



**CENTRE FOR MATHEMATICS, SCIENCE AND TECHNOLOGY
EDUCATION IN AFRICA (CEMASTEА)**

TENDER DOCUMENT

FOR

SUPPLY AND DELIVERY OF BRANDED MINERAL WATER

TENDER NO. CEMASTEА/MW/18/2017

Karen-Bogani road Junction

P.O. Box 24214-00502

TEL: +254 020 2044406

NAIROBI, KENYA.

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NB: THIS TENDER IS OPEN TO GENERAL PUBLIC



ISO 9001:2015 CERTIFIED

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SECTION I – INVITATION TO TENDER

Date: 14/11/2017

Tender REF No. CEMASTEAMW/18/2017

- 1.1 CEMASTEAM invites sealed tenders from eligible candidates from among the firms for the provision of **SUPPLY AND DELIVERY OF BRANDED MINERAL WATER**
- 1.2 Interested eligible candidates may obtain further information and inspect the tender documents from CEMASTEAM Supply-Chain office, located at the junction of Karen-Bogani road, next to Blixen Museum during normal working hours.
- 1.3 A complete A complete tender document may be obtained by interested candidates upon payment of a Non-refundable fee of ksh1, 000/- in cash or bankers cheque payable to CEMASTEAM.
- 1.4 Prices quoted should be net inclusive of all taxes and delivery costs, must be expressed in Kenya shillings and shall remain valid for period of (120) days from the closing date of the tender.
- 1.5 Completed tender documents are to be enclosed in plain sealed envelopes, marked with the tender number and be deposited in the tender box provided outside the Administration Building at the Centre for Mathematics, Science and Technology Education in Africa or be addressed and posted to ‘The **Centre for Mathematics, Science and Technology Education in Africa, P.O. Box 24214-00502** so as to be received on or before 28th November, 2017.
- 1.6 Tenders will be opened immediately thereafter in the presence of the tenderers representatives who choose to attend the opening at Sugiyama Hall CEMASTEAM.

**THE DIRECTOR
CEMASTEAM
P.O Box 24214-00502
Karen, NAIROBI**

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SECTION II INSTRUCTIONS TO TENDERERS

2.1 Eligible tenderers

- 2.1.1. This Invitation to tender is open to the General Public as described in the instructions to tenderers. Successful tenderers shall provide the specified works 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 131 of the 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 This tender document is open to the general public as described in the relevant laws of Kenya and shall be issued upon payment of Ksh. 1000 in CEMASTEAS ACCOUNTS Office.
- 2.2.3 The procuring entity shall allow the tenderer to review the tender document free of charge.

2.3 Contents of tender documents

- 2.3.1. The tender document comprises of the documents listed below and addenda issued in accordance with clause 6 of these instructions to tenders
 - 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) Performance security 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, or email (and preferably a combination thereof) 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 fourteen (14) working 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, 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 **works** 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 works it proposes to provide under the contract.

2.9.2 Prices indicated on the Price Schedule shall be the cost of the works quoted including all customs duties and VAT and other taxes payable and shall be **within the existing market rates.**

- 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 15% 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.
- 2.9.7 No variations claims from the contractor shall be entertained if such claims were not communicated by the contractor to the procuring entity formally in writing and approvals (or otherwise) were subsequently communicated to the contractor in writing. Any monies or quantities of works under such ‘unauthorized variations’ shall be forfeited in favor of the procuring entity.**
- 2.10 Any disagreements relating to variations, which is likely to stall the works shall be a subject of resolution under PPOA, otherwise the contract shall stand terminated.**
- 2.11 Tender Currencies**
- 2.10.1 Prices shall be quoted in Kenya Shillings unless otherwise specified in the appendix in 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** in the 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, where applicable, shall be denominated in a Kenya Shillings or in another freely convertible currency and shall be in the form of **such insurance guarantee approved by the Authority (PPOA)**.
- 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**, 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 declared tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.29, and **furnishing the performance security declaration**, 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 nonresponsive.

2.13.2 In exceptional circumstances, the Procuring entity may extend the period of validity. The said extension shall be made in writing and communicated to the tenderers through post, emails or text messages. The tender security provided under paragraph 2.12 shall also be suitably extended. A tenderer may reject the extension without forfeiting its tender security.

