



# **KenGen**

**KENYA ELECTRICITY GENERATING COMPANY LIMITED**

**KGN-ICT-10-2018**

**TENDER FOR PROVISION OF 20MBPS INTERNET  
SERVICE LINK FOR KIPEVU POWER STATION**

**Kenya Electricity Generating Company Limited  
Stima Plaza Phase III, Kolobot Road, Parklands  
P.O. BOX 47936-00100  
NAIROBI.**

**Website: [www.kengen.co.ke](http://www.kengen.co.ke)**

**MAY 2018**

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## SECTION I

### INVITATION TO TENDER

The Company invites sealed tenders from eligible candidates to tender **FOR PROVISION OF 20 MBPS INTERNET SERVICE LINK FOR KIPEVU POWER STATION** whose specifications are detailed in the Tender Document.

Interested eligible candidates may obtain further information during official working hours starting at the date of advert at the office of:

Supply Chain Director

Tel: (254) (020) 3666000

Email: [tenders@kengen.co.ke](mailto:tenders@kengen.co.ke); [cc\\_zoriko@kengen.co.ke](mailto:cc_zoriko@kengen.co.ke); [jrop@kengen.co.ke](mailto:jrop@kengen.co.ke)

You may obtain further information from the office of the **Supply Chain Director**, Tel: (254) (020) 3666230. Email: [tenders@kengen.co.ke](mailto:tenders@kengen.co.ke); [eprocurement@kengen.co.ke](mailto:eprocurement@kengen.co.ke)

Tender documents detailing the requirements may be obtained from the KenGen E- Procurement Portal found on KenGen's website ([www.kengen.co.ke](http://www.kengen.co.ke))

Tenders must be submitted online on or before **28<sup>th</sup> June 2018 at 2.00PM**. Unless otherwise stated, tenders MUST be accompanied by a **SECURITY** in the format and amount specified in the tender documents. The original **security/bid bond** must be dropped at Supply Chain office Ground Floor Stima Plaza Phase III before the submission deadline.

**There will be a mandatory site on 13<sup>th</sup> June 2018 at 10.00am at Kipevu Power Station - Mombasa**

Tenders will be opened **online** on: **28<sup>th</sup> June 2018 at 2.30PM** in the presence of tenderers' representative who choose to attend at the KenGen Pension Plaza 2, Tender Opening Room, Ground Floor.

*KenGen adheres to high standards of integrity in its business operations.*

*Report any unethical behavior 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](mailto:kengen@tip-offs.com)*
- 4) *Website: [www.tip-offs.com](http://www.tip-offs.com)*

Bidders are advised from time to time to be checking the website and E- Procurement portal for any uploaded further information on this tender.

# **SUPPLY CHAIN DIRECTOR**

## **SECTION II**

### **INSTRUCTIONS TO TENDERERS**

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**2.1 Eligible tenderers**

- 2.1.1. This Invitation to tender is open to all tenderers eligible as described in the instructions to tenderers. Successful tenderers shall provide the services for the stipulated duration from the **date** of commencement (hereinafter referred to as the term) specified in the tender documents.
- 2.1.2. The procuring entity’s employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender unless where specially allowed under section 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 The price to be charged for the tender document shall not exceed Kshs.1,000/=. Where the tenderers download documents from KenGen website, there shall be no cost.
- 2.2.3 The procuring entity shall allow the tenderer to review the tender document free of charge before purchase.

**2.4 The Tender documents**

- 2.4.1. 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)  
Tender security form
- xi) Performance security form

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

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

## **2.5 Amendment of documents**

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

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

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

## **2.6 Language of tender**

2.6.1. The tender prepared by the tenderer, as well as all correspondence and documents relating to the tender exchanged by the tenderer and the Procuring entity, shall be written in English language. Any printed literature furnished by the tenderer may be written in another language provided they are accompanied by an accurate English

translation of the relevant passages in which case, for purposes of interpretation of the tender, the English translation shall govern.

## **2.7 Documents Comprising the Tender**

The tender prepared by the tenderer shall comprise the following Components:

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

## **2.8 Form of Tender**

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

## **2.9 Tender Prices**

2.9.1 The tenderer shall indicate on the Price schedule the unit prices where applicable and total tender prices of the services it proposes to provide under the contract.

2.9.2 Prices indicated on the Price Schedule shall be the cost of the services quoted including all customs duties and VAT and other taxes payable:

2.9.3 Prices quoted **by** the tenderer shall remain fixed during the term of the contract unless otherwise agreed by the parties. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.22.

2.9.4 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)

2.9.5 Where contract price variation is allowed, the variation shall not exceed 25% of the original contract price.

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

## **2.10 Tender Currencies**



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

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

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

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

## **2.12 Tender Security**

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

2.12.2 The tender security shall be in the amount not exceeding **0.5 – 2 per cent of the tender price. (Indicate Specific Amount)**

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

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

- a) A bank guarantee.
- b) Such insurance guarantee approved by the Public Procurement Oversight Authority.

