



# **KenGen**

**KENYA ELECTRICITY GENERATING COMPANY PLC**

**KGN-IT-022-2018**

**OPEN NATIONAL TENDER FOR PROVISION OF  
10 MB WAN LINK BETWEEN STIMA PLAZA  
AND MUHORONI GAS TURBINE (GT)  
(Citizen Contractors)**

Kenya Electricity Generating Company PLC  
Stima Plaza, Kolobot Road, Parklands  
P.O. Box 47936, 00100  
NAIROBI  
[www.kengen.co.ke](http://www.kengen.co.ke)

November, 2018.

## Following the Executive Order No.2 of 2018 issued by The Presidency

1. **THAT** effective the 1<sup>st</sup> of July 2018, all Public Procuring Entities shall maintain and continuously **update and publicize** (through the websites of the Public Procuring Entity, e-Citizen, Public Procurement Regulatory Authority platforms, public notice boards and/or official government publications):

- Full Particulars of the awarded Bidder (Supplier, Contractor or Consultant);
- Specification of goods and services, scope and schedule of works and contract value;
- Technical and financial capacity of the awarded bidder (Supplier, Contractor or Consultant) and summary of reasons for the award;
- Award Date and Contract Period;
- Current market price of the specific goods, works or service, as well as price guidelines as published by the Public Procurement Regulatory Authority with regard to that specific item (*where applicable*);

2. In furtherance to above, the list of the awarded suppliers/contracts/consultants shall include the following information:

- Name of Supplier
- Registration Details (ID/Registration/Incorporation Number
- PIN Number
- List of Directors, Shareholders and Beneficial Owners (in case of a company)
- Name of Proprietor (for sole Proprietor and Business name)
- Name of Partners (for Partnerships)
- Business Contacts Information (telephone and email address)
- Postal address
- Physical address
- Tax Compliance Status
- Business Permit/License Number
- County of operation

**In compliance to the executive order, the above details shall form part of mandatory requirement in the tender documents submitted.**

## SECTION I

### INVITATION TO TENDER

The Company invites sealed **TENDER FOR PROVISION OF 10 MB WAN LINK BETWEEN STIMA PLAZA AND MUHORONI GAS TURBINE** whose specifications are detailed in this Tender Document.

Supply Chain Director  
Tel: (254) (020) 3666000  
Email: [tenders@kengen.co.ke](mailto:tenders@kengen.co.ke);  
cc: [vomunzi@kengen.co.ke](mailto:vomunzi@kengen.co.ke)

The document can be viewed and downloaded from the website [www.kengen.co.ke](http://www.kengen.co.ke) and [www.suppliers.treasury.go.ke](http://www.suppliers.treasury.go.ke). Bidders who download the tender document from the website are advised to forward their particulars to facilitate any subsequent tender clarifications and addenda. Downloaded copies are free of charge.

Bidders are advised from time to time to be checking the website for any uploaded further information on this tender.

#### **SITE VISIT:**

There will be a **Mandatory Site Visit on 28<sup>th</sup> November 2018** at Stima plaza, Nairobi.as from 10.00 a.m. and on **22<sup>nd</sup> November 2018** at Muhoroni Station.

Unless otherwise stated, tenders **MUST** be accompanied by a Tender Security in the format specified in the tender documents and must be submitted in a plain sealed envelope and clearly marked “**KGN-IT-22-2018 “TENDER FOR PROVISION OF 10 MB WAN LINK BETWEEN STIMA PLAZA AND MUHORONI GAS TURBINE”** and addressed to:

Company Secretary & Legal Affairs Director  
Kenya Electricity Generating Company PLC  
10<sup>th</sup> Floor, KenGen Pension Plaza 2,  
Kolobot Road, Parklands  
P O Box 47936 - 00100  
NAIROBI, KENYA

On or before: **6<sup>th</sup> December 2018 at 2.00 p.m.**

Tenders will be opened on **6<sup>th</sup> December 2018 at 2.30 p.m.** in the presence of the candidates' representatives who choose to attend at 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)

#### **SUPPLY CHAIN DIRECTOR**

## SECTION II

### INSTRUCTIONS TO TENDERERS

#### **2.1 Eligible tenderers**

- 2.1.1. This Invitation to tender is open to all tenderers eligible as described in the instructions to tenderers. Successful tenderers shall provide the services for the stipulated duration from the **date** of commencement (hereinafter referred to as the term) specified in the tender documents.
- 2.1.2. The procuring entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender unless where specially allowed under section 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 in Instructions to Tenderers

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

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

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

## **2.12 Tender Security**

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

2.12.2 The tender security shall be in the amount Specified in the Appendix.

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 **(120) days** or as specified in the invitation to tender after date of tender opening prescribed by the Procuring entity, pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by the Procuring entity as nonresponsive.