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 un-amended 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**

28th November, 2017 at 11.00a.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 no later than **28th November, 2017 at 11.00am.**

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 (Procurement office, signed for delivery and then put in a locked enclosure until the date and hour of opening.

2.16.4 Each leaf of the tender document shall be systematically paginated, and all the leaves shall be ‘hard bound’ and any spiral bidding or other alternative loose binding of pages shall render the bid document non-responsive.

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 no 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, **at 11.00 a.m. on 28th November, 2017** and in the location specified in the invitation to tender. The tenderers’ representatives who are present shall sign a 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. **If there is an omitted amount on the part of the tenderer which has a less than 5% significance on the expected summation to the disadvantage of the tenderer, this will be considered to be a discounted sum in favor of the procuring entity, otherwise it will result in the rejection of the tenderer's tender and forfeiture of security.**
- 2.20.3 The Procuring entity may waive any minor informality or nonconformity or irregularity in a tender which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any tenderer.
- 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 works.

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 2.2.3 the following evaluation methods will be applied:

(a) ***Operational Plan.***

The Procuring entity requires that the works under the Invitation for Tenders shall be performed at the time specified in the Schedule of Requirements. **Tenderers who offer 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 **15 days** from the date of opening the tender and any increment of this duration shall be in accordance with the provisions under the procurement regulations.

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**

2.24.4 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.

2.24.5 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.
- (e) **Shall not be engaged in the provision of another similar work/s to the procuring entity for such an award is deemed to result into compromising on the quality of work/s expected. Further, firms with pending jobs with CEMASTE A need not apply.**

2.25. Procuring entity's Right to accept or Reject any or all Tenders

2.25.1 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.

2.25.2 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.

2.25.3 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.

2.26 Notification of award

2.26.1 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.

2.26.2 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.

- 2.26.3 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

2.27 Signing of Contract

- 2.27.1 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.
- 2.27.2 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.
- 2.27.3 The parties to the contract shall have it signed within 30 calendar days from the date of notification of contract award unless there is an administrative review request.

2.28 Performance Security

- 2.28.1 Within fifteen (15) 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.
- 2.28.2 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.

2.29 Corrupt or Fraudulent Practices

- 2.29.1 The Procuring entity requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts. A tenderer shall sign a declaration that he has not and will not be involved in corrupt or fraudulent practices.
- 2.29.2 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;
- 2.29.3 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 THE TENDERERS

Notes on the appendix to instruction 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

Tender Data Sheet Clause Number	Instruction to Tenderers Clause Number	Amendments of, and Supplements to, Clauses in the Instruction to tenderers
1	2.1.1	This invitation for tenders is open to general public
	2.2.2	The tender documents shall be issued upon payment of Ksh.1000 and downloaded for free from the CEMASTEА website.
	2.3.1	The tender document shall be read in conjunction with any addenda.
	2.4.1	<p>A prospective tenderer requiring any clarification of the tender document may notify CEMASTEА in writing or by post at the entity’s address:</p> <p>Director, CEMASTEА Karen-Bogani road Junction P.O. Box 24214-00502 TEL: +254 020 2044406 NAIROBI, KENYA. Email: dcemastea@gmail.com</p>
	2.6.3	The price quoted shall be in Kenya Shillings.
	2.7	<p>The tenderer shall provide a tender security of an amount not exceeding 2% of the tender price in the form of cash deposit or bankers cheque payable to Center for Mathematics, Science and Technology Education in Africa. Otherwise tender security declaration documents should be attached.</p> <p>The tender security shall be in the form of an Insurance guarantee from an Insurance Company.</p> <p>The tender security shall be forfeited;</p> <p>a) If the tenderer withdraws its tender during the period of tender validity as specified in clause 2.8 of the ITT.</p> <p>b) In the case of a successful tenderer , if the tenderer fails to pay the balance of the bid price within 20 days of award of tender and signing of contract.</p>
	2.8	Tenders shall remain valid for 150 days.
	2.11	<p>Tenders must be received by CEMASTEА at the following address and be deposited in the Tender Box located at CEMASTEА Administration office during normal working hours :</p> <p>Director, CEMASTEА Karen-Bogani road Junction P.O. Box 24214-00502 TEL: +254 020 2044406 NAIROBI, KENYA, so as to be received on or before TUESDAY 28th NOVEMBER 2017 at 11.00am</p>
2	2.15.1	<p>2.16 Evaluation and Comparison of tenders</p> <p>2.16.1 The procuring entity will examine the tenders to determine whether they are complete, whether any computation errors have been made, whether the required deposits have been furnished, whether documents have been properly signed and whether the tenders are</p>

