



KenGen

Kenya Electricity Generating Company PLC

KGN-SONDU-010-2019

**TENDER FOR LAGOON UPGRADE AT SONDU POWER STATION
FOR KENYA ELECTRICITY GENERATING COMPANY PLC
*CITIZEN CONTRACTORS***

**Kenya Electricity Generating Company PLC,
Stima Plaza Phase III, Kolobot Road, Parklands,
P.O. Box 47936-00100,
Nairobi, Kenya.
www.kengen.co.ke**

MAY 2019

SECTION I
INVITATION TO TENDER

The Company invites sealed tenders from eligible candidates for the “*Tender for lagoon upgrade at sondu power station*” whose specifications are detailed in the Tender Document.

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

Supply Chain Director

Tel: (254) (020) 3666000

Email: tenders@kengen.co.ke; dkorir@kengen.co.ke

Where the tender document may be collected upon payment of a non-refundable fee of **KShs.1, 000.00** paid in cash or through a bankers cheque at any KenGen finance office. The document can also be viewed and downloaded from the website www.kengen.co.ke. Bidders who download the tender document from the website **are advised to forward their particulars to facilitate any subsequent tender clarifications and addenda**. Downloaded documents are free of charge.

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

Unless otherwise stated, tenders **MUST** be accompanied by a security in the format and amount specified in the tender documents and must be submitted in a plain sealed envelope and marked “**KGN-SONDU-010-2019 - Tender for lagoon upgrade at Sondu power station**” and addressed to:

**Company Secretary & Legal Affairs Director
Kenya Electricity Generating Company PLC
10th Floor, RBS Pension Plaza
Kolobot Road, Parklands
P O Box 47936 - 00100
NAIROBI, KENYA**

On or before: **6th June, 2019 at 10.00 a.m.**

There will be a **MANDATORY SITE VISIT** on **28th May, 2019 at 10.00 a.m.** at **Sondu Power Station**.

Tenders will be opened on **6th June, 2019 at 10.30 a.m.** in the presence of the candidates’ representatives who choose to attend at KenGen Pension Plaza 2, Tender Opening Room, and Ground Floor. *The company reserves the right to vary the quantities*

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

Report any unethical behavior immediately to any of the provided anonymous hotline service.

1) Call Toll Free: 0800722626;

2) Free-Fax: 00800 007788;

3) Email: kengen@tip-offs.com

4) Website: www.tip-offs.com

SUPPLY CHAIN DIRECTOR

SECTION II

INSTRUCTIONS TO TENDERERS

1. General

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

2. Tender Documents

- 2.1 The complete set of tender documents comprises the documents listed here below

and any addenda issued in accordance with clause 2.4 here below:-

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

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

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

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

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

3. Preparation of Tenders

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

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

- (a) The Tender;
- (b) Tender Security;
- (c) Priced Bill of Quantities/Schedule of Rates for lump-sum

Contracts

- (d) Any other materials required to be completed and submitted by Tenderers.

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

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

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

Tender security

3.6. The tenderer shall furnish, as part of the tender, a Tender Security in the amount and form specified in the appendix to invitation to tenderers. This shall be in the amount not exceeding 2 percent of the tender price. The tender security is required to protect the procuring entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 14.7.

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

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

Unsuccessful Tenderer's tender security will be discharged or returned as promptly as possible as but not later than thirty (30) days after the expiration of the period of tender validity prescribed by Kenya Electricity Generating Company Limited.

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

The tender security may be forfeited:

- (a) if a tenderer withdraws its tender during the period of tender validity specified by Kenya Electricity Generating Company Limited on the Tender Form; or
- (b) in the case of a successful tenderer, if the tenderer fails:
 - (i) to sign the contract in accordance with paragraph 30
or
 - (ii) to furnish performance security in accordance with paragraph 31

- 3.6 Tenders shall remain valid for a period of **Ninety (90) days** from the date of submission. However in exceptional circumstances, the Employer may request that the Tenderers extend the period of validity for a specified additional period. The request and the Tenderers' responses shall be made in writing.
- 3.7 The Tenderer shall prepare one original of the documents comprising the tender documents as described in these Instructions to Tenderers.
- 3.8 The original shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Tenderer. All pages of the tender where alterations or additions have been made shall be initialed by the person or persons signing the tender.
- 3.9 Clarification of tenders shall be requested by the tenderer to be received by the procuring entity not later than 7 days prior to the deadline for submission of tenders.
- 3.10 The procuring entity shall reply to any written clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.

4. Submission of Tenders

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

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

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

4.3 The tenderer shall not submit any alternative offers unless they are specifically required in the tender documents.

4.4 Only one tender may be submitted by each tenderer. Any tenderer who fails to comply with this requirement will be disqualified.

4.5 Any tender received after the deadline for opening tenders will be returned to the tenderer un-opened.

4.6 The Employer may extend the deadline for submission of tenders by issuing an amendment in accordance with sub-clause 2.5 in which case all rights and obligations of the Employer and the Tenderers previously subject to the original deadline will then be subject to the new deadline.

5. Tender Opening and Evaluation

5.1 The tenders will be opened in the presence of the Tenderers' representatives who choose to attend at the time and in the place specified in the invitation to tender.

- 5.2 The Tenderers' names, the total amount of each tender and such other details as may be considered appropriate, will be announced at the opening by the Procuring Entity. Minutes of the tender opening, including the information disclosed to those present will also be prepared by the Procuring Entity.
- 5.3 Information relating to the examination, clarification, evaluation and comparison of tenders and recommendations for the award of the Contract shall not be disclosed to Tenderers or any other persons not officially concerned with such process until the award to the successful Tenderer has been announced. Any effort by a Tenderer to influence the Employer's officials, processing of tenders or award decisions may result in the rejection of his tender.
- 5.4 Tenders determined to be substantially responsive will be checked for any arithmetic errors. Errors will be corrected as follows:
- (a) Where there is a discrepancy between the amount in figures and the amount in words, the amount in words will prevail; and
 - (b) where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will prevail, unless in the opinion of the Employer's representative, there is an obvious typographical error, in which case the adjustment will be made to the entry containing that error.
 - (c) In the event of a discrepancy between the tender amount as stated in the Form of Tender and the corrected tender figure in the main summary of the Bill of Quantities/Quotation, the amount as stated in the Form of Tender shall prevail.
 - (d) The Error Correction Factor shall be computed by expressing the difference between the tender amount and the corrected tender sum as a percentage of the Corrected Builder's Work (i.e. corrected tender sum less P.C. and Provisional Sums).
 - (e) The Error Correction Factor shall be applied to all Builder's Work (as a rebate or addition as the case may be) for the purposes of valuations for Interim Certificates and valuation of variations.
 - (f) The amount stated in the tender will be adjusted in accordance with the above procedure for the correction of errors and with concurrence of the Tenderer, shall be considered as binding upon the Tenderer. If the Tenderer does not accept the corrected amount, the tender may be rejected and the Tender Security forfeited.
- 5.5 The tender evaluation committee shall evaluate the tender within fifteen (15) days of the validity period from the date of opening the tender.
- 5.6 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)
- 5.7 Where contract price variation is allowed, the valuation shall not exceed 25% of the

original contract price.