2.13.2 In exceptional circumstances, the Procuring entity may 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 **6<sup>th</sup> December 2018 at 2.00 p.m.**”

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

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

## 2.16 Deadline for Submission of Tenders

2.16.1 Tenders must be received by the Procuring entity at the address specified under paragraph 2.15.2 no later than **6<sup>th</sup> December 2018 at 2.00 p.m.**

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

## 2.17 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 on **6<sup>th</sup> December 2018 at 2.30 p.m.** 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 tenderer's 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.
- 2.24.5 A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement.

## **2.25 Notification of award**

- 2.25.1 Prior to the expiration of the period of tender validity, the Procuring entity will notify the successful tenderer in writing that its tender has been accepted.
- 2.25.2 The notification of award will signify the formation of the Contract subject to the signing of the contract between the tenderer and the procuring entity pursuant to clause 2.29. Simultaneously the other tenderers shall be notified that their tenders have not been successful.
- 2.25.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 31, the Procuring entity will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 2.12

## 2.26 Signing of Contract

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

2.26.2 Within **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.

<b>INSTRUCTIONS TO TENDERERS REFERENCE</b>	<b>PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS</b>
Eligibility	<i>This is an open national tender to Citizen contractors</i>
Clarification Request	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 5 days prior to tender closure. The employer will upload all the clarifications/addendum on the website
Tender Security	A tender security of <b>KES.100,000</b> will be required, <b>valid for 150 days</b> .
Tender validity	The tender validity is <b>120 days</b>
Tender Closure	The tender closes on <b>6<sup>th</sup> December 2018 at 2.00 p.m.</b> And will be opened on <b>6<sup>th</sup> December 2018 at 2.30 p.m.</b> in the presence of bidder representative who choose to attend at KenGen Pension Plaza 2.
No of copies	The Tenderer shall prepare <b>two copies of the tender</b> , clearly marking each <b>“ORIGINAL TENDER”</b> and <b>“COPY OF TENDER,”</b> as appropriate. In the event of any discrepancy between them, the original shall govern.
Correction of errors	<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 person or entity
EXECUTIVE ORDER NO.2	As per executive order no 2. Effective 1 <sup>st</sup> 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 <b>mandatory requirement</b> :  <ul style="list-style-type: none"> <li>i. Name of supplier</li> <li>ii. Registration details (ID/Registration/Incorporation Number )</li> <li>iii. PIN Number</li> <li>iv. List of directors, shareholders and beneficial owners(in case of a company)</li> <li>v. Name of proprietor (for sole proprietor and business name)</li> <li>vi. Name of partners (for partnerships)</li> <li>vii. Business contact information (Telephone and Email Address)</li> <li>viii. Postal Address</li> <li>ix. Physical address</li> <li>x. Tax compliance status</li> <li>xi. Business permit /License number</li> <li>xii. County of operations</li> </ul>
Evaluation	<i><b>The following shall be the evaluation Criteria</b></i>  <i><b>Mandatory preliminary evaluation criteria:</b></i>

- Certificate of registration/incorporation
- Duly completed tender form signed and stamped.
- Valid Tax Compliance by KRA or exemption certificate.
- Duly filled and signed Mandatory Confidential Business Questionnaire.
- Duly filled price schedule
- Tender Security in the amount of **Ksh 100,000.00**
- Evidence of site visit Both at Stima Plaza & Muhoroni Station
- CAK License
- ICT service provider to be **registered** and **accredited** by ICT Authority

