

**KINGDOM OF LESOTHO  
LESOTHO HIGHLANDS WATER PROJECT  
LESOTHO HIGHLANDS DEVELOPMENT AUTHORITY**



**LESOTHO HIGHLANDS WATER PROJECT**

**REQUEST FOR QUOTATION FOR**

**MEDICAL AID BROKERAGE**

LHDA  
Lesotho Bank Tower  
Kingsway  
Maseru, Lesotho

April 2024

## **TABLE OF CONTENTS**

**Section 1 – Letter of Invitation**

**Section 2 – Request for Quotations**

**Section 3 – Instructions to Bidders**

**Section 4 – Preparation of Proposals**

**Section 5 – Technical Evaluations**

**Section 6 – Clarifications**

**Section 7 – Duration of the assignment**

**Section 8 – Proposal Timeframes**

**Section 9 – Evaluation of Bids Document**

**Section 10 – Contract Negotiations**

**Section 11 – Contract Document**

**Section 12– LHDA Anti-Corruption Policy**

**KINGDOM OF LESOTHO  
LESOTHO HIGHLANDS WATER PROJECT  
THE LESOTHO HIGHLANDS DEVELOPMENT AUTHORITY**



**LESOTHO HIGHLANDS WATER PROJECT**

**REQUEST FOR QOUTATIONS FOR**

**CONTRACT LHDA No. ....**

**MEDICAL AID BROKERAGE**

LHDA

LHDA Tower Building (Formerly Lesotho Bank Tower) Kingsway

Maseru, Lesotho

April 2024

1. **Key dates with regard to submissions of proposals are as follows:**

| <b>Event</b>  | <b>Date</b>                           | <b>Time</b> |
|---|---------------------------------------|-------------|
| Deadline for submission of requests for clarification from LHDA                             | 24 May 2024                           | 17:00       |
| Last date for issuance of clarifications by LHDA  | 31 May 2024                           | 17:00       |
| Deadline for submission of Quotations (Closing Date)  | 07 June 2024                          | 17:00       |
| Opening of Bids   | 11 June 2024                          | -           |
| Contract Clarifications/Negotiations Meeting – date will be confirmed with preferred bidder | 05 July 2024                          | -           |
| Notification of Award - date will be confirmed with preferred bidder                        | 12 July 2024                          | -           |
| Contract Signing - date will be confirmed with preferred bidder                             | July 2024                             | -           |
| Commencement Date   | 01 August 2024                        | -           |
| Duration of contract  | Three years from date of commencement | -           |

Details on the proposal's submission date, time and address are provided in Clause 23.9 of the Instructions.

Yours Faithfully

---

**Mr. Tente Tente (Mr.)**  
**Chief Executive**

## **2. Request for Quotations**

### **Medical aid brokerage**

#### **2.1 Background**

The Lesotho Highlands Development Authority (LHDA) is a statutory body constituted under the Lesotho Highlands Development Authority Order No. 23 of 1986 as amended. The LHDA is charged with the responsibility for the implementation, operation and maintenance of the Lesotho Highlands Water Project (LHWP) in Lesotho.

#### **2.2 Institutional Arrangements**

The LHDA has a staff complement of approximately three hundred and fifty (350) staff members based at five (5) different geographical locations. The staff distribution is such that 43% are based in Maseru, 15% in Mphahlele, 18% in Muela, 19% in Katse and 6% in Polihali.

#### **2.3 Objective of the Services**

LHDA wishes to engage the services of a competent Broker medical Aid brokerage services.

#### **2.4 Scope of Services**

In carrying out the Scope of Services for this Contract, the Consultant will be required to undertake the following tasks.

- 2.4.1 To provide advice and member education on the available medical aid schemes.
- 2.4.2 To monitor medical aids schemes performance and advise LHDA accordingly.
- 2.4.3 To compile annual medical reports from the medical aid schemes to assess health concerns for the organization.
- 2.4.4 Mediates and makes follow up on payments claims on medical aid Schemes.
- 2.4.5 Negotiates on behalf of the LHDA on medical aid benefits where required.
- 2.4.6 To provide wellness services as a value add for the organization.

