



Kenya Electricity Generating Company Limited

KGN-HYD -18 - 2018.

INTERNATIONAL OPEN TENDER FOR REHABILITATION OF
GENERATOR MV SWITCHGEAR, PROTECTION SYSTEMS AND LV
SWITCHBOARD OF GITARU HYDRO POWER STATION -KENYA

Kenya Electricity Generating Company Ltd

Stima Plaza, Kolobot Road, Parklands

P.O BOX 47936, 00100

NAIROBI.

Website: www.kengen.co.ke

April,2018:

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SECTION I: INVITATION TO TENDER.

Kenya Electricity Generating Company Limited [KenGen] intends to replace the Protection systems & LV switch boards equipment and install Generator MV switchgear at Gitaru hydro power station. The Company invites sealed tenders from manufacturers and authorized suppliers for the design, manufacture, supply, delivery to site (DAP), installation and commissioning of generator MV switchgear, protection systems and LV switchboards of Gitaru hydro power station in Kenya. The specifications are detailed in the Tender Documents.

Interested firms may obtain further information from:-

Supply Chain Director,
Kenya Electricity Generating Company Limited (KenGen)
Ground Floor, Stima Plaza, Phase III
Kolobot Road, Parklands,
Tel: (254) (020) 3666000
Fax: (254) (020) 3666200
Email: tenders@kengen.co.ke
c.c: jmuoka@kengen.co.ke
dwangariria@kengen.co.ke

A complete set of Tender Documents may be purchased from the **Supply Chain office Stima Plaza** and upon payment of a non-refundable fee of one Thousand Kenya Shillings (Kshs. 1,000/-) or equivalent in USD, British pound or EURO. This amount does not include postage or courier charges. Alternatively, the tender document can be downloaded free of charge from the www.kengen.co.ke or www.suppliers.treasury.go.ke. Bidders are advised to be checking on the above website regularly for any uploaded additional information/addendum/clarifications on this tender.

Tenders must be addressed and delivered as indicated in the Tender Documents on or before **Tuesday , 5th June 2018 at 1000 hours** and must be accompanied by a Tender Security of Kshs Two Million (Kshs 2,000,000.00), or equivalent in equivalent in USD, British pounds or EUROS.

Mandatory site visit will be on Wednesday, 9th May and Wednesday, 16th May 2018, both at 1000 hrs.

Tenders will be opened in the presence of tenderer's representatives who choose to attend on **Tuesday, 5th June 2018 at 1030 hours** at Stima Plaza III, Executive Committee Room, 7th Floor.

KenGen Adheres to high standards of integrity in its business operations. Report any unethical behaviour immediately through:

KenGen Call Tip-offs Anonymous system Toll Free: 0800722626

Free Fax: 00800 007788

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SECTION II: INSTRUCTIONS TO TENDERERS

A. Introduction:

1. **Scope of tender**
 - 1.1 The Procuring Entity indicated in the **Tender Data Sheet** (TDS) invites Tenders for the construction of works as specified in the **Tender Data Sheet**
 - 1.2 The successful Tenderer will be expected to complete the works by the completion date he/she has indicated.
 - 1.3 The objectives of the works are listed in **the (Technical Specifications)**
2. **Eligible Tenderers**
 - 2.1 A Tenderer may be a natural person, private or public company, government-owned institution, subject to sub-Clause 3.4 or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a joint venture, consortium, or association. In the case of a joint venture, consortium, or association, all parties shall be jointly and severally liable.
 - 2.2 The Invitation for Tenders is open to all Contractors as defined in the Public Procurement and Asset Disposal Act, 2015 and the Public Procurement and Disposal Regulations, 2006 except as provided hereinafter.
 - 2.3 National Tenderers shall satisfy all relevant licensing and/or registration with the appropriate statutory bodies in Kenya, such as the Ministry of Public Works, National Construction Authority or the Energy Regulatory Commission.
 - 2.4 A Tenderer shall not have a conflict of interest. All Tenderers found to have a conflict of interest shall be disqualified. A Tenderer may be considered to have a conflict of interest with one or more parties in this Tendering process, if they:
 - a) Are associated or have been associated in the past directly or

- indirectly with employees or agents of the Procuring Entity or a member of a board or committee of the Procuring Entity;
- b) Are 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 works under this Invitation for Tenders;
 - c) Have controlling shareholders in common; or
 - d) Receive or have received any direct or indirect subsidy from any of them; or
 - e) Have the same legal representative for purposes of this Tender; or
 - f) Have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Tender of another Tenderer, or influence the decisions of the Procuring Entity regarding this Tendering process; or
 - g) Submit more than one Tender in this Tendering process. However, this does not limit the participation of subcontractors in more than one Tender, or as Tenderer and subcontractor simultaneously.

2.5 A Tenderer will be considered to have a conflict of interest if they participated as a consultant in the preparation of the design or technical specification of the project and related services that are the subject of the Tender.

2.6 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices issued by the Government of Kenya in accordance with TDS and GCC

2.7 Government owned enterprises in Kenya may participate only if they are legally and financially autonomous, if they operate under commercial law, are registered by the relevant registration board or authorities and if they are not a dependent agency of the Government.

- 2.7 Tenderers shall provide such evidence of their continued eligibility satisfactory to the Procuring Entity, as the Procuring Entity shall reasonably request.
- 3. One Tender per Tenderer**
- 3.1 A firm shall submit only one Tender, in the same Tendering process, either individually as a Tenderer or as a partner in a joint venture pursuant to ITT Clause 5.
- 3.2 No firm can be a subcontractor while submitting a Tender individually or as a partner of a joint venture in the same Tendering process.
- 3.3 A firm, if acting in the capacity of subcontractor in any Tender, may participate in more than one Tender but only in that capacity.
- 3.4 A Tenderer who submits or participates in more than one Tender (other than as a subcontractor or in cases of alternatives that have been permitted or requested) will cause all the Tenders in which the Tenderer has participated to be disqualified.
- 4. Alternative Tenders by Tenderers**
- 4.1 Tenderers shall submit offers that comply with the requirements of the Tendering documents, including the basic Tenderer's technical design as indicated in the specifications and Drawings and Bill of Quantities. Alternatives will not be considered, unless specifically allowed for in the **Tender Data Sheet**. If so allowed, sub-Clause 4.2 and 4.3 shall govern.
- 4.2 When alternative times for completion are explicitly invited, a statement to that effect will be included in the **Tender Data Sheet** as will the method of evaluating different times for completion.
- 4.3 If so allowed in the **Tender Data Sheet**, Tenderers wishing to offer technical alternatives to the requirements of the Tendering documents must also submit a Tender that complies with the requirements of the Tendering documents, including the basic technical design as indicated in the specifications. In addition to submitting the basic Tender, the Tenderer shall provide all information necessary for a complete

evaluation of the alternative by the Procuring Entity, including technical specifications, breakdown of prices, and other relevant details. Only the technical alternatives, if any, of the lowest evaluated Tenderer conforming to the basic technical requirements shall be considered by the Procuring Entity.

5. Cost of Tendering

5.1 The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the Procuring Entity shall in no case be responsible or liable for those costs, regardless of the conduct or outcome of the Tendering process.

6. Site Visit and Pre-Tender Meeting

6.1 The Tenderer, at the Tenderer's own responsibility and risk, is advised to visit and examine the Site of 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.

6.2 The Procuring Entity may conduct a site visit and a pre-Tender meeting. The purpose of the pre-Tender meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.

6.3 The Tenderer's designated representative is invited to attend a site visit and pre-Tender meeting which, if convened, will take place at the venue and time stipulated in the **Tender Data Sheet**.

7.4 The Tenderer is requested as far as possible, to submit any questions in writing or by electronic means to reach the procuring Entity before the pre-Tender meeting. It may not be practicable at the meeting to answer all questions, but questions and responses will be transmitted in accordance with sub-Clause 6.5.

6.5 Minutes of the pre-Tender meeting, including the text of the questions raised and the responses given together with any responses prepared after the pre-Tender meeting will be transmitted within the time stated in the **Tender Data Sheet** to all purchasers of the Tendering documents. Any modification of the Tendering documents listed in sub-Clause 8.1

that may become necessary as a result of the pre-Tender meeting shall be made by the Procuring Entity exclusively through the issue of an Addendum pursuant to ITT sub Clause 10.2 and not through the minutes of the pre-Tender meeting.

- 6.6 Non-attendance during the site visit or pre-Tender meeting will not be a cause for disqualification of a Tenderer unless specified to the contrary in the **Tender Data Sheet**.

B. Tendering Documents

7 Content of 7.1 Tendering Documents The works required, Tendering procedures, and contract terms are prescribed in the Tendering Documents. In addition to the Section I Invitation for Tenders, Tendering documents which should be read in conjunction with any addenda issued in accordance with ITT sub Clause 9.2 include:

- Section II Instructions to Tenderers
- Section III Tender Data Sheet
- Section IV General Conditions of Contract
- Section V Contract Data Sheet
- Section VI Specifications
- Section VII Drawings
- Section VIII Bill of Quantities
- Section IX Forms of Tender
 - Form of Tender
 - Appendix to Tender
 - Confidential Business Questionnaire
 - Integrity Declaration
 - Letter of Acceptance
 - Form of Contract Agreement
- Section X Forms of Security

- Tender Security Form
- Performance Bank or Insurance Guarantee
- Advance Payment Guarantee

- 7.2 The number of copies to be completed and returned with the Tender is specified in the **Tender Data Sheet**.
- 7.3 The Invitation for Tenders (Section I) issued by the Procuring Entity is not part of the Tendering Documents and is included for reference purposes only. In case of discrepancies between the Invitation for Tenders and the Tendering Documents listed in sub-Clause 7.1 above, the said Tendering Documents will take precedence.
- 7.4 The Procuring Entity is not responsible for the completeness of the Tendering Documents and their addenda, if they were not obtained directly from the authorized staff of the Procuring Entity.
- 7.5 The Tenderer is expected to examine all instructions, forms, terms and specifications in the Tendering documents. Failure to furnish all information required by the Tendering Documents or to submit a Tender substantially responsive to the Tendering documents in every respect will be at the Tenderer's risk and may result in the rejection of its Tender.

8. Clarification of Tendering Documents

- 8.1 A prospective Tenderer requiring any clarification of the Tendering documents may notify the Procuring Entity in writing, e-mail or facsimile at the Procuring Entity's address indicated in the **Tender Data Sheet**.
- 8.2 The Procuring Entity will within the period stated in the **Tender Data Sheet** respond in writing to any request for clarification provided that such request is received no later than the period indicated in the **Tender Data Sheet** prior to the deadline for the submission of Tenders prescribed in sub-Clause 21.1.
- 8.3 Copies of the procuring entity's response will be forwarded to all Purchasers of the Tendering documents, including a description of the

inquiry, but without identifying its source.

- 8.4 Should the Procuring Entity deem it necessary to amend the Tendering documents as a result of a clarification, it shall do so following the procedure under ITT Clause 9

9. Amendments of the Tendering Documents

- 9.1 Before the deadline for submission of Tenders, the Procuring Entity may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Tenderer, modify the Tendering documents by issuing addenda.
- 9.2 Any addendum issued shall be part of the Tender documents pursuant to sub-Clause 7.1 and shall be communicated in writing, by e-mail or facsimile to all who have obtained the Tendering documents directly from the Procuring Entity.
- 9.3 In order to allow prospective Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the Procuring Entity at its discretion shall extend, as necessary, the deadline for submission of Tenders, in accordance with sub-Clause 21.2

C. Preparation of Tenders

10. Language of Tender

- 10.1 The Tender, and all correspondence and documents related to the Tender exchanged by the Tenderer and the Procuring Entity shall be written in the Tender language stipulated in the **Tender Data Sheet**. Supporting documents and printed literature furnished by the Tenderer may be in another language provided they are accompanied by an accurate translation of the relevant passages in the above stated language, in which case, for purposes of interpretation of the Tender, the translation shall prevail.

11. Documents Constituting the

- 11.1 The Tender submitted by the Tenderer shall consist of the following components:
- a) The Form of Tender (in the format indicated in Section IX)

- Tender** completed in accordance with ITT Clause 14, 15 and 16;
- b) Information requested by Instructions to Tenderers ITT sub-Clause 12.2; 12.3 and 12.4;
 - c) Tender Security or Tender Securing Declaration in accordance with Instructions to Tenderers ITT Clause 18;
 - d) Priced Bill of Quantities;
 - e) Qualification Information Form and Documents;
 - f) Alternative offers where invited in accordance with Instructions to Tenderers ITT Clause 4;
 - g) Written confirmation authorizing the signatory of the Tender to commit the Tenderer in accordance with Instructions to Tenderers ITT sub Clause 18.2; and
 - h) And any information or other materials required to be completed and submitted by Tenderers, as specified in the **Tender Data Sheet**.
- 12.Documents Establishing Eligibility & Qualifications of the Tenderer**
- 12.1** Pursuant to ITT Clause 12, the Tenderer shall furnish, as part of its Tender, documents establishing the Tenderer’s eligibility to Tender and its qualifications to perform the contract if its Tender is accepted.
- 12.2** In the event that pre-qualification of potential Tenderers has been undertaken, only Tenders from pre-qualified Tenderers will be considered for award of contract. These qualified Tenderers should submit their Tenders with any information updating the original pre-qualification applications or, alternatively, confirm in their Tenders that the originally submitted pre-qualification information remains essentially correct as of the date of Tender submission. The update or confirmation should be provided in Section IX.
- 12.3** If the Procuring Entity has not undertaken pre-qualification of potential Tenderers, to qualify for award of the contract, Tenderers shall meet the minimum qualifying criteria specified in the **Tender Data Sheet**:
- 12.4** Tenders submitted by a joint venture of two or more firms as partners shall comply with the following requirements, unless otherwise stated

in the **Tender Data Sheet**:

- a) The Tender shall include all the information listed in the **Tender Data Sheet** pursuant to sub-Clause 12.3 above for each joint venture partner;
- b) The Tender shall be signed so as to be legally binding on all partners;
- c) One of the partners will be nominated as being in charge, and this authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the partners;
- d) The partner in charge shall be authorized to incur liabilities and receive instructions for and on behalf of any and all partners of a joint venture and the entire execution of the Contract, including payment, shall be done exclusively with the partner in charge;
- e) All partners of the joint venture shall be liable jointly and severally for the execution of the contract in accordance with the contract terms and a statement to this effect shall be included in the authorization mentioned under (c) above as well as in the Tender and in the Agreement (in case of a successful Tender); and
- f) A copy of the joint venture agreement entered into by all partner shall be submitted with the Tender. Alternatively, a Letter of Intent to execute a joint venture agreement in the event of a successful Tender shall be signed by all partners and submitted with the Tender, together with a copy of the proposed Agreement.
- g) The Tender Security and Tender Securing Declaration as stated in accordance with ITT Clause 18, and in case of a successful Tender, the Agreement, shall be signed so as to be legally binding on all partners.

- 13. Lots Package** **13.1** When Tendering for more than one contract under the lots arrangements, the Tenderer must provide evidence that it meets or exceeds the sum of all the individual requirements for the lots being tendered in regard to:
- a) Average annual turnover;
 - b) Particular experience including key production rates;

- c) Financial means, etc.;
- d) Personnel capabilities; and
- e) Equipment capabilities.

13.2 In case the Tenderer fail to fully meet any of these criteria, it may be qualified only for those lots for which the Tenderer meets the above requirement.

14. Form of Tender 14.1 The Tenderer shall fill the Form of Tender furnished in the Tendering Documents. The Form of Tender must be completed without any alterations to its format and no substitute shall be accepted.

15. Tender Prices 15.1 The Contract shall be for the whole Works, as described in sub-Clause 1.1, based on the priced Bill of Quantities submitted by the Tenderer.

15.2 The Tenderer shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items for which no rate or price is entered by the Tenderer will not be paid for by the Procuring Entity when executed and shall be deemed covered by the other rates and prices in the Bill of quantities.

15.3 All duties, taxes and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 15 days prior to the deadline for submission of Tenders, shall be included in the rates, prices and total Tender price submitted by the Tenderer.

15.4 The rates and prices quoted by the Tenderer shall be subject to adjustment during the performance of the Contract if provided for in the **Tender Data Sheet** and the provisions of the Conditions of Contract. The Tenderer shall submit with the Tender all the information required under the **Contract Data Sheet**.

16. Tender Currencies 16.1 The unit rates and prices shall be quoted by the Tenderer in the currency as specified in the **Tender Data Sheet**.

16.2 Tenderers shall indicate details of their expected foreign currency requirements in the Tender, if any. The rates of exchange to be used by

the Tenderers in arriving at the local currency equivalent shall be the selling rates for similar transactions established by the authority specified in the **Tender Data Sheet** prevailing on the date 28 days prior to the latest deadline for submission of Tenders. These exchange rates shall apply for all payments so that no exchange risk will be borne by the Tenderer. In any case, payments will be computed using the rates quoted in the Tender.

16.3 Tenderers may be required by the Procuring Entity to clarify their foreign currency requirements and to substantiate that the amounts included in the rates and prices and in the Contract Data Sheet are reasonable and responsive to sub-Clause 16.1.

**17.Tender
Validity Period**

17.1 Tenders shall remain valid for the period specified in the **Tender Data Sheet** after the Tender submission deadline prescribed by the Procuring Entity, pursuant to ITT Clause 21. A Tender valid for a shorter period shall be rejected by the Procuring Entity as non-responsive.

17.2 In exceptional circumstances, prior to expiry of the original Tender validity period, the Procuring Entity 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 or by cable. A Tenderer may refuse the request without forfeiting its Tender Security or causing to be executed its Tender Securing declaration. A Tenderer agreeing to the request will not be required or permitted to otherwise modify the Tender, but will be required to extend the validity of its Tender Security or Tender Securing declaration for the period of the extension, and in compliance with ITT Clause 18 in all respects.

17.3 In the case of fixed price contracts, if the award is delayed by a period exceeding sixty (60) days beyond the expiry of the initial Tender validity period, the contract price will be increased by a factor specified in the request for extension. The Tender evaluation shall be

based on the Tender price without taking into consideration on the above correction.

18. Tender Security and Tender Securing Declaration

18.1 Pursuant to ITT Clause 11, where required in the **Tender Data Sheet**, the Tenderer shall furnish as part of its Tender, a Tender Security in original form and in the amount and currency specified in the **Tender Data Sheet**.

A Tender Securing Declaration as specified in the **Tender Data Sheet** in the format provided in section X shall be provided as a mandatory requirement.

18.2 The Tender Security or Tender Securing Declaration is required to protect the Procuring Entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to ITT sub-Clause 18.9.

18.3 The Tender Security shall be denominated in the currency of the Tender and shall be in one of the following forms:

- a) Cash;
- b) A Bank Guarantee;
- c) An Insurance Bond issued by an insurance firm approved by the PPOA located in Kenya;
- d) An irrevocable letter of credit issued by a reputable bank.

18.4 The Tender Security shall be in accordance with the Form of the Tender Security included in Section X or another form approved by the Procuring Entity prior to the Tender submission.

18.5 The Tender Security shall be payable promptly upon written demand by the Procuring Entity in case any of the conditions listed in sub-Clause 18.8 are invoked.

18.6 Any Tender not accompanied by a Tender Security in accordance with sub-Clauses 18.1 or 18.3 shall be rejected by the Procuring Entity as non-responsive, pursuant to ITT Clause 27.

- 18.7** The Procuring Entity shall immediately release any Tender Security if:
- a) The procuring proceedings are terminated;
 - b) The Procuring Entity determines that none of the submitted Tenders is responsive;
 - c) A contract for the procurement is entered into.
- 18.8** The Tender Security shall be forfeited and the Tender Securing Declaration executed if the Tenderer:
- a) Withdraws its Tender after the deadline for submitting Tenders but before the expiry of the period during which Tenders must remain valid;
 - b) Rejects a correction of an arithmetic error pursuant to sub-Clause 28.2;
 - c) Refuse to enter into a written contract in accordance with ITT Clause 39;
 - d) Fails to furnish the Performance Security in accordance with ITT Clause 40.
- 18.9** The Tender Security and Tender Securing Declaration of a joint venture must be in the name of the joint venture submitting the Tender.
- 18.10** A Tenderer shall be suspended from being eligible for Tendering in any contract with the Procuring Entity for the period of time indicated in the Tender Securing Declaration:
- a) If the Tenderer withdraws its Tender, except as provided in ITT sub-Clauses 17.2 and 28.2; or
 - b) In the case of a successful Tenderer, if the Tenderer fails within the specified time limit to:
 - (i) Sign the contract; or
 - (ii) Furnish the required Performance Security.
- 19. Format and 19.1** The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT Clause 11 of these Instructions to

Signing of Tender

Tenderers, with the Form of Tender, and clearly marked “ORIGINAL”. In addition, the Tenderer shall submit copies of the Tender, in the number specified in the **Tender Data Sheet**, and clearly marked as “COPIES”. In the event of discrepancy between them, the original shall prevail.

19.2 The original and all copies of the Tenders shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Tenderer. This authorization shall consist of a written confirmation as specified in the **Tender Data Sheet** and shall be attached to the Tender. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Tender, except for un-amended printed literature, shall be initialled by the person or persons signing the Tender.

19.3 Any interlineations, erasures, or overwriting shall be valid only if they are initialled by the person or persons signing the Tender.

19.4 The Tenderer shall furnish information as described in the Form of Tender on commissions or gratuities, if any, paid or to be paid to agents relating to this Tender and to contract execution if the Tenderer is awarded the contract

D. Submission of Tenders

20. Sealing and Marking of Tenders

20.1 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 securely sealed in such a manner that opening and resealing cannot be achieved undetected.

20.2 The inner and outer envelopes shall:

- a) Be addressed to the Procuring Entity at the address given in the **Tender Data Sheet**; and

b) Bear the Project name indicated in the **Tender Data Sheet**, the Invitation for Tenders (IFT) title and number indicated in the **Tender Data Sheet**, and a statement: “**DO NOT OPEN BEFORE,**” to be completed with the time and the date specified in the **Tender Data Sheet**, pursuant to ITT sub-Clause 21.1.

20.3 In addition to the identification required in sub-Clause 20.2, the inner envelopes shall also indicate the name and address of the Tenderer to enable the Tender be returned unopened in case it is declared late, pursuant to sub-Clause 21.1 and for matching purpose under ITT Clause 22

20.4 If the outer envelope is not sealed and marked as required by ITT sub clause 20.2, the Procuring Entity shall assume no responsibility for misplacement or premature opening of the Tender.

