



KenGen

KENYA ELECTRICITY GENERATING COMPANY LIMITED PLC

TENDER FOR DESIGN, MANUFACTURE, DELIVERY, INSTALLATION, TEST & COMMISSIONING OF TWO (2) NEW FRANCIS TURBINE RUNNERS FOR UNITS 2 & 3 AT GITARU HYDRO ELECTRIC POWER PLAN (OPEN INTERNATIONAL)

KGN-HYD-054-2021

14th February 2022

ADDENDUM NO. 4

In accordance with the Tender for Design, Manufacture, Delivery, Installation, Test & Commissioning of Two (2) New Francis Turbine Runners for Units 2 & 3 at Gitaru Hydro Electric Power Plan, KenGen hereby issues **Addendum No. 4** as follows:

I. SECTION IX - SPECIAL CONDITIONS OF CONTRACT

The following special conditions of contract shall be included notwithstanding other conditions in the tender document:

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
SCC 13. Securities	<p>SCC 13.3.1 The amount of Performance Security, as a percentage of the Contract Price for the Facility or for the part of the Facility for which a separate Time for Completion is provided, shall be: Euros 20,000</p> <p>SCC 13.3.2 The Performance Security shall be in the form of the Demand Bank Guarantee attached hereto in Section X, Contract Forms.</p> <p>SCC 13.3.3 The Performance Security shall not be reduced on the date of the Operational Acceptance.</p> <p>SCC 13.3.3 The Performance Security shall be reduced to ten percent (10%) of the value of the component covered by the extended defect liability to cover the Contractor's extended defect liability in accordance with the provision in the SCC, pursuant to GCC Sub-Clause 27.10.</p> <p>Replace with:</p> <p>Performance Security Performance security shall be at 10% of the Contract Price where the contract</p>

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	<p>value is above five million Kenya shillings, or equivalent.</p> <p>The performance security shall remain valid for 30 days beyond the validity of the contract.</p> <p>The Performance Security shall be in the form of: <i>an on-Demand Bank Guarantee from a bank registered by Central Bank of Kenya</i></p> <p>The Performance security shall be denominated in the currency of the contract.</p>
Delivery Period	<p>Delivery: Delivery period shall be six (6) months from the contract commencement date. The delivery terms shall be DAP Gitaru HEPP.</p>
SCC 5.1	<p>Governing Language The contract shall be written in the English language. All correspondence and other documents pertaining to the contract, which are exchanged by the parties, shall be written in the same language.</p>
SCC 14.1	<p>Taxes</p> <p>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.</p> <p>b) Local Taxation</p> <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.</p> <p>ii. The Contract Price shall include all applicable taxes and shall not be adjusted for any of these taxes.</p> <p>iii. Tax exemption granted under this Contract shall be for an official aid funded project and shall be as provided under the applicable tax laws in Kenya.</p> <p>iv. 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. This shall include applicable local or foreign withholding tax, excise duty, Value Added Tax (VAT), importation duties, Local government taxes, and any other taxes not mentioned herein.</p> <p>v. 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</p>

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	<p>hence does not absolve the Contractor of their responsibility in relation to due diligence on the tax issue as per (i).</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 payments for the Contract Price are made directly by the financiers to the Contractor, the Contractor and the financiers shall make the necessary arrangements with Employer to ensure that withholding income tax is remitted to the Kenya Revenue Authority.</p> <p>d) Tax Indemnity</p> <p>i. The Contractor shall indemnify and hold the Employer harmless from and against any and all tax 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 (ii) above remains unpaid after the end of the fourteen (14) days moratorium, the Employer shall be entitled to compensation for financing charges.</p>
GCC 23.1	<p>The inspections and tests shall be:</p> <p>Pre-shipment inspection</p> <ul style="list-style-type: none"> • All consignments subject to Pre-Export Verification of Conformity (PVoC) to Standards Programme must obtain a Certificate of Conformity (CoC) issued by PvoC Country Offices Prior to shipment. The Certificate is a mandatory Customs Clearance document in Kenya; • Consignments arriving at Kenyan Ports without this document will be denied entry into the Country. • Since PVoC is a conformity assessment process to verify that products imported to Kenya are in compliance with the applicable Kenya standards or approved

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	equivalents, regulations and technical requirements before shipment, it is the sole responsibility of the supplier (i.e. exporter) to demonstrate the same and hence meet any associated costs of verification.
27.1	The Defects Liability Period shall be 540 days

2. TENDER CLOSING DATE

The tender closing date has been revised as below.

INITIAL TENDER CLOSING DATE	REVISED TENDER CLOSING DATE
Tender closing date 9th March, 2022 at 1400Hrs.	Tender closing date 23rd March, 2022 at 1400Hrs.
Tender opening date 9th March, 2022 at 1430Hrs.	Tender opening date 23rd March, 2022 at 1430Hrs.

ACKNOWLEDGEMENT OF ADDENDUM NO.4

We, the undersigned hereby certify that the addendum is an integral part of the document and the alterations set out in the clarification has been incorporated in the tender proposal.

Signed

Tenderer

Rubber Stamp.....