



**KENYA ELECTRICITY GENERATING COMPANY LIMITED**

**KGN-SPB-03-2016**

**TENDER FOR SUPPLY AND DELIVERY OF LED LIGHTS FOR KENGEN  
FACILITIES  
(FRAMEWORK CONTRACTING)**

**Kenya Electricity Generating Company Ltd  
Stima Plaza, Kolobot Road, Parklands  
P.O. Box 47936-00100  
NAIROBI**

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

**October, 2016**

**INVITATION TO TENDER FOR SUPPLY OF LIGHT EMITTING DIODE (LED) LIGHTS FOR INSTALATION AT KENGEN FACILITIES**

The Company invites sealed tenders from eligible candidates for supply of LED lights whose Firms interested to purchase the Tender Document can do that at the office of:

Supply Chain Director

Tel: (254) (020) 3666000

Fax: (254) (020) 3666200

Email: [tenders@kengen.co.ke](mailto:tenders@kengen.co.ke)

c c [hmukhongo@kengen.co.ke](mailto:hmukhongo@kengen.co.ke)

A complete set of Tender Document may be obtained by interested candidates upon payment of a non-refundable fee of **KES 1,000.00** (One Thousand Kenya Shillings). The documents can also be viewed and downloaded from the website [www.kengen.co.ke](http://www.kengen.co.ke)

Bidders who download the document from the website will not be required to pay any fees for purchase of tender document, but will be required to officially inform KenGen that they have downloaded the tender documents through tenders.

Tenders **MUST** be accompanied by a security bond in the form and amount specified in the tender document and must be submitted in a plain sealed envelope and marked **“SUPPLY OF LED LIGHTS for INSTALATION AT KENGEN FACILITIES”** and addressed to:

Company Secretary, Legal Affairs Director

10<sup>th</sup> Floor Pension Plaza

Kolobot Road, Parklands

P.O. Box 47936, 00100 NAIROBI

Tenders must be dropped in the tender box located on the ground floor of Stima Plaza iii On or before: **10<sup>th</sup> November 2016 at 2.00pm**

Tenders shall be opened on **2.30pm, 10<sup>th</sup> November 2016** in the presence of the tenderers' representatives who choose to attend at Stima Plaza Phase III, Executive committee room 7th floor.

**SUPPLYCHAIN DIRECTOR**

## SECTION A: INSTRUCTIONS TO TENDERERS

### 2.1 Eligible Tenderers

- 2.1.1 This Invitation for Tenders is open to all tenderers eligible as described in the Invitation to Tender. Successful tenderers shall complete the supply of goods by the intended completion date specified in the Schedule of Requirements (Section VI).
- 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.
- 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 goods under this Invitation for tenders.
- 2.1.4 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices.

### 2.2 Eligible Goods

- 2.2.1 All goods to be supplied under the contract shall have their origin in eligible source countries.
- 2.2.2 For purposes of this clause, "origin" means the place where the goods are mined, grown, or produced. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially-recognized product results that is substantially different in basic characteristics or in purpose or utility from its components
- 2.2.3 The origin of goods is distinct from the nationality of the tenderer.

### 2.3 Cost of Tendering

- 2.3.1 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.
- 2.3.2 The price to be charged for the tender document collected from the Procuring Entity shall not exceed Kshs.1,000/= . Downloaded copies are free of charge.
- 2.3.3 All firms found capable of performing the contract satisfactorily in accordance with the set prequalification criteria shall be prequalified.

### 2.4 The Tender Document

- 2.4.1 The tender document comprises the documents listed below and addenda issued in accordance with clause 2.6 of these instructions to Tenderers
- (i) Invitation to Tender
  - (ii) Instructions to tenderers
  - (iii) General Conditions of Contract
  - (iv) Special Conditions of Contract
  - (v) Schedule of requirements
  - (vi) Technical Specifications
  - (vii) Tender Form and Price Schedules
  - (viii) Tender Security Form

- (ix) Contract Form
- (x) Performance Security Form
- (xi) Manufacturer's Authorization Form
- (xii) Confidential Business Questionnaire

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.

### **2.5 Clarification of Documents**

2.5.1 A prospective tenderer requiring any clarification of the tender document may notify the Procuring entity in writing or by post at the entity's address indicated in the Invitation to Tender. The Procuring entity will respond in writing to any request for clarification of the tender documents, which it receives not 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 that have received the tender document.

2.5.2 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.

### **2.6 Amendment of Documents**

2.6.1 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 amendment.

2.6.2 All prospective candidates that have received the tender documents will be notified of the amendment in email and will be binding on them.

2.6.3 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.

### **2.7 Language of Tender**

2.7.1 The tender prepared by the tenderer, as well as all correspondence and documents relating to the tender exchange by the tenderer and the Procuring entity, shall be written in English language, provided that 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.