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

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

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

2.12.7 The tender security may be forfeited:

- (a) If a tenderer **withdraws** its tender **during** the period of tender validity specified

by the procuring entity on the Tender Form;

or

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

(i) To sign the contract in accordance with paragraph 30

**Or**

(ii) To furnish performance security in accordance with paragraph 31.

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

## **2.13 Validity of Tenders**

2.13.1 Tenders shall remain valid for **Ninety (90) 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 solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The tender security provided under paragraph 2.12 shall also be suitably extended. A tenderer may refuse the request without forfeiting its tender security. A tenderer granting the request will not be required nor permitted to modify its tender.

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

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

2.14.2 The original and all copies of the tender shall be typed or written in indelible ink and shall be signed by the tenderer or a person or persons duly authorized to bind the tenderer to the contract. All pages of the tender, except for 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 **28<sup>th</sup> June 2018 at 2.00PM,**”

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 **28<sup>th</sup> June 2018 at 2.30PM**

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.

## **2.17 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 email, but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.

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

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

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

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

## **2.18 Opening of Tenders**

2.18.1 The Procuring entity will open all tenders in the presence of tenderers' representatives who choose to attend, at **28<sup>th</sup> June 2018 at 2.30PM** 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.

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 services.

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

(a) Operational plan proposed in the tender;

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

2.22.4 Pursuant to paragraph 2.2.3 the following evaluation methods will be applied:

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

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

### (b) ***Deviation in payment schedule.***

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

2.22.5 The tender evaluation committee shall evaluate the tender within fifteen (15) days from the date of opening the tender.

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

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

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

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

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

### **2.24 Award of Contract**

#### **a) Post qualification**

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

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

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

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

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

2.24.4 The procuring entity reserves the right to accept or reject any tender and to annul the

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

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

## 2.25 **Notification of award**

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

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

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

## 2.26 **Signing of Contract**

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

2.26.2 Within **fifteen (15) days** of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to the Procuring entity.

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

## 2.27 **Performance Security**

2.27.1 Within **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.

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

## 2.28 **Corrupt or Fraudulent Practices**

- 2.28.1 The Procuring entity requires that tenderers observe the highest standard of ethics during 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.
- 2.28.2 The procuring entity will reject a proposal for award if it determines that the tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;
- 2.28.3 Further, a tenderer who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in public procurement in Kenya.



## Appendix to instructions to tenderers

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

Clause No	Instructions to tenderers	Particulars of appendix to instructions to tenderers
<b>2.1</b>	<b>Tenderers Eligibility and Qualifications.</b>	Only Registered National suppliers are eligible
<b>2.4</b>	<b>Clarification of Documents</b>	Bidders should send clarification request to <a href="mailto:tenders@kengen.co.ke">tenders@kengen.co.ke</a> and copy to <a href="mailto:zoriko@kengen.co.ke">zoriko@kengen.co.ke</a> and must be received at least 5days prior to tender closure. The employer will upload all the clarifications/addendum on the website
<b>2.2.2</b>	The price to be charged for the tender document shall not exceed Kshs.1,000/=. Where the tenderers download documents from KenGen website, there shall be no cost.	This is an online tender, the soft copy to be downloaded free of charge
<b>2.2.3</b>	The procuring entity shall allow the tenderer to review the tender document free of charge before purchase.	Not applicable as this is an online document
<b>2.4.1.</b>	A prospective candidate making inquiries of the tender document may notify the Procuring entity in writing or by email at the entity's address indicated in the Invitation for tenders. The Procuring entity will respond in writing to any request for clarification of the tender documents, which it receives no later than seven (7) days prior to the deadline for the submission of tenders, prescribed by the procuring entity. Written copies of the Procuring entities response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective	Bidders should send clarification request to <a href="mailto:tenders@kengen.co.ke">tenders@kengen.co.ke</a> and copy to <a href="mailto:zoriko@kengen.co.ke">zoriko@kengen.co.ke</a> and must be received at least 5days prior to tender closure. The employer will upload all the clarifications/addendum on the website

	tenderers who have received the tender documents”	
2.12	Tender Security	Tender security of value <b>Ksh 100,000</b> must be furnished in the form of cash/bank guarantee /approved insurance companies/Letter of Credit valid for at least 30days beyond tender validity  <i>Original bid bond must deposited at the tender box on or before the submission deadline date at time.</i>
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.	This is not applicable as this is an online submission of a soft-copy document
<b>2.15</b>	<b>Sealing and Marking of Tenders</b>	
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(day, date and time of closing),”	This is not applicable as these is an online process
2.15.2,	The Procuring entity will assume no responsibility for the tender’s misplacement or premature opening.	Not applicable
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”.	Not applicable
2.15.4	If the outer envelope is not sealed and marked as required by paragraph	Not applicable
2.16.1	Tenders must be received by the	Tender Submission Deadline: <b>28<sup>th</sup> June</b>

	Procuring entity at the address specified under paragraph 2.15.2 no later than (day, date and time of closing)	<b>2018 at 2.00am</b>  Tender Opening Date: <b>28<sup>th</sup> June 2018 at 2.30pm</b>
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.	Not applicable
2.17.2	The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph  A withdrawal notice may also be sent by email, but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.	Not applicable
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.	<b>No correction of errors.</b> The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any
2.22	<b>Evaluation and comparison of tenders</b>	The following shall be the evaluation Criteria <b>A) Mandatory preliminary evaluation criteria:</b> 1) Duly completed tender form. 2) Valid business permit 3) Valid Tax Compliance 4) Copy of Certificate of

