



## **TENDER FOR PROVISION OF DRINKING WATER**

**TENDER NO KEBS/T001/2020/2021 -  
Provision of Drinking Water**

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## SECTION A: INVITATION TO TENDER

### TENDER NO. KEBS/T001/2020/2021- PROVISION OF DRINKING WATER

The Kenya Bureau of Standards (**KEBS**) invites sealed bids from eligible firms for Provision of Drinking Water.

Tender documents detailing the requirements may be obtained from the **Procurement Office, KEBS Centre, Popo Road, Off Mombasa Road, Behind Bellevue Cinema Nairobi**, on normal working days **between 10.00 a.m and 4.00p.m upon payment of a non-refundable fee** of 1,000 as indicated in the tender document, the amount is payable in cash or bankers' cheque **or be downloaded free from KEBS website: [www.kebs.org](http://www.kebs.org)**

Completed tender documents in plain sealed envelopes clearly marked **"KEBS/T001/2020/2021- PROVISION OF DRINKING WATER"** indicated on the envelope should be addressed and delivered to:

**THE MANAGING DIRECTOR,  
KENYA BUREAU OF STANDARDS,  
P.O. BOX54974 - 00200  
NAIROBI.**

Or be deposited in the Tender Box located at **KEBS Centre Main Reception** marked **"TENDER BOX"** so as to be received **Tuesday 8<sup>th</sup> September, 2020 at 10.00a.m.**

Tender opening will be carried out immediately thereafter at the **KEBS Centre Conference Room A, Adm. Block, Ground Floor.**

Tenderers or their representatives are free to attend the tender opening.

Tenders must be accompanied by Bid Security of 2% of Total Tender Sum in form of specified in the tender document and shall be valid for one hundred and fifty (150) days from tender opening dated.

**MANAGING DIRECTOR**

## **SECTION II: INSTRUCTIONS TO TENDERERS**

### **2.1 Eligible tenderers**

- 2.1.1. This Invitation to tender is open to all tenderers eligible as described in the instructions to tenderers. Successful tenderers shall provide the services for the stipulated duration from the date of commencement (hereinafter referred to as the term) specified in the tender documents.
- 2.1.2. The procuring entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender unless where specially allowed under section 59 of the 2015 Act.
- 2.1.3. Tenderers shall provide the qualification information statement that the tenderer (including all members, of a joint venture and subcontractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Procuring entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the services under this Invitation for tenders.
- 2.1.4. Tenderers involved in corrupt or fraudulent practices or debarred from participating in public procurement shall not be eligible.

### **2.2 Cost of tendering**

- 2.2.1 The Tenderer shall bear all costs associated with the preparation and submission of its tender, and the procuring entity, will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.
- 2.2.2 The procuring entity shall allow the tenderer to review the tender document free of charge before purchase.

### **2.3 Contents of tender documents**

- 2.3.1. The tender document comprises of the documents listed below.

- i) Instructions to tenderers
- ii) General Conditions of Contract
- iii) Special Conditions of Contract
- iv) Schedule of Requirements
- v) Details of service
- vi) Form of tender
- vii) Price schedules
- viii) Contract form
- ix) Confidential business questionnaire form
- x) Tender security form

- xi) Performance security form
- xii) Principal's or Manufacturers Authorization form
- xiii) Declaration form

2.3.2. The Tenderer is expected to examine all instructions, forms, terms, and specifications in the tender documents. Failure to furnish all information required by the tender documents or to submit a tender not substantially responsive to the tender documents in every respect will be at the tenderers risk and may result in the rejection of its tender.

## 2.4 Clarification of Documents

2.4.1. A prospective candidate making inquiries of the tender document may notify the Procuring entity in writing or by post, fax or email at the entity's address indicated in the Invitation for tenders. The Procuring entity will respond in writing to any request for clarification of the tender documents, which it receives no later than seven (7) days prior to the deadline for the submission of tenders, prescribed by the procuring entity. Written copies of the Procuring entities response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective tenderers who have received the tender documents"

2.4.2. The procuring entity shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.

## 2.5 Amendment of documents

2.5.1. At any time prior to the deadline for submission of tenders, the Procuring entity, for any reason, whether at its own initiative or in response to a clarification requested by a prospective tenderer, may modify the tender documents by issuing an addendum.

2.5.2. All prospective tenderers who have obtained the tender documents will be notified of the amendment by post, fax or email and such amendment will be binding on them.

2.5.3. In order to allow prospective tenderers reasonable time in which to take the amendment into account in preparing their tenders, the Procuring entity, at its discretion, may extend the deadline for the submission of tenders.

## 2.6 Language of tender

- 2.6.1. The tender prepared by the tenderer, as well as all correspondence and documents relating to the tender exchanged by the tenderer and the Procuring entity, shall be written in English language. Any printed literature furnished by the tenderer may be written in another language provided they are accompanied by an accurate English translation of the relevant passages in which case, for purposes of interpretation of the tender, the English translation shall govern.

## 2.7 Documents Comprising the Tender

The tender prepared by the tenderer shall comprise the following

Components:

- (a) A Tender Form and a Price Schedule completed in Accordance with paragraph 9, 10 and 11 below.
- (b) Documentary evidence established in accordance with Clause 2.11 that the tenderer is eligible to tender and is Qualified to perform the contract if its tender is accepted;
- (c) Tender security furnished is in accordance with Clause 2.12
- (d) Confidential business questionnaire

## 2.8 Form of Tender

- 2.8.1 The tenderers shall complete the Form of Tender and the appropriate Price Schedule furnished in the tender documents, indicating the services to be performed.

