



Ensuring Access to Quality Water Services for All

**LICENCE FOR PROVISION OF WATER
SERVICES**

Issued to:

The Board

Address: P.O. Box

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Water Services Regulatory Board
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Republic of Kenya

The Water Act, 2002 No. 8 of 2002

LICENCE FOR PROVISION OF WATER SERVICES

THE WATER SERVICES REGULATORY BOARD herein referred to as (WASREB) acting under powers given to it by section 46 and 47 of the Water Act 2002 and having considered the application lodged by the Applicant, and taken into account all relevant information as required

By section 57 of the Water Act, 2002 and having due regard to the water sector reforms being satisfied that the Applicant:-

- 1) Is a Water Services Board as indicated by section 51 of the Water Act 2002;
- 2) Is duly created by through Gazette Notice No. of and authorized to provide services in the area delineated
- 3) Has provided evidence that shows that it has the potential to have technical and if financial capability to provide the services and perform functions authorized by the license;
- 4) Has provided an initial plan for the provision of efficient, affordable and sustainable water services in an incremental manner;
- 5) Has indicated the plan for sourcing of funds to fund the improvement of water services in the service area
- 6) Has committed itself to the performance targets set out in the minimum service levels;
- 7) Has provided details of planned financial and infrastructural and commercial improvements in its area of operation; and
- 8) Cannot propose a tariff structure until the year 2008 or until the policy contained in the Transfer Plan on tariff adjustments is changed.

WASREB after consideration of the facts and acting under the powers vested in it by the provisions of the Water Act, 2002 cited above and all relevant and enabling provisions of the Laws of the Republic of Kenya hereby grants this License to the..... on the conditions and terms attaching to this License.

n Witness Whereof the WASREB has on this granted the Board a License for the Provision of Water Services for a period of 10 years by signing, and affixing its Common Seal to this License by and in the presence of:

Signed: _____
Chief Executive Officer

Sea

Water Services Regulatory Board

Witnessed: _____
Chairperson

Water Services Regulatory Board

CONDITIONS OF LICENCE

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ACRONYMS

SPA:	Service Provisions Agreement
SPAs:	Service Provisions Agreements
SSSPA:	Small Scale Service Provision Agreement
WAB:	Water Appeal Board
WSP:	Water Service Provider
WSPs:	Water Service Providers
WASREB:	Water Services Regulatory Board
WSS:	Water and Sanitation Services

Clause 1

Definitions and Interpretation

The following words and expressions shall have the meanings assigned hereto:

- a) "Act" means the Water Act, 2002
- b) "Business Plan" means the three-year plan prepared by the Licensee in cooperation with the Water Service Providers under clause 8 and approved by the Water Services Regulatory Board.
- c) "Capital Works" means all major construction work carried out on the Water Services Provision facilities including production and purification installations, storage facilities, supply, distribution, evacuation networks, buildings and other installations in order to install, maintain, improve, extend, rehabilitate, replace and enlarge the Water Services according to standards and regulation
- d) "Capital Works Plan" means a plan for Capital Works prepared by the Licensee in agreement with the Water Services Provider and approved by the Regulatory Board in accordance with sub clause 5.3
- e) "Capital Works Plan Implementation Report" means a report on the progress of Works with notification of delays, changes to program, capital expenditures and commissioning of the works.
- f) "Connection Fund" means a fund established by or on behalf of the Provider to cover the costs of new connections for eligible customers.
- g) "Contingency Fund" means a fund established by the Licensee as per the provisions of Section 61.(3) of the Act for the purposes of renewal, repair, enlargement or improvement of any Assets and Facilities used in Water Services Provision and for any other prescribed contingency.
- h) "Customer" means any Person or organization who has entered into or will enter into or is deemed to have entered into a Customer Contract and to whom water is supplied or from whom Sewage is removed and discharged and who is so supplied or served by a Water Service Provider or who should be so supplied or served by the Service Provider pursuant to its obligations, and who is or will be required to pay for such Services; previously termed consumer
-) "Customer Contract" means a contract between the Water Service Provider and a Customer which governs the supply of services to that customer, payment by the customer to the Water Service Provider and other terms of the arrangement
- j) "Customer Tariff" means the tariff charged by the Water Service Provider to Customers in accordance with the provisions of this License and the Service Provision Agreement as approved by the Regulatory Board.
- k) "Default" means a failure by a Party to perform its obligations as stipulated under this License
-) "Default Notice" means a notice of Default given by one Party to the defaulting party in accordance with provisions of the License.

- m) "Dispute Resolution Process" means the process for resolving disputes between the Parties as set out in Clause 13 and in accordance with the Dispute resolution Process guidelines.
- n) "Drinking Water" and "Potable Water" means water that is available or otherwise supplied for human consumption on the premises to which the water is supplied.
- o) "Facilities" includes the fixed assets, movable assets, property, easements, licenses, and permits used in the provision of Water and Sanitation Services
- p) "Good Industry Practice" means the exercise of that degree of skill, diligence, prudence and foresight which would reasonably be expected from a skilled, experienced and prudent person engaged in the provision of services and the carrying out of operations, maintenance and administration pursuant to this Agreement from time to time;
- q) "Government" means the Government of the republic of Kenya
- r) "Laws" means all national or state legislation, statutes, ordinances and other laws, Regulations and by-laws of any legally constituted public authority in Kenya.(capable of being enforced)
- s) "Lender" means any organization, institution or private person providing funds for Water Services Provision
- t) "Liabilities" means Loans provided by the Government, commercial Banks or any other debts or commitments arising in the course of the Licensee's business.
- u) "Licensee" means a Water Services Board which has been licensed under the Water Act 2002.
- v) "License Area" means that area under the Licensee's control in which the Licensee is to ensure the provision of the Water Services.
- w) "Licensee Achievement Report" means a report giving the achievements of the licensee given in sub clause 12.2
- x) "Licensee Achievement Targets" means those targets set to be achieved by the Licensee as set out in its Business Plan, which in part define the performance of the Licensee.
- y) "Licensee Administrative Costs" means those costs incurred by the Licensee to monitor the Service Provision Agreements and fulfill its other obligations that are not directly associated with one Provider.
- z) "Licensee fee" means a fee paid by the Licensee to the Water Services Regulatory Board for the duration of the License in accordance with section 60 of the Act.
- aa) "Licensee's Representative" means the person appointed by the Licensee with the authority to act on behalf of the Licensee as provided for under sub clause 14.2
- bb) "Licensee Remuneration" means the share of the Water Service Provider's income paid to the Licensee to cover capita costs ,depreciation and others costs incurred by the Licensee. in the provision of Water services.
- cc) "Minimum Service Level" means the minimum service standards which can and should be exceeded by the Provider in order to foster his image among consumers, politicians, the Regulatory Board and the Public in general
- dd) "Mediate" means a method of non-binding dispute resolution involving a neutral third party who tries to help the disputing parties reach a mutually agreeable solution



