



KENYA ELECTRICITY GENERATING PLC

KGN-HYD (TANA)-03-2018

**PRE-QUALIFICATION FOR MACHINING SERVICES
OPEN NATIONAL CITIZEN CONTRACTORS**

**Kenya Electricity Generating PLC.
Stima Plaza Phase II, Kolobot Road
Parklands
P.O. Box 47936, 00100
Nairobi, Kenya
Website: www.kengen.co.ke**

December, 2018

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SECTION A: INVITATION TO TENDER

The Company invites sealed tender for **Pre-qualification of machining services for a period of two (2) years** whose specifications are detailed in this Tender Document. You may obtain further information from, the office of;

Supply Chain Director

Tel: (254) (020) 3666000

Fax: (254) (020) 3666200

Email: tenders@kengen.co.ke

Complete bid documents must be submitted in a plain sealed envelope and marked “**PRE-QUALIFICATION FOR MACHINING SERVICES**” and addressed to:

Company Secretary & Legal Affairs Director,
Kenya Electricity Generating PLC,
10th Floor Pension Plaza Phase II, Kolobot Road Parklands,
P.O. Box 47936 – 00100,
NAIROBI.

Tenders must be received on or before: **22ND January 2019 at 2.00 p.m.**

Tenders shall be opened at **22ND January 2019 at 2.30 p.m.** in the presence of the tenderers' representatives who choose to attend at the KenGen Pension Plaza II, Tender Opening Room, Ground Floor

KenGen adheres to high standards of integrity in its business operations. Report any unethical behaviour immediately to any of the provided anonymous hotline service.

- 1) Call Toll Free: 0800722626;
- 2) Free - Fax: 00800 007788;
- 3) Email: kengen@tip-offs.com
- 4) Website: www.tip-offs.com

SUPPLY CHAIN DIRECTOR

SECTION B: GENERAL INFORMATION

Introduction

1. Eligible Tenderers

1.1 This Invitation for Tenders is open to all tenderers eligible as described in the tender document. Successful tenderers shall complete the tender for goods by the stipulated duration from the date of commencement (hereinafter referred to as the term) specified in the tender document.

1.2 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 KenGen to provide consulting services for the preparation of the design, specifications, and other document to be used for the procurement of the goods under this Invitation for tender.

1.3 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices.

2. Cost of Tendering

2.1 The Tenderer shall bear all costs associated with the preparation and submission of its tender, and Kenya Electricity Generating PLC (KenGen), will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.

The Tender Document

3 Contents

3.1 The tender document comprises the document listed below and addenda issued in accordance with Clause 6 of the instructions to tenderers.

- (a) Invitation for Tenders
- (b) General Information
- (c) General Conditions of Contract
- (d) Special Conditions of Contract
- (e) Technical Specifications
- (f) Schedule of Requirements and price schedules
- (g) Tender Form
- (h) Tender Security Form
- (i) Contract Form
- (j) Performance Security Form

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

4. Clarification of Tender Document

4.1 A prospective tenderer requiring any clarification of the tender document may notify Procurement Entity in writing or facsimile at our address indicated in the Invitation for Tenders. Procurement Entity will respond in writing to any request for clarification of the tender documents, which it receives seven (7) days prior to the deadline for the submission of tenders. Written copies of Procuring Entity's response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective tenderers that have received the tender document.

5. Amendment of Tender Document

5.1 At any time prior to the deadline for submission of tenders, KenGen, for any reason, whether at its own initiative or in response to a clarification requested by a prospective tenderer, may modify the tender document by amendment.

5.2 All prospective tenderers that have received the tender document will be notified of the amendment in writing (email in PDF format or by facsimile), and will be binding on them.

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

Preparation of Tenders

6. Language of Tender

6.1 The tender prepared by the tenderer, as well as all correspondence and document relating to the tender exchanged by the tenderer and KenGen, shall be written in English. Supporting document and 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.

