TENDER NO: KOFC/OT/MT/001/2020/2021

KENYA ORDNANCE FACTORIES CORPORATION

P.O BOX 6634 – 30100

ELDORET

OPEN TENDER DOCUMENT

FOR

SUPPLY AND DELIVERY OF HFO, PETROL, DIESEL, OILS AND LUBRICANTS

FIRM'S DETAILS

NAME.....

P O BOX .....

TEL NO: .....

EMAIL ADDRESS.....

SIGNATURE: .....

STAMP.....

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SECTION I - INVITATION TO TENDER

DATE: 13 OCTOBER, 2020

TENDER REF NO: KOFC/OT/MT/001/2020/2021

TENDER NAME: SUPPLY AND DELIVERY OF HFO PETROL, DIESEL, OILS AND LUBRICANTS

1.1. The Kenya Ordnance Factories Corporation (KOFC) invites sealed bids from eligible candidates for supply and delivery of **HFO, Petrol, Diesel, Oils and Lubricants to Eldoret, Gilgil and Nairobi.**

1.2. Qualified candidates may obtain further information from the office of Procurement **KOFC P.O BOX 6634-30100 Eldoret Tel:+ 254 775 095 974 and +254 722 209 639 along Eldoret - Kitale road during normal working hours from 0800hrs to 1700hrs.**

1.3. Completed tender documents to be submitted as follows:

a. **Hard Copy** to be enclosed in plain sealed envelopes NOT indicating the tenderer/Bidders details but marked with tender reference number and tender name be deposited in the Tender Box at KOFC main gate so as to be received on or before **Friday 05 November 2020 at 1000hrs (10 am) East African Time**.

b. **Electronic (Soft) Copy** which is password enabled to be sent through our email address procurement1mtf@kofcpr.co.ke or procurement1tech@kofcpr.co.ke. Password to be provided on the opening day **(Friday 05 November 2020 at 1000hrs (10 am).**

1.4. Tenders must be accompanied by a Security in the form and amount specified in the tender document, on or before **Friday 05 November 2020 at 1000hrs (10 am).** Tender security issued shall be valid for 90 days from the date of opening of this tender.

1.5. Prices quoted should be inclusive of VAT, must be in Kenya Shillings and shall remain valid for 90 days from the closing date of the tender.

1.6 Tenders will be opened immediately thereafter in the presence of the Candidates or their representatives who choose to attend at **KOFC Conference Room at 10:00 am.**

1.7 Please read through this tender document carefully, fill and return both the Original and Duplicate copies of the tender together with all supporting documents.

M N MWANGI
Colonel
for Managing Director

SECTION II - INSTRUCTIONS TO TENDERERS

2.1 Eligible Tenderers

2.1.1 This Invitation for Tenders is open to all qualified tenderers eligible as described in the Invitation to Tender. Successful tenderers shall complete the supply of goods by the intended completion date specified in the Schedule of Requirements Section V.

2.1.2 The procuring entity's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender.

2.1.3 Tenderers shall provide the qualification information statement that the tenderer (including all members of a joint venture and subcontractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Procuring entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods under this Invitation for tenders.

2.1.4 Tenderers shall not be under a declaration of ineligibility for corrupt and fraudulent practices.

2.2 Eligible Goods

2.2.1 All goods to be supplied under the contract shall have their origin in eligible source countries.

2.2.2 For purposes of this clause, "origin" means the place where the goods are mined, grown, or produced. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially-recognized product results that is substantially different in basic characteristics or in purpose or utility from its components.

2.2.3 The origin of goods is distinct from the nationality of the tenderer.

2.3 Cost of Tendering

2.3.1 The Tenderer shall bear all costs associated with the preparation and submission of its tender, and the procuring entity, will in no case be

responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.

2.3.2 The price to be charged for the tender document shall not exceed **Kshs.1, 000/= (Not applicable to this tender).**

2.3.3 All firms found capable of performing the contract satisfactorily in accordance to the set prequalification criteria shall be prequalified.

2.4. The Tender Document

2.4.1 The tender document comprises the documents listed below and addenda issued in accordance with clause 2.6 of these instructions to Tenderers

a. Invitation to Tender
b. Instructions to tenderers
c. Appendix to Instruction to Tender
d. General Conditions of Contract
e. Special Conditions of Contract
f. Price schedule
g. Form of Tender
h. Confidential Business Questionnaire
i. References

2.4.2 The Tenderer is expected to examine all instructions, forms, terms, and specifications in the tender documents. Failure to furnish all information required by the tender documents or to submit a tender not substantially responsive to the tender documents in every respect will be at the tenderers risk and may result in the rejection of its tender.