		<p>Incorporation / Registration.</p> <ol style="list-style-type: none"> <li>5) Duly filled and signed Mandatory Confidential Business</li> <li>6) Questionnaire.</li> <li>7) Sequential pagination/serialization of all pages in the tender document.</li> </ol> <p><b>B) Technical Evaluation Criteria</b>  <b>The bidder must provide evidence of the following</b></p> <ol style="list-style-type: none"> <li>1) Having direct connectivity to the IP exchange in US/UK</li> <li>2) The bidder must have local peering, within Kenya, with multiple ISPs.</li> <li>3) A document stating the ISP’s links to major ISPs outside Kenya;</li> <li>4) A certified true copy of the valid CAK License;</li> <li>5) The bidder must have direct peering with multiple (at least 5) upstream Internet providers</li> <li>6) Evidence of site visit – provide a signed site visit certificate.</li> <li>7) All spaces in the technical specifications table must be filled, with the bidders specifications response clearly stated.  “Compliant” will NOT be considered as a response. <ul style="list-style-type: none"> <li>- All the technical requirements must be fulfilled for a bidder to be considered compliant.</li> <li>- Bidder must provide Technical data sheet/Documentary evidence to prove that the internet service offered conforms to the Technical Specifications provided.</li> </ul> </li> </ol> <p><b>D) Financial Evaluation</b>  <b>The lowest evaluated bidder shall be considered for award</b></p> <p><b>NOTE:</b></p> <ol style="list-style-type: none"> <li>1) No correction of errors, the tender</li> </ol>
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		<p>sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any person or entity</p> <p>2) Duly filled signed and stamped price schedule will be considered.</p> <p>3) The lowest evaluated bidder will be considered for award.</p>
<b>2.24</b>	<p><b>Award of Contract</b></p> <p>a) <b>Post qualification</b></p>	<p><i>KenGen may at its own discretion conduct due diligence on the Eligible bidders to establish their ability to perform the contract.</i></p>

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

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### 3.1 **Definitions**

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

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

### 3.2 **Application**

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

### 3.3 **Standards**

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

### 3.5 **Patent Right’s**

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

### 3.6 **Performance Security**

Within **fifteen (15) days** of receipt of the notification of Contract award, the successful tenderer shall furnish to the Procuring entity the Performance security where applicable in the amount specified in Special Conditions of Contract.

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

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

- a) A bank guarantee.
- b) Such insurance guarantee approved by the Public Procurement Oversight Authority.

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

### **3.7 Inspections and Tests**

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

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

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

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

### **3.8 Payment**

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



### 3.9 **Prices**

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

### 3.10 **Assignment**

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

### 3.10 **Termination for Default**

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

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

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

### 3.12 **Termination of insolvency**

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

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

### **3.15 Governing Language**

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

### **3.16 Force Majeure**

The 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 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.

### **3.19 Taxes**

3.19.1 "**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.

### **3.19.2 Local Taxation**

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.

3.19.3 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.

3.19.4 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 per 3.19.2 above.

### **Tax Deduction**

3.19.5 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.

3.19.6 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.

### **Tax Indemnity**

3.19.7 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.

3.19.8 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.

3.19.9 Where the amount in 3.19.8 above remains unpaid after the end of the fourteen (14) days moratorium, the Employer shall be entitled to compensation for financing charges.



## SECTION IV

### SPECIAL CONDITIONS OF CONTRACT

4.1 Special conditions of contract (SCC) 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.

<b>CLAUSE NO.</b>	<b>GENERAL CONDITIONS OF CONTRACT REFERENCE</b>	<b>SPECIAL CONDITIONS OF CONTRACT</b>
3.6	<b>Performance Security</b>	Performance security The Performance Security shall be in the amount of 10% of the Contract Price
3.8.1	<b>Payment Terms and Conditions</b>	<ul style="list-style-type: none"><li>• Credit period for overseas suppliers is 60 days.</li><li>• Payment shall be effected upon receipt of certified invoices and confirmation that the services has been rendered and accepted as per the contract.</li><li>• Payment shall be subject to withholding tax of 20% of the contract value.</li></ul> <b>Advance Payment</b> Advance payment is not applicable.
3.9	<b>Prices</b>	Prices shall be fixed during the Supplier's performance of the Contract and not subject to variation
3.14	<b>Resolution of disputes</b>	The procuring entity's and the contractor shall make every effort to resolve amicably by direct informal negotiations any disagreement or dispute arising between them under or

		in connection with the contract
3.15	<b>Governing Language</b>	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.
3.17	<b>Applicable Law.</b>	The contract shall be interpreted in accordance with the laws of Kenya unless otherwise specified. in the SCC

**SECTION V  
SCHEDULE OF REQUIREMENTS**

This part will include any deliverables under the service contract.