7. Documents Comprising the Tender

7.1 The tender prepared by the tenderer shall comprise the following components:

- (a) a Tender Form and a Price Schedule completed in accordance with Clauses 9, 10 and 11 below.
- (b) documentary evidence established in accordance with Clause 12 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;
- (c) documentary evidence established in accordance with Clause 13 that the goods to be supplied by the tenderer are eligible and conform to the tender document; and

8. Tender Form

- 8.1 The tenderer shall complete the Tender Form and the appropriate Price Schedule furnished in the tender document.
9. Tender Prices
 - 9.1 The tenderer shall indicate on the appropriate Price Schedule the unit prices and total tender price it proposes to supply under the contract.
 - 9.2 Prices indicated on the Price Schedule shall include all customs duties and sales and VAT and other taxes payable.
 - 9.3 Prices quoted by the tenderer shall be fixed during the tenderer's performance of the contract and not subject to variation on any account. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected.
10. Tender Currencies
 - 10.1 Prices shall be quoted in the following currencies:
 - (a) For goods that the tenderer will supply from within Kenya, the prices shall be quoted in Kenya shillings; and
 - (b) For goods that the tenderer will supply from outside Kenya, the prices shall be quoted in US dollars or in another freely convertible currency.
11. Tenderer's Eligibility and Qualifications.
 - 11.1 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.
 - 11.2 The documentary evidence of the tenderer's qualifications to perform the contract if its tender is accepted shall establish to KenGen's satisfaction:
 - (a) That the tenderer has the financial, technical, and production capability necessary to perform the contract.
12. Tender Security
 - 12.1 The tenderer shall furnish, as part of its tender, a tender security for the amount specified in the Appendix to Invitation to Tenderers.
 - 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.
 - 12.3 The tender security shall be denominated in Kenya Shillings or in another freely convertible currency and shall be in the form of an on-demand bank guarantee issued by a reputable bank located in Kenya or where the bank is located abroad, it must have a local correspondent bank.

The Tender Security may also be in the form of an on-demand guarantee issued by a reputable insurance company approved by the Authority and in the form provided in the tender documents or another form acceptable to the Procuring entity.

- 12.4 The tender security must be valid for at least thirty (30) days beyond the validity of the tender.
- 12.5 Any tender not secured in accordance with paragraph 13.3 and 13.4 will be rejected by the Procuring entity as non-responsive.
- 12.6 Unsuccessful Tenderer's tender 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.
- 12.7 The successful Tenderer's tender security will be discharged upon the tenderer signing the contract and furnishing the performance security.
13. Forfeiture of Tender Security
 - 13.1 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 or
 - (ii) to furnish performance security
14. Validity of Tenders
 - 14.1 Tenders shall remain valid for 120 days or as specified in the tender document after date of tender opening prescribed by KenGen. A tender valid for a shorter period shall be considered as non-responsive and shall be rejected by KenGen.
 - 14.2 In exceptional circumstances, KenGen 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 (email in PDF format or by facsimile). The tender security provided under Clause 14 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.
15. Format and Signing of Tender
 - 15.1 The tenderer shall prepare an original and two (2) 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.

- 15.2 The original and 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. The latter authorization shall be indicated by written power-of-attorney accompanying the tender. All pages of the tender, except for un-amended printed literature, shall be initialled by the person or persons signing the tender.
- 15.3 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 initialled by the person or persons signing the tender.

Submission of Tenders

16. Sealing and Marking of Tenders

16.1 The tenderer shall seal the original and 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.

16.2 The inner and outer envelopes shall:

(a) Be addressed to:

Company Secretary & Legal Affairs Director
Kenya Electricity Generating PLC
10th Floor, Pension Plaza, Phase II
Kolobot Road, Parklands
P.O. Box 47936-00100
NAIROBI

(b) Bear the words, “**PRE-QUALIFICATION FOR MACHINING SERVICES**” and “**DO NOT OPEN BEFORE 22ND January 2019 at 2.00 p.m.**”

16.3 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”.

16.4 If the outer envelope is not sealed and marked, KenGen will assume no responsibility for the tender’s misplacement or premature opening.

17. Deadline for Submission of Tenders

17.1 Tenders must be received by KenGen at the address specified no later than **22ND January 2019 at 2.00 p.m.**

17.2 KenGen may, at its discretion, extend this deadline for the submission of tenders by amending the tender document, in which case all rights and obligations of KenGen and tenderers previously subject to the deadline will thereafter be subject to the deadline as extended.

18. Modification and Withdrawal of Tenders

- 18.1 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 tenders, is received by KenGen prior to the deadline prescribed for submission of tenders.
- 18.2 The tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of Clause 17. A withdrawal notice may also be sent by facsimile, but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.
- 18.3 No tender will be modified after the deadline for submission of tenders.
- 18.4 No tender will 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.

