



STANDARD TENDER DOCUMENT
TENDER NO. KOTDA/RFP/069/2021-2022
FOR
FRAMEWORK CONTRACT FOR SUPPLY AND DELIVERY OF FRESH MILK



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SECTION I – INVITATION TO TENDER

Konza Technopolis Development Authority (KoTDA) now invites proposals from interested bidders for the following tender

No	Reference	Description	Category	Closing Date
1.	KoTDA/RFP/069/2021-2022	Supply and Delivery of Fresh Milk	AGPO (PWD)	Thursday 5th May 2022 at 2:00pm

Tender document with detailed information may be viewed and downloaded from www.konza.go.ke website free of charge from **Tuesday 12th April 2022 to Thursday 5th May 2022**. Bidders who download the tender document from the website will be required to email their detailed contact information to procurement@konza.go.ke for recording, further clarifications, addenda and security clearance to facilitate site access.

All questions/clarifications regarding the project or offer of submission including requests for site visit, should be sent by email to procurement@konza.go.ke and copied to ceo@konza.go.ke by Tuesday 26th April 2022 at 1700hrs local Kenyan time. No other email addresses shall be used and KoTDA shall not be liable if bidders choose to send their information and/or enquiries to other email addresses

Tenderers shall submit **One Original** and **One Soft Copy** in a Flash disk or CD of all tender documents in plain sealed envelopes, with the Tender Number Clearly marked on the right-hand side corner and bearing no indication of the tenderer's name and addressed to:

The Chief Executive Officer
Konza Technopolis Development Authority
P.O. Box 1 - 90150,
KONZA TECHNOPOLIS, KENYA.
E-Mail; procurement@konza.go.ke and ceo@konza.go.ke
Tel; +254-20-4343013/4

and placed in the KoTDA Tender Box on the **7th Floor** of **Konza Complex, Konza Technopolis, located along Nairobi - Mombasa road near Malili Township** to reach the above address not later than Thursday 5th May 2022 at **1400hrs** local time.

Submitted bids will be opened publicly at the same venue shortly thereafter in the presence of the tenderers or their representatives who choose to attend.

Any form of canvassing will lead to automatic disqualification.

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SECTION II - INSTRUCTIONS TO TENDERERS

2.1 Eligible Tenderers

2.1.1 This Invitation for Tenders is open to all 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 VI.

2.1.2 KoTDA's employees, committee members, board members and their relative(s) (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 KoTDA 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.

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

2.1.2 Tenderers shall be fully compliant with the existing Environmental Regulations.

2.1.4 Tenderers shall not be involved in any litigation issues with the Government of Kenya

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 KoTDA, 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 firm found capable of performing the contract satisfactorily in accordance with the set criteria shall be awarded the tender.

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

- (i) Invitation to Tender
- (ii) Instructions to tenderers
- (iii) General Conditions of Contract
- (iv) Special Conditions of Contract
- (v) Schedule of requirements
- (vi) Technical Specifications
- (vii) Tender Form and Price Schedules
- (viii) Confidential Business Questionnaire

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 KoTDA in writing an email or by post at the entity's address indicated in the Invitation to Tender. KoTDA 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 KoTDA. Written copies of the KoTDA's response will be reverted as per the inquiry. If the clarification sought affects the substance of the tender, such clarification will be made to all prospective tenderers via an addendum.

2.5.2 KoTDA 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, KoTDA, 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 and by addendum and will be binding on them.

2.6.3 In order to allow prospective tenderers reasonable time in which to take the amendment into account in preparing their tenders, KoTDA, 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 KoTDA, 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 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 that the goods and ancillary services to be supplied by the tenderer are eligible goods and services and conform to the tender documents; and

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, insurances and delivery to the premises of the entity.

2.10.3 Prices quoted by the tenderer 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 KoTDA'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 tenderer's qualifications to perform the contract if its tender is accepted shall be established to KoTDA'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 or **official appointed distributor** 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.