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

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

5.10 To assist in the examination, evaluation, and comparison of tenders, the Employer at his discretion, may request [in writing] any Tenderer for clarification of the tender, including breakdowns of unit rates. The request for clarification and the response shall be in writing or by cable, telex or facsimile but no change in the tender price or substance of the tender shall be sought, offered or permitted.

5.11 The Tenderer shall not influence the Employer on any matter relating to his tender from the time of the tender opening to the time the Contract is awarded. Any effort by the Tenderer to influence the Employer or his employees in his decision on tender evaluation, tender comparison or Contract award may result in the rejection of the tender.

6. Award of Contract

6.1 The award of the Contract will be made to the Tenderer who has offered the lowest evaluated tender price.

6.2 Notwithstanding the provisions of clause 6.1 above, the Employer reserves the right to accept or reject any tender and to cancel the tendering process and reject all tenders at any time prior to the award of Contract without thereby incurring any liability to the affected Tenderer or Tenderers or any obligation to inform the affected Tenderer or Tenderers of the grounds for the action.

6.3 The Tenderer whose tender has been accepted will be notified of the award prior to expiration of the tender validity period in writing. This notification (hereinafter and in all Contract documents called the "Letter of Acceptance") will state the sum [hereinafter and in all Contract documents called the "Contract Price" which the Employer will pay the Contractor in consideration of the execution, completion, and maintenance of the Works by the Contractor as prescribed by the Contract. The contract shall be formed on the parties signing the contract. At the same time the other tenderers shall be informed that their tenders have not been successful.

6.4 The Contract Agreement will incorporate all agreements between the Employer and the successful Tenderer. It will be signed by the Employer and sent to the successful Tenderer, within 30 days following the notification of award. Within 21 days of receipt, the successful Tenderer will sign the Agreement and return it to the Employer.

6.5 Within fifteen (15) days after receipt of the Letter of Acceptance, the successful Tenderer shall deliver to the Employer a Performance Security amount stipulated in the Appendix to Instructions to Tenderers

6.6 The parties to the contract shall have it signed within 30 days from the date of

notification of contract award unless there is an administrative review request.

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

7. Corrupt and fraudulent practices

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

7.2 The procuring entity will reject a tender if it determines that the tenderer recommended for award has engaged in corrupt and fraudulent practices in competing for the contract in question.

7.3 Further a tenderer who is found to have indulged in corrupt and fraudulent practices risks being debarred from participating in public procurement in Kenya.

Appendix to Instructions to Tenderers

The following information for procurement of small works shall complement or amend the provisions of the instructions to tenderers.

Wherever there is a conflict between the provisions of the instructions to tenderers and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to tenderers

	INSTRUCTIONS TO TENDERERS	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERERS
1.5	eligibility	This is an open national tender to Citizen contractors , for the avoidance of doubt, citizen contractors or those entities in which Kenyan citizens own at least 51% shares
3.6	Tender Security	Tender security shall be KShs.400,000.00 in form of bank guarantee from a reputable Bank in Kenya, Valid for 30days beyond the tender Validity Period
3.6	Tender Validity Period	The validity period of the tender shall be 120 days after the date of opening of the tender
1.4	Mandatory Site Visit	<i>The Mandatory Site Visit will be from 10.00 a.m. at Base Camp Sondu Power Station</i>
5.1	Tender Closing Date Tender Opening Date	6th June 2019 at 10.00 a.m. 6th June 2019 at 10.30 a.m.

<p>Evaluation criteria</p>	<p><i>Mandatory requirements</i></p> <ul style="list-style-type: none"> • <u>Preliminary Evaluation Requirements</u> • Duly completed Price Schedule/ Bills of Quantities, signed and stamped on every page • Duly filled, signed and stamped Tender Form • Duly completed and signed Mandatory site visit certificate • Duly Completed Confidential Business Questionnaire (CBQ) as provided below. • Bid bond • Copy Certificate of Incorporation / Registration • Copy of National Construction Authority certificate (NCA 5 in civil works category and the corresponding valid NCA license • . Copy of National Construction Authority certificate (NCA 6 in water and sewer works category and the corresponding valid NCA license • Copy of Valid Tax Compliance Certificate • Valid business permit. • NEMA Registration Certificate for handling of effluent • Valid NEMA license (i.e. for 2019) for transportation of effluent or evidence of renewal. Where transportation of effluent is outsourced attach proof – i.e. contract/agreement and dully completed Power of Attorney. KenGen at its discretion may authenticate the contract/agreement. • Dully signed and valid authorization, issued by the Kisumu /Kericho County Government – Department of Environment, for disposal of effluent to the designated sites within the county. <p>Prices read out during tender opening shall be final and not subject to any amendment. Therefore, arithmetic errors deemed by the evaluation committee as a major deviation shall result to disqualification of the bidder at this stage.</p> <p>Addendums (if applicable, communicated addendum must be signed and be submitted with the Tender)</p>
-----------------------------------	---

Mandatory Presidential Executive Order No2 requirements:

- *Full Particulars*
- *Your Full Names*
- *Registration Details (ID/Registration/Incorporation Number)*
- *PIN Number*
- *List of Directors, Shareholders and Beneficial Owners (in case of a company)*
- *Name of Proprietor (for sole Proprietor and Business name)*

- *Name of Partners (for Partnerships)*
- *Business Contacts Information (telephone and email address)*
- *Postal address*
- *Physical address*
- *Tax Compliance Status*
- *Business Permit/License Number*
- *County of operation*

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

TECHNICAL EVALUATION CRITERIA

The technical criteria will be evaluated on a pass/fail basis. The tenderer shall be required to furnish evidence to meet the following: Criteria, sub-criteria, and point system for the evaluation of Full Technical Proposals are:

(a) The qualifications and experience of key personnel.

1. The Contractor shall propose the structure and composition of his team i.e. the main disciplines involved, the key staff member / expert responsible for each discipline, and the proposed technical and support staff. The roles and responsibilities of each key staff member
2. A Site Manager with a minimum of Ten (10) years specific experience in works of an equivalent nature and volume, with a minimum of a degree or Higher National Diploma in Civil Engineering from a recognized institution.
3. One Health and Safety Inspector Certified by OSHA with a minimum of Five (5) years' experience.
4. One (1) Site Supervisor with a minimum of Five (5) years specific experience in works or works of an equivalent nature and volume, with a minimum of Ordinary Diploma in Civil Engineering or equivalent from a recognized institution.