Opening and Evaluation of Tenders

19. Opening of Tenders

- 19.1 KenGen will open all tenders in the presence of tenderers' representatives who choose to attend on **22ND January 2019 at 2.30 p.m.**

The tenderers' representatives who are present shall sign a register evidencing their attendance.

- 19.2 The tenderers' names, tender modifications or withdrawals, tender prices, discounts, and the presence or absence of requisite tender security and such other details as KenGen, at its discretion, may consider appropriate, will be announced at the opening.
- 19.3 KenGen will prepare minutes of the tender opening.

20. Clarification of Tenders

- 20.1 To assist in the examination, evaluation and comparison of tenders KenGen may, at its discretion, ask the tenderer for a clarification of its tender. The request for clarification and the response shall be in writing (email in PDF format or by facsimile), and no change in the prices or substance of the tender shall be sought, offered, or permitted. Any effort by the tenderer to influence KenGen in its decisions on tender evaluation, tender comparison or contract award may result in the rejection of the tenderers' tender.

21. Preliminary Examination

- 21.1 KenGen will examine the tenders to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the tenders are generally in order.

- 21.2 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 tenderer 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.
- 21.3 KenGen 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.
- 21.4 Prior to the detailed evaluation, KenGen will determine the substantial responsiveness of each tender to the tender document. For purposes of these paragraphs, a substantially responsive tender is one which conforms to all the terms and conditions of the tender document without material deviations. KenGen's determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.
- 21.5 If a tender is not substantially responsive, it will be rejected by KenGen and may not subsequently be made responsive by the tenderer by correction of the nonconformity.
22. Evaluation and Comparison of Tenders
- 22.1 KenGen will evaluate and compare the tenders, which have been determined to be substantially responsive.
- 22.2 KenGen's evaluation of a tender will exclude and not take into account any allowance for price adjustment during the period of execution of the contract, if provided in the tender.
- 22.4 KenGen's evaluation of a tender will take into account, in addition to the tender price and the price of incidental services, the following factors:
- (a) Work Plan proposed in the tender;
 - (b) Compliance with the technical specifications and special conditions
 - (c) Delivery period offered in the tender. The shortest delivery period shall be favourable to KenGen.
- 22.5 The following evaluation methods will be applied:
- (a) Delivery schedule.
- The Procuring entity requires that the goods under the Invitation for Tenders shall be delivered at the time specified in the Schedule of Requirements. Tenders offering deliveries 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 of 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.

23. Contacting KenGen

23.1 No tenderer shall contact KenGen on any matter relating to its tender, from the time of the tender opening to the time the contract is awarded.

23.2 Any effort by a tenderer to influence KenGen in its decisions on tender evaluation, tender comparison, or contract award may result in the rejection of the tenderer's tender.

Award of Contract

24. Post-qualification

24.1 In the absence of pre-qualification, KenGen 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.

24.2 The determination will take into account the tenderers financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the tenderers qualifications submitted by the tenderer, as well as such other information as KenGen deems necessary and appropriate.

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 KenGen will proceed to the next lowest evaluated tender to make a similar determination of that tenderer's capabilities to perform satisfactorily.

25. Award Criteria

25.1 KenGen will award the contract to the successful tenderer(s) 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 supply the goods or services which meet the technical specifications.

26. KenGen's Right to Vary Quantities

26.1 KenGen reserves the right at the time of contract award to increase or decrease the quantity of goods originally specified in the Schedule of Requirements without any change in unit price or other terms and conditions.