### **2.8 Documents Comprising of Tender**

2.8.1 The tender prepared by the tenderers shall comprise the following components:

- (a) a Tender Form and a Price Schedule completed in accordance with paragraph 2.9, 2.10 and 2.11 below
- (b) documentary evidence established in accordance with paragraph 2.1 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;
- (c) documentary evidence established in accordance with paragraph 2.2 that the goods and ancillary services to be supplied by the tenderer are eligible goods and services and conform to the tender documents; and

(d) tender security furnished in accordance with paragraph 2.14

## **2.9 Tender Forms**

2.9.1 The tenderer shall complete the Tender Form and the appropriate Price Schedule furnished in the tender documents, indicating the goods to be supplied, a brief description of the goods, their country of origin, quantity, and prices.

## **2.10 Tender Prices**

2.10.1 The tenderer shall indicate on the appropriate Price Schedule the unit prices and total tender price of the goods it proposes to supply under the contract

2.10.2 Prices indicated on the Price Schedule shall include all costs including taxes, insurances and delivery to the premises of the entity.

2.10.3 Prices quoted by the tenderer shall be fixed during the Tender's performance of the contract and not subject to variation on any account. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.22

2.10.4 The validity period of the tender shall be **90 days after** the date of opening of the tender.

## **2.11 Tender Currencies**

2.11.1 Prices shall be quoted in Kenya Shillings unless otherwise specified in the Appendix to Instructions to Tenderers.

## **2.12 Tenderers Eligibility and Qualifications**

2.12.1 Pursuant to paragraph 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.

2.12.2 The documentary evidence of the tenderers eligibility to tender shall establish to the Procuring entity's satisfaction that the tenderer, at the time of submission of its tender, is from an eligible source country as defined under paragraph 2.1

2.12.3 The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall be established to the Procuring entity's satisfaction;

- (a) that, in the case of a tenderer offering to supply goods under the contract which the tenderer did not manufacture or otherwise produce, the tenderer has been duly authorized by the goods' Manufacturer or producer to supply the goods.
- (b) that the tenderer has the financial, technical, and production capability necessary to perform the contract;
- (c) that, in the case of a tenderer not doing business within Kenya, the tenderer is or will be (if awarded the contract) represented by an Agent in Kenya equipped, and able to carry out the Tenderer's maintenance, repair, and spare parts-stocking

obligations prescribed in the Conditions of Contract and/or Technical Specifications.

### **2.13 Goods Eligibility and Conformity to Tender Documents**

- 2.13.1 Pursuant to paragraph 2.2 of this section, the tenderer shall furnish, as part of its tender documents establishing the eligibility and conformity to the tender documents of all goods which the tenderer proposes to supply under the contract
- 2.13.2 The documentary evidence of the eligibility of the goods shall consist of a statement in the Price Schedule of the country of origin of the goods and services offered which shall be confirmed by a certificate of origin issued at the time of shipment.
- 2.13.3 The documentary evidence of conformity of the goods to the tender documents may be in the form of literature, drawings, and data, and shall consist of:
- (a) a detailed description of the essential technical and performance characteristic of the goods;
  - (b) a list giving full particulars, including available source and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the goods for a period of two (2) years, following commencement of the use of the goods by the Procuring entity (*if applicable*); and
  - (c) a clause-by-clause commentary on the Procuring entity's Technical Specifications demonstrating substantial responsiveness of the goods and service to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications.
- 2.13.4 For purposes of the documentary evidence to be furnished pursuant to paragraph 2.13.3(c) above, the tenderer shall note that standards for workmanship, material, and equipment, as well as references to brand names or catalogue numbers designated by the Procurement entity in its Technical Specifications, are intended to be descriptive only and not restrictive. The tenderer may substitute alternative standards, brand names, and/or catalogue numbers in its tender, provided that it demonstrates to the Procurement entity's satisfaction that the substitutions ensure substantial equivalence to those designated in the Technical Specifications.

### **2.14 Tender Security**

- 2.14.1 The tenderer shall furnish, as part of its tender, a tender security for the amount specified in the Appendix to Invitation to Tenderers.
- 2.14.2 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 2.14.7
- 2.14.3 The tender security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be in the form of an on-demand bank guarantee issued by a reputable bank located in Kenya or where the bank is located abroad, it must have a local correspondent bank.

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

The tender security must be valid for at least thirty (30) days beyond the validity of the tender.

- 2.14.4 Any tender not secured in accordance with paragraph 2.14.1 and 2.14.3 will be rejected by the Procuring entity as non-responsive, pursuant to paragraph 2.22
- 2.14.5 Unsuccessful Tenderer's tender security will be discharged or returned as promptly as possible, but not later than thirty (30) days after the expiration of the period of tender validity prescribed by the Procuring entity.
- 2.14.6 The successful Tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.27 and furnishing the performance security, pursuant to paragraph 2.28
- 2.14.7 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 2.27
    - or
    - (ii) to furnish performance security in accordance with paragraph 2.28

## **2.15 Validity of Tenders**

- 2.15.1 Tenders shall remain valid for **90 days after** the date of tender opening prescribed by the Procuring entity, pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by the Procuring entity as non responsive.
- 2.15.2 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 2.14 shall also be suitably extended. A tenderer may refuse the request without forfeiting its tender security. A tenderer granting the request will not be required nor permitted to modify its tender.