## 2.9 Tender Prices

- 2.9.1 The tenderer shall indicate on the Price schedule the unit prices where applicable and total tender prices of the services it proposes to provide under the contract.
- 2.9.2 Prices indicated on the Price Schedule shall be the cost of the services quoted including all customs duties and VAT and other taxes payable:
- 2.9.3 Prices quoted by the tenderer shall remain fixed during the term of the contract unless otherwise agreed by the parties. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.22.
- 2.9.4 Contract price variations shall not be allowed for contracts not exceeding one year (12 months).
- 2.9.5 Where contract price variation is allowed, the variation shall not exceed 12% of the original contract price.

2.9.6 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.

## 2.10 **Tender Currencies**

2.10.1 Prices shall be quoted in Kenya Shillings unless otherwise specified in the appendix to Instructions to Tenderers.

## 2.11 **Tenderers Eligibility and Qualifications.**

2.11.1 Pursuant to Clause 2.1 the tenderer shall furnish, as part of its tender, documents establishing the tenderers eligibility to tender and its qualifications to perform the contract if its tender is accepted.

2.11.2 The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall establish to the Procuring entity's satisfaction that the tenderer has the financial and technical capability necessary to perform the contract.

## 2.12 **Tender Security**

2.12.1 The tenderer shall furnish, as part of its tender, a tender security for the amount and form specified in the Invitation to tender.

2.12.2 The tender security shall be in the amount not exceeding 2 per cent of the tender price.

2.12.2 The tender security is required to protect the Procuring entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.12.7

2.12.3 The tender security shall be denominated in a Kenya Shillings or in another freely convertible currency and shall be in the form of:

- a) A bank guarantee.
- b) Cash.
- c) Such insurance guarantee approved by the Authority.
- d) Letter of credit

2.12.4 Any tender not secured in accordance with paragraph 2.12.1 and 2.12.3 will be rejected by the Procuring entity as non responsive, pursuant to paragraph 2.20

2.12.5 Unsuccessful tenderer's security will be discharged or returned as promptly as possible as but not later than thirty (30) days after the expiration of the period of tender validity prescribed by the procuring entity.

2.12.6 The successful tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.29, and furnishing the performance security, pursuant to paragraph 2.30.

2.12.7 The tender security may be forfeited:

(a) If a tenderer withdraws its tender during the period of tender validity specified by the procuring entity on the Tender Form; or

(b) In the case of a successful tenderer, *if* the tenderer fails:

(i) to sign the contract in accordance with paragraph 30 or (ii) to furnish performance security in accordance with paragraph 31.

(c) If the tenderer rejects, correction of an error in the tender.

## 2.13 **Validity of Tenders**

2.13.1 Tenders shall remain valid for **120 days** or as specified in the invitation to tender after date of tender opening prescribed by the Procuring entity, pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by the Procuring entity as non-responsive.

2.13.2 In exceptional circumstances, the Procuring entity may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The tender security provided under paragraph 2.12 shall also be suitably extended. A tenderer may refuse the request without forfeiting its tender security. A tenderer granting the request will not be required nor permitted to modify its tender.

## 2.14 **Format and Signing of Tender**

2.14.1 The tenderer shall prepare two copies of the tender, clearly marking each "**ORIGINAL TENDER**" and "**COPY OF TENDER,**" as appropriate. In the event of any discrepancy between them, the original shall govern.

2.14.2 The original and all copies of the tender shall be typed or written in indelible ink and shall be signed by the tenderer or a person or persons duly authorized to bind the tenderer to the contract. All pages of the



tender, except for unamended printed literature, shall be initialed by the person or persons signing the tender.

2.14.3 The tender shall have no interlineations, erasures, or overwriting except as necessary to correct errors made by the tenderer, in which case such corrections shall be initialed by the person or persons signing the tender.

## 2.15 Sealing and Marking of Tenders

2.15.1 The tenderer shall seal the original and each copy of the tender in separate envelopes, duly marking the envelopes as “ORIGINAL” and “COPY.” The envelopes shall then be sealed in an outer envelope. The inner and outer envelopes shall:

(a) be addressed to the Procuring entity at the address given in the invitation to tender

(b) Bear, tender number and name in the invitation to tender and the words: “DO NOT OPEN BEFORE **Tuesday 8<sup>th</sup> September, 2020 at 10.00a.m..**”

2.15.3 The inner envelopes shall also indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declared “late”.

2.15.4 If the outer envelope is not sealed and marked as required by paragraph 2.15.2, the Procuring entity will assume no responsibility for the tender’s misplacement or premature opening.

## 2.16 Deadline for Submission of Tenders

2.16.1 Tenders must be received by the Procuring entity at the address specified under paragraph 2.15.2 not later **Tuesday 8<sup>th</sup> September, 2020 at 10.00a.m.**

2.16.2 The procuring entity may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 6, in which case all rights and obligations of the procuring entity and candidates previously subject to the deadline will thereafter be subject to the deadline as extended.

2.16.3 Bulky tenders which will not fit in the tender box shall be received by the procuring entity as provided for in the appendix.

## 2.17 Modification and withdrawal of tenders

2.17.1 The tenderer may modify or withdraw its tender after the tender's submission, provided that written notice of the modification, including substitution or withdrawal of the tender's is received by the procuring entity prior to the deadline prescribed for the submission of tenders.

2.17.2 The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.15. A withdrawal notice may also be sent by cable, but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.

2.17.3 No tender may be modified after the deadline for submission of tenders.

2.17.4 No tender may be withdrawn in the interval between the deadline for submission of tenders and the expiration of the period of tender validity specified by the tenderer on the Tender Form. Withdrawal of a tender during this interval may result in the Tenderer's forfeiture of its tender security, pursuant to paragraph 2.12.7.