27. KenGen's Right to Accept or Reject Any or All Tenders

- 27.1 KenGen 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 its action.
28. Notification of Award
- 28.1 Prior to the expiration of the period of tender validity, KenGen will notify the successful tenderer in writing that its tender has been accepted.
- 28.2 Upon the successful tenderer's furnishing of the performance security, KenGen will promptly notify each unsuccessful tenderer and will discharge its tender security.
29. Signing of Contract
- 29.1 At the same time as KenGen notifies the successful tenderer that its tender has been accepted, KenGen will send the tenderer the Contract Form provided in the tender document, incorporating all agreements between the parties.
- 29.2 Within fifteen (15) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to KenGen.
30. Performance Security
- 30.1 Within fifteen (15) days of the receipt of notification of award from KenGen, the successful tenderer shall furnish the performance security in accordance with the Conditions of Contract, in the Performance Security Form provided in the tender document, or in another form acceptable to KenGen.
- 30.2 Failure of the successful tenderer to comply with the requirement of Clause 29 or Clause 30 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event KenGen may make the award to the next lowest evaluated tenderer or call for new tenders.
31. Corrupt or Fraudulent Practices
- 31.1 KenGen requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts. In pursuance of this policy, KenGen:-
- (a) defines, for the purposes of this provision, the terms set forth below as follows:
- (i) "corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
- (ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of KenGen, and includes collusive practice among tenderers (prior to or after tender submission) designed to establish tender

prices at artificial non- competitive levels and to deprive KenGen of the benefits of free and open competition;

- (b) 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;
 - (c) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded any contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a contract.
- 31.2 Furthermore, tenderers shall be aware of the provision stated in the General Conditions of Contract.

SECTION C: FURTHER INSTRUCTIONS TO TENDERERS

1. Introduction

KenGen will pre-qualify and enlist prospective firms for machining services who will be invited to from among those who will have submitted their tenders, in accordance with the tender requirements to undertake the assignments described herein for a period of 2 years.

Bidders are invited to submit a proposal for **Pre-Qualification of machining services for a period of two years**

The Pre-qualification document and the Tenderers response thereof shall be the basis for pre-qualification. Tenderers must familiarize themselves with the requirements described in this document including all attachments and take them into account while preparing their response.

It is KenGen's policy to require that Tenderers observe the highest standard of professional and moral ethics during the selection and execution of such contracts.

2. Evaluation Criteria

- 2.1 KenGen will examine the tenders to determine completeness, general orderliness and sufficiency in responsiveness.
- 2.2 Bidders shall not contact KenGen on the matter relating to their tender from the time of opening to the time the evaluation is finalized and official communication is sent to them. Any effort by the bidder to influence KenGen in the Tender evaluation shall result in the rejection of their tender.
- 2.3 Pre-qualification will be based on meeting the minimum criteria regarding the applicant's legal status, general and particular experience, personnel and technical expertise as demonstrated by the responses in the attached forms.
- 2.4 The applicants should have registered offices and KenGen reserves the discretion of visiting Physical premises from which the applicant conducts business if so desired to confirm existence and capability to deliver the said services.
- 2.5 Tenderers who qualify according to the selection criteria will be invited to submit their quotations for the machining services as and when required.
- 2.6 KenGen reserves the right to accept or reject any or all Tenders without the obligation to assign any reason (s) for its decision thereof.

3.0 Mandatory Requirements

Tenderers are required to meet the qualification criteria stipulated in the appendix to instruction to tenderers. Only tenders, which fulfill these requirements, will be considered for detailed technical evaluation.

Executive order no 2

As per executive order no 2. Effective 1st July 2018 all Public Procuring Entities shall maintain and continuously update and publicize through the website of the Public procuring Entity ,e-Citizen ,Public Procurement Regulatory Authority platforms, public notice boards and /official Government publications.

In compliance to the above the following list shall be **a mandatory requirement**:

- a. Name of supplier
- b. Registration details (ID/Registration/Incorporation Number)
- c. PIN Number
- d. List of directors, shareholders and beneficial owners(in case of a company)
- e. Name of proprietor (for sole proprietor and business name)
- f. Name of partners (for partnerships)
- g. Business contact information (Telephone and Email Address)
- h. Postal Address
- i. Physical address
- j. Tax compliance status
- k. Business permit /License number.
- l. County of operations

SECTION D: APPENDIX TO INSTRUCTION TO TENDERERS

The following information regarding the particulars of the tender shall complement supplement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provision 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.

