



KenGen

Kenya Electricity Generating Company Limited

KGN-SONDU-06-2017

**TENDER FOR PAINTING WORKS ON SONDU
INTAKE, WATERWAYS AND SANGORO
STATIONS
(EXCLUSIVE TO REGISTERED GROUPS OF
WOMEN)**

Kenya Electricity Generating Company Limited,
Stima Plaza Phase III, Kolobot Road, Parklands,
P.O. Box 47936,
Nairobi, Kenya.
www.kengen.co.ke

March, 2017

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SECTION I

INVITATION TO TENDER

The Company invites sealed tenders from eligible candidates for the Tender for **Painting Works on Sondu Intake, Waterways and Sangoro Station**, whose specifications are detailed in the Tender Document.

Interested eligible candidates may obtain further information from and inspect the Tender Documents during official working hours starting at the date of advert at the office of:

Supply Chain Director

Tel: (254) (020) 3666000

Email: tenders@kengen.co.ke; cwainaina@kengen.co.ke; smarangu@kengen.co.ke

Where the tender document may be collected upon payment of a non-refundable fee of **KShs.1, 000.00** paid in cash or through a bankers cheque at any KenGen finance office. The document can also be viewed and downloaded from the website www.kengen.co.ke and 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 documents are free of charge. Bidders are advised to be keen on the information provided under the Appendix to Instructions to Tenderers (A.I.T.T.) and the Special conditions of the Contract (S.C.C.).

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

Unless otherwise stated, tenders **MUST** be accompanied by a security in the format and amount specified in the tender documents and must be submitted in a plain sealed envelope and marked "Tender for **Painting Works on Sondu Intake, Waterways and Sangoro Station** and addressed to:

**Company Secretary & Legal Affairs Director
Kenya Electricity Generating Company Limited
7th Floor, Stima Plaza Phase III
Kolobot Road, Parklands
P O Box 47936 - 00100
NAIROBI, KENYA**

On or before: **12th April 2017 at 2.00 p.m.**

Mandatory Site Visit on 29th March 2017 as from 10.00 a.m. at Sondu Miriu Power Station

Tenders will be opened on **12th April 2017 at 2.30 p.m.** in the presence of the candidates' representatives who choose to attend at Stima Plaza III, Executive Committee Room, 7th Floor. The company reserves the right to vary the quantities.

SUPPLY CHAIN DIRECTOR

SECTION II

INSTRUCTIONS TO TENDERERS

1. General
 - 1.1 The Employer as defined in the Appendix to Conditions of Contract invites tenders for Works Contract as described in the tender documents. The successful Tenderer will be expected to complete the Works by the Intended Completion Date specified in the said Appendix.
 - 1.2 Tenderers shall include the following information and documents with their tenders, unless otherwise stated:
 - (a) Copies of certificates of registration, and principal place of business;
 - (b) Total monetary value of construction work performed for each of the last five years;
 - (c) Experience in works of a similar nature and size for each of the last five years, and clients who may be contacted for further information on these contracts;
 - (d) Major items of construction equipment owned;
 - (e) Qualifications and experience of key site management and technical personnel proposed for the Contract;
 - (f) Reports on the financial standing of the Tenderer, such as profit and loss statements and auditor's reports for the last five years;
 - (g) Authority to seek references from the Tenderer's bankers.
 - 1.3 The Tenderer shall bear all costs associated with the preparation and submission of his tender, and the Employer will in no case be responsible or liable for those costs.
 - 1.4 The Tenderer, at the Tenderer's own responsibility and risk, is encouraged to visit and examine the Site of the Works and its surroundings, and obtain all information that may be necessary for preparing the tender and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Tenderer's own expense.
 - 1.5 The procurement entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender.
 - 1.6 The price to be charged for the tender document shall not exceed Kshs.1,000/= Downloaded documents will be free of charge. Bidders who download documents shall promptly notify the Procuring Entity.

- 1.7 The procuring entity shall allow the tenderer to review the tender document free of charge before purchase.

2. Tender Documents

- 2.1 The complete set of tender documents comprises the documents listed here below and any addenda issued in accordance with clause 2.4 here below:-

- (a) These instructions to Tenderers
- (b) Form of Tender
- (c) Conditions of Contract and Appendix to Conditions of Contract
- (d) Specifications
- (e) Drawings
- (f) Bills of Quantities/Schedule of Rates (whichever is applicable)
- (g) Other materials required to be filled and submitted in accordance with these Instructions and Conditions

- 2.2 The Tenderer shall examine all instructions, forms and specifications in the tender documents. Failure to furnish all information required by the tender documents may result in rejection of his tender.

- 2.3 A prospective Tenderer making inquiries of the tendering documents may notify the Employer in writing at the address indicated in the letter of invitation to tender. The Employer will respond to any request for clarification received earlier than seven [7] days prior to the deadline for submission of tenders. Copies of the Employer's response will be forwarded to all persons issued with tendering documents, including a description of the inquiry, but without identifying its source.

- 2.4 Before the deadline for submission of tenders, the Employer may modify the tendering documents by issuing addenda. Any addendum thus issued shall be part of the tendering documents and shall be communicated in writing to all Tenderers. Prospective Tenderers shall acknowledge receipt of each addendum in writing to the Employer.

- 2.5 To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their tenders, the Employer shall extend, as necessary, the deadline for submission of tenders in accordance with clause 4.2 here below.

3. Preparation of Tenders

- 3.1 All documents relating to the tender and any correspondence shall be in English Language.

3.2 The tender submitted by the Tenderer shall comprise the following:-

- (a) The Tender;
- (b) Tender Security;
- (c) Priced Bill of Quantities/Schedule of Rates for lump-sum Contracts
- (d) Any other materials required to be completed and submitted by Tenderers.

3.3 The Tenderer shall fill in rates and prices for all items of the Works described in the Bill of Quantities/Schedule of Rates. Items for which no rate or price is entered by the Tenderer will not be paid for when executed and shall be deemed covered by the other rates and prices in the Bill of Quantities/Schedule of Rates. All duties, taxes and other levies payable by the Contractor under the Contract, as of 30 days prior to the deadline for submission of tenders, shall be included in the tender price submitted by the Tenderer.

3.4 The rates and prices quoted by the Tenderer shall not be subject to any adjustment during the performance of the Contract.

3.5 The unit rates and prices shall be in Kenya Shillings.

Tender security

3.6. The tenderer shall furnish, as part of its tender as indicated in the **Appendix to Instructions to Tenderers**

The tender security is required to protect Kenya Electricity Generating Company Limited against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 14.7

The tender security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be in the form of a bank guarantee or a bank draft issued by a reputable bank located in Kenya or abroad, in the form provided in the tender documents or another form acceptable to Kenya Electricity Generating Company Limited and valid for **at least 30days beyond tender validity**

Any tender not secured in accordance with paragraph 14.1 and 14.3 will be rejected by Kenya Electricity Generating Company Limited as non responsive, pursuant to paragraph 22.

Unsuccessful Tenderer's tender 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 Kenya Electricity Generating Company Limited.

The successful Tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 30, and furnishing the performance security, pursuant to paragraph 31.

The tender security may be forfeited:

- (a) if a tenderer withdraws its tender during the period of tender validity specified by Kenya Electricity Generating Company Limited 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

3.6 Tenders shall remain valid for a period of **Ninety (90) days** from the date of submission. However in exceptional circumstances, the Employer may request that the Tenderers extend the period of validity for a specified additional period. The request and the Tenderers' responses shall be made in writing.