NOTE: A sample of a C.V. format is provided here-in. Attach only that filled C.V. and the qualification certificate relevant to the Staff's responsibility under this project only. The proposed staff must be available throughout the contract implementation period without replacement, unless a formal consensus for replacement has been obtained from KENGEN. The staff may be engaged on either permanent or temporary/contract basis by the bidder.

b) Proof of major items of construction plant and equipment

Essential equipment to be made available for the Contract by the successful Tenderer as listed below. Provide documentary and official evidence of ownership or leasehold or hire or JV arrangement for such RELEVANT plant, tools and equipment for evaluation and confirmation, e.g. logbooks and copies of insurance stickers for auto motives, purchase receipts for others items. The bidder must also indicate the availability of the plant for the project. Proof of ownership from the lessor for leased equipment must also be provided

1. Hydraulic long reach excavator at least one
2. Vacuum exhauster tanker at least two (*Evidence of ownership of the effluent transportation vehicle whose registration details appear on the NEMA license to transport effluent. If the vehicle is leased, attach contract/agreement*).
3. Sludge pumps at least One
4. 20 tonne tipper truck at least three
At least one pick up

c) A realistic program of Works providing specific and achievable milestones with durations.

d) General Method statements for the works. The method statement should take into account the specific conditions at the site. The method statement should include traffic management. The method statement should not be more than four pages long.

e) Contractors Health, Safety, Environment and Quality Plan including a Job safety Analysis for the particular works.

f) Avail at least four (4) commendation letters from your current or previous major reputable clients/firms with work of equivalent nature and volume

Financial Evaluation Criteria

- Checking for completeness in the quotation for all items in the BQ/ Price Schedule.
- Evidence of adequate working capital of Kshs. Three Million and Five Hundred Thousands (Kshs. 5,000,000.00). This must be demonstrated by bank statements and/or a letter of undertaking from a bank addressed to KenGen with specific reference to this tender
- Checking for arithmetical errors. Bids with arithmetical errors shall be disqualified.
- An examination of the bidder's price competitiveness and a determination that the quoted price is fair and reasonable, and a comparison with the known current market rates. Bids whose items prices are beyond (lower than or higher than) market rates shall be rejected.
 - The lowest evaluated bidder will be considered for award.

NOTE: All the above documents/information are mandatory. Failure to provide any of them or providing invalid document(s) / information will result to disqualification. KenGen shall

SECTION III

CONDITIONS OF CONTRACT

Table of Clauses

1. DEFINITIONS
2. CONTRACT DOCUMENTS
3. EMPLOYER'S REPRESENTATIVE'S DECISIONS
4. WORKS, LANGUAGE AND LAW OF CONTRACT
5. SAFETY, TEMPORARY WORKS AND DISCOVERIES
6. WORK PROGRAM AND SUB-CONTRACTING
7. THE SITE
8. INSTRUCTIONS
9. EXTENSION OF COMPLETION DATE
10. MANAGEMENT MEETINGS
11. DEFECTS
12. BILLS OF QUANTITIES/SCHEDULE OF RATES
13. VARIATIONS
14. PAYMENT CERTIFICATES AND FINAL ACCOUNT
15. INSURANCES
16. LIQUIDATED DAMAGES
17. COMPLETION AND TAKING OVER
18. TERMINATION
19. PAYMENT UPON TERMINATION
20. CORRUPT GIFTS AND PAYMENTS OF COMMISSION
21. SETTLEMENT OF DISPUTES
22. APPENDIX TO CONDITIONS OF CONTRACT

1. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Contract Documents

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

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

3. Employer’s Representative’s Decisions

3.1 Except where otherwise specifically stated, the Employer’s Representative will decide

contractual matters between the Employer and the Contractor in the role representing the Employer.

4. Works, Language and Law of Contract

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

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

5. Safety, Temporary works and Discoveries

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

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

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

6 Work Program and Sub-contracting

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

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

7 The site

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

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

8 Instructions

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

9 Extension of Completion Date

9.1 The Employer's Representative shall extend the Completion Date if an occurrence arises which makes it impossible for completion to be achieved by the Intended Completion Date. The Employer's Representative shall decide whether and by how much to extend the Completion Date.

9.2 For the purposes of this clause, the following occurrences shall be valid for consideration;

Delay by:-

- (a) force majeure, or
- (b) reason of any exceptionally adverse weather conditions, or
- (c) reason of civil commotion, strike or lockout affecting any of the trades employed upon the Works or any of the trades engaged in the preparation, manufacture or transportation of any of the goods or materials required for the Works, or
- (d) reason of the Employer's Representative's instructions issued under these Conditions, or
- (e) reason of the contractor not having received in due time necessary instructions, drawings, details or levels from the Employer's Representative for which he specifically applied in writing on a date which having regard to the date for Completion stated in the appendix to these Conditions or to any extension of time then fixed under this clause was neither unreasonably distant from nor unreasonably close to the date on which it was necessary for him to receive the same, or
- (f) delay on the part of artists, tradesmen or others engaged by the Employer in executing work not forming part of this Contract, or
- (g) reason of delay by statutory or other services providers or similar bodies engaged directly by the Employer, or
- (h) reason of opening up for inspection of any Work covered up or of the testing or any of the Work, materials or goods in accordance with these conditions unless the inspection or test showed that the Work, materials or goods were not in accordance with this Contract, or
- (i) reason of delay in appointing a replacement Employer's Representative, or
- (j) reason of delay caused by the late supply of goods or materials or in executing Work for which the Employer or his agents are contractually obliged to supply or to execute as the case may be, or
- (k) delay in receiving possession of or access to the Site.

10 Management Meetings

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

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

11 Defects

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

11.2 The Employer's Representative shall give notice to the Contractor of any defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the Appendix to Conditions of Contract.

11.3 Every time notice of a defect is given, the Contractor shall correct the notified defect within the length of time specified by the Employer's Representative's notice. If the Contractor has not corrected a defect within the time specified in the Employer's Representative's notice, the Employer's Representative will assess the cost of having the defect corrected by other parties and such cost shall be treated as a variation and be deducted from the Contract Price.

12 Bills of Quantities/Schedule of Rates

12.1 The Bills of Quantities/Schedule of Rates shall contain items for the construction, installation, testing and commissioning of the Work to be done by the Contractor. The Contractor will be paid for the quantity of the Work done at the rates in the Bills of Quantities/Schedule of Rates for each item. Items against which no rate is entered by the Tenderer will not be paid for when executed and shall be deemed covered by the rates for other items in the Bills of Quantities/Schedule of Rates.

12.2 Where Bills of Quantities do not form part of the Contract, the Contract Price shall be a lump sum (which shall be deemed to have been based on the rates in the

Schedule of Rates forming part of the tender) and shall be subject to re-measurement after each stage.