2.5 Clarification of Documents

2.5.1 A prospective tenderer requiring any clarification of the tender document may notify the Procuring entity in writing or by post at the entity's address indicated in the Invitation to Tender. The Procuring entity will respond in writing to any request for clarification of the tender documents, which it receives not later than seven (7) days prior to the deadline for the submission of tenders, prescribed by the procuring entity. Written copies of the Procuring entities response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective tenderers that have received the tender document.

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

2.6 Amendment of Documents

2.6.1 At any time prior to the deadline for submission of tenders, the Procuring entity, for any reason, whether at its own initiative or in response to a clarification requested by a prospective tenderer, may modify the tender documents by amendment.

2.6.2 All prospective candidates that have received the tender documents will be notified of the amendment in writing or by post and will be binding on them. In order to allow prospective tenderers reasonable time in which to take the amendment into account in preparing their tenders, the Procuring entity, at its discretion, may extend the deadline for the submission of tenders.

2.7 Language of Tender

2.7.1 The tender prepared by the tenderer, as well as all correspondence and documents relating to the tender exchange by the tenderer and the Procuring entity, shall be written in English language, provided that any printed literature furnished by the tenderer may be written in another language provided they are accompanied by an accurate English translation of the relevant passages in which case, for purposes of interpretation of the tender, the English translation shall govern.

2.8 Documents Comprising of Tender

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

(a) A Tender Form and a Price Schedule completed in accordance with paragraph 2.9, 2.10 and 2.11 below

(b) Documentary evidence established in accordance with paragraph 2.1.2 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;

(c) Documentary evidence established in accordance with paragraph 2.2.1 that the goods and ancillary services to be supplied by the tenderer are eligible goods and services and conform to the tender documents; and

(d) Tender security furnished in accordance with paragraph 2.14.

2.9 Tender Forms

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

2.10 Tender Prices

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

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

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

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

2.11 Tender Currencies

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

2.12 Tenderers Eligibility and Qualifications

2.12.1 Pursuant to paragraph 2.1. The tenderer shall furnish, as part of its tender, documents establishing the tenderers eligibility to tender and its qualifications to perform the contract if its tender is accepted.

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

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

(a) That, in the case of a tenderer offering to supply goods under the contract which the tenderer did not manufacture or otherwise produce, the tenderer has been duly authorized by the goods' Manufacturer or producer to supply the goods.

(b) That the tenderer has the financial, technical, and production capability necessary to perform the contract;

(c) That, in the case of a tenderer not doing business within Kenya, the tenderer is or will be (if awarded the contract) represented by an Agent in Kenya equipped, and able to carry out the Tenderer's maintenance, repair, and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications.

2.13 Goods Eligibility and Conformity to Tender Documents

2.13.1 Pursuant to paragraph 2.2 of this section, the tenderer shall furnish, as part of its tender documents establishing the eligibility and conformity to the tender documents of all goods which the tenderer proposes to supply under the contract

2.13.2 The documentary evidence of the eligibility of the goods shall consist of a statement in the Price Schedule of the country of origin of the goods and services offered which shall be confirmed by a certificate of origin issued at the time of shipment.

2.13.3 The documentary evidence of conformity of the goods to the tender documents may be in the form of literature, drawings, and data, and shall consist of:

(a) A detailed description of the essential technical and performance characteristic of the goods;

(b) A list giving full particulars, including available source and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the goods for a period of one (1) year, following commencement of the use of the goods by the Procuring entity; and

(c) A clause-by-clause commentary on the Procuring entity's Technical Specifications demonstrating substantial responsiveness of the goods

and service to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications.

2.13.4 For purposes of the documentary evidence to be furnished pursuant to paragraph 2.13.3(c) above, the tenderer shall note that standards for workmanship, material, and equipment, as well as references to brand names or catalogue numbers designated by the Procurement entity in its Technical Specifications, are intended to be descriptive only and not restrictive. The tenderer may substitute alternative standards, brand names, and/or catalogue numbers in its tender, provided that it demonstrates to the Procurement entity's satisfaction that the substitutions ensure substantial equivalence to those designated in the Technical Specifications.

2.14 Tender Security

2.14.1 The tenderer shall furnish, as part of its tender, a tender security for the amount specified in the Appendix to Invitation to Tenderers.