- ee) “Model Customer Contract” means the Model Customer Contract developed by the License in agreement with the Water Service Provider in accordance with the Customer Service and Complaints Procedure Guideline and approved by the Regulatory Board
- ff) “Notice of Tariff Correction” means the notification by the Regulatory Board when it determines that a tariff adjustment has not been made in accordance with the Tariff Guidelines or other applicable rules and Regulations.
- gg) “Operating Subsidiary” means a unit established or appointed by the Licensee which operates as a Water Service Provider.
- hh) “Other Business” has the meaning of all business not covered under the provision of Water Service as defined by the Act.
- i) “Party” means the Licensee or the Water Service Provider, as dictated by the context in which it is used.
- jj) “Performance Guarantee” means a guarantee, which shall be provided by the Licensee to the Regulatory Board to guarantee performance and payment obligations in accordance with its terms and conditions of this License.
- kk) “Performance Targets” means the targets specified to be met or desired to be met.
- l) “Potential Customer” means a person other than the Licensee or the Water Service Provider or a Customer, located in the Licensee’s Service Area and has not signed a Customer contract with the Water Service Provider
- mm) “Provider” means the Water Service Provider engaged by the Licensee to carry out all or some of its duties as specified under the Act and the Service Provisions Agreement.
- nn) “Provider Income” means the income left with the Water Service Provider after deduction of the Regulatory Levy and the Licensee remuneration and as defined in sub clause 7.5
- oo) “Provider Obligations” means the obligations of the Provider within the License Area to provide the Water Services, Wastewater Services, and Other Business as specified in the Service Provision Agreement.
- pp) “Regulatory Board” means the Water Services Regulatory Board as established by the Water Act (2002).
- qq) “Schedules” means the document(s) attached to this License.
- rr) “Small Scale Service Provision Agreement” means an agreement entered into between a Water Service Provider and a Small Scale Water Service Provider.
- ss) “Service Needs” means a 10-year projection of the Facilities required to provide the water and wastewater service coverage, quantity and quality which Customers and Potential Customers demand at the allowed tariff levels within the License Area.
- tt) “Service Provision Agreement” means the Agreement entered into between the Licensee and one or more Water Service Providers.
- uu) “Sewerage Levy” means the levy imposed in accordance with section 77 of the Water Act 2002 on Customers for the provision of Wastewater Services.
- vv) “Standard Customer Contract” means a document approved the Regulatory Board developed in accordance with the Customer Service and Complaints Procedure Guideline which the Water Service Provider will use to enter into Customer Contracts.



- ww) “Tariff” means the charges a Water Service Provider may impose on the consumers authorized by the Regulatory Board.
- xx) “Sewage” means foul or used water, soiled water, whether treated or not originating from any premises and includes any discharge from water closets and urinals and water containing excremental liquid or substance
- yy) “Small Scale Service Provider” means an Independent provider providing Water services from an existing water service provider by Hawking.
- zz) “Water Appeal Board” means the Appeal Body established by Clause 84 of the Water Act, 2002.
- aaa) “Water Resources Management Authority” (WRMA) means the Authority established by Clause 7 of the Water Act, 2002
- bbb) “Water Service” means any service of or incidental to the supply of water or provision of sewerage
- ccc) “Water Service Provider” means an Agent contracted by the Water Service Board through a Water Service Provision Agreement.
- ddd) “Regulatory Board Regulations” are guidelines or rules prepared by the Regulatory Board in accordance with the Water Act 2002 and any other relevant regulation which are binding and will be circulated to the Licensee and the Water Service Providers from time to time.

Conditions of License

Clause 2 License for Provision of Water Services

2.1 License

This License is granted to the..... (“the Licensee”) under the provisions of section 57 of the Water Act 2002 and is subject to the provisions of the said Act, Rules and Regulations made under the said Act relating to the provision of Water Services, and all guidelines developed by the Regulatory Board under section 47 of the Act and such other conditions consistent with the Act as may be imposed by the Regulatory Board from time to time.

2.2 Application Fee and the License Fee

- 1) Application Fee: The Regulatory Board shall charge the Licensee Application Fee towards the processing of the License of such amount as shall be determined by the Regulatory Board at its sole discretion.
- 2) License Fee: Following approval by the Regulatory Board of the Licensee’s application for a License, the Licensee shall be required to immediately pay to the Regulatory Board a one-off License Fee for the entire duration of 10 years or such an amount as shall be determined by the Regulatory Board at its sole discretion from time to time.

2.3 Duration

This License shall be in force for a period of Ten (10) years with effect from the date of issue SUBJECT to any variation, amendment or cancellation of the License by the Regulatory Board and to the fulfillment by the Coast Water Services Board of the Conditions herein.

2.4 Review

This license shall be reviewed after five years to evaluate performance and all the conditions incorporated herein.

2.5 Renewal

This Licence may be renewed upon expiry, subject to approval by the Regulatory Board of the Licensee’s renewal application which shall be sent six months before the expiry of the Licence and in accordance with section 57 of the Water Act and all applicable rules and Regulations relating to the provision of Water Services provided for under the Act.

Clause 3

Licensee Obligations

3.1 Area

The Licensee's Area of jurisdiction is as specified in the Gazette Notice [Insert] and /or as described in Schedule B.

3.2 Services

- 1) The Licensee shall ensure the provision of efficient Water Services within its Area including: Water Services
 - a) Drinking water

The Licensee shall arrange for the provision of potable water according to the applicable statutes, Guidelines of the Regulatory Board, relevant standards and other applicable rules
 - b) Sewerage Services

The Licensee shall arrange for the collection, treatment and disposal of all household and commercial wastewater through the sewerage network in accordance with the Regulatory Board Guidelines, standards and other applicable statutes with particular reference to the regulations published from time to time so as to protect the environment and human health from untreated sewage wastes.

 - i) The Licensee shall establish a monitoring system for Sewage services.
 - c) Other business

The Licensee shall provide or arrange for the provision of the additional Services other than Water Services as specified in Schedule C and in accordance with the requirements of as set out in the regulation. Any Other business shall be ring fenced from the services provided under 2.2 (1) (a) and (b) in accordance to the requirements of the Regulatory Board.
- 2) The Licensee shall ensure that the Minimum Service Levels relevant for consumers, attached to this Licence, shall be achieved and shall document the time frame in which the indicators of the Minimum Service Level shall be met by each Service Provider.
- 3) The Licensee shall submit the time frame schedules to the Regulatory Board for the Minimum Service Levels for each Service Provider within one year from the date of issue of the Licence. The Schedules shall be subject to revision every 3 years or during every tariff adjustment exercise, with each adjustment being subject to approval by the Regulatory Board.
- 4) The Licensee shall ensure that Water Services are provided in an efficient way through operation, maintenance and investments in infrastructure. The Licensee shall ensure that WSPs increasingly improve and optimise their performance and value for money for investments, rehabilitation and expansion of all infrastructure.

- 5) The Licensee shall particularly monitor the cost of personnel of the WSPs and take all necessary measures to keep them within acceptable limits in relation to total operational costs.
- 6) In addition to the provisions of this Licence, the Licensee shall be required to comply with all the Guidelines issued by the Regulatory Board and any applicable standards, Regulations and rules developed under the Act or any other applicable Laws.