13 Variations

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

14 Payment Certificates and Final Account

- 14.1 The Contractor shall be paid after each of the following stages of Work listed here below (subject to re-measurement by the Employer's Representative of the Work done in each stage before payment is made). In case of lump-sum Contracts, the valuation for each stage shall be based on the quantities so obtained in the re-measurement and the rates in the Schedule of Rates.
- (i) Advance payment _____ (percent of Contract Price, [after Contract execution] to be inserted by the Employer).
- (ii) First stage (define stage) (Interim Payment Certificate No.1 (IPC) With minimum of 25% of total contract sum Based on the quantities so obtained in the re-measurement and the rates in the bill of quantities (BoQ) _____
- (iii) Second stage (define stage) (Interim Payment Certificate No.2 (IPC) With minimum of 25% of total contract sum Based on the quantities so obtained in the re-measurement and the rates in the bill of quantities (BoQ) _____
- _____
- (iv) Third stage (define stage) Second stage (define stage) (Interim Payment Certificate No.3 (IPC) With minimum of 25% of total contract sum Based on the quantities so obtained in the re-measurement and the rates in the bill of quantities (BoQ) _____
- (v) Fourth stage (define stage) Second stage (define stage) (Interim Payment Certificate No.4 (IPC) With minimum of 25% of total contract sum Based on the quantities so obtained in the re-measurement and the rates in the bill of quantities _____

(BoQ)

(vi) After defects liability period .

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

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

14.4 If the period laid down for payment to the Contractor upon each of the Employer's Representative's Certificate by the Employer has been exceeded, the Contractor shall be entitled to claim simple interest calculated pro-rata on the basis of the number of days delayed at the Central Bank of Kenya's average base lending rate prevailing on the first day the payment becomes overdue. The Contractor will be required to notify the Employer within 15 days of receipt of delayed payments of his intentions to claim interest.

15. Insurance

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

16. Liquidated Damages

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

17. Completion and Taking Over

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

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

18. Termination

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

- (a) the Contractor stops Work for 30 days continuously without reasonable cause or authority from the Employer's Representative;
- (b) the Contractor is declared bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
- (c) a payment certified by the Employer's Representative is not paid by the Employer to the Contractor within 30 days after the expiry of the payment periods stated in sub clauses 14.2 and 14.3 hereinabove.
- (d) the Employer's Representative gives notice that failure to correct a particular defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time.

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

19. Payment Upon Termination

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

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

19.3 Until after completion of the Works under this clause, the Employer shall not be

bound by any other provision of this Contract to make any payment to the Contractor, but upon such completion as aforesaid and the verification within a reasonable time of the accounts therefore the Employer's Representative shall certify the amount of expenses properly incurred by the Employer and, if such amount added to the money paid to the Contractor before such determination exceeds the total amount which would have been payable on due completion in accordance with this Contract, the difference shall be a debt payable to the Employer by the Contractor; and if the said amount added to the said money be less than the said total amount, the difference shall be a debt payable by the Employer to the Contractor.

20. Corrupt Gifts and Payments of Commission

20.1 The Contractor shall not;

- (a) Offer or give or agree to give to any person in the service of the Employer any gifts or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of this or any other contract with the Employer or for showing or forbearing to show favour or dis-favour to any person in relation to this or any other contract with the Employer.
- (b) Any breach of this Condition by the Contractor or by anyone employed by him or acting on his behalf (whether with or without the knowledge of the Contractor) shall be an offence under the Laws of Kenya.

21. Settlement of Disputes

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

22 Taxes

22.1.1 "Taxes" means all present and future taxes, levies, duties, charges, assessments, deductions or withholdings whatsoever, including any interest thereon, and any penalties and fines with respect thereto, wherever imposed, levied, collected, or withheld pursuant to any regulation having the force of law and "Taxation" shall be construed accordingly.

22.1.2 Local Taxation

Nothing in the Contract shall relieve the Contractor and/or his Sub-Contractors from their responsibility to pay any taxes, statutory contributions and levies that may be levied on them in Kenya in respect of the Contract. The Contract Price shall include all applicable taxes and shall not be adjusted for any of these taxes.

22.1.3 The Contractor shall be deemed to be familiar with the tax laws in the Employer's Country

and satisfied themselves with the requirements for all taxes, statutory contributions and duties to which they may be subjected during the term of the Contract.

22.1.4 In instances where discussions are held between the Employer and the Contractor regarding tax matters, this shall not be deemed to constitute competent advice and hence does not absolve the Contractor of their responsibility in relation to due diligence on the tax issue as per 3.21.2 above.

Tax Deduction

22.1.5 If the Employer is required to make a tax deduction by Law, then the deduction shall be made from payments due to the Contractor and paid directly to the Kenya Revenue Authority. The Employer shall upon remitting the tax to Kenya Revenue Authority furnish the Contractor with the relevant tax deduction certificates.

22.1.6 Where the Contractor is paid directly by the Financiers and the Employer is not able to deduct tax, then the Contractor will be required to pay the tax deduction to Kenya Revenue Authority in the name of the Employer and furnish the Employer with an original receipt thereof as evidence of such payment. In absence of the said evidence, the Employer will not process any subsequent payments to the Contractor.

Tax Indemnity

22.1.7 The Contractor shall indemnify and hold the Employer harmless from and against any and all liabilities, which the Employer may incur for any reason of failure by the Contractor to comply with any tax laws arising from the execution of the Contract whether during the term of the Contract or after its expiry.

22.1.8 The Contractor warrants to pay the Employer (within fourteen (14) days of demand by the Employer), an amount equal to the loss, liability or cost which the Employer determines has been (directly or indirectly) suffered by the Employer for or on account of the Contractor's Tax liability arising from the Contract.

22.1.9 Where the amount in 3.21.8 above remains unpaid after the end of the fourteen (14) days moratorium, the Employer shall be entitled to compensation for financing charges.

APPENDIX TO CONDITIONS OF CONTRACT

THE EMPLOYER IS

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

Address: **P.O BOX 875 KISUMU**

Name of Employer's Representative: **M.Kihiko**

Title: _____

Telephone: **0711030000**

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

The Works consist of _____

- 1. Repairs to incoming waste septic tank**
- 2. Bush clearing and Cutting of trees at Effluent Pond area**
- 3. Dislodging and Emptying all the Effluent Ponds**
- 4. Inspection and repairs to Effluent Ponds**
- 5. Replacement of Effluent Pond Lining**

The commencement Date shall be **the date of contract signature**

The contract duration shall be; **Eight (8) Calendar Months**
8 _____

The Site is located at **Sondu Power Station-Kisumu County 65 Km from Kisumu Town** and is defined in drawings nos.

The Defects Liability Period is **365** days.

Amount of Performance Security is 10% of the contract sum

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

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

The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to Kenya Electricity Generating Company Limited and shall be in the form of a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in Kenya or abroad, acceptable to Kenya Electricity Generating Company Limited, in the form provided in the tender documents.