2.14.2 The tender security shall be in the amount of **Kshs 500,000**

2.14.3 The tender security is required to protect the Procuring entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.14.7

2.14.4 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, or a guarantee issued by a reputable insurance company in the form provided in the tender documents or another form acceptable to the Procuring entity and valid for thirty (30) days beyond the validity of the tender.

2.14.5 Any tender not secured in accordance with paragraph 2.14.1 and 2.14.3 will be rejected by the Procuring entity as non responsive, pursuant to paragraph 2.22

2.14.6 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 the Procuring entity.

2.14.7 The successful Tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.27 and furnishing the performance security, pursuant to paragraph 2.28

2.14.8 The tender security may be forfeited:

(a) If a tenderer withdraws its tender during the period of tender validity specified by the procuring entity on the Tender Form; or

(b) In the case of a successful tenderer, if the tenderer fails:

(i) To sign the contract in accordance with paragraph 2.27 or

(ii) To furnish performance security in accordance with paragraph 2.28

2.15 Validity of Tenders

2.15.1 Tenders shall remain valid for **90 days** or as specified in the Invitation to Tender after the date of tender opening prescribed by the Procuring entity, pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by the Procuring entity as non responsive.

2.15.2 In exceptional circumstances, the Procuring entity may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The tender security provided under paragraph 2.14 shall also be suitably extended. A tenderer may refuse the request without forfeiting its tender security. A tenderer granting the request will not be required nor permitted to modify its tender.

2.16 Format and Signing of Tender

2.16.1 The downloaded tender document shall be prepared by the tenderer in two copies, clearly marking each **"ORIGINAL TENDER"** and **"COPY OF TENDER,"** as appropriate. In the event of any discrepancy between them, the original shall govern.

2.16.2 The original and all copies of the tender shall be typed or written in indelible ink and shall be signed by the tenderer or a person or persons duly authorized to bind the tenderer to the contract. The latter authorization shall be indicated by written power-of-attorney accompanying the tender. All pages of the tender, except for un amended printed literature, shall be initialed by the person or persons signing the tender.

2.16.3 The tender shall have no interlineations, erasures, or overwriting except as necessary to correct errors made by the tenderer, in which case such corrections shall be initialed by the person or persons signing the tender.

2.17 Sealing and Marking of Tenders

2.17.1 The Tenderer shall seal the original and each copy of the tender in separate envelopes, duly marking the envelopes as **"ORIGINAL"** and **"COPY."** The envelopes shall then be sealed in an outer envelope.

2.17.2 The inner and outer envelopes shall:

(a) Be addressed to the Procuring entity at the address given in the Invitation to Tender:

(b) Bear, tender number and name in the Invitation for Tenders and the words, **"DO NOT OPEN BEFORE," Friday 05 November, 2020 at 1000 hrs (10am)**

2.17.3 The inner envelopes shall also indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declared "late".

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

2.18 Deadline for Submission of Tenders

2.18.1 Tenders must be received by the Procuring entity at the address specified under paragraph 2.17.2 no later than **Friday 05 November, 2020** at **1000hrs.**

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

2.19 Modification and Withdrawal of Tenders

2.19.1 The tenderer may modify or withdraw its tender after the tender's submission, provided that written notice of the modification, including

substitution or withdrawal of the tenders, is received by the Procuring prior to the deadline prescribed for submission of tenders.

2.19.2 The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.17. A withdrawal notice may also be sent by cable, telex but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.

2.19.3 No tender may be modified after the deadline for submission of tenders.

2.19.4 No tender may be withdrawn in the interval between the deadline for submission of tenders and the expiration of the period of tender validity specified by the tenderer on the Tender Form. Withdrawal of a tender during this interval may result in the Tenderer's forfeiture of its tender security, pursuant to paragraph 2.14.7

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

2.19.6 The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

2.20 Opening of Tenders

2.20.1 The Procuring entity will open all tenders in the presence of tenderers' representatives who choose to attend, at **1000hrs** on **Friday 05 November, 2020** and in the location specified in the Invitation to Tender.

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

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

2.20.3 The Procuring entity will prepare minutes of the tender opening.

2.21 Clarification of Tenders

2.21.1 To assist in the examination, evaluation and comparison of tenders the Procuring entity may, at its discretion, ask the tenderer for a clarification of its tender. The request for clarification and the response shall be in writing, and no change in the prices or substance of the tender shall be sought, offered, or permitted.

2.21.2 Any effort by the tenderer to influence the Procuring entity in the Procuring entity's tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderers' tender.