2.17.5 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.

2.17.6 The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

## 2.18 **Opening of Tenders**

2.18.1 The Procuring entity will open all tenders in the presence of tenderers' Representatives who choose to attend, **Tuesday 8<sup>th</sup> September, 2020 at 10.00a.m.** and in the location specified in the invitation to tender. The tenderers representatives who are present shall sign register evidencing their attendance.

2.18.3 The tenderers' names, tender modifications or withdrawals, tender prices, discounts, and the presence or absence of requisite tender security and such other details as the Procuring Entity, at its discretion, may consider appropriate, will be announced at the opening.

2.18.4 The procuring entity will prepare minutes of the tender opening which will be submitted to the tenderers that signed the tender opening register and will have made the request.

## 2.19 **Clarification of tenders**

- 2.19.1 To assist in the examination, evaluation and comparison of tenders the procuring entity may at its discretion, ask the tenderer for a clarification of its tender. The request for clarification and the response shall be in writing, and no change in the prices or substance shall be sought, offered, or permitted.
- 2.19.2 Any effort by the tenderer to influence the procuring entity in the procuring entity's tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderers tender.

## **2.20 Preliminary Examination and Responsiveness**

- 2.20.1 The Procuring entity will examine the tenders to determine whether they are complete, whether any computational errors have been made, whether required securities have been furnished whether the documents have been properly signed, and whether the tenders are generally in order.
- 2.20.2 Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected. If the candidate does not accept the correction of the errors, its tender will be rejected, and its tender security may be forfeited. If there is a discrepancy between words and figures, the amount in words will prevail.
- 2.20.3 The Procuring entity may waive any minor informality or non-conformity or irregularity in a tender which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any tenderer.
- 2.20.4 Prior to the detailed evaluation, pursuant to paragraph 23, the Procuring entity will determine the substantial responsiveness of each tender to the tender documents. For purposes of these paragraphs, a substantially responsive tender is one which conforms to all the terms and conditions of the tender documents without material deviations. The Procuring entity's determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.
- 2.20.5 If a tender is not substantially responsive, it will be rejected by the Procuring entity and may not subsequently be made responsive by the tenderer by correction of the nonconformity.

## **2.21 Conversion to a single currency**

2.21.1 Where other currencies are used, the procuring entity will convert those currencies to Kenya shillings using the selling exchange rate on the date of tender closing provided by the central bank of Kenya.

## **2.22 Evaluation and comparison of tenders.**

2.22.1 The procuring entity will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.20.

2.22.2 The comparison shall be of the price including all costs as well as duties and taxes payable on all the materials to be used in the provision of the services.

2.22.3 The Procuring entity's evaluation of a tender will take into account, in addition to the tender price, the following factors, in the manner and to the extent indicated in paragraph 2.22.4 and in the technical specifications:

(a) Operational plan proposed in the tender;

(b) Deviations in payment schedule from that specified in the Special Conditions of Contract;

2.22.4 Pursuant to paragraph 22.3 the following evaluation methods will be applied:

(a) *Operational Plan.*

The Procuring entity requires that the services under the Invitation for Tenders shall be performed at the time specified in the Schedule of Requirements. Tenders' offering to perform longer than the procuring entity's required delivery time will be treated as non-responsive and rejected.

(b) *Deviation in payment schedule.*

Tenderers shall state their tender price for the payment on a schedule outlined in the special conditions of contract. Tenders will be evaluated on the basis of this base price. Tenderers are, however, permitted to state an alternative payment schedule and indicate the reduction in tender price they wish to offer for such alternative payment schedule. The Procuring entity may consider the alternative payment schedule offered by the selected tenderer.

2.22.5 The tender evaluation committee shall evaluate the tender within

30 days from the date of opening the tender.

2.22.6 To qualify for contract awards, the tenderer shall have the following:-

- (a) Necessary qualifications, capability experience, services, equipment and facilities to provide what is being procured.
- (b) Legal capacity to enter into a contract for procurement
- (c) Shall not be insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing.
- (d) Shall not be debarred from participating in public procurement.

### 2.23. **Contacting the procuring entity**

2.23.1 Subject to paragraph 2.19, no tenderer shall contact the procuring entity on any matter relating to its tender, from the time of the tender opening to the time the contract is awarded.

2.23.2 Any effort by a tenderer to influence the procuring entity in its decisions on tender evaluation tender comparison or contract award may result in the rejection of the tenderers tender.

### 2.24 **Award of Contract**

#### a) Post qualification

2.24.1 In the absence of pre-qualification, the Procuring entity will determine to its satisfaction whether the tenderer that is selected as having submitted the lowest evaluated responsive tender is qualified to perform the contract satisfactorily.

2.24.2 The determination will take into account the tenderer's financial and technical capabilities. It will be based upon an examination of the documentary evidence of the tenderers qualifications submitted by the tenderer, pursuant to paragraph 2.1.2, as well as such other information as the Procuring entity deems necessary and appropriate.

2.24.3 An affirmative determination will be a prerequisite for award of the contract to the tenderer. A negative determination will result in rejection of the Tenderer's tender, in which event the Procuring entity will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

#### b) **Award Criteria**

2.24.3 Subject to paragraph 2.29 the Procuring entity will award the contract to the successful tenderer whose tender has been determined to be substantially responsive and has been determined to be the lowest evaluated tender, provided further that the tenderer is determined to be qualified to perform the contract satisfactorily.