The performance security will be discharged by Kenya Electricity Generating Company Limited and returned to the Candidate not later than thirty (30) days following the date of completion of the Tenderer's performance obligations under the Contract, including any warranty obligations, under the Contract.

3.2 – Specify the Employers Representative

10.3 - Specify how often Management meetings will be held

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

SECTION IV

SPECIFICATIONS, DRAWINGS AND BILLS OF QUANTITIES/SCHEDULE OF RATES

I.SPECIFICATIONS

TECHNICAL SPECIFICATIONS

The Sondu Miriu Power Plant waste water treatment plant consist of a single 98cm³concrete septic tank and six waste stabilization ponds (Effluent Treatment Units) where treatment is achieved through natural disinfection mechanism that allows the waste water to stand for a time under the influence of microorganisms and forces of nature so that it is converted into effluent that meet quality of standards for final discharge back to the environment.

The aforementioned Waste stabilization ponds consist of a series of two parallel waste water treatment systems each comprising of an anaerobic pond, a facultative pond and a maturation pond these ponds are connected by a series of open concrete channels.

The sewer treatment plant is inefficient hence the effluent discharged is unsatisfactory according to the results of analysis of the pond effluents.

The inefficiency is attributed to the following:

1. Heavy siltation of the ponds which has led to reduced capacity of the ponds to allow waste water to stand for a time for treatment to take place as well due to increased population discharge into the ponds into the ponds.
2. Leakages of the pond lining allowing water to seep into the surrounding soil system
3. Unplanned overgrowth of vegetation including trees

In order to improve the required efficiency of the waste water and the functionality of the treatment plant the following is recommended:

1. Undertaking of various Repairs the existing septic tank
2. Bush clearing and Cutting of trees at Effluent Pond area
3. Dewatering of the ponds
4. Dislodging and Emptying all the Effluent Ponds
5. Carrying out of detailed inspection of the desludged ponds
6. Replacement of Pond Linings
7. Carrying out repairs to pond embankments and outlet channels
8. Commissioning of the repaired ponds

Repairs to the ponds will be undertaken one pond series at a time. Repairs to the septic tank will be undertaken by construction of a by-pass channel around the septic tank after emptying the tank.

(A visit is highly recommended)

NB

All works shall be done in accordance with the NEMA Waste Management Regulations, 2006.

TECHNICAL REQUIREMENTS

6.1 This contract shall be for a six (9) months.

6.2 The contractor shall perform work according to the performance measure in the performance charter agreed between the contractor and the Manager - Health, Safety and Environment.

6.3 The contractor's workers shall put on the right protective gear throughout the execution of their duties.

6.4 Provision of Sewage Dislodging and Sealing and Compaction of the Stabilization Ponds.

The contractor shall:

Use and produce the best quality equipment materials, products, techniques and standard for provision of the service and ensure that they are fit for intended purposes.

Provide services with the care skill and diligence required in accordance with the best practice.

Perform the services in such a manner that KenGen and users of KenGen facilities shall have available for their benefit and use of all facilities in the contract areas and that no operations of KenGen or user of KenGen shall be disrupted in anyway.

6.5 The contractor shall permit free and unfettered access to provide such assistance as KenGen may require to KenGen representatives or other persons authorized by KenGen for purposes of determining the standards or services or compliance with this contract to inspect or conduct a survey of the contract areas equipment, materials, records work method or any of the aspect to the services.

6.6 The services shall be executed and maintained strictly in accordance with the contract to the satisfaction of KenGen Engineer and shall comply with and adhere strictly to KenGen Water Engineer(or his repetitive) instructions and directions.

6.7 The contractor shall perform the services to be carried out at KenGen in the zones detailed in the schedule of requirements.

6.8 The contractor shall execute and provide and maintain the services in the contract areas in accordance with the highest standards of performance and to the satisfaction of KenGen.

6.9 The shall be required to submit to KenGen Engineer for his approved a programme showing the number and strength of personal and equipment for each zone to cover daily nine hours period. Works shall be executed in such a way that it does not interfere with normal KenGen operations such as flow of KenGen users and other personnel movement and shall comply with all KenGen regulations.

- 6.10 The contractor shall make good any damage caused to any part of KenGen building or to KenGen facilities or structure in the causes of or consequent upon executing the provision of services.
- 6.11 The contractor shall not do or permit contract areas and other premises of KenGen anything which shall be nuisance to persons for the being or occupying or using KenGen facilities.
- 6.12 In the event that the contractor fails to comply with the provision herein and KenGen by itself or by direction to another contractor or agent remedies or makes good the breach, the cost thereof shall be forthwith recoverable as a debt due from the contractor to KenGen.
- 6.13 The contractor shall ensure the safety of all persons using KenGen by ensuring interlaid that:
- Appropriate signage is erected where areas are not passage.
- 6.14 Contractors shall provide and employ such staffs for the performance of the service who are:
- Skilled and experienced in their respective calling to properly discharge the services.
 - Such skilled, semi-skilled and unskilled labour as is necessary for the proper and timely execution of works.
- 6.15 The contractors shall ensure that its employees and supervisors engaged in provision of the service are smartly attired in appropriate clothing and safety gear befitting KenGen's standards and shall upon being requested by KenGen in writing provide them with uniform according to specification provided by KenGen.
- 6.16 Although the contractor shall be responsible for recruitment of his employees they shall be vetted by the Employer in submission to KenGen Engineer as schedule of employees as qualifications and position.
- 6.17 KenGen shall not be liable for any injury to the contractor, his servants or licenses caused in the cause of or consequential upon the performance of the service contracted herein.
- 6.18 The contractor shall be responsible for the safety of KenGen property of whatever description in the contract areas and shall ensure that they are secure at all time from theft by its workers and all kinds of risk which may occasion loss and or damage.
- 8.19 Any servant and/ or agent of the contractor who misconduct himself whether due to insobriety or otherwise or conducting himself in a manner prejudicial to the security and good image of KenGen shall be liable to instant removal from KenGen premises and KenGen may directly impose such condition as it may deem necessary for his readmission to the premises.
- 6.20 The contractor, his staffs at all time comply with all regulations and directives which may be issued from time to time in connection with the operation of KenGen by KenGen.