3.7 The Tenderer shall prepare one original of the documents comprising the tender documents as described in these Instructions to Tenderers.

3.8 The original shall be typed or written in indelible ink and shall be signed by a person or persons duly authorised to sign on behalf of the Tenderer. All pages of the tender where alterations or additions have been made shall be initialed by the person or persons signing the tender.

3.9 Clarification of tenders shall be requested by the tenderer to be received by the procuring entity not later than 7 days prior to the deadline for submission of tenders.

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

4. Submission of Tenders

4.1 The tender duly filled and sealed in an envelope shall;-

- (a) be addressed to the Employer at the address provided in the invitation to tender;
- [b] bear the name and identification number of the Contract as defined in the invitation to tender; and
- [c] provide a warning not to open before the specified time and date for tender opening.

4.2 Tenders shall be delivered to the Employer at the address specified above not later than the time and date specified in the invitation to

tender.

- 4.3 The tenderer shall not submit any alternative offers unless they are specifically required in the tender documents.
- 4.4 Only one tender may be submitted by each tenderer. Any tenderer who fails to comply with this requirement will be disqualified.
- 4.5 Any tender received after the deadline for opening tenders will be returned to the tenderer un-opened.
- 4.6 The Employer may extend the deadline for submission of tenders by issuing an amendment in accordance with sub-clause 2.5 in which case all rights and obligations of the Employer and the Tenderers previously subject to the original deadline will then be subject to the new deadline.

5. Tender Opening and Evaluation

- 5.1 The tenders will be opened in the presence of the Tenderers' representatives who choose to attend at the time and in the place specified in the invitation to tender.
- 5.2 The Tenderers' names, the total amount of each tender and such other details as may be considered appropriate, will be announced at the opening by the Procuring Entity. Minutes of the tender opening, including the information disclosed to those present will also be prepared by the Procuring Entity.
- 5.3 Information relating to the examination, clarification, evaluation and comparison of tenders and recommendations for the award of the Contract shall not be disclosed to Tenderers or any other persons not officially concerned with such process until the award to the successful Tenderer has been announced. Any effort by a Tenderer to influence the Employer's officials, processing of tenders or award decisions may result in the rejection of his tender.
- 5.4 Tenders determined to be substantially responsive will be checked for any arithmetic errors. Errors will be corrected as follows:
 - (a) Where there is a discrepancy between the amount in figures and the amount in words, the amount in words will prevail; and
 - (b) where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will prevail, unless in the opinion of the Employer's representative, there is an obvious typographical error, in which case the adjustment will be made to the entry containing that error.

- (c) In the event of a discrepancy between the tender amount as stated in the Form of Tender and the corrected tender figure in the main summary of the Bill of Quantities/Quotation, the amount as stated in the Form of Tender shall prevail.
 - (d) The Error Correction Factor shall be computed by expressing the difference between the tender amount and the corrected tender sum as a percentage of the Corrected Builder's Work (i.e. corrected tender sum less P.C. and Provisional Sums).
 - (e) The Error Correction Factor shall be applied to all Builder's Work (as a rebate or addition as the case may be) for the purposes of valuations for Interim Certificates and valuation of variations.
 - (f) The amount stated in the tender will be adjusted in accordance with the above procedure for the correction of errors and with concurrence of the Tenderer, shall be considered as binding upon the Tenderer. If the Tenderer does not accept the corrected amount, the tender may be rejected and the Tender Security forfeited.
- 5.5 The tender evaluation committee shall evaluate the tender within fifteen (15) days of the validity period from the date of opening the tender.
- 5.6 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)
- 5.7 Where contract price variation is allowed, the valuation shall not exceed 25% of the original contract price.
- 5.8 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request
- 5.9 Preference where allowed in the evaluation of tenders shall not exceed 15%
- 5.10 To assist in the examination, evaluation, and comparison of tenders, the Employer at his discretion, may request [in writing] any Tenderer for clarification of the tender, including breakdowns of unit rates. The request for clarification and the response shall be in writing or by cable, telex or facsimile but no change in the tender price or substance of the tender shall be sought, offered or permitted.
- 5.11 The Tenderer shall not influence the Employer on any matter relating to his tender from the time of the tender opening to the time the Contract is awarded. Any effort by the Tenderer to influence the Employer or his employees in his decision on tender evaluation, tender comparison or Contract award may result in the rejection of the tender.

6. Award of Contract

- 6.1 The award of the Contract will be made to the Tenderer who has offered the lowest evaluated tender price.
- 6.2 Notwithstanding the provisions of clause 6.1 above, the Employer reserves the right to accept or reject any tender and to cancel the tendering process and reject all tenders at any time prior to the award of Contract 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 action.
- 6.3 The Tenderer whose tender has been accepted will be notified of the award prior to expiration of the tender validity period in writing. This notification (hereinafter and in all Contract documents called the "Letter of Acceptance") will state the sum [hereinafter and in all Contract documents called the "Contract Price" which the Employer will pay the Contractor in consideration of the execution, completion, and maintenance of the Works by the Contractor as prescribed by the Contract. The contract shall be formed on the parties signing the contract. At the same time the other tenderers shall be informed that their tenders have not been successful.
- 6.4 The Contract Agreement will incorporate all agreements between the Employer and the successful Tenderer. It will be signed by the Employer and sent to the successful Tenderer, within 30 days following the notification of award. Within 21 days of receipt, the successful Tenderer will sign the Agreement and return it to the Employer.
- 6.5 Within fifteen (15) days after receipt of the Letter of Acceptance, the successful Tenderer shall deliver to the Employer a Performance Security amount stipulated in the Appendix to Conditions of Contract.
- 6.6 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.
- 6.7 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.

7. Corrupt and fraudulent practices

- 7.1 The procuring entity requires that the tenderer observes the highest standard of ethics during the procurement process and execution of the contract. A tenderer shall sign a declaration that he has not and will

not be involved in corrupt and fraudulent practices.

- 7.2 The procuring entity will reject a tender if it determines that the tenderer recommended for award has engaged in corrupt and fraudulent practices in competing for the contract in question.
- 7.3 Further a tenderer who is found to have indulged in corrupt and fraudulent practices risks being debarred from participating in public procurement in Kenya.