## **2.16 Format and Signing of Tender**

- 2.16.1 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.

**2.16.2** 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. **The latter authorization shall be indicated by written power-of-attorney accompanying the tender. All pages of the tender, except for un-amended printed literature, shall be initialed by the person or persons signing the tender.**

2.16.3 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.

## **2.17 Sealing and Marking of Tenders**

2.17.1 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.

2.17.2 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 for Tenders and the words, “DO NOT OPEN BEFORE,” **the 10<sup>th</sup> November 2016 at 2.00pm**

2.17.3 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”.

2.17.4 If the outer envelope is not sealed and marked as required by paragraph 2.17.2, the Procuring entity will assume no responsibility for the tender’s misplacement or premature opening.

## **2.18 Deadline for Submission of Tenders**

**2.18.1** Tenders must be received by the Procuring entity at the address specified under paragraph 2.17.2 no later than **2.00pm, 10<sup>th</sup> November 2016**

2.18.2 The Procuring entity may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 2.6, in which case all rights and obligations of the Procuring entity and candidates previously subject to the deadline will therefore be subject to the deadline as extended

## **2.19 Modification and Withdrawal of Tenders**

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

2.19.2 The Tenderer’s modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.17. A withdrawal notice may



also be sent by cable, telex but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.

- 2.19.3 No tender may be modified after the deadline for submission of tenders.
- 2.19.4 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 2.14.7
- 2.19.5 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.
- 2.19.6 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.

## **2.20 Opening of Tenders**

- 2.20.1 The Procuring entity will open all tenders in the presence of tenderers' representatives who choose to attend, at **2.00pm, and** in the location specified in the Invitation to Tender.

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

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

## **2.21 Clarification of Tenders**

- 2.21.1 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 of the tender shall be sought, offered, or permitted.
- 2.21.2 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.

## **2.22 Preliminary Examination**

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

- 2.22.2 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 quantify, 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 forfeited. If there is a discrepancy between words and figures the amount in words will prevail
- 2.22.3 The Procuring entity may waive any minor informality or non-conformity or irregularity in a tender which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any tenderer.
- 2.22.4 Prior to the detailed evaluation, pursuant to paragraph 2.23 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.
- 2.22.5 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 non-conformity.

## **2.23 Conversion to Single Currency**

- 2.23.1 Where other currencies are used, the procuring entity will convert these currencies to Kenya Shillings using the selling exchange rate on the date of tender closing provided by the Central Bank of Kenya.

## **2.24 Evaluation and Comparison of Tenders**

- 2.24.1 The Procuring entity will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.22
- 2.24.2 The tender evaluation committee shall evaluate the tender within 30 days of the validity period from the date of opening the tender.
- 2.24.3 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 Preference**

- 2.25.1 Preference where allowed in the evaluation of tenders shall not exceed 15%

## **2.26 Contacting the Procuring entity**

- 2.26.1 Subject to paragraph 2.21 no tenderer shall contact the Procuring entity on any matter related to its tender, from the time of the tender opening to the time the contract is awarded.

2.26.2 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 Tenderer's tender.

## **2.27 Award of Contract**

### **(a) Post-qualification**

2.27.1 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.

2.27.2 The determination will take into account the tenderer financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the tenderers qualifications submitted by the tenderer, pursuant to paragraph 2.12.3 as well as such other information as the Procuring entity deems necessary and appropriate.

2.27.3 A positive 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**

2.27.4 The Procuring entity will award the contract to the successful tenderer(s) whose tender has been determined to be substantially responsive and has been determined to be the lowest evaluated tender, provided further that the tenderer is determined to be qualified to perform the contract satisfactorily.

### **(c) Procuring entity's Right to Vary quantities**

2.27.5 The Procuring entity reserves the right at the time of contract award to increase or decrease the quantity of goods originally specified in the Schedule of requirements without any change in unit price or other terms and conditions

### **(d) Procuring entity's Right to accept or Reject any or All Tenders**

2.27.6 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

## **2.28 Notification of Award**

2.28.1 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.

2.28.2 The notification of award will constitute the formation of the Contract but will have to wait until the contract is finally signed by both parties

2.28.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 2.28, the Procuring entity will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 2.14

## **2.29 Signing of Contract**

2.29.1 At the same time as the Procuring entity notifies the successful tenderer that its tender has been accepted, the Procuring entity will send the tenderer the Contract Form provided in the tender documents, incorporating all agreements between the parties.

2.29.2 The parties to the contract shall have it signed within **fifteen (15) days** from the date of notification of contract award unless there is an administrative review request.

2.29.3 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.

## **2.30 Performance Security**

2.30.1 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.

2.30.2 Failure of the successful tenderer to comply with the requirements of paragraph 2.27 or paragraph 2.28 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 Candidate or call for new tenders.