**TECHNICAL EVALUATION CRITERIA:**

	ITEM	MINIMUM REQUIREMENT	TENDERER'S OFFER (Must Be Filled)
1	Data Link Capacity	10 MB	
2	Data Carrying Technique	MPLS Link (Multiprotocol Label Switching)	
3	Link latency on no load	<15ms	
4	Latency	Less than 15ms on the Point-To-Point	
5	Link Termination on both ends	On an Ethernet Interface	
6	Scalability	Scalability to higher bandwidth capacity MUST be possible	
7	Bidder's Technical Support Capability	Must have a support centre monitored 24x7x365 basis	
8	SLA for Uptime (Attach Sample)	99% Uptime	
9	Link Maintenance	To Be Done Quarterly & On Need	
10	Project plan and schedule	Provide compressive schedule	
11	Link termination	Link termination must be on an Ethernet Interface.	
12	Bandwidth utilization Graphs	Provider must be able to provide periodic weekly and/or monthly utilization graphs of link usage or as demanded by client/ring circuit and must prove the availability of the redundant link	
13	Sample SLA	The bidder must give a comprehensive SLA which guarantees 99% link availability and has penalty clauses (Sample to be attached).	

## 1. FINANCIAL EVALUATION

The Lowest evaluated bidder will be considered for award. Market rates will be considered and those outside the market rates will be disqualified.

### SECTION III:

#### GENERAL CONDITIONS OF CONTRACT

##### Table of Clauses

3.1	Definitions
3.2	Application
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### 3.1 **Definitions**

3.1.1 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 Goods” means all of the equipment, machinery, and/or other materials, which the tenderer is required to supply to the Procuring entity under the Contract.

(e) “The Tenderer’ means the individual or firm supplying the Goods under this Contract.

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### 3.2 **Application**

3.2.1 These General Conditions shall apply in all Contracts made by the Procuring entity for the procurement installation and commissioning of equipment

### 3.3 **Country of Origin**

3.3.1 For purposes of this clause, “Origin” means the place where the Goods were mined, grown or produced.

3.3.2 The origin of Goods and Services is distinct from the nationality of the tenderer.

### 3.4 **Standards**

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

### 3.5 **Use of Contract Documents and Information**

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

3.5.2 The tenderer shall not, without the Procuring entity’s prior written consent, make use of any document or information enumerated in paragraph 3.5.1 above

3.5.3 Any document, other than the Contract itself, enumerated in paragraph 3.5.1 shall remain the property of the Procuring entity and shall be returned (all copies) to the Procuring entity on completion of the Tenderer’s performance under the Contract if so required by the Procuring entity

### 3.6 **Patent Rights**



3.6.1 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 Goods or any part thereof in the Procuring entity's country

### **3.7 Performance Security**

tenderer shall furnish to the Procuring entity the performance security in the amount specified in Special Conditions of Contract.

3.7.2 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.

3.7.3 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 bank guarantee or an irrevocable letter of credit issued by a reputable bank located in Kenya or abroad, acceptable to the Procuring entity, in the form provided in the tender documents.

3.7.4 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 obligations under the Contract, including any warranty obligations, under the Contract.

### **3.8 Inspection and Tests**

3.8.1 The Procuring entity or its representative shall have the right to inspect and/or to test the goods 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.

3.8.2 The inspections and tests may be conducted in the premises of the tenderer or its subcontractor(s), at point of delivery, and/or at the Goods' final destination. 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.

3.8.3 Should any inspected or tested goods fail to conform to the Specifications, the Procuring entity may reject the equipment, and the tenderer shall either replace the rejected equipment or make alterations necessary to make specification requirements free of costs to the Procuring entity.

3.8.4 The Procuring entity'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 equipment having previously been inspected, tested and passed by the Procuring entity or its representative prior to the equipment delivery.

3.8.5 Nothing in paragraph 3.8 shall in any way release the tenderer from any warranty or other obligations under this Contract.

### **3.9 Packing**

3.9.1 The tenderer 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.

3.9.2 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

### **3.10 Delivery and Documents**

3.10.1 Delivery of the Goods shall be made by the tenderer in accordance with the terms specified by Procuring entity in its Schedule of Requirements and the Special Conditions of Contract

### **3.11 Insurance**

3.11.1 The Goods supplied under the Contract shall be fully insured against loss or damage incidental to manufacturer or acquisition, transportation, storage, and delivery in the manner specified in the Special conditions of contract.