2.22 Preliminary Examination

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

2.22.2 Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected. If the candidate does not accept the correction of the errors, its tender will be rejected, and its tender security forfeited. If there is a discrepancy between words and figures the amount in words will prevail

2.22.3 The Procuring entity may waive any minor informality or non-conformity or irregularity in a tender which does not constitute a material deviation, provided such waiver does not prejudice or effect the relative ranking of any tenderer.

2.22.4 Prior to the detailed evaluation, the Procuring entity will determine the substantial responsiveness of each tender to the tender documents. For purposes of these paragraphs, a substantially responsive tender is one, which conforms to all the terms and conditions of the tender documents without material deviations. The Procuring entity's determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.

2.22.5 If a tender is not substantially responsive, it will be rejected by the Procuring entity and may not subsequently be made responsive by the tenderer by correction of the non-conformity.

2.23 Conversion to Single Currency

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

2.24 Evaluation and Comparison of Tenders

2.24.1 The Procuring entity will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.22

2.24.2 The tender evaluation committee shall evaluate the tender within 30 days of the validity period from the date of opening the tender.

2.24.3 A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement.

2.25 Preference

2.25.1 Preference where allowed in the evaluation of tenders shall not exceed 15% of the evaluated price of tender.

2.26 Contacting the Procuring entity

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

2.26.2 Any effort by a tenderer to influence the Procuring entity in its decisions on tender, evaluation, tender comparison, or contract award may result in the rejection of the Tenderer's tender.

2.27 Award of Contract

(a) Post-qualification

2.27.1 In the absence of pre-qualification, the Procuring entity will determine to its satisfaction whether the tenderer that is selected as having submitted the lowest evaluated responsive tender is qualified to perform the contract satisfactorily.

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

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

(b) Award Criteria

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

(c) Procuring entity's Right to Vary quantities

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

(d) Procuring entity's Right to Accept or Reject Any or All Tenders

2.27.6 The Procuring entity reserves the right to accept or reject any tender, and to annul the tendering process and reject all tenders at any time prior

to contract award, without thereby incurring any liability to the affected tenderer or tenderers or any obligation to inform the affected tenderer or tenderers of the grounds for the Procuring entity's action

2.28 Notification of Award

2.28.1 Prior to the expiration of the period of tender validity, the Procuring entity will notify the successful tenderer in writing that its tender has been accepted. Simultaneously, the other tenderers shall be notified that their tenders were not successful.

2.28.2 The notification of award will **NOT** constitute the formation of the Contract.

2.29 Signing of Contract

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

2.29.2 The parties to the contract shall have it signed 14 days from the date of notification of contract award unless there is an administrative review request.

2.29.3 Within fourteen (14)days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to the Procuring entity.

2.30 Performance Security

2.30.1 Within fourteen (14) days of the receipt of notification of award from the Procuring entity, the successful tenderer shall furnish the performance security in accordance with the Conditions of Contract, in the Performance Security Form provided in the tender documents, or in another form acceptable to the Procuring entity.

2.30.2 Failure of the successful tenderer to comply with the requirements of paragraph 2.27 or paragraph 2.28 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Procuring entity may make the award to the next lowest evaluated Candidate or call for new tenders.

2.31 Corrupt or Fraudulent Practices

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

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

(ii) "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract.

2.31.2 In which event the Procuring entity may make the award to the next lowest evaluated Candidate or call for new tenders.

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

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

APPENDIX TO INSTRUCTIONS TO TENDERERS

The following information regarding the particulars of the tender shall complement, supplement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provision of the instructions to tenderers and the provisions of the appendix, the provisions of the appendix herein shall **PREVAIL** over those of the instructions to tenderers.

The participating tenderers **MUST** be **DISTRIBUTORS** and shall submit copies of the following **mandatory documents** along with the Original and Copy of tender document properly **bound, paginated and initialed in the correct sequence** on or before the closing date.

i.	Copy of Certificate of Incorporation / Registration
ii.	Copy of Valid Tax Compliance Certificate.
iii.	Copy of Valid Single Business Permit from County government
iv.	Copy of CR 12 form issued by Registrar of Companies
v.	Original Tender Security of **Kenya Shillings 500,000** in the form of Banker's Guarantee or Insurance Company Guarantee. Tender Security should be valid for a period of **90 days** from date of tender opening.
vi.	Copy of Energy Regulatory Commission (ERC) license for whole-selling of petroleum products.
vii.	Evidence of physical registered office (Attached either lease agreement, title deed, electricity bill, water bill, rental payment receipt)
viii.	Audited financial statements for the last 3 years 2016,2017,2018
ix.	Confidential Questionnaire dully filled, signed and stamped
x.	Form of tender dully filled signed and stamped

NOTE:

FAILURE TO SUBMIT ANY OF THE ABOVE SHALL LEAD TO AUTOMATIC DISQUALIFICATION FROM FURTHER EVALUATION.