Appendix to Instructions to Tenderers

The following information for procurement of small works 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

INSTRUCTIONS TO TENDERERS (REFERENCE)	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERERS
Tender Security	<p>No tender securities shall be required from the enterprises participating in this tender. However, bidders shall be required to complete and sign the Tender Securing Declaration Form furnished in this tender document.</p> <p>The tender securing declaration form is required to assure the Procuring Entity of the protection against the risk of Tenderer's conduct, whereby any bidder from the target group who fails to adhere to the terms of the Tender Securing Declaration Form shall be liable to debarment pursuant to section 61 (5) of the Public Procurement and Asset Disposal Act 2015</p> <p>Any tender not secured in accordance with this requirement will be rejected as non-responsive.</p>
Tender Validity Period	90 Days from the date of tender opening
Eligibility	National Open Tender
Tender Closing Date	12th April 2017 at 2.00 p.m.
Evaluation Criteria	<p><i>Preliminary Evaluation Requirements</i></p> <ul style="list-style-type: none"> • Duly completed Price Schedule • Duly completed Tender Form • Duly completed and signed tender securing declaration form • Statutory documents of business registration/ incorporation • Evidence of valid registration in the target group (AGPO-WOMEN) • Submission of the required copies of the bid document. • Submission of CVs of the painting experts • Evidence of previously completed similar jobs by the proposed experts • Submission of the proposed safety plan for the works • Submission of attach product brochures of all

	<p>the paints and additives to be used for the works including the brand names and product name.</p> <ul style="list-style-type: none"> • Duly Completed Confidential Business Questionnaire (CBQ) as provided below*. • Copy Certificate of Incorporation / Registration • Copy of National Construction Authority certificate (NCA 7 and above for Specialist contractor) • Copy of Valid Tax Compliance Certificate • Joint Venture Agreement with specialist contractor, where applicable • Duly Completed POWER OF ATTORNEY form, ONLY in cases of joint ventures/consortiums. • Pagination/serialization of all pages of the bid document. <p><i>Technical Evaluation criteria</i></p> <ul style="list-style-type: none"> • Compliance to technical specifications as stipulated in section IV of this tender • Adequacy of the provided detailed works methodology and program of work • Examination of the proposed field technical team (including painters) and staffing structure for the works • Compliance with the technical specifications & requirements set out in section VI of this tender document. Tenders will be subjected to the technical evaluation criteria set out in Section VI. This will follow a PASS/ FAIL scoring criteria against the parameters set out in section VI. Only bids that pass in all the aspects will be subjected to financial evaluation. <p><i>Financial Evaluation Criteria</i></p> <ul style="list-style-type: none"> • Checking for completeness in the quotation for all items in the BQ/ Price Schedule. • A determination of bidders price competitiveness and a comparison with current market rates • The lowest evaluated bidder will be considered for award.
Due Diligence	KenGen may at its own discretion conduct due diligence on the eligible bidders to establish their ability to perform the contract.
Performance Security	Shall be 1% of the contract sum in the form of a bank guarantee or issued by an authorized financial institution.

SECTION III

CONDITIONS OF CONTRACT

Table of Clauses

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1. Definitions

1.1 In this Contract, except where context otherwise requires, the following terms shall be interpreted as indicated;

“Bills of Quantities” means the priced and completed Bill of Quantities forming part of the tender [where applicable].

“Schedule of Rates” means the priced Schedule of Rates forming part of the tender [where applicable].

“The Completion Date” means the date of completion of the Works as certified by the Employer’s Representative.

“The Contract” means the agreement entered into by the Employer and the Contractor as recorded in the Agreement Form and signed by the parties.

“The Contractor” refers to the person or corporate body whose tender to carry out the Works has been accepted by the Employer.

“The Contractor’s Tender” is the completed tendering document submitted by the Contractor to the Employer.

“The Contract Price” is the price stated in the Notification of award.

“Days” are calendar days; “Months” are calendar months.

“A Defect” is any part of the Works not completed in accordance with the Contract.

“The Defects Liability Certificate” is the certificate issued by Employer’s Representative upon correction of defects by the Contractor.

“The Defects Liability Period” is the period named in the Appendix to Conditions of Contract and calculated from the Completion Date.

“Drawings” include calculations and other information provided or approved by the Employer’s Representative for the execution of the Contract.

“Employer” means Kenya Electricity Generating Company Limited and is the party who employs the Contractor to carry out the Works.

“Equipment” is the Contractor’s machinery and vehicles brought temporarily to the Site for the execution of the Works.

“Site” means the place or places where the permanent Works are to be carried out including workshops where the same is being prepared.

“Materials” are all supplies, including consumables, used by the Contractor for incorporation in the Works.

“Employer’s Representative” is the person appointed by the Employer and notified to the Contractor for the purpose of supervision of the Works.

“Specification” means the Specification of the Works included in the Contract.

“Start Date” is the date when the Contractor shall commence execution of the Works.

“ A Subcontractor” is a person or corporate body who has a Contract with the Contractor to carry out a part of the Work in the Contract, which includes Work on the Site.

“Temporary works” are works designed, constructed, installed, and removed by the Contractor which are needed for construction or installation of the Works.

“ A Variation” is an instruction given by the Employer’s Representative which varies the Works.

“The Works” are what the Contract requires the Contractor to construct, install, and turnover to the Employer.

2. Contract Documents

2.1 The following documents shall constitute the Contract documents and shall be interpreted in the following order of priority;

- (1) Contract Agreement,
- (2) Notification of award
- (3) Letter of Acceptance,
- (4) Conditions of Contract
- (5) Technical Specifications
- (6) Drawings,
- (7) Bills of Quantities or Schedule of Rates [whichever is applicable]
- (8) Contractor’s Tender,
- (9) Applicable Addenda and Clarifications

3. Employer's Representative's Decisions

3.1 Except where otherwise specifically stated, the Employer's Representative will decide contractual matters between the Employer and the Contractor in the role representing the Employer.

4. Works, Language and Law of Contract

4.1 The Contractor shall construct and install the Works in accordance with the Contract documents. The Works may commence on the Start Date and shall be carried out in accordance with the Program submitted by the Contractor, as updated with the approval of the Employer's Representative, and complete them by the Intended Completion Date.

4.2 The ruling language of the Contract shall be English language and the law governing the Contract shall be the law of the Republic of Kenya.

5. Safety, Temporary works and Discoveries

5.1 The Contractor shall be responsible for design of temporary works and shall obtain approval of third parties to the design of the temporary works where required.

5.2 The Contractor shall be responsible for the safety of all activities on the Site.

5.3 Anything of historical or other interest or significant value unexpectedly discovered on the Site shall be the property of the Employer. The Contractor shall notify the Employer's Representative of such discoveries and carry out the Employer's Representative's instructions for dealing with them.

6 Work Program and Sub-contracting

6.1 Within seven days after Site possession date, the Contractor shall submit to the Employer's Representative for approval a program showing the general methods, arrangements, order and timing for all the activities in the Works.

6.2 The Contractor may sub-contract the Works (but only to a maximum of 25 percent of the Contract Price) with the approval of the Employer's Representative. However, he shall not assign the Contract without the approval of the Employer in writing. Sub-contracting shall not alter the Contractor's obligations.

7 The site

7.1 The Employer shall give possession of all parts of the Site to the

Contractor.

- 7.2 The Contractor shall allow the Employer's Representative and any other person authorised by the Employer's Representative, access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.

8 Instructions

- 8.1 The Contractor shall carry out all instructions of the Employer's Representative which are in accordance with the Contract.

9 Extension of Completion Date

- 9.1 The Employer's Representative shall extend the Completion Date if an occurrence arises which makes it impossible for completion to be achieved by the Intended Completion Date. The Employer's Representative shall decide whether and by how much to extend the Completion Date.
- 9.2 For the purposes of this clause, the following occurrences shall be valid for consideration;

Delay by:-

- (a) force majeure, or
- (b) reason of any exceptionally adverse weather conditions, or
- (c) reason of civil commotion, strike or lockout affecting any of the trades employed upon the Works or any of the trades engaged in the preparation, manufacture or transportation of any of the goods or materials required for the Works, or
- (d) reason of the Employer's Representative's instructions issued under these Conditions, or
- (e) reason of the contractor not having received in due time necessary instructions, drawings, details or levels from the Employer's Representative for which he specifically applied in writing on a date which having regard to the date for Completion stated in the appendix to these Conditions or to any extension of time then fixed under this clause was neither unreasonably distant from nor unreasonably close to the date on which it was necessary for him to receive the same, or
- (f) delay on the part of artists, tradesmen or others engaged by the Employer in executing work not forming part of this Contract, or

- (g) reason of delay by statutory or other services providers or similar bodies engaged directly by the Employer, or
- (h) reason of opening up for inspection of any Work covered up or of the testing or any of the Work, materials or goods in accordance with these conditions unless the inspection or test showed that the Work, materials or goods were not in accordance with this Contract, or
- (i) reason of delay in appointing a replacement Employer's Representative, or
- (j) reason of delay caused by the late supply of goods or materials or in executing Work for which the Employer or his agents are contractually obliged to supply or to execute as the case may be, or
- (k) delay in receiving possession of or access to the Site.