2.14 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 1 per cent (1%) of the tender price. WHERE APPLICABLE.
- 2.14.3 The tender security is required to protect KoTDA 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 KoTDA 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 KoTDA 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 KoTDA.
- 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 KoTDA 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 KoTDA, pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by KoTDA as non-responsive.
- 2.15.2 In exceptional circumstances, KoTDA 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 tenderer shall prepare two copies of the tender, clearly marking each "**ORIGINAL TENDER**" and "**SOFT 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 unamended printed literature, shall be initialled 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 initialled 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 "**SOFT COPY.**" The envelopes shall then be sealed in an outer envelope.
- 2.17.2 The inner and outer envelopes shall:
- 2.17.3 be addressed to KoTDA at the address given in the Invitation to Tender:

2.17.4 Bear, tender number and name in the Invitation for Tenders and the words,

“DO NOT OPEN BEFORE,” 5th May, 2022 at 1400Hrs.

2.17.5 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”**.

2.17.6 If the outer envelope is not sealed and marked as required by paragraph 2.17.2, KoTDA 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 KoTDA at the address specified under paragraph 2.17.2 no later than **5th May, 2022 at 1400Hrs.**

2.18.2 KoTDA 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 KoTDA 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 KoTDA 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 KoTDA may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.

2.19.6 KoTDA 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 KoTDA will open all tenders in the presence of tenderers' representatives who choose to attend, on **5th May, 2022** at **1400hrs**, 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 KoTDA, at its discretion, may consider appropriate, will be announced at the opening.

2.20.3 KoTDA 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 KoTDA 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 KoTDA in KoTDA'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 KoTDA 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 quantify, 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 KoTDA 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 affect the relative ranking of any tenderer.
- 2.22.4 Prior to the detailed evaluation, pursuant to paragraph 2.23 KoTDA 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. KoTDA'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 KoTDA 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, KoTDA 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 KoTDA 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 Contacting KoTDA

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

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

2.26 Award of Contract

(a) Post-qualification

2.26.1 In the absence of pre-qualification, KoTDA 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.

2.26.2 The determination will consider the tenderer **financial, technical, and production capabilities**. It will be based upon an examination of the documentary evidence of the tenderer's qualifications submitted by the tenderer, pursuant to paragraph 2.12.3 as well as such other information as KoTDA deems necessary and appropriate.

2.26.3 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 KoTDA will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

Award Criteria

2.26.4 KoTDA 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.

Procuring entity's Right to Vary quantities

2.26.5 KoTDA 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

Procuring entity's Right to Accept or Reject any or All Tenders

2.26.6 KoTDA 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.

2.27 Notification of Award

2.27.1 Prior to the expiration of the period of tender validity, KoTDA will notify the successful tenderer in writing that its tender has been accepted.

2.27.2 The notification of award will constitute the formation of the Contract but will have to wait until the contract is finally signed by both parties

2.27.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 2.28, KoTDA will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 2.14

2.28 Signing of Contract

- 2.28.1 At the same time as KoTDA notifies the successful tenderer that its tender has been accepted, KoTDA will send the tenderer the Contract Form provided in the tender documents, incorporating all agreements between the parties.
- 2.28.2 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.
- 2.28.3 Within thirty (30) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to KoTDA.

2.29 Performance Security

- 2.29.1 Within Thirty (30) days of the receipt of notification of award from KoTDA, 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 KoTDA.
- 2.29.2 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 KoTDA may make the award to the next lowest evaluated Candidate or call for new tenders.

2.30 Corrupt or Fraudulent Practices

- 2.30.1 KoTDA 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 any thing 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 to the detriment of KoTDA, and includes collusive practice

- (iii) among tenderer (prior to or after tender submission) designed to establish tender prices at artificial non-competitive levels and to deprive KoTDA of the benefits of free and open competition;

2.30.2 KoTDA 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.

2.30.3 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

This is information regarding the particulars of the tender to 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

INSTRUCTIONS TO TENDERERS REFERENCE	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
2.1.1	Particulars of eligible tenderers: <i>All meeting the statutory requirements</i>
2.14.1	Tender Security: <i>None</i>
2.18.1	Day, Date and time of Closing: <i>Thursday 5th May 2022 at 1400 Hrs.</i>
2.29.1	<i>As in 2.18.1 above</i>
2.29.1	Performance Security: <i>None</i>
2.22	Evaluation and Comparison of Tenders The following evaluation criteria shall be applied notwithstanding any other requirement in the tender document a) Mandatory Requirements The following requirements MUST be met by the tenderer

NO	Requirements	YES/NO
1	Copy of certificate of Registration/Incorporation	
2	Copy of VALID Tax Compliance Certificate	
3	Copy of PIN/VAT Certificate	
4	Valid AGPO Certificate (PWD)	
5	Valid Business Permit	
6	Properly bound, paginated and serialized tender document	

At this stage the tenderer's submission will either be responsive or non-responsive. The non-responsive submissions will be eliminated from the entire evaluation process and will not be considered further.

b) Technical Evaluation

Only bidders who score 80% of the total technical score will be considered for the framework agreement. Those who score below 80% will be eliminated at this stage from the entire evaluation process and will not be considered further.

