

**MINISTRY OF AGRICULTURE, LIVESTOCK, FISHERIES & IRRIGATION
STATE DEPARTMENT FOR CROP DEVELOPMENT**

**KENYA CEREAL ENHANCEMENT PROGRAMME – CLIMATE RESILIENT
AGRICULTURAL LIVELIHOODS WINDOW**

(KCEP-CRAL)

**P.O. BOX 30028 - 00100, KILIMO HOUSE,
CATHEDRAL ROAD, NAIROBI**

**TENDER FOR REFURBISHMENT AND COMPLETION WORKS FOR NAIMA
STORAGE FACILITY
MOALF/SDCD/KCEP-CRAL/PROC/019/2018-2019**

**CLOSING DATE: 12th February 2019
AT: 10.00 AM**

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SECTION I: INVITATION FOR TENDERS

TENDER REFERENCE NO: MOALF/SDCD/KCEP-CRAL/PROC/019/2018-2019

TENDER NAME: TENDER FOR REFURBISHMENT AND COMPLETION WORKS OF NAIMA STORAGE FACILITY

Mandatory Site Visit: To be conducted on **29th January 2019 at 2.00pm at Tongaren Sub County Agricultural offices at Mukuyuni trading centre**. The refurbishment works for Naima storage facility is located in Tongaren sub County of Bungoma County at Naitir ward, approximately 5 km from Tongaren sub County headquarters.

A representative of the Programme shall be available to meet the intending tenderers at the Site. Tenderers must provide their own transport. The representative will not be available at any other time for site inspection visits. Each tenderer shall complete the Certificate of Tenderer's Visit to the Site at the time of the organized site visit. On- attendance of the Mandatory site and Pre-tender meeting visit will lead to automatic disqualification of a Tenderer.

- 1.1 The Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) invites sealed tenders from eligible and competent candidates for the **refurbishment works for Naima Storage Facility**
- 1.2 The works to be carried out comprises of general finishes to the warehouse. The store was constructed by Naima CBO through the assistance of WFP through its P4P Programme. The existing structure measures 30x10m with brick walling.
- 1.3 Special precautions shall be required throughout the contract period to avoid damage to the existing the structures and other services within the site. The Contractor shall allow for making good any damage arising from his actions during execution of this contract at his own expense.
- 1.4 Interested bidders may obtain further information from and inspect the tender document in English from KCEP-CRAL procurement office situated at KALRO KABETE grounds, along Waiyaki Way in Westlands, before the tender closing date within working hours from 8.30 am to 4.30 pm on Mondays to Fridays, except on public holidays.
- 1.5 The document may also be downloaded FREE OF CHARGE from the Ministry's website: www.kilimo.go.ke under "tender" links or from the Programme Website www.kcepccral.go.ke or obtain a hard copy of the tender document from KCEP-CRAL procurement office at KALRO-NARL, upon payment to KCEP-CRAL, a non-refundable fee of KES. 1,000 (through a banker's cheque only) or direct deposit to Equity Bank: (code: 68); Account NO: 1510263657085; Mayfair branch (code 151); SWIFT CODE: EQBLKENA.
- 1.6 Eligible bidders must forward their particulars immediately for records and any further tender clarifications and addenda. Downloaded copies are FREE. Email particulars to tenders.kcepccralprogramme@gmail.com.
- 1.6.1 All bidders are also advised to regularly visit the above Programme website, to obtain any additional information/addendum on the tender that may be issued

before the closing date. The website will also be used to publish and publicize the notifications to both the successful and unsuccessful bidders.

- 1.7 Prices quoted should be net inclusive of all taxes, must be in Kenya shillings and shall remain valid for (120) days from the closing date of tender.
- 1.8 Tenders must be accompanied by security in the format specified in the attached form of tender Security, in a bank's letterhead, and amount indicated. The tender must be delivered in plain sealed envelope clearly marked **'TENDER FOR REFURBISHMENT AND COMPLETION OF NAIMA STORAGE FACILITY'**
- 1.9 The **original** and **two** copies of the tender must be delivered to and dropped in the tender box situated at the reception of MOALF Ground floor Kilimo house, Cathedral Road. so as to reach the below address:
- The Principal Secretary,
State Department of Agriculture,
P.O. Box 30028-00100,
Kilimo House, cathedral road, Nairobi
Tel: 0770174188
On or before: 12th February 2019 at 10.00am**
- 1.10 Tenders will be opened at **12th February 2019 at 10.30am** in the presence of the candidates' Representatives who choose to attend at boardroom on 7th floor, Kilimo House.

PROGRAMME COORDINATOR

SECTION II: INSTRUCTIONS TO TENDERERS

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INSTRUCTIONS TO TENDERERS.

1. General

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

2. Tender Documents

- 2.1 The complete set of tender documents comprises the documents listed here below and any addenda issued in accordance with clause 2.4 here below: -
 - (a) Invitation for Tenders
 - (b) Instructions to Tenderers
 - (c) Form of Tender
 - (d) Conditions of Contract and Appendix to Conditions of Contract

- (e) Specifications
 - (f) Drawings
 - (g) Bills of Quantities/Schedule of Rates (whichever is applicable)
 - (h) Other materials required to be filled and submitted in accordance with these Instructions and Conditions
 - (i) Tender Security
 - (j) Tender Questionnaire
 - (k) Mandatory Business Questionnaire
- 2.2 The Tenderer shall examine all instructions, forms and specifications in the tender documents. Failure to furnish all information required by the tender documents may result in rejection of his tender.
- 2.3 A prospective Tenderer making inquiries of the tendering documents may notify Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) in writing or by cable, telex or facsimile at the address indicated in the letter of invitation to tender. Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) will respond to any request for clarification received earlier than seven [7] days prior to the deadline for submission of tenders. Copies of the Employer's response will be forwarded to all persons issued with tendering documents, including a description of the inquiry, but without identifying its source.
- 2.4 Before the deadline for submission of tenders, Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) may modify the tendering documents by issuing addenda. Any addendum thus issued shall be part of the tendering documents and shall be communicated in writing or by cable, telex or facsimile to all Tenderers. Prospective Tenderers shall acknowledge receipt of each addendum in writing to the Employer.
- 2.5 To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their tenders, KCEP-CRAL shall extend, as necessary, the deadline for submission of tenders in accordance with clause 4.2 here below.