21. Deadline for Submission of Tenders

21.1 Tenders shall be received by the Procuring Entity at the address specified under ITT sub-Clause 20.2 no later than the date and time specified in the **Tender Data Sheet**.

21.2 The Procuring Entity may, in exceptional circumstances and at its discretion, extend the deadline for the submission of Tenders by amending the Tendering documents in accordance with ITT Clause 8, in which case all rights and obligations of the Procuring Entity and Tenderers previously subject to the deadline will thereafter be subject to the new deadline.

21.3 The extension of the deadline for submission of Tenders shall not be made later than the period specified in the **Tender Data Sheet** before the expiry of the original deadline.

22. Late Tenders

22.1 The Procuring Entity shall not consider for evaluation any Tender that arrives after the deadline for submission of Tenders, in accordance with ITT Clause 21.

22.2 Any Tender received by the Procuring Entity after the deadline for

submission of Tenders shall be declared late, rejected and returned unopened to the Tenderer

23. Modification, Substitution and Withdrawal of Tenders

- 23.1** A Tenderer may modify or substitute or withdraw its Tender after it has been submitted, provided that written notice of the modification, including substitution or withdrawal of the Tender, is received by the Procuring Entity prior to the deadline prescribed for submission of Tenders prescribed under ITT sub-Clause 21.1.
- 23.2** The Tenderer's modification or substitution or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of ITT Clauses 19 and 20 with the outer and inner envelopes additionally marked "**MODIFICATION**" or **SUBSTITUTION** or "**WITHDRAWAL**" as appropriate. The notice may also be sent by electronic mail and facsimile, but followed by a signed confirmation copy, postmarked not later than the deadline for submission of Tenders.
- 23.3** No Tender may be withdrawn, replaced or modified 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 shall result in the Tenderer's forfeiture of its Tender Security or execution of Tender Securing Declaration, pursuant to the ITT sub-Clause 18.9.
- 23.4** Withdrawal of a Tender between the deadline for submission of Tenders and the expiration of the period of Tender validity specified in the **Tender Data Sheet** or as extended pursuant to sub-Clause 21.2 shall result in the forfeiture of the Tender Security and execution of Tender Securing Declaration pursuant to ITT sub-Clause 18.9.
- 23.5** Tenderers may only offer discounts to, or otherwise modify the prices of their Tenders by submitting Tender modifications in accordance with this Clause or included in the original Tender submission.

E. Opening and Evaluation of Tenders

- 24. Opening of Tenders**
- 24.1** The Procuring Entity will open all Tenders including modifications, substitution or withdraw notices made pursuant to ITT Clause 23, in public, in the presence of Tenderers or their representatives who choose to attend and other parties with legitimate interest and Tender proceedings, at the place on the date and at time specified in the **Tender Data Sheet**. The Tenderers' representatives who are present shall sign a register as proof of their attendance.
- 24.2** Envelopes marked **"WITHDRAWAL"** shall be opened and read out first. Tenders for which an acceptable notice of withdrawal has been submitted pursuant to ITT Clause 23 shall not be opened but returned to the Tenderer. If the withdrawal envelope does not contain a copy of the "Power of Attorney" confirming the signature as a person duly authorized to sign on behalf of the Tenderer, the corresponding Tender will be opened. Subsequently, all envelopes marked **"MODIFICATION"** shall be opened and the submissions therein read out in appropriate detail. Thereafter all envelopes marked or **"SUBSTITUTION"** opened and the submissions therein read out in appropriate detail.
- 24.3** All other envelopes shall be opened one at a time. The Tenderers' names, the Tender prices, the total amount of each Tender and of any alternative Tender (if alternatives have been requested or permitted), any discounts, the presence or absence of Tender security, and such other details as the appropriate tender opening committee may consider appropriate, will be announced by the Secretary of the Tender Opening Committee at the opening.
- 24.4** Tenders or modifications that are not opened and not read out at Tender opening shall not be considered further for evaluation, irrespective of the circumstances. In particular, any discount offered by a Tenderer which is not read out at Tender opening shall not be considered further.

- 24.5** Tenderers are advised to send in a representative with the knowledge of the content of the Tender who shall verify the information read out from the submitted documents. Failure to send a representative or to point out any un-read information by the sent Tenderer's representative shall indemnify the Procuring Entity against any claim or failure to read out the correct information contained in the Tenderer's Tender.
- 24.6** No Tender will be rejected at Tender opening except for late Tenders which will be returned unopened to the Tenderer, pursuant to ITT Clause 22.
- 24.7** The Secretary of the appropriate tender opening committee shall prepare minutes of the Tender opening. The record of the Tender opening shall include, as a minimum: the name of the Tenderers and whether or not there is a withdrawal, substitution or modification, the Tender price per Lot if applicable, including any discounts and alternative offers and the presence or absence of a Tender Security or Tender Securing Declaration.
- 24.8** The Tenderers' representatives who are present shall be requested to sign the record. The omission of a Tenderer's signature on the record shall not invalidate the contents and affect the record.
- 24.9** A copy of the minutes of the Tender opening shall be furnished to individual Tenderers upon request.
- 25. Confidentiality**
- 25.1** Information relating to the examination, clarification, evaluation, and comparison of Tenders and recommendations for the award of a 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.
- 25.2** Any effort by a Tenderer to influence the Procuring Entity's processing of Tenders or award decisions may result in the rejection of his

Tender.

25.3 Notwithstanding sub-Clause 25.2, from the time of Tender opening to the time of Contract award, if any Tenderer wishes to contact the Procuring Entity on any matter related to the Tendering process, it should do so in writing.

26. Clarification of Tenders

26.1 To assist in the examination, evaluation, comparison of Tenders and post-qualification of the Tenderer, the Procuring Entity may, at its discretion, ask a Tenderer for clarification of its Tender including breakdown of prices. Any clarification submitted by a Tenderer that is not in response to a request by the Procuring Entity shall not be considered.

26.2 The request for clarification and the response shall be in writing. No change in the prices or substance of the Tender shall be sought, offered, or permitted except to confirm the correction of arithmetic errors discovered by the Procuring Entity in the evaluation of Tenders in accordance with ITT Clause 27.

26.3 From the time of Tender opening to the time of Contract award if any Tenderer wishes to contact the Procuring Entity on any matter related to the Tender it should do so in writing.

27. Preliminary Examination of Tenders

27.1 Prior to the detailed evaluation of Tenders, the Procuring Entity will determine whether:

- a) The Tender has been submitted in the required format;
- b) Any Tender Security submitted is in the required form, amount and validity period;
- c) The Tender has been signed by the person lawfully authorized to do so;
- d) The required number of copies of the Tender have been submitted;
- e) The Tender is valid for the period required;
- f) All required documents and information have been submitted; and
- g) Any required samples have been submitted.

27.2 The Procuring Entity will confirm that the documents and information specified under ITT Clause 11 and ITT Clause 12 have been provided in the Tender. If any of these documents or information is missing, or is not provided in accordance with the Instructions to Tenderers, **the Tender shall be rejected**. The evaluation shall be carried out in three phases comprising compliance to preliminary or general requirements, compliance to technical specifications and financial evaluation. Tenderers deemed to be non-compliant to preliminary or general requirements shall be disqualified henceforth and their bid not subjected to the second phase of evaluation of compliance to Technical Specifications. Similarly, tenderers whose bids shall be deemed to be non-compliant to Technical Specifications shall be disqualified at that stage and their bids not subjected to the final phase of financial evaluation. Bids established to be compliant to both Preliminary or General Requirements shall be subjected to financial evaluation and tender awarded to the lowest evaluated bidder. Apart from the requirements captured in Section 27.0, some of the Preliminary or General Requirements are captured in Sections IX (A-D) and Section X.

27.3 The Procuring Entity may waive any minor informality, nonconformity, or irregularity in a Tender which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any Tenderer.

27.4 A substantially responsive Tender is one which conforms to all the terms, conditions, and specifications of the Tendering documents, without material deviation or reservation. A material deviation or reservation is one that:

- a) Affects in any substantial way the scope, quality, or execution of the Works;
- b) Limits in any substantial way, inconsistent with the Tendering documents, the Procuring Entity's rights or the Tenderer's obligations under the Contract; or

c) If rectified, would affect unfairly the competitive position of other Tenderers presenting substantially responsive Tenders.

27.5 If a Tender is not substantially responsive, it will be rejected by the Procuring Entity, and may not subsequently be made responsive by correction or withdrawal of the non-conforming deviation or reservation.

28. Correction of Errors

28.1 Tenders determined to be substantially responsive will be checked by the Procuring Entity for any arithmetic errors. Errors will be corrected by the Procuring Entity as follows:

- a) If there is a discrepancy between unit prices and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected, unless in the opinion of the Procuring Entity there is an obvious misplacement of the decimal point in the unit price, in which the total price as quoted shall govern and the unit price shall be corrected;
- b) If there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
- c) Where there is a discrepancy between the amounts in figures and in words, the amount in words will govern.

28.2 The amount stated in the Tender will be adjusted by the Procuring Entity in accordance with the above procedure for the correction of errors and, with, the concurrence of the Tenderer, shall be considered as binding upon the Tenderer. If the Tenderer does not accept the corrected amount, its Tender will then be rejected, and the Tender Security may be forfeited and the Tender Securing Declaration may be executed in accordance with sub-Clause 18.9.

29. Conversion to Single Currency

29.1 To facilitate the evaluation and comparison, the Procuring Entity will convert all Tender prices expressed in the amounts in various currencies in which the Tender prices are payable to Kenya Shillings

at the selling exchange rate established for similar transactions by the Central Bank of Kenya ruling on the date specified in the **Tender Data Sheet**.

30. Comparison of Tenders

30.1 The Procuring Entity shall evaluate and compare only the Tenders determined to be substantially responsive in accordance with ITT Clause 27.

30.2 In evaluating the Tenders, the Procuring Entity will determine for each Tender the evaluated Tender price by adjusting the Tender price as follows:

Making any correction for errors pursuant to ITT Clause 28;

Excluding provisional sums and the provision, if any for contingencies in the Bill of Quantities, but including Day work , where priced competitively ; and

Making appropriate adjustments to reflect discounts or other price modifications offered in accordance with sub-Clause 23.5.

30.3 The Procuring Entity may waive any minor informality or non-conformity, which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative standing of any Tenderer. Variations, deviations, and alternative offers and other factors, which are in excess of the requirements of the Tendering documents or otherwise result in unsolicited benefits for the Procuring Entity will not be taken into account in Tender evaluation.

31.National Preference

31.1 In the evaluation of Tenders the Procuring Entity shall apply exclusive preference to citizens of Kenya where:

a) The funding is 100% from the Government of Kenya or a Kenyan body;

b) The amounts are below the prescribed threshold in **the Tender Data Sheet**

31.2 To qualify for the preference the candidate shall provide evidence of

eligibility by: Proving Kenyan citizenship by production of a Kenyan Identity Card; or

- a) Providing proof of being a “citizen contractor” in terms of section 3(1) of the Act, i.e. being a natural person or an incorporated company wholly owned and controlled by persons who are citizens of Kenya.
- b) Foreign successful bidder must incorporate a mix of local expertise either through subcontracting, or technical expertise

31.3 The Minister of Finance may prescribe additional preference and/or reservation schemes, for example for procurements above these thresholds. If such additional preference schemes apply, details will be given in the **Tender Data Sheet**.

32. Determination of the Lowest Evaluated Tender

32.1 The Tender with the lowest evaluated price from among those which are eligible, compliant and substantially responsive shall be the lowest evaluated Tender.

33. Post-qualification of Tenderer

33.1 If specified in the **Tender Data Sheet**, post-qualification shall be undertaken.

33.2 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, in accordance with the criteria listed in sub-Clause 12.3.

33.3 The determination will take into account the Tenderer’s financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the Tenderer’s qualifications submitted by the Tenderer, pursuant to sub-Clause 12.3, as well as such other information as the Procuring Entity deems necessary and appropriate. Factors not included in these Tendering documents shall not be used in the evaluation of the Tenderer’s qualifications.

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

F. Award of Contract

34. Criteria of Award **34.1** Subject to ITT Clause 34 and 35, the Procuring Entity will award the Contract to the Tenderer whose Tender has been determined to be substantially responsive to the Tendering documents and who has offered the lowest Evaluated Tender Price, provided that such Tenderer has been determined to be:

- a) Eligible in accordance with the provisions of ITT Clause 2;
- b) Is determined to be qualified to perform the Contract satisfactorily;
- c) Successful negotiations have been concluded.

35.2 If, pursuant to sub-Clause 13.1, this Contract is being awarded on a "lot and package" basis, the lowest evaluated Tender price will be determined when evaluating this Contract in conjunction with other Contracts to be awarded concurrently, taking into account any discounts offered by the Tenderer for award of more than one Contract.

35. Clarifications

35.1 Clarifications may be undertaken with the lowest evaluated Tenderer relating to the following areas:

- a) A minor alteration to the technical details of the statement of requirements;
- b) Reduction of quantities for budgetary reasons, where the reduction is in excess of any provided for in the Tendering

documents;

- c) A minor amendment to the Contract Data Sheet;
- d) Finalizing payment arrangements;
- e) Mobilization arrangements;
- f) Agreeing final delivery or work schedule to accommodate any changes required by the Procuring Entity;
- g) The methodology or staffing; or
- h) Clarifying details that were not apparent or could not be finalized at the time of Tendering.

35.2 Clarifications shall not change the substance of the tender.

36. Procuring Entity's Right to Accept any Tender and to Reject any or all Tenders

36.1 Notwithstanding ITT Clause 34, the Procuring Entity 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.

36.2 Notice of the rejection of all Tenders shall be given promptly within 14 days to all Contractors that have submitted Tenders.

36.3 The Procuring Entity shall upon request communicate to any Tenderer the grounds for its rejection of its Tenders, but is not required to justify those grounds.

37 Procuring Entities Right to Vary Quantities at the Time of Award

37.1 The Procuring Entity reserves the right at the time of contract award to increase or decrease the quantity of goods or related services originally specified in these Tendering documents (schedule of requirements) provided this does not exceed by the percentage indicated in the **Tender Data Sheet**, without any change in unit price or other terms and conditions of the Tender and Tendering documents.

38. Notification of Award

38.1 The Tenderer whose Tender has been accepted will be notified of the award by the Procuring Entity prior to expiration of the Tender validity period by e-mail or facsimile confirmed by

registered letter. This letter (hereinafter and in the Conditions of Contract called the "Letter of Acceptance") will state the sum that the Procuring Entity will pay the Contractor in consideration of the provision and maintenance of the Work(s) as prescribed by the Contract (hereinafter and in the Contract called the "Contract Price").

38.2 The notification of award will constitute the formation of the Contract, subject to the Tenderer furnishing the Performance Security in accordance with ITT Clause 39 and signing the Contract in accordance with sub-Clause 38.2

38.3 At the same time as the person submitting the successful Tender is notified, the Procuring Entity will notify each unsuccessful Tenderer, the name of the successful Tenderer and the Contract amount and will discharge the Tender Security and Tender Securing Declaration of the Tenderer pursuant to ITT sub Clause 18.7.

38.4 If, after notification of award, a Tenderer wishes to ascertain the grounds on which its Tender or application for pre-qualification was unsuccessful, it should address its request to the secretary of the Tender Committee that authorized the award of contract. The secretary of the Tender Committee shall, within fourteen days after a request, provide written reasons as to why the Tender, proposal or application to be pre-qualified was unsuccessful. However, failure to take this opportunity to clarify the grounds for rejection does not affect the Tenderer's right to seek immediate review by the Public Procurement Administrative Review Board under Clause 45.

39. Signing of Contract **39.1** Promptly, and in no case later than 14 days, after notification, Procuring Entity shall send the successful Tenderer the Agreement and Contract Data Sheet, incorporating all agreements between the parties obtained as a result of Contract

negotiations.

39.2 Within the period specified in the notification or Tender Data Sheet but not earlier than fourteen (14) days since notification of award of contract, the successful Tenderer shall sign and date the contract and return it to the Procuring Entity.

40. Performance Security

40.1 Within fifteen (15) days but after 7days after receipt of the Letter of Acceptance, the successful Tenderer shall deliver to the Procuring Entity a Performance Security in the amount and in the form stipulated in the Tender Data Sheet and the Contract Data Sheet, denominated in the type and proportions of currencies in the Letter of Acceptance and in accordance with the Conditions of Contract.

40.2 If the Performance Security is provided by the successful Tenderer in the form of a Bank Guarantee or Insurance Bond, it shall be issued either:

- a) At the Tenderer's option, by a bank or insurance firm located in Kenya, or a foreign bank or insurance firm through a correspondent bank or insurance firm located in Kenya;
- b) With the consent of the Procuring entity, directly by a foreign bank acceptable to the Procuring entity.

40.3 Failure of the successful Tenderer to comply with the requirement of sub-Clause 40.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security, in which event the Procuring Entity may make the award to the next lowest evaluated Tenderer or call for new Tenders.

41. Advance Payment

41.1 The Procuring Entity will provide an Advance Payment as stipulated in the Conditions of Contract, subject to a maximum amount, as stated in the Tender Data Sheet.

41.2 The Advance Payment request shall be accompanied by an Advance Payment Security (Guarantee) in the form provided in Section X. For the purpose of receiving the Advance Payment, the Tenderer shall make an estimate of, and include in its Tender, the expenses that will be incurred in order to commence work. These expenses will relate to the purchase of equipment, machinery, materials, and on the engagement of labour during the first month beginning with the date of the Procuring Entity's "Notice to Commence" as specified in the Contract Data Sheet.

SECTION III: TENDER DATA SHEET (TDS)

Instructions to Tenderers Clause Reference

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
A. INTRODUCTION		
1.	1.1	The “Procuring entity” also called Employer or client is The Kenya Electricity Generating Company Limited (KenGen).
2.	1.1	The scope covers the detailed design, manufacture, supply, factory acceptance tests & training, delivery, installation, training and commissioning of, generator MV switchgear, protection systems and LV switchboards of Gitaru hydro power station as described in the Employers’ Requirements hereafter, on a fixed price contract basis.
3.	1.2	The duration of implementation from commencement date of the works to the date of issue of the Taking Over Certificate shall not exceed Thirty calendar months
4.	1.4	<p>Definitions</p> <p>(a) Tenderer or bidder means any person or persons partnership firm or company submitting a sum or sums in the Bills of Quantities in accordance with the Instructions to Tenderers, Conditions of Contract Parts I and II, Specifications, Drawings and Bills of Quantities for the work contemplated, acting directly or through a legally appointed representative.</p> <p>(b) “Contractor” means the tenderer/bidder who is approved by the Employer and has been awarded the contract.</p> <p>(c) Any noun or adjective derived from the word “tender” shall be read and construed to mean the corresponding form of the noun or adjective “bid”. Any conjugation of the verb “tender” shall be read and construed to mean the corresponding form of the verb “bid.”</p> <p>(d) Employer or client means Kenya Electricity Generating Company Limited</p> <p>(e) Technical definitions are listed in clause 1.2 of specifications</p>
5	2.2	Invitation to tender is open to all tenderers who are manufacturers or authorized suppliers of the systems tendered for.