NO	Requirement	% Maximum	% Awarded
1	Number of years in the business	10	
2	Form of Tender	5	
3	Letters of recommendations from 3 major clients	9	
4	Written confirmation that the bidder has not been debarred as a supplier, service provider or consultant for good and services in Kenya	5	
5	Litigation History Disclosure	5	
6	Tenderer's Eligibility- Declaration on non-association (as per Sec.2.1.3)	5	
7	Company profile including management team and board of directors	6	
8	Completed Confidential Business Questionnaire	6	
9	Valid Single Business Permit	5	
10	Financial Position	6	
11	Value of Business Firm can handle:- Less than Kshs.200,000 -2 Kshs.200,000 to Kshs.500,000- 3 Kshs.500,000 and above- 5	10	
12	Credit Facility: - 30 days- 2 60 days-6	8	
13	Evidence of physical Address	5	
14	Valid AGPO Certificate	5	

15	List of Directors	5	
16	Nature of Business	5	
	TOTAL	100%	
PASS MARK		80%	

N/B

The Authority will enter into a framework contract with bidders who shall have been determined to be technically responsive in accordance with the evaluation criteria

SECTION III: GENERAL CONDITIONS OF CONTRACT

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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 Price” means the price payable to the tenderer under the Contract for the full and proper performance of its contractual obligations
- (b) “The Goods” means all of the equipment, machinery, and/or other materials, which the tenderer is required to supply to KoTDA under the Contract.
- (c) “KoTDA” means the organization purchasing the Goods under Konza Technopolis Development Authority.
- (d) “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 KoTDA for the procurement, installation and commissioning of equipment

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 KoTDA’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 KoTDA 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 KoTDA’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 KoTDA and shall be returned (all copies) to KoTDA on completion of the Tenderer’s performance under the Contract if so required by KoTDA

3.6 Patent Rights

3.6.1 The tenderer shall indemnify KoTDA 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 KoTDA’s country

3.7 Performance Security

- 3.7.1 Within thirty (30) days of receipt of the notification of Contract award, the successful tenderer shall furnish to KoTDA 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 KoTDA 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 KoTDA 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 KoTDA, in the form provided in the tender documents.
- 3.7.4 The performance security will be discharged by KoTDA 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 KoTDA or its representative shall have the right to inspect and/or to test the goods to confirm their conformity to the Contract specifications. KoTDA 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 KoTDA.
- 3.8.3 Should any inspected or tested goods fail to conform to the Specifications, KoTDA may reject the equipment, and the tenderer shall either replace the rejected equipment or make alterations necessary to make specification requirements free of costs to KoTDA.

3.8.4 KoTDA'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 equipment having previously been inspected, tested and passed by KoTDA or its representative prior to the equipment 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 KoTDA 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

3.12.2 Payments shall be made promptly by KoTDA 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 10% of the original contract price.

3.13.4 Price variation request shall be processed by KoTDA 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 KoTDA's prior written consent

3.15 Subcontracts

3.15.1 The tenderer shall notify KoTDA 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 KoTDA 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 period(s) specified in the Contract, or within any extension thereof granted by KoTDA

- (b) if the tenderer fails to perform any other obligation(s) under the Contract
- (c) if the tenderer, in the judgment of KoTDA has engaged in corrupt or fraudulent practices in competing for or in executing the Contract

3.16.2 In the event KoTDA terminates the Contract in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, equipment similar to those undelivered, and the tenderer shall be liable to KoTDA 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, KoTDA 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 KoTDA 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 delays 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

REFERENCE OF GCC	SPECIAL CONDITIONS OF CONTRACT
3.7.1	<i>Performance Security: Not Applicable</i>
3.12.1	<i>As per contract agreement</i>

SECTION V**- SCHEDULE OF REQUIREMENT**

Item	Description	Approximate Monthly Usage	Unit price (Inclusive of VAT)	Remarks
1	Fresh Milk 500ml packet of Good quality	240 packets (12 *20 day)		

NB:

The Authority intends to engage competent suppliers, dealers of various goods and services as per the respective tenders. The contract will be for an initial period of three years. During this period, the successful Tenderer will supply and deliver fresh milk to KoTDA offices as per the location indicated in the invitation to tender.