#### **2.5 Broker's Staff & Resources**

The Consultant may at his/her own discretion engage a team to work with him/her to deliver the required services. The Consultant is free to provide a team composition of his/her choice, along with the desired qualifications and levels of experience. The Consultant shall indicate the following with regards to the team composition.

- 2.5.1 Relevance of the proposed team members to the assignment
- 2.5.2 Experience and qualification in providing medical aid guidance and monitoring.

### **3. Instructions to Bidders**

The Lesotho Highlands Development Authority (LHDA) invites locally experienced and qualified Consultants/Service Providers to submit quotations for the provision of Professional Services for the LHDA Employee Assistance Programme.

#### **3.1 Full Scope of Services**

Proposals must be made for the full Scope of Services as specified in Section 2.4 – Scope of Services.

#### **3.2 Proposals must be in English.**

#### **3.3 The evaluation Criteria for the Technical assessment is given in Section 9.1**

#### **3.4 This procurement process will give precedence to Experience and value services offered by the broker.**

#### **3.5 Irrevocability of Proposal**

All submitted proposals are irrevocable after the due submission date until the expiry of the bid validity period indicated below, and as such the bidder binds him/herself that he/she will enter into negotiations with LHDA based on the submitted proposal.

#### **3.6 Bid Validity**

Bids must be valid for at least ninety (90) days after the closing date and the prices will be firm for the entire implementation period of three (3) years.

#### **3.7 Bidding Cost**

The LHDA's Request for Quotations document is obtainable free of charge if down-loaded from the LHDA website ([www.lhda.org.ls](http://www.lhda.org.ls)) or at a non-refundable fee of LSL1 000.00, if collected from LHDA offices.

#### **3.8 Cost of Preparation of Proposal**

The Bidder shall bear all costs associated with the preparation and submission of its Proposal including any other costs relating to subsequent negotiations with the LHDA. LHDA is not bound to accept any proposal and reserves the right to annul the process at any time prior to Contract award, without thereby incurring any liability to the Bidder.

#### **3.9 Taxes**

The successful bidder will be subject to taxation laws applicable in the Kingdom of Lesotho at time of bidding and must comply with the Tax Requirements as given in Annexure 3 – Tax Requirement, which shall form part of the Contract Document.

#### **3.10 Modification of Terms**

LHDA reserves the right to modify the terms of this Request for Quotations at any time in its sole discretion. This includes the right to cancel this Request for Quotations at any time prior

to entering into a contract with the successful bidder; notice to that effect shall be given to all bidders.

3.11 Acceptance of Bids

This Request for Quotations should not be construed as an agreement to supply the required services. LHDA is not bound to enter into a contract with the bidder who submits the lowest priced bid. Bids will only be assessed in terms of the evaluation criteria, as given in Section 12 – Evaluation of Bid Documents.

3.12 Ownership of Bids

All documents including bids, submitted to the LHDA become the property of the LHDA.

3.13 Confidentiality of Information

All proposals submitted by bidders shall be held in strict confidence and will not be revealed to any other party.

All Information pertaining to the LHDA, obtained by the bidders as a result of participation in this procurement process is confidential and must not be disclosed without written authorisation from the LHDA.

3.14 Acceptance of Terms

All terms and conditions of this Request for Quotations are deemed to be accepted by the bidders and incorporated by reference in their proposals, except such conditions and provisions that are expressly excluded. There will be an opportunity to review these conditions upon selection of the successful bidder and during subsequent negotiations.

The successful bidder's proposal or sections thereof may form part of the final contract.

**4. Preparation of Proposals**

The Bidder shall prepare the proposals, as described in this section, and follow the format detailed hereunder:

4.1 Title Page with a title of the Quotation, Bidder's name and address, contact person and contact telephone number and email address.

4.2 An introductory letter addressed to the Chief Executive of the LHDA, identifying full details of the Bidder and signed by the person or persons authorized to sign on behalf of the Bidder, and bind the Bidder to statements made in the Bid document.