**TECHNICAL SPECIFICATIONS TABLE**

Kengen is seeking suppliers with sufficient capacity to meet its internet requirements. The suppliers' response to the information requirement in this section will be used to evaluate and therefore to determine the suppliers capability to provide the service.

**Technical Requirements Table**

NO	ELEMENT	Bidders response /Description
1.	The tenderer's vision on the evolution of the foreseen services in the area of ISP to cope with Emerging technologies and relevant standards.	
2.	Configuration of the link	
3.	The tenderers should provide a brief description of up to two pages detailing their vision on the evolution of the foreseen services in the area of ISP to cope with emerging technologies and relevant standards	
4.	Methodology of connectivity and its infrastructure The tenderers should provide a detailed presentation of the proposed connection model, including the completion of <a href="#">Annex I [Technical Characteristics of link]</a>	
5.	Bandwidth availability of the link to be established (should have minimum bandwidth of at least 20Mbps available)	

6.	<p>The tenderer should provide graphs Indicating numbers and charts of the monthly incoming and outgoing national and international traffic.</p> <p>Minimum quality of service at 99.5 % of uptime availability.</p> <p>The tenderer should provide a draft Service Level Agreement on bid submission, offering and guaranteeing minimum quality of service at 99.5 % of uptime availability.</p> <p>The exinda system and HP Open View used in Kengen for network availability management must be incorporated in arriving at the systems' availability.by the</p>	
7.	<p>The tenderer should provide the Procedure and time-line (schedule) they follow for solving problems of the services they deliver.</p> <p>Guaranteed speeds (minimum bandwidth 2Gbps) to the national network and to the International ISPs, European/US connection points;</p>	
8.	<p>Number of hops to the reference site via the International ISPs from the tenderer's POP to Kengen (should be presented via a trace route output).</p>	
9.	<p>The shortest path of the trace route shall receive 10 points [the longer the path to the destination, the less points to be attributed], the minimum sum of the time to reach the destination for all the packets will receive 10 points, [the longer the sum time of all the packets to the destination, the less points to be attributed].</p>	



## SECTION VI - DESCRIPTION OF SERVICES

### 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. **Background Information**

Kipevu LAN are currently being served with internet through a proxy server from Central Office in Stima Plaza, Nairobi.

The same internet is used for VPN,web browsing, IP Telephony, video conferencing.

There are 3850 cisco switches and 3945E /K9 routers (already acquired by Kengen) Available .

### 3. **Scope of required services**

3.1. Provision of International Internet connectivity to Kipevu for unlimited traffic at 20MBPS at Kipevu Power Station.

3.2. Requirements for the installation and use of the requested Internet Services and protocols

(a) Inter-domain IP routing using Border Gateway Protocol 4 (BGP4).

The use of the BGP4 protocol is expected between the tenderer's (ISP), Point of Presence (POP) and the border router. As far as IP routing is concerned, the provision of the Full Internet Routing Table (hereafter FIRT) is mandatory.

(b) Secondary Domain Name Service (DNS). The Contractor should provide Kengen with secondary domain name service. Secondary DNS administration is to be maintained on multiple servers, which are physically diverse and connected to the backbone at different points.

3.3. Connectivity infrastructure

A detailed presentation of the proposed connection model and its infrastructure is required.

In the implementation proposed by the tenderers, specific details of the selected technology should be presented accordingly.

3.4. Provision of requested connection model At the Kengen premises, an Ethernet interface port of the border router should be connected to the proper equipment provided by the tenderer, where it terminates at the telecommunications carrier (Telco) access circuit demarcation point.

Kengen requires that a Fibre Optic connectivity is provided by the ISP. The selected Contractor (ISP) will be responsible, throughout the duration of the contract, for all equipment up to the connection's demarcation point including cabling, terminal devices, supplies of any type, ancillary equipment serving the purposes of the connection between Kengen and the respective ISPs.

Demarcation point is defined as the serial (V.35, X.21, EIA/TIA-232) or Ethernet cable attached to the border router serial or Ethernet interface port.

### **3.5. Connection control and management**

The selected Contractors shall provide all necessary configuration details pertaining to the connection with the border router. They shall maintain the full management and operational control of this connection to ensure continuous connectivity in the event of any changes likely to adversely affect the quality of the connection and the services.

### **3.6. Acceptance Testing and Criteria**

The selected Contractor must conduct tests to ensure that the border router can successfully communicate with the tenderer's POP. Connection activation will be considered complete and service billing will be initiated only after the associated on-site equipment is installed at Kengen and IP connectivity to the Internet (including routing outside the networks) is operational. Kengen shall verify connectivity through selected tests that send repeated weighted pings through the Internet to target sites to verify connectivity. The IP routing will be verified through a trace route tests.

### **3.7. Network Operation Services**

The selected Contractors must provide high network availability and performance supported by network operations and technical staff. The provided connection should be monitored and maintained 24 hours per day, 365 days a year by experienced operators and technicians.

### **3.8. Communications Circuit Maintenance**

The selected Contractors will be responsible for providing troubleshooting for the communication link between the Kengen's Kipevu and the contractor's network. This should include problem diagnosis and any necessary vendor/manufacturer interaction for dispatch and repair of the equipment under the contractor's responsibility.