### **3.12 Payment**

3.12.1 The method and conditions of payment to be made to the tenderer under this Contract shall be specified in Special Conditions of Contract

3.12.2 Payments shall be made promptly by the Procuring entity as specified in the contract

### **3.13 Prices**

3.13.1 Prices charged by the tenderer for goods delivered and services performed under the Contract shall not, with the exception of any price adjustments authorized in Special Conditions of Contract, vary from the prices by the tenderer in its tender.

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

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

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

### **3.14. Assignment**

3.14.1 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

### **3.15 Subcontracts**

3.15.1 The tenderer shall notify the Procuring entity 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 tenderer from any liability or obligation under the Contract

### **3.16 Termination for default**

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

(a) if the tenderer fails to deliver any or all of the goods within the period(s) specified in the Contract, or within any extension thereof granted by the Procuring entity

(b) if the tenderer fails to perform any other obligation(s) under the Contract

(c) if the tenderer, in the judgment of the Procuring entity has engaged in corrupt or fraudulent practices in competing for or in executing the Contract

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

### **3.17 Liquidated Damages**

3.17.1. If the tenderer fails to deliver any or all of the goods within the period(s) specified in the contract, the procuring entity shall, without prejudice to its other remedies under the contract, deduct from the contract prices liquidated damages sum equivalent to 0.5% of the delivered price of the delayed items up to a maximum deduction of 10% of the delayed goods. After this the tenderer may consider termination of the contract.

### **3.18 Resolution of Disputes**

3.18.1 The procuring entity and the tenderer shall make every effort to resolve amicably by direct informal negotiation and disagreement or dispute arising between them under or in connection with the contract

3.18.2 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 adjudication in an agreed national or international forum, and/or international arbitration.

### **3.19 Language and Law**

3.19.1 The language of the contract and the law governing the contract shall be English language and the Laws of Kenya respectively unless otherwise stated.

### **3.20 Force Majeure**

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

### **3.21 Taxes**

3.21.1 "**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.

#### **3.21.2 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.

3.21.3 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.

3.21.4 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 3.21.2 above.

### **Tax Deduction**

3.21.5 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.

3.21.6 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**

3.21.7 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.

3.21.8 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.

3.21.9 Where the amount in 3.21.8 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.

REFERENCE OF GCC	SPECIAL CONDITIONS OF CONTRACT
3.6	<b>Performance Security</b> <ul style="list-style-type: none"><li>• Performance security shall be at <b>10% of the Contract Price.</b></li></ul>
3.8.1	<b>Payment Terms and Conditions</b> <ul style="list-style-type: none"><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> <ul style="list-style-type: none"><li>• Advance payment is not applicable.</li></ul>
3.9	<b>Prices</b> <ul style="list-style-type: none"><li>• Prices shall be fixed during the Supplier's performance of the Contract and not subject to variation</li></ul>
3.14	<b>Resolution of disputes</b> <ul style="list-style-type: none"><li>• 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</li></ul>
3.15	<b>Governing Language</b> <p>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.</p>

#### **1. Definitions**

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. Application**

- a) The "Procuring Entity" is **Kenya Electricity Generating Company PLC of Stima Plaza, Kolobot Road, Parklands, and P.O. BOX 47936 - 00100 GPO, Nairobi. Kenya** and includes the employer's legal representatives, successors or assigns.

#### **3. Performance Security**

The Performance Security shall be in the amount of 10% of the Contract Price

#### 4. Payment

- 4.1 (a) For Local suppliers, Kenya Electricity Generating Company's payment terms are 30 days upon receipt of certified invoices and delivery notes confirming that the invoiced material has been delivered and completion of works as specified in the contract.
- (b) For those outside Kenya, Kenya Electricity Generating Company PLC preferred terms of payment are by irrevocable Letter of Credit. Any letter of credit extension/amendment charges that may result due to beneficiary's delays or mistakes shall be to their account.

#### 5. Contract Period

This will be a one-year contract subject to renewal for another one year based on performance review.

#### 6. Current Network setup at Data Recovery Center

- This overview is intended to give the tenderer a general level of understanding regarding current network infrastructure.