4.3 Table of Contents including page numbers.

4.4 Company or Individual Consultant Profile or CVs on similar projects, preferably in conducted in Lesotho and /or RSA.

- a) Client's name & contact details
- b) Brief project description
- c) Project duration
- d) Exact service performed.
- e) The Bidder must provide full but concise information on the Individual or company or firm's experience in relation to the services to be provided.

- 4.5 Reference letters from at least two previous Clients where similar services were provided, with contactable details.
- 4.6 If the Bidder is a Company, the Bidder shall submit the company profile together with proof of company registration i.e. Traders License, VAT certificate and/or Tax Clearance Certificate etc.

**5. Clarifications**

Requests for clarifications and/or further information **must** be directed in writing to the following email address:

[procurement@lhda.org.ls](mailto:procurement@lhda.org.ls)

**6. Duration of Assignment**

LHDA will enter into a three (3) year Contract with the preferred bidder, to manage the rights and obligations of the Parties.

**7. Submission of Proposals**

- 7.1 Technical Proposal shall be placed inside of a sealed envelope clearly marked "Technical Proposal", "**MEDICAL AID BROKERAGE SERVICES.**" reference number, name along with the physical and email addresses of the Bidder, and with a warning "DO NOT OPEN UNTIL 07 June 2024"
- 7.2 The sealed envelopes containing the Technical Proposal shall be placed in one outer envelope and sealed. This outer envelope shall bear the submission address, RFQ reference number, the name of the assignment, Bidder's name and the address, and shall be clearly marked "DO NOT OPEN BEFORE 07 June 2024"
- 7.3 The quotations are to be deposited into the LHDA Tender Box located on the 7<sup>th</sup> floor, LHDA Tower Building (formerly Lesotho Bank Tower Building) – Kingsway Road Maseru, **on or before 17:00hrs on Friday 07 June 2024.**
- 7.4 **Late submissions will NOT be accepted.**
- 7.5 The use of courier services is at the Bidders own risk.

**8. Proposal Time Frames**

- |                              |              |
|------------------------------|--------------|
| a) Submission of Quotations: | 07 June 2024 |
| b) Completion of evaluation: | 28 June 2024 |
| c) Notification of Award:    | 12 July 2024 |

**9. Evaluation of Bid Documents**

The Technical Proposal evaluation will constitute 100%.



**Technical Evaluation Proposal which obtained less than 70% will be excluded for further consideration and the Financial Proposal will be returned to respective companies unopened.**

The technical evaluation of the proposals shall be assessed against the following criteria:

|     | <b>Criterion</b>  | <b>Score</b> |
|-----|---|--------------|
| 1.  | Overall quality of proposal- the proposal is clear and conforms to the tender instructions including Current Traders license / Tax Clearance certificates.                                    | 10           |
| 2.  | Consultancy / Service Provider Experience   |              |
| 2.1 | The Consultant or service provider should demonstrate an experience of not less than five (5) years in similar projects with similar organization size. Indicating specific services Offered. | 20           |
| 2.2 | Proposed Team   | 20           |
| 4.  | Reference letters from at least 2 previous clients with contactable details and the scope of the assignment undertaken.   | 10           |
| 3.  | Work approach/ Implementation Methodology   | 40           |
|     | <b>Technical Score (T<sub>s</sub>)</b>  | <b>100</b>   |

#### **10. Contract Negotiations**

The preferred bidder will be notified and maybe invited for a Clarifications Meeting (negotiations) with the LHDA. If the clarifications/negotiations fail, LHDA will inform the preferred bidder in writing and may then invite the next-ranked Bidder to negotiate a Contract.

#### **11. Contract Document**

The successful bidder will enter a contract with the LHDA for the provision of Professional Services for the LHDA Employee Assistance Programme. The format of the contract is given in Annexure 1 – Contract Template.

#### **12. LHDA Anti-Corruption Policy**

The LHDA requires compliance with the Lesotho Highlands Water Project's Anti-Corruption Policy included in Annexure 2, the policy will form part of the contract.

**13. LHDA Discretion on Non-conformities**

LHDA shall have the right to condone any nonconformities with the RFQ by the bidder and may request such a bidder to submit the necessary information or documentation, within a reasonable period of time, provided that such condonation and request for further information is aimed at promoting fairness, competitiveness amongst the bidders and cost effectiveness.