	<p>Generally in order. After examination a tender that will be determined to be substantially non-responsive will be rejected by the procuring entity. Other evaluation parameters are as specified in the TDS.</p> <p>2.16.2 The procuring entity will evaluate and compare the tenders which have been determined to be substantially responsive.</p> <p>2.16.3 The tender evaluation committee shall evaluate the tender within 15 days (but where the time is extended, within 30 days following the date of such an extension) of the validity period from the date of opening the tenders.</p> <p>2.16.4 Any amount indicated on the Bill of Quantities as ‘allow a sum of...’ shall only be payable to the winning contractor upon submission of valid transactional receipts with accompanying ETRs (where applicable) to the procuring entity as support to the claim. Subsequently, the transactional receipts for these shall be presented for payment separately and after the works, to the Procuring entity.</p> <p>Evaluation Criteria</p> <p>The following requirements must be met by the tenderer notwithstanding other requirements in the tender documents:-</p>
--	--

a) Mandatory Requirements		
No.	Requirements	Responsive/or Not-Responsive
MR1	Must submit a valid certified copy of certification of Registration (in accordance with the provisions of the registration of Business Names Act).	
MR2	Must Submit a tender security	
MR3	Must submit a valid certified copy of the current Business permit from relevant Government Authority	
MR4	A valid certified copy of the tax compliance	
MR5	The bid documents to be systematically paginated, with pages ‘hard-bound’ –no use of spiral binders.	
MR6	Must provide details of physical address, clear email, phone contacts	
MR7	Must fill, sign and stamp the price schedule in the format provided.	
MR8	Must fill, sign and stamp the form of tender in the format provided.	
MR9	Must not be having pending/incomplete similar jobs with CEMASTE.A.	
MR10	Provide a Non-debarment statement.	
MR11	Must submit a duly filled up confidential business questionnaire in the format provided.	
MR12	Must submit a valid certified certificate FROM Kenya Bureau of standards (KEBS)	
MR13	Must submit valid certified Tax compliance Certificate.	

	<ul style="list-style-type: none"> ❖ Certification must be by a commissioner of oath. ❖ Submission of false information shall lead to automatic disqualification <p>NB: Bidders must meet all the mandatory requirements to qualify for technical</p>
--	--

evaluation. Bidders who do not meet the mandatory requirements will not proceed to the technical evaluation stage and will be adjudged unresponsive.

b) Technical Scores

This section (Technical Evaluation) will be marked out of 70 and will determine the technical score (TS)

No.	Evaluation Attribute	Weighting Score	Max. Score
T.S.1	Provide a list of clients and references to which the company has done similar works in the last three (2) years)	<ul style="list-style-type: none"> • 5 clients with reference letters – 20 marks • Others prorated at: Number of clients x 20 10 	20
T.S.2	Level of qualification of the directors of the company	<ul style="list-style-type: none"> • Degree level and above – 10 marks • One levels – 5 marks 	10
T.S.3	Provide details of any relevant certifications and/or trainings. Such certifications/trainings may be for your company or for your individual staff as relevant to providing supply and delivery of bottled water.... Attach Evidence	<ul style="list-style-type: none"> • Details of at least 3 certifications and/or trainings with proof – 10 marks • Other prorated at: Number of certifications and/or trainings x 10 3 	10
T.S.4	Physical facilities <ul style="list-style-type: none"> • Provide details of physical address , email address and mobile number – attach Evidence 	<ul style="list-style-type: none"> • Details of physical address and contacts with copy of title, lease document or latest utility bill. 	10
T.S.5	Work Program/Operation Plan/Schedule of works.	Provide details	10
T.S.6	Organization Structure	Give structure with details of responsibilities.	10
		TOTAL	70

Only bidders who score 50Points and above will be subjected to financial evaluation. Those who score below 50 Points will be eliminated at this stage from the entire evaluation process and will not be considered further.