10 Management Meetings

10.1 A Contract management meeting shall be held regularly and attended by the Employer's Representative and the Contractor. Its business shall be to review the plans for the remaining Work. The Employer's Representative shall record the business of management meetings and provide copies of the record to those attending the meeting and the Employer. The responsibility of the parties for actions to be taken shall be decided by the Employer's Representative either at the management meeting or after the management meeting and stated in writing to all who attend the meeting.

10.2 Communication between parties shall be effective only when in writing.

11 Defects

11.1 The Employer's Representative shall inspect the Contractor's work and notify the Contractor of any defects that are found. Such inspection shall not affect the Contractor's responsibilities. The Employer's Representative may instruct the Contractor to search for a defect and to uncover and test any Work that the Employer's Representative considers may have a defect. Should the defect be found, the cost of uncovering and making good shall be borne by the Contractor. However if there is no defect found, the cost of uncovering and making good shall be treated as a variation and added to the Contract Price.

- 11.2 The Employer's Representative shall give notice to the Contractor of any defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the Appendix to Conditions of Contract.
- 11.3 Every time notice of a defect is given, the Contractor shall correct the notified defect within the length of time specified by the Employer's Representative's notice. If the Contractor has not corrected a defect within the time specified in the Employer's Representative's notice, the Employer's Representative will assess the cost of having the defect corrected by other parties and such cost shall be treated as a variation and be deducted from the Contract Price.

12 Bills of Quantities/Schedule of Rates

- 12.1 The Bills of Quantities/Schedule of Rates shall contain items for the construction, installation, testing and commissioning of the Work to be done by the Contractor. The Contractor will be paid for the quantity of the Work done at the rates in the Bills of Quantities/Schedule of Rates for each item. Items against which no rate is entered by the Tenderer will not be paid for when executed and shall be deemed covered by the rates for other items in the Bills of Quantities/Schedule of Rates.
- 12.2 Where Bills of Quantities do not form part of the Contract, the Contract Price shall be a lump sum (which shall be deemed to have been based on the rates in the Schedule of Rates forming part of the tender) and shall be subject to re-measurement after each stage.

13 Variations

- 13.1 The Contractor shall provide the Employer's Representative with a quotation for carrying out the variations when requested to do so. The Employer's Representative shall assess the quotation and shall obtain the necessary authority from the Employer before the variation is ordered.
- 13.2 If the Work in the variation corresponds with an item description in the Bill of Quantities/Schedule of Rates, the rate in the Bill of Quantities/Schedule of Rates shall be used to calculate the value of the variation. If the nature of the Work in the variation does not correspond with items in the Bill of Quantities/Schedule of Rates, the quotation by the Contractor shall be in the form of new rates for the relevant items of Work.
- 13.3 If the Contractor's quotation is unreasonable, the Employer's Representative may order the variation and make a change to the Contract Price, which shall be based on the Employer's Representative's own forecast of the effects of the variation on the Contractor's costs.

14 Payment Certificates and Final Account

14.1 The Contractor shall be paid after each of the following stages of Work listed herebelow (subject to re-measurement by the Employer's Representative of the Work done in each stage before payment is made). In case of lump-sum Contracts, the valuation for each stage shall be based on the quantities so obtained in the re-measurement and the rates in the Schedule of Rates.

- (i) Advance payment **shall not be applicable** (percent of Contract Price, [after Contract execution] to be inserted by the Employer).
- (ii) First stage (define stage) _____
- (iii) Second stage (define stage) _____
- (iv) Third stage (define stage) _____
- (v) After defects liability period .

14.2 Upon deciding that Works included in a particular stage are complete, the Contractor shall submit to the Employer's Representative his application for payment. The Employer's Representative shall check, adjust if necessary and certify the amount to be paid to the Contractor within 21 days of receipt of the Contractor's application .The Employer shall pay the Contractor the amounts so certified within 30 days of the date of issue of each Interim Certificate.

14.3 The Contractor shall supply the Employer's Representative with a detailed final account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Employer's Representative shall issue a Defect Liability Certificate and certify any final payment that is due to the Contractor within 30 days of receiving the Contractor's account if it is correct and complete. If it is not, the Employer's Representative shall issue within 21 days a schedule that states the scope of the corrections or additions that are necessary. If the final account is still unsatisfactory after it has been resubmitted, the Employer's Representative shall decide on the amount payable to the Contractor and issue a Final Payment Certificate. The Employer shall pay the Contractor the amount so certified within 60 days of the issue of the Final Payment Certificate.

14.4 If the period laid down for payment to the Contractor upon each of the Employer's Representative's Certificate by the Employer has been exceeded, the Contractor shall be entitled to claim simple interest

calculated pro-rata on the basis of the number of days delayed at the Central Bank of Kenya's average base lending rate prevailing on the first day the payment becomes overdue. The Contractor will be required to notify the Employer within 15 days of receipt of delayed payments of his intentions to claim interest.

15. Insurance

15.1 The Contractor shall be responsible for and shall take out appropriate cover against, among other risks, personal injury; loss of or damage to the Works, materials and plant; and loss of or damage to property.

16. Liquidated Damages

16.1 The Contractor shall pay liquidated damages to the Employer at the rate 0.001 per cent of the Contract price per day for each day that the actual Completion Date is later than the Intended Completion Date except in the case of any of the occurrences listed under clause 9.2. The Employer may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's liabilities.

17. Completion and Taking Over

17.1 Upon deciding that the Work is complete the Contractor shall request the Employer's Representative to issue a Certificate of Completion of the Works, upon deciding that the Work is completed.

The Employer shall take over the Site and the Works within seven days of the Employer's Representative issuing a Certificate of Completion.

18. Termination

18.1 The Employer or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract. These fundamental breaches of Contract shall include, but shall not be limited to, the following;

- (a) the Contractor stops Work for 30 days continuously without reasonable cause or authority from the Employer's Representative;
- (b) the Contractor is declared bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
- (c) a payment certified by the Employer's Representative is not paid by the Employer to the Contractor within 30 days after the expiry of the payment periods stated in sub clauses 14.2 and

14.3 hereinabove.

- (d) the Employer's Representative gives notice that failure to correct a particular defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time.

18.2 If the Contract is terminated, the Contractor shall stop Work immediately, and leave the Site as soon as reasonably possible. The Employer's Representative shall immediately thereafter arrange for a meeting for the purpose of taking record of the Works executed and materials, goods, equipment and temporary buildings on Site.

19. Payment Upon Termination

19.1 The Employer may employ and pay other persons to carry out and complete the Works and to rectify any defects and may enter upon the Works and use all materials on Site, plant, equipment and temporary works.