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**LESOTHO HIGHLANDS WATER PROJECT**

**CONTRACT LHDA No. ....**

**PROVISION OF PROFESSIONAL SERVICES FOR**

**LHDA EMPLOYEE ASSISTANCE PROGRAMME**

**ANNEXURE 1: CONTRACT TEMPLATE**



**AGREEMENT**

**CONTRACT LHDA NO. ...**

**CONSULTANCY SERVICE FOR  
LHDA EMPLOYEE ASSISTANCE PROGRAMME**

**BETWEEN**

**LESOTHO HIGHLANDS DEVELOPMENT AUTHORITY**

**AND**

**[NAME OF THE CONSULTANT]**



## **AGREEMENT OF SERVICE**

### **1. PARTIES:**

#### **LESOTHO HIGHLANDS DEVELOPMENT AUTHORITY**

A body corporate established in terms of the LHDA Order No. 23 of 1986 as amended and duly represented herein by the LHDA CHIEF EXECUTIVE (hereinafter referred to as "The Client")

AND

[CONSULTANT'S NAME]

LHDA Employee Assistance Programme  
(hereinafter to be referred to as 'the Consultant')

### **2. PREAMBLE:**

WHEREAS the Lesotho Highlands Development Authority is charged with the responsibility for the implementation, operation and maintenance of Lesotho Highlands Water Project (hereinafter to be referred to as "the LHWP") in Lesotho and the power for the discharge of such responsibilities.

AND WHEREAS the CLIENT has expressed an intention to the CONSULTANT to provide consultancy services for LHDA Employee Assistance Programme based on the general scope provided in Section 5 – Scope of Services below.

AND WHEREAS the CONSULTANT is desirous of providing the aforesaid consultancy services to the CLIENT under an Agreement, hereinafter referred to as "the Agreement of Service" in return for the payment.

### **3. GENERAL CONDITIONS OF THE CONTRACT**

#### **3.1 Definitions**

Unless the context otherwise requires, the following terms whenever used in this contract shall have the following meanings.



“Agreement” means the Agreement as set out in this document together with the annexure(s) (if any) hereto and any agreed written amendments which shall constitute a contract;

“Applicable Law” means the governing Law of the Kingdom of Lesotho;

“Client” means the Lesotho Highlands Development Authority.

“Contract” means this Agreement entered into between the Client and the Consultant;

“LHWC” means the Lesotho Highlands Water Commission;

“Party/Parties” means either the Client and/or the Consultant;

“Services” means the services to be provided by the Consultant pursuant to this Agreement as described in the Scope of Services;

“Consultant” means the party who has been engaged by the Client for the fulfillment of the Services.

### **3.2 Assignment and/or Cession**

The Consultant shall not, without the prior written approval and consent of the Client, assign or cede or transfer his/her obligations under this Agreement or any part thereof.

### **3.3 Taxation**

The Consultant shall comply with the relevant and applicable taxation laws of Lesotho, as amended in terms of the LHWP Treaty, and as amended by Article 14 and Annexures 3 and 4 of the Phase II Agreement that amends the Treaty and regulate Lesotho taxes specifically, as follows, and comply with Tax Requirements annexed hereto:

- 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 take 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 Client as failure



to do so shall constitute sufficient ground for the Client to terminate this contract. The consultant shall comply with the

### **3.4 Governing Law**

The governing law of this Agreement shall be the laws of the Kingdom of Lesotho.

### **3.5 Relations between the Parties**

Nothing contained herein shall be construed as establishing the relation of master and servant or of agent and principal or of employer and employee as between the Client and the Consultant.

### **3.6 Anti-Corruption between the Parties**

The Parties shall take all appropriate measures to prevent and combat corruption and to refrain from engaging in corrupt activities in connection with their involvement in this Agreement. The Parties shall comply with the provisions of the LHWP Anti-Corruption Policy, which is annexed to this Agreement.

## **4. DURATION**

The Services shall be for a period of three (3) years.