## **2.31 Corrupt or Fraudulent Practices**

2.31.1 The Procuring entity requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts when used in the present regulations, the following terms are defined as follows;

(i) "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and

(ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring entity, and includes collusive practice among tenderer (prior to or after tender submission) designed to establish tender prices at artificial non-competitive levels and to deprive the Procuring entity of the benefits of free and open competition;

- 2.31.2 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.
- 2.31.3 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 regarding the particulars of the tender shall complement supplement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provision of the instructions to tenderers and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to tenderers

<b>INSTRUCTIONS TO TENDERERS REFERENCE</b>	<b>PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS</b>
Eligibility	<i>This tender is open to National Suppliers only</i>
Clarification Request	<i>Request for clarification must be sent to <a href="mailto:tenders@kengen.co.ke">tenders@kengen.co.ke</a> and copied to <a href="mailto:hmukhongo@kengen.co.ke">hmukhongo@kengen.co.ke</a> and must be received not less than 7days prior to tender closure</i>
Tender security	<i>Amount of tender security for this tender is Ksh 500,000 payable in form of Bank guarantee, Letter of Credit, approved Insurance companies or Cash. Tender security must be valid for at least 30days beyond tender validity.</i>
Tender Validity	<i>Tender validity is 120days</i>
Tender closing date	<i>Tender will close on <b>10<sup>th</sup> November 2016 at 2.00pm</b> And will be opened immediately thereafter in the presence bidders representatives who choose to attend.</i>
Evaluation of bids	<p><i>The following shall be the evaluation Criteria</i></p> <p><b>A. Mandatory Requirements</b></p> <ul style="list-style-type: none"> <li><i>-Attach a valid Certificate of Incorporation /Registration</i></li> <li><i>-Duly completed tender form</i></li> <li><i>-Duly completed and Signed price schedule</i></li> <li><i>- Valid Tax Compliance Certificate</i></li> <li><i>- Valid Business Permit</i></li> <li><i>-Valid Tender Security</i></li> <li><i>- Evidence of experience in similar supply (Attach at least 3 LPOs or contract for similar supply)</i></li> <li><i>- Duly Completed and signed Mandatory Business Questionnaire</i></li> <li><i>- Completeness of the bid document- The document must be well organised, serialized and paginated with a referenced table of contents.</i></li> </ul> <p><b>B. Technical Evaluation Requirements</b></p> <p><i>Must attach the following</i></p> <ul style="list-style-type: none"> <li><i>- Manufacturers Authorisation</i></li> <li><i>- Brochures /Written Literature for the product to be supplied- will be used to check Compliance to the technical specifications</i></li> <li><i>-Performance and quality test report based on International Electro technical Commission (IEC) safety and performance standards</i></li> </ul>

	<p>- Documentary evidence to prove that the equipment offered comply with the Technical Specifications must be provided;</p> <p><b>C. Financial Evaluation</b></p> <p><i>-The comparison shall be of based on the prevailing market indices of LED lights and such price to include all costs, as well as duties and taxes paid or payable on the LED Lights</i></p> <p><i>- Delivery period will be considered</i></p> <p><i>- After sale services offered e.g. the minimum warranty /guarantee period offered and the terms and conditions</i></p>
Due diligence	<i>KenGen may at its own discretion conduct due diligence on the eligible bidders to establish their ability to perform the contract.</i>
Award	<p><i>The contract will be administered through framework contracting. The unit rate awarded for the lowest bidder shall apply in the contract period.</i></p> <p><i>KenGen may award to the 2<sup>nd</sup>, 3<sup>rd</sup> bidder in waiting but at the rate of the lowest evaluated bidder. This is subject to acceptance by the bidder.</i></p> <p><i>Orders to supply will be made from time to time on need basis.</i></p>

## SECTION B: GENERAL CONDITIONS OF CONTRACT

### 1. Definitions

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

- (a) “The Contract” means the agreement entered into between KenGen and the tenderer, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (a) “The Contract Price” means the price payable to the tenderer under the Contract for the full and proper performance of its contractual obligations.
- (b) “The Supplier” means the individual or firm supplying the goods under this Contract.
- (c) “The Goods” means LED Lights, which the Supplier is required to supply to KenGen under this Contract.

### 2. Application

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

### 3. Country of Origin

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

3.2 The origin of the Goods is distinct from the nationality of the tenderer.

### 4. Standards

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

### 5. Use of Contract Documents and Information

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

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

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



## 6. Patent Rights

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

## 7. Performance Security

- 7.1 Within fifteen (15) days of receipt of the notification of Contract award, the successful tenderer shall furnish to KenGen the performance security in the amount specified in Special Conditions of Contract.
- 7.2 The proceeds of the performance security shall be payable to KenGen as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.
- 7.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to KenGen and shall be in the form of a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in Kenya or abroad, acceptable to KenGen, in the form provided in the tender documents.
- 7.4 The performance security will be discharged by KenGen and returned to the tenderer not later than thirty (30) days following the date of completion of the tenderer's performance obligations under the Contract, including any warranty obligations, under the Contract.