### **3.9. Monthly traffic reports**

The selected Contractors will provide (figures and charts) for monthly traffic reports showing its own (ISP), national and international traffic for the provided services for both incoming and outgoing traffic on the link to be established.

### **3.10 Application for provider independent IP registration**

The selected contractor will apply for Provider Independent IP registration of behalf of Kengen

### **3.11 Penalties**

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To manage incidents affecting the provision of ISP services, the selected contractors must be able to provide 24 hours response to network connectivity or routing problems and within an agreed period to find the resolution to such problems (if any).The contractors shall negotiate and sign an

SLA with Kengen for service provision.

Kengen's Exinda Network Optimization and acceleration appliance and HP Open view network management systems shall be incorporated in the determination of the service uptime/availability and shall also be incorporated in in determination of rebates.

#### **4. Technical Services and Support**

##### **4.1. Working days technical support**

The selected Contractor should perform regular proactive/preventive operations support and troubleshooting of the provided infrastructure components at minimum once every quarter.

##### **4.2 Trouble Ticket System**

The selected Contractor should allow Kengen's connectivity problems to be tracked from initial report through subsequent resolution. Information should be available by mail/fax to the indicated Kengen's technical contacts.

##### **4.3. Security Event Information**

The contractor's operations staff should inform Kengen about security events within its network as well as within the Internet at large. Information and advisories regarding generic security problems issued by CERT (Computer Emergency Response Team) should be regularly reviewed and distributed to Kengen where applicable. Moreover, the Contractor's technical staff should provide

Specialized help in confronting (by applying appropriate filters). Denial of Service Attacks destined to Kengen through its connection with the tenderer.

Kengen reserves the right to seek additional extra bandwidth at the price quoted at the same location or other location, mutually decided upon.

##### **4.4 Last Mile Connectivity:**

The data exchange between Kengen premises and ISP shall be over a dedicated redundant 20/20 Mbps to Kipevu. The terminal equipment for providing connectivity between border router and ISPs gateway (at both ends), shall preferably belong to the bidder or leased to Kengen. Other terminal equipment as required at the end of the ISP shall be the responsibility of the ISP.

The scope will include but not limited to:

- Survey, installation and commissioning
- Bandwidth management
- IP internet connectivity via internet backbone

- At least 8 routable public IP addresses for each site.
- 24x7 Support
- Less than 20 millisecond Latency to the hub

Installation and configuration of the ASA 5555-X with FirePOWER services at Kipevu end.- Over 99.5% availability

The network should have the following features and protocol support

- TCP and Web acceleration
- NAT support at remotes
- Transparent HTTP protocol acceleration and caching
- iDirect VLAN traffic separation

The network should support the following application:

- Web browsing (HTTP)
- E- Mail
- FileTransfer Protocol (FTP)
- Video Conferencing and telepresence collaboration
- Corporate applications
- Voice Over IP (VoIP)
- Virtual Private Networks (VPN)

The bidder shall be responsible for providing internet service on End-to End basis, implying that all hardware and software required for implementation of services shall be the sole responsibility of the bidder, up to and including the terminal equipment (DTU). Likewise the operation and maintenance of the service shall also be on end-to- end basis. However the cost of Link charges shall be on actual basis if the link is leased through a third party.

## 5. Eligibility of the ISP

5.1 The ISP should be a Kenyan company registered under the companies' act.

5.2 The ISP must be licensed to operate and maintain Internet services by CAK.

5.3 The ISP should be on Tier-1 with its own worldwide Internet backbone. Relevant documents must be provided as proof along with the Bid.

5.4 The ISP must have a prior experience of four years in providing Internet Bandwidth to large organizations. Relevant documents must be provided as proof along with the bid.

5.5 The ISP has to provide all the details of redundant connectivity up to the termination at Kipevu.

5.6 The ISP must have own gateway with enough capacity and redundancy with documentary proof of availability of the same.

## **6. Penalty for Service Degradation**

In case the service availability deteriorates beyond guaranteed limits for a total period of 24 hours in any month, Kengen shall have the right to terminate the contract or impose outage credit equal to ten times of the downtime period.

## **7 Commissioning of the 20/20Mbps Links**

7.1 The ISP shall commission the end-to-end Internet connectivity for the Kipevu Site within six weeks after issue of the Purchase Order. All required tests shall be carried out to the satisfaction of Kengen before declaring the connectivity as commissioned. Any leased lines (fibre-optic) from third parties will be applied for by the contractor and the contract for the leased fiber-optic lines will be between the Telco and the service provider. Subsequent bills for the same will be sent directly to the respective internet service providers.

7.2 The links shall be considered commissioned only when Kengen is satisfied and certifies in this regard.

7.3 Application for "IP registration" will be the responsibility of the ISP who will be awarded the contract.

7.4 To ascertain the capability of the bidder, detailed network diagrams will be submitted

7.5 The following tests will have to be successfully demonstrated by the bidder to the Kengen team for the commissioning of the link.