3.3 Default to meet Service Obligations

- 1) In the event of default by the Licensee, in fulfilling its obligations or in complying with the provisions of the Act, rules, Regulations or Guidelines of the Regulatory Board, the Regulatory Board will take such necessary actions as provided for under the Act and shall also:-
 - i) Publish a List of Shame naming the Licensee.
 - ii) Impose a penalty fee from the performance guarantee at the rate of 0.05 % per week for the duration the obligation is not met. The guarantee shall be maintained after any penalty fee has been deducted.
 - iii) Place the Licensee on Special Regulatory Regime

Clause 4 Arrangement with Water Service Providers

4.1 General

- 1) On the issuing of the Licence, the Licensee shall establish and provide to the Regulatory Board a complete register of all the Water System Operators operating in its Area. The Licensee shall invite all the WSPs in its Area, through Public Notice to register with the Licensee within Four (4) months in order to legalise their operations as provided for by the Act.
- 2) The Licensee shall indicate the providers that do not adhere to the invitation for registration and shall consider all providers as operating illegally and contrary to the provisions of the Water Act, 2002. The register of the WSPs shall also indicate the progress in legalising the operations of the WSPs through the establishment of adequate supervisory arrangements which shall be updated annually and a copy thereof forwarded with the annual reports or upon request to the Regulatory Board.
- 3) The Licensee shall enter into SPAs with WSPs as provided for by the provisions of section 55 and 57 of the Act so as to provide the Water Services with due regard to economy, efficiency and financial sustainability.
- 4) The Licensee shall competitively procure the Services of the WSPs through an open bidding process to ensure value for money in accordance to good practice and Regulations.

- 5) For those parts within the Licensee Area where it has been documented through an open bidding process not to be feasible, practicable or to the benefit of the consumer, the Licensee may provide water services directly subject to the following conditions:
 - a) The provision of services in the specified area under such an arrangement shall first be approved by the Regulatory Board in writing;
 - b) The Licensee shall appoint an Operating Subsidiary on such terms as shall be approved by the Regulatory Board for the Provision of Water Services
 - c) The Licensee shall maintain separate financial accounts for the Agent and ensure that its operations comply with all the terms of the SPA.

4.2 Water Service Providers

- 1) In accordance with section 55(2) of the Act the Licensee must submit all Service Provision Agreements and any amendments thereto to the Regulatory Board for approval. Changes in the Tariff Schedule shall not constitute an amendment to the Service Provision Agreement provided that the Regulatory Board does not reject such a change in the Tariff Schedule proposed and indicated to it by the Licensee and the particular WSP in writing at least three (3) months prior to the planned implementation.
- 2) The Licensee shall ensure that the provisions of the SPA are consistent with the Act, Regulations and conditions of its Licence and the Regulatory Board Guidelines and shall make necessary amendments to any SPA to effect the same.
- 3) The Regulatory Board shall within ninety (90) days either approve, with or without conditions, or reject in writing the SPA or its amendments and shall give reasons for its decision.
- 4) The Licensee shall establish Performance Targets for each of the Performance Indicators set out for each WSP according to the Category of Provider outlined in Schedule E and shall monitor the performance of the WSPs within its Area based on these targets.

4.3 Small-Scale Service Providers

- 1) The Licensee shall undertake measures to ensure that Small-Scale Water Service Providers are linked to the Main Water Service Provider through a Small Scale Service Provision Agreement (SSSPA) in order to provide efficient and affordable Services to the Consumers.
- 2) The licensee shall undertake to pursue a clustering strategy with appropriate supervisory arrangement and due regard being paid to the creation of providers capable of financial sustainability, efficiency and growth.

Clause 5 Bulk Water and Sewerage Treatment and Disposal

5.1 Bulk Water

- 1) The Licensee shall assist the WSPs in securing reliable and adequate bulk water supplies.
- 2) The Licensee may develop water abstraction, storage, treatment, and transmission facilities to supply in bulk water to WSPs, subject to prior written approval of the Capital Works Plan for such developments by the Regulatory Board.
- 3) Where the Licensee is to provide water in bulk to WSPs, the Licensee shall in accordance with section 66 of the Act supply the bulk water agreement and bulk water tariffs to the Regulatory Board for approval in accordance with the Regulatory Board Guidelines.
- 4) When in the interest of the public and where technically possible, the Regulatory Board may instruct the Licensee to either supply water in bulk or enter into a SPA with a WSP who shall supply water in bulk to third parties. Such instructions shall be accompanied by an agreement in writing on the tariffs .
- 5) In case where the parties do not agree on the provisions of the Bulk Service Provision Agreement the Parties shall use the Dispute Resolution Clause in the Agreement or the Dispute Resolution clause in this License

5.2 Sewerage Treatment and Disposal

- 1) The Licensee shall promote the responsible treatment and disposal of sewerage and sludge in accordance with the Regulatory Board guidelines, standards and other applicable statutes as may be published from time to time to protect the environment and human health from untreated wastes.
- 2) The Licensee may develop sewerage treatment and disposal facilities subject to approval by the Regulatory Board of the Capital Works Plan and proceed to charge WSPs and other users for the Sewage treatment and disposal based on tariffs approved by the Regulatory Board in accordance with section 77 of the Act.

Clause 6 Facilities Management and Development

6.1 Facilities Provision and Development

- 1) The Licensee shall either own or arrange for use of, Assets and Facilities not belonging to it and avail the Assets and Facilities for use by the WSPs for the provision of Water Services.
- 2) Any fees associated with the use by the Licensee or WSPs of Assets and Facilities owned by a third party shall first be approved by the Regulatory Board.

- 3) The Licensee shall ensure that such fees are only used to improve and develop the Water Services facilities and not for any other unrelated use. The payment and use of such fees shall be monitored by the Licensee and shall form part of the reporting requirements to the Regulatory Board and to the general public
- 4) The Licensee shall be responsible for the development of Assets and Facilities for the Water Services Provision in the Licensee's Area in accordance with the Licensee's Capital Works Plan.
- 5) The Licensee shall be responsible for the ownership of all the assets operated by the Water Service provider and shall maintain such an asset register and keep all the related records.

6.2 Facilities Management

- 1) The Licensee shall maintain, the Water Assets and Facilities under its control in accordance with good utility practices and the Regulatory Board Guidelines and any other applicable rules and Regulations.
- 2) The Licensee shall develop and maintain a Facility Management System, including a Facilities Inventory of all Assets and Facilities used in the provision of Water Services and shall submit an updated Facility Inventory to the Regulatory Board every three (3) years based on the Regulatory Board instructions and Guidelines.
- 3) The Licensee shall manage, record and evaluate the Assets and Facilities under its control.

6.3 Facility Development and Procurement

- 1) The Licensee shall develop a ten-year Capital Works Plan for its Area reflecting programs for facilities development for each WSP so as to increase coverage levels for Water Services Provision in accordance with the National Water Services Strategy.
- 2) The Capital Works Plan shall include a detailed investment strategy and financing plan, and shall be updated on a rolling basis in accordance with Regulatory Board Guidelines, and other applicable rules and Regulations, if any.
- 3) Procurement for development of Capital Works and Services shall be on a competitive basis in accordance with the Government procurement law and any relevant Regulatory Board Guidelines, rules and Regulations.
- 4) Construction of Capital Works shall be in accordance with the relevant Government standards, Regulatory Board Guidelines rules and Regulations.
- 5) The Licensee may by written agreement delegate the responsibility for Capital Works implementation to WSPs, with adequate provision for the rights and obligations of each party.



6.4 Contingency Funds

The Licensee shall be required to establish and maintain a contingency fund as provided for by Section 61.(3) of the Act for the purpose of renewal, repair, enlargement or improvement of any Assets and Facilities used in Water Services Provision and for any other prescribed contingency. The Fund shall be managed in accordance to the Regulatory Board Guidelines and the applicable rules and Regulations.