4. **a. Pursuant to Paragraph 2.8 – Completion of Tender Documents**

To qualify as responsive, tenderers will be required to: -

i. Complete the tender documents in all respects,

ii. Ensure the tender documents are properly signed, Stamped and initialed on every page by the authorized official of the bidding firm,

iii. The confidential Business Questionnaire (S33) **MUST** be carefully completed, providing all tenderer details as required.

iv. Incomplete documents shall be considered not responsive.

b. Tenderers Contacts / Address

Tenderers **MUST** carefully fill out their current contact which should include:
Physical Address
Postal Address
Telephone Number / Mobile Number
Email Address

c. Original Tender Documents

Tenderer **MUST** return the Original and a Copy tender document downloaded from the Corporation's Website.

d. **Responsiveness**

A tenderer, who fails to comply with conditions above, will be considered not responsive and not considered for further evaluation.

5. **Disqualification**

. Tenderers who are thus established as not responsive shall be disqualified from further evaluation

. Canvassing shall lead to total disqualification.

6. **Pursuant to Paragraph 2.10 Tender Prices:**

a. Price (s) quoted **MUST** be inclusive of 16% VAT and shall remain **valid for** at least **90 days** from the closing date of the tender.

b. Prices **MUST** be quoted in Price schedule at section V in this document.

c. Prices **MUST** also be expressed in Figure/ words

d. Prices **MUST** be inclusive of delivery, taxes, discounts costs and offloading to buyer premises.

e. Tenderers should note that this is a **Term (one year) Contract** and therefore prices quoted **MUST** be maintained throughout the contract period (one year).

7. **Pursuant of Paragraph: 2.24 - Evaluation and Comparison of Tenders.**

Due diligence shall be conducted to the lowest evaluated firm by an appointed team of officers to confirm and verify the qualifications of the tenderer.

The criteria for the Technical evaluation will be as follows: -

The minimum qualifying criteria shall be 30% of the marks in the technical evaluation

The marks shall be distributed as follows:

Item	Parameter	Scores
1	Provide evidence to handle business of Kshs 5 million and Above. Provide audited Financial statements for the last 3 years (17/18, 18/19, 19/20)	45
2	The firm to provide evidence on the availability of transport facilities. Provide logbook in the name of tenderers or lease agreement. Each vehicle 2.5marks	5

Responsiveness

A tenderer, who fails to comply with above conditions above, will be considered not responsive and not considered for further evaluation.

8. **Financial Evaluation**. (Only those who meet all the criteria). This shall be based on the prices quoted and will attract a further 50 points with lowest quote among the responsive firms earning the maximum 50 points, other quoted prices will earn points based on the following formula:

$$\frac{\text{Lowest Price x50}}{\text{Quoted Price}}$$

9. **Pursuant to Paragraph 2.24.3** – A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement

10. **Pursuant to Paragraph 2.28: - Tender Results Notification:**
The Successful and Unsuccessful tenderers **shall** be notified of the tender results immediately after tender award.

11. **Successful Tenderer.** The points earned in the evaluations shall be added up and the tenderer scoring the highest marks and having complied with all stipulated tender conditions will be deemed the successful tenderer.
Tenderers should note that the procuring entity may prior to award **confirm qualification, capacity, experience of the deemed successful tenderers to determine whether the firm is qualified to be awarded the contract** in accordance with Section 83 of the Public Procurement and Asset Disposal Act, 2015

12. **Specialization / Line of Business:** Tenderers **shall** be expected to participate in tenders within their specific line of specialization/ business.

13. **Past/Previous Performance:** In the case of Candidates who have had occasion to transact business with KOFC, their **performance** during the respective **contract period** shall be brought into **focus.**

14. **References:** Candidates will be required to provide a **list** of **References** (If any), in the form of **Institutions,** who can vouch for their **performance.** (In the attached annexed. A)

15. **Signing Contract Agreements: Successful candidates** (tenderers) **should** take note, from the onset that **Contract Agreements must** be signed with the Corporation's Accounting Officer before any **Orders** and **deliveries** are made. Ensure you get and retain your copy of the signed Contract Agreement.
16. **Rejection of all Tenders:** The procuring entity reserves the right to reject all tenders at any time prior to acceptance and is not bound to give reasons.