Instruction Clause	Particulars of Appendix to Instructions to Tenderers
Eligibility	The tender is Open to Citizen Contractors
Clarification Request	Clarification period for bidders is not later than 5 days prior to tender closure. Clarification request should be sent to tenders@kengen.co.ke The client shall respond to clarification request not later than 3 days to tender closure. Bidders are advised to be checking KenGen website from time to time for any uploaded information on the tender.
Tender Security	Tender Security is not a requirement for this tender
Tender Validity	Tender validity shall be 120 days .
Tender Closing Date and Time	The tender closes on 22nd January 2019 at 2:00 p.m. and will be opened immediately thereafter in the presence of bidder representatives who choose to attend at Plaza II
Arithmetic Error	Arithmetical errors will NOT be rectified.
Submission	Bidders are advised to ensure Pagination/serialization of ALL pages of the submitted proposal document for both the original and the copies i.e. paginated/serialized every page in the whole document in a sequential manner, from the beginning of the document to the end. This includes ALL the attachments submitted by the bidder and all the pages already paginated by KenGen. Properly organize bid documents and use Thermal Binding
Submission	Number of copies to be submitted is One (1) Original and Two (2) Copies
Evaluation Criteria	
MANDATORY REQUIREMENTS	
	Tender Submission Form duly completed and signed-Section G
	Duly completed Mandatory Business Questionnaire- Section K
	Certified copy of the Certificate of Incorporation/Registration.
	Indicate ownership of workshop and location.
	List equipment to carry out indicated tasks stating their capacity and ratings e.g. Center
	Distance of head stock to tail stock, biggest job diameter for lathe machines etc.
	Indicate names and qualification of technical staff.
	Evidence of insurance taken.
	A copy of Certificate of Registration/Incorporation
	Three (3) letters of commendation from your corporate clients for similar services.
	List of clients and evidence of services to at least three (3) corporate clients (Attach
	Copies of four (3) Purchase orders and their completion certificates if letters not available)

	Evidence of physical address and premises. Attach copies of utility bills i.e. electricity/water.
	.

SCHEDULE OF EQUIPMENT IN THE TENDERERS WORKSHOP

(List equipment to carry out indicated tasks stating their capacity and ratings)

No.	<u>Scope (List of Task)</u>	Schedule of equipment (Per task)
1.	Fabrication of machine parts.	
2.	Foundry works.	
3.	Specialized welding such as MIG, TIG, special alloys and cold welding.	
4.	Machining of machine components.	
5.	Re-metalling of various type of bearings.	
6.	Static and dynamic balancing of machine parts.	
7.	Assembly of machine parts that require shrink fit.	
8.	Supply of special materials phosphorus bronze, Hardened rubber cup seals, Thordon SXL sheet for machining segmented shaft seal etc.	
	Cutting and finishing of special Hoses like hydraulic pipes, oil and petroleum hoses, air hoses , high pressure hoses	

SCHEDULE OF TECHNICAL STAFF

NO.	NAME OF STAFF	QUALIFICATION AND EXPERIENCE

SECTION E: GENERAL CONDITIONS OF CONTRACT

1. Definitions

1.1 In this Contract, the following terms shall be interpreted as indicated:

- (a) “The Contract” means the agreement entered into between KenGen 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 Supplier” means the individual or firm supplying the goods under this Contract.
- (d) “The Goods” means items described herewith which the Supplier is required to supply to KenGen under this Contract.

2. Application

2.1 These General Conditions shall apply in all Contracts made by KenGen for the procurement of the Goods.

3. Country of Origin

3.1 For purposes of this Clause, “origin” means the place where the Goods were manufactured or produced.

4. Standards

4.1 The Goods supplied under this Contract shall conform to the standards mentioned in the Technical Specifications.

5. Use of Contract Documents and Information

5.1 The Supplier shall not, without KenGen’s prior written consent, disclose the Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of KenGen in connection therewith, to any person other than a person employed by the tenderer in the performance of the Contract.

5.2 The Supplier shall not, without KenGen’s prior written consent, make use of any document or information enumerated in Clause 5.1 above.

5.3 Any document, other than the Contract itself, enumerated in Clause 5.1 shall remain the property of KenGen and shall be returned (all copies) to KenGen on completion of the Supplier’s performance obligations under the Contract if so required by KenGen.

6. Patent Rights

6.1 The tenderer shall indemnify KenGen against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods or any part thereof in Kenya.

7. Performance Security

7.1 Within fifteen (15) days of receipt of the notification of Contract award, the successful tenderer shall furnish to KenGen the performance security in the amount specified in Special Conditions of Contract.

7.2 The proceeds of the performance security shall be payable to KenGen as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.

7.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to KenGen and shall be in the form of a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in Kenya or abroad, acceptable to KenGen, in the form provided in the tender document.