2.24.4 The procuring entity reserves the right to accept or reject any tender and to annul the tendering process and reject all tenders at any time prior to contract award, without thereby incurring any liability to the affected tenderer or tenderers or any obligation to inform the affected tenderer or tenderers of the grounds for the procuring entity's action. If the procuring entity determines that none of the tenderers is responsive; the procuring entity shall notify each tenderer who submitted a tender.

2.24.5 A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement.

## **2.25 Notification of award**

2.25.1 Prior to the expiration of the period of tender validity, the Procuring entity will notify the successful tenderer in writing that its tender has been accepted.

2.25.2 The notification of award will signify the formation of the Contract subject to the signing of the contract between the tenderer and the procuring entity pursuant to clause 2.29. Simultaneously the other tenderers shall be notified that their tenders have not been successful.

2.25.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 31, the Procuring entity will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 2.12.

## **2.26 Signing of Contract**

2.26.1 At the same time as the Procuring entity notifies the successful tenderer that its tender has been accepted, the Procuring entity will simultaneously inform the other tenderers that their tenders have not been successful.

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

2.26.3 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.

## **2.27 Performance Security**

2.27.1 Within thirty (30) days of the receipt of notification of award from the Procuring entity, the successful tenderer shall furnish the performance security in accordance with the Conditions of Contract, in the Performance Security Form provided in the tender documents, or in another form acceptable to the Procuring entity.

2.27.2 Failure of the successful tenderer to comply with the requirement of paragraph 2.29 or paragraph 2.30.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Procuring entity may make the award to the next lowest evaluated or call for new tenders.

## **2.28 Corrupt or Fraudulent Practices**

2.28.1 The Procuring entity requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts.

2.28.2 The procuring entity will reject a proposal for award if it determines that the tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;

2.28.3 Further, a tenderer who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.

### Appendix to instructions to tenderers

The following information for procurement of services shall complement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provisions of the instructions to tenderers and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to tenderers

Instructions to Tenderers	Particulars of appendix to instructions to tenderers	Indicate page submitted in the tender document
2.1	The tender is for all eligible and qualified firms and the successful supplier shall be required to provide drinking water to Kenya Bureau of Standards.	
2.11	Your proposal should be submitted with the following information: - <u>Mandatory Documents:</u>	
	i) Submit 1 (one) Original and 1 (one) copy of the tender document	
	ii) Bidding documents must be paginated. All bidders are required to submit their documents paginated in a continuous ascending order from the first page to the last in this format; (i.e. 1,2,3.....n ) w h ere n is the last page	
	iii) Certificate of Registration/Incorporation	
	iv) Valid Tax Compliance certificate from Kenya Revenue Authority	
	v) Dully completed Confidential Business Questionnaire ( <b>MUST be filled and signed by authorized signatory</b> )	
	vi) Experience in providing Drinking water. Attach the names, addresses and contact details of <b>at least 5</b> corporate clients. (Use form 8);	
	vii) Duly signed qualifications and experience of key management and technical personnel proposed for the assignment.	
	viii) NHIF and NSSF certificates	
	ix) Clearance certificate from OSHA	
	x) Valid insurance cover from WIBA for all staff from	
	xi) Valid diamond mark certificate or standardization mark permit.	





	xii) Public health certificate for the factory	
	xiii) Evidence of currently supplying at least 3 reputable firms.	
	xiv) Must have been in business for at least 5 years.	
	xv) Duly completed Anti-Corruption Declaration signed and stamped	
	xvi) Duly completed signed and stamped NON-DEBARMENT Declaration Form	
2.12	Tenderers must provide a tender security of 2% of the total tender amount in the form specified in the tender document. valid <b>for 150 days</b> .	

KEBS will carry out due diligence by visiting premises to confirm whether the information provided is correct to determine to its satisfaction whether the tenderer that will be selected as having submitted the lowest evaluated responsive tender is qualified to perform the contract satisfactorily

**GENERAL CONDITIONS OF THE CONTRACT****SPECIFICATION FOR SUPPLY OF DRINKING WATER FOR 2020-2021**

1. Containerized drinking water in 18.9 litre bottles
2. Must have a valid standardization mark or diamond mark of quality (attach certificate)
3. Provision of heavy duty dispensers for both hot and cold water
4. Delivery of water twice a week to KEBS Headquarters and other offices in Nairobi
5. Indicate cost of the drinking water per bottle.
6. Indicate frequency of maintenance service for dispensers and the cost which should be adhered to.
7. Indicate cost of one box of disposable cups small size approximately 120mls
8. Indicate the cost of replacing a broken bottle where applicable
9. Indicate Cost of repair works for one dispenser (if applicable)
10. Cost of any extra bottle of water over and above required limit.
11. Supply 1-litre bottles of bottled water for the Director's offices
12. Supply 500ml bottles of bottled water for the Director's offices
13. Centralized compilation of the original delivery notes with a copy left at KEBS Headquarters.
14. Provide periodic certificates to confirm that the water meets Kenya standards
15. Shall be able to exchange a broken down dispenser at a reasonable notice.
16. Commit to prompt monthly invoicing to KEBS for payment purposes.
17. Able to give prior notice of schedule plant maintenance annually to ensure ample supply.
18. Evidence of supply to at least three (3) reputable firms with over 500 staff with good track record.
19. The supplier shall provide delivery notes signed at site of delivery with certified copy of original attached to the invoice for payment purposes.

**MANDATORY CONDITIONS**

1. Certificate of incorporation / registration.
2. Valid tax compliance.
3. Valid diamond mark certificate or standardization mark permit.
4. Public health certificate for the factory
5. Evidence of currently supplying at least 3 reputable firms.
6. Must have been in business for at least 5 years.