Environmental, Safety and Health Management

- i. The Contractor shall prepare and submit to the Engineer an Environmental and Social Management Plan (ESMP) for the Engineer's concurrence. This shall be done after signing of the contract and prior to commencement of works.
- ii. The Contractor shall carry out a Job Safety Analysis (JSA) which shall be submitted to the Engineer together with a Safety Management Plan for the Engineer's concurrence. This shall be done within five (5) days after signing of the contract.
- iii. The unskilled labour required by the Contractor for Works shall be recruited from the local community except where there is no response upon advertisement at the KenGen's Liaison office. There shall be no discrimination in recruitment based on tribe, religion, political affiliation, age, disability or gender, and the recruitment system shall be fair and transparent. The Contractor shall comply with the Employment Act (CAP 226) concerning the Employment of Young Persons and Children.
- iv. The Contractor shall provide his labour force with a sufficient number of hand tools of good quality and shall make the necessary provisions to maintain the tools in a good and safe working condition. The Engineer may instruct the Contractor to replace worn out, faulty or unsafe hand tools.
- v. The Contractor shall be responsible for the safety of all workers. In collaboration with, and to the requirements of the local health authorities, the Contractor shall ensure that first aid equipment, anti-snake venom, trained first aiders are available on the Site at all times throughout the period of the Contract.
- vi. The Contractor shall provide workers with suitable personal protective equipment including safety boots, helmet, hand gloves, reflective jackets and coverall.
- vii. The Contractor shall deploy on site a qualified Environment, Safety and Health personnel who shall be available on the Site at all times throughout the period of the Contract.
- viii. The Contractor shall be responsible for the provision of potable water for the workers. In the event of any outbreak of illness of an epidemic nature, the Contractor shall comply with and carry out such regulations, orders and requirements as may be made by the Government or the local medical or sanitary authorities for the purpose of dealing with and overcoming the same.
- ix. The Contractor shall take all reasonable measures to ensure that all personnel on site comply with the Statutes, Ordinances, Laws, Regulations and By-Laws in force in Kenya, and to prevent accidents or any riotous or unlawful behaviour by or amongst the employees on or in connection with the Works, and for the preservation of the peace.
- x. The Contractor shall adhere to KenGen's policies throughout the contract duration. These shall include the Environmental Sustainability and Occupational Health and Safety Policies.
- xi. The Contractor shall institute on-site HIV/AIDS awareness and prevention campaigns for the duration of the Contract. This shall include use of posters, provision of condoms and informatory meetings on site for the employees where applicable.
- xii. The Contractor shall be expected to report, in the monthly progress meetings, the Environmental, Safety and Health performance throughout the duration of the contract.
- xiii. The Contractor shall respect the right of personnel to a living wage and ensure that wages paid for a normal work week shall always meet at least legal or industry minimum standards and shall be sufficient to meet the basic needs of personnel and to provide some discretionary income.
- xiv. Illegal drugs, explosives, and unauthorized firearms, or persons under the influence of illegal drugs, are not permitted on Company premises. If any person is reasonably suspected of being under the influence of illegal drugs or in the possession of explosives or firearms that individual's vehicle, luggage, personal effects, lockers, or quarters on the premises shall be subject to investigation.

- xv. Alcohol or persons under the influence of alcohol are not permitted in Company's area of work. If any person is reasonably suspected of being under the influence of alcohol or in the possession of alcohol, within or outside the designated area, that individual's vehicle, luggage, personal effects, lockers, or quarters on the premises shall be subject to investigation.
- xvi. The client shall have the right at any time to audit /inspect the contractor's facilities, procedures and safety management systems. The contractor shall fully co-operate in such reviews and shall implement recommendations at his own cost where KenGen or statutory rules and regulations are contravened.

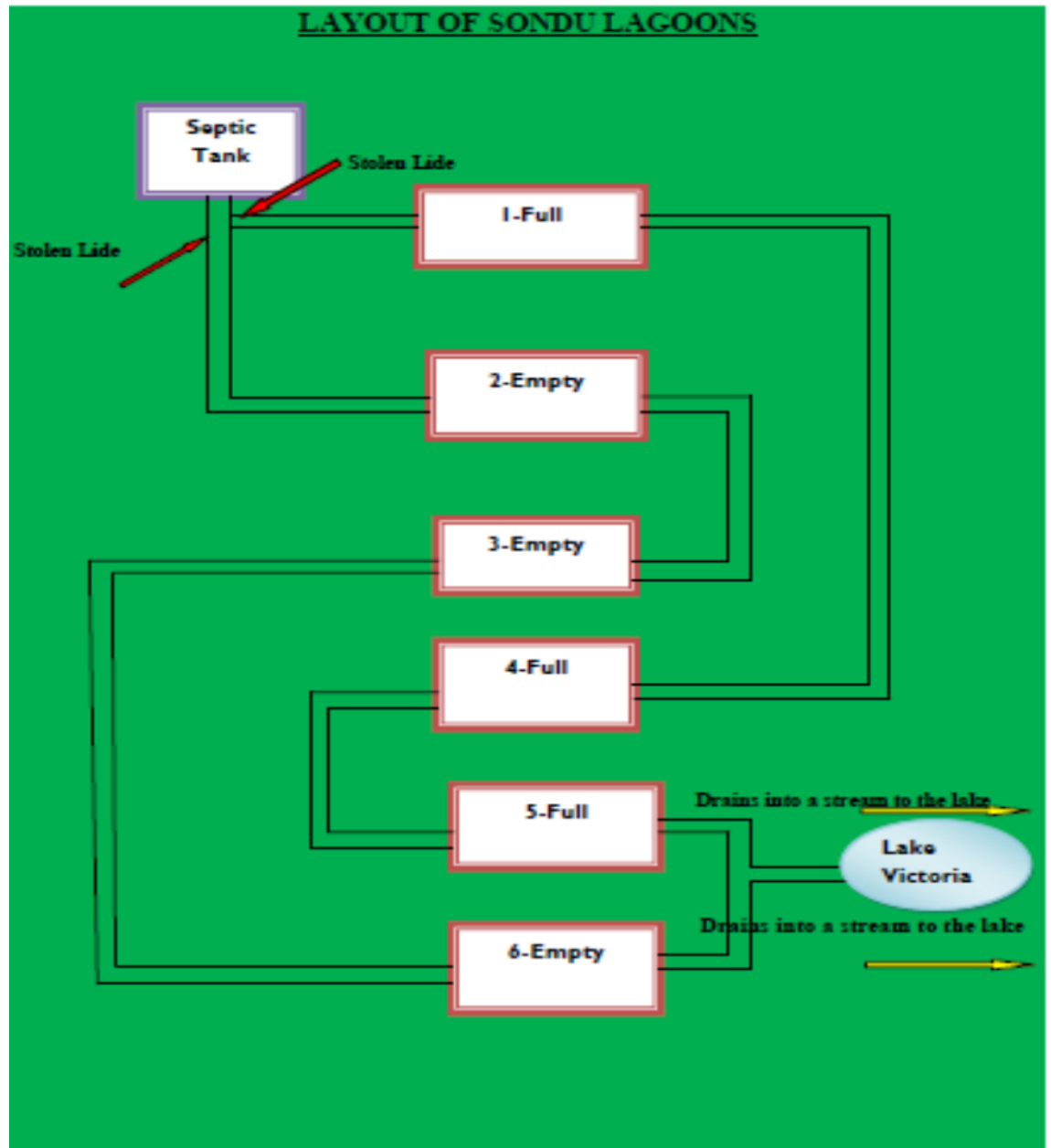
Start-up phase for waste stabilization ponds

The Anaerobic ponds must be filled with raw sewage and seeded with sludge from conventional sewage treatment plants or septic tanks. After filling and seeding, the pond should gradually be loaded up to the design-loading rate. The pond contents should have a pH above 7, to allow the development of methanogenic bacteria.