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
6	2.3	International firms' tenderers must be registered to offer engineering and or construction services in their country of incorporation/registration. Valid licences from the bidder's home country national registration and licencing body for engineering or construction firms shall be provided.
7	2.6	<p>Corruption and ethical standards</p> <p>The Government requires that Procuring Entities (including beneficiaries of Government funded projects) as well as Tenderers/Suppliers/Contractors under Government financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. It is the responsibility of the Procuring Entity to ensure that Tenderers, suppliers, and contractors and their subcontractors observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy:</p> <p>For the purpose of this provision, the following definitions are provided:</p> <ul style="list-style-type: none"> (i). “Corruption” has the meaning assigned to it in the Anti Corruption and Economic Crime Act 2003 and includes the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement or disposal process or in contract execution; (ii). “Fraudulent Practice” includes a misrepresentation of fact in order to influence a procurement or disposal process or the execution of a contract to the detriment of the Procuring Entity and includes collusive practices amongst Tenderers prior to or after Tender submission designed to establish Tender prices at artificial non competitive levels and deprive the Procuring Entity of the benefits of free and open competition; (iii). “Collusive Practice” means an arrangement between two or more suppliers, contractors and subcontractors designed to achieve an improper purpose, including to influence improperly the actions of the Procuring Entity prior to or after Tender

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
		<p>submission , designed to establish Tender prices at artificial non competitive levels and to deprive the Procuring Entity of the benefit of free and open competition;</p> <p>(iv). “Coercive Practice” means impairing or harming, or threatening to impair or harm, directly or indirectly a supplier, contractor or subcontractor or the property of any of them to influence improperly the actions of a Procuring Entity;</p> <p>(v). “Obstructive Practice” means deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and /or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation.</p> <p>A Procuring Entity has the right to require that Tenderers, suppliers, and contractors and their subcontractors permit persons duly appointed by KACC/PPOA/KNAO to inspect their accounts and records and other documents relating to the Tender submission and contract performance;</p> <p>The Procuring Entity will reject a proposal for award if it determines that the Tenderer recommended for award has engaged in corrupt, fraudulent practices or others stated under Clause 44.1.a in competing for the contract;</p> <p>In pursuit of the policy defined in sub-Clause 44.1, the Procuring Entity will cancel the portion of the funds allocated to a contract for goods, works, or services if it at any time determines that corrupt or fraudulent practices were engaged in by representatives of the Procuring Entity or Approving Authority or of a beneficiary of the funds during the procurement or the execution of that contract;</p> <p>In the event that the Procuring Entity or Approving Authority does not take</p>

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
		timely and appropriate action satisfactory to the Government of Kenya to remedy the situation, then the Director-General may order an investigation of procurement proceedings for the purpose of determining whether there has been a breach of the Public Procurement and Disposal Act, 2005.
8	2.7	Subsidiary companies shall be considered independent of the parent or sister company. Evaluation shall be carried out for the firm stated in the tender form, the only documents to be evaluated are those bearing the names stated in the tender form. Where evidence of certain activity or experience is required a subsidiary company shall submit a document bearing its experience and not that of its parent/sister company. A subsidiary company shall not be deemed to represent the parent/sister company unless in case of a joint venture between the parent/sister company and the subsidiary as per the requirements of ITT clause 12.4
9	2.8	International firms shall appoint local firms as subcontractors for installation services. International firms shall be firms not incorporated in Kenya.
10	2.9	<p>A Bidder may have the nationality of any country, subject to the restrictions pursuant to the following:</p> <ul style="list-style-type: none"> (a) as a matter of law or official regulations the Employers' country prohibits commercial relations with that country, provided that the Employer is satisfied that such exclusion does not preclude effective competition for the supply of goods or the contracting of works required; or (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Employers' country prohibits any import of goods or contracting of works or services from that country, or any payments to persons or entities in that country. <p>A Bidder shall be deemed to have the nationality of a country if the Bidder is a citizen, or is constituted, incorporated or registered and operates in conformity with the provisions of the laws of that country, as evidenced by its Articles of Incorporation or Documents of Constitution, and its' Registration Documents.</p>

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
11	4	Alternative offers are not allowed. Clause is not applicable
12.	6.3	Pre-tender meeting and site visit shall be held on Wednesday, 9 th May 2018 and Wednesday, 16 th May 2018, both at 1000 hrs at Gitaru Hydro power station.
13.	6.5	The minutes of the pre-Tender meeting will be made available after the meeting.
14.	6.6	SITE VISIT IS MANDATORY
15.	6.7	During the site visit: <ul style="list-style-type: none"> (a) A representative of the Employer will be available to meet the intending tenderers at the Site. (b) Tenderers must provide their own transport and accommodation where necessary. (c) Each tenderer shall complete the Certificate of tenderer's Visit to the Site, whether they in fact visits the Site at the time of the organized site visit or by themselves at some other time earlier than 14 days prior to the deadline for the submission of tenders. (d) Existing equipment drawings shall be provided to bidders in soft copy
16	6.8	The tenderer shall visit and examine the Site and its surroundings and obtain for themselves on their own responsibility, all information that may be necessary for preparing the tender and entering into a contract. The costs of visiting the Site shall be the tenderer's own responsibility.
17	6.9	The tenderer and any of his personnel or agents will be granted permission by the Employer to enter premises and lands for the purpose of such inspection, but only upon the express condition that the tenderer, his personnel or agents, will release and indemnify the Employer from and against all liability in respect of, and will be responsible for personal injury (whether fatal or otherwise), loss of or damage to property and any other loss, damage, costs and expenses

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
		however caused, which but for the exercise of such permission, would not have arisen.
18	6.10	Tenderer is advised to send qualified & experienced technical representatives to observe all requirements on site in order to come up with a working proposal for the works
19	7.1	<p>The following documents comprises the tender document</p> <p>Section I: Invitation for tender</p> <p>Section II: Instructions to Tenderers (ITT)</p> <p>Section III: Tender Data Sheet</p> <p>Section IV: Evaluation and Qualification Criteria</p> <p>Section V: Conditions of contract</p> <p>Section VI: Employer's Requirements /Specifications</p> <p>Section VII: Technical Schedules</p> <p>Section VIII: Preliminary bill of materials</p> <p>Section IX: Price Schedules</p> <p>Section X: bidding and contract forms</p> <p>Specification drawings</p> <p><u>Employer's existing equipment drawings and data-to be provided during site visit</u></p> <p>The following forms have been attached to be filled by the bidder</p> <p>STANDARD FORMS</p> <ol style="list-style-type: none"> 1. form of tender 2. tender security form 3. manufacturer's authorization form

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
		<p>4. tender questionnaire</p> <p>5. confidential business questionnaire</p> <p>6. joint venture summary</p> <p>QUALIFICATION CRITERIA FORMS</p> <p>7. general experience record of the firm (form 5a)</p> <p>8. similar experience record of the firm [form 5b]</p> <p>9. schedule of ongoing projects (form 5c)</p> <p>11. quality assurance details (form 5d)</p> <p>12. details of subcontractors (form 7a)</p> <p>13. subcontractors similar experience (form 7b)</p> <p>14. key personnel capabilities [form 6a]</p> <p>15. CVs of key personnel [form 6b]</p> <p>16. litigation history (form 2a)</p> <p>17. historical contract non-performance (form 2b)</p> <p>18. financial information (form 3a)</p> <p>19. financial situation -financial data (form 3b)</p> <p>20. financial situation- turnover (form 3c)</p> <p>21. Financial resources (Form 3D)</p> <p>22. anti-corruption declaration pledge</p> <p>TECHNICAL PROPOSAL FORMS</p> <p>23. deviation from employers' requirements</p> <p>24. implementation program</p> <p>25. drawings</p> <p>26. bill of materials (list of equipment)</p>

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
		27. method statement 28. quality control plan 29. bidder's drawings 30. technical schedules CONTRACTRUAL FORMS 31. form of agreement 32. performance security 33. bank guarantee for advance payment
20	7.2	The number of copies to be completed and returned with the Tender is three (3).
21	7.6	All recipients of the documents for the proposed Contract for the purpose of submitting a tender (whether they submit a tender or not) shall treat the details of the documents as "private and confidential". Documents provided by the procuring entity SHALL NOT BE USED FOR ANY OTHER PURPOSE other than this tendering process. Drawings provided shall be intellectual property of the procuring entity
22	8.1	Period to respond to request for clarification by the Procuring Entity: at most five (5) days prior to tender closure. Period Prior to deadline for submission of Tenders for Tenderers to request clarification or visit the site shall be at least 10 days prior to deadline
23.	8.2	Potential bidders are advised to regularly check KenGen website for any uploaded information on this tender. Any issued Addenda/Clarification shall be uploaded by Procuring entity on the website.
C. PREPARATION OF TENDERS		

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
24.	10.1	<p>Language of Tender and all correspondence shall be ENGLISH LANGUAGE ONLY</p> <p>The tender and all correspondence and documents relating to the tender exchanged between the tenderer and the Employer shall be written in the ENGLISH language ONLY. Any document or correspondence (other than copies of original documents required for submission) written in any other language will be disregarded by the employer and will be considered not to have been submitted by the tenderer. For interpretation of the tender, the English language shall be used.</p>
25	10.2	<p>Where the required copy of an original document is written in another language other than English then a full translation of this document shall be submitted. Where a translated document is submitted, the following shall be adhered to:</p> <ul style="list-style-type: none"> (a) Copy of the original document and the translated documents shall be submitted (b) Every text in the document including the fine prints and footnotes shall be translated to English. (c) If any text is not translated the document shall be deemed not to have been submitted. (d) The translated document shall be in English language only (text of another language shall not be interlaced with English) (e) Translated documents shall be certified by bidders' representative. (f) The translated document shall be used for tender evaluation
26	11.1	<p>All the documents below shall be submitted as detailed. Each page (including blank pages) in volume 1-4 must have a unique page number which are sequential from first to last page. The documents MUST be bound into four volumes as follows:</p> <p>Volume1: Shall be submitted in hard and soft copy (in CDs) containing the following tendering statutory documents arranged in the order below</p>

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
		<ol style="list-style-type: none"> 1. Form of tender 2. Price Schedules duly completed, signed and stamped 3. Tender Security 4. Certificate of incorporation 5. Tender questionnaire duly completed. 6. Confidential business questionnaire duly completed 7. Joint Venture agreement for joint ventures 8. Power of Attorney in case of Joint Ventures 9. Warranty-valid and signed 10. Signed clarifications and addendums <p>Volume 2: Shall be submitted in hard and soft copy containing the following qualification criteria documents arranged in the order given</p> <ol style="list-style-type: none"> 1. Engineering/Construction statutory registration certificates from the national registration bodies in the bidders' home country for international bidders. 2. National Construction Authority (NCA) class 3 and above & Energy Regulatory Commission (ERC) registration certificates for Kenyan firms including subcontractors. 3. Valid, duly signed Manufacturer's authorization for authorized suppliers one for each of the following equipment: Protection relays, MV generator switchgear, Vacuum Generator circuit breakers and low voltage switchboards 4. General experience record of the firm (form 5a) 5. Similar experience record of the firm [form 5b] plus supporting documents (letters from firms where similar projects have been executed successfully such as award and completion certificates,

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
		<p>contracts, etc. and the firms contacts)</p> <ol style="list-style-type: none"> 6. Schedule of ongoing projects (form 5c) 7. Quality assurance details (form 5d) 8. ISO 9001 or equivalent certificates 9. Details of subcontractors (form 7a) 10. Subcontractors similar experience (form 7b) 11. Key personnel capabilities [form 6a] 12. CVs of key personnel [form 6b] 13. Litigation history (form 2a) 14. Historical contract non-performance (form 2b) 15. Financial information (form 3a) 16. Audited financial statements accounts for the last three years (2015-2017) 17. Financial situation -financial data (form 3b) 18. Financial situation- turnover (form 3c) 19. Financial resources (Form 3D) <p>Volume 3: Shall be submitted in hard and soft copy containing the bidder's technical proposal documents as per clause 1.4 of specifications (except the technical schedules and preliminary bill of materials to be in a separate volume) arranged in the order given</p> <ol style="list-style-type: none"> 1. Method statement 2. Implementation program 3. Quality control plan 4. Single line diagrams 5. Dimensioned panel arrangement drawings

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
		<p>6. Panels layout diagrams</p> <p>7. Dimensioned generator switchgear housing and mounting structure</p> <p>8. List of provided manuals, catalogues and technical data sheets</p> <p>It shall also contain the following summary type test reports/certificates (≤5pages each) as detailed in clause 1.4 of specifications</p> <ol style="list-style-type: none"> 1. Two (2) reports for MV Generator circuit breakers type tests in accordance to IEEE C37.013 or IEC/IEEE 62271-37-013 2. Three (3) reports for MV Generator switchgear (complete indoor switchgear) as per IEC62271-200 3. One (1) report/certificate for Low voltage switch board Arc resistance and protection test as per IEC TR 61641 4. Summary test report or certificate for each type of numerical protection relay offered as per IEC 60255-1 5. KEMA test certificates to show compliance to IEC 61850-6, 7-1, 7-2, 7-3, 7-4 and 8-1 for each type of numerical protection relay offered <p>NB</p> <ol style="list-style-type: none"> 1. Only a maximum of 20 summary test reports/certificates and a minimum of 16 summary test reports/certificates are expected in hardcopy all the other type test reports that bidders deem necessary for submission as supporting documents at bidding stage shall be submitted in soft copy. Each summary test reports/certificates is not expected to exceed five pages in size. Detailed test reports to be submitted in soft copy 2. Where the Type test report/certificate submitted is not for the exact model on offer but for an equivalent model. Then a signed verifiable letter from the manufacturer shall be provided to proof that the type test report given is also applicable to the equipment model on offer failure

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
		<p>to which the test report shall be deemed not to have been submitted.</p> <p>Volume 4: Shall be submitted in hard and soft copy containing:</p> <ol style="list-style-type: none"> 1. dully filled technical schedules 2. dully filled deviation from specification schedule if applicable 3. duly filled preliminary bill of materials <p>Folder 5: shall be submitted in soft copy only containing contain the technical manuals as per clause 1.4 of specifications as follows</p> <ol style="list-style-type: none"> 1. For each type of numerical protection relay (five – seven manuals) 2. Generator MV vacuum circuit breaker 3. Generator MV switchgear (complete switchgear) 4. LV switch boards 5. IEC6150 Conformance statements <p>Folder 6: shall be submitted in soft copy only containing technical datasheets, catalogue and any other manufacturer information as detailed in clause 1.4 of specifications.</p>
27	11.2	The Forms, Bills of Quantities and Schedules provided in the procuring entity tender documents shall be used without exception
28	12.3 (a)	<p>To qualify for award of Contract, the tenderer shall provide evidence satisfactory to the Employer of their eligibility and of their capability and adequacy of resources to effectively carry out the subject Contract. To this end, the tenderer shall be required to submit the following information: -</p> <ol style="list-style-type: none"> (a) Details of experience and past performance of the tenderer on the works of a similar nature within the past ten years and details of current work on hand and other contractual commitments. (b) The qualifications and experience of key personnel proposed for administration and execution of the contract, both on and off site. (c) Major items of construction plant and equipment proposed for use in carrying out the Contract. Only reliable plant in good working

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
		<p>order and suitable for the work required of it shall be shown on this schedule. The tenderer will also indicate on this schedule when each item will be available on the Works. Included also should be a schedule of plant, equipment and material to be imported for the Contract, giving details of make, type, origin and value as appropriate.</p> <p>(d) Details of sub-contractors to whom it is proposed to sublet any portion of the Contract and for whom authority will be requested for such subletting in accordance with clause 4 of the Conditions of Contract.</p> <p>(e) A draft Program of Works in the form of a bar chart which shall form part of the Contract if the tender is accepted. Any change in the Program or Schedule shall be subjected to the approval of the Engineer.</p> <p>(f) Details of any current litigation or arbitration proceedings in which the Tenderer is involved as one of the parties.</p> <p>(g) A proof in form of certificate, from the original manufacturer of the system giving authority to the tender to resell and install, commission, offer guaranties over the system.</p> <p>(h) Proof that the tenderer has the financial, technical, and production capability necessary to perform the contract</p> <p>(i) In the case of a Tenderer not doing business within Kenya, documentary evidence/contracts of Tenderer's local 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 Employer's requirements/Specifications.</p>
29	12.3 (b)	Tenderers shall meet the minimum qualifying criteria specified in section IV Evaluation and qualification criteria part B and C
30	12.5	<p>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.</p> <p>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:</p> <p>(a) a statement in the Price Schedule of the country of origin of the goods and services offered which a certificate of origin issued at</p>

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
		<p>the time of shipment.</p> <ul style="list-style-type: none"> (b) A detailed description of the essential technical and performance characteristics of the goods offered; (c) a list giving full particulars, including available sources 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; (d) The Precise Standard, complete with identification number, to which the various equipment and materials are manufactured and Tested and (e) Data filled in the technical schedules offering a clause-by-clause commentary on the employers' requirements demonstrating substantial responsiveness of the goods and services to those specifications, or a statement of deviations and exceptions to the provisions of the Employers' Requirements. (f) Technical proposal as detailed in clause 1.4 of Employers' Requirements (g) Drawings as detailed in clause 1.4 of Employers' Requirements (h) Technical manuals, technical data sheets, catalogues and type test certificates as detailed in clause 1.4 of Employers' Requirements <p>All documents stated in clause 1.4 of specifications shall be submitted along with the bid to illustrate the bidders offer compliance with the employers' specifications</p>
31	13	Clause not applicable
32	15.3	<ul style="list-style-type: none"> a) "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. b) Local Taxation

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
		<p>i). 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.</p> <p>ii). 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.</p> <p>iii.) 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.</p> <p>c) Tax Deduction</p> <p>i). 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.</p> <p>ii). 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.</p>

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
		<p>d) Tax Indemnity</p> <p>i). 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.</p> <p>ii) 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.</p> <p>iii). 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.</p> <p>The rates and prices quoted by the Tenderer shall be fixed during the performance of the Contract.</p>
33	15.5	All the insertions made by the tenderer in the price schedules shall be made in INK and the tenderer shall clearly form the figures. The relevant space in the Form of Tender and Bills of Quantities shall be completed accordingly without interlineations or erasures except those necessary to correct errors made by the tenderer in which case the erasures and interlineations shall be initialled by the person or persons signing the tender.
34	15.6	The prices and unit rates in the Bills of Quantities are to be the full [all-inclusive] value of the work described under the items, including all costs and expenses which may be necessary, and all general risks, taxes, liabilities and obligations set forth or implied in the documents on which the tender is based.
35	15.7	Each price or unit rate inserted in the Bills of Quantities should be a realistic estimate for completing the activity or activities described under that particular

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
		item and the tenderer is advised against inserting a price or rate against any item contrary to this instruction.
36	15.8	Every rate entered in the Bills of Quantities, whether or not such rate is associated with a quantity, shall form part of the Contract. The Employer shall have the right to call for any item of work contained in the Bills of Quantities, and such items of work to be paid for at the rate entered by the tenderer and it is the intention of the Employer to take full advantage of unbalanced low rates
37	16.1	For goods that the tenderer will supply from within Kenya, the prices shall be quoted in Kenya shillings; and for goods that the tenderer will supply from outside Kenya, the prices shall be quoted in US dollars or Euros or in another freely convertible currency, however, the maximum number of currencies shall be limited to two (2).
38	16.2	<p>The authority for establishing the rates of exchange shall be Central Bank of Kenya.</p> <p>The applicable date for exchange rates for tendering and evaluation purposes is the exchange rate at the closing date.</p>
39	17.1	The tender shall remain valid and open for acceptance for a period of one hundred and eighty (180) calendar days from the specified date of tender opening or from the extended date of tender opening (in accordance with clause 21) whichever is the later.
40	18.1	<p>The Tenderer shall furnish as part of his tender, a Tender Security in the amount of <i>Two Million Kenya Shillings (Kshs. 2,000,000.00)</i> or in USD, British pounds or EUROS, valid for at least 30 days beyond tender validity, i.e. valid for 210 days.</p> <p>Foreign bidders who choose to use bank guarantee must do so through corresponding local bank. Tender securing declaration shall not be accepted in place of Tender Security</p>

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
41	19.1	In addition to the original of the Tender, the Tenderer shall submit Two (2) copies of the Tender.
42	19.2	Written confirmation of authorization shall be power of attorney.
D. SUBMISSION OF TENDERS		
43	20.2 a)	Tenders shall be submitted to: The Company Secretary & Legal Affairs Director Kenya Electricity Generating Company Limited 7th Floor, Stima Plaza Kolobot Road, Parklands P.O. Box 47936-00100 Nairobi, Kenya
44	20.2 b)	The name and identification of the project is: REHABILITATION OF GENERATOR MV SWITCHGEAR, PROTECTION SYSTEMS AND LV SWITCHBOARDS OF GITARU HYDRO POWER STATION -KENYA The tender number is: KGN-HYD-18-2018. Date and Time for submission is: Tuesday, 5th June 2018 at 1000 hrs.
45	20.5	(a) Bidder shall submit one original offer and three copies of the offer in volumes detailed in TDS 26 (b) The tenderer shall also submit the tender offer in soft copy contained in four sets of discs or four flash memories . The softcopy media shall be firmly attached to the volume 1 original and the three volume 1 copies. (c) Price schedules in Ms excel shall be included in the soft copy.
46	21.2	The deadline for Tender submission is: Tuesday, 5th June 2018 at 1000 hrs

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
		.
47	21.3	The extension of the deadline for submission of Tenders shall be made not later than two (2) days before the expiry of the tender deadline.
48	21.4	Tenders delivered by hand must be in the office of the Employer before the deadline time for Tender submission.
49	21.5	Proof of posting will not be accepted as proof of delivery and any tender delivered after the above stipulated time, from whatever cause arising will not be considered
50	23.6	After the expiration of the period of tender validity prescribed by the Employer, and the tenderer having not been notified by the Employer of the award of the Contract or the tenderer does not intend to conform with the request of the Employer to extend the prior of tender validity, the tenderer may withdraw his tender without risk of forfeiture of the Tender Security.
E. OPENING AND EVALUATION OF TENDER		
51.	24.1	The Tender opening shall take place at: Company: Kenya Electricity Generating Company Street address: Kolobot Road off Limuru Road Building/Plot No: Stima Plaza Floor/Room No: 7 th Floor City/Town : Nairobi

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
		<p>Country: Kenya</p> <p>Date and time: The closing date of the tenders</p> <p>The amount on the Tender form shall be assumed to be inclusive of all offered discounts and all applicable taxes.</p>
52	27.2	<p>Evaluation shall be carried out as detailed in section IV evaluation criteria</p> <p>Tender shall be rejected without detailed evaluation will be carried if:</p> <ul style="list-style-type: none"> (a) any of the documents listed in the preliminary evaluation criteria is not submitted (b) Any documents required to be filled e.g. technical schedules, confidential questionnaires, price schedule etc. are partially or not filled, (c) Information is missing or is not provided in accordance with the Instructions to Tenderers. (d) Pages and volumes in the tender submission don't have Sequential pagination /serialization.
53	27.3	<p>During the evaluation of bids, the following definitions apply:</p> <ul style="list-style-type: none"> (a) "Deviation" is a departure from the requirements specified in the Bidding Document; (b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Document; and (c) "Omission" is the failure to submit part or all of the information or documentation required in the Bidding
56	30.2	<p>(E) PRICE EVALUATION</p> <ul style="list-style-type: none"> (a) To evaluate the bid price, the Employer shall consider the following: <ul style="list-style-type: none"> (i) Excluding provisional sums and the provision, if any for contingencies in the Bill of Quantities, but including Day work, where priced competitively; (ii) Making appropriate adjustments to reflect discounts or other price modifications offered in accordance with sub-

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
		<p style="text-align: center;">Clause 23.5</p> <p>(iii) For Software's requiring annual renewal payments the employer shall add a cost of 15-year licences payment to the bidders' price.</p> <p>(iv) adding withholding tax and VAT to the final price</p> <p>(v) converting the amount resulting from applying (i) to (iv) above, if relevant, to a single currency in accordance with clause 29 of ITT;</p> <p>(b) If the bid, which results in the lowest Evaluated Bid Price, is seriously unbalanced or front loaded in the opinion of the Employer, the Employer may require the Tenderer to produce detailed price analyses for any or all items of the Price Schedules, to demonstrate the internal consistency of those prices with the methods and time schedule proposed. After evaluation of the price analyses, taking into consideration the terms of payments, the Employer may require that the amount of the performance security be increased at the expense of the Tenderer to a level sufficient to protect the Employer against financial loss in the event of default of the successful Tenderer under the Contract.</p>
57	31.2.b	<p>A verifiable proposal to demonstrate which specific components of this project that the bidding international firm or consortium shall give preference to and engage specific local expertise in terms of goods/works/services during this project execution as per Sec. 3(i), 89(f) and 157(9) of the Public procurement and Disposal of Asset Act (PPADA, 2015). NOTE: This shall be part of preliminary evaluation criteria.</p>
58	33.1	<p>Post-qualification due diligence shall be undertaken to confirm authenticity of the information provided by the recommended bidder/consortium concerning their documentation, qualifications, performance, competencies and any other appropriate aspect of their tender. This includes visiting the bidder's premises and client's finished installations.</p>
<p>F. AWARD OF CONTRACT</p>		

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
59	35	<p><u>NEGOTIATIONS</u></p> <p>(a) Negotiations shall be undertaken with the lowest evaluated Bidder to finalise minor issues of the bid or the logistical arrangements for the assignment and finalising the Contract Agreement. This shall be carried out before issuance of the letter of award. The cost of any negotiations shall be borne by the respective parties to the negotiations.</p> <p>(b) Negotiations shall not be conducted:</p> <ul style="list-style-type: none"> (i) to substantially change the technical quality or details of the requirement, including tasks or responsibility of the Bidder; (ii) to materially alter the terms and conditions stated in the solicitation documents primarily for the purpose of reducing prices; or (iii) to substantially alter anything which formed a crucial or deciding factor in the evaluation of the bids. (iv) To change the price of the contract <p>(c) Negotiations will be direct to clarify and finalise issues relating to:</p> <ul style="list-style-type: none"> (i) A minor alteration to the technical details of the statement of requirements; (ii) Reaching an agreement on the declared deviations from specifications by the bidder (iii) A minor amendment to the Contract Data Sheet; (iv) Finalizing payment arrangements; (v) Mobilization arrangements; (vi) Agreeing final delivery or work schedule to accommodate any changes required by the Procuring Entity; (vii) The methodology or staffing; (viii) Clarifying details that were not apparent or could not be finalized at the time of Tendering. (ix) Clarifications on Joint Venture Agreement (if applicable) and the Sub-Contractors

TDS ref. No	ITT Clause No	Amendments of, and Supplements to, Clauses in the Instruction to Tenderers
		<p>(d) The negotiations will take place at the Procuring Entity's Head Quarters in Nairobi or at some other location in Kenya as may be mutually agreed between the parties.</p> <p>(e) Negotiations will conclude with a review of the draft Form of Contract. To complete negotiations, the employer and the selected Bidder will initial the agreed Form of Contract. If negotiations fail, the Procuring Entity will invite the Bidder whose proposal was the second best evaluated to negotiate a contract.</p> <p>(f) The Procuring Entity shall appoint a team who will be tasked with conducting the negotiations.</p>
61	37.1	This clause is not applicable
62	40.1	The amount of Performance Security shall be ten (10) percent of the Contract price. Only bank guarantee will be acceptable.
63	40.1	A ten (10) percent advance payment against an Advance Payment Security (Guarantee) shall be paid to the contractor prior to project commencement as per conditions of contract.
64	42	<p><u>DISPUTE ADJUDICATION</u></p> <p>The Tenderer shall propose one Adjudicator from among the list of Members or Fellows of the Chartered Institute of Arbitrators (Kenya Branch) who shall be agreed upon by the Procuring Entity.</p> <p>The hourly fee for the Adjudicator shall be as determined by the Chartered Institute of Arbitrators (Kenya Branch).</p> <p>If the parties fail to agree upon the name of the Adjudicator, the appointment shall be made by the Chartered Institute of Arbitrators (Kenya Branch) at the request of either party.</p>

SECTION IV: EVALUATION CRITERIA ~ TDS 52

This evaluation will confirm eligibility of tenderer and offered goods as per **clause 27 of ITT**, documents listed under **clause 11 of ITT** (Tender data sheet ref 26) will be examined for compliance to employer's requirements. Prior to detailed evaluation the employer shall carryout preliminary examination as set out in **clause 27.2 of ITT**.