Clause 7 Customer Management, Satisfaction and Complaints

7.1 Customer Management and Satisfaction

- 1) The Licensee shall develop and provide a copy of a Model Customer Contract developed in accordance with the Customer Service and Complaints Procedure Guideline and submit it to the Regulatory Board for approval. The Licensee shall ensure that the Customer Contract developed shall be used by WSPs to enter into Customer Contracts with all existing and new Customers.
- 2) The Licensee shall appoint an independent organization to carry out a survey of customer satisfaction whenever requested by the Regulatory Board. The frequency of such surveys requested shall not be shorter than two (2) years and the results shall be submitted to the Regulatory Board and made available to the public.

7.2 Customer Complaints

- 1) The Licensee shall adhere to the Customer Service and Complaints Procedure Guideline and shall submit to the Regulatory Board a Customer Complaints Handling Procedure for approval and shall thereafter implement and undertake measures to ensure that the procedures are applied by the WSPs.
- 2) Any complaint that is not satisfactorily addressed by a WSP in accordance with the provisions of the SPA shall be referred to the Licensee for resolution.
- 3) The Licensee shall seek to resolve complaints in accordance with the relevant Regulatory Board Guidelines and may investigate the complaint, mediate a solution, and apply penalties against the Party found to be in default.
- 4) The Licensee shall ensure that there is a Customer Complaints Officer designated for each WSP or, alternatively a designated liaison person for each Category of Providers, to ensure that Customers and Potential Customers can lodge complaints regarding the Services and that the complaints are addressed.

8.1 Customer Tariffs

- 1) The Licensee shall establish the Customer Water Supply and Sewerage Tariffs applicable for each WSP by adhering to the relevant Regulatory Board Tariff Guidelines, rules and Regulations.
- 2) The Customer Water Supply and Sewerage Tariff shall comprise the Licensee Remuneration, where applicable, the WSP Income, the Regulatory Board Levy and all other prevailing fees and taxes and may be adjusted in accordance with the provisions of the SPA and the Regulatory Board Guidelines. Where the provisions of the SPA and the Regulatory Board Guidelines differ, the Regulatory Board Guidelines shall prevail.

8.2 Tariff Adjustment

- 1) The Licensee shall cooperate with the WSPs to come up with the Customer Water Supply and Sewerage Tariffs proposal in accordance with the Regulatory Board Tariff Guidelines, and especially with section 77 of the Act and shall submit the proposal with the Tariff Schedules to the Regulatory Board for approval.
- 2) The Regulatory Board shall within ninety (90) days of receipt of the proposal submitted to it either grant an approval or reject the Tariff adjustment proposal.
- 3) In the event of rejection of the proposal, the Licensee and/or the WSP shall seek negotiations with the Regulatory Board on the ground of the written objections to the Regulatory Board provided and that if no consensus is reached, the Licensee and/or the WSP may appeal to the WAB. Before referring the matter to the WAB the Licensee shall inform the Regulatory Board in writing at least fourteen (14) days prior to its intention to seek appeal to the WAB.
- 4) Any changes made to the Customer Tariff Schedule in accordance with the Tariff Adjustment Approval, the provisions of the SPA and the Regulatory Board Tariff Guidelines shall not constitute an amendment to the Service Provision Agreement. The changes shall however be forwarded in writing to the Regulatory Board at least Four (4) months prior to the implementation of the changes. The Regulatory Board shall have the right to object to the changes and the objection shall be in writing with reason for the objection.

8.3 Licensee Remuneration

- 1) The Licensee shall only be allowed to include in the Customer Water Supply and Sewerage Tariffs the Maximum Licensee Remuneration for each WSP as specified in its Business Plan and approved by the Regulatory Board.
- 2) If the approved investments specified in the Capital Works Plan for any given WSP are not undertaken or are delayed, the Licensee shall adjust its Remuneration from that WSP to reflect the change in capital costs in accordance with the Regulatory Board Guidelines and shall submit the revised Licensee Remuneration to the Regulatory Board for approval before implementing it.

8.4 Recovery of Capital Works Investment

The License shall be entitled to recover Capital Work Investment Cost from the Service Providers subject to approval from the Regulatory Board.

8.5 Regulatory Levy

- 1) In order to achieve the self sustainable objective for the Regulatory Board the Licensee shall collect from the WSPs the Regulation Levy, presently at 1% of the amount billed re-gardless of the actual collection made for Water and Sewerage Services and forward such sum of money on a monthly basis to the Regulatory Board account within fi teen (15) days after the end of each month. The levy as well as the penalties due to late payments shall be calculated according to the Regulatory Board Levy Instructions. The Licensee shall establish an account with a reputable bank for the Levy into which the WSPs will deposit the amounts due and from which account the Licensee will transfer the amount due and payable to the Regulatory Board.

8.6 Provider's Income

- 1) The Licensee shall establish the Provider Income in the SPA., which shall allow for perfor-mance based incentives for the WSP.
- 2) The Licensee may adjust the Provider Income in accordance with the procedures set out n the Regulatory Board Guidelines and the SPA.
- 3) If the Regulatory Board fi nds that the WSP did not follow the approved Tariff Adjustment requirements it shall issue a Notice of Correction to the WSP and impose compensation to the customer whenever necessary. In the event that the SPA provisions and the Regula-tory Board Guidelines are inconsistent, the Regulatory Board Guidelines shall prevail.

8.7 Subsidies and Grants

- 1) The Licensee shall utilize any Government budget allocations, subsidies, grants, or chari-table contributions made for the purpose of increasing and improving Water Service cov-erage in such a way as to maximize the benefi ts and ensure that they accrue to the tar-geted populations including disadvantaged rural and urban areas
- 2) Such contributions shall be included in the information, monitoring and reporting systems of the WSP and the Licensee according to the relevant Guidelines, rules and Regulations of the Regulatory Board.
- 3) The Licensee shall collaborate with WSPs to develop and implement a pro-poor strategy for promoting low cost technology such as Water Kiosks for disadvantaged and potential Consumers and other such benefi cial mechanisms.
- 4) The Licensee shall recommend the use, qualifi cation and distribution of funds from the Water Service Trust Fund or such other funding mechanisms in accordance with Govern-ment priorities and investment needs within the Licensee Area.
- 5) The Licensee shall maintain a record of Liabilities and keep relevant documentation and shall also make transparent any loan agreements and subsidies that are linked to the as-sets and shall honour such loan agreements

Clause 9 Business Planning

9.1 Submission of Licensee Business and Capital Works Plan

- 1) The Licensee must develop and maintain a five (5) year Business and Capital Works Plan for the Licensee Area and update the Plans on a rolling basis every one (1) years, in accordance with the relevant Regulatory Board Guidelines. The plans have to be established in cooperation by the Licensee and the WSPs.
- 2) The Licensee shall submit the first plan by
- 3) Additionally, the Licensee shall annually establish and submit a Licensee Work Plan which shall include Licensee Performance Targets and Timeframes.