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

8. Inspection and Tests

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

8.2 The inspections and tests may be conducted on the premises of the Supplier or its subcontractor(s), at point of delivery, and/or at the Goods' final destination. If conducted on the premises of the Supplier 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 KenGen.

8.3 Should any inspected or tested Goods fail to conform to the Specifications, KenGen may reject the Goods, and the Supplier shall either replace the rejected Goods or make alterations necessary to meet specification requirements free of cost to KenGen.

8.4 KenGen's right to inspect, test and, where necessary, reject the Goods after the Goods' arrival shall in no way be limited or waived by reason of the Goods having previously been inspected, tested, and passed by KenGen or its representative prior to the Goods' delivery.

8.4 Nothing in Clause 8 shall in any way release the Supplier from any warranty or other obligations under this Contract.

9 Packing

9.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract.

9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract.

10. Delivery and Documents

10.1 Delivery of the Goods shall be made by the Supplier in accordance with the terms specified by KenGen in its Schedule of Requirements, Technical Specifications and the Special Conditions of Contract.

11. Insurance

11.1 The Goods supplied under the Contract shall be fully insured against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery in the manner specified in the Special Conditions of Contract

12. Payment

12.1 The method and conditions of payment to be made to the Supplier under this Contract shall be specified in Special Conditions of Contract.

12.2 Payments shall be made promptly by KenGen as specified in the Contract.

13. Prices

13.1 Hire of Venue (Conference Package) Prices charged by the Supplier for Goods delivered under the Contract shall not, with the exception of any price adjustments authorized in Special Conditions of Contract, vary from the prices by the Supplier in its tender.

14. Assignment

14.1 The Supplier shall not assign, in whole or in part, its obligations to perform under this Contract, except with KenGen's prior written consent.

15. Subcontracts

15.1 The Supplier shall notify KenGen in writing of all subcontracts awarded under this Contract if not already specified in the tender. Such notification, in the original tender or later, shall not relieve the Supplier from any liability or obligation under the Contract.

16. Termination for Default

- 16.1 KenGen may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, terminate this Contract in whole or in part:
- (a) if the Supplier fails to deliver the Goods within the period(s) specified in the Contract, or within any extension thereof granted by KenGen.
 - (b) if the Supplier fails to perform any other obligation(s) under the Contract.
 - (c) if the Supplier, in the judgment of KenGen has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.
- 16.2 In the event KenGen terminates the Contract in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, Goods similar to those undelivered, and the Supplier shall be liable to KenGen for any excess costs for such Goods.
17. Liquidated Damages
- 17.1 If the Supplier fails to deliver the Goods within the period(s) specified in the Contract, KenGen shall, without prejudice to its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to 0.5% of the delivered price of the delayed Goods for each week of delay until actual delivery, up to a maximum deduction of 10% of the delivered price of the delayed Goods. After this KenGen may consider termination of the Contract.
18. Resolution of Disputes
- 18.1 KenGen and the Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.
- 18.2 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 formal mechanisms. These mechanisms include, but are not restricted to, conciliation by a third party, adjudication in an agreed national or international forum, and/or international arbitration.
19. Language and Law
- 19.1 The language of the Contract and the law governing the Contract shall be English language and the Laws of Kenya respectively unless otherwise stated.
20. Force Majeure
- 20.1 The Supplier 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.