## **5. THE SCOPE OF SERVICES**

In carrying out the Scope of Services for this Contract, the Consultant will be required to undertake the following tasks.

- 5.1 To provide advice and member education on the available medical aid schemes.
- 5.2 To monitor medical aids schemes performance and advise LHDA accordingly.
- 5.3 To compile annual medical reports from the medical aid schemes to assess health concerns for the organization.
- 5.4 Mediates and makes follow up on payments claims on medical aid Schemes.
- 5.5 Negotiates on behalf of the LHDA on medical aid benefits where required.
- 5.6 To provide wellness services as a value add for the organization.

## **6. OBLIGATIONS OF THE CONSULTANT**

The Consultant shall exercise reasonable skill, care and diligence in the performance of his/her obligations under the Agreement in accordance with generally accepted



techniques, practices, professionalism and consulting standards recognized by international professional bodies. The Consultant shall always act in respect of any matter relating to this Contract or to the Services, as a faithful adviser to the Client and shall at all times support and safeguard the Client's legitimate interests.

## **7. OBLIGATIONS OF THE CLIENT**

- 7.1 The Client shall be obliged to pay the Consultant in terms of Clause 8 below.
- 7.2 The Client shall be obliged to provide the Consultant with relevant information as and when required.

## **8. PAYMENT CONDITIONS**

- 8.1 Professional fees and disbursements shall be in accordance with the financial proposal of the Consultant.
- 8.2 The Lesotho Withholding Tax for the services carried out in Lesotho, shall be deducted from the professional fees, and paid to the Lesotho Revenue Authority (LRA) by the LHDA on behalf of the Consultant.
- 8.3 Reimbursable expenses shall comprise reasonable travel costs within Lesotho on the basis of:
  - 8.3.1 Mileage costs shall be charged at a rate approved as travel allowance in accordance with the LHDA mileage rates. The mileage costs shall be applicable for travel in Lesotho while performing contract services.
  - 8.3.2 Costs for accommodation within registered hotels and meals while performing the services under this Agreement in Lesotho shall be reimbursed upon submission of relevant and appropriate receipts.
  - 8.3.3 Telephone, telex, telefacsimile and other out of pocket expenses directly related to this Agreement.

All other reimbursable expenses while performing the services under this Agreement shall be substantiated by invoices and receipts.

## **9. INVOICING**

Tax Invoices shall be submitted following the provision of service in any given month together with any reimbursable costs, if applicable. Invoices will be settled within thirty (30) days of presentation, by direct transfer to a designated bank account of the Consultant.

The Consultant shall provide originally signed bank destination instructions on:





- 9.1 Bank name, address and sort code
- 9.2 Beneficiary name (i.e. account title)
- 9.3 Account number
- 9.4 Any special instructions

## **10. LIABILITY OF THE CONSULTANT**

The Consultant shall be liable to the Client for the performance of the services in accordance with the provisions of this Contract and for any loss or damage suffered by the Client as a result of negligence, default or omission of the Consultant, Consultant Agent in such performance, subject to the following limitations:

- 10.1 The Consultant shall not be liable for any loss or damage caused by or arising out of the negligence, default or omission of any person other than the Consultant, the consultant Agent or Employee;
- 10.2 The Consultant shall not be liable for any loss or damage caused by or arising out of the circumstances over which the Consultant had no control.

## **11. CONFIDENTIALITY**

In accepting this Agreement, the Consultant agrees that all knowledge and information not already considered within the public domain, which may be acquired by virtue of this Agreement, shall at all times and for all purposes be regarded by him/her as strictly confidential, be held in confidence and shall not be directly or indirectly disclosed by the Consultant to any person whatsoever except with the written permission of the Client.

## **12. BREACH**

If either Party to this Agreement breaches this Agreement, other than a breach of payment obligation, and fails to remedy the breach within fourteen (14) calendar days after receipt from the other Party calling upon to do so, the other Party may cancel this Agreement and recover such damages under the law as have been sustained.

## **13. FORCE MAJEURE**

- 13.1. (a) For the purposes of this Agreement, "Force Majeure" means an event that is beyond the reasonable control of a Party and that makes a Party'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.