9.2 Approval of Business and Capital Works Plan

- 1) The Regulatory Board shall within three (3) months of receiving the Business Plan, approve, conditionally approve, or reject the Plan and shall submit reasons for any conditional approval or rejection in writing and provide the timeframe for making required changes.
- 2) If the Regulatory Board does not approve or conditionally approves the Business Plan within three (3) months from the date of receipt of the Plan, the Licensee shall have the right to seek arbitration with the Water Appeals Board. In this case the Licensee shall inform the Regulatory Board in writing not later than 14 days prior to the deadline of its intention to seek arbitration

Clause 10 Monitoring and Enforcement

10.1 Monitoring

- 1) The Licensee shall monitor compliance by the WSPs within its Area with the regulatory regime, in particular the Inspection Checklist and Programme of the Regulatory Board, Guidelines of the Regulatory Board, the Minimum Service Levels, technical requirements and other obligations set out in the SPA. The Licensee shall report to the Regulatory Board and the public according to the relevant set Guidelines. The Licensee shall use the basic performance indicators outlined in Schedule including those for Urban, Community and Small Scale Service Water Providers or any other applicable indicators to monitor the performance and compliance.
- 2) Licensees and WSPs whose performance is not adequate shall be regulated more closely by the Regulatory Board and shall be placed under a special regulatory regime for a specific period and shall be required to give frequent and detailed reporting based on the instructions of the Regulatory Board.
- 3) The Licensee shall promptly inform the Regulatory Board of any failure by a Provider which constitutes a hazard to the Public Health including poor water quality, accidents,

large scale and frequent sewer flooding, non existence of sewerage treatment plants, disposal of untreated sewerage and industrial effluent into waterways.

10.2 Auditing and Inspections

- 1) The Regulatory Board may conduct or arrange for independent technical audits or inspections of the Licensee and the WSPs as required.
- 2) The Regulatory Board shall as per the provisions of the Act, have full access to the Licensees and WSPs offices, premises and documents at any time and under any circumstances in order to collect and verify any information required or ensure compliance either through its own personnel or through third parties contracted for such specific tasks.
- 3) Whenever possible and appropriate the Regulatory Board may arrange for such audits and inspections with due notice.

10.3 Enforcement

- 1) The Regulatory Board may launch an inquiry if the Licensee, or any Provider in its Area, has failed or is suspected of having failed to comply with the applicable Minimum Service Levels or other obligations.
- 2) In the event that the Licensee, or its Provider is found to be in breach with the conditions of the Licence, the Regulatory Board Guidelines, the applicable rules or Regulations under the Act, or the provisions of the SPA, the Regulatory Board shall order the Licensee to remedy the fault and to pay any applicable penalties or fines approved by the Regulatory Board.
- 3) In the event of repeated failure to comply, the Regulatory Board may:
 - a) Place the WSP and if need be also the Licensee under a Special Regulatory Regime to be determined by the Regulatory Board.
 - b) Recommend to the Minister the removal of the Licensee's Board of Directors and Management
 - c) Initiate the necessary arrangements to transfer responsibility to another Licensee as provided for under the provisions of section 69 of the Act.

Clause 11 Emergencies

- 1) The Licensee shall be required to inform the Regulatory Board at the first sign of the imminent risk of emergencies in the Licensee's Area that affects the public, employees of the Licensee and WSPs and the general environment, such as droughts, floods, pollution, waterborne epidemics, etc.
- 2) The Licensee shall have the obligation of formulating emergency plans together with the WSPs and other key actors in its License Area in the shortest time possible and forwarding the same to the Regulatory Board.

12.1 Regular Reports

The Licensee shall submit to the Regulatory Board regular reports in frequency, content and quality as requested according to Regulatory Board Reporting Guidelines and other guidelines issued. The reports shall cover all WSPs operating under the Licensee, the Licensee's operations and performance targets.

12.2 Annual Report by the Licensee

- 1) The Licensee shall submit to the Regulatory Board all information as required by the Regulatory Board Guidelines on an annual basis within three (3) months of the end of the financial year. The annual reporting shall also include Capital Works Plan Implementation Report, the Licensee's Achievement Report, Service Obligation and Performance Report for all the WSPs in its Area WSPs and the Financial Report reflecting the levels of tariff revenues, subsidies, and other contributions by the WSPs.

- 2) The Licensee shall submit to the Regulatory Board an audited financial report within six (6) months of the end of the financial year and shall endeavour to have all accounts of the WSPs audited on an annual basis and shall on request by the Regulatory Board submit the audited financial report of any of the WSPs.

12.3 Annual Reports by the Water Service Providers

- 1) The Licensee shall ensure that the WSPs provide Annual Reports to it according to the Regulatory Board Guidelines. These reports shall be transmitted by the Licensee on time and in the original format to the Regulatory Board.
- 2) Non compliance by the WSPs particularly with reporting and record keeping shall be published and shall be subjected to consideration during Tariff Adjustment exercises.

12.4 Public Reporting and Transparency

- 1) The Licensee shall nominate a Public Information Officer who shall make copies of this Licence, those of all SPA, Business Plans and all other documents indicated for publication by the Regulatory Board and shall adequately and timely make available the information to the public. (This will be done through the maintenance of a website that will also provide general information to Customers, including information on service provision at pay stations and the offices of WSPs and the Licensee).
- 2) The Licensee shall prepare and publish an Annual Report for distribution to the public according to the relevant Regulatory Board Guidelines and these shall include the Licensee strategic priorities and investment program, achievements during the reporting period, the WSPs performance and compliance with Service Obligations and Performance Targets and summary of the financial statements.



12.5 Record Keeping

- 1) The Licensee shall maintain accurate technical and financial records and accounts.
- 2) The Licensee shall retain copies of all technical reports for a period of at least ten (10) years or as specified by Regulatory Board Guidelines.
- 3) The Regulatory Board may request copies of reports or records whenever necessary from the Licensee who must provide the same within reasonable time

Clause 13

Dispute Resolution

13.1 Amicable Settlement

- 1) If any dispute arises in terms of this contract either party may refer the dispute to the coordinating committee by giving written notice to the other party and the secretariat of the coordinating committee. The coordinating committee shall meet within 5 (five) days of written notice of the dispute being given to its secretariat to attempt to reach an amicable settlement
- 2) If the coordinating committee does not resolve a dispute within 5 (five) days of it having met, or it fails to meet within the 5 (five) day period, then either party may immediately indicate its written intention to refer the dispute to a Mediation committee.
- 3) The coordinating committee shall consist of four members constituted by:
 - a. The Finance and Administration Manager of the WSB
 - b. The Legal Officer of the WSB/ Technical Services Manager
 - c. The Finance and Administration Manager of the Regulatory Board
 - d. The Legal Officer of the Regulatory Board / Technical Services Manager of the Regulatory Board

13.2 Mediation

- 1) The mediation committee shall consist of a maximum of 4 (four) members, constituted by –
 - a. The Accounting Officer of the WSB and any of his officers
 - b. The Accounting Officer of the Regulatory Board and any of his officers
 - c. An independent mediation expert advised by the Water Appeal Board.
- 2) On receipt of the notice in terms of 13.2, each party will be responsible for formally advising its representatives of the dispute, and shall be deemed to have done so within 24 (twenty four) hours of receipt of the notice. The mediation committee shall be required to initiate proceedings within 5 (five) days of notice having been given (or deemed to have been given) to them, failing which either party may refer the dispute to arbitration.



- 3) Each party shall within 3 (three) days of written notice from the duly constituted mediation committee, submit to the mediation committee (at the place which the mediation committee has nominated in its notice) and to the other party the following written documents –
 - a. Its description of the dispute;
 - b. A statement of that party's position; and
 - c. Copies of the relevant supporting documentary evidence.
- 4) The mediation committee may call for such further documentary evidence and/or interview such person(s), as it deems necessary in order to settle the dispute.
- 5) If the mediation committee cannot resolve, or make contact to resolve the dispute within 10 (ten) days of it having called for the information in terms of clause 2.4, then either party may refer the dispute to arbitration.
- 6) It is recorded that mediation proceedings may be convened by phone and/or fax provided that the decision of the mediation committee shall be given to all parties in writing.