	<p>c) <u>Financial Score (FS)</u> The formulae for determining the Financial Score (FS) shall be as follows:-</p> <p>FS = 100 X FM/F; Where FS is the Financial Score; FM is the lowest priced bidder and F is the price of the bidder under consideration.</p> <p>d) <u>Combined Technical and Financial Scores (S)</u> Bidders will be ranked according to their combined technical (TS) and Financial (FS) Scores using the weights (T=the weight given to the Technical Proposal: P= the weight given to the Financial Proposal; T + P=1) Indicated below. The combined Technical and Financial Score, S, shall be calculated as follows:-</p> <p>S= (TS x T%) + (FS x P%)</p> <p>Weighting</p> <p>T = 0.70 P = 0.30</p>
2.24	Particulars of post-pre-qualification if applicable. CEMASTE A may inspect the premises and confirm details.
2.24.4	Award criteria: The firm achieving the highest combined technical and financial score will be awarded the contract.
2.27	Particulars of performance security if applicable shall be 5% of the contract sum.
Others as necessary	None

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 works” means works 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 works provided under this Contract shall conform to the 7 standards mentioned in the Schedule of requirements

3.4 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 .

3.5 Performance Security

Within twenty eight (28) 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.

- 3.5.2 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.

- 3.5.3 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 **such insurance guarantee approved by the Authority.**

- 3.5.4 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 works 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 works fail to conform to the Specifications, the Procuring entity may reject the services, and the tenderer shall either replace the rejected works 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
- 3.8.2 Payment shall be made promptly by the Procuring entity, but in no case later than sixty (60) days after submission of an invoice or claim by the contractor

3.9 **Prices**

- 3.9.1 Prices charged by the contractor for works 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.
- 3.9.2 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)
- 3.9.3 Where contract price variation is allowed the variation shall not exceed 15% of the original contract price
- 3.9.4 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.

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.

3.11 **Termination for Default**

3.11.1 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.

3.11.2 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 any time 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 an agreed amount for partially completed services.

3.14 Resolution of disputes

The procuring entity 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 contractor 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 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 AND DESCRIPTION OF SERVICES

- 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
3.5	Specify performance security if applicable: 5% of contract sum.
3.7	Specify method of payments: Payments to be made on completion of the works or on phase basis before or after the services have been rendered as may be agreed in writing.
3.8	Specify price adjustments allowed; None within a year following the date of award of job/otherwise not more than 15%
3.14	Specify resolutions of disputes. Disputes shall be settled as per the Arbitration laws of Kenya.
3.16	Specify applicable law. Laws of Kenya
3.17	Indicate addresses of both parties. Client: Centre For Mathematics, Science and Technology Education in Africa P.O. Box 24214-00502 Karen, Nairobi
2.16.4	Any amount indicated on the Bill of Quantities as ‘ allow a sum of... ’ shall only be payable to the winning contractor upon submission of valid transactional receipts with accompanying ETRs (where applicable) to the procuring entity as support to the claim. Subsequently, the transactional receipts for these shall be presented for payment separately and after the works, to the Procuring entity.

SECTION V - STANDARD FORMS

Notes on the standard Forms

1. **Form of tender** – The form of tender must be completed by the tenderer and submitted with the tender documents. It must also be duly authorized representatives of the tenderer.
2. **Price schedule Form** – The price schedule form must similarly be completed and submitted with the tender.
3. **Contract form**- The contract form shall not be completed by the tenderer at the time of submitting the tender. The contract form shall be completed after contract award and should incorporate the accepted contract price.
4. **Confidential Questionnaire form**- This form must be completed by the tenderer and submitted with the tender documents.
5. **Format of Tender security Instrument:** When required by tender document the tenderer shall provide the tender security in the form included hereinafter.
6. **Performance security form:** The performance security form should not be completed by the tenderer at the time of tender preparation. Only the successful tenderer will be required to provide performance security in the form provided herein or in another form acceptable to the procuring entity.
7. **List of clients:** The form is to be filled in the format provided.