Lime or soda ash is added, if necessary, to rise the pH in the pond. If the sewerage system is new, and the flow rate, as well as the loading rate, to the anaerobic pond is low, the sewage may be bypassed till the flow rate and the loading rate from the sewerage systems satisfies the condition to be discharged in the pond. It is important to have a bypass from the anaerobic pond that will be used during dislodging. It is also recommended that the ponds be commissioned during the beginning of the hot season, in order to allow the quick establishment of microorganisms of importance for the waste stabilization ponds.

The facultative pond should be commissioned before the anaerobic pond, in order to avoid odours during the release of anaerobic pond effluent to an empty facultative pond. During the start-up of the facultative and maturation ponds, the ponds should be filled with freshwater (from tap, river or wells), thereby allowing the gradual development of algae and heterotrophic bacteria population. However, the primary facultative pond must be seeded as an anaerobic pond. If freshwater is not available, the secondary facultative and maturation ponds should be filled with raw sewage and left for 3-4 weeks, to allow the development of the microbial population.

II. DRAWINGS



III.BILL OF QUANTITIES/SCHEDULE OF RATES

BILL 1: PRELIMINARIES

ITEM NO.	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
	<u>PRELIMINARIES</u>				
A	Mobilisation of Plant, Equipment, Labour and personnel	SUM			
B	Provide a provisional sum of Kenya Shillings Three hundred thousand (Ksh. 150,000.00) only for Project Manager's Supervision expenses	Prov	1		
C	Allow for Contractor's Profit and Attendance on item B above (%)	%			
	<u>SIGNBOARD</u>				
C	Allow for providing, erecting, maintaining throughout the course of the contract and afterwards clearing away a signboard as designed, specified and approved by the Project Manager.	SUM			
D	Provide a provisional sum of Kenya Shillings One Hundred and fifty thousand (Ksh. 150,000.00) only for purchase of stationery and drawings storage material.	Prov	1		
E	Allow for Contractor's Profit and Attendance on item D above (%)	%			
F	Demobilisation and clear up of site				
G	Provision and installation of warning signage less than 1.0 m ²	No.	3		
H	Provision of temporary road during execution of the work ,to be surfaced with well selected murrum/gravel and to maintained and watered throughout the project execution period	Item			
I	Allow for hoarding around the pond site with galvanised iron sheet.	Item			

	TOTAL CARRIED TO SUMMARY PAGE				
--	--------------------------------------	--	--	--	--

BILL 2: SITE CLEARING

ITEM NO.	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
	<u>PRELIMINARIES</u>				
A	- Cleaning and grubbing for removal of rank, vegetation, shrubs, trees (less than 200mm diameter), bushes, stumps, weeds, grass including roots, debris, unusable materials by using manual or mechanical method and disposal of the same by burning or any other means including dumping to approved areas within the project site, cost of all labour, hire and fuel charges for all tools and plants employed and all other incidental charges etc., all complete and as directed	Sq. m	6,800		
B	Cutting of trees exceeding 200mm in diameters, removal and disposal of trees and tree roots within the site as directed	No.	8		
C	Clearing of vegetation growing on pond water surface	SM	600		

	TOTAL CARRIED TO SUMMARY PAGE				

BILL 3: REPAIRS TO SEPTIC TANK

ITEM NO.	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
	<u>DIVERSION STORM DRAIN</u>				
A	Excavate n.e. 300mm deep for diversion storm drain	CM	40		
B	Supply and place Class 25/20 concrete for storm drain. Rate to include formwork	CM	18.5		
C	Supply and lay install structural BRC mesh fabric	SM	70		
D	Fabricate and install steel Sliding knife gate valve for installation at inlet channel. the gate valve should be painted with to coats of red oxide paint and to coats of anticorrosive paint.	No.	2		
E	Allow provisional sum of Kshs. 150,000 for miscellaneous repairs to septic tank.	Prov.			
F	Allow for Contractor's Profit and Attendance on item E above (%)	%			
G	Exhaust all the liquid sewage waste from the septic tank as directed by the Engineer on site.	CM	11		
H	Carefully remove the sludge from the septic tank and dispose off on site (at designated areas). Due care should be taken during the process to avoid damage to the existing lining and slabs in the ponds as much as possible.	CM	49		
	TOTAL CARRIED TO SUMMARY PAGE				

BILL 4: DEWATERING AND DESLUDGING

ITEM NO.	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
	<u>DESLUDGING</u>				
A	Exhaust all the liquid sewage waste from the ponds as directed by the Engineer on site.	CM	4,800		
B	Carefully remove the sludge from the ponds and dispose off on site (at designated areas). Due care should be taken during the process to avoid damage to the existing lining and slabs in the ponds as much as possible.	CM	2,400		
	<u>REPAIR OF SLABS AND LINING</u>				
C	Prepare pond surface and remove vegetation and soil in preparation for pond repairs.	SM	2,800		
D	Carefully remove all the damaged slabs and lining on the ponds bed and sides as directed by the Employer Representative on site.	SM	2400		
E	Replace and fix the damaged slabs and lining on the ponds bed and sides, include for the 50mm sand/murram bedding.	SM	300		
F	Scarify on the limning of the ponds and level ready to receive fill.	SM	2400		
G	Provide and backfill with well selected gravel/murram on the lining on the ponds into two layers of 200mm including ramming and compaction	SM	2800		
H	50mm thick class 15 concrete as blinding	SM	2800		
I	200mm thick class 20 concrete as lining	SM	2800		-
J	Fabric mess A 142 BRC	SM	2800		

K	Supply lay and install U.V protected HDPE pond lining membrane minimum thickness of 2mm.	SM	2,800		
L	Provisional sum of Kshs. 200,000 for repairs to outlet channels.	Prov.			
M	Allow for Contractor's Profit and Attendance on item G above (%)	%			
TOTAL CARRIED TO SUMMARY PAGE					

BILL 5: POND COMMISSIONING

ITEM NO.	DESCRIPTION	UNIT	QTY	RATE	AMOUNT
A	- Provide water and fill ponds during commissioning	CM	4,000		
B	Provide sludge and seed bacteria for commissioning of anaerobic ponds	CM	2,200		
C	Allow provisional sum of Kshs.150, 000 for equipment and attendance to commissioning activities.	Prov.			
D	Allow for Contractor's Profit and Attendance on item C above (%)	%			
TOTAL CARRIED TO SUMMARY PAGE					

	DESCRIPTION	AMOUNT IN KHS.
BILL 1	PRELIMINARIES	
BILL 2	SITE CLEARING	
BILL 3	REPAIRS TO SEPTIC TANK	
BILL 4	DEWATERING AND DESLUDGING	
BILL 5	POND COMMISSIONING	
SUB- TOTAL		
ADD 16% VAT		
GRAND TOTAL		

**SECTION V STANDARD
FORMS**

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

FORM OF TENDER

Date _____ Tender No. _____

To: _____
[Name and address of procuring entity]

Gentlemen and/or Ladies:

1. Having examined the tender documents including Addenda Nos. *[Insert numbers]*.the receipt of which is hereby duly acknowledged, we, the undersigned, offer to **Upgrade the Sondu Lagoon for Sondu Power Station** in conformity with the said tender documents for the sum of *(total tender amount in words and figures)* or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.