7.5.1 The tests pertaining to Round Trip Delay (RTD), packet loss and throughput will be performed and the values should be as per specifications.

- 7.6 The complaint logging, reporting, Multi Router Traffic Grapher (MRTG) and tools to measure the SLA will have to be shown.
- 7.9 The link will be declared commissioned after error free demonstration for one month and the link meeting all specifications.
8. Payment conditions
- 8.1 The service charges will be payable quarterly in advance in Kenya Shillings. The payment of the first quarter shall be made only after successful commissioning of the link.
- 8.2 The services should be as per the SLA. Any deficiency in services would render the ISP Liable for penalty as per terms and conditions of this document.
- 8.3 The ISP would give a comprehensive quarterly quote as per the Price Schedule format. Any other charges, if any, like spectrum charges, shall have to be borne by the ISP. The ISP will also indemnify Kengen of any other liabilities incurred by ISPs in the course of this contract.
- 8.4 Any Service Tax due as per the GOK orders/rules/regulations stipulated from time to time shall be borne the ISP.
- The ISP must have centralized trouble-ticketing tool for call logging, monitoring and troubleshooting purpose and the same should be accessed through a local toll free number.
  - The ISP must provide Internet Bandwidth to customer premises inclusive of its last mile Access Network to Kengen's Network Operations Centre.
  - Average latency should not be more than 350ms up to ISP's 1<sup>st</sup> Tier 1 peering point.
  - The ISP should be able to provide online usage report through web.
  - MTTR should be a maximum of 12 hours, including the last mile connectivity medium
  - Serve Level agreement (SLA) of more than 99.5 %
  - The ISP should have a fully functional Customer Service Centre in Nairobi which is operational 24 Hours. A brief description about technical/administrative support team and complaint redress mechanism should be given. Round the-clock complaint registration complaint registration and follow up is minimum. A clear organizational escalation matrix should be given.
  - The ISP should have a team to implement /be in charge for the implementation of the contract that has the relevant contract profiles, knowledge and experience for the successful implementation of the contract, as follows:

### **Sales Representative:**

This person will be the business contact point of the ISP assigned to deal with Kengen as a customer. S/he will be the person to manage the initiation, the good operation and termination of the services to be provided through this contract.

The person should have specific professional experience assignment of at least three years to similar tasks should have been the contact point for similar services of the same size and scope.

### **Network Professional:**

This person will be the technical contact point of the ISP assigned to deal with Kengen and s/he will be the person involved in all the technical details of setting up, operating and tearing down the communication link between the ISP and Kengen. S/he will be involved in the configuration of the link, the BGP session configuration, and any other technical and security details involved in this contract.

The person should at least be at a level of CCIE (Security Specialist) and to have had such duties for the ISP for at least three years.

The ISP shall maintain the level of qualifications required for those three functions throughout the duration of the contract, through appropriate replacements if necessary

## **TECHNICAL SPECIFICATIONS/REQUIREMENT FOR EVIDENCE TO SUPPLY**

Kengen is seeking suppliers with sufficient capacity to meet its internet requirements. The suppliers' response to the information requirement in this section will be used to evaluate and therefore to determine the suppliers capability to provide the service.

In these specifications abbreviation have the following meanings:

**IRn** An information Requirement

**MRn** A mandatory Requirement (A solution that does not meet all mandatory requirements will not be acceptable).

**IR1** The supplier shall provide details of its IP backbone network topology, including details of transatlantic provisioning and peering with other Internet Service Providers; and of its arrangement for providing connectivity to North and South America, Africa, Asia Pacific and commercial Europe. This description must include a network topology map, which may be supported additional information.

**IR2** The supplier shall detail its policy for dealing with high levels of utilization both on his own network and in the links with peers (e.g automatic upgrade if average utilization exceeds a certain predefined level).

**IR3** The supplier shall provide details of physical routing from Kengen point of presence in Nairobi to the chosen Points of Presence in the supplier's network. Kengen will keep this information confidential.

**IR4** The supplier shall provide a statement of its support for Ipv6 unicast and multicast.

**IR5** Kengen is seeking suppliers who operate a BGP filtering policy in line with accepted industry practice. The supplier shall provide full details on its BGP filtering policy including the filtering method used, any restrictions on advertisements accepted such as prefix-length, how the filtering is updated and how often this is performed if automated.

**MR1** The supplier shall provide full details of its network policy, including prefix-length based route dampening and which BGP communities are supported to control route advertisements to its peers and preferences of the routes within its own network.

**IR6** The supplier shall support an Ipv4 multicast service, utilizing PIM-SM2, MBGP and MSDP.

**IR7** The supplier shall state its targets for packet loss and latency within its network, what remedial steps would be taken if the targets were not met; and what contractual guarantees including penalty payments it makes on these parameters.