The bidder shall submit all the documents listed in clause **1.4 TENDER BID DOCUMENTATION** of specifications. These documents shall guide the employer to carry out the technical evaluation

Evaluation shall be carried out in three steps

- A. Preliminary examination
- B. Technical evaluation
- C. Financial evaluation

A. PRELIMINARY EXAMINATION

The following documents shall be examined as per **clause 27.2 of ITT**. Each document below **MUST** be submitted, duly filled, signed & stamped, authentic and valid for tender submission to be responsive. Copies of original document and translated document shall be submitted if the original document is not in English.

- 1.1. Bidding documents
 - 1.1.1. Form of Tender Duly filled, signed and stamped
 - 1.1.2. Certificate of incorporation or registration.
 - 1.1.3. Tender security, See TDS NO.40 above.
 - 1.1.4. Duly filled, signed and stamped price schedules (all schedules)
 - 1.1.5. Tender questionnaire duly completed.
 - 1.1.6. Power of Attorney in case of Joint Ventures
 - 1.1.7. Joint Venture agreement for joint ventures
 - 1.1.8. Confidential business questionnaire duly completed
 - 1.1.9. Similar experience record of the firm [form 5b]
 - 1.1.10. Details of subcontractors (form 7a), mandatory for international bidders who must proof part of the work shall be subcontracted to Kenyan firms.
 - 1.1.11. Form 6a and form 6b with all proposed Personnel CV's for each position detailed in the evaluation and qualification criteria

- 1.1.12. Audited financial statements for the last three years (2016,2015,2014)
- 1.1.13. Evidence of site visit (site visit certificate)
- 1.1.14. Both **NCA CLASS 3** (and above) **certificate** and the **NCA license**, plus **ERC class A1 registration certificates** for **Kenyan firms and equivalent of NCA class 1 registrations and licenses for foreign firms.**
- 1.1.15. Engineering/Construction statutory registration certificates from the national registration bodies in the bidders' home country for international bidders.
- 1.1.16. A verifiable proposal to demonstrate which specific components of this project that the bidding international firm or consortium shall give preference to and engage specific local expertise in terms of goods/works/services during this project execution as per **Sec. 3(i), 89(f) and 157(9) of the Public procurement and Disposal of Asset Act (PPADA, 2015).**
- 1.1.17. Signed Warranty as detailed in employer's requirements
- 1.1.18. ISO 9001 or equivalent certificates
- 1.1.19. At least four (4) (one for each major project equipment) valid, duly signed Manufacturer's authorization for authorized suppliers for each of the following equipment:
 - (a) Protection numerical relays (IED),
 - (b) MV generator switchgear,
 - (c) Vacuum Generator circuit breakers
 - (d) Low voltage switchboards.
- 1.2. Type test reports or certificates certified by a EU/USA/Canadian National Standards and Testing Authority (NSTA) or by a third party (not manufacturer or manufacturer subsidiary) reputable testing authority accredited by a EU/USA/Canadian National Standards and Testing Authority (NSTA) for:
 - 1.2.1. MV Generator circuit breakers type tests in accordance to IEEE C37.013 or IEC/IEEE 62271-37-013 (2 summary reports/certificates)
 - 1.2.2. MV Generator switchgear (complete switchgear) as per IEC62271-200 (3 summary reports/certificates)
 - 1.2.3. Low voltage switch board Arc resistance and protection test as per IEC TR 61641 (1 summary report/certificate)
 - 1.2.4. Each type of numerical protection relay offered as per IEC 60255-1 (5 - 7 summary reports/certificates)

- 1.2.5. Each type of numerical protection relay offered to show compliance to IEC 61850-6, 7-1, 7-2, 7-3, 7-4 and 8-1 by KEMA (5 - 7 summary reports/certificates)
- 1.3. Bidders' Technical proposal with all the following:
 - 1.3.1. Method statement
 - 1.3.2. Implementation program
 - 1.3.3. Quality control plan, including safety and environmental statements.
 - 1.3.4. Single line diagrams (minimum of six single line diagrams as detailed in clause 1.4 of specification)
 - 1.3.5. Dimensioned panel arrangement drawings
 - 1.3.6. Panels layout diagrams
 - 1.3.7. Dimensioned generator switchgear housing and mounting structure
 - 1.3.8. List of manuals, catalogues and datasheets provided
 - 1.3.9. Dully filled technical schedules
 - 1.3.10. Duly filled preliminary bill of materials (BOM)
- 1.4. Bid submission volumes 1-4 pages have sequential pagination

B. TECHNICAL EVALUATION CRITERIA

B.1 COMPLIANCE TO EMPLOYER'S REQUIREMENTS

1. Project Implementation methodology and capabilities

- 1.1. The employer shall examine the bidders design, installation and project management capabilities through presentation of the firm's design, engineering, installation and project management methodology. This shall be based on method statements with all the information as detailed in the specification. The method statements shall demonstrate the firms clear project management plan and prior experience in carrying out similar works. The employer shall confirm the bidders plan is viable and has experience carrying out similar projects. Where the bidders plan is unreasonable, unrealistic or shows that the bidder has no prior experience the offer shall be rejected.
- 1.2. Bidder shall demonstrate capability to complete projects within the stipulated time in this respect bidders shall attach award and completion certificates for projects carried out in the last ten years. Bid shall be rejected if the bidder has not been able to complete projects in time in the past.

- 1.3. Bidder shall also show a clear quality control/assurances plan that ensures the products and quality of work adhere to the stipulated standards. Bid shall be rejected if the bidder doesn't have an established quality control plan in their manufacturing processes.

2. Delivery schedule

- 2.1. Proposed implementation program submitted with the bid shall clearly indicate timeline for each project activity and the overall duration of the project. The offer shall be rejected if the timeline for each activity is not clear in the program. Bid offering incomplete or impractical implementation program shall also be rejected
- 2.2. The employer requires that the goods under the Invitation for Tenders shall be delivered at the time specified in the price Schedule or less. Bidders should factor in time required for design approvals, factory acceptance test & training. Where certain activities have not been factored in in order to reduce the delivery time the bid offer shall be rejected
- 2.3. Tenders offering deliveries longer than 30 months shall be treated as non-responsive and rejected. Delivery time shall be duration from commencement to final commissioning or as otherwise defined in the conditions of contract
- 2.4. Duration of power plant outage required to implement the project will also form part of evaluation. Bidder shall state the duration of power plant outage required to implement the project which shall form part of evaluation. The stated period shall however not exceed:
 - (a) 60 days outage time for each unit (unit 2&3) installation and commissioning,
 - (b) 5 days outage time for unit 1 installation of station transformer
 - (c) 4 days of total station outage (in separate days not continuous i.e. 1 or 2 days at a time) for substation works and to test common systems if required
- 2.4.2. Where the plan exceeds these limits, the bid shall be deemed non-responsive
- 2.4.3. A minimum of time gap of 14 days and a maximum of 30 days shall be allowed between outages
- 2.4.4. Pre-outage works at site shall be spelt out in the plan

3. Adherence to the Scope of Work

- 3.1. The employer shall examine the preliminary bill of materials and bidders' drawings to ensure the bidder has factored in their offer all the required equipment as stated in the specifications and employer's drawings given to the bidder. Bidder must supply all the equipment and components stated in the specification. If the bid offer does not include specified equipment/systems, the bid shall be rejected
- 3.2. Employer shall reject a bid
 - 3.2.1. if the preliminary bill of materials has not been duly filled i.e. any entry not filled except bidders 'comments
 - 3.2.2. if in the preliminary bill of materials column "offered by bidder" the bidder has not indicated if they are offering the stated equipment/device or not
 - 3.2.3. if any of the mandatory spares stated in the scope of works/preliminary bill of materials is not offered

4. Project preliminary designs

- 4.1. Employer shall examine the bidders' drawings (schematics, single line diagrams block diagrams, layout diagrams etc.), technical manuals, technical data sheets and catalogues to ensure:
 - 4.1.1. the overall completeness of the offer and compliance with the Employer's requirements;
 - 4.1.2. Functionality and features of the existing systems to be refurbished have been factored in bidder's offer
 - 4.1.3. suitability of the proposed design in relation to the environmental and climatic conditions prevailing at the site; and
 - 4.1.4. operation of any process control concept included in the bid follows employers' requirements
- 4.2. While examining the drawings, the employer shall confirm that the bidder has submitted single line diagrams covering the complete scope of the project. Where a minimum of the six single line diagrams detailed in **clause 1.4.1.4** of specification has not been submitted the bid offer shall be rejected
- 4.3. While examining the drawings, the employer shall confirm that the bidder has studied the provided employer's drawings and has factored in their design and costs the required functionality of the new systems. Where the client finds the bidders, offer is incomplete and does not factor in all the functionality of the existing plant systems, the specified functionality and the necessary interfacing to plant systems the bid offer shall be rejected.

- 4.4. The bidder MUST clearly state or illustrate in their technical proposal and manuals that the functionalities stated below are offered. In that regard, the **employer will reject** a bid offer if:
- 4.4.1. Any of the Protection scheme function specified in the protection schemes for generator, GSU transformer, station transformers, alternative supply transformers and EDG in the particular specification **clause 7.3.2.3, 7.3.3.3, 7.3.4.3, 7.3.5.3, 7.3.6.3** is not offered.
 - 4.4.2. The offered numerical protection relays do not meet requirements as follows
 - (a) any of the offered generator protection relay doesn't meet all the requirements in **clause 7.4.3**
 - (b) any of the offered GSU transformer protection relay doesn't meet all the requirements in **clause 7.4.4**
 - (c) any of the offered auxiliary supplies protection relays doesn't meet all the requirements in **clause 7.4.5**
 - 4.4.3. The offered MV switchgear doesn't meet any one of the technical characteristic in **clause 6.2.1** of specification
 - 4.4.4. The offered MV switchgear has not been type tested at the stated (**clause 6.2.1**) fault level, continuous current, internal arc withstand and voltage or higher. i.e valid type test reports have not been provided for the exact equipment on offer to proof the following
 - (a) Capability of the generator circuit breaker to interrupt short circuit current of 63kA at 17.5kV for generator source faults in accordance to IEEE C37.013 or IEC/IEEE 62271-37-013
 - (b) Generator circuit breaker capability to carry out a minimum of 10,000 (class E1&M1) load switching operations at rated current of 5,000A as per IEC62271-200
 - (c) Capability of the MV switchgear main and earthing circuits to be subjected to the rated peak current of 173kA and the rated short-time withstand currents 63kA for 3s as per IEC62271-200
 - (d) Capability of the MV switchgear cubicles to withstand arcing due to an internal fault for switchgear and control gear classification IAC A, FLR for an arc of at least 63KA for a duration of at least 0.3s as per IEC62271-200

- (e) MV switchgear passes Temperature rise test at 4300A without forced cooling as per IEC62271-200
- 4.4.5. The offered LV switchboards Withdrawable plug in modules do not meet all requirements in **clause 8.5.8**
- 4.4.6. The offered LV main station auxiliaries' switchboard doesn't meet any of the requirements in **clause 8.3.2.1**
- 4.5. The panel layout and arrangement diagrams shall be evaluated to ensure the offered equipment shall fit in the available space. The new panels and structural equipment shall be sized so as not to require extensive alteration to the plant structures to allow their installation. The offered equipment shall be suitably sized to fit in the space occupied by existing equipment to be removed and any available space surrounding the existing system. The employer shall evaluate the bidders offer to ensure the offered equipment fit available space and where necessary require minimal structural alterations of plant equipment. Bid offers offering equipment that cannot fit available space or require extensive alteration of plant structures shall be rejected
- 4.6. The employer shall require all offered equipment to be interfaceable to other plant systems in that regard the openness of all components shall be ensured. Locked proprietary systems shall not be accepted, bid offers offering such equipment shall be rejected
- 4.7. The offered systems shall be modular in design. Modular equipment shall enable replacement of some parts of the equipment and not the whole equipment in case of failure or upgrade. Employer shall not accept devices and equipment that are not modular if such equipment is available in modular form in the market
- 4.8. Automation & control philosophy offered shall conform to that stated in the tender document. In that regard, some of the requirements in the tender to be checked shall include: dual redundant control, manual & automatic control, manual & automatic changeovers, hard wiring & communication interface, interlocks etc. Bid offers shall be rejected if
- 4.8.1. Bidder is not offering hardwiring where its stated as a requirement in the employer specification
- 4.8.2. Where redundancy is a requirement and has not been offered
- 4.8.3. Where both automatic and manual control is a requirement and only one has been offered
- 4.9. The offered systems shall be easy to maintain and upgrade in this regard the offer shall be evaluated to ensure the offered equipment can be maintained by the client personnel and do not require special equipment that is not available and not included in the bid. Employer shall reject bid offers that offer equipment

requiring specialised maintenance skills or tools for routine maintenance that are not to be availed to the employer

5. Technical Schedules & Equipment Data

- 5.1. The tenderer shall provide information that demonstrates compliance with all the Employers' Requirements as detailed in the specifications. The following documents shall be examined: duly filled technical schedules, technical manuals, catalogues and data sheets and type test reports. These documents shall be as specified in **clause 1.4 of specifications**
- 5.2. Employer shall carryout a detailed evaluation of technical schedules and deviations. **A bid offer shall be rejected if:**
 - 5.2.1. There are blank entries in the schedules (except deviations column in statement of compliance to specifications schedule)
 - 5.2.2. A response of "YES" or "NO" has not been provided in the compliance column in statement of compliance to specifications schedule.
 - 5.2.3. Other responses, other than "YES" or "NO" have been given the compliance column in statement of compliance to specifications schedule.
- 5.3. Technical Schedules shall be evaluated against Tender Specifications to confirm compliance of the goods and services to the specifications and evaluation of any deviations and exceptions declared by the Tenderer. Entries into the technical schedules shall be supported by OEM catalogues, data sheets or manuals. Employer shall confirm compliance for the goods (equipment, components etc.) whose datasheets, catalogues or manuals have been offered. For catalogues and datasheets, the bidder shall highlight the offered item in the datasheet or catalogue. Bid offers shall be rejected if there no supporting data sheets and catalogues for the offered equipment especially for the major equipment.
- 5.4. Bidder shall offer goods that comply to specifications stated in the tender. Where the bidder offers an equipment that cannot/does not meet all the employer requirements they shall state the good in the deviations to specifications schedule and the reason for deviation. Deviations not provided in the schedule shall not be considered.
- 5.5. Bidder **MUST** have manufacturer authorisation to supply equipment in the offer that they don't manufacture. The bidder shall submit manufacturer authorisation for all the major project equipment offered i.e. Protection relays, MV generator switchgear and low voltage switchboards. Bid offers shall be rejected if manufacturer authorisation is not provided for the major equipment on offer.
- 5.6. All type test certificates as specified in **clause 1.4 of specifications** **must** be submitted. Bid offers shall be rejected if any of the type test reports stated in **clause 1.4** is not submitted

- 5.7. Bidder must have supplied, installed and commissioned numerical protection relays, Vacuum generator circuit breaker, Generator MV switchgear, and LV switch boards, equipment to other customers over the last five years. The bidder shall provide the names and addresses of the clients who have purchased these systems (models offered or similar models), and the names, telephone and telefax numbers of a senior manager employed by each client from whom references can be obtained in **English** language. Bid offers shall be rejected if the bidder is proposing to supply and install a generator MV switchgear that they have never installed or supplied before. Bidder should subcontract supply and installation of such equipment to firms which have prior experience with such equipment, this requirement is only applicable to the generator MV switchgear which carries the biggest risk in this project.

6. Deviations from specifications

- 6.1. Variations, deviations and other factors, which are in excess of the requirements of the tender documents or otherwise result in the accrual of unsolicited benefits to the Employer, shall not be taken into account in tender evaluation.

7. Spare parts and after sales service facilities

- 7.1. Tenderers must offer items with service and spares parts back-up. Documentary evidence and locations of such back- up must be given. Where a tenderer offers items without such back-up in the country, they must give documentary evidence and assurance that they will establish adequate back-up for items supplied.
- 7.2. The bidder shall also guarantee supplying maintenance spares and specialized services for a period of 15 years.
- 7.3. Mandatory spares shall all be offered; the employer shall reject the bid if any of the mandatory spare is not offered

8. Warranty

- 8.1. A warranty period of not less than 1 year from the date of take over certificate issuance or three years from the time of arrival of equipment at site must be offered by the bidder.

9. Software and other necessary licenses

- 9.1. Bidder MUST demonstrate that all software, licenses and application programs used by the supplied equipment, required to interrogate supplied equipment or

required for testing, maintenance and commissioning of supplied equipment shall be handed over to the client.

- 9.2. Bidder MUST demonstrate that all programs/applications developed specifically for the project or required for the working of the products supplied e.g. PLC application; protection relay logic etc. and the intellectual property associated shall be handed over to the client after commissioning.

COMPLIANCE TO EMPLOYER'S REQUIREMENTS SCHEDULE (CHECK LIST)

B.2: QUALIFICATION REQUIREMENTS

1. Eligibility

1.2. The tenderers and in case of joint ventures the lead partner is a manufacturer of systems. A letter licensing the bidder as a manufacturer of systems or any other verifiable document showing that the bidder or the leading partner in a JV is a manufacturer of systems.

If the Bidder is not a manufacturer of the major supply items under the contract, i.e. protection IED's, MV switchgear, MV generator circuit breakers and LV switchboards, the Bidder shall provide the manufacturer's authorization, using the form provided in **Section VII bidding forms**, showing that the Bidder has been duly authorized by the manufacturer to supply the equipment

1.3. A Tenderer shall not have a conflict of interest as per **clause 2.4 of ITT**

1.4. For Government owned enterprises in Kenya they are only eligible if: they are legally and financially autonomous, operate under commercial law, are registered by the relevant registration board or authorities and they are not a dependent agency of the Government.

1.5. Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices issued by the Government of Kenya as elaborated **in clause 2.6 of ITT**

1.6. A Bidder nationality and country of origin of offered goods are eligible as per **clause 2.9** of instruction to tenderers

1.7. International firms i.e. firms not incorporated in Kenya have nominated a local subcontractor and representative

1.8. National (Kenyan firms) Tenderers shall satisfy all relevant licensing and/or registration with the appropriate statutory bodies in Kenya, such as the Ministry

of Public Works, National Construction Authority or the Energy Regulatory Commission.

- 1.9. International firms' tenderers must be registered to offer engineering and or construction services in their country of incorporation/registration. Valid licences from the bidder's home country national registration and licencing body for engineering or construction firms shall be provided.

2. Litigation History

- 1.10. Bidders shall provide accurate information on any litigation or arbitration resulting from contracts completed or under execution by the bidder including for all the participating contractors/sub-contractors required to perform the works over the last five years. All pending litigation shall in total not represent more than twenty percent (20%) of the Bidder's net worth and shall be treated as resolved against the Bidder.
- 1.11. A consistent history of awards against the bidder or any partner of a joint venture on any litigation or arbitration resulting from contracts undertaken by the tenderer may result in failure of the bid offer.
- 1.12. Bidder shall not have a Non-performing contract within the last Five (5) years prior to the deadline for application submission, based on all information on fully settled disputes or litigation. A fully settled dispute or litigation is one that has been resolved in accordance with the Dispute Resolution Mechanism under the respective contract, and where all appeal instances available to the bidder have been exhausted.