19.2 The Contractor shall, during the execution or after the completion of the Works under this clause, remove from the Site as and when required within such reasonable time as the Employer's Representative may in writing specify any temporary buildings, plant, machinery, appliances, goods or materials belonging to him, and in default thereof, the Employer may (without being responsible for any loss or damage) remove and sell any such property of the Contractor, holding the proceeds less all costs incurred to the credit of the Contractor.

19.3 Until after completion of the Works under this clause, the Employer shall not be bound by any other provision of this Contract to make any payment to the Contractor, but upon such completion as aforesaid and the verification within a reasonable time of the accounts therefore the Employer's Representative shall certify the amount of expenses properly incurred by the Employer and, if such amount added to the money paid to the Contractor before such determination exceeds the total amount which would have been payable on due completion in accordance with this Contract, the difference shall be a debt payable to the Employer by the Contractor; and if the said amount added to the said money be less than the said total amount, the difference shall be a debt payable by the Employer to the Contractor.

20. Corrupt Gifts and Payments of Commission

20.1 The Contractor shall not;

- (a) Offer or give or agree to give to any person in the service of the Employer any gifts or consideration of any kind as an inducement or reward for doing or forbearing to do or for having

done or forbore to do any act in relation to the obtaining or execution of this or any other contract with the Employer or for showing or forbearing to show favour or dis-favour to any person in relation to this or any other contract with the Employer.

- (b) Any breach of this Condition by the Contractor or by anyone employed by him or acting on his behalf (whether with or without the knowledge of the Contractor) shall be an offence under the Laws of Kenya.

21. Settlement of Disputes

- 21.1 Any dispute arising out of the Contract which cannot be amicably settled between the parties shall be referred by either party to the arbitration and final decision of a person to be agreed between the parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed by the chairman of the Chartered Institute of Arbitrators, Kenya branch, on the request of the applying party.

22 Taxes

- 22.1.1 "**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.

22.1.2 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.

- 22.1.3 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.

- 22.1.4 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

22.1.5 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.

22.1.6 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

22.1.7 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.

22.1.8 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.

22.1.9 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.

APPENDIX TO CONDITIONS OF CONTRACT

THE EMPLOYER IS

Name: **KENYA ELECTRICITY GENERATING CO. LTD**

Address: **P.O. BOX 47936 – 00100, NAIROBI**

Name of Employer's Representative: **SOLOMON MARANGU**

Title; **MECHANICAL ENGINEER - SONDU**

Telephone: **0711036860**

The name (and identification number) of the Contract is _____

The Works consist of **Painting works at Sondu Intake, Waterways and Sang'oro Stations**

The commencement Date shall be **the date of kick off meeting**

The contract duration shall be **Three (3) Months from Commencement**

The Site is located at **Kisumu County on the east of Lake Victoria, approximately 63km from Kisumu city and 360km from Nairobi City. It is a run off the Sondu river scheme with an installed capacity of generating 60MW for Sondu and 21.2MW for Sang'oro Station which is 6 Km downstream of Sondu Station and is defined in the schedule of technical requirements.**

The Defects Liability Period is **6 Months**

Amount of Performance Security is **1% of the contract sum**

Within fifteen (15) days of receipt of the notification of Contract award, the successful tenderer shall furnish to Kenya Electricity Generating Company Limited the performance security in the amount specified in Special Conditions of Contract.

The proceeds of the performance security shall be payable to Kenya Electricity Generating Company Limited as compensation for any loss resulting from the Tenderer's failure to complete its obligations under the Contract.

The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to Kenya Electricity Generating Company Limited 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 Kenya Electricity Generating Company Limited, in the form provided in the tender documents.

The performance security will be discharged by Kenya Electricity Generating Company Limited 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.

3.2 – Specify the Employers Representative

10.3 - Specify how often Management meetings will be held

14.5 – Define the terms of payment and advance payment if applicable

SECTION IV

**SPECIFICATIONS, DRAWINGS AND BILLS OF
QUANTITIES/SCHEDULE OF RATES**

I.SPECIFICATIONS

II. DRAWINGS

III.BILL OF QUANTITIES/SCHEDULE OF RATES

**SECTION V STANDARD
FORMS**

- a. Form of Tender
- b. Contract Form
- c. Form of Tender Security
- d. Performance Bank Guarantee
- e. Bank Guarantee for Advance Payment
- f. Confidential Business Questionnaire

SECTION VI: TECHNICAL SPECIFICATIONS

1. INTRODUCTION

Sondu- Miriu is a hydropower plant located in Kisumu County on the east of Lake Victoria approximately 63km from Kisumu city and 360km from Nairobi city. It is a run off the Sondu river scheme with an installed capacity of generating 60MW. Sang'oro Station is 6 Km downstream of Sondu Station utilizing the same water to generate 21.2MW installed capacity. Sondu-Miriu was commissioned in the year 2007 while Sang'oro started operations in 2012.

Water from the Sondu-Miriu intake pond connects to the powerhouse through an array of intake structures including intake gates, spillway gates, sand flush gate, stop logs etc through a tunnel and 36m high surge tank, and finally through a 1,214.84m long steel penstock with a variable diameter from 3.6m at the header tank to 1.65m at the powerhouse.

The Sondu waterway penstock can be accessed through a 3 km tarmac road or from the power house while the intake can be accessed through a 20 km murram road. Sang'oro is accessed through a 6 Km tarmac road from Sondu-Miriu station.

2. TECHNICAL REQUIREMENTS OF THE WORKS

Facilities of the project can be divided into sections in terms of the hydro mechanical works inclusive of the intake, waterway, power station, outlet channel and Sang'oro station. For the purposes of these works we are going to divide the stations into three lots: Lot 1 – Sondu intake area, Lot 2 –Sondu waterways to outlet channel and Lot 3- Sang'oro waterways. The prices for the works should be quoted separately as the award of the contract will be considered separately as per KenGen's request.

The structures in the lots to be serviced are critical in the meeting of the targets that have been set to satisfy the customer demands and therefore their proper functioning should be of utmost importance. The major installations permanently in contact with water including gates, hoists, stop logs, guide frames etc will require consultations with the employer's representative regarding accessibility and permissions to operate.

2.1 Painting Modes

Painting works will involve the following activities;

- a) Cleaning to remove all dirt, grease and oil deposits using appropriate tools/solvents. Any other surface treatment procedure necessary. The surface preparation may involve high pressure cleaning using a heavy duty cleaner and degreaser, abrasive sanding to improve paint adhesion and(or) application of a primer
- b) Application of the finish coats to the minimum dry thicknesses indicated only as indicated in the specifications for existing paintwork detailed in the tables below.

There is no mandatory requirement of completely cleaning off the existing paintwork. Tenderers should take note of the existing state of the paintwork

during the site visit in order to determine the preliminary surface preparation required during works execution

The total paint area is indicated for each line item.