4.1 FORM OF TENDER

Date _____

Tender No. **CEMASTEAMW/18/2017**

To: **The Director**

Centre for Mathematics, Science and Technology Education in Africa (CEMASTEAM)

P.O. Box 24214-00502

NAIROBI.

Sir/Madam:

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, 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 2 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.
6. We understand that you are not bound to accept the lowest or any tender you may receive.
7. We certify/confirm that we comply with the eligibility requirements as per ITT Clause 3 of the tender documents.

Dated this _____ day of _____ 20
[signature] *[In the capacity of]* Duly authorized to sign tender for and
on behalf of _____

VI. PRICE SCHEDULE OF SERVICES

NB: Tenderers are advised to visit the site and verify sizes and other details e.g Logo to determine the actual scope of the work.

Signature of tenderer _____

NOTE:

- **In case of discrepancy between unit price and total, the unit price shall prevail.**

VII. 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 materials and spares. Viz.....[brief description of materials and spares] and has accepted a tender by the tenderer for the supply of those materials and spares in the sum of[contract price in words and figures]

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 materials and spares 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 materials and spares 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.
- 5. The amounts payable as stated in this contract shall not be varied unless such a variation is formally communicated to CEMASTEIA Director for consideration. Such a variation shall however not be considered within the first year following the date of signing this contract. CEMASTEIA has a right to reject any sought variation without giving a reason.

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_____.

4.4 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 Nature of Business Registration Certificate No. Maximum value of business which you can handle at any one time – Kshs. Name of your bankers Branch			
Part 2 (a) – Sole Proprietor			
Your name in full.....Age..... Nationality.....Country of Origin..... Citizenship details			
Part 2 (b) – Partnership Given details of partners as follows			
	Name	Nationality	Citizenship details
1.	.....	.....	.....
2.	.....	.....	.....
3.	.....	.....	.....
4.	.....	.....	.....
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			
1.	.....	.....	.....
2.	.....	.....	.....
3.	.....	.....	.....
4.	.....	.....	.....
Date.....Signature of Candidate.....			

4.5 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 the 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 services](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]

(Amend accordingly if provided by Insurance Company)

7. List of clients

Indicate the details of companies in the private /public sector where you have undertaken/are undertaking services of similar nature.

NO.	Contact Information	Details
1.	Name of company	
	Name of the contact	
	person Designation	
	Telephone Number	
	e-mail address	
	Contract amount (kshs. per month)	
2.	Name of company	
	Name of the contact	
	person Designation	
	Telephone Number	
	e-mail address	
	Contract amount (kshs. per month)	
3.	Name of company	
	Name of the contact	
	person Designation	
	Telephone Number	
	e-mail address	
	Contract amount (ksh. per month)	

ENSURE THAT YOU HAVE PROVIDED REFERENCE LETTERS FOR ALL THE ABOVE ORGANIZATIONS

8. BANK/OR INSURANCE GUARANTEE FOR ADVANCE PAYMENT

To.....

[name of tender].....

Gentlemen and/or Ladies:

In accordance with the payment provision included in the special conditions of contract, which amends the general conditions of contract to provide for advance payment,

.....

[name and address of tenderer][hereinafter called "the tenderer"] shall deposit with the Procuring entity a bank guarantee to guarantee its proper and faithful performance under the said clause of the contract in an amount of

[amount of guarantee in figures and words].

We, the

[bank or financial institution], as instructed by the tenderer, agree unconditionally and irrevocably to guarantee as primary obligator and not as surety merely, the payment to the Procuring entity on its first demand without whatsoever right of objection on our part and without its first claim to the tenderer, in the amount not exceeding

[amount of guarantee in figures and words].

We further agree that no change or addition to or other modification of the terms of the Contract to be performed thereunder or of any of the Contract documents which may be made between the Procuring entity and the tenderer, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition, or modification.

This guarantee shall remain valid and in full effect from the date of the advance payment received by the tenderer under the Contract until *[date]*.

Yours truly,

Signature and seal of the Guarantors _____

[name of bank or financial institution]

[address]

[date]

9. 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 OFFICER

No	Item description	Unit Price (VAT Inclusive)
1	Branded CEMASTEAMINERAL water 500ml * 24Pcs (Quote per bale)	
2	Branded CEMASTEAMINERAL water 18.9L	