2. We undertake, if our Tender is accepted, to deliver install and commission the equipment in accordance with the delivery schedule specified in the Schedule of Requirements.

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

4. We agree to abide by this Tender for a period of **120 days** from the date fixed for tender opening of the Instructions to tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

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

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

Dated this _____ day of _____ 20 _____

[Signature]

[In the capacity of]

Duly authorized to sign tender for an on behalf of _____

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

CONTRACT FORM

THIS AGREEMENT made the _____ day of _____ 20__ between
[*name of the Employer*] of [*country of the Employer*] (hereinafter called “**the Employer**”) of
the one part and [*name of the Supplier*] of [*city and country of the
Supplier*] (hereinafter called “**the Supplier**”) of the other part;

WHEREAS the Employer invited tenders for] and has accepted a tender by the tenderer
for the supply of in the sum of [*contract price in words and
figures*] (hereinafter called “the Contract Price).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

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

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

Signed by _____ the _____ (for the Procuring entity

Signed by _____ the _____ (for the tenderer in the presence of _____

FORM OF TENDER SECURITY

(On bank letterhead)

WHEREAS [name of the tenderer]
(hereinafter called “the tenderer”) has submitted its tender dated [date
of submission of tender] for [30 KVA UPS]
(hereinafter called “the Tender”)

KNOW ALL PEOPLE by these presents that **WE** of
..... having our registered office at
(hereinafter called “the Bank”), are bound unto the **Kenya Electricity Generating
Company Limited** (hereinafter called “the Procuring entity”) in the sum of
..... for which payment well and truly to be made to you, the
Bank binds itself, its successors, and assigns by these presents.

Sealed with the Common Seal of the said Bank this _____ day of _____ 2016 ____

THE CONDITIONS of this obligation are:-

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

We undertake to pay the Procuring entity up to the above amount upon receipt of its first written demand, without the Procuring entity having to substantiate its demand, provided that in its demand the Procuring entity 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 tender guarantee will remain in force up to and including thirty (30) days after the period of tender validity, and any demand in respect thereof should reach the Bank not later than the above date.

[Signature of the bank] _____

PERFORMANCE BANK GUARANTEE

(On bank letterhead)

To
[name of Procuring entity]

WHEREAS [name of tenderer] (hereinafter called “the tenderer”) has undertaken , in pursuance of Contract No. _____ [reference number of the contract] for dated _____ 20 _____ to _____ supply [description of goods] (hereinafter called “the Contract”).

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

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

NOW THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the tenderer, up to a total of [amount of the guarantee in words and figure] and we undertake to pay you, upon your first written demand declaring the tenderer to be in default under the Contract and without cavil or argument, any sum or sums within the limits of [amount of guarantee] as aforesaid, without you needing to prove or to show grounds or reasons for your demand or the sum specified therein.

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

Signed and seal of the Guarantors

[name of bank or financial institution]

[address]

[date]

CONFIDENTIAL BUSINESS QUESTIONNAIRE

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

Name of Applicant(s).....

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

Part 1 – General

Business Name:.....Certificate of Incorporation /
Registration No.Location of business premises:
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
KRA PIN No.....
Value of the largest single assignment you have undertaken to date (**US D/KShs**)
.....
Was this successfully undertaken? **Yes / No**.(If **Yes**, attach reference)
Name (s) of your banker (s)
.....
Branches Tel. No's.

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

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

Part 2 (b) – Partnerships (if applicable)

Give details of partners as follows:

Full Names Nationality Citizenship Details Shares

1.

2.

Company Profile

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

Private or public

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

State the nominal and issued capital of the Company

Nominal KShs

Issued KShs

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

Full Names Nationality Citizenship Details Shares

1.....

2.....

Part 2 (d) – Debarment

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

Full Names

Signature

Dated this.....day of2019.

In the capacity of

Duly authorized to sign Tender for and on behalf of

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

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

Full Names

Signature

Dated this.....day of2019.

In the capacity of

Duly authorized to sign Tender for and on behalf of

Part 2 (f) – Criminal Offence

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

a)

b)

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

Signed

For and on behalf of M/s

.....

In the capacity of

.....

Dated this.....day of2019.
 Suppliers' / Company's Official Rubber Stamp

Part 2 (g) – Conflict of Interest

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

- a)
- b)

For and on behalf of M/s

.....

In the capacity of

Dated this.....day of2019

Suppliers' / Company's Official Rubber Stamp

.....

Part 2 (h) – Interest in the Firm:

Is there any person/persons in KENGEN or any other public institution who has interest in the Firm?

Yes/No (Delete as necessary)

Institution.....

.....

(Title) (Signature) (Date)

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

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

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

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

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

Account No:.....Name of the person(s) in the CR12 form OR in the partnership deed OR in the sole proprietor certificate...../.....

ID No(s):...../.....Signature and stamp of the authorized Banker Representative.....Date.....

Part 2(j or k) – Declaration

I / We, the undersigned state and declare that the above information is correct and that I / We give KENGEN authority to seek any other references concerning my / our company from whatever sources deemed relevant, e.g. Office of the Registrar of Companies, Bankers, etc.

Full names

.....
Signature.....

For and on behalf of M/s

.....
In the capacity of

.....
Dated thisday of2019.

Suppliers' / Company's Official Rubber Stamp

.....

8.7 SITE VISIT CERTIFICATE

This is to certify that (IN BLOCK LETTERS)

Name:.....
.....

Cell Phone No:.....
.....

Email:.....
.....



Being the authorized representative of (IN BLOCK LETTERS)

M/S [*Firm/Company*].....

Official Tel No.....

Official Email:.....

Participated in the organized inspection visit of the site of the works for:

TENDER FOR LAGOON UPGRADE AT SONDU POWER STATION FOR KENYA ELECTRICITY GENERATING COMPANY PLC

Held on..... Day of..... 20.....

OFFICIAL USE:-

Signed.....
(KenGen's Representative)

.....
(Name of KenGen's Representative)

.....
(Designation)

NOTE:

- 1.This form is to be completed at the time of the organized site visit.
- 2.Bidder to bring along with him duly filled site visit certificate during the site visit.