(b) Force Majeure shall not include any event that is caused by the negligence or intentional action of a Party or such Party's subcontractors or agents or employees;

13.2 The failure of a Party to fulfill any of its obligations under this Agreement shall not be considered to be a breach of, or default under, the Agreement in so far 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 the Agreement.

13.3 Neither Party shall have any claim against the other Party for any delay or failure by the affected Party to carry out any of its obligations under this Agreement arising from or attributable to Force Majeure.

13.4. During the period of its inability to perform the Services as a result of an event of Force Majeure, the Consultant shall not be entitled to continue to be paid under the terms of this Agreement.

13.5. 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.

#### **14. SUSPENSION AND TERMINATION OF AGREEMENT**

**14.1.** The Client may, by written Notice of Suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant fails to perform any of its obligations under this Agreement, including the carrying out of the Services, provided that such Notice of Suspension:

- (a) Shall specify the nature of the failure, and
- (b) Shall request the Consultant to remedy such failure within a period not exceeding fourteen (14) days after receipt by the Consultant of such Notice of Suspension

#### **14.2 TERMINATION BY THE CLIENT**

The Client may terminate this Agreement after the occurrence of any of the events specified in paragraphs (a) to (g) of this Clause, by giving not less than twenty-one (21) days' Notice of Termination to the Consultant.

- (a) If the Consultant fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause 14.1, within fourteen (14) days of receipt of such notice of



suspension or within such further period as Client may have subsequently approved in writing;

- (b) If the Consultant becomes insolvent or bankrupt, is placed under sequestration including provisional sequestration or enters into any agreements with its creditors for relief of debt or take advantage of any law for the benefit of debtors or goes into liquidation whether compulsory or voluntary;
- (c) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 14 of this Agreement;
- (d) If the Consultant submits to the Client a statement that has a material effect upon the rights, obligations or interests of Client and which the Consultant knows to be false;
- (e) If, as a result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than fifty-six (56) days.
- (f) If the Consultant fails to comply with the provisions of the LHWP Anti-Corruption Policy
- (g) If the Consultant fails to comply with the provisions of Annexure 3 - Tax Requirements.

#### **14.3 TERMINATION BY THE CONSULTANT**

The Consultant may terminate this Agreement after the occurrence of any of the events specified in paragraphs (a) to (d) of this Clause, by giving not less than twenty-eight (28) days' notice of termination to the Client.

- (a) If the Client fails to pay any money due to the Consultant pursuant to this Agreement within fifty-six (56) days after receiving written notice from the Consultant that such payment is overdue;
- (b) If the Client is in material breach of its obligations pursuant to this Agreement and has not remedied the same within fifty-six (56) days (or such longer period as the Consultant may have subsequently agreed in writing) following the receipt by the Client of the Consultant's notice specifying such breach;
- (c) If, as a result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than fifty-six (56) days;



- (d) If the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause 15 of this Agreement.

#### **14.4 Cessation of Rights and Obligations**

Upon termination of this Agreement pursuant to Clause 14.2 and 14.3 or upon expiration of this Agreement all rights and obligations of the Parties hereunder shall cease except:

- (a) Such rights and obligations as may have accrued on the date of termination or expiration;
- (b) The obligations of confidentiality set forth in Clause 11;
- (c) Any right that a Party may have under the Applicable law.

#### **14.5 Cessation of Services**

Upon termination of this Agreement by notice of either Party to the other, the Consultant shall take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. To this end, except as otherwise directed by the Client, the Consultant shall:

- (a) Stop work under the Agreement on the date and to the extent specified in the Notice of Termination and place no further orders or sub-contracts;
- (b) Terminate all orders and subcontracts to the extent that they relate to the performance of Services terminated;
- (c) With respect to documents prepared by the Consultant under this Contract, transfer title and deliver to the Client as directed all completed or partially completed reports, information and other property that would be required to be furnished to the Client under the Agreement
- (d) Complete performance of that part of the Services that has not been terminated by the Notice of Termination;
- (e) Take such action as may be necessary for the protection of the property related to this Agreement that is in the possession of the Consultant and to which the Client has title.