21. “Taxes” means all present and future taxes, levies, duties, charges, assessments, deductions or withholdings whatsoever, including any interest thereon, and any penalties and fines with respect thereto, wherever imposed, levied, collected, or withheld pursuant to any regulation having the force of law and “Taxation” shall be construed accordingly.
- 22 Local Taxation
- 22.1 Nothing in the Contract shall relieve the Contractor and/or his Sub-Contractors from their responsibility to pay any taxes, statutory contributions and levies that may be levied on them in Kenya in respect of the Contract. The Contract Price shall include all applicable taxes and shall not be adjusted for any of these taxes.
- 22.2 The Contractor shall be deemed to be familiar with the tax laws in the Employer's Country and satisfied themselves with the requirements for all taxes, statutory contributions and duties to which they may be subjected during the term of the Contract.
- 22.3 In instances where discussions are held between the Employer and the Contractor regarding tax matters, this shall not be deemed to constitute competent advice and hence does not absolve the Contractor of their responsibility in relation to due diligence on the tax issue as above.
- 23 Tax Deduction
- 23.1 If the Employer is required to make a tax deduction by Law, then the deduction shall be made from payments due to the Contractor and paid directly to the Kenya Revenue Authority. The Employer shall upon remitting the tax to Kenya Revenue Authority furnish the Contractor with the relevant tax deduction certificates.
- 23.2 Where the Contractor is paid directly by the Financiers and the Employer is not able to deduct tax, then the Contractor will be required to pay the tax deduction to Kenya Revenue Authority in the name of the Employer and furnish the Employer with an original receipt thereof as evidence of such payment. In absence of the said evidence, the Employer will not process any subsequent payments to the Contractor.
- 24 Tax Indemnity
- 24.1 The Contractor shall indemnify and hold the Employer harmless from and against any and all liabilities, which the Employer may incur for any reason of failure by the Contractor to comply with any tax laws arising from the execution of the Contract whether during the term of the Contract or after its expiry.
- 24.2 The Contractor warrants to pay the Employer (within fourteen (14) days of demand by the Employer), an amount equal to the loss, liability or cost which the Employer determines has been (directly or indirectly) suffered by the Employer for or on account of the Contractor’s Tax liability arising from the Contract.
- 24.3 Where the amount in above remains unpaid after the end of the fourteen (14) days moratorium, the Employer shall be entitled to compensation for financing charges.

SECTION F: SPECIAL CONDITIONS OF CONTRACT

1. Application

The following Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, the provisions herein shall prevail over those in the General Conditions of Contract.

2. Definitions

The Purchaser is Kenya Electricity Generating PLC of Stima Plaza, Kolobot Road, Parklands, and P.O. Box 47936 - 00100 GPO, Nairobi. Kenya and includes its legal representatives, successors or assigns.

3. Notices:

For the Purchaser:

The Company Secretary & Legal Affairs Director,
Kenya Electricity Generating PLC,
Pension Plaza II, Kolobot Road, Parklands
P.O. Box 47936-00100- NAIROBI
TEL: 3666706; FAX (254) (020) 3666200

7. Performance Security

7.1 Performance security shall not be furnished

10. Prices

The Prices quoted in the Price & Schedule of Requirements should be inclusive of all applicable costs and taxes plus VAT.

11. Payment Terms & Conditions

The credit period shall be:-

11.1 (a) Kenya Electricity Generating Company's payment terms are 30 days upon receipt of certified invoices and delivery notes confirming that the invoiced material/services has been delivered and is in accordance with the contract.

(b) Advance Payment

Advance Payment is not applicable.

12. Prices

Prices shall be fixed during the Supplier's performance of the Contract and not subject to variation on any account.

13. You must be prepared to accept new material and or changes as production work progresses if it becomes absolutely necessary. This will, however, be kept to a minimum as much as possible and your understanding on this will be important.
14. This is an important document that reflects on our corporate Image and high quality of all production processes must be ensured. We reserve the right to reject any work done not to our standard and -specifications.
15. Confidentiality

Information relating to evaluation of Tenders and recommendations concerning pre-qualification shall not be disclosed to the Tenderers until the pre-qualified firms have been advised accordingly.

16. Litigation

Applicants must disclose any current litigation involving the firm.

17. Past Performance

KenGen shall take into consideration previous past claims. The factors to be considered shall include failure to satisfactorily conclude claims to satisfy agreed performance benchmarks, payment done outside the agreed SLAs, and arbitrary rejection of disputed claims, and adherence to the previous terms of reference whilst on Contract.

18. Verification of Information

KenGen reserves the right to verify any information provided by prospective bidders as a Qualification for consideration for machining services

SECTION F: TENDER SUBMISSION FORM

To: Company Secretary & Legal Affairs Director
Kenya Electricity Generating PLC
Pension Plaza II, 10th Floor, Kolobot Road, Parklands
P.O. Box 47936 – 00100, GPO
NAIROBI, KENYA
FAX: 254-2-248848

Dear Madam/Sir,

We, the undersigned, hereby submit our proposal for *Machining services* in accordance with your Request for *machining services*, and we hereby submit our Tender Document.

Our Tender is binding to us and if found acceptable we shall be pleased to be included in the list of pre-qualified firms.