2.2 Paint specifications

The specifications of the existing paintwork during the time of commissioning were as follows:

Specification A

Process	General Name	Min. Dry Thickness
Primer	Epoxy Resin Zinc Rich Primer	0.020mm
Under Coat	Coal-tar Epoxy Resin paint	0.220mm
Finish coat	Coal-tar Epoxy Resin paint	0.220mm
	Total	0.460mm

Specification B

Process	General Name	Min. Dry Thickness
Primer	Epoxy Resin Zinc Rich Primer	0.020mm
Under Coat	Non Bleed type tar Epoxy Resin paint	0.150mm
Under Coat	Non Bleed type tar Epoxy Resin paint	0.150mm
Intermediate Coat	Epoxy Resin MIO Paint	0.050mm
Finish coat	Chlorinated Rubber paint	0.040mm
Finish coat	Chlorinated Rubber paint	0.040mm
	Total	0.450mm

Specification C

Process	General Name	Min. Dry Thickness
Primer	Epoxy Resin Zinc Rich Primer	0.020mm
Under Coat	Chlorinated Rubber paint	0.035mm
Under Coat	Chlorinated Rubber paint	0.035mm
Intermediate Coat	Chlorinated Rubber paint	0.035mm
Finish coat	Chlorinated Rubber paint	0.035mm
	Total	0.460mm

Specification D

Process	General Name	Min. Dry Thickness
Primer	Epoxy Resin Zinc Rich Primer	0.065mm
Under Coat	Two coats quick drying high built MIO Paint	0.125mm

Finish coat	Two coats modified hard wearing epoxy paint	0.200mm
	Total	0.390mm

2.3 General precautions

The general precautions to be observed will include:

No painting,

- a) At very high humidity which leads to film flogging
- b) When it’s raining or we have high winds to avoid poor film adhesion
- c) When the temperatures are above 50deg C.
- d) Over nameplates or signage

The thickness of the paint shall be confirmed through a Paint thickness test using appropriate equipment.

The works will include working on/with heights, relocation of some of the structures to locations that would allow for easy working on the stated structures with the advise or assistance of Kengen representative(s). This would necessitate safety observation during the execution of the works by erecting barricades, consultation with the control team to avoid downtime, providing the employees with appropriate PPE including floating jackets, masks, overall, helmets, appropriate shoes, overalls, safety harnesses (belts) e.t.c Ensure you comply with all set down procedures of safety as observed by KenGen.

The contractor should provide a proper work plan detailing the works to be done, the schedule of tests and works to be followed and the milestones in the execution of the works. Where possible the contractor should provide the employer with sketches of how he will execute, to end any conflicting interests or opinions.

Tenderer should attach product brochures of all the paints and additives to be used for the works including the brand names and product name.

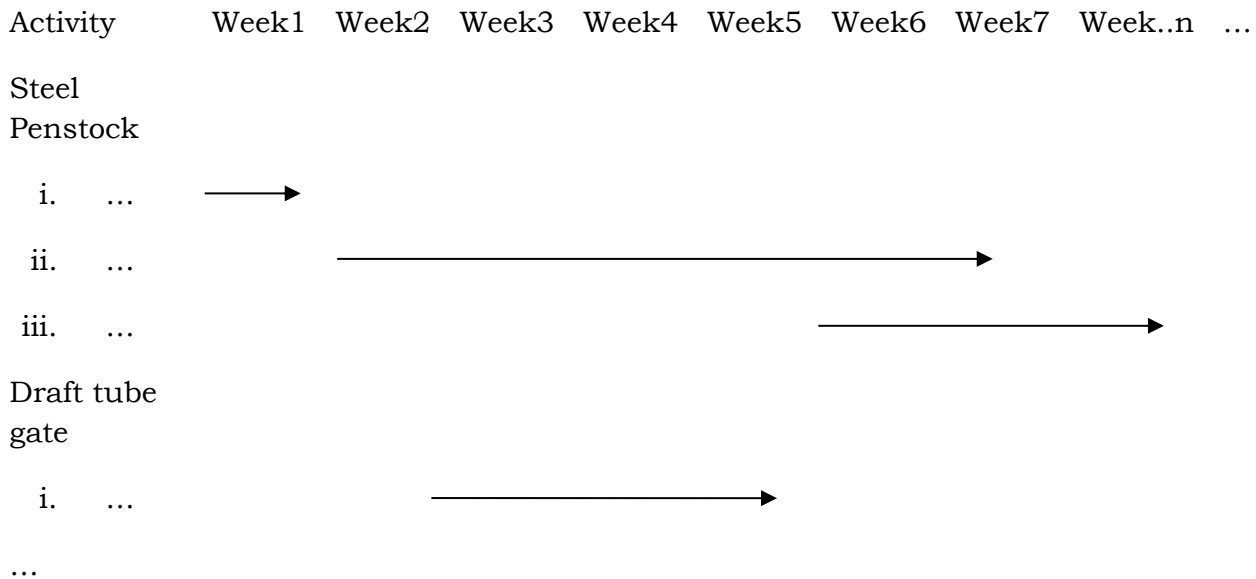
3. MANDATORY REQUIREMENTS

- a) The contractor shall furnish the employer with the technical competencies of the employees to be deployed by the tenderer to undertake the exercise. At least two of the employees shall be trained painting experts who have supervised works of a similar magnitude in the recent past.
- b) Copies of at least two completion certificates or equivalent proof of execution of previous works executed by the tenderer of similar scope or magnitude.
- c) Meet the legal and Kengen safety requirements including use of safety and protective equipments/procedures by their employees doing the works. The bidder must therefore provide the proposed safety plan for the works.
- d) Tenderer should attach product brochures of all the paints and additives to be used for the works including the brand names and product name.
- e) Work Schedules and plans
- f) Site visit certificate
- g) The successful tenderer must also demonstrate strict adherence to:
 - I. Legal Notice No. 120, Environmental Management and Co-ordination (Water Quality) Regulations, 2006.

- II. Lead-Based paints must not be used.
- III. Spills of any material or waste, whether hazardous or not are not permitted. In case of accidental spill, the Polluter- Pays Principle applies, which means that the cost of cleaning up any element of the environment damaged by pollution, compensating victims of pollution, cost of beneficial uses lost as a result of an act of pollution and other costs that are connected with or incidental to the foregoing, is to be paid or borne by the person convicted of pollution under Environmental Management and Co-ordination Act (EMCA) of 1999.
- IV. To reduce potential risks to the environment and the public, paint chips, debris and abrasive fines must be disposed of as hazardous waste in accordance to PART IV of Environmental Management and Co-ordination (Waste Management) Regulations 2006.
- V. Environmental controls such as containment structures for work areas or support devices for tools must be used throughout the work period.
- VI. The Environment Management Program that will be provided during the works commencement must be followed to the letter.

PROPOSED WORK PLAN

Example of expected work plan. Tenderer is free to use any easily understandable format.



TECHNICAL EVALUATION CRITERIA

REQUIREMENTS	CRITERIA	SCORE
Technical competencies	A pass if competence certificates of at least 2 employees are attached and a fail if otherwise.	
Previous works	A pass if at least two completion certificates are provided and a fail if otherwise	
Work Schedule/Plan/ Methodology	A pass if a schedule is provided and a fail if not provided.	
Site Visit	A pass if a site visit certificate is provided and a fail for lack of one.	
Product brochures of all paints, thinners and other additives to be mixed with the paints	A pass if sufficiently detailed product brochures are provided as detailed in the technical requirements and a fail for lack of sufficient information.	