3. Preparation of Tenders

- 3.1 All documents relating to the tender and any correspondence shall be in English Language.
- 3.2 The tender submitted by the Tenderer shall comprise the following: -
- (a) The Tender;
 - (b) Tender Security;
 - (c) Priced Bill of Quantities/Schedule of Rates for lump-sum Contracts
 - (d) Any other materials required to be completed and submitted by Tenderers.
- 3.3 The Tenderer shall fill in rates and prices for all items of the Works described in the Bill of Quantities/Schedule of Rates. Items for which no rate or price is entered by the Tenderer will not be paid for when executed and shall be deemed covered by the other rates and prices in the Bill of Quantities/Schedule of Rates. All duties, taxes and other levies payable by the Contractor under the Contract, as of 30 days prior to the deadline for submission of tenders, shall be included in the tender price submitted by the Tenderer.

- 3.4 The rates and prices quoted by the Tenderer shall not be subject to any adjustment during the performance of the Contract.
- 3.5 The unit rates and prices shall be in Kenya Shillings.**
- 3.6 Tenders shall remain **valid for a period of one hundred and twenty (120) days** from the date of submission. However, in exceptional circumstances, KCEP-CRAL may request that the Tenderers extend the period of validity for a specified additional period. The request and the Tenderers' responses shall be made in writing.
- 3.7 The Tenderer shall prepare **one original and two copies** of the documents comprising the tender documents as described in these Instructions to Tenderers.
- 3.8 The original shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Tenderer. All pages of the tender where alterations or additions have been made shall be initialed by the person or persons signing the tender.
- 3.9 Clarification of tenders shall be requested by the tenderer to be received by the procuring entity not later than 7 days prior to the deadline for submission of tenders.**
- 3.10 The procuring entity shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.
- 3.11 The tenderer shall furnish, as part of its tender, **a tender security for the amount of Ksh 100,000 with a Validity period of 150days** and form specified in the Appendix to Instructions to Tenderers
- 3.11.1 The tender security is required to protect KCEP-CRAL against the risk of Tenderer's conduct which would warrant the security's forfeiture.
- 3.11.2 The tender security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be in one of the following forms;
- a) Cash.
 - b) A bank Guarantee.
 - c) Such insurance guarantee approved by the Authority.
 - d) Letter of credit.
- 3.11.3 Any tender not secured in accordance with paragraph 3.11 and 13.11.2 shall be rejected as non-responsive.
- 3.11.4 Unsuccessful Tenderer's tender security will be discharged or returned as promptly as possible but not later than thirty (30) days after the expiration of the period of tender validity
- 3.11.5 The successful Tenderer's tender security will be discharged upon the tenderer signing the contract and furnishing the performance security
- 3.11.6 The tender security may be forfeited:
- (a) If a tenderer withdraws its tender during the period of tender validity.
 - (b) In the case of a successful tenderer, if the tenderer fails:
 - (i) To sign the contract
 - (ii) To furnish performance security

- (c) If the tenderer rejects correction of an arithmetic error in the tender.
- 3.11.7 Notwithstanding paragraph 3.11 No tender securities shall be required from small and micro enterprises or enterprises owned by disadvantage groups participating in this tender. The firms shall submit a tender securing declaration form and registration certificates from the National Treasury for each category.

4. Submission of Tenders

4.1 The tender **duly filled and sealed in an envelope** shall be clearly marked **“TENDER FOR REFURBISHMENT AND COMPLETION OF NAIMA STORAGE FACILITY: MOALF/SDCD/KCEP-CRAL/019/2018-2019 addressed and delivered to:**

**The Principal Secretary,
State Department of Agriculture,
P.O. Box 30028-00100,
Kilimo House, cathedral road, Nairobi
Tel: 0770174188**

On or before: 12th February 2019 at 10.00am

- 4.2 Tenders shall be delivered to Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) at the address specified above not later than the time and date specified in the invitation to tender.
- 4.3 The tenderer shall not submit any alternative offers unless they are specifically required in the tender documents.
- 4.4 **Only one tender may be submitted by each tenderer.** Any tenderer who fails to comply with this requirement will be disqualified.
- 4.5 Any tender received after the deadline for opening tenders will be returned to the tenderer un-opened.
- 4.6 Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) may extend the deadline for submission of tenders by issuing an amendment in accordance with sub-clause 2.5 in which case all rights and obligations of Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) and the Tenderers previously subject to the original deadline will then be subject to the new deadline.

5. Site Visit

- 5.1 The bidder is informed that **pre-tender site visit is mandatory** and he/she shall examine the Site of Works and its surroundings and obtain for himself all information that may be necessary for preparing the bid and entering into a contract for refurbishment and completion of the Works. The costs of visiting the site shall be at the bidder's own expense.
- 5.2 The bidder and any of his personnel or agents will be granted permission by the Client to enter its premises and lands for the purpose of such inspection, but only on the express condition that the bidder, its personnel and agents, will release and indemnify the client and its personnel and agents from and against all liability in respect thereof, and will be responsible for personal injury (whether fatal or otherwise), loss of or damage to property and any other loss, damage, costs and

expenses however caused, which but for the exercise of such permission would not have arisen

- 5.3 The client will conduct a Site whose attendance is mandatory for all bidders. Failure to attend the site visit by any bidder will lead to disqualification of his /her bid.
- 5.4 The bidders' representatives who are present shall sign a register while the client's representative shall sign the Certificate of Bidder's Visit to Site evidencing bidders' attendance