13.3 Water Appeal Board

1) If mediation fails, either party shall be entitled by 5 (five) days written notice to the other party to require that the dispute be settled by Water Appeal Board in accordance with the procedures of the Water Appeal Board.

13.4 Severability

The provisions of this clause are severable from the rest of this contract and shall remain in effect even after this contract is terminated for any reason.

13.5 Waiver of Litigation

The parties irrevocably consent to comply with the provisions of this clause and neither party shall be entitled to withdraw from or claim at any such proceedings that it is not bound by these provisions or by any ruling or procedure laid down in terms of such provisions. The parties agree that they shall not commence any litigation procedures in respect of a dispute arising in terms of this contract

13.6 Continuing of Obligations

No dispute arising from this contract shall entitle the other party to discontinue or suspend the execution of any of its powers, rights, duties and/or obligations in terms of this contract, pending the settlement of the dispute.

13.7 Effect of validity of a clause

No waiver or cancellation of a clause, or its declaration to be ultra vires shall affect the validity and enforceability of the rest of the provisions of the Licence and they shall continue to be observed as binding conditions

Clause 14 Amendment

- 1) Any changes in the Act and other applicable legislations governing the Licence shall be followed by the appropriate amendment of the Licence to conform to any such amendment
- 2) The Regulatory Board may on application of a Licensee, vary the terms and conditions of a Licence but subject to the provisions of the Act and prior public consultation.
- 3) The Regulatory Board may order a joint provision of water services or a transfer, alteration or amendment of a Licensee's undertaking for the purpose of securing a more efficient supply of water and vary the terms and conditions of the Licence so as to effect the changes. A Licensee aggrieved by the provisions of any order made by the Regulatory Board may appeal to the WAB.

Clause 15 Other Provisions

15.1 Communications

- 1) Any notice or other communication in regard to giving or issuing of approvals, consents, determinations, notices, and requests shall be in writing and shall be sufficiently served if delivered by hand against receipt, sent by registered post or courier, or transmitted using any of the agreed systems of electronic transmission.
- 2) Any notice of communication served by registered post shall be deemed to have been served within Seven (7) days following the day on which it is posted or if sent by facsimile on completion of successful and confirmed transmission.

15.2 Parties' Representatives

- 1) The Licensee shall appoint a Representative and shall give the Representative all authority necessary to act on the Licensee's behalf under the Licence
- 2) The Licensee's Representative shall be the person so named in the Licence Data Sheet.
- 3) The Regulatory Board shall appoint its Representative and shall give the Representative all authority necessary to act on its behalf under the Licence.
- 4) The Regulatory Board's Representative shall be the person so named in the Licence Data Sheet.
- 5) Either Party may change its representative from time to time by giving notice in writing of the change to the other Party at least seven (7) days before it comes into effect.

Clause 16 Performance Guarantee

- 1) The Licensee shall procure the maintenance of a Performance Guarantee in full force and effect for the duration of this License and provide documentary evidence by attaching the same to this License as Schedule G.



- 2) The amount of Performance Guarantee shall be determined by the Regulatory Board and shall for the time being constitute a full deposit of the payment of Kenya Shillings One Million (KShs.1, 000,000) or such other amount as may from time to time be determined by the Regulatory Board to guarantee all of the Licensee's obligations under this Agreement including without limitation any Financial Penalties envisaged in the License
- 3) The Licensee shall establish an account with a reputable bank and make the requisite deposit in view of Performance Guarantee and from which account the Regulatory Board may withdraw such sums as it considers adequate to cater for any shortfalls and penalties incurred by the Licensee in the performance of its obligations under the License.
- 4) For any such withdrawals made by the Regulatory Board from the deposit, in furtherance of its functions, the Licensee shall be immediately required, within a period of two (2) weeks to deposit such adequate amounts into the account as to top it up to the initial amount and provide proof of the payment to the Regulatory Board.
- 5) In the event that the Licensee fails to make the top up, the Regulatory Board may take such measures as it considers necessary to compel the Licensee to comply.
- 6) Any interest or charges accruing in the account shall lie with the Licensee

Clause 17

Termination due to Force Majeure

- 1) The Licensee shall be not liable for any failure to fulfil its duties and obligations in terms of this Licence where such failure is caused by any event, occurrence, circumstance or condition beyond the reasonable control of the Licensee, the occurrence of which could not have been reasonably foreseen on the effective date and which, despite the exercise of diligent efforts could not have been prevented, limited or minimised, that affects the powers, rights, duties or obligations of the Licensee under this contract including but not limited to –
 - a. A landslide, lightning, earthquake, tornado, floods or other acts of God
 - b. The acts of civil or military authority, the acts of a public enemy, war, blockade;
 - c. Sabotage, fire, explosion, bombing, insurrection, riot or civil disturbance; and
 - d. Consumer boycotts resulting from the performance of any powers, rights, duties or obligations of the Licensee in terms of this License;

Which causes material and unavoidable physical damage or destruction to all or any of the water services system and/or materially delays or prevents the performance of any duties and obligations in terms of this Licence, or interrupts the water services, provided that if it is not material the Licensee shall be obliged to continue rendering the services and its obligations under this contract
- 2) The Licensee affected by an event, occurrence, circumstance or condition referred to shall promptly notify the Regulatory Board in writing of the event, occurrence, circumstance or condition and the estimated extent and or duration of the Licensees inability to perform its duties and obligations.

- 3) Upon the cessation of the event, occurrence, circumstance or condition referred to the Licensee affected thereby shall notify the Regulatory Board of such cessation.
- 4) If, as a result of the event, occurrence, circumstance or condition referred to, the performance of a Licensee's duties and obligations is only partially affected, the Licensee shall remain liable for the performance of those duties and obligations not affected by the event, occurrence, circumstance or condition
- 5) If an event, occurrence, circumstance or condition referred to continues for more than 90 (ninety) or more consecutive days after any notification thereof section 67 (2) © of the Act shall apply forthwith.



ATTACHMENTS

Schedule A: Licence Data Sheet (to be completed by the Licensee)

Licensee's Name		
Licensee's Representative		Office:
Licensee's Address and Contact Information		Phone: Fax:
Regulatory Board's Representative		
Regulatory Board's Address and Contact Information	P.O.Box41621 00100 Nairobi	Phone 020 2733559 Fax: 2733558
Agreed form of Electronic Communication of licensee		
Licence application fee (Bankers Cheque)	KSHS. 100,000/=	Paid

Schedule B: Licence Area (Include map)

1. The map to be provided should be able to show the actual coverage of the contracted services areas
2. Where there is only one service provider contracted in a district, the map should show the other water schemes in the district
3. The licensee shall commence GIS mapping of service area
4. This information should be completed by
5. The first formal progress report in the mapping process should be received by the

Schedule C: Other Business than Water and Sanitation Services



Water Services Regulatory Board – Licence for the Provision of Water Services

Schedule D (1): Minimum Service Level

The Service Providers in cooperation with the Licensee shall establish a timetable for the achievement of the following Service Level Indicators. This time schedule shall be signed by the service provider and the Licensee and will become part of the SPA. A verification of progress and an up-date of the time schedule whenever tariff adjustments are discussed is compulsory.