3. The experience of the firm:

The Tenderer shall meet the following minimum criteria:

- 3.1. Experience under contracts in the role of a contractor, for at least the last 10 [ten] years prior to the application submission deadline, and with activity in at least 9 [nine] months in each year. (For joint venture, lead partner MUST meet)
Bidder MUST submit completion and award certificates of contracts for the last ten years. The certificates to show duration and scope of the projects
- 3.2. Performance as prime contractor in the execution of at least five projects of nature, complexity and volume comparable to the proposed contract and valued **over 4 million US dollars** over the last eight years. The similarity shall be based on the physical size, complexity, methods/technology or other characteristics as described in the employer's requirements. (For Joint Venture the lead Partner MUST meet)

Bidder **MUST** attach at least five duly signed award and completion certificates of similar projects in value & complexity. Documents attached must show the value and scope of the project

- 3.3. The bidder **MUST** have designed, manufactured, installed and commissioned during the last 8 years at least **Five (5)** protection systems for HYDRO POWER GENERATOR UNITS similar or bigger in size than Gitaru (85MVA) units. (For joint venture at least one partner **MUST** meet)

The bidder **MUST** have designed, manufactured, installed and commissioned during the last 8 years at least **Five (5)** MV & LV switchgear systems for a power plant (For joint venture at least one partner **MUST** meet)

The bidder shall provide the names and addresses of the clients who have purchased these systems, and the names, telephone and telefax numbers of a senior manager employed by each client from whom references can be obtained in **English** language.

Bidder **MUST** attach at least five duly signed completion (take over) certificates for design, installation & commissioning projects

- 3.4. The bidder **MUST** have successfully reconstructed/refurbished during the 8 last years at least three (3): protection systems for a hydro power plant of similar or greater size and capacity than Gitaru which have been operated satisfactorily since the re-commissioning. (For joint venture at least one partner **MUST** meet)

The bidder **MUST** have successfully reconstructed/refurbished during the 8 last years at least three (3): MV switchgear and LV switchgear systems of similar or greater size and capacity than the ones covered in this scope which have been operated satisfactorily since the re-commissioning. (For joint venture at least one partner **MUST** meet)

The bidder shall provide the names and addresses of the clients who have purchased these services, and the names, telephone and telefax numbers of a senior manager employed by each client from whom references can be obtained in the **English** language.

Bidder **MUST** attach at least three duly signed completion certificates for refurbishment projects of similar size, value & complexity. The documents must include each system listed above.

- 3.5. The bidder **MUST** have designed, manufactured, installed and commissioned during the last 8 years at least **three (3)** SCADA systems, for **hydroelectric power plants** and at least **one (1)** SCADA systems for a control centre serving multiple power plants (For a joint venture, at least one partner **must** meet)

The bidder shall provide the names and addresses of the clients who have purchased these systems, and the names, telephone and telefax numbers of a senior manager employed by each client from whom references can be obtained in **English** language.

Bidder MUST attach at least three duly signed award and completion certificates for projects of similar size, value & complexity.

- 3.6. The bidder must have a Quality Assurance System implemented according to the requirements in the ISO 9001 standard or equivalent. Suppliers that are not certified to the ISO 9001 standard must submit details of their Quality Assurance System demonstrating their substantive compliance with this standard or equivalent.

4. The qualification and experience of key personnel

- 4.1. Personnel Capabilities: The Applicant must have suitably qualified personnel to fill the positions listed in the qualification criteria schedule 6. The Applicant will supply information in the relevant form on a prime candidate and an alternate for each position, both of whom should meet the experience requirements listed in the qualification criteria schedule 6: personnel qualifications
- 4.2. The personnel assigned to the positions listed in the schedule on the Applicants Project Team are critical to the success of the project. The Bidder shall submit the CVs of their proposed personnel for these positions. The CV's shall clearly show the experience required in the schedule where necessary references shall be provided. All proposed personnel shall meet the requirements set out in the schedule for each of the principal positions in the project team. Bidder shall provide two CV's for both prime and alternate candidate for each position set out in the schedule.
- 4.3. The CV shall be signed by the respective personnel and recent and up to date contacts (mobile phone & email) of the personnel shall be provided otherwise the CV shall be disregarded.
- 4.4. Should the Bidder be successful then it is a requirement of the Contract that these personnel or personnel with equivalent or better qualifications, experience, and track record are appointed to their designated positions on the Contractor's project team.
- 4.5. Project managers, design and commissioning engineers MUST be registered professional engineers by national Engineers registration body of their home country.

5. Subcontractors qualifications

- 5.1. For subcontractors whom the bidder intends to subcontract a section of the project the subcontractor shall have qualifications listed in clause 3: The experience of the firm for the part to be subcontracted
- 5.2. For sub suppliers, installation subcontractor and civil subcontractor the shall meet the following qualifications

Description	Minimum criteria to be met
Sub suppliers	Must have supplied similar components in size and complexity for the last five years
Installation Subcontractor	<p>Must have completed at least 5 projects of similar size and complexity.</p> <p>They must demonstrate that they have access to all the necessary human resource and equipment required for electrical works.</p> <p>Must be registered class A electrical contractor by ERC (Energy regulatory commission)</p> <p>They must be registered and licensed contractors NCA (National construction Authority).</p> <p>Supervisor should have class A electrician certificate and at least eight years' experience in similar works</p> <p>Should have at least two electricians with class C1 or above certification.</p> <p>CV's and certificates must be provided to support the qualifications</p>
Civil subcontractor	<p>Must have completed at least Two (2) substation projects of similar size and complexity.</p> <p>They must demonstrate that they have access to all the necessary human resource and equipment required for civil works.</p> <p>They must be registered and licensed by NCA (National construction Authority)</p>

NOTE: Bidders must meet ALL the requirements set out above to pass the technical evaluation stage. Those not meeting the requirements shall be disqualified.

C: FINANCIAL QUALIFICATION EVALUATION CRITERIA

1. Financial Position:

This shall be evaluated against the following parameters:

- 1.1. Submission of audited balance sheets or if not required by the law of the bidder's country, other financial statements acceptable to the Employer, for the last three [3] years (2014-2016) to demonstrate the current soundness of the bidders' financial position and its prospective long term profitability.
 - (a) Criteria 1-Positive net worth
 - (b) Criteria 2-Current ratio of at least 1.5

Single Entity- Must meet requirement

Joint Venture, Consortium or Association- each partner must meet requirement

1.2. Minimum average annual turnover of **USD 5 million**, calculated as total certified payments received for contracts in progress or completed, within the last three (3) years (2014-2016). This will apply for each of the schedule.

- (a) Single Entity- Must meet requirement
- (b) Joint Venture, Consortium or Association:
 - (i) A. All Partners combined- Must meet requirement
 - (ii) B. Each Partner- Must meet at least fifty percent (50%) of the requirement
 - (iii) C. At least one partner- must meet one hundred percent (100%) of the requirement

1.3. The Bidder must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit (specific to the works being tendered for), and other financial means, sufficient to meet the contracts cash flow for a period of 12 months, other than any contractual advance payments to meet the following cash-flow requirement for each schedule:

- (a) not less than **USD 1 million** (working capital) net of the applicants' commitments for other projects and
- (b) The overall cash flow requirements for this contract and its current commitments.

Single Entity- Must meet requirement

Joint Venture, Consortium or Association:

- a. All Partners combined- Must meet requirement
- b. Each Partner- Must meets at least fifty percent (50%) of the requirement.

2. Audited accounts for the last three (3) years (2014-2016):

2.1. The audited balance sheets for the last three years (2014-2016) for all the participating contractors/sub-contractors in the contracts shall be submitted and must demonstrate the soundness of the Applicant's financial position, showing

long-term profitability. Where necessary, the Employer will make necessary inquiries, including with the Applicant's bankers.

- 2.2. Financial statements (balance sheets, including all related notes, and income statements) for the years required above shall comply with the following conditions:
 - 2.2.1. Must reflect the financial situation of the Bidder or partner to a joint venture, and not sister or parent companies
 - 2.2.2. Historic financial statements must be audited by a certified accountant
 - 2.2.3. Historic financial statements must be complete, including all notes to the financial statements
 - 2.2.4. Historic financial statements must correspond to the immediate accounting periods already completed and audited (no statements for partial periods shall be submitted).

D. QUALIFICATION CRITERIA SCHEDULE

THE EVALUATION SHALL ADOPT THE PASS OR FAIL METHODOLOGY AGAINST ALL THE PARAMETERS BELOW

Clause/ Sub Clause	1. Eligibility						Documentation Submission Requirements
	Qualification Criteria		Compliance Requirements				
	Subject	Requirement	Single Entity	Joint Venture			
				All Parties Combined	Each Partner	One Partner	
1.1	Manufacturer Authorizations	bidder is an authorised supplier of offered protection IED's, MV switch gear and LV switch board as per clause 2.2 of ITT	Must meet requirement	Existing or intended JV must meet requirement	N/A	N/A	manufacturer authorisation
1.2	Conflict of Interest	no conflict of interest as per clause 2.4 Of instruction to tenderers	Must meet requirement	Existing or intended JV must meet requirement	Must meet requirement	N/A	Confidential business questionnaire
1.3	Government Owned Entity	Bidder required to meet conditions of 2.7 of ITT	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Certificate of registration
1.4	corrupt and fraudulent practices	Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices as per clause 2.6 of ITT	Must meet requirement	Must meet requirement	Must meet requirement	N/A	Confidential business questionnaire
1.5	Nationality	nationality is eligible as per clause 2.9 Of instruction to tenderers	Must meet requirement	Existing or intended JV must meet requirement	Must meet requirement	N/A	Confidential business questionnaire and certificate of incorporation
1.7	Local Subcontractor	International firms i.e. firms not incorporated in Kenya have nominated a local subcontractor	Must meet requirement	Must meet requirement	N/A	N/A	Details of subcontractors & Confidential business questionnaire

Tender for rehabilitation of Gitaru Power Station
Generator MV Switchgear, Protection systems and LV Switchboards



Clause/ Sub Clause	1. Eligibility						Documentation Submission Requirements
	Qualification Criteria		Compliance Requirements				
	Subject	Requirement	Single Entity	Joint Venture			
All Parties Combined				Each Partner	One Partner		
1.8	Licenses for local firms	National (Kenyan firms) Tenderers shall satisfy all relevant licensing and/or registration with the appropriate statutory bodies in Kenya	Must meet requirement	Must meet requirement	N/A	Lead partner must meet requirement	NCA CLASS 3 registration and licence And ERC class A1 certificate
1.9	Licenses for international firms	International firms' tenderers must be registered to offer engineering and or construction services in their country of incorporation/registration	Must meet requirement	Must meet requirement	N/A	Lead partner must meet requirement	Equivalent of NCA class 1 and licences from the bidder's home country national registration and licencing body for engineering or construction firms

Clause	2. Litigation history						
	Sub Clause	Qualification Criteria		Compliance Requirements			Documentation Submission Requirements
		Subject	Requirement	Single Entity	Joint Venture		
				All Parties Combined	Each Partner	One Partner	
2.1	Pending Litigation	All pending litigation shall in total not represent more than twenty percent (20%) of the Bidder's net worth and shall be treated as resolved against the Bidder.	Must meet requirement by itself or as partner to past or existing JVA	N/A	Must meet requirement by itself or as partner to past or existing JVA	N/A	LITIGATION HISTORY (Form 2A)
2.3	History of non-performing contracts	Bidder shall not have a Non-performing contract within the last Five (5) years prior to the deadline for application submission, based on all information on fully settled disputes or litigation	Must meet requirement by itself or as partner to past or existing JVA	N/A	Must meet requirement by itself or as partner to past or existing JVA	N/A	HISTORICAL CONTRACT NON-PERFORMANCE (Form 2B)

Clause	3. Financial position						
Sub Clause	Qualification Criteria		Compliance Requirements				Documentation Submission Requirements
	Subject	Requirement	Single Entity	Joint Venture			
				All Parties Combined	Each Partner	One Partner	
3.1	Historical Financial Performance	Submission of audited balance sheets or if not required by the law of the bidder's country, other financial statements acceptable to the Employer, for the last three [3] years (2017,2016,2015) to demonstrate the current soundness of the bidders' financial position and its prospective long-term profitability	Must meet requirement	N/A	Must meet requirement	N/A	FINANCIAL SITUATION - FINANCIAL DATA (Form 3B) & FINANCIAL INFORMATION (Form 3A) Supporting financial documents
2.3	Average Annual Turnover	Minimum average annual turnover of 5 million US\$, calculated as total certified payments received for contracts in progress or completed, within the last three (3) years (2017,2016,2015)	Must meet requirement	Must meet requirement	Must meet at least fifty percent (50%) of the requirement	lead partner must meet hundred percent (100%) of the requirement	FINANCIAL SITUATION-TURNOVER (Form 3C) & Supporting financial documents
3.3	Financial Resources	The Bidder must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit (specific to the works being tendered for), and other financial means, sufficient to meet the contracts cash flow for a period of 12 months, other than any contractual advance payments to meet the following cash-flow requirement for each schedule: (a)not less than US\$ 1 million (working capital) net of the applicants' commitments for other projects and (b)The overall cash flow requirements for this contract and its current commitments.	Must meet requirement	Must meet requirement	Must meet at least fifty percent (50%) of the requirement	lead partner must meet one hundred percent (100%) of the requirement	Supporting financial documents and FINANCIAL RESOURCES (Form 3D)

Clause	5. Experience						
Sub Clause	Qualification Criteria		Compliance Requirements				Documentation Submission Requirements
	Subject	Requirement	Single Entity	Joint Venture			
				All Parties Combined	Each Partner	At least one partner	
5.1	General Experience	Experience under contracts in the role of contractor, for at least the last 10 [ten] years prior to the application submission deadline, and with activity in at least 9 [nine] months in each year	Must meet requirement	N/A	N/A	Lead partner must meet requirement	GENERAL EXPERIENCE RECORD OF THE FIRM (FORM 5A)
5.2	Specific Experience	Performance as prime contractor in the execution of at least five projects of nature, complexity and volume comparable to the proposed contract and valued over 4 million US dollars over the last eight years	Must meet requirement	N/A	N/A	lead partner must meet requirement	SIMILAR EXPERIENCE RECORD OF THE FIRM [Form 5B], completion certificates and signed price schedules/contract forms
5.3	Specific Experience	The bidder MUST have designed, manufactured, installed and commissioned during the last 8 years at least Five (5) protection systems for HYDRO POWER GENERATOR UNITS similar or bigger in size than Gitaru (85 MVA) units.	Must meet requirement	N/A	N/A	must meet requirement	SIMILAR EXPERIENCE RECORD OF THE FIRM [Form 5B] completion certificates
		The bidder MUST have designed, manufactured, installed and commissioned during the last 8 years at least Five (5) MV and LV switchgear systems for power stations	Must meet requirement	N/A	N/A	must meet requirement	SIMILAR EXPERIENCE RECORD OF THE FIRM [Form 5B] completion certificates

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Sub Clause	Qualification Criteria		Compliance Requirements			Documentation Submission Requirements	
	Subject	Requirement	Single Entity	Joint Venture			
				All Parties Combined	Each Partner		At least one partner
5.4	Specific Experience Specific Experience	The bidder MUST have successfully reconstructed/refurbished/retrofitted during the 8 last years at least Three (3) protection systems for a hydro power plant of similar or greater size and capacity than Gitaru which have been operated satisfactorily since the re-commissioning	Must meet requirement	N/A	N/A	must meet requirement	SIMILAR EXPERIENCE RECORD OF THE FIRM [Form 5B] completion certificates
		The bidder MUST have successfully reconstructed/refurbished/retrofitted during the 8 last years at least Three (3): MV switchgear and LV switchgear of similar or greater size and capacity than the ones covered in this scope which have been operated satisfactorily since the re-commissioning	Must meet requirement	N/A	N/A	must meet requirement	SIMILAR EXPERIENCE RECORD OF THE FIRM [Form 5B] completion certificates
5.5	Specific Experience	The bidder MUST have designed, manufactured, installed and commissioned during the last 8 years at least three (3) SCADA systems, for hydroelectric power plants and at least one (1) SCADA systems for a control centre serving multiple power plants	Must meet requirement	N/A	N/A	must meet requirement	SIMILAR EXPERIENCE RECORD OF THE FIRM [Form 5B] completion certificates
5.6	Quality Assurance System	The bidder must have a Quality Assurance System implemented according to the requirements in the ISO 9001 standard or equivalent	Must meet requirement	N/A	Must meet requirement	N/A	QUALITY ASSURANCE DETAILS (Form 5D) and Valid ISO certificates
	Subcontractors	Subcontractors whom the bidder intends to subcontract a portion of the project shall meet all the requirements in clauses 5.1,5.6 and either of the clauses 5.3, 5.4 or 5.5 above for the portion of the project which its to be subcontracted.	Must meet requirement	N/A	N/A	N/A	general experience record of the firm (form 5a), similar experience record of the firm [form 5b] completion certificates and quality assurance

							details (form 5d) and Valid ISO certificates
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6. The qualification and experience of key personnel					
Qualification Criteria		Compliance Requirement			Document submission
No	Position/Required Experience	Qualification (Minimum)	minimum Total Work Experience (years)	Minimum Experience in Similar Work (years)	
1	<p>Home Office Project Manager</p> <ul style="list-style-type: none"> ✓ Must be Chartered or Licensed Professional Electrical Engineer: ✓ Responsible for the technical aspects of the overall project and coordination of technical activities ✓ Must have Successfully completed at least 3 projects as the project manager in the last 10 years involving rehabilitation of power plant similar in size to Gitaru. Each Project to have been valued at least 3 million US dollars ✓ shall have been with the Applicants permanent staff for at least 2 years and be fully familiar with the products offered and/or area of work for which they are responsible (Must have worked for the bidder for at least 2 years) 	BSc / B eng Honours	15	10	KEY PERSONNEL CAPABILITIES [Form 6A] & CVS OF KEY PERSONNEL [Form 6B]
2	<p>Site Project Manager / Resident Engineer</p> <ul style="list-style-type: none"> ✓ Must be Chartered or Licensed Professional Electrical Engineer: ✓ shall have been with the Applicants permanent staff for at least 2 years and be fully familiar with the products offered and/or area of work for which they are responsible. (Must have worked for the bidder for at least 2 years) ✓ Must have completed at least 2 projects of similar scope in the last 8 years as a site manager. 	BSc / B eng Honours	15	8	

No	Position/Required Experience	Qualification (Minimum)	minimum Total Work Experience (years)	Minimum Experience in Similar Work (years)	Document submission
3	<p>Design and commissioning Engineer-protection</p> <ul style="list-style-type: none"> ✓ Must be Chartered or Licensed Professional Electrical Engineer: ✓ Must have designed and or commissioned at least 3 protection systems of similar scope in the last 5 years 	BSc / B eng Honours	8	5	<p>KEY PERSONNEL CAPABILITIES [Form 6A]</p> <p>&</p> <p>CVS OF KEY PERSONNEL [Form 6B]</p>
5	<p>Design and commissioning Engineer-Switchgear</p> <ul style="list-style-type: none"> ✓ Must be Chartered or Licensed Professional Electrical Engineer: ✓ Must have designed and or commissioned at least 3 MV & LV switchgear systems of similar scope in the last 5 years 	BSc / B eng Honours	8	5	
6	<p>Design and commissioning Engineer-SCADA & Communication systems</p> <ul style="list-style-type: none"> ✓ Must be Chartered or Licensed Professional Electrical Engineer: ✓ Must have designed and or commissioned at least 3 SCADA systems of similar scope in the last 5 years 	BSc / B eng Honours	5	3	
7	<p>Installation supervisors (3)</p> <ul style="list-style-type: none"> ✓ Must have supervised 5 installation projects of similar nature in the last eight years 	Diploma in engineering	15	10	

SECTION V: CONDITIONS OF CONTRACT

The Conditions of Contract comprise the “General Conditions” which form part of the “Conditions of Contract for Plant and Design-Build” First Edition 1999 published by the Federation Internationale des Ingenieurs-Conseils (FIDIC) and the following “Particular Conditions” which include amendments and additions to such General Conditions.

PART I – GENERAL CONDITIONS OF THE CONTRACT.

The General Conditions of Contract shall be Part 1 of the Conditions of Contract recommended by the Federation Internationale des Ingenieurs-Conseils (FIDIC) contained in the Yellow Book titled Conditions of Contract for Plant and Design-Build” First Edition 1999.

<http://fidic.org/books/plant-and-design-build-contract-1st-ed-1999-yellow-book>

These Part I: General conditions shall be incorporated in and form part of this Contract subject to the following amendments and additions thereto as set out below in the Preamble and in Part II: Special Conditions.

PART II – SPECIAL CONDITIONS OF THE CONTRACT.

The following Particular Conditions of Contract (hereinafter referred to as PCC) shall supplement the General Conditions of Contract in Section VII. Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

Clause 1– General Provisions

Sub-Clause 1.1.3.2 – Commencement Date

Delete the definition and substitute:

“Commencement Date” means _____ (to be indicated in the Contract)

Sub-Clause 1.1.3.3 – Time for Completion

The Time for Completion shall be the time for completion entered by the Contractor in the Schedule of Delivery and in the Tender. It shall mean the time for completion of the Works as tendered by the Contractor in the Bill its tender and in guaranteed times for completion and included in the Letter of Award. **This period shall include up to the date of the Issue of the Taking-Over Certificate and shall not exceed 24 months.**

Sub-clause 1.1.3.7 “Defects Notification Period”

Add

“Defects liability period” and “warranty period” shall have the same meaning as “defects notification period”

Sub-Clause 1.1.5.9 –Services Insert new definition:

““Services” shall include Design Services and Installation Services.”

Sub-Clause 1.1.5.10 – Design Services Insert new definition:

““Design Services” shall mean the design of the Works under Clause 5 [Design].”

Sub-Clause 1.1.5.11 – Installation Services

Insert new definition:

““Installation Services” shall mean all those services ancillary to the supply of the Plant and Equipment for the Works, to be provided by the Contractor under the Contract; and includes, but is not limited to, the transportation and provision of insurance, inspection, expediting, site preparation works (including the provision and use of Contractor’s Equipment and the supply of all construction materials required), the installation, testing, pre-commissioning and commissioning, the provision of operations and maintenance manuals, etc..”