6. Tender Opening and Evaluation

- 6.1 The tenders will be opened in the presence of the Tenderers' representatives who choose to attend at the time and in the place specified in the invitation to tender.
- 6.2 The Tenderers' names, the total amount of each tender and such other details as may be considered appropriate, will be announced at the opening by Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL). Minutes of the tender opening, including the information disclosed to those present will also be prepared by the tender opening committee.
- 6.3 Information relating to the examination, clarification, evaluation and comparison of tenders and recommendations for the award of the Contract shall not be disclosed to Tenderers or any other persons not officially concerned with such process until the award to the successful Tenderer has been announced. Any effort by a Tenderer to influence the processing of tenders or award decisions may result in the rejection of their tender.
- 6.4 Tenders determined to be substantially responsive will be checked for any arithmetic errors. Errors will be corrected as follows:
 - (a) where there is a discrepancy between the amount in figures and the amount in words, the amount in words will prevail; and
 - (b) where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will prevail, unless in the opinion of KCEP-CRAL representative, there is an obvious typographical error, in which case the adjustment will be made to the entry containing that error.
 - (c) In the event of a discrepancy between the tender amount as stated in the Form of Tender and the corrected tender figure in the main summary of the Bill of Quantities/Quotation, the amount as stated in the Form of Tender shall prevail. The tender sum as submitted and read out aloud during the tender opening shall be absolute and final and shall not be subject of correction, adjustment or amendment in any way by any person or entity.
- 6.5 The tender evaluation committee shall evaluate the tender within 30 days of the validity period from the date of opening the tender.

6.6 Evaluations and Comparison of Tenders

6.6.1 Kenya Cereal Enhancement Programme-Climate Resilient Agricultural Livelihoods Window will evaluate and compare the tenders which have been determined to be substantially responsive.

6.6.2 Evaluation shall be conducted in three stages namely; the preliminary/Mandatory Evaluation stage; The technical evaluation stage and

Financial Evaluation Stage as shown in the appendix to instructions to tenderers.

6.6.3 The Evaluation Criteria shall include the following:

6.6.3.1 General Experience

The Applicant shall be evaluated based on the requirements as specified in the appendix to instructions to tenderers on: -

- 1) Average annual turnover for the last 3 years of Ksh 3,000,000.00
- 2) Successful completion as a prime contractor or sub-contractor in the execution of at least three rehabilitation/new construction projects of a similar nature and comparable in complexity to the proposed contract within the last three years.

6.6.3.2 Personnel Capabilities

The Applicant should list down personnel of minimum qualification of Diploma in Building construction or Civil Engineering for Site Agent or supervisor

6.6.3.3 Cash flow statement.

The Applicant should demonstrate that he has access to or has available, liquid assets, unencumbered real assets, lines or credit, and other financial means sufficient to meet the construction cash flow for a period of 2 months, estimated at 30% of the estimated tender sum.

6.6.3.4 Balance Sheets.

Signed and stamped financial statements for the last two years should be submitted and must demonstrate the soundness of the Applicant's financial position, availability of working capital and net worth

6.6.3.5 Financial position/Ratios.

The applicant's financial information will be assessed in terms of liquidity ratio. Where necessary, the Client may make inquiries with the Applicant's bankers.

6.6.3.6 Financial Evaluation

The Client will compare the tenderers' rates with the Engineer's estimates for major items of construction. If some bids are seriously unbalanced or front loaded in relation to the Engineer's estimates for the major items of work to be performed under the contract.

6.6.4 The Award Criteria shall be the **lowest evaluated bidder**.

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

6.8 Where contract price variation is allowed, the valuation shall not exceed 20% of the original contract price.

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

- 6.10 To assist in the examination, evaluation, and comparison of tenders, Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) at his discretion, may request [in writing] any Tenderer for clarification of the tender, including breakdowns of unit rates. The request for clarification and the response shall be in writing or by cable, telex or facsimile but no change in the tender price or substance of the tender shall be sought, offered or permitted.
- 6.11 The Tenderer shall not influence Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) on any matter relating to their tender from the time of the tender opening to the time the Contract is awarded. Any effort by the Tenderer to influence Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) or employees in their decision on tender evaluation, tender comparison or Contract award may result in the rejection of the tender.

7. Award of Contract

7.1 Post Qualification

- 7.1.1 Kenya Cereal Enhancement Programme-Climate Resilient Agricultural Livelihoods Window may 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
- 7.1.2 The determination will consider the tenderer financial and technical capabilities. It will be based upon an examination of the documentary evidence of the tenderers qualifications submitted by the tenderer as well as such other information as Kenya Cereal Enhancement Programme-Climate Resilient Agricultural Livelihoods Window deems necessary and appropriate
- 7.1.3 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 Kenya Cereal Enhancement Programme-Climate Resilient Agricultural Livelihoods Window will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.
- 7.2 The award of the Contract will be made to the Tenderer who has offered the lowest evaluated tender price.
- 7.3 Notwithstanding the provisions of clause 6.1 above, Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) reserves the right to accept or reject any tender and to cancel the tendering process and reject all tenders at any time prior to the award of Contract without thereby incurring any liability to the affected Tenderer or Tenderers or any obligation to inform the affected Tenderer or Tenderers of the grounds for the action.
- 7.4 The Tenderer whose tender has been accepted will be notified of the award prior to expiration of the tender validity period in writing or by cable, telex or facsimile. This notification (hereinafter and in all Contract, documents called the "Letter of Acceptance") will state the sum [hereinafter and in all Contract, documents called the "Contract Price" which Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) will pay the Contractor in consideration of the execution, completion, and maintenance of the Works by the Contractor as prescribed by the Contract. The contract shall be formed on the parties signing the contract. At the same time the other tenderers shall be informed that their tenders have not been successful.