##### i) WAN Infrastructure

MUHORONI GAS TURBINE (GT) located approximately 300 from Nairobi along Kisumu-Nairobi Rd. MUHORONI GAS TURBINE (GT) Office is currently connected to Stima Plaza HQ via a WAN link provisioned by Telkom Kenya and Kenya Power Ltd.

We are looking to procure a **highly available, robust, scalable fast WAN link** to connect to Stima Plaza.

#### REQUIREMENTS/ SCOPE OF WORK.

The scope of the work will be to install and commission active and passive devices plus any other necessary hardware and software required to availing the 10 MB link between KenGen Stima Plaza and KenGen MUHORONI GAS TURBINE (GT).

The links **MUST** be terminated on routers at KenGen Stima Plaza and KenGen MUHORONI GAS TURBINE (GT) Server Rooms respectively.

The bidder, in availing the link, must fulfill the following requirements:

- i) Supply and install a **dedicated** 10 MB fiber data link between between KenGen Stima Plaza and KenGen MUHORONI GAS TURBINE (GT).
- ii) The link should have a latency of < 15ms on Point to Point.
- iii) Bidder must have a technical support center monitored on a 24x7x365 basis (Network Operations Center)
- iv) Average fault resolution should be within 8 hours.
- v) Bidder must have countrywide network coverage.
- vi) Link scalability to higher bandwidth capacity must be possible.
- vii) The link must be able perform real time application use including, but not limited to, IP Telephony, SAP, Videoconference etc.
- viii) Provider must be able to provide periodic weekly and/or monthly utilization graphs of link usage or as demanded by client/ring circuit and must prove the availability of the redundant link.

- MR1** The Bidder shall submit a detailed network deployment design document as part of the bid document.
- MR2** The Bidder shall procure, supply and install and configure all networks (Active as well as passive), security, and the necessary software as per specification and configurations.
- MR3** The bidder shall not bid/supply any equipment that is likely to be declared end of sale within the next two years. If, any equipment is declared end of sale within next two years, the bidder would be required to replace all such equipment with latest one and equipment with latest one and equivalent configuration at no cost to KenGen.
- MR5** Passive components such as patch cords shall be factory crimped and shall carry test certificates to ensure trouble free operations. All the passive components need to be of the same make across the entire network to ensure standardization and ease of Certification from the manufacturers.
- MR6** The bidder shall be responsible for end-to-end implementation and shall quote and provide/supply any items not included in the bill of materials but required for the commissioning of the network. KenGen shall not pay for any such items, which have not been quoted for by the supplier in the bid but are required for successful completion of the project.
- MR7** The bidder shall provide supply all installation material/accessories/consumables (e.g. screws, clamps, fasteners, ties, poles, anchors, supports, grounding strips, wires, termination kits etc.) necessary for the installation of the systems.
- IR1** The bidder shall be responsible for storage and security of material on receipt at site in the storage space allocated by the purchaser.
- MR8** The bidder shall install and commission the active network equipment as per the approved deployment design.
- MR9** The bidder shall install and commission transmission/connecting medium where need be.
- MR10** All the work shall be done in a conscientious manner as per the OEM guidelines and best industry practices.
- MR11** The bidder shall install and configure all the active/passive devices in accordance with OEM guidelines. Passive cabling guidelines will be based on standard 568/69.
- MR12** The bidder shall ensure that the cabling and crimping /termination is done in accordance with the EIA/TIA standards and supported by the Original Equipment Manufacturer (OEM) fully tested and certified for operations.
- MR13** After installation, the cabling system shall be tested as per the standard Testing procedure laid out by the certification agencies/ OEM. The bidder shall bring to site all the test equipment as required under the procedure to carry out link testing. Node-wise test reports shall be submitted to Kengen.
- MR14** All the features and functionality of the Network shall be demonstrated.
- MR15** The bidder shall configure the network equipment, transmission medium, and security, for end-to-end user access to applications/services.
- MR16** The bidder shall be responsible for integration of the WAN link so as to provide enterprise wide access to resources and services.

**MR17** The bidder shall document all the installation and commissioning procedures and provide the same to the purchaser within 30 days of the commissioning of the network.