SECTION VI - STANDARD FORMS

8.1 FORM OF TENDER

Date.....

Tender No.

To: Chief Executive Officer
Konza Technopolis Development Authority
P. O. Box 1-90150
KONZA TECHNOPOLIS

Gentlemen and/or Ladies:

1. Having examined the tender documents including Addenda Nos.... *[insert numbers]* the of which is hereby duly acknowledged, we, the undersigned, offer to provide, ***Supply of fresh milk on Framework Contract for A Period of Two Years*** in conformity with the said tender documents for the sum of *[As per the price Schedule]* 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 provide the services in accordance with the services schedule specified in the Schedule of Requirements.
3. If our Tender is accepted, we will obtain the tender guarantee in a sum equivalent (N/A) for the due performance of the Contract, in the form prescribed by KOTDA.
4. We agree to abide by this Tender for a period of *[number]* 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. Until a formal Contract is prepared and executed, this Tender, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.

Dated thisday of2021

[Signature]

[In the capacity of]

Duly authorized to sign tender for and on behalf of.....

8.2 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. 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 detail

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

(Attach certificate of incorporation)

Date Seal/Signature of Candidate
.....

8.3 MANUFACTURER’S/DISTRIBUTOR’S AUTHORIZATION FORM

To [name of KoTDA]

WHEREAS[name of the manufacturer] who are established and reputable manufacturers of
[name and/or description of the goods] having factories at
[address of factory] do hereby authorize [name and address of Agent] to submit a tender, and subsequently negotiate and sign the Contract with you against tender No. [reference of the Tender] for the above goods manufactured by us.

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

[signature for and on behalf of manufacturer]

Note: This letter of authority should be on the letterhead of the Manufacturer/Dealer and should be signed by a person competent.

8.4 LETTER OF NOTIFICATION OF AWARD

Address of Procuring Entity

To: _____

RE: Tender No. _____

Tender Name _____

This is to notify that the contract/s stated below under the above-mentioned tender have been awarded to you.

1. Please acknowledge receipt of this letter of notification signifying your acceptance.
2. The contract/contracts shall be signed by the parties within 30 days of the date of this letter but not earlier than 14 days from the date of the letter.
3. You may contact the officer(s) whose particulars appear below on the subject matter of this letter of notification of award.

(FULL PARTICULARS) _____

SIGNED FOR CHIEF EXECUTIVE OFFICER

TENDER SECURING DECLARATION FORM

(The Bidder shall complete this Form in accordance with the instructions indicated)

Date :(insert date as day, month and year) of Bid Submission)

Tender No..... (insert number of bidding process)

To: **KONZA TECHNOLIS DEVELOPMENT AUTHORITY**

We, the undersigned, declare that: -

- 1 We understand that, according to your conditions, bids must be supported by a Bid-Securing Declaration.
- 2 We accept that we will automatically be suspended from being eligible for bidding in any contract with the Purchaser for the period of time of (insert number of months or years) starting on (insert date), if we are in breach of our obligation(s) under the bid conditions, because we: -
 - a) have with our Bid during the period of bid validity specified by us in the Bidding Data Sheet; or
 - b) having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity,
 - i) fail or refuse to execute the Contract, if required, or
 - ii) fail or refuse to furnish the Performance Security, in accordance with the ITT
- 3 We understand that this Bid Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of
 - i) our receipt of a copy of your notification of the name of successful Bidder, or
 - ii) twenty-eight days after the expiration of our Tender
- 4 We understand that if we are a Joint Venture, the Bid Securing Declaration must be in the name of the Joint Venture that submits the bid and the Joint Venture has not been legally constituted at the time of bidding, the Bid Securing shall be in the names of all future partners as named in the letter of intent.

Signed: (insert signature of person whose name and capacity are shown) in the capacity of (insert legal capacity of person signing the Bid Securing Declaration)

Name: (insert complete name of person signing the Bid Securing Declaration)

Duly authorized to sign the bid for and on behalf of: (insert complete name of Bidder)