SECTION III - GENERAL CONDITIONS OF CONTRACT

3.1 Definitions

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

(a) "The Contract" means the agreement entered into between the Procuring entity and the tenderer, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.

(b) "The Contract Price" means the price payable to the tenderer under the Contract for the full and proper performance of its contractual obligations

(c) "The Goods" means all of the equipment, machinery, and/or other materials, which the tenderer is required to supply to the Procuring entity under the Contract.

(d) "The Procuring entity" means the organization purchasing the Goods under this Contract.

(e) "The Tenderer' means the individual or firm supplying the Goods under this Contract.

3.2 Application

3.2.1 These General Conditions shall apply in all Contracts made by the Procuring entity for the procurement.

3.3 Country of Origin

3.3.1 For purposes of this clause, "Origin" means the place where the Goods were mined, grown or produced.

3.3.2 The origin of Goods and Services is distinct from the nationality of the tenderer

3.4 Standards

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

3.5 Use of Contract Documents and Information

3.5.1 The tenderer shall not, without the Procuring entity's prior written consent, disclose the Contract, or any provision therefore, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Procuring entity in connection therewith, to any person other than a person employed by the tenderer in the performance of the Contract.

3.5.2 The tenderer shall not, without the Procuring entity's prior written consent, make use of any document or information enumerated in paragraph 3.5.1 above

3.5.3 Any document, other than the Contract itself, enumerated in paragraph 3.5.1 shall remain the property of the Procuring entity and shall be returned (all copies) to the Procuring entity on completion of the Tenderer's performance under the Contract if so required by the Procuring entity

3.6 Patent Rights

3.6.1 The tenderer shall indemnify the Procuring entity against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods or any part thereof in the Procuring entity's country

3.7 Performance Security

3.7.1 Within fourteen (14) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the Procuring entity the performance security in the amount specified in Special Conditions of Contract.

3.7.2 The proceeds of the performance security shall be payable to the Procuring entity as compensation for any loss resulting from the Tenderer's failure to complete its obligations under the Contract.

3.7.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to the Procuring entity 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 the Procuring entity, in the form provided in the tender documents.

3.7.4 The performance security will be discharged by the Procuring entity 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

3.8 Inspection and Tests

3.8.1 The Procuring entity or its representative shall have the right to **inspect and/or to test the goods to confirm their conformity to the Contract specifications**. The Procuring entity shall notify the tenderer in writing in a timely manner, of the identity of any representatives retained for these purposes.

3.8.2 The inspections and tests may be conducted in the premises of the tenderer or its subcontractor(s), at point of delivery, and/or at the Goods' final destination If conducted on the premises of the tenderer or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring entity.

3.8.3 Should any inspected or tested goods fail to conform to the Specifications, the Procuring entity may reject the goods, and the tenderer shall either replace the rejected goods or make alternations necessary to make specification requirements free of costs to the Procuring entity.

3.8.4 The Procuring entity's right to inspect, test and where necessary, reject the goods after the Goods' arrival shall in no way be limited or waived by reason of the goods having previously been inspected, tested and passed by the Procuring entity or its representative prior to the goods delivery.

3.8.5 Nothing in paragraph 3.8 shall in any way release the tenderer from any warranty or other obligations under this Contract.

3.9 Packing

3.9.1 The tenderer shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract.

3.9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract.

3.10 Delivery and Documents

3.10.1 Delivery of the Goods shall be made by the tenderer in accordance with the terms specified by Procuring entity in its Schedule of Requirements and the Special Conditions of Contract.

3.11 Insurance

3.11.1 The Goods supplied under the Contract shall be fully insured against loss or damage incidental to manufacturer or acquisition, transportation, storage, and delivery in the manner specified in the Special conditions of contract.

3.12 Payment

3.12.1 The method and conditions of payment to be made to the tenderer under this Contract shall be specified in Special Conditions of Contract/Contract Agreement Document.

3.12.2 Payments shall be made promptly by the Procuring entity as specified in the contract

3.13 Prices

3.13.1 Prices charged by the tenderer for goods delivered and services performed under the Contract shall not, with the exception of any price adjustments authorized in Special Conditions of Contract, vary from the prices by the tenderer in its tender.