## 8. Inspection and Tests

- 8.1 KenGen or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract specifications. KenGen shall notify the tenderer in writing, in a timely manner, of the identity of any representatives retained for these purposes.
- 8.2 The inspections and tests may be conducted on the premises of the Supplier or its subcontractor(s), at point of delivery, and/or at the Goods' final destination. If conducted on the premises of the Supplier or its subcontractor(s), all reasonable facilities and assistance, including access to production data, shall be furnished to the inspectors at no charge to KenGen.
- 8.3 KenGen's right to inspect, test and, where necessary, reject the Goods after the Goods' arrival shall in no way be limited or waived by reason of the Goods having previously been inspected, tested, and passed by KenGen or its representative prior to the Goods' delivery.
- 8.4 Nothing in Clause 8 shall in any way release the Supplier from any warranty or other obligations under this Contract.

## 9. Packing

- 9.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract.
- 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract. Package shall be supplied in non-returnable and non-hazardous material.

## 10. Delivery and Documents

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

## 11. Insurance

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

## 12. Payment

- 12.1 The method and conditions of payment to be made to the Supplier under this Contract shall be specified in Special Conditions of Contract.
- 12.2 Payments shall be made promptly by KenGen as specified in the Contract.

## 13. Prices

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

## 14. Assignment

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

## 15. Subcontracts

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

## 16.Termination for Default

- 16.1 KenGen may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, terminate this Contract in whole or in part:
- (a) if the Supplier fails to deliver the Goods within the period(s) specified in the Contract, or within any extension thereof granted by KenGen.
  - (b) if the Supplier fails to perform any other obligation(s) under the Contract.
  - (c) if the Supplier, in the judgment of KenGen has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.
- 16.2 In the event KenGen terminates the Contract in whole or in part, it may procure, upon such terms and in such manner, as it deems appropriate, Goods similar to those undelivered, and the Supplier shall be liable to KenGen for any excess costs for such Goods.

## 17.Liquidated Damages

- 17.1 If the Supplier fails to deliver the Goods within the period(s) specified in the Contract, KenGen shall, without prejudice to its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to 0.5% of the delivered price of the delayed Goods for each week of delay until actual delivery, up to a maximum deduction of 10% of the delivered price of the delayed Goods. After this KenGen may consider termination of the Contract.

## 18.Resolution of Disputes

- 18.1 KenGen and the Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.
- 18.2 If, after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a Contract dispute, either party may require that the dispute be referred for resolution to formal mechanisms. These mechanisms include, but are not restricted to, conciliation by a third party, adjudication in an agreed national forum.

## 19.Language and Law

- 19.1 The language of the Contract and the law governing the Contract shall be English language and the Laws of Kenya respectively unless otherwise stated.

## 20.Force Majeure

- 20.1 The Supplier shall not be liable for forfeiture of its performance security, or termination for default if and to the extent that it's delay in performance or other

failure to perform its obligations under the Contract is the result of an event of Force Majeure.

## SECTION C: SPECIAL CONDITIONS OF CONTRACT

### 1. Definitions

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

### 2. 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

### 3. Performance Security

The successful supplier shall furnish Ksh 2million per year

### 4. Inspections and Tests

The LED lights shall be subjected to conformity inspections during and after installation. Any deliveries inspected and found to be non-compliant will be rejected. It is therefore important that technical specifications be complied with.

### 5. Packing

Equipment shall be supplied in a non-returnable, non-hazardous package.

### 6. Method of Payment

Payments shall be made within 30 days after receipt of certified invoices and delivery notes confirming that the invoiced material has been delivered and is in accordance with the Contract.

### 7. Prices

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

### 8. Delivery points

Delivery shall be made as per the delivery indicated in the order

### 9. Delivery period

Delivery of materials must be made within two weeks after receipt of the purchase order.

**10. Frame work contract conditions**

- i. The contract period shall be One year renewable for further one year upon mutual agreement by both parties.
- ii. The contract is subject to Framework contracting
- iii. Orders will be placed from time to time by the client depending on the needs and upon sample approval.
- iv. The quantity of requirements of given in the tender documents are only but estimates of the minimum requirements

**11. Award in waiting**

KenGen may prequalify the 2<sup>nd</sup> and 3<sup>rd</sup> lowest evaluated bidders at the price of the lowest evaluated bidder. Further dealing with the 2<sup>nd</sup> and 3<sup>rd</sup> lowest evaluated upon acceptance of the award conditions in waiting at the price of the lowest evaluated bidder.

## SECTION D: SCOPE OF PROJECT AND BACKGROUND INFORMATION

### 21. Background

KenGen is the leading power generation Company in Kenya. With an installed capacity of 1,632MW, KenGen contributes about 70% national grid power. KenGen generates power from various sources, with a bias to renewable energy. The company has installed generation capacities of Hydro 819.9MW, Geothermal 513.8MW, Thermal 258.6 and Wind 25.5MW.