SECTION VIII:

Tender for Painting Works on Sondu Intake, Waterways and Sangoro Station

PRICE SCHEDULES/BILL OF QUANTITIES

LOT 1 – Sondu intake area

Surface to be painted	Existing Paint specification	Color	Munsell No.	Paint Area (m²)	Unit cost Ksh/m²	Total cost
Spillway Gates and Hoists						
Gate leaf with Flap	B	Black	N-1	3,877		
Guide Frame	A	Black	N-1	105		
Hoist	B	Black	N-1	430		
Spillway stop logs						
Stop logs	B	Black	N-1	1,667		
Guide frames	A	Black	N-1	46		
Lifting Beam	B	Yellow	3.1Y 8.3/15.6	66		
Runway beam	B	Black	N-1	137		
Dogging device	C	Black	N-1	13		
Storing frame	A	Black	N-1	2		
Inspection bridges and safety fences	B	Yellow	3.1Y 8.3/15.6	899		
Additional Inspection bridges	B	Yellow	3.1Y 8.3/15.6	190		
Staircase	B	Yellow	3.1Y 8.3/15.6	450		
Sand Flush Gates and hoists						
Gate leaf with Flap	B	Black	N-1	1,047		
Guide Frame	A	Black	N-1	44		
Hoist	B	Black	N-1	148		

Sand flush stop logs						
Stop logs	B	Black	N-1	1,135		
Guide frames	A	Black	N-1	19		
Dogging device	C	Grey	N-7.5	4		
Storing frame	A	Black	N-1	4		
Inlet gates and hoists						
Gate Leafs	B	Black	N-1	855		
Guide frames	A	Black	N-1	83		
Hoist with hoist deck	B	Yellow	3.1Y 8.3/15.6	604		
Inlet trash rack (slanted)						
Trash racks	A	Black	N-1	808		
Inlet mechanical rakes						
Mechanical Rakes	A	Black	N-1	1,307		
Conveyor system	B	Grey	N-7.5	311		
Storage hopper (interior)	A	Black	N-1	22		
Storage hopper (Exterior)	B	Grey	N-7.5	190		
Inlet stop log and Monorail Hoist						
Stop log	B	Black	N-1	226		
Lifting beam	A	Black	N-1	40		
Guide frames	B	Yellow	3.1Y 8.3/15.6	12		
Runway beam	B	Black	N-1	119		
Dogging device	C	Grey	N-7.5	9		

Sand drain bulkhead gate and Hoist						
Gate Leaf	B	Black	N-1	18		
Guide frames	A	Black	N-1	4		
Hoist with hoist deck	B	Grey	N-7.5	18		
Sand drain gates and hoists						
Gate with Leaf	A	Black	N-1	24		
Guide frames	A	Black	N-1	102		
Hoist	B	Grey	N-7.5	164		
Intake bulkhead gates and Monorail Hoist						
Gate Leaf	B	Black	N-1	187		
Guide frames	A	Black	N-1	18		
Runway beam	B	Yellow	3.1Y 8.3/15.6	48		
Dogging device	C	Grey	N-7.5	4		
Intake trash racks	A	Black	N-1	170		
Total cost for Painting works lot 1 –Sondur intake area (exclusive of VAT)						

LOT 2 – Sondur waterway structures

Surface to be painted	Existing Paint specification	Color	Munsell No.	Paint Area (m ²)	Unit cost/m ²	Total cost
Steel penstock (exterior)	B	Grey	N-7.5	11,781		

Draft tube gate and Monorail hoist						
Gate Leaf	B	Black	N-1	58		
Guide frames	A	Black	N-1	22		
Runway beam	B	Yellow	3.1Y 8.3/15. 6	55		
Grating for Gate slot	C	Grey	N-7.5	3		
Dogging device	C	Grey	N-7.5	2		
Hoist						
Irrigation outlet valve	B	Grey	N-7.5	6		
Guard valve	B	Grey	N-7.5	7		
Irrigation channel						
Gate leaf	B	Black	N-1	123		
Guide frames	A	Black	N-1	9		
Hoist	B	Grey	N-7.5	4		
Staircase	B	White		100		
Guard rails and mesh	B	White		180		
Fire hydrant exposed piping and structures		Red		155		
Total cost for Painting works lot 2 – Sondu waterway structures (exclusive of VAT)						

LOT 3 - Sang'oro waterways area

Surface to be painted	Existing Paint specification	Color	Color code	Paint Area (m ²)	Unit cost/m ²	Total cost
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Steel penstock (exterior)	D	Grey	RAL 7040	1,720		
Draft tube gate and Monorail hoist						
Gate Leafs	D	Black	RAL 9005	102		
Guide frames and accessories	D	Black	RAL 9005	30		
Runway beam	D	Grey	RAL 7040	70		
Gate locking device	D	Grey	RAL 7040	35		
Tailrace sensor holder	D	Grey	RAL 7040	2		
Intake structures						
Gate leaf	D	Black	RAL 9005	60		
Guide frames	D	Black	RAL 9005	20		
Hoist bases, guards and covers	D	Yellow		170		
Hoist gear boxes	D	Green		8		
Guard rails and staircase	B	Grey	RAL 7040	600		
Screens and raking equipment						
Inlet screen	D	Black	RAL 9005	282		
Trash conveyor	D	Grey	RAL 7040	200		
Trash rake equipment	D	Blue		370		
Trash rake cabin	D	Yellow		100		
Fire hydrant exposed		Red		145		

pipng and structures						
Total cost for Painting works lot 3 – Sang’oro waterways area (exclusive of VAT)						

PRICE SCHEDULE SUMMARY

1	2	3
Item	Description	Total Price
1.	Painting works lot 1 –Sondu intake area	
2.	Painting works lot 2 – Sondu waterway structures	
3.	Painting works lot 3 – Sang’oro waterways area	
	TOTAL PRICE	
	VAT	
	TOTAL COST OF WORKS	

	TOTAL COST OF WORKS(in words)	
	Currency of Tender	
	Delivery Period (As per work schedule)	
	Warranty period	

TENDERER'S NAME:

TENDERER'S SIGNATURE: _____

COMPANY'S RUBBER STAMP: _____

FORM OF TENDER

TO: _____[Name of Employer) _____[Date]
_____ [Name of Contract]

Dear Sir,

1. In accordance with the Conditions of Contract, Specifications, Drawings and Bills of Quantities/Schedule of Rates for the execution of the above named Works, we, the undersigned offer to construct, install and complete such Works and remedy any defects therein for the sum of Kshs. _____ [Amount in figures] Kenya Shillings _____ [Amount in words]
2. We undertake, if our tender is accepted, to commence the Works as soon as is reasonably possible after the receipt of the Employer's Representative's notice to commence, and to complete the whole of the Works comprised in the Contract within the time stated in the Appendix to Conditions of Contract.
3. We agree to abide by this tender until _____ - 90 days from the tender opening date [Insert date], and it shall remain binding upon us and may be accepted at any time before that date.
4. Unless and until a formal Agreement is prepared and executed this tender together with your written acceptance thereof, shall constitute a binding Contract between us.
5. 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 authorised to sign on behalf of
Name of bidder:

Tender for Painting Works on Sondu Intake, Waterways and Sangoro Station

[Address of Tenderer]_____

Witness; Name_____Signature_____

Note: In accordance with **Clause 82** of the **Public Procurement and Asset Disposal Act 2015**

“The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any person or entity.

CONTRACT FORM

THIS AGREEMENT, made the _____ day of _____ 20 _____
between _____ of [or whose registered
office is situated at] _____
(hereinafter called “the Employer”) of the one part AND
_____ of [or whose registered
office is situated at] _____
(hereinafter called “the Contractor”) of the other part.