Sub-Clause 1.1.5.12 – Mandatory Spare Parts, Recommended Spare Parts and Consumables

Insert new definition:

The terms “Mandatory Spare Parts”, “Recommended Spare Parts” and “Consumables” shall each have the meanings ascribed to them in the Employer’s Requirements as per the tender document.

Sub-Clause 1.1.6.6 – Performance Security

Delete definition and substitute:

““Performance Security” means the security (or securities) under Sub-Clause 4.2 [Performance Security] and in the form attached in Appendix A – Bank Guarantee.”

Sub-Clause 1.2 – Interpretation

Insert new sub-paragraph (e) as follows:

“(e) the word “tender” is synonymous with “bid”, and “tenderer” with “bidder” and the words “tender documents” with “bidding documents”. “Bid offer” shall imply the bidders documents

At the end of Sub-Clause 1.2, insert:

“In these conditions, provisions including the expression “Cost plus reasonable profit” require this profit to be one twentieth (5%) of this Cost.”

Sub-Clause 1.3 Communication

The address of the Employer for notices is: -

**The Company Secretary & Legal Director,
Kenya Electricity Generating Company Limited
Stima Plaza, Kolobot Road, Parklands
P. O. Box 47936-00100
NAIROBI, KENYA
Telephone: +254-020-3666000
Fax: +254-020-248848**

The address of the Contractor for notices is:-

.....
Sub-Clause 1.4 Law and Language

The Contract will be governed by the law of the Republic of Kenya.

The ruling language and the language for communications shall be the English Language.

Contractor staff shall be fluent and communicate in English during the course of the Contract.

Sub-Clause 1.5 Priority of Documents

- (1) The Contract Agreement
- (2) The Letter of Award and Acceptance thereof
- (3) Negotiation minutes
- (4) Particular Conditions of Contract and attachments thereto
- (5) General Conditions of Contract **and special conditions of the contract – FIDIC CONDITIONS OF CONTRACT FOR PLANT AND DESIGN-BUILD FIRST EDITION 1999 – Refer to FIDC website and address given above.**
- (6) Clarifications and Addenda Issued during the course of the Tender Period
- (7) The Employer's Specifications
- (8) Duly filled Completed Technical Schedules.
- (9) The Contractor's bid offer

Where there is a contradiction in any item in two of the above documents then the item in the earlier positioned document in order above shall take precedence over the item in the lower document, except where otherwise mutually agreed in writing.

Clause 2 – The Employer

Sub-Clause 2.1 Right of Access to the Site

Add the following sentence to the end of Sub-Clause 2.1

The Employer shall allow the Contractor to have access to the Site no later than sixty (60) days after Contract Agreement. Subject to mutual agreement, the Employer shall allow the Contractor to access the Site prior to the referenced period for access for pre-project implementation Site activities.

Sub-Clause 2.2 Permits, Licences or Approvals

Add the following sentence to the end of Sub-Clause 2.2

“The Employer will assist the Contractor by issuing supporting letters necessary for customs clearance. All fees or levies shall be to the account of the Contractor. The Employer shall not be responsible for any losses, cost or delays arising from the submission of documents or incomplete or incorrect documents relating to the Works provided by the Contractor.”

Clause 3 – The Engineer

Sub-Clause 3.1- Engineer’s Duties and Authority

The Engineer for the Contract shall be: The technical services manager, Mr. Kuta Omar.

Clause 4 – The Contractor

Sub-Clause 4.2 – Performance Security

The amount of the Performance Security shall be 10% of the Contract Price in the currencies and proportion in which the Contract Price is payable.

The Performance Security shall be in the form of an irrevocable Unconditional Bank Guarantee as attached in Appendix A or another form acceptable to the Employer. The Performance Security shall be issued by either a bank located in the Country of the Employer, or a foreign bank through a correspondent bank located in the Country of the Employer.

Sub-Clause 4.3 Contractor’s Representative

At the end of Sub-Clause 4.3 add:

“The Contractor’s Representative, and an adequate number of the staff of the Contractor shall be fluent in the English language.”

Sub-Clause 4.19 Electricity, Water and Gas

The Employer will provide a three phase supply of electricity at 415V AC 50 Hz. The Contractor will provide his own distribution board with necessary electrical protection and switchgear.

Sub-Clause 4.25 – Site Conditions and Restrictions

Add new Sub Clause 4.25 Site Conditions and Restrictions:

The Contractor shall be deemed to have inspected the Site during the bidding phase to establish the original condition of the Site. The Contractor is required to return the Site and working areas to at least the original condition at Completion.

Without limiting the generality of the foregoing the Contractor shall strictly abide by the Kenyan regulations concerning safety on the Site of the Works.

Prior to its removal from Site, the Contractor shall store all wreckage, rubbish and debris in secure areas and shall prevent any energizing and removal of such materials from Site. Prior to Completion, the Employer may elect to retain and take possession at no cost of any such materials that it considers may be reused or recycled. The Contractor shall remove all other materials, wreckage, rubbish and debris of any kind from Site and from the vicinity of the Site and in a manner and place approved by Employer.

Clause 5 – Design

5.7- Operation and Maintenance Manuals

Operation and Maintenance Manuals shall be in the English Language.

5.9 – Employer’s Use of Contractor’s Drawings

Add new Sub-Clause 5.9:

The Contractor’s Drawings and Manuals may be used by the Employer for the purpose of completing, operating, maintaining, adjusting and repairing the Works, for interconnecting the Works with other plant and for training of personnel.

Clause 6 – Staff and Labour

6.1 Engagement of Staff and Labour

At the end of Sub-Clause 6.1, add the following:

(i) “The Contractor is encouraged, to the extent practicable and reasonable, to employ staff and labour with appropriate qualifications and experience from sources within Kenya.”

Sub-Clause 6.5 – Working Hours

The normal working hours at the site are between 7.30a.m and 5.00p.m on weekdays (five days per week). The Contractor may arrange to work any other periods he wishes between 7.00a.m and 7.00p.m to meet the contract programme. Work outside this period and weekend or public holiday working shall only be carried out where specifically approved by the Engineer. Where the Contractor chooses to work in excess of eight hours a day or to work at weekends there shall be no additional cost added to the contract price.

6.7 Health and Safety

Add the following at the end of Sub-Clause 6.7:

Without limiting the generality of the foregoing the Contractor shall strictly abide by the Kenyan regulations concerning Health and Safety on the site of the Works

Sub-Clause 6.8 Contractor’s Superintendence

Insert at the end of Sub-Clause 6.8:

“Contractor’s superintending staff shall have a working knowledge of the English Language

Sub-Clause 6.12 Festivals and Religious Customs

Add new Sub-Clause 6.12:

“The Contractor shall respect the Country’s recognized festivals, days of rest and religious and other customs.”

Clause 8 – Commencement, Delays and Suspension

Sub-Clause 8.1 Commencement of the Works

Replace Sub-Clause 8.1 with:

The Commencement Date shall be the date upon which the following precedent conditions have been fulfilled and the Engineer's notification of such fulfilment and instruction to commence the Works is received by the Contractor:

- a) Signature of the Contract Agreement by both Parties, and
- b) Receipt by the employer of the Performance Security in the prescribed form.

if the above conditions have not been met within ninety (90) days from the date of Contract Signature, the Employer may terminate the Contract without any liability to either Party.

The Contractor shall commence the execution of the Works as soon as is reasonably practical after the Commencement Date, and shall then proceed with the Works with due expedition and without delay.

Sub-Clause 8.2 Time for Completion

At the end of the clause add:

For purposes of this sub-clause 8.2, the Time for Completion shall be **24 calendar months** from the Commencement Date.

Sub-Clause 8.7 Delay Damages

Failure to meet the Time for Completion, or any extended Time for Completion granted in accordance with Sub-Clause 8.2, entitles the Employer to a reduction in the Contract Price of 0.1% of the Contract Price per day of delay up to a maximum of 10%.

This maximum of delay damage under Sub-Clause 8.7 is separate from, and in addition to, any performance damages that the Employer may recover from the Contractor under GCC 9.4 [Failure to Pass Test on Completion] and/or 12.4 [Failure to Pass Tests after Completion]

No payments for early completion will be made by the Employer.

Sub-Clause 8.13 Prolonged Delay

If there is a Prolonged Delay in Completion and the Employer has become entitled to the maximum reduction in Contract price under Sub-Clause 8.7 and the Employer terminates the Contract under Sub-Clause 15.2, then the additional amount recoverable from the Contractor by the Employer shall be that part of the Contract Price which is attributable to that part of the Works which cannot by reason of the Contractor's failure be put to the intended use.

Clause 9 – Tests on Completion

Sub-Clause 9.1 Contractor's Obligation

The tests on project completion shall include the 3 days reliability run as detailed in the specification.

Sub-Clause 9.4 Failure to Pass Tests on Completion

Clause 10 – Employer’s taking over

Sub-Clause 10.1 Taking over of the Works and Sections

On satisfactory completion of the Tests on Completion and the Reliability Test period, the Engineer shall issue a Taking over Certificate. This shall show the effective date of Taking Over which shall be the end date of the successful reliability test period. This shall be the date of commencement of the Defects Liability Period.

The Employer shall not use any part of the Works prior to the commencement of the Tests on Completion. The Employer may use any part of the Works during its Tests to suit the Tests. Such use shall not imply Taking Over unless all the Tests on that part of the Works are successful.

Clause 13 – Variations and Adjustments

Sub-Clause 13.5

Provisional Sums

There are no Provisional Sums included in the Contract.

Sub-Clause 13.8

Adjustment for Changes in Cost

There shall be no adjustments for changes in costs

Clause 14 – Contract Price and Payment

Sub-Clause 14.2 Advance Payment

An advance payment of 10% of the contract price shall be made upon submission of an on-demand bank guarantee in the form attached in **Section VII** denoted in the same currency and proportion in which the contract price is payable.

The guarantee shall be issued by a bank located in the Republic of Kenya, or a foreign bank through a corresponding bank located in the Republic of Kenya, in either case subject to the approval of the Employer

Sub-Clause 14.7 Taxes & Payment

Taxes shall be as set out below

- a. The Supplier and their respective employees shall be liable to pay all taxes applicable to the contract as may be required by the Kenya Tax Law which may be in force during the period of the Contract.
- b. The contract price is inclusive of all applicable Kenyan taxes which include but are not limited to Income tax, withholding tax, Value Added Tax and any other taxes imposed by the Kenya Tax Law applicable to the contract.
- c. The employer / client (KenGen) shall withhold any taxes as provided for in the Kenyan Tax law and issue the supplier with withholding tax certificates.

The Terms of Payment shall be as set out below: -

- (1) Payment shall be made through an unconfirmed Letter of Credit except for goods purchased locally. The Contractor shall be required to meet the Letter of Credit charges in the Contractor's country where applicable. Any extensions/ amendment charges that may result due to the Contractor's delays or mistakes shall be to the Contractor's account.
- (2) Local suppliers and goods obtained locally shall be paid through Electronic Funds Transfer.
- (3) Payment terms except for the advance shall be 60 days from the date of invoice.
- (4) Should the Contractor require a confirmed letter of credit, then all confirmation charges both in and outside Kenya shall be to the Contractor's account.
- (5) Advance payment representing 10% of the Contract Price, will be paid by Electronic Funds Transfer against an advance payment guarantee and Proforma Invoice within 45 days of receipt of the advance payment bank guarantee and Proforma invoice. Contractor shall submit advance payment guarantee by a reputable bank that shall be valid until the last shipment is done.
- (6) Payment shall be based on the following milestones
 - a) 10% Advance payment against an advance payment guarantee and Proforma invoice.
 - b) 40% of Contract Price on delivery of all project items to site, completion of Factory tests and factory training.
 - c) 15% of the Contract Price upon successful erection, commissioning and acceptance of the 1st unit by the client and evidenced by the Taking over Certificate.
 - d) 15% of the Contract Price upon successful erection, commissioning and acceptance of 2nd unit by the client and evidenced by the Taking over Certificate.
 - e) 10% of the Contract Price upon successful erection, commissioning and acceptance of common systems by the client and evidenced by the Taking over Certificate.
 - f) 5% of the Contract Price on successful completion of post-commissioning training and submission of all Documentation and as Built drawings.
 - g) 5% of the Contract Price on expiry of Warranty period of the last system installed.

The employer shall withhold any taxes from the contractor's payments as provided for in the Kenyan Tax law and issue the suppliers/contractors with withholding tax certificates.

Applications for Payment may be made by the Contractor to the Engineer as set out below:

- a. The application in respect of the shipment shall identify the Equipment shipped, state the amount claimed and be accompanied by such documentation as the Engineer may require including: -
 - 1 Original Invoice identifying the amount claimed against the appropriated subdivisions of the Schedule of Prices.
 - 2 Shipping Specification and Packing List.
 - 3 Original Bill of Lading or Air Waybill.
 - 4 Factory inspection Certificate.
 - 5 Clean report of finding.
- b. The application in respect of work carried on site shall identify the work done, state the amount claimed and be accompanied by such documentation as the Engineer may require including: -
 - i. Original Invoice identifying the amount claimed against the appropriate subdivisions of the Schedule of Prices.
 - ii. Any other relevant document required by the employer.
- c. Any other application for payment certificates shall identify the requirement for payment, state the amount claimed and be accompanied by such documentation including:
 - i. Original Invoice identifying the amount claimed against the appropriate subdivisions of the Schedule of Prices.
 - ii. Supporting Documents such as copy of Certificates where applicable.

Sub-Clause 14.15 Currencies of Payment

Payments will be made in the amounts quoted in the currency agreed with the Contractor at the time of Tender and as specified in the Contract Agreement.

Payment in Foreign Currency shall be made as per Letter of Credit terms and conditions.

Rates of Exchange applicable for all payments herein are rates on the Tender opening date as provided by the Central Bank of Kenya.

Clause 15 – Termination by Employer

15.2 Termination by Employer

Paragraph 1, line 23, Delete the term “Sub-Contractor”

Add the following at the end of the paragraph, “In the event that the Sub-Contractor(s) breach the obligations provided in Sub-Clause 15.2 (f), the Employer shall be entitled to demand that the Contractor terminates the Sub-Contractor’s contract and/or appropriate action is taken in the circumstances.”

Clause 16 – Suspension and Termination by Contractor

Sub-Clause 16.2 Termination by Contractor

In paragraph 2, line 1: change “14 days” to “30 days”

Clause 18 – Insurance

Clause 18.1 – General Requirements for Insurance

The Contractor is the insuring Party. Insurance policies shall meet the conditions of contract and shall include Contractor's All risks insurance including Work Injury Benefits Act (WIBA) insurance, Public Liability and material damage, Employer Liability, Motor Vehicle Insurance and Comprehensive General Liability.

The insurance underwriters criteria shall be: -

- a) Insurer older than six (6) years
- b) Have a minimum solvency margin of 150% general business
- c) Have a minimum turnover of Kenya Shillings 300 Million per annum excluding motor insurance
- d) Selected insurers should have adequate reinsurance arrangement.

Add the following:

“The Contractor shall be the insuring party, but the Employer's broker shall check and satisfy that the Contractor has endorsed the Employer's interest upon the policies and that the policies specifically extend to the levels stipulated in this Contract.”

Periods of submission of insurance:

- a) Evidence of insurance: 40 days before commencement of site works.
- b) Relevant policies: 20 days before commencement of site works.

Clause 18.2 – Insurance for Works and Contractor's Equipment

After the first sentence of the first paragraph insert the following sentence:

“This insurance shall be not less than 110% of the Contract Price.”

Clause 18.3 – Insurance against Injury to third party Persons and damage to property

Limit of Kshs. 100,000,000.00 per occurrence, any period.

Clause 19 – Force Majeure

Sub-Clause 19.6 – Optional Termination, Payment and Release

Replace “84” in line 2 with “180”

Replace “140” in line 4 with “180”

Clause 20 – Claims, Disputes and Arbitration

Sub-Clause 20.2 – Appointment of the Dispute Adjudication Board

Rules and procedures of the Arbitration Act 1995, Nairobi centre for international arbitration Act No. 26 of 2013 or any other appropriate Act in force in Kenya shall apply.

Sub-Clause 20.3 Failure to Agree Dispute Adjudication Board

Rules and procedures of the Arbitration Act 1995, Nairobi centre for international arbitration Act No. 26 of 2013 or any other appropriate Act in force in Kenya shall apply.

Sub-Clause 20.4 – Obtaining Dispute Adjudication Board’s Decision

Rules and procedures of the Arbitration Act 1995, Nairobi centre for international arbitration Act No. 26 of 2013 or any other appropriate Act in force in Kenya shall apply.

Sub-Clause 20.6 – Arbitration

Any dispute between the Parties as to matters arising pursuant to this Contract or its interpretation that cannot be settled amicably after receipt by one Party of the other Party’s request for such amicable settlement shall first be referred to the Nairobi International Centre for Arbitration rules at the first instance for resolution before adoption of any other ADR mechanism.

The second ADR mechanism shall be utilization of an arbitrator. The arbitrator shall be agreed upon by the Parties within 30 days of the notification of a dispute by either party to the other and in default of agreement as to the single arbitrator the same shall be appointed by the Chairman for the time being of the Chartered Institute of Arbitrators (Kenya Branch).

Every award made under this Clause shall be expressed to be made under the Arbitration Act 1995, Nairobi centre for international arbitration Act No. 26 of 2013 or other Act or Acts for the time being in force in Kenya.

The language of arbitration is the English Language. The place of arbitration shall be Nairobi, Kenya.

Sub-Clause 20.7 – failure to comply with Dispute Adjudication Board’s Decision

Rules and procedures of the Arbitration Act 1995, Nairobi centre for international arbitration Act No. 26 of 2013 or any other appropriate Act in force in Kenya shall apply.

Sub-Clause 20.8 – Expiry of Dispute Adjudication Board’s Appointment

Rules and procedures of the Arbitration Act 1995, Nairobi centre for international arbitration Act No. 26 of 2013 or any other appropriate Act in force in Kenya shall apply.

INSERT NEW CLAUSES AS FOLLOWS:

New Clause 21 Shipping Arrangements

Add New Sub-Clause 21.1 – Pre-shipment Inspection

Kenyan regulations require that all imported goods be inspected prior to shipment to verify price, quality and quantity.

The names of the Inspection Agencies appointed by the Kenyan authorities to act under this Contract will be notified to the Contractor on the Import Declaration Form, which is obtained by the Employer. The pre-shipment inspection if positive authorizes the Contractor to ship the goods.

The Contractor should establish contact and liaise with the Inspection Agencies immediately upon learning of their names.

The cost of presentation of the Goods to the Inspection Agencies, unpacking, handling etc. shall be paid for by the Contractor.

The Contractor shall give at least 21 days' notice before shipment to the Inspection Agency indicating the place where the Goods may be inspected and the expected time of shipment. When requesting pre-shipment inspection, the Contractor shall provide the Inspection Agency with a copy of the pro-forma invoice, Contract and any other document relevant to the execution of the inspection. On completion of inspection the Inspecting Agency will issue a report of finding which will be either:

A Clean Report of Finding if the inspection yields a satisfactory result, or

A Non-negotiable Report of Findings if the inspection reveals deficiencies.

In the case of a Clean Report the Contractor shall provide the Inspection Agency immediately after shipment with a non-negotiable copy of the Bill of Lading or Air Waybill and a copy of the final invoice covering the Goods. When these documents have been received the Clean Report of findings will be issued. The Contractor is warned against the shipment of Goods, which have not been inspected, or goods for which a Non-negotiable Report of Findings has been issued by the Inspection Agency.

The inspection of Goods does not relieve the Contractor of its contractual obligations to the Employer and may reject items if they fail to meet the requirements of the Contract even though the Inspection Agency for shipment has cleared them.

Add New Sub-Clause 21.2 – Delivery and Documents

The contractor shall be responsible for shipment and transportation of equipment and materials to site.

Upon shipment, the Contractor shall notify the Employer by facsimile the full details of the shipment including description of Goods, quantity, the vessel, the bill of lading number and date, port of loading, date of shipment, port of discharge, etc. The Contractor shall mail or courier the following documents in two copies to the Supply Chain Director:

- a. The Contractor's invoice showing Goods description, quantity, unit price, total amount;
- b. Non-negotiable bill of lading;
- c. Packing list identifying contents of each package;

- d. Manufacturer's/Contractor's warranty certificate;
- e. Inspection certificate (Clean Report of Findings) issued by the nominated inspection agency;
- f. Contractor's factory inspection report; and
- g. Certificate of Origin.

ADDRESSES

The Equipment shall be marked with the following Shipping marks: -

KENYA ELECTRICITY GENERATING COMPANY LIMITED

ORDER No.----- (TENDER FOR REHABILITATION OF, GENERATOR MV SWITCHGEAR, PROTECTION SYSTEMS AND LV SWITCHBOARDS OF GITARU HYDRO POWER STATION -KENYA)

C/O KENGEN, NAIROBI – KENYA.

Packing lists, inspection reports, material reports, etc. as indicated above shall be sent to: -

THE SUPPLY CHAIN DIRECTOR

KENYA ELECTRICITY GENERATING COMPANY LIMITED

P.O. BOX 47936-00100

NAIROBI, KENYA

Tel: (254) (020) 3666000

Fax: (254) (020) 3666200

Email: pyego@kengen.co.ke

jtheuri@kengen.co.ke

New Clause 22 Software

Add New Sub-Clause 22.1 Patent Rights

The Contractor shall indemnify the Employer against all claims of infringement of any patent, registered design, copyright, trade mark or trade name or other intellectual property right provided that all of the following conditions are satisfied:

- i. The claim or proceedings arise out of the design, construction, manufacture or use of the Works or any Plant supplied by the Contractor

- ii. The right was protected at the date of award of the Contract in the Contractor's country or the country in which the Plant is to be manufactured or erected
- iii. The infringement or allegation of infringement was not caused by any use of the Works otherwise than for the purpose indicated by or reasonably to be inferred from the Specification

- iv. The infringement or allegation of infringement was not caused by the use of any Plant in association or combination with any plant not supplied by the Contractor, unless such association or combination was disclosed to the Contractor prior to the date of the Tender

Add New Sub-Clause 22.2 Claims in Respect of Patent Rights

The Contractor shall be promptly notified of any claim under this Sub clause (22) made against the Employer. The Contractor may, at their own cost, conduct negotiations for the settlement of such claim and any litigation that may arise from that claim.