Guidelines on required Minimum Service Levels

The following Service Indicators (SI) have therefore, been selected by the Regulatory Board to measure the service level of the provision of water and sewerages Services.

1. **SI 1 Coverage of the Service Area**
Population served with individual connections to the water and sewer networks, as well as, public stand posts, Kiosks etc.
2. **SI 2 Drinking Water Quality**
Adequate water-testing program to ensure effective control (number of tests) and the assessment of portability through bacteriological and chlorine residual tests.
3. **SI 3 Service Hours (Water Quantity)**
Time of continuous water supply at connections, as well as, the opening hours of public stands posts and offices accessible to consumers.
4. **SI 4 Billing for Services**
Billing and meter reading sequences, conditions for payment of bills by the Customer as well as ratio on metered connection to total Customer.
5. **SI 5 Customer Contacts**
Complaints from clients, the response time on billing contacts, written complaints, Customer demand for a meter or meter testing and new connections to the networks, as well as, the ease of access to pay points and telephone contacts.
6. **SI 6 Interruption of Water Supply and Blockage of Sewer**
Unannounced interruption of supply or sewer evacuation due to maintenance and repair work.
7. **SI 7 Pressure in the Network for Water Supply**
Water pressure and the minimum flow at the connection and the main leading directly to the connection



8. **SI 8 Unjustified Disconnections**
Number of unjustified disconnections and the compensation paid by the Service Provider to the Customer.
9. **SI 9 Sewer Flooding**
Number of households flooded with sewer during a year.
10. **SI 10 Quality of Discharged Sewer**
Non-and insufficient treated discharged effluent, as well as daily tests carried out (quantity and quality) and in conformity to WHO guidelines.
11. **SI 11 Support to Public Institutions – Curb Wastage + Settle Bills on Time**
Actions taken by the providers to help reduce wastage of drinking water by government institutions, to increase metering on connections for public institutions, reduce outstanding bills of government and the delay of payment.

Benchmarks for Service Indicators (SI)

The benchmarks appended in Table 1 below draw the line between failure and success to achieve minimum service level for the provision of water supply and sewerage Services:

Service Indicator	Benchmarks	Other indicator
SI 1 Coverage of the Service Area	Densely populated areas >90% good, acceptable 80-90%, not acceptable <80% Low density areas >80% good, 70-80% acceptable, <70% for water and sanitation	Increase the percentage of population with adequate drinking water (connected, public distribution network) and sewer services or sanitation (connection and individual installations) by between 3.5-5% annually depending on current coverage.
SI 2 Drinking Water Quality	Number of test within normal/total number of test carried out: >95% good, 90-95% acceptable, <90% unacceptable	Total number of test carried out/number of tests planned according to guidelines and standards >95% good, 90-95% acceptable, <90% unacceptable
SI 3 Service Hours (water quantity)	Large and medium towns (>100.000 Population) 20-24 h good, 16-20 h acceptable, <16 h unacceptable Smaller towns >16 h good, 12-16 h acceptable, <12 h unacceptable	Opening hours of public distribution system 12 hours/day, 7 days a week. Pay station and offices 45 h weekly
SI 4 Billing for Services once in 2 months. delivery is 2 weeks. least 10% annually.	Number of billed Customers/total number of connections: 100% good, 90-100% acceptable, <90% unacceptable	Minimum of one bill per month for all Customers, with minimum of meter read Maximum period for payment after bill Increase % of metered connections by at least 10% annually. Accounts receivable less than or equal to two (2) months of monthly billing
SI 5 Client Contacts	Response time on billing contacts, written complaint 5 working days. Response time on demand for meter and meter testing 10 working days. Response time on paid new connection <3 weeks Waiting time to pay bill and file complaint <15 minutes	No. of complaints categorized by type of complaints Telephone contacts to requested department/contact person <5 minutes

SI 6 Interruption of Water

Supply and Blockage of Sewer

% of connected properties subject to

an unannounced supply interruption of

20-36 hours from the time the interrup-



tion is reported <15%, 36-48 hours <8%
and>48hours<3%

Water Services Regulatory Board – Licence for the Provision of Water Services



Pressure in the SI 7 Network for Water Supply.	<7 litres per minute water flow at connections at <5% of service area in towns with > 100,000 inhabitants and at <20% with <100,000 inhabitants or	Minimum pressures at Customer faucet : 10m (1bar) Fire fighting: 15m (1.5bar) and water flow of 15l/s; Put in place network hydraulic mode
SI 8 Unjustified Disconnections		Maximum of 0.2% of total connections in a year in towns >10,000 connections and 0.4% <10,000 connections. Reconnection fee not paid or refunded where paid
SI 9 Sewer Flooding	Maximum of 0.5% of total connections per year	
SI 10 Quality of Discharged effluent	Daily tests carried out and tests results within the WHO guidelines for effluent and or Regulatory Board Guidelines.	
SI 11 Support to Public Institutions to Curb Wastage and Settle Bills on Time	The action program will be assessed by the type of actions/support the providers offer public institutions for the reduction of wastage, sensitising to budgeted the appropriate amount etc. in comparison to the % of unpaid bill of the total amount of outstanding debts.	% of actions carried out from the action program

Schedule D (2): Time table for commitment to improve Minimum Service Level indicators.

Each service provider shall propose before signing of the SPA a first “service level agreement” to the regulator, indicating the service level which will be reached within the contract period. This shall be negotiated with the water Services board and put into effect not later than 6 months after the signing of the SPA. It will be considered as a firm engagement by the two parties. As not all SI (Service Indicators) will be reached within the same period, the regulator proposes that the time schedule for each indicator be tied to the business plan. This shall be supported by specific activities as per the attached table of commitment towards achievement of these goals these goals.

Service Indicators	Current	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Sector Benchmark = final objective
SI 1 Coverage of the Service Area Low density areas >80%								High density areas >90%
SI 2 Drinking Water Quality								> 95% of tests within norm on total of required tests
SI 3 Service Hours hours, small towns >16 hours *								Large and medium towns 20-24
SI 4 Billing for Services (are billed)								Billing ratio 100% (all connections)
SI 5 Client Contacts								Written 5 working days Meter 10 working days New connection <3 weeks Pay bill/file complaint <15 minutes
SI 6 Interruption of Water Supply								Unannounced interruption 20-36 hours <15% (calculated annually) 36-48 hours <8% >48 hours <3% **
SI 6 Blockage of Sewer								Unblocking within 20-36 hours <15% (calculated annually) 36-48 hours <8% >48 hours <3% **
SI 7 Pressure in the Network for Water Supply								Insufficient pressure <5% clients towns with > 100,000 inhabitants <20% with <100,000 inhabitants
SI 8 Unjustified Disconnections								Max. 0.2% of clients in towns >10,000 connections 0.4% <10,000 connections
SI 9 Sewer Flooding								Maximum 0.5% of total connections per year
SI 10 Quality of Discharged Effluent (in % of all effluent)								100% of effluent are discharged according to requirement



S1 11 Support to Public institutions - Curb Wastage + Settle Bills on Time								Indicate the number of clients supported every year.
S1 12 Un-accounted for Water								<20%
S1 13 Metering Ratio								100%
S1 14 Collect Efficiency								>90%
S1 15 Staff/1000 connections Large companies Medium and small companies								<5 (WSP with ≤ 3 towns and large WSP <9 (WSP with ≥ 3 towns) - Medium/small
S1 16 Unit Operation Cost								Total Operation Cost/Water Produced (comparison)
S1 17 Personal cost is a share cost of O&M. - Large companies - Medium companies - Small companies								<20% <30% <40%
S1 18 Staff turnover								<3%

NOTES

- * Provide details for each town
- ** e.g. The number of clients experiencing unannounced interruption of water supply must not exceed 15% of all clients in a year
- *** Effluent above design capacity of treatment plants should not be counted, as well as, effluent discharged from treatment facilities not meeting the standards.