## **15. DISPUTE RESOLUTION**

- 15.1. If any dispute arises out of or in connection with the Agreement, representatives of the Parties with authority to settle the dispute will, within twenty-eight (28) days of a written request from one Party to the other, meet in a good faith effort to resolve the dispute. If the dispute is not resolved within twenty-eight (28) days of the meeting being held or such other period as may be agreed by the Parties, the Parties shall proceed to Arbitration as per Clause 15.2 below.

### **ARBITRATION**

- 15.2. Any dispute that cannot be resolved amicably within twenty-eight (28) days or such other period as may be agreed by the Parties, after receipt by one (1) Party of the other Party's request for such amicable resolution, the dispute shall be settled finally in accordance with the provisions of the Arbitration Act No. 12 of 1980 of Lesotho and subsequent amendments thereof.
- 15.3. The arbitration proceedings shall be held in Maseru.

## **16. BANKING DETAILS OF THE CONSULTANT**

Bank Name:  
Account Name:  
Branch Name:  
Branch Code:  
Account Number:  
Routing Number/IBAN:  
Swift Code:

## **17. DOMICILIUM**

The domicilium citandi et executandi of the Client is:

Lesotho Highlands Development Authority  
3<sup>rd</sup> Floor, LHDA Tower Building (formerly the Lesotho Bank Tower building)  
Kingsway Road  
Maseru 100  
Lesotho

The domicilium citandi et executandi of the Consultant is:



The Parties hereto have caused this Agreement to be executed in accordance with the laws of the Kingdom of Lesotho on the day, month and year indicated below.

For and on behalf of the LESOTHO HIGHLANDS DEVELOPMENT AUTHORITY:

Thus done and signed at Maseru on this \_\_\_\_\_ day of \_\_\_\_\_ 2024.

Signature: \_\_\_\_\_  
LHDA Chief Executive

Name: Tente Tente (Mr.)

As Witness:

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

For the CONSULTANT:

Thus, done and signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 2024.

Signature: \_\_\_\_\_

Name: [Consultant's Name]

As Witness:

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

**KINGDOM OF LESOTHO  
LESOTHO HIGHLANDS WATER PROJECT  
THE LESOTHO HIGHLANDS DEVELOPMENT AUTHORITY**



**LESOTHO HIGHLANDS WATER PROJECT**

**CONTRACT LHDA No. ...**

**PROVISION OF PROFESSIONAL SERVICES FOR**

**LHDA EMPLOYEE ASSISTANCE PROGRAMME**

**ANNEXURE 2: LHWP ANTI-CORRUPTION POLICY**

## **LHWP ANTI-CORRUPTION POLICY - 2019**

### **Adopted by the Lesotho Highlands Water Commission in April 2019**

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;
  - 2.4. in the context of this Policy, an agent is not a *bona fide* business, practice or individual which provides facilitation services to consultants and contractors for the purposes of registration with government authorities and for obtaining the necessary licences, permits and clearances to practice within the Kingdom of Lesotho (e.g. Income tax clearance, trading licence, work permits, etc.). In the context of this Policy, such facilitators are legitimate service providers for purposes of assisting consultants and contractors to comply with the legal requirements for permitting, licencing and registration.

#### **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 is 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 compliance and ethics. The Project Authority shall take all appropriate measures to combat corruption in all its forms.
7. 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:**

8. The provisions of this Policy shall apply to all contractors and consultants involved in the Project, including the pre-qualification of bidders and tenderers (where applicable), the evaluation of bids and tenders and the award of contracts.
9. Henceforth every contract entered into under the Project shall provide for the incorporation of this Policy into such contract.
10. The provisions of this Policy shall apply to the employment and the conduct of employees of the Project Authority.
11. The provisions of this Policy shall apply to recipients of compensation in terms of the Project.
12. For the purposes of this Policy corruption shall include the following:
  - 12.1. 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.
  - 12.2. 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.
  - 12.3. A “collusive practice”, such being an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of any person or entity in connection with the Project. Such practices may include:
    - 12.3.1. Corporate conflict of interest, where two or more firms are engaged in joint pursuits elsewhere with a common business goal such that the firm or its employees “have the potential or ability to influence or be influenced in their judgement or evaluation of an offer, bid or tender of one of the firms engaged with them elsewhere such that the evaluation/assessment cannot be completely impartial/unbiased and objective”; or
    - 12.3.2. Perceived conflict of interest, defined as “when a third party observing the procurement process considers the process to be influenced or biased based on the perception of business or other relationships between the corporate entities”.
  - 12.4. Bias when dealing with claims and variation orders during administration of the contract. 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.
  - 12.5. An “obstructive practice”, such being:
    - 12.5.1. the destroying, falsifying, altering or concealing of evidential material relevant to an investigation, as referred to in paragraphs 28 and 29 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