The Employer shall not make any admission that might be prejudicial to the Contractor unless the Contractor has failed to take over the conduct of the negotiations or litigation within a reasonable time after having been so requested.

The Contractor may not, however, conduct such negotiations or litigation before they have given the Employer such reasonable security as the Employer may require. The security shall be for an amount that is an assessment of the compensation, damages, expenses and costs for which the Employer may become liable and are the subject of the indemnity under *Subclause 5.8.1*.

The Employer shall, at the request of the Contractor, provide all available assistance for the purpose of contesting any such claim or action and shall be repaid all reasonable costs incurred in so doing.

Add New Sub-Clause 22.3 Backup Copies of Software

The Contractor shall ensure that the Employer shall have the right to make backup copies of all software and firmware supplied under the Contract for their own use without in any way relieving the Contractor of his obligations under this Sub clause (22).

Add New Sub-Clause 22.4 Right to Modify

The Contractor shall ensure that the Employer shall have the right to modify any of the software supplied under the Contract without in any way relieving the Contractor of their obligations under this Sub clause (22).

Add New Sub-Clause 22.5 Submission of software applications developed for the project

The Contractor shall submit to the employer all software applications developed for this project.

These shall include

- a) All programmable/software configured device (IED's, PLC's etc.) logic diagrams/program and configuration files.
- b) HMI application programs (project)
- c) Database applications
- d) Signal list and Symbol database for all applications
- e) Technical documents management application
- f) All other software tools & application programs created for this project.

These Software applications shall be forwarded to the employer without reservations and the employer shall have the rights to modify.

The software required to run and modify the above applications shall be provided to the employer with at least two licenses for installation into at least two computers

Add New Sub-Clause 22.6 Intellectual property rights for software applications developed for the project

The Contractor shall ensure that the Employer shall have the right to modify any of the software applications developed for the project. The contractor shall cede rights for these software applications described in clause 22.5 after the takeover of the last unit or common systems to the employer. The employer shall

only use the applications for operation of their equipment. Contractor shall not be liable to failures resulting from modifications not sanctioned by them.

New Clause 23 Taxes

"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.

Add Sub clause 23.1 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.

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.

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 above.

Add Sub clause 23.2 Tax Deduction

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.

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.

Add Sub clause 23.3 Tax Indemnity

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.

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.

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

With the exception of the items for which the Employer's requirements have been inserted, the following information must be completed before the Tender is submitted

APPENDIX TO THE SPECIAL CONDITIONS OF CONTRACT

	ITEM	SUB- CLAUSE	ENTRY
1.	Employer's name and address	1.1.2.2 & 1.3	The Kenya Electricity Generating Company Limited (KenGen)
2.	Contractor's name and address	1.1.2.3 & 1.3	
3.	Engineer's name and Address	1.1.2.4 & 1.3	KenGen's technical services manager, Mr. Kuta Omar.
4.	Time for Completion of the Works	1.1.3.3	24 months
5.	Defects Notification Period	1.1.3.7	365 DAYS
6.	Electronic transmission systems	1.3	Email and Fax
7.	Governing Law	1.4	Kenyan Law
8.	Ruling Language	1.4	English
9.	Language for communications	1.4	English
10.	Time for access to the site	2.1	N/A
11.	Amount of Performance Security	4.2	10% of the Accepted Contract Amount, in the currencies and proportions in which the Contract Price is payable
12.	Period for notifying unforeseeable errors, faults and defects in the Employer's Requirements	5.1	30 days
13.	Normal working hours	6.5	The normal working hours at the site are between 7.30a.m and 5.00p.m on weekdays (five days per week). The Contractor may arrange to work any other periods he wishes between 7.00a.m and 7.00p.m to meet the contract programme. Work outside this period and weekend or public holiday working shall only be carried out where specifically approved by the Engineer. Where the Contractor chooses to work in excess of eight hours a day or to work at weekends there shall be no additional cost added to the contract price.

Tender for rehabilitation of Gitaru Power Station
Generator MV Switchgear, Protection systems and LV Switchboards



	ITEM	SUB- CLAUSE	ENTRY
14	Maximum amount of Delay damages	8.7	The maximum amount of delay damages shall be ten percent (10%) of the final Contract Price
15	Provisional sums	13.5 (b)	No provisional sums applicable
16	Adjustments for Change in Cost	13.8	There shall be no adjustments for changes in costs
17	Total advance payment	14.2	10% of the Accepted Contract Amount
18	Number and timing of instalments	14.2	N/A
19	Currencies and proportions	14.2	Maximum of two currencies plus the local currency
20	Start repayment of advance payment	14.2 (a)	With the first Interim Payment Certificate
21	Repayment amortization of advance payment	14.2 (b)	25%
22	Percentage of retention	14.3	10%
23	Limit of Retention Money	14.3	5% of the Accepted Contract Amount
24	If sub-clause 14.5 applies: Plant and Materials for payment when shipped en route to the Site	14.5 (b)	N/A
25	If sub-clause 14.5 applies: Plant and Materials for payment when delivered to the Site	14.5 I	N/A
26	Minimum amount of Interim Payment Certificates	14.6	N/A
27	Currency/currencies of payment	14.15	Maximum of two currencies plus the local currency, among USD, British pounds and EUROS.
28	Period for submission of insurance	14.15	a) Evidence of insurance – 40 days before commencement of site works b) Relevant policies – 20 days before commencement of site works.
29	Maximum amount of deductibles for insurance of the Employer's risks	18.2 (d)	10% of policy total value _____
30	Minimum amount of third party insurance	18.3	110% of Accepted Contract Amount _____
31	The DAB	20.2	Rules and procedures of the Arbitration Act 1995, Nairobi centre for international arbitration Act No. 26 of 2013 or any other appropriate Act in force in Kenya shall apply.
32	Appointment of DAB	20.3	Rules and procedures of the Arbitration Act 1995,

Tender for rehabilitation of Gitaru Power Station
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	ITEM	SUB- CLAUSE	ENTRY
			Nairobi centre for international arbitration Act No. 26 of 2013 or any other appropriate Act in force in Kenya shall apply.

SECTION VI: EMPLOYER'S REQUIREMENTS /SPECIFICATIONS

See APPENDIX 1:

SCHEDULES & FORMS

SECTION VII: TECHNICAL SCHEDULES

See APPENDIX 2:

SECTION VIII: PRELIMINARY BILL OF MATERIALS

See APPENDIX 2: in a separate folder sent alongside this tender document.

SECTION IX: PRICE SCHEDULES

PREAMBLE

1. The Schedules do not generally give a full description of the plant to be supplied and the services to be performed under each item. Bidders shall be deemed to have read the Employer's Requirements and other sections of the Bidding Document and reviewed the Drawings to ascertain the full scope of the requirements included in each item prior to filling in the rates and prices. The entered rates and prices shall be deemed to cover the full scope as aforesaid, including overheads and profit.
2. If bidders are unclear or uncertain as to the scope of any item, they shall seek clarification in accordance with **ITT 8** prior to submitting their bid.
3. Prices shall be filled in indelible ink, and any alterations necessary due to errors, etc., shall be initialed by the Bidder.
4. As specified in the Special Conditions of Contract, prices shall be fixed and firm for the duration of the Contract.
5. Bid prices shall be quoted in the manner indicated and, in the currencies, specified in the Instructions to Bidders in the Bidding Document.
6. For each item, bidders shall complete each appropriate column in the respective Schedules, giving the price breakdown as indicated in the Schedules.
7. Prices given in the Schedules against each item shall be for the scope covered by that item as detailed in Section V (Employer's Requirements) or elsewhere in the Bidding Document.
8. Payments will be made to the Contractor in the currency or currencies indicated under each respective item.
9. When requested by the Employer for the purposes of making payments or partial payments, valuing variations or evaluating claims, or for such other purposes as the Employer may reasonably require, the Contractor shall provide the Employer with a breakdown of any composite or lump sum items included in the Schedules.
10. All the columns MUST be filled failure to which the bid offer shall be rendered unresponsive
11. Quantity columns shall contain quantity for a single unit or common systems. Unit comprises a complete generating unit in Gitaru (i.e turbine, generator, control system transformers etc. that can generate power independently). Common systems serve the whole Gitaru station. Totals column shall be for each unit and common systems
12. Unit scope shall consist of
 - a. unit 2&3 system,
 - b. unit 2&3 MV generator switch gear,

-
- c. unit 2&3 protection
13. Common systems scope shall consist
- a. Station low voltage switch boards scope
 - b. SCADA/communication interface equipment scope
 - c. Unit 1 station transformer installation and any other work to be carried out on unit 1
 - d. Tools and test equipment provision
 - e. Training provision
 - f. Factory acceptance testing
 - g. Any other service or good common to the station
14. Prices for all mandatory spares specified in the tender document MUST be provided
15. The offered unit price shall be rounded to two decimal places. Where the tenderer fails to round the offered unit price as required, then, the offered unit price shall be rounded down-wards to two decimal places and used for the purposes of this tender.
16. The total prices shall be **Delivered at Place (DAP)** Gitaru Power Station as per incoterms 2010, i.e. all freight, clearing and transportations costs to Gitaru Power Stations except taxes are inclusive
17. Bidder shall ensure they include costs for all the following services
- a. Studying of existing systems;
 - b. Design /Engineering services;
 - c. Manufacture,
 - d. Factory training at manufacturer's training centre
 - e. Factory acceptance testing at the Manufacturer's Factory;
 - f. Packing for transport; insuring; shipping & delivering to the port of Kenya;
 - g. Customs clearing in conjunction with the client;
 - h. Local Transportation, insuring, delivery to Site, site storage and Unpacking;
 - i. Disassembly/dismantling of existing systems
 - j. Erection/Installation
 - k. Civil works that may be necessary during site works
 - l. On job training during installation and commissioning
 - m. Site acceptance Testing and Commissioning;
 - n. Maintenance equipment and tools provision and training on use;
 - o. Defect reliability period;
 - p. Post commissioning site training;
 - q. Technical documentation provision and
 - r. Warranty

PRICE SCHEDULE

No	Item Description	UoM	Country of Origin	Qty (per unit)	Unit price (state currency here)	TOTAL UNIT 2 (DAP, All costs except taxes)	TOTAL UNIT 3 (DAP, All costs except taxes)	TOTAL COMMON (DAP, All costs except taxes)
GENERAL REQUIREMENTS						—	—	—
1	Engineering services	lot		1				
2	Factory acceptance testing	lot		1		N/A	N/A	
3	Installation and commissioning services	lot		1				
4	Factory training	lot		1		N/A	N/A	
5	Site training	lot		1		N/A	N/A	
6	Technical documentation	lot		1				
7	Software licenses (total)	lot		1				
8	Test Equipment and tools (total)	lot		1		N/A	N/A	
SUBTOTAL GENERAL REQUIREMENTS								
GENERATOR MV SWITCHGEAR REQUIREMENTS						—	—	—
Generator MV switchgear cubicle assembly						—	—	—
1	GCB cubicle (all components except GCB & earth switch)	pcs		1				N/A
2	Bus riser cubicle (all components except earth switch) <i>(pricing is optional if the cubicle function is integrated into the station transformer cubicle as detailed in specifications)</i>	pcs		1				N/A
3	Station transformer cubicle (all components except load break switch & earth switch)	pcs		1				N/A
Generator MV switchgear equipment						—	—	—
4	Generator circuit breaker	pcs		1				N/A
5	Load break switch	pcs		1				N/A

Tender for rehabilitation of Gitaru Power Station Generator MV Switchgear, LV Switchboards and Protection systems



No	Item Description	UoM	Country of Origin	Qty (per unit)	Unit price (state currency here)	TOTAL UNIT 2 (DAP, All costs except taxes)	TOTAL UNIT 3 (DAP, All costs except taxes)	TOTAL COMMON (DAP, All costs except taxes)
6	Earth switches	pcs		3				N/A
7	MV power cables and accessories	lot		1				N/A
8	Insulated MV bus bars and accessories	lot		1				N/A
9	LV cables and accessories	lot		1		N/A	N/A	
	Other (bidder to itemise)							
	Switchgear housing/enclosure					—	—	—
10	Enclosure complete-including electrical devices & wiring	pcs		1				N/A
11	Support structure	lot		1				N/A
12	HVAC units	pcs		3				N/A
13	Ventilation fans -complete unit	pcs		4				N/A
14	Fire system	lot		1				N/A
	Other (bidder to itemise)							
	Subtotal Switchgear housing/enclosure							
SUB TOTAL MV SWITCHGEAR								
PROTECTION SYSTEM REQUIREMENTS						—	—	—
	Panel assemblies					—	—	—
1	Generator protection (except protection IEDs and power transducer)	pcs		1				N/A
2	Transformers protection (except protection IEDs)	pcs		1				N/A
3	Alternative supply, EDG & STX1 (except protection IEDs)	pcs		1		N/A	N/A	
4	Protection Gateway - complete all equipment except industrial PC, Industrial ethernet switches and PTP Grandmaster clock (to be stated below)	pcs		1		N/A	N/A	
5	SCADA Alarm server - complete all equipment except servers, ethernet switches, firewall and inverter (to be stated below)	pcs		1		N/A	N/A	
	Protection IEDs					—	—	—
6	Generator protection	pcs		2				N/A

Tender for rehabilitation of Gitaru Power Station Generator MV Switchgear, LV Switchboards and Protection systems



No	Item Description	UoM	Country of Origin	Qty (per unit)	Unit price (state currency here)	TOTAL UNIT 2 (DAP, All costs except taxes)	TOTAL UNIT 3 (DAP, All costs except taxes)	TOTAL COMMON (DAP, All costs except taxes)
7	Stator earth fault injection& filter	set		2				N/A
8	Rotor earth fault injection and resistor	set		2				N/A
9	GSU transformer protection	pcs		2				N/A
10	Station transformers (U1, U2 & U3)	pcs		1				
11	Alternative supply transformers	pcs		1		N/A	N/A	
12	EDG	pcs		1		N/A	N/A	
13	Synchronizing	pcs		1				N/A
14	Generator power transducer	pcs						N/A
	Protection IEC61850 gateway components					—	—	—
15	Industrial PC gateways except the software licenses (to be included in software under general requirements)	pcs		2		N/A	N/A	
16	Industrial ethernet switches with PTP support	pcs		4		N/A	N/A	
17	PTP grand master clock/time server	pcs		1		N/A	N/A	
	SCADA Alarms & Events management server components					—	—	—
18	Servers except the software licenses (to be included in software under general requirements)	pcs		2		N/A	N/A	
19	Ethernet switches	pcs		2		N/A	N/A	
20	Hardware Firewall	pcs		1		N/A	N/A	
21	Pure sinewave inverter power supply unit	pcs		1		N/A	N/A	
	Other systems					—	—	—
22	Cables and accessories	lot		1		N/A	N/A	
23	Generator shaft earthing brush gear plus all devices and accessories for shaft earthing, shaft current protection and rotor earth fault protection	lot		1				N/A
24	Others (bidder to itemize)			1		N/A	N/A	
	SUBTOTAL PROTECTION							

Tender for rehabilitation of Gitaru Power Station Generator MV Switchgear, LV Switchboards and Protection systems



No	Item Description	UoM	Country of Origin	Qty (per unit)	Unit price (state currency here)	TOTAL UNIT 2 (DAP, All costs except taxes)	TOTAL UNIT 3 (DAP, All costs except taxes)	TOTAL COMMON (DAP, All costs except taxes)
LV SWITCHBOARDS REQUIREMENTS						—	—	—
1	Main station auxiliaries' switchboard	lot		1		N/A	N/A	
2	Lighting and small power 12 Way TPN distribution board (pricing is optional if the board is integrated into the switchboard)	lot		1		N/A	N/A	
3	Street & Flood lighting 4 Way TPN distribution board	lot		1		N/A	N/A	
4	Dewatering pumps turbine level maintenance cabinets	lot		3		N/A	N/A	
5	Emergency lighting DC distribution boards	lot		2		N/A	N/A	
6	Control room Switchgear and protection DC distribution board	lot		1		N/A	N/A	
7	LV Power Cables and accessories	lot		1		N/A	N/A	
8	Control Cables and accessories	lot		1		N/A	N/A	
9	Others (bidder to itemize)					N/A	N/A	
SUBTOTAL LV SWITCHBOARD								
SPARE PARTS						—	—	—
1	Generator MV switchgear system mandatory spares (total) as detailed in the scope of works	lot		1		N/A	N/A	
2	Generator MV switchgear system other spares (total)	lot		1		N/A	N/A	
3	Protection system mandatory spares (total) as detailed in the scope of works	lot		1		N/A	N/A	
4	Protection system other spares (total)	lot		1		N/A	N/A	
5	LV Switchboard system mandatory spares (total) as detailed in the scope of works	lot		1		N/A	N/A	
6	LV Switchboard system other spares (total)	lot		1		N/A	N/A	
SPARES TOTAL						N/A	N/A	
OTHERS (Bidder to itemise)						—	—	—

Tender for rehabilitation of Gitaru Power Station Generator MV Switchgear, LV Switchboards and Protection systems



No	Item Description	UoM	Country of Origin	Qty (per unit)	Unit price (state currency here)	TOTAL UNIT 2 (DAP, All costs except taxes)	TOTAL UNIT 3 (DAP, All costs except taxes)	TOTAL COMMON (DAP, All costs except taxes)
SUB TOTALS								
Grand Total (DAP Gitaru power station):								
Delivery time:								
Name of Bidder representative:								
Signature of Bidder representative:								

SECTION X: BIDDING AND CONTRACT FORMS

INTRODUCTION

The following schedules form the Contract Schedules and must be completed in their entirety by the Tenderer at the time of tendering. The technical details requested in the technical schedules of this document shall also be submitted with the tender.

The Form of agreement, Performance Security and Bank Guarantee for Advance Payment forms are samples and shall be only completed by the Approved Tenderer.

The Tenderer shall enter in the spaces on the tender form and bill of Quantity, price schedules the appropriate unit of currency to which they have tendered.

STANDARD FORMS

FORM OF TENDER

DESIGN MANUFACTURE, SUPPLY, FACTORY ACCEPTANCE TESTS, DELIVERY, INSTALLATION, TRAINING AND COMMISSIONING OF, GENERATOR MV SWITCHGEAR, PROTECTION SYSTEMS AND LV SWITCHBOARDS OF GITARU HYDRO POWER STATION

The Company Secretary, Legal & Corporate Affairs Director

The Kenya Electricity Generating Company Ltd

P. O. Box 47936-00100

NAIROBI 00100

KENYA

Gentlemen and/or Ladies:

Having examined the Tender Documents including the Specification Drawings, Conditions of contract & Requirements, Specifications and Bill of Quantity Price Schedules for the execution of the above-named contract, the receipt of which is hereby duly acknowledged, we, the undersigned, hereby offer to execute, complete and remedy defects in the whole of the works in conformity with the said document for the sum

[amount in figures]

[state currency]

[amount in words]

We undertake, if our Tender is accepted, to complete the whole of the Works comprised in the contract within a period of _____ calendar months, subject to the said Conditions.

Tender for rehabilitation of Gitaru Power Station Generator MV Switchgear,
 LV Switchboards and Protection systems



We agree to abide by this Tender for a period of **180 days** from the date fixed for receiving the same and it shall remain binding upon us and may be accepted by you at any time before the expiration of that period.

This Tender is submitted under our covering letter reference _____ dated _____ and the complete tender documents and other information, required by the instructions to Tenderers, which are enclosed therewith all of which shall be read and construed as forming a part hereof.

Unless and until an agreement is prepared and executed, this Tender, your letter of Intent/Award, together with our written acceptance thereof, shall constitute a binding Contract between us.

If our Tender is accepted, we will furnish a Performance Security issued by a Bank (to be approved by you) to be jointly and severally bound with us in an amount of 10% of the above-named sum in accordance with the conditions of contract.

Commissions of gratuities, if any, paid or to be paid by us to agents relating to this Bid, and to contract execution if we are awarded this Bid, and to contract execution if we are awarded the contract, are listed below:

Name and address of agent	Amount and Currency	Purpose of Commission gratuity
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(if none, state “none”)

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

Dated this.....day of.....2016.....



Signature.....in the capacity of

.....

duly authorised to sign Bid for and on behalf of:.....

.....

(in capital letters)

Witness.....

Address

.....

Occupation

TENDER SECURITY FORM

[Must be on the letter head of the Bank]

Whereas _____ (hereinafter

Called “the Tenderer”) has submitted its bid dated _____ for the supply of ,
GENERATOR MV SWITCHGEAR, PROTECTION SYSTEMS AND LV SWITCHBOARDS OF GITARU HYDRO
POWER STATION as per given specifications

(hereinafter called “the Bid”).

KNOW ALL PEOPLE by these presents that WE _____

_____ of _____ (hereinafter

called “the Bank”), are bound unto Kenya Electricity Generating Company Limited (hereinafter called
“KenGen”) in the sum for which payment will 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 20_____

THE CONDITIONS of this obligation are:

If the Tenderer withdraws its Bid during the period of bid validity specified by the Tenderer on the Bid
Form; or

If the Tenderer, having been notified of the acceptance of its Bid by KenGen during the period of bid
validity:

Fails or refuses to execute the Contract Form, if required; or

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 bid validity
and any demand in respect thereof should reach the Bank not later than the above date.

_____ (Signature and seal of the Bank)

TENDER QUESTIONNAIRE

Please fill in block letters.

Full names of tenderer

.....

Full address of tenderer to which tender correspondence is to be sent (unless an agent has been appointed below)

.....

Telephone number (s) of tenderer

.....

E-mail and Fax address of tenderer

.....

Name of tenderer's representative to be contacted on matters of the tender during the tender period

.....

Details of tenderer's nominated agent (if any) to receive tender notices. This is essential if the tenderer does not have his registered address in Kenya (name, address, telephone, telex)

.....

Tender for rehabilitation of Gitaru Power Station Generator MV Switchgear,
LV Switchboards and Protection systems



.....

