopted pursuant to Article 16 of the Agreement on Phase II of the Lesotho Highlands Water Project between the Government of the Kingdom of Lesotho and the Government of the Republic of South Africa.

Definitions:

2. In this Policy:

2.1 the Lesotho Highlands Water Project will be referred to as the Project and includes Phases IA, IB and II thereof;

2.2 the Project Authority includes the Lesotho Highlands Water Commission (“the LHWC”) and the Lesotho Highlands Development Authority (“the LHDA”);

2.3 employees of the Project Authority include employees and board members of the LHDA and employees of and delegates to the LHWC.

Background:

3. Phases IA and IB of the Project were tainted by corruption which caused the integrity of the Project to be undermined and questioned.

4. Despite the best efforts of the Lesotho prosecuting authorities, working in conjunction with the Project Authority, and by reason of the insidious nature of corruption, the full extent of the corruption in connection with these Phases is not known, nor the identity of each and every entity or individual involved.
5. In the light of these experiences the Phase II Agreement provides in Article 16 for the development and adoption of an Anti-Corruption Policy for the Project.

Principles:

6. All persons or entities involved in the Project must observe the highest standards of ethics.

7. The Project Authority shall take all appropriate measures to combat corruption in all its forms.

8. All contracting parties or entities, and persons otherwise involved in the Project, shall take all appropriate measures to prevent and combat corruption and to refrain from engaging in corruption in connection with their involvement in the Project.

Application of Policy:

9. The provisions of this Policy shall apply to all contracts and related processes with contractors, consultants and suppliers involved in the Project, including the pre-qualification of tenderers (where applicable), the evaluation of tenders and the award of contracts.

10. Henceforth every contract entered into under the Project shall provide for the incorporation of this Policy into such contract.

11. The provisions of this Policy shall apply to the employment and the conduct of employees of the Project Authority.

12. The provisions of this Policy shall apply to recipients of compensation in terms of the Project.
13. For the purposes of this Policy corruption shall include the following:

13.1. A “corrupt practice”, such being the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of any person or entity in connection with the Project.

13.2. A “fraudulent practice”, such being any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, any person or entity in connection with the Project, to obtain a financial or other benefit or to avoid an obligation.

13.3. A “collusive practice”, such being an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of any person or entity in connection with the Project.

13.4. A “coercive practice”, such being impairing or harming, or threatening to impair or harm, directly or indirectly, or to influence improperly, any person or entity in connection with the Project.

13.5. An “obstructive practice”, such being:

13.5.1. the destroying, falsifying, altering or concealing of evidential material relevant to an investigation, as referred to in paragraphs 25 and 26 hereunder, or the making of false statements to investigators in order to materially impede such investigation; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to such investigation or from pursuing such investigation; or

13.5.2. acts intended to materially impede the exercise of the Project Authority’s right to access to information, as referred to in paragraphs 25 and 26 hereunder.
Participation in Contracts:

14. Where a contractor or consultant, or any employee or former employee of such contractor or consultant, or any individual, was previously involved or implicated in corruption, such contractor, consultant or individual may be excluded from any involvement in the Project. Such exclusion will be at the sole discretion of the Project Authority based on a reasonable assessment of all the facts at its disposal.

15. Any contract awarded in relation to the Project will commit the contractor, consultant or individual concerned not to involve itself or himself in corruption, whether relating to the specific contract or not, concerning any employee of the Project Authority or any other entity or person having an interest in the Project.

16. The Project Authority in dealing with the pre-qualification of tenderers, the evaluation of tenders, as well as the award of contracts, will have regard to the use of agents by contractors or consultants, both in the procurement or execution of previous contracts as well as their intended involvement in the Project. Here the Project Authority will be entitled to assume, unless shown otherwise, that such use or intended use of agents involved or will involve corruption.

Specific Obligations of Prospective Contractors and Consultants:

17. Every prospective contractor or consultant shall at the earliest opportunity in the tendering process disclose to the Project Authority any prior involvement by it or any of its current or former employees in corruption.