- 7.5 The Contract Agreement will incorporate all agreements between Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) and the successful Tenderer. It will be signed by Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) and sent to the successful Tenderer, within 30 days following the notification of award. Within 30 days of receipt, the successful Tenderer will sign the Agreement and return it to KCEP-CRAL.
- 7.6 **Within 15 days** after receipt of the Letter of Acceptance, the successful Tenderer shall deliver to Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) a Performance Security amount stipulated in the Appendix to Conditions of Contract.
- 7.7 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.
- 7.8 The procuring entity may at any time prior to notification of tender award, terminate or cancel procurement proceedings before without entering into a contract provided the **provisions in section 63 of the Act are met**.
- 7.9 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.

8. Corrupt and fraudulent practices

- 8.1 The procuring entity requires that the tenderer observes the highest standard of ethics during the procurement process and execution of the contract. A tenderer shall sign a declaration that he has not and will not be involved in corrupt and fraudulent practices.
- 8.2 The procuring entity will reject a tender if it determines that the tenderer recommended for award has engaged in corrupt and fraudulent practices in competing for the contract in question.
- 8.3 Further a tenderer who is found to have indulged in corrupt and fraudulent practices risks being debarred from participating in public procurement in Kenya.

APPENDIX TO INSTRUCTIONS TO TENDERERS

The following information 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

INSTRUCTIONS TO TENDERERS REFERENCE	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
ITT 1.1	The invitation is open to all eligible, qualified and competent bidders registered with the National Construction Authority in category 4,5,6 and 7 only
ITT 1.6	<ul style="list-style-type: none"> • The price to be charged for the tender document shall be Kshs.1,000/= • The document may also be downloaded FREE OF CHARGE from the Ministry's website: www.kilimo.go.ke under "tender" links or from the Programme Website www.kcepccral.go.ke
ITT 2.4	<p>The original and two copies of the tender must be delivered to and dropped in the tender box situated at the reception of MOALF Ground floor Kilimo House, Cathedral Road. so as to reach the below address clearly marked: TENDER FOR REFURBISHMENT AND COMPLETION OF NAIMA STORAGE FACILITY: MOALF/SDCD/KCEP-CRAL/019/2018-2019 addressed and delivered to:</p> <p>The Principal Secretary, State Department of Agriculture, P.O. Box 30028-00100, Kilimo House, cathedral road, Nairobi Tel: 0770174188 On or before: 12th February 2019 at 10.00am</p>
ITT 3.6	Tenders shall remain valid for a period of one hundred and twenty (120) days from the date of submission
ITT 3.11	The tenderer shall furnish, as part of its tender, a tender security for the amount of Ksh 100,000 with a Validity period of 150days
ITT 5.1	<p>Mandatory Site Visit: To be conducted on 29th January 2019 at 2pm at Tongaren Sub County Agricultural offices at Mukuyuni trading centre.</p> <p>The refurbishment works for Naima storage facility is located in Tongaren sub County of Bungoma County at Naitir ward, approximately 5 km from Tongaren sub County headquarters. A certificate of site visit shall be issued.</p>
ITT 6.1	Tenders will be opened on 12th February 2019 at 10.30am in the presence of the candidates' Representatives who choose to attend at boardroom on 7th floor, Kilimo House.

ITT 5.6.2

#	Evaluation Criteria	
1.	<p>Mandatory Evaluation Criteria: - Stage One: Mandatory / Preliminary Evaluation:</p> <ol style="list-style-type: none"> 1. Certified Copy of Certificate of Incorporation. 2. Certified Copy of Registration Certificate with the National Construction Authority (NCA) in Category 4, 5, 6 and 7 Only for building works 3. Valid NCA practicing license 4. Certified Copy of Valid Tax Compliance Certificate (will be verified on the KRA TCC Checker 5. Certified Copy of Valid business permit (trade license) 6. Certified Copy of CR12 Form 7. Duly filled, signed and stamped business questionnaire form in all sections 8. Duly filled, signed and stamped qualification questionnaire form in all sections 9. Duly filled and Signed Form of Tender 10. Tender Security of Ksh 100,000.00 11. Mandatory Site Visit attendance certificate: <ul style="list-style-type: none"> ✓ Representatives of the Programme shall be available to meet the intending tenderers at the Site. Tenderers must provide their own transport. ✓ The representatives will not be available at any other time for site inspection visits. Each tenderer shall complete the Certificate of Tenderer’s Visit to the Site at the time of the organized site visit. ✓ Non- attendance of the Mandatory site and Pre-tender meeting visit will lead to automatic disqualification of a Tenderer. 12. Duly serialized and or paginated bid document including all the attachments in the bid document in a SEQUENTIAL manner <p>Note:</p> <ul style="list-style-type: none"> ✚ Bidders shall ensure that all the mandatory forms and the standard forms attached in the bid document are duly filled, signed and stamped. ✚ Bidders shall ensure that the submitted bid is a well-organized bid document, with a reference table of contents including all the attachments in the bid. <p>All items must be submitted to proceed to the next stage.</p>	<p>Mandatory (Yes/ NO)</p>

	2.	Technical Evaluation	Pass/ Fail
		<ol style="list-style-type: none"> 1. Provide Evidence of previous works done in the last three years with an annual turnover of Ksh 3,000,000.00 as Building contractor, management contractor or subcontractor 2. Provide three (3) documentary evidence for completion of works in the last three years. (Attach Completion Certificates, contracts, letter of reference giving details of the contract, value, contact person and period of contract) 3. Provide Evidence of a reliable line of credit of a minimum of Ksh 3,000,000.00 4. Provide Evidence that the construction firm is equipped with skilled personnel that includes: <ol style="list-style-type: none"> 4.1 The Site Agent and the Foreman should have a minimum of a diploma in construction management and related field: <p>Must Attach copies of Qualification attained and CV</p> <p>All the documents must be submitted to proceed to financial Evaluation</p>	
	3.	Financial Evaluation	
		<ol style="list-style-type: none"> 1. Award shall be done on the lowest evaluated total bid 2. The bidder with the lowest evaluated financial bid will be recommended for the award of the contract for the works 3. In case of discrepancy between unit price and total in the price schedules/ BOQ, the unit price shall prevail. 4. If there is a tie on the lowest quoted sum price, competitive negotiations as prescribed in section 132 of the PPAD ACT 2015 shall be used to determine award. 5. A person shall not be disqualified on the basis that a bidder quoted above or below a certain percentage of engineers estimate 	
Opening Tender	of	Clause 82: There shall be no correction of errors. The tender sum submitted and read out during the tender opening shall be absolute and final and shall not be subject of correction, adjustment or amendment in any way by any person or entity.	