Schedule E: Sector Benchmarks for the Customer Relevant Indicators and Key Performance Indicators for WSS

84) The Performance Indicators that the Licensee must use as a minimum requirement. Other indicators will be added through guidelines whenever needed or/and when a special regulatory regime is imposed by the Regulatory Board in case of underperforming Providers and Licensee

85)

Table E1 - Performance Indicators

Name of Indicator	Definition / Comments	Benchmarks		
		good	acceptable	not acceptable
Water Service Coverage a) household connections (x5: average household size) b) public stand post connections (x 1,000 consumers) densely populated towns low density town areas	% of population served with drinking water (connections and public distribution system)	>90% >80%	80-90% 70-80%	<80% <70%
Sanitation Coverage a) household connections (x6) b) onsite sanitation (x9) densely populated towns low density town areas	% of population with adequate sanitation facilities (connected to sewer and individual installations)	>90% >80%	80-90% 70-80%	<80% <70%
Hours of Supply Large and medium towns (>100,000) smaller towns (<100,000) public distribution system pay stations and offices	Total hours of supply per month/30 days (as an average of all service areas)	20-24 hrs >16 hrs 12 hours/day; 7days/week 45 hours per week	16-20 hrs 12-16 hrs	<16 hrs <12hrs
Unaccounted for Water	(water produced-water billed)/water produced	<20%	20-25%	>25%
Water Affordability Poverty Focus (Consumption within Life-line Quantity: 20l/capita/day for Household Connections, 12-17l/capita/day for public stand posts)	% of average Household Income	<5%	5-8%	>8%
Metering Ratio	Number of metered connections/total number of connections	100%	95 - 100%	<95%
Collection Efficiency	revenues collected/ amount billed	>90%	85-90%	<85%
Water Quality Number of tests within norm/total number of tests carried out Total Collection/total number of staff Bacteriological	Total number of tests carried out/number of tests planned according to schedule	>95%	90-95%	<90%

Standards



Test results	Number of tests within norm/total number of tests carried out	>95%	90-95%	<90%
Total Collection/total number of staff chlorine residua Bacteriologica				
Staff/1,000 connections	Staff/1,000 connections. Might not be applicable to Service Provider owned and managed systems. Therefore reporting is voluntary.	<5	5-8	>8
Large companies		<5	5-8	>8
medium & small companies (with up to 3 towns)		<9	9-14	>14
medium & small companies (serving more than 3 towns with different systems)				
Average Water Production per Capita	[m ³ produced – 20% UFW]/ Population served / 365 days	for comparison		
a) household connections				
b) public stand post connections				
Average Water Consumption per Capita	³ billed per month/ (population served*30 days)	for comparison		
a) household connections				
b) public stand post connections				
Disconnection Ratio (average over year)	Number of disconnected Customers (>3 months)/total number of connections	<5%	5-15%	>15%
Unjustified Disconnections	Number of unjustified disconnections/total number of connections			
Larger and medium towns	per year	<0.2%		>0.2%
Smaller towns		<0.4%		>0.4%
Unit Operation Cost	Total cost of operation/ water produced	for comparison		
Liquidity	Current assets (cash, accounts receivable, stock) /current liabilities	for comparison		
Outstanding supplier loans (including Taxes, Pension Funds, etc)	(Total amount of outstanding loans of suppliers/total collection)*12	<2 mths	2-4 mths	>4 mths
Investment Ratio	Total investments/total collections (Turnover)	for comparison		
Billing for Services	Number of billed Customers/total number of connections	100%	90-100%	<90%

(The following indicators might not be applicable to Service Provider owned and managed systems and therefore reporting is voluntary)

Table E2 -

Turnover per Staff	Total Collection/total number of staff	for comparison		
Staff/length of pipe network	Staff/length of pipe network (without connections)	for comparison		
Billing/Staff/Month		for comparison		
Collection/Staff/Month		for comparison		
Meter Reading Efficiency	Total numbers of meters read per day/total number of meter readers (incl. supervisors)	for comparison		
Average Personnel Cost per Staff large companies for comparison medium companies small companies	Personnel cost/total number of staff			
Personnel Cost as a share of Cost of Operation (O+M) large companies medium companies small companies	Personnel cost/cost of operation and maintenance	<20%	20-30%	>30%
		<30%	30-40%	>40%
		<40%	40-45%	>45%
Staff Training Internal Training External Training	Total hours of training/ Total number of Personnel	for comparison		
Staff turnover	Total number of staff having left the company/total number of staff	<3%	3-6%	>6%
Absence of Staff	Total days of Absence (excl. leave)/total number of staff	for comparison		

Schedule F: Key Performance Indicators for WSS

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Schedule G: Performance Guarantee

A performance guarantee of Kenya shillings one million shall be issued by the Water Service Boards .

Schedule H: Business Plan

1. The final Business Plan for the first cycle of business shall be issued by the
2. The business plan shall contain a prioritisation of the projects to be undertaken and the financial sustainability impact they will have on the service board area.
3. The business plan shall contain a work plan shall also contain a time table upon which timeframes shall be presented on the targets identified in the plan
4. The business plan shall also have a strategy for future water supply as against the increasing population needs
5. the business plan of the WSB shall cascade down to each of the contracted WSPs business plans

Schedule I: List of Water Service Providers

1.
2.

Schedule J: Report on management of Small Scale Water Service Providers

The Report of shall contain:

1. A clustering strategy, aiming to have a maximum of 5-10 water service providers in the Service Board Area and the sustainability of each.
2. The mapping of their sources of water, quality and institutional arrangements that they have.
3. The supervisory arrangement the main service providers have with the small ones within their area
4. The supervisory arrangements that the licensee has with those small scale providers that cannot be supervised by a main service provider
5. The numbers of registered small scale water service providers in the service board area
6. Pro poor strategies in the area
7. The sensitisation and education campaigns launched by the licensee to educate them on the compliance requirements of the Water Act.
8. The first report shall be submitted by latest
9. The report shall subsequently be updated and submitted to the Regulatory Board at annual intervals.

Schedule K: Human Resources Policy Document

1. In addition to the Human Resources Policy for the licensee submitted, the licensee shall develop a performance based human resources strategy and oversee its implementation over the human resource needs for its service area.
2. The strategy shall inter alia involve:
 - a. The optimum number of staff required for each service provider as against the revenues available and sector benchmarks
 - b. The optimal use of the staff in the service board area taking into account ability to pay and clustering strategy developed
 - c. The first report of the strategy and its progress shall be submitted to the Regulatory Board not later than and shall subsequently be submitted at annual intervals.



Schedule L: Copy of Gazette Notice



Schedule M: Evidence of Public Consultation (Include advert)