### EVALUATION CRITERIA:

		Mark	Indicate page submitted in the tender document
1	Registered business license as a water supplier  (If it is a borehole the extraction permit) and has met all mandatory requirements.	10	
2	Provide proof of Firms experience in providing drinking water  Less than 1 year            5 marks  1-2 years                      8 marks  Above 2 years                 10 marks	10	
3	In possession of:  Valid Standardization mark permit or diamond mark permit                                  25 marks  Excise duty clearance certificate                                  5 marks	30	
4	References from 3 reputable firms (emphasis on government) with telephone or contact person	10	
5	Evidence of treatment and maintenance of water source ( attach schedule and the latest treatment report)	25	
6	Evidence of statutory medical examination of handlers in the plant	15	

## FINANCIAL CRITERIA

	Description	QTY	UNIT COST	TOTAL COST	REMARKS
1	Supply of Water bottle 18.9 litre				
2	Supply of Dispenser (hot and cold water)				
3	Supply Disposable cups per carton				
4	Replacement of a Containerized drinking water bottle 18.9 litre				
5	Servicing of the dispenser (quarterly)				

## DISTRIBUTION SITES

S/N	Block	Ground floor	1 <sup>st</sup> floor	2 <sup>nd</sup> floor	sub-totals
1	ADM / Block A	Reception 1 TC –room1A- 1 TC –room 1 B- 1 TC –room 2 - 1 TC –Corridor- 1 Driver room - 1 Auditors office-1 Risk office - 1	Wing A 2 Wing B 2	Wing A -1 Wing B- 2 Waiting Rm. -1 Boardroom -1 MD –office -1	18
2	Block B	Reception -1 Machine room -1 Clinic -1	Corridor -2	Corridor -2 Boardroom -1	8
3	Block C	Reception -1	corridor -1	N/A	2
4	Materials	corridor -2 Laboratory 1	N/A	N/A	3
5	Biochemical	Corridor -2	Corridor -2	Corridor -1 Director met/T 1 Boardroom – 1	7

6	Met	Corridor -3 Workshop- 1 Met Liaison office-1	N/A	N/A	5
7	Gate	Security -1			1
8	Caretaker's House	Living room -1			1
9	NQI	Conference(i) -1 NQI Ground floor -1 1	conf. (ii) -1 conf.(iv) -1 NQI & ubora-2	N/A	6
10	Procurement	HOD's office -1 Stationary -1 Engineering -1	N/A	N/A	3
11	ISM Office	Office 1	N/A	N/A	1
12	Certification	HOD office 1 Reception -1 CB Boardroom - 1	N/A	N/A	3
13	Gym	Main Hall -1	N/A	N/A	1
14	Radiation labs	NTD - 1 Dosimetry -1 Procurement - 1	N/A	N/A	3
15	JKIA	Main office -2 DHL Office -1 Courier Off. -1	N/A	N/A	4
16	ICDN	Site office -1 OIC Office - 1			2
17	PEPE	Office -1			1
				<b>Total</b>	<b>68</b>

NB: The quantities indicated are estimates and are therefore subject to variations. KEBS will order for the water on consignment basis: -

Name of Signatory:

.....

In the capacity of:.....

Authorized

Signature:.....

Company Rubber Stamp.....

**SECTION III GENERAL CONDITIONS OF CONTRACT**

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## **SECTION III GENERAL CONDITIONS OF CONTRACT**

### **3.1 Definitions**

In this contract the following terms shall be interpreted as indicated:

- a) "The contract" means the agreement entered into between the Procuring entity and the tenderer as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- b) "The Contract Price" means the price payable to the tenderer under the Contract for the full and proper performance of its contractual obligations.
- c) "The services" means services to be provided by the contractor including materials and incidentals which the tenderer is required to provide to the Procuring entity under the Contract.
- d) "The Procuring entity" means the organization sourcing for the services under this Contract.
- e) "The contractor" means the individual or firm providing the services under this Contract.
- f) "GCC" means general conditions of contract contained in this section
- g) "SCC" means the special conditions of contract
- h) "Day" means calendar day

### **3.2 Application**

These General Conditions shall apply to the extent that they are not superceded by provisions of other part of contract.

### **3.3 Standards**

- 3.3.1 The services provided under this Contract shall conform to the 7 standards mentioned in the Schedule of requirements

### **3.5 Patent Right's**

The tenderer shall indemnify the Procuring entity against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the services under the contract or any part thereof.

### 3.6 **Performance Security**

Within thirty (30) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the Procuring entity the Performance security where applicable in the amount specified in Special Conditions of Contract.

3.6.2 The proceeds of the performance security shall be payable to the Procuring entity as compensation for any loss resulting from the Tenderer's failure to complete its obligations under the Contract.

3.6.3 The performance security shall be denominated in the currency of the Contract or in a freely convertible currency acceptable to the Procuring entity and shall be in the form of:

- a) Cash.
- b) A bank guarantee.
- c) Such insurance guarantee approved by the Authority.
- d) Letter of credit.

3.6.4 The performance security will be discharged by the procuring entity and returned to the candidate not later than thirty (30) days following the date of completion of the tenderer's performance of obligations under the contract, including any warranty obligations under the contract.

### 3.7 **Inspections and Tests**

3.7.1 The Procuring entity or its representative shall have the right to inspect and/or to test the services to confirm their conformity to the Contract specifications. The Procuring entity shall notify the tenderer in writing, in a timely manner, of the identity of any representatives retained for these purposes.