Most power utilities would not give energy efficiency a high priority since they would wish to sell more units. However, KenGen supports the government of Kenya mission to improve demand side energy management by industrial and commercial sectors as set out in Sessional Paper 2004 and the Energy (Energy Management) Regulations 2012. At KenGen we believe that energy efficiency is one of the cheapest means of availing power to the economy; and renewable energy is the route to sustainability. The company has an energy efficiency and conservation program geared towards achieving the lowest energy consumption intensity in our power generation. The company has therefore decided to switch to the efficient LED lighting in all our business facilities (power plants and offices). This project is being run alongside other energy efficiency initiatives.

In this regard we are seeking a company that will supply indoor and outdoor LED lights as per specifications herein.

### 22. Project description and scope

The company seeks to retrofit lighting in all company facilities from the current lighting system (which is predominantly fluorescent lights) to LED lighting. In this tender the company is seeking a qualified supplier or manufacturer to supply LED lights, LED flood and LED streetlights. The lights will be should be delivered to the respective areas as outlined in the lots. The winning bidder will supply the lights in a rolling contract The lights will be supplied in lots based on our areas of operation.

The facilities earmarked for the lighting retrofit are given in the lots outlined in this section. The delivery point and their location is as defined.

#### **Stima Plaza and Ngong'**

Stima plaza is located on Kolobot road in Ngara Nairobi. It houses the company head offices. KenGen has wind power generating facilities near Ngong town. The summary of the current lighting system at these facilities is given in the table 1.

## **Olkaria**

Olkaria power plants and office facilities are located in and around Hell's Gate National Park, near Naivasha town. Olkaria is approximately 130km from Nairobi. Olkaria power plants include Olkaria I, Olkaria II, Olkaria IV, Olkaria I Additional Units (AU) VI and V; and wellheads power plants. Olkaria has an Office complex. The summary of the current lighting system at these facilities is given in the table 1.

## **Eastern Hydros**

Eastern Hydros plants are located at lower part of the Tana River. The seven forks power stations consist of Masinga Power Station, Kamburu Power Station, Gitaru Power Station, Kindaruma Power Station and Kiambere Power Station. The Eastern Hydro Administration office is in Gitaru which is approximately 170km from Nairobi. The facilities generally comprise of the power plants, offices and staff camps. The summary of the current lighting system at these facilities is given in the tables 0-3 to 0-7.

## **Sondu, Sang'oro and Gogo**

Sondu Sang'oro and Gogo power stations are part of the Western Hydro power plants. Sondu is approximately 65km from Kisumu town. The facilities generally comprise of the power plants, offices and staff camps. The summary of the current lighting system at these facilities is given in the table 1.

## **Turkwel**

The Turkwel Power Station, is located on the Turkwel River about 76 km north of Kapenguria in West Pokot County. Turkwel is approximately 530km from Nairobi. The summary of the current lighting system at these facilities is given in the table 1.

## **Kipevu**

Kipevu I and III Diesel Power Plant are located in Mombasa County along Changamwe Roundabout, Kipevu Mombasa Road. The summary of the current lighting system at these facilities is given in the table 1.

## **SECTION E: TECHNICAL SPECIFICATIONS**



KenGen intends to procure and replace its lighting system with LED lighting.

Among the technical requirements are:

- a) Brand or country of origin must be indicated;
- b) The lights must be compatible with the existing lamp holders;
- c) Bidders must attach a catalogue indicating the lights they intend to supply and highlight the relevant picture/description of the items that meet our specifications;
- d) The winning bidder must supply the brand that is highlighted in the submitted catalogue failure to which will lead to rejection during inspection of the delivery;
- e) The bidder should give a Performance and quality test report based on International Electrotechnical Commission (IEC) safety and performance standards to show that the lights among other things have surge and transience protection; and
- f) All items will be subjected to functional and performance test on delivery prior to acceptance and during the warranty period.

ITEM NO.	REQUIRED SPECIFICATIONS (MINIMUM)	SUPPLIER'S OFFER
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		BRAND, MODEL COUNTRY OF ORIGIN & PAGE OF CATALOGUE WHERE APPLICABLE	DETAILED SPECIFICATION
1	<b><u>2ft LED Tube light</u></b> Colour- White, 600mm, AC 100V-240V, IEC, CE & ROHS certification, 3,000k-6,000k Colour temperature, 590 lumens and above, CRI >70, 3 years guarantee, 7W, operating frequency 50/60 Hz, Extruded Aluminium, PC		
2	<b><u>4ft LED Tube light</u></b> Colour- White, 1200mm, AC 100V-240V, IEC, CE & ROHS certification, 3,000k-6,000k Colour temperature, 1000 lumens and above, CRI >70, 3 years guarantee, 12W, operating frequency 50/60 Hz, Extruded Aluminium, PC		
3	<b><u>5ft LED Tube Light</u></b> Colour- White, 1500mm, IEC, CE & ROHS certification, 3,000-6,000k Colour temperature, 2000 lumens and above, 3 years guarantee, 24W, operating frequency 50/60 Hz, 1.5m, Extruded Aluminium, PC		
4	<b><u>LED Floodlight</u></b> Colour- Grey, IEC, CE & ROHS certification, 3,000k-6,000k Colour temperature, 3,200-3,700 lumens and above, 3 years guarantee, R/G/B CLASS I I, IP65, 50W, operating frequency 50/60 Hz, N.W. 1.1 Kg		
5	<b><u>LED Streetlight</u></b> Colour- Grey or Black, IEC, CE & ROHS certification, Colour temperature 3,000k-6,000k, CRI 70, Bridgelux, AC100-240V, 8,500 lumens and above, 3 years guarantee, CLASS I I, IP65, 100W, operating frequency 50/60 Hz, Sunlight induction function, N.W 4.65kg		