- 12.5.2. acts intended to materially impede the exercise of the Project Authority's right to access to information, as referred to in paragraphs 28 and 29 hereunder.

### **Participation in Contracts:**

13. 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.
14. Any contract awarded in relation to the Project will commit the contractor, consultant or individual concerned not to involve itself or himself/herself 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.
15. The Project Authority in dealing with the pre-qualification of bidders and tenderers, the evaluation of bids and 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.

### **Confidential Business Information/Client Privilege**

16. Confidential Business Information (CBI) shall include all forms of client privilege information pertaining to fees, cost estimates, engineering design, specifications, method statements, reports, prototypes, bid and tender evaluation reports, etc. All CBI shall be protected by signed declarations by all individuals engaged on the Project or contracted to the Project Authority for purposes of carrying out consultancy services related to the implementation of LHWP. Such declarations shall take the form of Non-Disclosure Agreements (NDA), which will be signed by the other party and retained by the Project Authority.

### **Specific Obligations of Prospective Contractors and Consultants:**

17. Every prospective contractor or consultant shall at the earliest opportunity in any bid or 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 bidding or tendering processes or at any point during the execution of a contract, disclose to the Project Authority any conflict or potential conflict of interest, whether personal or corporate, whether real or perceived, 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. The Project Authority has implemented a "whistle-blower" policy which shall be available for anonymous reporting of corruption or perceived corruption to ensure early warning and reaction by the Authority. All reports shall be treated as confidential and will provide protection/asylum to any party making a disclosure. The reports from the hotline number go to an independent hotline service provider. After a preliminary investigation, they report to the Chief Executive (CE) if the matter does not involve the CE otherwise the case is reported to the Audit and Risk Chairperson for further investigation.
23. 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 co-operate 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:**

24. 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.
25. 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.
26. Compliance with this Policy through early disclosure will not necessarily result in punitive action or disqualification but will be subject to the ruling and determination of the Project Authority's Conflict of Interest Committee or legal counsel.
27. Determination of a Conflict of Interest rests with the Project Authority and not with the respondent.

#### **Investigation and Access to Information:**

28. 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.

29. The entity or person referred to in paragraph 28 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.
30. The investigation referred to in paragraphs 28 and 29 shall be conducted by independent investigators appointed by the LHDA Board or the LHWC.

**Ethics, Training and Compliance:**

31. The Project Authority requires that all employees, consultants and contractors undergo Ethics and Compliance training at the commencement of services and annual refresher courses for as long as the individual/entity is engaged on the Lesotho Highlands Water Project Phase II. The Project Authority will direct and cause to be presented appropriate training and will conduct regular audits to ensure compliance by consultants and contractors on the Project.

**KINGDOM OF LESOTHO  
LESOTHO HIGHLANDS WATER PROJECT  
THE LESOTHO HIGHLANDS DEVELOPMENT AUTHORITY**



**LESOTHO HIGHLANDS WATER PROJECT**

**CONTRACT LHDA No. ...**

**PROVISION OF PROFESSIONAL SERVICES FOR**

**LHDA EMPLOYEE ASSISTANCE PROGRAMME**

**ANNEXURE 3: TAX REQUIREMENTS**

## **TAX REQUIREMENTS**

### **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 that amends section 157 of the Income Tax order 1993; and in compliance with article 3.2.2 of Annexure IV, of the Agreement on Phase II.

### **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.