**MR18** Manufacturer's technical documentation on all devices used in the system including user manuals for configuring of switches, etc. and their 'As installed' configuration shall be provided by the contractor.

**MR19** The bidder shall provide configuration snapshots for all active devices installed in the network i.e. Router etc.

**MR20** Bids from firms with poor /ailing track records/relationships with Kengen shall never be considered.

### **Deliverables**

The deliverable for this project will be but not limited to the following:

- Project plan and schedule
- Design documents (Network, Passive Cabling, and e.t.c.)
- Policies document (Security and Network Management)
- Installation Report
- Commissioning and integration report.
- Acceptance Test Reports (Link Signal, Cabling testing certificate)
- Certification from OEM/Manufacturer for providing complete support of product for a period of five years even in the case of product upgrade or discontinue of product for all the major components.

#### **Note:**

The availability of the link shall be compared with the tool that KenGen has used in computation of rebates (Exinda Network Optimization tool)



## SECTION VI

### PRICE SCHEDULE

The Bidder must itemize all charges for individually identifiable components of the proposed WAN Link; including all associated installation, programming, and cabling. The Bidder must include charges for all components required to connect all applications; all design charges, including any software licenses.

Bidders are required to make a comprehensive list of materials that will be required to carry out the fiber WAN Link installation and commissioning in the format presented under “SECTION E: SPECIAL CONDITIONS OF CONTRACT – Requirements / Scope of Work” of this tender. Any bid that fails to include critical or sufficient quantities or qualities of materials will be rejected. It should, however, be noted that this list is only for purposes of tender evaluation and does not relieve the successful bidder of the responsibility to carry out the task at the quoted price. Any omitted materials will be assumed to have been included in the tender price. Consequently, all materials necessary for the performance of this project shall be deemed to be included in this list even if they are not explicitly listed. The proposal shall detail the following price schedules:

**The table below is not exhaustive and only serves as a summary. The bidder must refer to all items necessary to meet the specifications/ requirement as described under SECTION E: SPECIAL CONDITIONS OF CONTRACT – Requirements / Scope of Work**

#### Price Schedule

(i) STIMA PLAZA-MUHORONI

#	Item Description	Quantity	Basic Unit Price exclusive all levies	Any other levies (specify)	Unit Price incl. of all levies	Total Price inclusive of all levies/ Taxes
1.	Installation Charges at Muhoroni and Stima Plaza (One-Off Payment)	1				
2.	10 MB WAN Link between Stima Plaza and MUHORONI GAS TURBINE (GT) (Payment for 2 year)	24				
	<b>Any Other Charges (Specify)</b>					
	<b>TOTAL (KSh.)</b>					

The price should be inclusive of all taxes.

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

**SECTION VII**

**STANDARD FORMS**

**8.1 FORM OF TENDER**

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

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

*[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 ***Tender for Provision Of 10 MB WAN Link Between Stima Plaza and MUHORONI GAS TURBINE (GT)*** 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 deliver install and commission the equipment in accordance with the 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 **120 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 2016 “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**

**8.2 TENDER SECURITY FORM**  
*(To be on the Letterhead of the Bank)*

Whereas \_\_\_\_\_ (hereinafter called “the Tenderer”) has submitted its tender date \_\_\_\_\_ for the provision of \_\_\_\_\_ (hereinafter called “the Tender”).

KNOW ALL PEOPLE by these presents that WE

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

THE CONDITIONS of this obligation are:

1. If the Tenderer withdraws its Tender during the period of tender validity specified by the Tenderer on the Tender Form; or
2. If the Tenderer, having been notified of the acceptance of its Tender by the Employer during the period of tender validity:
  - (a) fails or refuses to execute the Contract Form, if required; or
  - (b) fails or refuses to furnish the performance security, in accordance with the Instructions to Tenderers;

We undertake to pay to the Employer up to the above amount upon receipt of its first written demand, without the Employer having to substantiate its demand, provided that in its demand the Employer will note that the amount claimed by it is due to it, owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This guarantee will remain in force up to and including thirty (30) days after the period of tender validity, and any demand in respect thereof should reach the Bank not later than the above date.