- IR8 The supplier shall state the expected availability of the service measured over a rolling 12-month period from the port on Kengen's router; and state what contractual guarantees including penalty payments it makes on this availability figure.
- MR2 The supplier shall define the nature of its physical interface at the location where connectivity is to be established and any requirement which that interface places on any equipment which Kengen may choose to connect to it.
- MR3 The supplier shall place no restriction on Kengen's use of the facilities provided, other than those, which arise from statutory requirements or generally accepted Internet practice.
- MR4 The supplier shall specify the mechanism through which Kengen will be able to implement changes to the capacity of the service provided the capacity changes that will be available to Kengen and an indication of the lead times that can be expected for such changes to be implemented, as and when required, together with any minimum service period.
- MR5 The supplier shall provide Kengen IT staff with a means of reporting and tracking the resolution of problems with the service supplied. This reporting system shall be available 24 hours a day, 365 days of a year. The minimum requirement is that it should be possible to report a fault by telephone and that this report be acknowledged and that fault resolution shall commence within 15 minutes of the call being placed.
- IR9 Kengen is looking for a robust fault management process. The supplier shall provide an outline of the mechanism and processes used to track faults and the escalation process available to Kengen.
- MR6 The supplier shall provide monthly reports (By e-mail to a nominated address) on its fault management performance, including as a minimum the number and nature of the faults incurred during the period, and the time to restore service after each fault was reported.
- MR7 Bearing in mind that Kengen would favor as long a notice period as possible (with 14days as a target), suppliers shall specify and commit to the notice period that shall be given before any maintenance is undertaken. The total amount of scheduled outage utilized in any one year shall not exceed 0.1% of the total service time.
- IR10 The supplier shall give details of the mechanisms by which both routine and emergency maintenance will be carried out, the times at which such sessions will normally be scheduled, and shall indicate how its proposal fits in with the above requirement on notice and service outage.
- IR11 The supplier shall provide information on any properties of its proposed equipment that may have safety implications, e.g. Laser and frequency radiation. The supplier should state what precautions would need to be taken, or operational procedures adopted, by organizations where equipment is cited.
- MR8 The Supplier will have to provide service level agreement giving guarantee/quality of service which should cover:

- Round trip delay (RTD)
- Packet Loss
- Throughput:

**MR 9** The supplier shall provide Network Time protocol service, if required by Kengen, to enable time retrieval from the service provider routers so as to synchronize the clocks on Kengen's network equipment.

**MR10** The supplier shall be responsible for the routing of Kengen's networks in internet including updating of routing registry database.

**MR11** The supplier shall provide the looking glass utilities to Kengen from its IP backbone.

**MR12** The supplier shall take the necessary licenses, at its cost, from the CAK.

**MR13** The supplier shall provide Multi Router Traffic Grapher (MRTG) or equivalent graphs (daily, weekly, monthly and yearly statistics).

**MR15** The supplier shall provide a sample of Service Level Document

**MR16** The supplier will need to demonstrate that it has sufficient capacity in the form of trunk capacity within its own network and interconnect capacity agreements with its Internet partners to the likely demands of Kengen users, both currently and for the duration of the contract. Kengen is seeking, therefore, contractually enforceable guarantees on round trip time and packet loss within the supplier's own network.

**MR17** The supplier will provide a range of eight (30) public IP addresses per site.

**MR18** An exit mechanism is foreseen to ensure the handover of the internet connectivity services at the end of the framework contract without impact on the services or service degradation. This handover procedure shall be an integral part of the service provision. No additional cost to Kengen shall result from this handover procedure. The supplier shall commit itself to handing over any relevant information to a potential future supplier in order to ensure a smooth transition and business continuity

**MR19** Capacity and redundancy of own gateway, uplink and downlink will be a key factor. The management of redundancy in the local loop through identified fibre-optic carrier and switching between redundant links to provide seamless connectivity is key and is the responsibility of the supplier during the contract duration and execution.

**MR20** For the fibre-optic solution, the provider must provide service terminating on a number of high availability hubs at a fully redundant Teleport facility.

**PRICE SCHEDULE**

**20MBPS INTERNET LINK TO KIPEVU**

Item Number	Item Description	Quantity	Basic Unit Price exclusive of all levies & charges	Any other levies/Taxes (Please specify)	Unit Price inclusive of all levies/Taxes	Total Price inclusive of all levies/Taxes
1.	Band Width Charges					
i.	Quarterly charges for Uncompressed/ pure on clear channel) 20Mbps Internet Bandwidth. (Recurring quarterly Charges)	8				
ii	Any Other Charges (To be specified)					
2	Local Loop Charges					
i	One time Installation and Commissioning/ Configuration Charges					
ii	Any other charges. (To be specified)					
3	Hardware Charges					
i	Fibre-optic terminal equipment					
	ASA 5555-X with firePOWER services complete with licenses.	2				
	One year shared smartnet support for each of the devices	LOT				
vii	Consultancy services for the service for 2 years					
4	Others (itemize)					
	<b>TOTAL COST</b>					
	<b>Discount (%) if any</b>					
	<b>Local Taxes e.g. Duty, VAT, GoK fees, etc</b>					
	<b>GRAND TOTAL COST DDP (Delivery Duty Paid) to site.</b>					
	<b>Delivery period (Weeks)</b>					

\*The price should be inclusive of all taxes.

Signature and stamp of Bidder \_\_\_\_\_ Date \_\_\_\_\_

\*The price should be inclusive of all taxes.