3.7.2 The inspections and tests may be conducted on the premises of the tenderer or its subcontractor(s). If conducted on the premises of the tenderer or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring entity.

3.7.3 Should any inspected or tested services fail to conform to the Specifications, the Procuring entity may reject the services, and the tenderer shall either replace the rejected services or make alterations necessary to meet specification requirements free of cost to the Procuring entity.

3.7.4 Nothing in paragraph 3.7 shall in any way release the tenderer from any warranty or other obligations under this Contract.



### 3.8 **Payment**

3.8.1 The method and conditions of payment to be made to the tenderer under this Contract shall be specified in SCC.

### 3.9 **Prices**

Prices charged by the contractor for services performed under the Contract shall not, with the exception of any Price adjustments authorized in SCC, vary from the prices by the tenderer in its tender or in the procuring entity's request for tender validity extension as the case may be. No variation in or modification to the terms of the contract shall be made except by written amendment signed by the parties.

### 3.10 **Assignment**

The tenderer shall not assign, in whole or in part, its obligations to perform under this contract, except with the procuring entity's prior written consent.

### 3.10 **Termination for Default**

The Procuring entity may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the tenderer, terminate this Contract in whole or in part:

- a) if the tenderer fails to provide any or all of the services within the period(s) specified in the Contract, or within any extension thereof granted by the Procuring entity.
- b) if the tenderer fails to perform any other obligation(s) under the Contract.
- c) if the tenderer, in the judgment of the Procuring entity has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

In the event the Procuring entity terminates the Contract in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, services similar to those undelivered, and the tenderer shall be liable to the Procuring entity for any excess costs for such similar services.

### 3.12 **Termination of insolvency**

The procuring entity may at the anytime terminate the contract by giving written notice to the contractor if the contractor becomes bankrupt or otherwise insolvent. In this event, termination will be without

compensation to the contractor, provided that such termination will not produce or affect any right of action or remedy, which has accrued or will accrue thereafter to the procuring entity.

### **3.13 Termination for convenience**

3.13.1 The procuring entity by written notice sent to the contractor may terminate the contract in whole or in part, at any time for its convenience. The notice of termination shall specify that the termination is for the procuring entity convenience, the extent to which performance of the contractor of the contract is terminated and the date on which such termination becomes effective.

3.13.2 For the remaining part of the contract after termination the procuring entity may elect to cancel the services and pay to the contractor on agreed amount for partially completed services.

### **3.14 Resolution of disputes**

The procuring entity's and the contractor shall make every effort to resolve amicably by direct informal negotiations any disagreement or dispute arising between them under or in connection with the contract.

If after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute either party may require that the dispute be referred for resolution to the formal mechanisms specified in the SCC.

### **3.15 Governing Language**

The contract shall be written in the English language. All correspondence and other documents pertaining to the contract, which are exchanged by the parties, shall be written in the same language.

### **3.16 Force Majeure**

The service provider shall not be liable for forfeiture of its performance security, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

### **3.17 Applicable Law.**

The contract shall be interpreted in accordance with the laws of Kenya unless otherwise specified in the SCC.

### **3.18 Notices**



Any notices given by one party to the other pursuant to this contract shall be sent to the other party by post or by fax or E-mail and confirmed in writing to the other party's address specified in the SCC

A notice shall be effective when delivered or on the notices effective date, whichever is later.

**SECTION IV SPECIAL CONDITIONS OF CONTRACT**

- 4.1 Special conditions of contract shall supplement the general conditions of contract, wherever there is a conflict between the GCC and the SCC, the provisions of the SCC herein shall prevail over those in the GCC.
- 4.2 Special conditions of contract with reference to the general conditions of contract.

General conditions of contract reference	Special conditions of contract
3.6	Performance security in the format provided in the standard document equivalent to 10% of the total annual contract and shall be valid for a period of one year from the time of contract commencement.
3.8	Payment will be made as and when satisfactory service has been rendered
3.14	The dispute resolution will be referred to the Chartered Institute of Arbitrators.
3.18	P.O. BOX 54974 – 00200 POPO ROAD OFF MOMBASA ROAD NAIROBI.
Other conditions	The contractor shall maintain a suitable insurance Cover to cushion against damage/loss of any equipment while being serviced at KEBS and also against fire and burglary for any equipment that might be taken to the contractor's site for further repairs.

**SECTION V – DESCRIPTION OF SERVICES****TERMS REFERENCE FOR PROVISION OF DRINKING WATER.****1.0 BACKGROUND**

KEBS is a statutory body of government established under the Standards Act Cap 496 of the Laws of Kenya provide internationally recognized Standards, Measurements and Conformity Assessment solutions that meet Kenya's evolving economic, social and environmental needs.

**2.0 OBJECTIVES**

KEBS is seeking for sealed tenders from interested and qualified water companies licensed to provide the above services and have been certified by the Kenya Bureau of Standards (KEBS) and the relevant county and Government authorities to provide water for human consumption

**3.0 REQUIREMENT TO BE MET BY SUPPLIER**

The successful bidder will be expected to supply clean drinking water for human consumption at our offices that are located at Popo Road Off Mombasa Road South C Nairobi, JKIA ,PEPE and ICD offices for a period of 1(one) year from the contract commencement date which is renewable with satisfactory performance.

**The quantities to be ordered as and when need arises. The current consumption is indicated in our requirements below.**

The quantity indicated is an estimate. KEBS will pay for the actual consumption.