\_\_\_\_\_  
*(Signature of the Bank)*

### 8.3 CONTRACT FORM

**THIS AGREEMENT** made the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_ between ..... [*name of the Employer*] of ..... [*country of the Employer*] (hereinafter called "**the Employer**") of the one part and ..... [*name of the Supplier*] of ..... [*city and country of the Supplier*] (hereinafter called "**the Supplier**") of the other part;

**WHEREAS the Employer** invited tenders for *Tender for Provision Of 10 MB WAN Link Between Stima Plaza and MUHORONI GAS TURBINE (GT)* and has accepted a tender by the tenderer for the *Tender for Provision Of 10 MBWAN Link Between Stima Plaza and MUHORONI GAS TURBINE (GT)* in the sum of ..... [*contract price in words and figures*] (hereinafter called "the Contract Price).

#### **NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:**

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

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

Signed by \_\_\_\_\_ the \_\_\_\_\_ (for the Procuring entity

Signed by \_\_\_\_\_ the \_\_\_\_\_ (for the tenderer in the presence of \_\_\_\_\_  
\_\_\_\_\_

*(Amend accordingly if provided by Insurance Company)*

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

To .....  
[name of Procuring entity]

**WHEREAS** ..... [name of tenderer] (hereinafter called “the tenderer”) has undertaken , in pursuance of Contract No. \_\_\_\_\_ [reference number of the contract] for dated \_\_\_\_\_ 20 \_\_\_\_\_ **Tender for Provision Of 10 MB WAN Link Between Stima Plaza and MUHORONI GAS TURBINE (GT)** (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 figure] 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 you 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 \_\_\_\_

Signed and seal of the Guarantors

\_\_\_\_\_  
[name of bank or financial institution]

\_\_\_\_\_  
[address]

\_\_\_\_\_  
[date]

**8.5 MANUFACTURER’S AUTHORIZATION FORM**

To *[name of the Procuring entity]* .....

**WHEREAS** .....*[ name of the manufacturer]* who are established and reputable manufacturers of ..... *[name and/or description of the goods]* having factories at ..... *[address of factory]* do hereby authorize ..... *[name and address of Agent]* to submit a tender, and subsequently negotiate and sign the Contract with you against tender No. .... *[reference of the Tender]* for the above goods manufactured by us.

We hereby extend our full guarantee and warranty as per the General Conditions of Contract for the goods offered for supply by the above firm against this Invitation for Tenders.

---

*[signature for and on behalf of manufacturer]*

*Note:* This letter of authority should be on the letterhead of the Manufacturer and should be signed by a person authorized.

**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 of your tender or termination of your contract or debarment of your firm 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 .....  
KRA PIN 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 .....

**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

.....



**Part 2 (h) – Interest in the Firm:**

Is there any person/persons in KENGEN or any other public institution who has interest in the Firm?  
 Yes/No ..... (Delete as necessary)  
 Institution.....

.....  
 (Title) (Signature) (Date)

**Part 2(i) – Experience: NOTE: THIS SECTION IS MANDATORY ONLY IF IT FORMS PART OF TECHNICAL EVALUATION. IT'S ALSO NOT NECESSARY FOR ALREADY PRE-QUALIFIED OR DIRECT PROCUREMENT FIRMS. ITS ALSO NOT APPLICABLE FOR AGPO FIRMS TENDERS.**

Please list here below similar projects accomplished or companies / clients you have supplied with similar items or materials in the years prescribed.

	Company Name	Country	Contract/Order No.	Value	Contact person (Full Names)	E-mail address	Cell phone No.
1							
2							

**Part 2 (i or j) – Bank account details:**

AGPO firms must provide evidence from their bank that the account to which KenGen shall make payment has a youth or a woman or a PWD listed in the **CR12 form/partnership deed/sole proprietor certificate** as a MANDATORY signatory of that account,- **Sec.157 (11) of PPADA:**

**Account No:**.....**Name of the person(s) in the CR12 form OR in the partnership deed OR in the sole proprietor certificate**...../  
**ID No(s):**...../**Signature and stamp of the authorized Banker Representative**.....**Date**.....

**Part 2(j or k) – Declaration**

I / We, the undersigned state and declare that the above information is correct and that I / We give KENGEN 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 M/s

.....  
 In the capacity of

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

Suppliers' / Company's Official Rubber Stamp

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