18. Every prospective contractor or consultant shall disclose both its past and present use of agents in the procurement or execution of contracts and such disclosure will specifically include the contractual arrangement with such agent including the basis upon which such agent was or will be remunerated.
19. Every prospective contractor or consultant shall at the earliest opportunity in the tendering process disclose to the Project Authority any conflict or potential conflict of interest, including but not limited to any employee of the Project having an interest, financial or otherwise, in the contractor or consultant or such contractor’s or consultant’s proposed involvement in the Project.

20. All contractors and consultants, as well as their employees and agents, as well as employees of the Project Authority, involved in the Project, shall commit themselves to taking all appropriate measures to prevent corruption and shall immediately report to the Project Authority any corruption that comes to their attention, and any failure to so report shall be deemed to constitute corruption.

21. The Project Authority shall do everything in its power to protect the identity of employees who act in terms of their aforesaid obligation to report instances of corruption. In addition, the Project Authority shall seek to ensure that such employees are not victimised or otherwise discriminated against as a result of their so reporting.

22. All contractors and consultants, as well as their employees and agents, as well as employees of the Project Authority, involved in the Project, shall, if called upon to do so, fully cooperate with the Project Authority and/or the Lesotho Director of Public Prosecutions or any person designated by him, in any investigation into allegations of corruption, whether against them or their employee or agent, or against any other entity or person.

Sanctions:

23. In addition to any contractual rights in terms of specific contracts, the Project Authority shall have the right to cancel any contract under the Project in the event that the award of such contract or its execution is shown to have involved corruption. The Project Authority shall be entitled to exercise this right once it is reasonably satisfied on the information at its disposal that such corruption has indeed occurred. It will not however exercise such
right without giving the contracting party involved a reasonable opportunity to refute any allegation or evidence of corruption levelled against it.

24. Any breach of this Policy by an employee of the Project Authority shall be deemed a material breach of his or her conditions of employment.

Investigation and Access to Information:

25. The Project Authority shall have the right, in the event of allegations of corruption against any contractor or consultant, or any of their employees, former employees or agents, as well as employees of the Project Authority, to investigate such allegations, and such right shall include the right of access to the said entity or person’s records and/or other evidential material which in the opinion of the Project Authority may be relevant to such investigation.

26. The entity or person referred to in paragraph 25 shall be obliged to fully co-operate with any such investigation and shall make available to the Project Authority any records or other evidential material as the Project Authority may require for purposes of such investigation.

27. The investigation referred to in paragraphs 25 and 26 shall be conducted by independent investigators appointed by the LHDA Board or the LHWC.
PART 5 – TAX REQUIREMENTS
SECTION XI - TAX REQUIREMENTS

a. Tax Registration

The Consultant/Contractor shall be required to register for taxation (Income and VAT) with the Lesotho Revenue Authority (LRA), unless LHDA specifically consents to waive this requirement in writing.

The Consultant/Contractor shall also apply to the LRA for a withholding tax exemption certificate as per Article 27, of the Income Tax Act no 10 of 1996, which amends Section 157 of the Income Tax Order of 1993; and in compliance with article 3.2.2. of Annexure IV, of the Agreement on Phase II.

b. Taxation

The Consultant shall comply with the relevant and applicable taxation laws of Lesotho, as amended, in terms of the Treaty, and with the requirements and reporting as specified in Article 14 and Annexures III and IV of The Phase II Agreement. Article 14 amends the Treaty and regulates specifically the following Lesotho taxes:

1) Value Added Tax
2) Withholding Taxes
3) Income Taxes Corporate and Individual
4) Dues and Charges paid
5) Fringe Benefit Tax

It is imperative that the consultant takes note of the detailed requirements to fully disclose payment of all taxes when presenting Value Added Tax Invoices/certificates for payment and such disclosure to be in the format as advised by the LHDA. Failure to do so shall constitute sufficient grounds for the LHDA to terminate this contract.

c. Invoice Compliance and Tax Declaration

Payments for this contract will only be made if payment requests are made on invoices/certificates that comply with Lesotho Value Added Tax Act, Schedule III, which specifies the particulars a valid tax invoice is required to include.

Invoices/Certificates payment will be subject to contracting parties declaration on their periodic invoice/certificate all taxes paid in terms of Article 14(20) of the Agreement on Phase II – including Expatriate PAYE; Corporate taxes; Dues & Charges; Fringe Benefits tax, etc.