SECTION III: CONDITIONS OF CONTRACT

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SECTION III - CONDITIONS OF CONTRACT

1. Definitions

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

“Bills of Quantities” means the priced and completed Bill of Quantities forming part of the tender.

“Schedule of Rates” means the priced Schedule of Rates forming part of the tender.

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

“The Contract” means the agreement entered into by Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) and the Contractor as recorded in the Agreement Form and signed by the parties.

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

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

“The Contract Price” is the price stated in the Letter of Acceptance.

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

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

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

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

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

“Employer” is KCEP-CRAL and is the party who employs the Contractor to carry out the Works.

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

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

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

“Employer’s Representative” is the person appointed by Kenya Cereals Enhancement Programme–Climate Resilient Agricultural Livelihoods (KCEP-CRAL) and notified to the Contractor for the purpose of supervision of the Works.

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

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

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

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

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

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

2. Contract Documents

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

- (1) Agreement,
- (2) Letter of Acceptance,
- (3) Contractor’s Tender,
- (4) Conditions of Contract,
- (5) Specifications,
- (6) Drawings,
- (7) Bills of Quantities or Schedule of Rates

3. Employer’s Representative’s Decisions

3.1 Except where otherwise specifically stated, the Employer’s Representative will decide contractual matters between KCEP-CRAL and the Contractor in the role representing the Employer.

4. Works, Language and Law of Contract

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

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

5. Safety, Temporary works and Discoveries

- 5.1 The Contractor shall be responsible for design of temporary works and shall obtain approval of third parties to the design of the temporary works where required.
- 5.2 The Contractor shall be responsible for the safety of all activities on the Site.
- 5.3 Any thing of historical or other interest or significant value unexpectedly discovered on the Site shall be the property of the Employer. The Contractor shall notify the Employer's Representative of such discoveries and carry out the Employer's Representative's instructions for dealing with them.

6. Work Program and Sub-contracting

- 6.2 Within seven days after Site possession date, the Contractor shall submit to the Employer's Representative for approval a program showing the general methods, arrangements, order and timing for all the activities in the Works.
- 6.3 The Contractor shall not sub-contract the Works (but only to a maximum of 25 percent of the Contract Price) with the approval of the Employer's Representative. However, he shall not assign the Contract without the approval of Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) in writing. Sub-contracting shall not alter the Contractor's obligations.

7. The site

- 7.1 Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) shall give possession of all parts of the Site to the Contractor.
- 7.2 The Contractor shall allow the Employer's Representative and any other person authorized by the Employer's Representative, access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.

8. Instructions

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

9. Extension of Completion Date

- 9.1 The Employer's Representative shall extend the Completion Date if an occurrence arises which makes it impossible for completion to be achieved by the Intended Completion Date. The Employer's Representative shall decide whether and by how much to extend the Completion Date.
- 9.2 For the purposes of this clause, the following occurrences shall be valid for consideration;

Delay by: -

(a) force majeure, or

(b) reason of any exceptionally adverse weather conditions, or

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

10. Management Meetings

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

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

11. Defects

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

- 11.2 The Employer's Representative shall give notice to the Contractor of any defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the Appendix to Conditions of Contract.
- 11.3 Every time notice of a defect is given, the Contractor shall correct the notified defect within the length of time specified by the Employer's Representative's notice. If the Contractor has not corrected a defect within the time specified in the Employer's Representative's notice, the Employer's Representative will assess the cost of having the defect corrected by other parties and such cost shall be treated as a variation and be deducted from the Contract Price.

12. Bills of Quantities

- 12.1 The Bills of Quantities shall contain items for the construction, installation, testing and commissioning of the Work to be done by the Contractor. The Contractor will be paid for the quantity of the Work done at the rates in the Bills of Quantities/Schedule of Rates for each item. Items against which no rate is entered by the Tenderer will not be paid for when executed and shall be deemed covered by the rates for other items in the Bills of Quantities/Schedule of Rates.
- 12.2 Where Bills of Quantities do not form part of the Contract, the Contract Price shall be a lump sum (which shall be deemed to have been based on the rates in the Schedule of Rates forming part of the tender) and shall be subject to re-measurement after each stage.

13. Variations

- 13.1 An amendment or a variation to a contract resulting from the contract shall only be effective only:
 - a) The Variation or amendment has been approved in writing by the respective awarding authority
 - b) The Variation is after twelve months from the date of signing the contract.
- 13.2 The Contractor shall provide the Employer's Representative with a quotation for carrying out the variations when requested to do so. The Employer's Representative shall assess the quotation and shall obtain the necessary authority from Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) before the variation is ordered.
- 13.3 If the Work in the variation corresponds with an item description in the Bill of Quantities/Schedule of Rates, the rate in the Bill of Quantities/Schedule of Rates shall be used to calculate the value of the variation. If the nature of the Work in the variation does not correspond with items in the Bill of Quantities/Schedule of Rates, the quotation by the Contractor shall be in the form of new rates for the relevant items of Work.
- 13.4 If the Contractor's quotation is unreasonable, the Employer's Representative may order the variation and make a change to the Contract Price, which shall be based

on the Employer's Representative's own forecast of the effects of the variation on the Contractor's costs.