## **SECTION VI - STANDARD FORMS**

1. Letter of award
2. Form of tender
3. Price schedules
4. Contract form
5. Confidential Questionnaire form
6. Tender security form
7. Performance security form
8. Bank guarantee for advance payment
9. CV's for Managerial and key staff form
10. Clients Reference form
11. Self Declaration that the Person/Tenderer will not Engage in any Corrupt or Fraudulent Practice.
12. Non –Debarment Declaration



## 1. LETTER OF NOTIFICATION OF AWARD

Address of Procuring Entity

\_\_\_\_\_  
\_\_\_\_\_

To: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RE: Tender No. \_\_\_\_\_

Tender Name \_\_\_\_\_

This is to notify that the contract/s stated below under the above mentioned tender have been awarded to you.

\_\_\_\_\_  
\_\_\_\_\_

1. Please acknowledge receipt of this letter of notification signifying your acceptance.
2. The contract/contracts shall be signed by the parties within 30 days of the date of this letter but not earlier than 14 days from the date of the letter.
3. You may contact the officer(s) whose particulars appear below on the subject matter of this letter of notification of award.

(FULL PARTICULARS) \_\_\_\_\_

\_\_\_\_\_

**SIGNED FOR ACCOUNTING OFFICE**



## 2. FORM OF TENDER

Date.....

Tender no.....

To.....

.....

[Name and address of procuring entity]

Gentlemen and/or Ladies:

1. Having examined the tender documents including Addenda Nos. *[insert numbers]*, the of which is hereby duly acknowledged, we the undersigned, offer to provide..... *[description of services]* in conformity with the said tender documents for the sum of ..... *[total tender amount in words and figures]* or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.
2. We undertake, that if our Tender is accepted, to provide the services in accordance with the services schedule specified in the Schedule of Requirements.
3. If our Tender is accepted, we will obtain the tender guarantee in a sum equivalent to \_\_\_\_\_ percent of the Contract Price for the due performance of the Contract, in the form prescribed by (Procuring entity).
4. We agree to abide by this Tender for a period of *[number]* days from the date fixed for tender opening of the Instructions to tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
5. Until a formal Contract is prepared and executed, this Tender, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2014

*[signature]* ..... *In the capacity of*

Duly authorized to sign tender for and on behalf of \_\_\_\_\_ Name  
of the Firm ..... Name of signatory:

..... In the capacity  
of:..... Authorized

Signature:.....

Company          Rubber          Stamp/.....



### 3. CONTRACT FORM

THIS AGREEMENT made the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_  
between..... *[name of Procurement entity]* of..... *[Country of Procurement entity]* (Hereinafter called “the Procuring entity”) of the one part  
and..... *[Name of tenderer]* of..... *[City and country of tenderer]* (Hereinafter called “the tenderer”) of the other part:

WHEREAS the Procuring entity invited tenders for certain goods,  
viz.,..... *[Brief description of goods]* and has accepted a  
tender by the tenderer for the supply of those goods in the sum  
of..... *[Contract price in words and figures]*  
(Hereinafter called “the Contract Price”).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:
  - (a) The Tender Form and the Price Schedule submitted by the tenderer;
  - (b) The Schedule of Requirements;
  - (c) The Technical Specifications;
  - (d) The General Conditions of Contract;
  - (e) The Special Conditions of Contract; and
  - (f) The Procuring entity’s Notification of Award.
3. In consideration of the payments to be made by the Procuring entity to the tenderer as hereinafter mentioned, the tenderer hereby covenants with the Procuring entity to provide the goods and to remedy defects therein in conformity in all respects with the provisions of the Contract
4. The Procuring entity hereby covenants to pay the tenderer in consideration of the provision of the goods and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the contract at the times and in the manner prescribed by the contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with their respective laws the day and year first above written.

Signed, sealed, delivered by \_\_\_\_\_ the \_\_\_\_\_ (for the Procuring entity)

Signed, sealed, delivered by \_\_\_\_\_ the \_\_\_\_\_ (for the tenderer)

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

#### 4. CONFIDENTIAL BUSINESS QUESTIONNAIRE

You are requested to give the particulars indicated in Part 1 and either Part 2 (a), 2(b) or 2(c) whichever applied to your type of business.

You are advised that it is a serious offence to give false information on this form.

##### Part 1 General

Business Name .....  
 Location of Business Premises .....  
 Plot No, .....Street/Road .....  
 Postal address ..... Tel No. .... Fax:.....  
 Email ..... Website:.....  
 Nature of Business .....  
 Registration Certificate No.....  
 Maximum value of business which you can handle at any one time – Kshs.  
 Name of your bankers .....  
 Branch.....  
**Date.....Signature of Candidate.....**

##### Part 2 (a) – Sole Proprietor

Your name in full.....Age.....  
 Nationality.....Country of Origin.....  
 Citizenship details.....  
**Date.....Signature of Candidate.....**

##### Part 2 (b) – Partnership

Given details of partners as follows

Name	Nationality	Citizenship details
Shares		
1. ....		
2. ....		
3. ....		
4. ....		

**Date.....Signature of Candidate.....**



Part 2 (c) – Registered Company

Private or Public

State the nominal and issued capital of company

Nominal Kshs.

Issued Kshs.

Given details of all directors as follows

Name

Nationality

Citizenship details

Shares

1. ....

2. ....

3. ....

4. ....

**Date.....Signature of Candidate.....**

## 5. TENDER SECURITY FORM

Whereas .....[name of the tenderer]

(hereinafter called “the tenderer”)has submitted its tender dated.....[date of submission of tender ] for the provision of .....[name and/or description of the services] (hereinafter called “the Tenderer”).....

KNOW ALL PEOPLE by these presents that WE.....Of.....having registered office at [name of procuring entity](hereinafter called “the Bank”)are bound unto.....