We understand you are not bound to accept any tender you receive.

We remain

Yours sincerely,

Authorized Signature:

Name and Title of Signatory:

Name of Tenderer:

Address:

SECTION G: ANTI CORRUPTION DECLARATION FORM

Date:

To: Company Secretary & Legal Affairs Director
Kenya Electricity Generating PLC
Pension Plaza II, 10th Floor Kolobot Road, Parklands
P.O. Box 47936 – 00100, GPO
NAIROBI, KENYA

Ladies and Gentlemen,

The Tenderer Full Name:
Complete Physical and Postal Address
.....

Declare the following: -

- a) That I/ We have not been debarred from participating in public procurement by anybody, institution or person.
- b) That I/ We have not been involved in and will not be involved in corrupt and fraudulent practices regarding public procurement anywhere.
- c) That I/ We are not 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) That I/ We are not associated with any other tenderer participating in this Tender.
- e) That I/We do hereby confirm that all the information given in this tender is accurate, factual and true to the best of our knowledge.

Yours sincerely,

.....
Name of Tenderer

.....
Signature of duly authorized person signing the Tender

.....
Name and Capacity of duly authorized person signing the Tender

Stamp or Seal of Tenderer

SECTION H: MANDATORY CONFIDENTIAL BUSINESS QUESTIONNAIRE
(Must be filled by all applicants or tenderers' who choose to participate in this tender)

Name of Applicant(s)

.....

You are requested to give the particulars in Part 1 and either Part 2 (a), 2 (b) or 2 (c), whichever applies to your type of business. Part 2 (d) to part 2(i) must be filled. You are advised that it is a serious offence to give false information on this Form.

Part 1 – General

Business Name:
 Certificate of Incorporation/ Registration No.
 Location of business premises: Country
 Physical address..... Town
 Building..... Floor.....
 Plot No. Street/Road
 Postal Address..... Postal/ Country Code.....
 Telephone No's..... Fax No's.
 E-mail address
 Website
 Contact Person (*Full Names*) Direct / Mobile No's.
 Title.....Power of Attorney
 Nature of Business (*Indicate whether manufacturer, distributor, etc*)

(Applicable to Local suppliers only)

Local Authority Trading License No. Expiry Date
 Value Added Tax No:

Maximum value of business which you can handle at any time (**KShs.**)
 Name (s) of your banker (s)
 Branches Tel No's.

Part 2 (a) – Sole Proprietor

Full names
 Nationality Country of Origin
 *Citizenship details
 Company Profile (*Attach brochures or annual reports in case of public companies*)

Part 2 (b) – Partnerships

Give details of partners as follows:

<u>Full Names</u>	<u>Nationality</u>	<u>Citizenship Details</u>	<u>Shares</u>
1.
2.
3.
4.

Company Profile (*Attach brochures*)

Part 2 (c) – Registered Company

Private or public Company Profile (*Attach brochures or annual reports in case of public companies*)

State the nominal and issued capital of the Company

Nominal KShs

Issued KShs

List of top ten (10) shareholders and distribution of shareholding in the company.

Give details of all directors as follows:-

<u>Full Names</u>	<u>Nationality</u>	<u>Citizenship Details</u>	<u>Shares</u>
1.
2.
3.
4.

Part 2 (d) – Debarment

I/We declare that I/We have not been debarred from any procurement process and shall not engage in any fraudulent or corrupt acts with regard to this or any other tender by KenGen.

Full Names

Signature

Dated this day of201__

In the capacity of

Duly authorized to sign Tender for and on behalf of

Part 2(h) – Experience

Please list here below similar projects accomplished or companies / clients you have supplied with similar items or equipment in the last two (2) years.

<u>Company Name</u>	<u>Country</u>	<u>Contract/ Order No.</u>	<u>Value</u>
1.
2.
3.
4.

*Attach proof of citizenship

* Attach copies of the documents as requested in Clause 6, Section III

Part 2 (i) – Declaration

I / We, the undersigned state and declare that the above information is correct and that I / We give Kenya Electricity Generating Company Plc authority to seek any other references concerning my / our company from whatever sources deemed relevant, e.g. Office of the Registrar of Companies, Bankers, etc.

Full names

Signature

For and on behalf of

In the capacity of

Dated this day of20__

Suppliers' / Company's Official Rubber Stamp