3.13.2 Contract price variations shall not be allowed for contracts not exceeding one year (**12 months**).

3.13.3 Where contract price variation is allowed, the variation shall not exceed 15% of the original contract price.

3.13.4 Price variation request shall be processed by the procuring entity within 30 days of receiving the request.

3.14. Assignment

3.14.1 The tenderer shall not assign, in whole or in part, its obligations to perform under this Contract, except with the Procuring entity's prior written consent

3.15 Subcontracts

3.15.1 The tenderer shall notify the Procuring entity in writing of all subcontracts awarded under this Contract if not already specified in the tender. Such notification, in the original tender or later, shall not relieve the tenderer from any liability or obligation under the Contract

3.16 Termination for default

3.16.1 The Procuring entity may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the tenderer, terminate this Contract in whole or in part

(a) If the tenderer fails to deliver any or all of the goods within the periods specified in the Contract, or within any extension thereof granted by the Procuring entity

(b) If the tenderer fails to perform any other obligation(s) under the Contract

(c) If the tenderer, in the judgment of the Procuring entity has engaged in corrupt or fraudulent practices in competing for or in executing the Contract

3.16.2 In the event the Procuring entity terminating the Contract in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, goods similar to those undelivered, and the tenderer shall be liable to the Procuring entity for any excess costs for such similar goods.

3.17 Liquidated Damages

3.17.1. If the tenderer fails to deliver any or all of the goods within the period(s) specified in the contract, the procuring entity shall, without prejudice to its other remedies under the contract, deduct from the contract prices liquidated damages sum equivalent to 0.5% of the delivered price of the delayed items up to a maximum deduction of

10% of the delayed goods. After this the tenderer may consider termination of the contract.

3.18 Resolution of Disputes

3.18.1 The procuring entity and the tenderer shall make every effort to resolve amicably by direct informal negotiation and disagreement or dispute arising between them under or in connection with the contract

3.18.2 If, after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute, either party may require adjudication in an agreed national or international forum, and/or international arbitration.

3.19 Language and Law

3.19.1 The language of the contract and the law governing the contract shall be English language and the Laws of Kenya respectively unless otherwise stated.

3.20 Force Majeure

3.20.1 The tenderer shall not be liable for forfeiture of its performance security or termination for default if and to the extent that it's delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

SECTION IV - SPECIAL CONDITIONS OF CONTRACT

4.1. Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, between the GCC and the SCC, the provisions of the SCC herein shall prevail over these in the GCC.
4.2. Special conditions of contract as relates to the GCC

1. **Pursuant to paragraph 3.7 – Performance Security.** Within fourteen (14) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the Procuring entity the performance security in amount specified in letter of notification.

2. **Pursuant to paragraph 3.10, 3.13** – Tenderers should note that this is a Term (one year) Contract and therefore prices quoted **MUST** be maintained throughout the contract period (one year).

3. **Pursuant to paragraph 3.16 – Termination for default.** Tenderers should note that failure to deliver with specified period shall institute one warning letter failure to improve services shall thereafter lead to termination of the contract.

4. **Pursuant to paragraph3.10-** Tenders should note that goods shall be delivered and off loaded to the premises (delivery points) of the entity by the tenderer.

5. **Pursuant to Paragraph 3.12.2-** Tenders should note that payments shall be made within **60 days** from the date of full delivery of goods and upon submission of all payment documents.

SPECIFICATIONS

4.3 Specifications for Heavy Fuel Oils (HFO) are as tabulated here below:

Test	Unit	Limits	Test Method
			ASTM
Density at 20° C	Kg/m^3	**0.96 - 0.98**	D 1298
Flash Point PMCC	°C	60 min	D 93
Sulphur Content	% W/W	3.5 max	D 1552
Pour Point	°C	27 max	D 97
Net Calorific Value	Kj/Kg	**41,000 min**	D 48568
Water Content	% V	0.50 max	D 95
Carbon Residue (Contradson)	% W/W	10 max	D 189
Asphaltenes	% W/W	$^2/_3$ of Carbon max	IP143/01
Sediment	% W/W	0.15 max	D 473
Aluminum + Silica Content	ppm	**10** max	IP 377
Vanadium	ppm	200 max	IP 288
Viscosity at 50° C	Cst	**180**	D 445
Sodium	ppm	50 but less than	IP 288
Ash Content	% W/W	0.02 max	D 482
Calcium	Mg/Kg	30 max	IP 470
Phosphorous	Mg/Kg	15 max	IP 500
Zinc	Mg/Kg	15 max	IP 470

SECTION V - PRICE SCHEDULE

1. Tenderer are invited for the **Supply and Delivery of HFO, Petrol, Diesel, Oils and Lubricants to Nairobi, Gilgil and Eldoret** on as when required basis as follows