14. Payment Certificates and Final Account

14.1 The Contractor shall be paid after each of the following stages of Work listed here below (subject to re-measurement by the Employer's Representative of the Work done in each stage before payment is made). In case of lump-sum Contracts, the valuation for each stage shall be based on the quantities so obtained in the re-measurement and the rates in the Schedule of Rates.

(i) Advance payment: There shall be no advance payment for the refurbishment works in this contract.

(ii) First stage: construction of walls and fitting of windows and doors

(iii) Second stage: Electrical works, painting and other fittings

(iv) Third stage: End of defect liability period

(v) After defects liability period

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

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

14.4 If the period laid down for payment to the Contractor upon each of the Employer's Representative' Certificate by Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) has been exceeded, the Contractor shall be entitled to claim simple interest calculated pro-rata on the basis of the number of days delayed at the

Central Bank of Kenya's average base lending rate prevailing on the first day the payment becomes overdue. The Contractor will be required to notify Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) within 15 days of receipt of delayed payments of his intentions to claim interest.

15. Interim Payment Certificate

- 15.1 The Contractor shall forward to the Engineer an Interim Payment Certificate based on the conditions stipulated in clause 14.1. The Engineer if necessary shall prompt and make any further amendments and corrections to the Interim Payment Certificate.
- 15.2 The Engineer shall not unreasonably withhold certifying an Interim Payment Certificate and in case of likely delay in establishing the value of an item, such item may be set aside and the remainder certified for payment.
- 15.3 Within 21 days after receipt of the Interim Payment Certificate and subject to the Contractor having made such further amendments and corrections as the Engineer may require, the Engineer will forward to the Client the certified Interim Payment Certificate.

16. Employment of Local Personnel

- 16.1 The Contractor is encouraged, to the extent practicable and reasonable, to employ staff and labour with appropriate qualifications and experience who are local citizens.

17. Safety, Security and Protection of The Environment

- 17.1 The Contractor shall observe the following measures with a view to reducing or elimination adverse environmental effects by the site works:
 - a) All quarries and borrow pits shall be filled and landscaped to their original state after extraction of construction material.
 - b) Soil erosion due to surface runoff or water from roof or other catchment sources should be avoided by putting in place proper erosion control measures that shall include, but are not limited to grassing and planting if trees.
 - c) The contractor should ensure that the construction site is well fenced off for maximum security

18. Insurance

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

19. Liquidated Damages

- 19.1 The Contractor shall pay liquidated damages to Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods at the rate 0.2 per cent of the Contract price per day for each day that the actual Completion Date is later than the Intended Completion Date. Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's liabilities.

20. Completion and Taking Over

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

Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods shall take over the Site and the Works within seven days of the Employer's Representative issuing a Certificate of Completion.

21. Payment of Retention Money and Defects Liability Period

- 21.1 A retention amounting to the **10% of the total Bid** shall be made by the Engineer in the first and the following Interim Payment Certificates until the amount retained shall reach the "Limit of Retention Money which is 10%.
- 21.2 Upon the issue of the Taking-Over Certificate, with respect to the whole of the works one half of the retention money shall become due and shall be paid to the Contractor when the Engineer shall certify in writing that the last section of the whole works has been substantially completed.
- 21.3 Upon expiration of the Defects Liability Period for the works, the other half of the Retention Money shall be certified by the Engineer for payment to the Contractor.
- 21.4 The defects liability period shall be **Six (6) months**.

22. Termination

- 22.1 Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract. These fundamental breaches of Contract shall include, but shall not be limited to, the following;
 - (a) the Contractor stops Work for 30 days continuously without reasonable cause or authority from the Employer's Representative;
 - (b) the Contractor is declared bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
 - (c) a payment certified by the Employer's Representative is not paid by Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods to the Contractor within 30 days after the expiry of the payment periods stated in sub clauses 14.2 and 14.3 hereinabove.
 - (d) the Employer's Representative gives notice that failure to correct a particular defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time.
- 22.2 If the Contract is terminated, the Contractor shall stop Work immediately, and leave the Site as soon as reasonably possible. The Employer's Representative shall immediately thereafter arrange for a meeting for the purpose of taking record of the Works executed and materials, goods, equipment and temporary buildings on Site.

23. Statement at Completion

- 23.1 Not later than 60 days after the issue of the Taking-Over Certificate in respect of the whole of the works, the Contractor shall submit to the Engineer a statement at completion showing in detail, in a form approved by the Engineer;
- 23.2 The final value of all work done in accordance with the Contract up to the date stated in such Taking-Over Certificate.
- 23.3 Any further sums which the Contractor considers to be due and an estimate of amounts that the Contractor considers will become due to him under the Contract.

- 23.4 Estimate amounts shall be shown separately in the Statement at Completion. The Contractor shall amend and correct the Statement as directed by the Engineer and submit a Certificate at Completion to be processed as in Clause 15.

24. Final Payment Certificate

- 24.1 Upon acceptance of the Final Statement as completion as given in Clause 23, the Engineer shall prepare a Final Payment Certificate which shall be delivered to the Contractor's authorized agent or representative for his signature. The Final Payment Certificate shall state;
- a) The final value of all work done in accordance with the Contract; after giving credit to the Client for all amounts previously paid by the Client, the balance, if any, due from the Client to the Contractor or the Contractor to the Client.
- 24.2 Certificate shall be issued for any sum due to the Contractor even if such is less than the contract sum.
- 24.3 unless the Contractor notifies the Engineer of his objection to the Final Certificate within fourteen days of delivery thereof he shall be deemed to have agreed that he accepts the total Contract Price as set out in the Final Certificate as full settlement for all Work Done under the Contract including any variations and omissions thereof but excluding any variations and claims previously made in writing.