**Table 1: SCHEDULE OF REQUIREMENTS AS PER THE STATIONS**

Description	Power rating(Watt)	Quantities										Total
		Stima Plaza	Olkaria	Masinga	Kamburu	Gitaru	Kindaruma	Kiambere	Sondu, Sang'ro & Gogo	Turkwel	Kipevu	
<b>Indoor lighting</b>												
5ft fixture Fluorescent lights	58	0	0	18	540	480	433	24	381	0	0	1876
4ft fixture Fluorescent lights	36	796	2,398	546	47	95	392	1,025	271	521	1,607	7698
2ft fixture Fluorescent lights	18	40	258	26	39	0	5	239	197	0	118	922
<b>Outdoor Lighting</b>												
Flood lights	250-400	6	442	147	53	19	122	80	78	50	135	1132
Street lights	150-250	10	376	30	233	64	12	63	97	60	54	999

## SECTION F: PRICE SCHEDULE

ITEM NO.	REQUIRED SPECIFICATIONS (MINIMUM)	BRAND NAME/CONTRY OF ORIGIN	UNIT PRICE PER PIECE inclusive of applicable tax
1	<p><b><u>2ft LED Tube light</u></b>                      Colour- White, 600mm, AC 100V-240V, IEC, CE &amp; ROHS certification, 3,000k-6,000k Colour temperature, 590 lumens and above, CRI &gt;70, 3 years guarantee, 7W, operating frequency 50/60 Hz, Extruded Aluminium, PC</p>		
2	<p><b><u>4ft LED Tube light</u></b>                      Colour- White, 1200mm, AC 100V-240V, IEC, CE &amp; ROHS certification, 3,000k-6,000k Colour temperature, 1000 lumens and above, CRI &gt;70, 3 years guarantee, 12W, operating frequency 50/60 Hz, Extruded Aluminium, PC</p>		
3	<p><b><u>5ft LED Tube Light</u></b>                      Colour- White, 1500mm, IEC, CE &amp; ROHS certification, 3,000-6,000k Colour temperature, 2000 lumens and above, 3 years guarantee, 24W, operating frequency 50/60 Hz, 1.5m, Extruded Aluminium, PC</p>		
4	<p><b><u>LED Floodlight</u></b>                      Colour- Grey, IEC, CE &amp; ROHS certification, 3,000k-6,000k Colour temperature, 3,200-3,700 lumens and above, 3 years guarantee, R/G/B CLASS I I, IP65, 50W, operating frequency 50/60 Hz, N.W. 1.1 Kg</p>		
5	<p><b><u>LED Streetlight</u></b>                      Colour- Grey or Black, IEC, CE &amp; ROHS certification, Colour temperature 3,000k-6,000k, CRI 70, Bridgelux, AC100-240V, 8,500 lumens and above, 3 years guarantee, CLASS I I, IP65, 100W, operating frequency 50/60 Hz, Sunlight induction function, N.W 4.65kg</p>		

**Tenderer's Name** \_\_\_\_\_

**Tenderer's Signature** \_\_\_\_\_

**Company Rubber Stamp** \_\_\_\_\_

**Transport cost**

<b>No</b>	<b>Area</b>	<b>Total cost of transport in Kenya Shillings</b>
1	Stima Plaza	
2	Olkaria	
3	Eastern Hydro (Masinga ,Kamburu ,Gitaru, Kindaruma ,Kiambere)	
4	Sondu	
5	Turkwel	
6	Kipevu	

PLEASE INDICATE THE COST OF DELIVERY OF THE ITEMS

**SECTION G: TENDER FORM**

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

Gentlemen and/or Ladies:

1. Having examined the Tender Documents, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to Supply LED Lights in KenGen Facilities in conformity with the said Tender Documents for the sum of  
.....S.....  
.. (*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 Supply LED lights 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 equivalent to 10% percent of the Contract Price for the due performance of the Contract, in the form prescribed by KenGen.
4. We agree to abide by this Tender for a period of **120 days** from the date fixed for Tender opening under Clause 15.1 of the Instructions to Tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
5. Until a formal Contract is prepared and executed, this Tender, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.
6. We understand that you are not bound to accept the lowest or any tender you may receive.