S/N		Region/Item Description	Collected Price Per Ltr/ Kgs (Kshs)	Delivered Price per Ltr/ Kgs (Kshs)
A.		**NAIROBI**		
	1	Petrol Premium		
	2	Automotive Diesel		
	3	Festo Oil OF5W-32		
	4	Transmission Oil ATF DEX-11 RAM-G		
	5	Grease Delo Starplex EP3 NLG		
B.		**GILGIL**		
	1	Petrol Premium		
	2	Automotive Diesel		
	3	Heavy Fuel Oil (HFO)		
C.		**ELDORET**		
	1	Petrol Premium		
	2	Automotive Diesel		
	3	Kerosene		
	4	Multigame Diesel Engine Oil SAE 15W40		
	5	Diesel Engine oil SAE 20W40		
	6	Automatic transmission fluid		
	7	Hydraulic Oil SAE 10 CF		
	8	Hydraulic Oil ISO VG 15		
	9	Hydraulic Oil ISO VG 32		
	10	Hydraulic Oil ISO VG 46		
	11	Hydraulic Oil ISO VG 68		
	12	Hydraulic Oil ISO VG 100		
	13	Brake fluid Dot 4		
	14	Multipurpose Grease NLG 1 2		
	15	ATF Dextron III		
	16	Hybrid Radiator Coolant Premixed with Distilled Water (Engine Coolant)		
	17	Gear Oil VG 150		
	18	Circulation Oil VG 150		
	19	Rotto Inject Oil Part No. 290105220 AB80		
	20	Gasoline Engine Oil SAE 40		
	21	Gear oil ISO VG 220		
	22	Synthetic Technology-engine oil suitable for both petrol and diesel vehicles API SN/CF		
	23	M-KARATE (for Refrigeration Compressor)		

Declaration:

"I/We certify that I/we have not made and will not make any payments to any Person which can be perceived as inducements to enable me/us win this tender"

Tenderers Name .....Date. .....
(Authorized Officer)

Company Stamp/Seal .....Signature.....

SECTION VI

STANDARD FORMS

1. **FORM OF TENDER** **Date October 2020**

Tender No. KOFC/OT/MT/001/2020/2021

TO: **MANAGING DIRECTOR**
KENYA ORDNANCE FACTORIES CORPORATION
P O BOX 6634 - 30100
ELDORET

Gentlemen and/or Ladies:

1. Having examined the tender documents No. **KOFC/OT/MT/001/2020/2021** the receipt of which is hereby duly acknowledged, we, the undersigned, offer to **Supply and Delivery of HFO, Petrol, Diesel, Oils and Lubricants** 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 the goods for **one year** in accordance with the delivery schedule specified in the Local Purchase Order.
3. If our Tender is accepted, we will obtain the Performance 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 **KOFC**.
4. We agree to abide by this Tender for a period of **90 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 **NOT** constitute a Contract, between us
6. We understand that you are not bound to accept the lowest or any tender you may receive.
7. KOFC shall make payments after a Local Purchase Order has been issued to the supplier and deliveries made and accepted.

Dated this _____ day of _____ 20 _____

_____ _____
[signature] [in the capacity of]
Duly authorized to sign tender for an on behalf of _____

CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

You are requested to give the particulars indicated in Part 1 and either Part 2(a), 2(b) or 2 (c) whichever applied to your type of business
You are advised that it is a serious offence to give false information on this form

Part 1 – General:

Business Name .....
Location of business premises. .....
Plot No..... Street/Road .....
Postal Address ..... Tel No. ..... Fax ..... E mail .....
Nature of Business ,.....
Registration Certificate No. .....
Maximum value of business which you can handle at any one time – Kshs. .....
Name of your bankers ..... Branch .....

Part 2 (a) – Sole Proprietor
Your name in full ..... Age .....
Nationality ..... Country of origin .....

- Citizenship details

.....

Part 2 (b) Partnership
Given details of partners as follows:

Name	Nationality	Citizenship Details	Shares
1.			
2.			
3.			
4.			

Part 2 (c) – Registered Company
Private or Public .....
State the nominal and issued capital of company-
Nominal Kshs. .....
Issued Kshs. .....
Given details of all directors as follows

Name	Nationality	Citizenship Details	Shares
1.....			
2.			
3.			
4.			
5			

Date ..... Signature of Candidate .....

If a Kenya Citizen, indicate under "Citizenship Details" whether by Birth, Naturalization or registration.

REFERENCE LIST

Tenderers to list here below names of references in form of Institution (Public or private)

S/N	Name and Location of Institution	Tel Contact	Contract Person
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			