Signature and stamp of Bidder \_\_\_\_\_ Date \_\_\_\_\_

**SECTION VIII  
STANDARD FORMS**

**FORM OF TENDER**

Date \_\_\_\_\_

Tender No. \_\_\_\_\_

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

\_\_\_\_\_  
*[name and address of procuring entity]*

Gentlemen and/or Ladies:

1. Having examined the tender documents including Addenda Nos. .... *[insert numbers]*.the receipt of which is hereby duly acknowledged, we, the undersigned, offer to provide the services ( ..... *(insert service description)* 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 service delivery schedule specified in the Schedule of Requirements.

3. If our Tender is accepted, we will obtain the guarantee of a bank in a sum of equivalent to \_\_\_\_\_ percent of the Contract Price for the due performance of the Contract in the form prescribed by ..... *( Procuring entity)*.

4. We agree to abide by this Tender for a period of ..... *[number]* days from the date fixed for tender opening of the Instructions to tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

5. This Tender, together with your written acceptance thereof and your notification of award, shall constitute a Contract, between us, subject to signing of the Contract by the parties.

6. We understand that you are not bound to accept the lowest or any tender you may receive.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
[signature]

\_\_\_\_\_  
[in the capacity of]

Duly authorized to sign tender for an on behalf of \_\_\_\_\_

**Note:** In accordance with **Clause 82** of the **Public Procurement and Asset Disposal Act 2015** “**The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any person or entity.**”

**CONTRACT FORM**

THIS AGREEMENT made the \_\_\_ day of \_\_\_\_ 20\_\_ between.....[name of procurement entity] of .....[country of Procurement entity](hereinafter called “**the Employer**”) of the one part and .....[name of tenderer] of .....[city and country of tenderer](hereinafter called “**the Supplier**”) of the other part.

WHEREAS the procuring entity invited tenders for certain Services. Viz.....[brief description of services] and has accepted a tender by the tenderer for the provision of those services 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 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 and the bidders acceptance
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.

**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 by\_\_\_\_\_the \_\_\_\_\_(for the Procuring entity)

Signed by\_\_\_\_\_the \_\_\_\_\_(for the tenderer)

in the presence of\_\_\_\_\_.

**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 / j) must be filled. You are advised that giving wrong or false information on this Form will lead to automatic disqualification/termination of your business proposal at your cost.

**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 (Yes / No)

If yes, attach written document.

Nature of Business (Indicate whether manufacturer, distributor, etc)

.....

**(Applicable to Local suppliers only)**

Local Authority Trading License No. .... Expiry Date .....

Value Added Tax No.....

Value of the largest single assignment you have undertaken to date (US D/KShs)

.....

Was this successfully undertaken? Yes / No. ....(If Yes, attach reference)

Name (s) of your banker (s)

.....

Branches ..... Tel. No's.

.....

**Part 2 (a) – Sole Proprietor (if applicable)**

Full names

.....  
Nationality..... Country of Origin.....  
.....

Company Profile ..... (*Attach brochures or annual reports in case of public company*)

**Part 2 (b) – Partnerships (if applicable)**

Give details of partners as follows:

**Full Names Nationality Citizenship Details Shares**

1.

.....  
2.

.....  
Company Profile ..... (*Attach brochures*)

**Part 2 (c) – Registered Company (if applicable - as per the CR12 form)**

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:-

**Full Names Nationality Citizenship Details Shares**

1.....

2.....

**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, corrupt, coercive and obstructive acts with regard to this or any other tender by the KENGEN and any other public or private institutions.

Full ..... Names

.....  
Signature

.....  
Dated this ..... day of ..... 2018.

In ..... the ..... capacity ..... of

.....  
Duly authorized to sign Tender for and on behalf of

.....



**Part 2 (e) – Bankruptcy / Insolvency / receivership.**

I/We declare that I/We have not been declared bankrupt or insolvent by the competent Authorities in Kenya and neither are we under receivership:

Full Names

.....

Signature

.....

Dated this ..... day of ..... 2018.

In the capacity of

Duly authorized to sign Tender for and on behalf of

.....

**Part 2 (f) – Criminal Offence**

I/We, (Name (s) of Director (s)):-

a) .....

b) .....

Have not been convicted of any criminal offence relating to professional conduct or the making of false statements or misrepresentations as to its qualifications to enter into a procurement contract within a period of three (3) years preceding the commencement of procurement proceedings.

Signed

.....

For and on behalf of M/s

.....

In the capacity of

.....

Dated this ..... day of ..... 2018.

Suppliers' / Company's Official Rubber Stamp

.....

**Part 2 (g) – Conflict of Interest**

I/We, the undersigned state that I/ We have no conflict of interest in relation to this procurement:

a) .....

b) .....

For and on behalf of M/s

.....

In the capacity of

.....

Dated this ..... day of ..... 2018

Suppliers' / Company's Official Rubber Stamp

.....



.....  
In the capacity of

.....  
Dated this .....day of .....2018.  
Suppliers' / Company's Official Rubber Stamp

.....

**PERFORMANCE SECURITY FORM**  
**(To be on the Banks Letterhead)**

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:

**NOW 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)*