25. Payment Upon Termination

- 25.1 Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods may employ and pay other persons to carry out and complete the Works and to rectify any defects and may enter upon the Works and use all materials on Site, plant, equipment and temporary works.
- 25.2 The Contractor shall, during the execution or after the completion of the Works under this clause, remove from the Site as and when required within such reasonable time as the Employer's Representative may in writing specify, any temporary buildings, plant, machinery, appliances, goods or materials belonging to him, and in default thereof, Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) may (without being responsible for any loss or damage) remove and sell any such property of the Contractor, holding the proceeds less all costs incurred to the credit of the Contractor.
- 25.3 Until after completion of the Works under this clause, Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods shall not be bound by any other provision of this Contract to make any payment to the Contractor, but upon such completion as aforesaid and the verification within a reasonable time of the accounts therefor the Employer's Representative shall certify the amount of expenses properly incurred by Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) and, if such amount added to the money paid to the Contractor before such determination exceeds the total amount which would have been payable on due completion in accordance with this Contract, the difference shall be a debt payable to Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) by the Contractor; and if the said amount added to the said money be less than the said total amount, the difference shall be a debt payable by Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) to the Contractor.

26. Corrupt Gifts and Payments of Commission

26.1 The Contractor shall not;

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

27. Engineer's Decision

- 27.1 If a dispute of any kind whatsoever arises between the Client and the Contractor in any connection with, or arising out of, the Contract or the execution of the works, whether during the execution of the works or after their completion and whether before or after repudiation or other termination of the Contract including any dispute as to any opinion, instruction, determination, certificate or valuation of the Engineer, the matter in dispute shall, in the first place, be referred in writing to the Engineer, with a copy to the other party. Such reference shall state it is made pursuant to this clause. No later than 28 (twenty-eight) day after the day on which he received such reference the Engineer shall give notice of his decision to the Client and the Contractor. Such decision shall state it is made pursuant to this clause.
- 27.2 Unless the Contract has already been repudiated or terminated, the Contractor shall, in every case, continue to proceed with the works with all due diligence and the Contractor and the Client shall give effect forthwith to every such decision of the Engineer unless and until the same shall be revised, as hereinafter provided, in an Amicable Settlement, Adjudicator's or Arbitrator's award as specified in clause 28.
- 27.3 If either the Client or the Contractor be dissatisfied with the any decision of the Engineer, or if the Engineer fails to give notice of his decision on or before the 28th (twenty eighth) after the day on which he received the reference, then either the Client or the Contractor may, on or before the 28th (twenty eighth) day after the day the day on which he received notice of such decision, or on or before the 28th (twenty eighth) day after the day the day on which the said period of 28 days expired, as the case may be, give notice to the other party, with a copy for information to the Engineer, of his intention to commence Adjudication, as hereinafter provided, as to the matter in dispute. Such notice shall establish the entitlement of the party giving the same to commence Adjudication, as hereinafter provided, as to such dispute; no adjudication in respect thereof may be commenced unless such notice is given.
- 27.4 If the Engineer has given notice of his decision as to a matter in dispute to the Client and the Contractor and no notice of intention to commence adjudication as to such dispute has been given by either the Client or the Contractor on or before the twenty eighth day after the day on which the parties received notice as to such

decision from the Engineer, the said decision shall become final and binding upon the Client and the Contractor.

28. Settlement of Disputes

- 28.1 The Parties shall use their best efforts to settle amicably all disputes concerning the interpretation and/or implementation of this Contract through consultations and/or negotiations between the Parties within Thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement.
- 28.2 Where the Parties fail to arrive at an amicable settlement, any dispute, controversy or claim arising out of or in connection to this contract, or breach, termination or invalidity thereof shall be settled by arbitration in accordance with the Nairobi Centre for International Arbitration (NCIA) 'Arbitration Rules, 2015.'
- 28.3 Arbitration shall be by an Arbitral Tribunal comprising three arbitrators. Each Party shall appoint one arbitrator and the third arbitrator who shall act as president of the Tribunal shall be appointed by the NCIA.
- 28.4 The decision of the Arbitration Tribunal shall be final and binding on the Parties.

29. Notices

- 29.1 Any notice, request, or consent made pursuant to this Contract shall be in writing and shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed or when sent by registered mail, telex, telegram or facsimile to such Party at the address specified in 29.2
- 29.2 All letters and notices from the Contractor to the Client and/Engineer must be signed by the Managing Director or the person given written power of Attorney.

1) Clients Address:

Ministry of Agriculture, Livestock, Fisheries and Irrigation
State Department for Crop Development
Kenya Cereal Enhancement Programme-Climate Resilient Agriculture Livelihood
Window, NARL KABETE Grounds.
P.O BOX 30028-00100
Nairobi.
Waiyaki Way

2) The Engineer's address is:

The Programme Coordinator,
Kenya Cereals Enhancement Programme, Climate Resilient Agricultural Livelihood
Window (KCEP-CRAL),
P.O. Box 30028 - 00100
NAIROBI

APPENDIX TO CONDITIONS OF CONTRACT

GENERAL CONDITIONS REFERENCE	PARTICULARS OF APPENDIX TO GENERAL CONDITIONS
GC 1.1	Kenya Cereal Enhancement Programme-Climate Resilient Livelihood Window of P.O. Box 30028-00100 Nairobi
GC 1.1	Name of Employer's Representative: PCU Civil Engineer
GC 4.1	The name (and identification number) of the Contract is MOALF/SDCD/KCEP-CRAL/PROC/019/2018-2019
GC 4	The Works consist of: 1) Nominally reinforced concrete for floor slab 2) Fixing of ventilation windows 3) General finishes and painting 4) Any other works that may be instructed
GC 6.2	The Start Date for the whole of the Works shall be: The effective date of contract signing and handing over the site
GC 6.2	The Site Possession Date shall be: Within fourteen days of signing the contract.
GC 7.1	The Site is located in Tongaren sub County of Bungoma County at Naitir ward, approximately 5 km from Tongaren sub County headquarters
GC 14	The amount of performance security shall be ten per cent of the contract sum.
GC 14.1 (i)	There shall be no advance payment for the refurbishment works in this contract.
GC 6.3	The contractor shall not assign, in whole or in part, its obligations to perform under this Contract, except with Kenya Cereal Enhancement Programme-Climate Resilient Agricultural Livelihoods Window prior written consent.
GC 13.1	There shall be no contract variations within twelve months from the date of the signing of the contract.
GC 19.1	The Contractor shall be liable to liquidated damages for delayed performance. The interest and liquidated damages to be paid shall be in accordance with the prevailing mean commercial lending rate as determined by central bank of Kenya
GC 21.1	Retention money shall be 10% of the total contract sum price
GC 21.4	The Defects Liability Period is six months