Signature of Tenderer

Make copy and deliver to: _____ (*Name of Employer*)

MANUFACTURER'S AUTHORIZATION FORM

[Letterhead of the manufacturer, including full postal address, telephone and fax numbers and e-mail address]

To: KENYA ELECTRICITY GENERATING COMPANY LIMITED

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 against tender for DESIGN MANUFACTURE, SUPPLY, FACTORY ACCEPTANCE TESTS, DELIVERY, INSTALLATION, TRAINING AND COMMISSIONING OF, GENERATOR MV SWITCHGEAR, PROTECTION SYSTEMS AND LV SWITCHBOARDS OF GITARU HYDRO POWER STATION

for the above Goods manufactured by us.

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

[signature for and on behalf of Manufacturer]

Note: *This letter of authority should be on the letterhead of the Manufacturer and should be signed by a person competent. The signatory shall be manufacturers' representative, bidder's representative cannot sign this form unless the bidder is a manufacturer.*

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:

CountryPhysical address

TownBuilding.....

Floor.....Plot No.

Street / RoadPostal 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

PIN No.....

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

.....

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

Name (s) of your banker (s)

.....

Branches Tel. No's.

Tender for rehabilitation of Gitaru Power Station Generator MV Switchgear,
LV Switchboards and Protection systems



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

Tender for rehabilitation of Gitaru Power Station Generator MV Switchgear,
LV Switchboards and Protection systems



Signature

Dated thisday of2018

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 thisday of2018.

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 thisday of2018

Suppliers' / Company's Official Rubber Stamp

.....

Part 2 (g) – Conflict of Interest

Tender for rehabilitation of Gitaru Power Station Generator MV Switchgear,
LV Switchboards and Protection systems



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 thisday of2018

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 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

.....

Tender for rehabilitation of Gitaru Power Station Generator MV Switchgear,
LV Switchboards and Protection systems



Signature.....

For and on behalf of M/s

In the capacity of

.....

Dated thisday of2018.

Suppliers' / Company's Official Rubber Stamp

.....

JOINT VENTURE SUMMARY

Bidder's JV name:
Lead partner:
Partner:
Partner:
Partner:
Partner:
Partner:

QUALIFICATION CRITERIA FORMS

GENERAL EXPERIENCE RECORD OF THE FIRM (FORM 5A)

The following table shall be filled in by the Bidder and by each partner of a Joint Venture. Bidder shall identify contracts that demonstrate continuous work over the past ten years pursuant to Section II, Evaluation & Qualification Criteria, qualification criteria 5.1. All listed projects to be supported with takeover certificates from the particular project's client

List contracts chronologically, according to their commencement (starting) dates.

[Letterhead of the Bidder, or a JV partner, including full postal address, telephone and fax numbers and e-mail address]

Name of Tenderer or partner of a joint venture

Starting Month / Year	Ending Month / Year	Contract Identification	Role of Bidder
<i>[indicate month/ year]</i>	<i>[indicate month/ year]</i>	Contract name: <i>[insert full name]</i> Brief Description of the Works performed by the Bidder: <i>[describe works performed briefly]</i> Amount of contract: <i>[insert amount in US\$ equivalent]</i>	[insert "solo contractor" or "Subcontractor" or "partner in a joint venture"]
		Contract name: <i>[insert full name]</i> Brief Description of the Works performed by the Bidder: <i>[describe works performed briefly]</i> Amount of contract: <i>[insert amount in US\$ equivalent]</i>	[insert "solo contractor" or "Subcontractor" or "partner in a joint venture"]
		Contract name: <i>[insert full name]</i> Brief Description of the Works performed by the Bidder: <i>[describe works performed briefly]</i> Amount of contract: <i>[insert amount in US\$ equivalent]</i>	[insert "solo contractor" or "Subcontractor" or "partner in a joint venture"]

SIMILAR EXPERIENCE RECORD OF THE FIRM [Form 5B]

Using the format of Form (5B), each tenderer or partner of a joint venture is required to list all contracts in excess of a value equivalent to US\$ 2.0 million. for the Tenderer or the lead partner in a joint venture and US\$ 1.0 million. for each party in a joint venture, of a similar nature and complexity to the contract for which the tenderer wishes to bid, undertaken during the last eight years. The value should be based on the currencies of the contracts converted into US dollars, at the date of substantial completion, or for current contracts at the time of award. The information is to be summarised, using Form (5B), for each contract completed or under execution by the Tenderer or by each partner of a joint venture.

Where the tenderer proposes to use named subcontractors for critical components of the works, or for work contents more than 20 percent of the value of the whole works, the information in the following forms should also be supplied for each specialist subcontractor.

USE A SEPARATE SHEET FOR EACH CONTRACT.

A copy of signed completion (take over) certificate showing project scope and value must be provided for each contract

This form to be filled by bidders and Subcontractors who bidder proposes to subcontract works worth more than 20% of the project value

[Letterhead of the Bidder, or a JV partner, including full postal address, telephone and fax numbers and e-mail address]

Name of Tenderer or partner of a joint venture

1	Number of contract
	Name of contract
	Country
2	Name of employer
	Employer address
3	Name of employer technical representative/engineer
	Email address
	Telephone
4	Nature of works and special features relevant to the contract for which the tenderer wishes to bid
5	Contract role (check one)
	<input type="checkbox"/> Sole contractor
	<input type="checkbox"/> Subcontractor
	<input type="checkbox"/> Partner in a joint venture
6	State of the contract/project (check one)
	<input type="checkbox"/> Ongoing
	<input type="checkbox"/> Completed

Name.....

Signature.....

Position in the Firm.....

Date.....

SCHEDULE OF ONGOING PROJECTS (FORM 5C)

Tenderers and each partner to a tender should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

[Letterhead of the Bidder, or a JV partner, including full postal address, telephone and fax numbers and e-mail address]

Name of Tenderer or partner of a joint venture

No.	Name of contract	Name of Client	Total value in US Dollars	Value of outstanding work (current US\$ equivalent)	Estimated completion date
1					
2					
3					
4					
5					
6					

This information is declared to be correct by (Tenderer's authorised representative)

Name.....

Signature.....

Position in the Firm.....

Date.....

QUALITY ASSURANCE DETAILS (Form 5D)

The Tenderer shall provide copies of valid certificates issued by competent Quality Assurance Agencies showing that they have implemented a Quality Assurance System according to the requirements in the ISO 9001 standard or equivalent and the equipment manufacturer/s conforms to the Quality System Standard ISO 9001 or its equivalent.

The Tenderer is required to list below the valid certificates submitted with his tender.

Letterhead of the Bidder, or a JV partner, including full postal address, telephone and fax numbers and e-mail address

Name of Tenderer or partner of a joint venture

Name of Tenderer, subcontractor or supplier	Equipment or service being supplied	ISO 9001 or equivalent certificate provided

This information is declared to be correct by (Tenderer’s authorised representative)

Name.....

Signature.....

Position in the Firm.....

Date.....

DETAILS OF SUBCONTRACTORS (Form 7A)

The Tenderer shall indicate in this schedule, the proposals for subcontracting elements of the Works together with the names and addresses of the subcontractors he proposes to employ (if any). Bidders can propose more than one subcontractor for each scope.

A statement of similar works executed by each of the proposed subcontractors shall be provided, which shall include details of the work executed, year of completion, value of the works and the name and address of the client.

The subcontractors whom the bidder wishes to subcontract more than 20 percent of the value of the whole works shall fill form 5b while for subcontracts below 20% of total value, subcontractors shall fill form 7b

[Letterhead of the Bidder, or a JV partner, including full postal address, telephone and fax numbers and e-mail address]

Name of Tenderer or partner of a joint venture

Work to be Subcontracted	Name and Address of Subcontractor	Estimated percentage value of the overall project to be subcontracted

This information is declared to be correct by (Tenderer’s authorised representative)

Name.....

Signature.....

Position in the Firm.....

Date.....

Tender for rehabilitation of Gitaru Power Station Generator MV Switchgear,
LV Switchboards and Protection systems



	<input type="checkbox"/> cable laying and termination <input type="checkbox"/> building works <input type="checkbox"/> other structural works <input type="checkbox"/> other mechanical works <input type="checkbox"/> other
Briefly describe the project	

This information is declared to be correct by (proposed subcontractor authorised representative)

Name.....

Signature.....

Position in the Firm.....

Date.....

KEY PERSONNEL CAPABILITIES [Form 6A]

For specific positions, essential to contract implementation, applicants should provide the names of at least two candidates qualified to meet the specified requirements stated for each position set out in **clause 6** of qualification criteria.

The date on their experience should be supplied in separate sheets using one Form (6B) for each candidate.

[Letterhead of the Bidder, or a JV partner, including full postal address, telephone and fax numbers and e-mail address]

Name of Tenderer or partner of a joint venture

1	Title of position: Head Office Project Manager
	Name of prime candidate:
	Name of alternate candidate:
2	Title of position: Site Project Manager/ Assistant Head Office Project Manager
	Name of prime candidate:
	Name of alternate candidate:
3	Title of position: Design and commissioning Engineer - Electrical protection
	Name of prime candidate:
	Name of alternate candidate:
4	Title of position: Design and commissioning Engineer - Switchgear
	Name of prime candidate:
	Name of alternate candidate:
6	Title of position: Design and commissioning Engineer - SCADA
	Name of prime candidate:
	Name of alternate candidate:
7	Title of position: Installation Supervisor-LV switchgear and protection
	Name of prime candidate:
	Name of alternate candidate:
8	Title of position: Installation Supervisor- MV switchgear
	Name of prime candidate:
9	Name of alternate candidate:

CVS OF KEY PERSONNEL [Form 6B]

Name of Tenderer:

Position		Candidate <input type="checkbox"/> Prime <input type="checkbox"/> Alternate
Candidate information	1. Name of candidate	2. Date of birth
	3. Professional qualifications	
Present employment	4. Name of employer	
	Address of employer	
	Telephone	Contract (manager/personnel officer)
	Fax	Telex
	Job title of candidate	Years with present employer

LITIGATION HISTORY (Form 2A)

Tenderers, including each of the partners of a joint venture, should provide information on any history of litigation or arbitration resulting from contracts executed in the last five years or currently under execution. A separate sheet should be used for each partner of a joint venture.

Letterhead of the Bidder, or a JV partner, including full postal address, telephone and fax numbers and e-mail address

Name of Tenderer or partner of a joint venture

Year of dispute	Amount in dispute (currency)	Contract Identification	Total Contract Amount (US\$ Equivalent)
		Contract Identification: _____ Name of Employer: _____ Address of Employer: _____ Matter in dispute: _____ Party who initiated the dispute: _____ Status of dispute: _____ If resolved, Award for Or Against Applicant _____	

This information is declared to be correct by (Tenderer’s authorised representative)

Name.....

Signature.....

Position in the Firm.....

Date.....

HISTORICAL CONTRACT NON-PERFORMANCE (Form 2B)

Letterhead of the Bidder, or a JV partner, including full postal address, telephone and fax numbers and e-mail address

Name of Tenderer or partner of a joint venture

Year	Non-performed portion of contract	Contract Identification	Total Contract Amount (current value, US\$ equivalent)
<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Employer: <i>[insert full name]</i> Address of Employer: <i>[insert street/city/country]</i> Reason(s) for non-performance: <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>

This information is declared to be correct by (Tenderer's authorised representative)

Name.....

Signature.....

Position in the Firm.....

Date.....

FINANCIAL INFORMATION (Form 3A)

Pursuant to Sub- Clause 4 of qualification criteria, the Tenderer, including each of the partners of a joint venture, and the main suppliers should provide the financial information requested below demonstrating the current soundness of their financial positions and long-term profitability as well as evidence of financial resources to meet the Contract cash flow. A separate sheet should be used for each partner of a joint venture as well as for the principal suppliers.

Letterhead of the Bidder, or a JV partner, including full postal address, telephone and fax numbers and e-mail address

Name of Tenderer or partner of a joint venture

1. Financial reports for the last three years, balance sheets, profit and loss statements, auditors’ reports etc. List them below and attach copies.

.....
.....

2. Evidence of access to lines of credit and availability of other financial resources sufficient to meet the Contract cash flow over one year, net of the Tenderer’s or supplier’s commitments for other contracts. The cash flow should at least meet the requirements of “evaluation and qualification criteria” Clause 3.3 of qualification criteria List the documents submitted as evidence and attach copies.

.....
.....

3. Name, address, telephone, e-mail, fax numbers of the Tenderer’s Bankers who may provide reference if contacted by the Employer.

.....
.....

This information is declared to be correct by (Tenderer’s authorised representative)

Name.....

Signature.....

Position in the Firm.....

Date.....

FINANCIAL SITUATION -FINANCIAL DATA (Form 3B)

The following table shall be filled in for the Bidder and for each partner of a Joint Venture

Letterhead of the Bidder, or a JV partner, including full postal address, telephone and fax numbers and e-mail address

Name of Tenderer or partner of a joint venture

Type of Financial information in <i>(currency)</i>	Historic information for previous _____years, _____				
	(amount in currency, currency, exchange rate*, USD equivalent)				
	Year 1	Year 2	Year 3	Year4	Year 5
Statement of Financial Position (Information from Balance Sheet)					
Total Assets (TA)					
Total Liabilities (TL)					
Total Equity/Net Worth (NW)					
Current Assets (CA)					
Current Liabilities (CL)					
Working Capital (WC)					
Information from Income Statement					
Total Revenue (TR)					
Profits Before Taxes (PBT)					
Cash Flow Information					
Cash Flow from Operating Activities					

This information is declared to be correct by (Tenderer’s authorised representative)

Name.....

Signature.....

Position in the Firm.....

Date.....

FINANCIAL SITUATION- TURNOVER (Form 3C)

All individual firms and all partners of a joint venture are requested to complete the information in this form. The information supplied should be the annual turnover of the Tenderer (or each member of a joint venture), in terms of the amounts billed to clients for each year for work in progress or completed, converted to US dollars at the rate of exchange at the end of the period reported.

Letterhead of the Bidder, or a JV partner, including full postal address, telephone and fax numbers and e-mail address

Name of Tenderer or partner of a joint venture

Average Annual Turnover Data (construction only)		
Year	Amount and Currency	US\$ equivalent
<i>[indicate year]</i>	<i>[insert amount and indicate currency]</i>	<i>[insert amount in US\$ equiv.]</i>
Average Annual		

** Average annual turnover calculated as total certified payments received for work in progress or completed, divided by the number of years specified in Section III, Evaluation & Qualification Criteria, qualification criteria 3.2.*

Name.....

Signature.....

Position in the Firm.....

Date.....

FINANCIAL RESOURCES (Form 3D)

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject contract or contracts as specified in Section III (Evaluation and Qualification Criteria)

Letterhead of the Bidder, or a JV partner, including full postal address, telephone and fax numbers and e-mail address

Name of Tenderer or partner of a joint venture

Financial Resources		
No.	Source of financing	Amount (US\$ equivalent)
1		
2		
3		

This information is declared to be correct by (Tenderer’s authorised representative)

Name.....

Signature.....

Position in the Firm.....

Date.....

TECHNICAL PROPOSAL FORMS

DEVIATION FROM EMPLOYERS' REQUIREMENTS

No deviations to this specification shall be acceptable unless specifically indicated in this schedule. All deviations shall be clearly spelt out by the Bidder

All the deviations from this specification shall be set out by the bidder, clause by clause, in this schedule. Unless specifically mentioned in this schedule, the bidder shall be deemed to comply to all employer requirements.

Reference Section/clause and page in the employer specifications	Description of Exceptions /Deviations	Reason for Exception /Deviation	Reference page in the bidders' offer

IMPLEMENTATION PROGRAM

Based on the specified completion periods given under Sub-Clause 2.2 of the Instructions To Tenderers, the Tenderer shall provide a proposed programme of Works in a bar chart form showing the sequence of work and time duration for each activity.

The proposed programme shall include activities such as design, schedule for the drawing submittal, ordering and procurement of materials, manufacturing, fabrication, shop assembly and testing, transportation, erection, site testing and commissioning of the Plant to be supplied under the Contract.

[Letterhead of the Bidder, or a JV partner, including full postal address, telephone and fax numbers and e-mail address]

Name of Tenderer or partner of a joint venture

[Insert Gantt chart]

We offer to complete all the works as required under tender within _____ calendar days as per the above schedule.

This information is declared to be correct by (Tenderer's authorised representative)

Name.....

Signature.....

Position in the Firm.....

Date.....

DRAWINGS AND DOCUMENTATION TO BE SUBMITTED WITH TENDER

Pursuant to **Clause 3** of Instructions to Tenderers (ITT), the Tenderer is required to submit drawings, brochures, catalogues, technical manuals, technical data sheets, type test certificates, etc. for the plant and equipment to be incorporated in the Works, sufficient to demonstrate compliance with the Employers' Requirements. The Tenderer is required to list under each item in the table below, those documents being submitted with the tender. The reference number of the document shall be included so that the document can easily be identified. Document reference shall be the volume in bidder's tender offer and enclosure or page number in the volume. i.e volume...../enclosure no...../page no.....

Section	Description	Document Type	Document Reference
1.			
2.			
3.			
4.			
5.			

This information is declared to be correct by (Tenderer's authorised representative)

Name.....

Signature.....

Position in the Firm.....

Date.....

BILL OF MATERIALS (LIST OF EQUIPMENT)

See APPENDIX 2: preliminary bill of materials (list of equipment), sent as a separate folder alongside this tender document.

METHOD STATEMENT

The contractor shall respond to employers' requirements on project implementation, elaborate how they intend to minimize machine outage time and demonstrate their work plan.

The proposal shall briefly demonstrate how the bidder proposes to carry out the following activities:

- a) Studying of Gitaru power plant and associated power system for design purpose
- b) Design and design review/approval by client
- c) Manufacture
- d) Factory training
- e) Factory Inspection and acceptance testing, FAT
- f) Packing and transportation
- g) Storage at site
- h) Pre-outage works and other preparation works
- i) Disassembly of existing systems
- j) erection and Installation
- k) Site acceptance tests, commissioning and reliability run
- l) On job training during installation and commissioning
- m) post commissioning training
- n) Technical documentation as described in **clause 1.7** of specifications

The method statement shall be in bidder's letterhead

QUALITY CONTROL PLAN

Bidder shall submit a quality control plan demonstrating how the project shall be implemented to ensure adherence to employers' requirements, approved designs and standards. The contractor shall borrow from their vast experience in similar projects but taking into account the conditions at site.

It shall include narration of specific quality control mechanisms measures at design, construction, manufacture, erection, installation, testing and commissioning. The presentation shall include method of supervision of the subcontractors/sub suppliers and safety precautions during testing, installation and commissioning.

The quality control plan shall be in bidder's letterhead

BIDDERS DRAWINGS

Bidder shall submit all required drawings as **per clause 1.4 of Employers' Requirements**

- Single line diagrams
 - Medium voltage switchgear for unit 2 & 3
 - Generator and GSU transformer and protection
 - Auxiliary supplies protection (EDG, alternative supply transformer and station transformer)
 - Protection physical ethernet communication layout
 - Main station auxiliaries' switchboard
 - SCADA communication gateway layout diagram
- Dimensioned panel arrangement drawings for all panels in the offer
- Panels layout diagrams dimensioned and showing the main components on each panel
- Dimensioned structural layout drawing for generator switchgear enclosure and mounting structure

TECHNICAL SCHEDULES

See APPENDIX 2: technical schedules,

CONTRACTUAL FORMS

FORM OF AGREEMENT

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 appointed _____

_____ of/or whose registered office is situated at _____ as the Engineer for the purposes thereof and has accepted the tender submitted by the Contractor for the execution and completion of the said Works and the remedying of any defects therein in the sum of _____ (*amount in figures*)

_____ (*amount in words*) (hereinafter called the “Contract Price”).

NOW THIS AGREEMENT WITNESSETH as follows:

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.

the following documents shall be deemed to form and shall be read and construed as part of this Agreement i.e.

The Letter of Award and Acceptance thereof.

The Preamble.

Negotiation minutes

The Special Conditions of Contract – Part II.

The General Conditions of Contract – Part I.

The Employers' Requirements

The Completed Form of Tender

The completed Bill of Quantity-Price Schedules

The Completed Technical Schedules.

The Specification Drawings.

The Contractor's Drawings.

The Contractor's Tender.

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.

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 _____

Tender for rehabilitation of Gitaru Power Station Generator MV Switchgear,
LV Switchboards and Protection systems



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 _____

Date _____

[ii] Name _____

Address _____

Signature _____

Date _____

PERFORMANCE SECURITY

[Must be on the letter head of the Bank]

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

WHEREAS _____ [*name of Contractor*] (hereinafter called “the Contractor”) has undertaken, in pursuance of Contract No. _____ dated _____ 20 ____ to _____ (hereinafter called “the Contract”).

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

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

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Supplier, _____ up _____ to _____ a _____ total _____ of _____

_____ (*words*) _____ (*figures*), and we undertake to pay you, upon your first written demand declaring the Contractor to be in default under the Contract and without cavil or argument, any sum or sums within the limits of _____ as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This guarantee is valid until the _____ day of _____ 20 _____.

Tender for rehabilitation of Gitaru Power Station Generator MV Switchgear,
LV Switchboards and Protection systems



Signature and seal of the Guarantors

[name of bank or financial institution]

[address]

[date]

BANK GUARANTEE FOR ADVANCE PAYMENT

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

DESIGN MANUFACTURE, SUPPLY, FACTORY ACCEPTANCE TESTS, DELIVERY, INSTALLATION,
TRAINING AND COMMISSIONING OF, GENERATOR MV SWITCHGEAR, PROTECTION
SYSTEMS AND LV SWITCHBOARDS OF GITARU HYDRO POWER STATION

Gentlemen and/or Ladies:

In accordance with the provision Conditions of Contract of the above mentioned Contract,
_____ (hereinafter called “the Contractor”) shall deposit with KenGen
a bank guarantee, its proper and faithful performance under the said Clause of the Contract in
an amount of

_____ (figures) _____ (words)

We, the *[bank or financial institution]*, as instructed by the Contractor, agree unconditionally
and irrevocably to guarantee as primary obligator and not as security merely, the payment to
KenGen on its first demand without whatsoever right of objection on our part and without its
first claim to the Contractor, in the amount not exceeding
_____ (*figures*)

_____ (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 KenGen 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.

This guarantee shall remain valid and in full effect from the date of the advance payment received by the Contractor under the Contract until _____ *(date)*.

Yours truly,

Signature and seal of the Guarantors

[name of bank or financial institution]

[address]

[date]