[name of procuring entity](hereinafter called “the procuring entity”) in the sum of .....for which payment well and truly to be made to the said Procuring entity, the Bank binds itself, its successors, and assigns by these presents. Sealed with the Common Seal of the said Bank this\_\_\_\_\_ day of 20\_\_\_\_\_.

THE CONDITIONS of this obligation are: 1. If the tenderer withdraws its Tender during the period of tender validity specified by the tenderer on the Tender Form; or 2. If the tenderer, having been notified of the acceptance of its Tender by the Procuring entity during the period of tender validity:

- a) fails or refuses to execute the Contract Form, if required; or
- b) fails or refuses to furnish the performance security, in accordance with the instructions to tenderers;

we undertake to pay to the Procuring entity up to the above amount upon receipt of its first written demand, without the Procuring entity having to substantiate its demand, provided that in its demand the Procuring entity will note that the amount claimed by it is due to it, owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions. This guarantee will remain in force up to and including thirty (30) days after the period of tender validity, and any demand in respect thereof should reach the Bank not later than the above date.

---

[signature of the bank]

*(Amend accordingly if provided by Insurance Company)*

**6. PERFORMANCE SECURITY FORM**

To:

*[Name of procuring entity]*WHEREAS. .... *[Name of tenderer]*(Hereinafter called "the tenderer") has undertaken, in pursuance of Contract No. .... *[reference number of the contract]* dated .....

20\_\_\_\_ to

supply.....

.... *[Description of goods]* (Hereinafter called "the Contract").

AND WHEREAS it has been stipulated by you in the said Contract that the tenderer shall furnish you with a bank guarantee by a reputable bank for the sum specified therein as security for compliance with the Tenderer's performance obligations in accordance with the Contract.

AND WHEREAS we have agreed to give the tenderer a guarantee:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the tenderer, up to a total

of..... *[Amount of the guarantee in words and figures]*, and we undertake to pay you, upon your first written demand

declaring the tenderer to be in default under the Contract and without cavil or argument, any sum or sums within the limits of.....

*[Amount of guarantee]* as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This guarantee is valid until the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

Signature and seal of the Guarantors

---

*[Name of bank or financial institution]*

---

*[Address]*

---

*[Date]*



## 7. FORMAT OF CV'S FOR KEY MANAGERIAL AND TECHNICAL STAFF

Proposed position: .....

Name of Firm: .....Name of

Staff: .....

Profession: ..... Date of

Birth: .....Years with Firm:

..... Nationality: ..... Membership in

Professional Societies: ..... Detailed tasks

assigned: .....

Key Qualifications:

*(Give an outline of staff member's experience and training most pertinent to tasks on assignment. Describe degree of responsibility held by staff member on relevant previous assignments and give dates and locations).*

.....  
Education:

*(Summarize college/university and other specialized education of staff member, giving names of schools, dates attended and degrees obtained).*

.....  
Employment Record:

*(Starting with present position, list in reverse order every employment held. List all positions held by staff member since graduation, giving dates, names of employing organizations, titles of positions held, and locations of assignments).*

.....  
Certification:

I, the undersigned, certify that these data correctly describes me, my qualifications and my experience.

.....Date:..... (Signature of staff member)

..... Date: .....  
(Signature of authorized representative of the firm)

Full name of staff member: ..... Full

name of authorized representative: .....



## 8. CLIENTS REFERENCE FORM

Using the format below, provide information on each relevant works for which your firm was legally contracted in the last five years.

<b>ASSIGNMENT NAME</b>	<b>COUNTRY</b>
Location within country:	Professional staff provided by your firm/entity (profiles)
Name of client and name of contact person:	No. of employees:
Address (Postal Address and telephone contact)	No. of staff - months, duration of assignment:
Start Date: (month/year)      Completion Date (month/year)	Approximate contract value of goods/services (Ksh.)
Names of Associated firms (sub-contracted) if any:	No. of months of professional staff provided by associated firms
Names of senior staff involved in the assignment	
Narrative Description/scope of the project	
Description of actual services provided by your staff	

Name of Signatory:

..... In the

capacity of:.....

Authorized

Signature:.....

Company Rubber Stamp.....



**9 SELF DECLARATION THAT THE PERSON/TENDERER WILL NOT ENGAGE IN ANY CORRUPT OR FRAUDULENT PRACTICE.**

I, ..... of P. O. Box ..... being a resident of..... in the Republic of ..... do hereby make a statement as follows: -

1. THAT I am the Chief Executive/Managing Director/Principal Officer/Director of .....  
..... (insert name of the Company) who is a Bidder in respect of **Tender No. KEBS/T003/2020/2021** for Provision of Vmware Upgrades and Support Services and duly authorized and competent to make this statement.
2. THAT the aforesaid Bidder, its servants and/or agents /subcontractors will not engage in any corrupt or fraudulent practice and has not been requested to pay any inducement to any member of the Board, Management, Staff and/or employees and/or agents of the **KEBS** which is the procuring entity.
4. THAT the aforesaid Bidder will not engage /has not engaged in any corrosive practice with other bidders participating in the subject tender
5. THAT what is deponed to hereinabove is true to the best of my knowledge information and belief.

.....

**(Title) (Signature)**

**(Date)**

**Bidder's Official Stamp**



## 10: NON-DEBARMENT DECLARATION

We (insert the name of the company/  
supplier).....declares and guarantees that no director  
or any person who has any controlling interest in  
our organization has been debarred from participating in a procurement proceeding.

**Name.....Signature.....**

**Date.....**

**Company Seal/Business Stamp**