WHEREAS THE Employer is desirous that the Contractor executes

_____ (name and identification number of Contract) (hereinafter called “the Works”) located at _____ [Place/location of the Works] and the Employer has accepted the tender submitted by the Contractor for the execution and completion of such Works and the remedying of any defects therein for the Contract Price of Kshs _____ [Amount in figures], Kenya Shillings _____ [Amount in words].

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 hereinafter referred to.
2. The following documents shall be deemed to form and shall be read and construed as part of this Agreement i.e.
 - (i) Letter of Acceptance
 - (ii) Form of Tender
 - (iii) Conditions of Contract
 - (iv) Appendix to Conditions of Contract
 - (v) Specifications
 - (vi) Drawings
 - (vii) Priced Bills of Quantities/Priced Schedule of Rates [whichever is applicable]
3. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby

covenants with the Employer to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract.

4. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works 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 thereto have caused this Agreement to be executed the day and year first before written.

The common Seal of _____

Was hereunto affixed in the presence of _____

Signed Sealed, and Delivered by the said _____

Binding Signature of Employer _____

Binding Signature of Contractor _____

In the presence of (i) Name _____

Address _____

Signature _____

[ii] Name _____

Address _____

Signature _____

TENDER-SECURING DECLARATION FORM
(MANDATORY FOR THE SPECIAL GROUPS)

Tender No.:

To:

We, the undersigned

declare that:

We understand that, according to your conditions, Tenders must be supported by a Tender-Securing Declaration.

We accept that we will automatically be suspended from being eligible for Tendering in any contract with the Procuring Entity for the period of time of [-----] starting on [**date;.....**], if we are in breach of our obligation(s) under the Tender conditions, because we;

- a) Have withdrawn our Tender during the period of Tender validity specified in the Form of Tender; or
- b) Having been notified of the acceptance of our Tender by the Procuring Entity during the period of
Tender validity,
 - (i). Fail or refuse to execute the Contract, if required, or
 - (ii). Fail or refuse to furnish the Performance Security, in accordance with the ITT.

We understand this Tender Securing Declaration shall expire if we are not the successful Tenderer, upon the earlier of;

- 1) Our receipt of your notification to us of the name of the successful Tenderer; or
- 2) Thirty days after the expiration of our Tender.

Signed: *[insert signature of person whose name and capacity are shown]*

In the capacity of *[insert legal capacity of person signing the Tender Securing Declaration]*

<i>Tender for Painting Works on Sondu Intake, Waterways and Sangoro Station</i>

Name: *[insert **complete name of person signing the Tender Securing***

Declaration

Duly authorized to sign the Tender for and on behalf of: *[insert complete name of Tenderer]*

Dated on _____ day of _____, _____ *[insert date of signing]*

PERFORMANCE BANK GUARANTEE
(On bank letterhead)

To: _____(Name of Employer) _____(Date)
_____ (Address of Employer)

Dear Sir,

WHEREAS _____(hereinafter called “the Contractor”) has undertaken, in pursuance of Contract No. _____ dated _____ to execute _____ (hereinafter called “the Works”);

AND WHEREAS it has been stipulated by you in the said Contract that the Contractor shall furnish you with a Bank Guarantee by a recognised bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

AND WHEREAS we have agreed to give the Contractor such a Bank Guarantee: NOW

THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Contractor, up to a total of Kshs. _____ (amount of Guarantee in figures) Kenya Shillings _____ (amount of Guarantee in words), and we undertake to pay you, upon your first written demand and without civil or argument, any sum or sums within the limits of Kenya Shillings _____ (amount of Guarantee in words) as

aforsaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Contractor before presenting us with the demand.

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

This guarantee shall be valid until the date of issue of the Certificate of Completion.

SIGNATURE AND SEAL OF THE GUARANTOR _____

Name of Bank _____

Address _____

Date _____

BANK GUARANTEE FOR ADVANCE PAYMENT
(On bank letterhead)

To: _____ [name of Employer] _____ (Date)
_____ [address of Employer]

Gentlemen,

Ref: _____ [name of Contract]

In accordance with the provisions of the Conditions of Contract of the above-mentioned Contract, We, _____ [name and Address of Contractor] (hereinafter called "the Contractor") shall deposit with _____ [name of Employer] a bank guarantee to guarantee his proper and faithful performance under the said Contract in an amount of Kshs. _____ [amount of Guarantee in figures] Kenya Shillings _____ [amount of Guarantee in words].

We, _____ [bank or financial institution], as instructed by the Contractor, agree unconditionally and irrevocably to guarantee as primary obligator and not as Surety merely, the payment to _____ [name of Employer] on his first demand without whatsoever right of objection on our part and without his first claim to the Contractor, in the amount not exceeding Kshs _____ [amount of Guarantee in figures] Kenya Shillings _____ [amount of Guarantee in words], such amount to be reduced periodically by the amounts recovered by you from the proceeds of the Contract.

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

No drawing may be made by you under this guarantee until we have received notice in writing from you that an advance payment of the amount listed above has been paid to the Contractor pursuant to the Contract.

This guarantee shall remain valid and in full effect from the date of the advance payment under the Contract until

_____ (name of Employer) receives full

payment of the same amount from the Contract.

Signature and Seal _____

Name of the Bank or financial institution _____

Address _____

Date _____

Witness: Name: _____

Address: _____

Signature: _____

Date: _____

***MANDATORY CONFIDENTIAL BUSINESS QUESTIONNAIRE**

Tender for Painting Works on Sondu Intake, Waterways and Sangoro Station

(Must be filled by all applicants or Tenderers' who choose to participate in this tender)

Name of Applicant(s).....

You are requested to give the particulars in Part 1 and either Part 2 (a), 2 (b) or 2 (c), whichever applies to your type of business. Part 2 (d) to part 2 (i / j) must be filled. You are advised that giving wrong or false information on this Form will lead to automatic disqualification/termination of your business proposal at your cost.

Part 1 – General

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

(Applicable to Local suppliers only)

Local Authority Trading License No. Expiry Date
Value Added Tax No.....
Value of the largest single assignment you have undertaken to date (US D/KShs)
.....
Was this successfully undertaken? Yes / No.(If Yes, attach reference)
Name (s) of your banker (s)
.....
Branches Tel. No's.

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

Full names
.....
Nationality..... Country of Origin.....
.....
Company Profile (Attach brochures or annual reports in case of public company)

Part 2 (b) – Partnerships (if applicable)

Give details of partners as follows:

Full Names Nationality Citizenship Details Shares

- 1.
 - 2.
- Company Profile (Attach brochures)

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

Private or public

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

State the nominal and issued capital of the Company

Nominal KShs

Issued KShs

List of top ten (10) shareholders and distribution of shareholding in the company. Give details of all directors as follows:-

Full Names Nationality Citizenship Details Shares

- 1.....
- 2.....

Part 2 (d) – Debarment

I/We declare that I/We have not been debarred from any procurement process and shall not engage in any fraudulent, corrupt, coercive and obstructive acts with regard to this or any other tender by the KENGEN and any other public or private institutions.

Full Names

.....

Signature

.....

Dated this day of 2015.

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 2015.

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 _____ 2015.

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 _____ 2015

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. AGPO FIRMS ARE HOWEVER EXCLUDED ENTIRELY FROM FILLING IT.

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							

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 of2015.

Suppliers' / Company's Official Rubber Stamp

.....