Dated this \_\_\_\_\_ day of \_\_\_\_\_.

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

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

Duly authorized to sign Tender for and on behalf of \_\_\_\_\_

**SECTION H: TENDER SECURITY FORM**

*(To be on the Letterhead of the Bank)*

Whereas..... *(name of the tenderer)* (hereinafter called “the Tenderer”) has submitted its tender dated ..... *(Date of submission of tender)* for the supply of **LED Lights** (hereinafter called “the Tender”).

KNOW ALL PEOPLE by these presents that We..... *(name of the bank)* of..... *(address of bank)* (hereinafter called “the Bank”), are bound unto KenGen in the sum of *(2% of tender price)*..... *(amount in words and figures)* for which payment well and truly to be made to the said KenGen, the Bank binds itself, its successors, and assigns by these presents. Sealed with the Common Seal of the said Bank this \_\_\_\_\_ day of \_\_\_\_\_.

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 KenGen 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 KenGen up to the above amount upon receipt of its first written demand, without KenGen having to substantiate its demand, provided that in its demand KenGen 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)*



**SECTION I: CONTRACT FORM**

THIS AGREEMENT made the..... day of..... between **KenGen** of Kenya of the one part and..... (*name of Supplier*) of..... (*city and country of Supplier*) (hereinafter called “the Supplier”) of the other part:

WHEREAS KenGen invited tenders for the supply of certain goods, viz **Supply of LED Lights in KenGen Facilities** has accepted a tender by the Supplier for the supply of those Goods in the sum of

.....  
(*Contract Price in words and figures*) (Hereinafter called “the Contract Price”).

**NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:**

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract.
  
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 Supplier;
  - (b) the Schedule of Requirements;
  - (c) the Technical Specifications
  - (d) the General Conditions of Contract;
  - (e) the Special Conditions of Contract; and
  - (f) KenGen’s Notification of Award.
  
3. The contract price shall be .....
  
4. In consideration of the payments to be made by KenGen to the Supplier as hereinafter mentioned, the Supplier hereby covenants with KenGen to provide the Goods and to remedy defects therein in conformity in all respects with the provisions of the Contract
  
5. KenGen hereby covenants to pay the Supplier in consideration of the provision of the Goods and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

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

Signed and Sealed in the Common Seal of  
KenGen in the presence of:

**COMPANY SECRETARY)**

)

**WITNESS**

)

)

Signed and Sealed with the Common Seal of  
the Supplier in the presence of:

**DIRECTOR**

)

)

**SECRETARY**

)

)

**SECTION J: PERFORMANCE SECURITY FORM**  
*(Must be in the Bank's Letterhead)*

To: Kenya Electricity Generating Company Limited,  
Stima Plaza Phase III, Kolobot Road, Parklands,  
P.O Box 479360-00100,  
**Nairobi, Kenya.**

WHEREAS..... *[name of Supplier]*  
(hereinafter called "the Supplier") has undertaken, in pursuance of Contract No. ....  
dated ..... to supply of **LED Lights in KenGen Facilities**  
(hereinafter called "the Contract").

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

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

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Supplier, up to a total of..... *(amount of guarantee in words and figures)*, and we undertake to pay you, upon your first written demand declaring the Supplier to be in default under the Contract and without cavil or argument, any sum or sums within the limits of..... *(amount in words and figures)* 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 .....

Signature and seal of the Guarantors

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

*[address]*

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

**SECTION K: MANUFACTURER'S AUTHORIZATION FORM**

To: Kenya Electricity Generating Company Limited,  
Stima Plaza Phase III, Kolobot Road, Parklands,  
P.O Box 479360-00100,

WHEREAS .....

*[name of the Manufacturer]*

who are established and reputable manufacturers of.....

*[name and/or description for 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 for the above chemical manufactured by us.

We hereby extend our full guarantee and warranty as per the General Conditions of Contract for the '**Supply of LED lights**' 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 competent and having the power of attorney to bind the Manufacturer. It should be included by the tenderer in its tender.

SECTION L. BANK GUARANTEE FOR ADVANCE PAYMENT

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

[name of tender] .....

Gentlemen and/or Ladies:

In accordance with the payment provision included in the Special Conditions of Contract, which amends the General Conditions of Contract to provide for advance payment,.....

[name and address of tenderer] (hereinafter called “the tenderer”) shall deposit with the Procuring entity a bank guarantee to guarantee its proper and faithful performance under the said Clause of the Contract in an amount of.....

[amount of guarantee in figures and words].

We, the.....

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

.....

[amount of guarantee in figures and words].

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

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

Yours truly,  
Signature and seal of the Guarantors

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

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

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

**\*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 (USD/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)**

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 ..... 2016.  
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 ..... 2016.  
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 ..... 2016.  
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 ..... 2016  
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:**

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

	Company Name	Country	Contract/Order No.	Value	Contact person (Full Names)	E-mail address	Cell phone No.
1							
2							
3							

**Part 2(i or j) – 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 .....2016.

Suppliers' / Company's Official Rubber Stamp

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