SECTION IV – SCOPE, DESCRIPTION OF WORKS, SPECIFICATIONS, DRAWINGS AND BILLS OF QUANTITIES

5.1 Scope

The refurbishment works for Naima storage facility is located in Tongaren sub County of Bungoma County at Naitir ward, approximately **5 km from Tongaren sub County headquarters.**

The works to be carried out under this contract comprises of general finishes to the warehouse. The store was constructed by Naima CBO through the assistance of WFP through its P4P Programme. The existing structure measures **30x10m** with brick walling. Detailed architectural and structural drawings are not provided for this warehouse.

Special precautions shall be required throughout the contract period to avoid damage to the existing the structures and other services within the site. The Contractor shall allow for making good any damage arising from his actions during execution of this contract at his own expense.

5.2 Description of Works

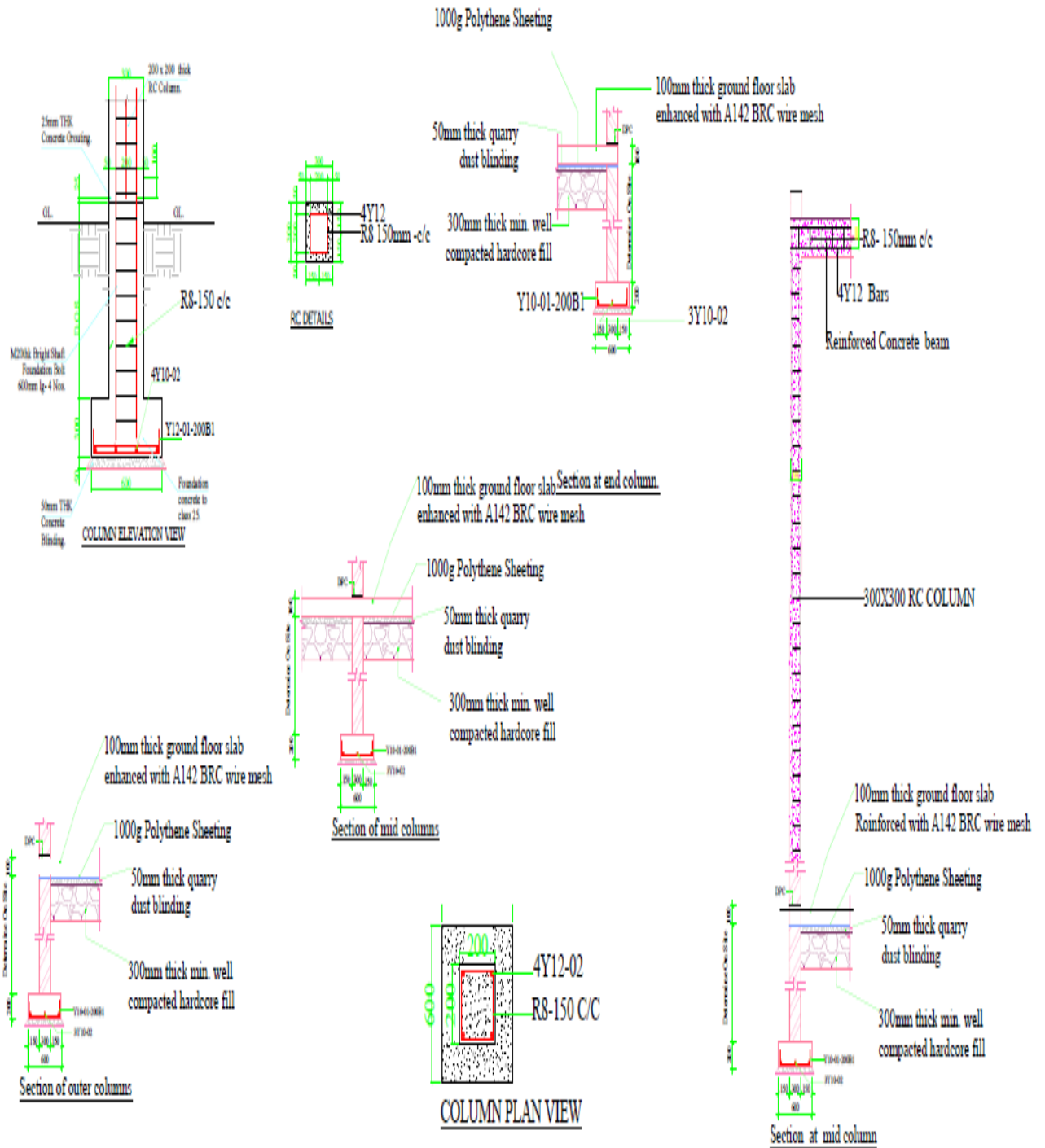
The works to be executed include but not limited to;

- a) Nominally reinforced concrete for floor slab
- b) Fixing of ventilation windows
- c) General finishes and painting
- d) Any other works that may be instructed

5.3 Drawing



Structural Drawing:



PROJECT:

PROPOSED COMPLETION OF NAIMA FARMERS' STORAGE FACILITY IN TONGAREN SUB COUNTY, BUNGOMA COUNTY.

Note: This drawings will be provided in a separate zipped folder uploaded together with the tender Document. Bidders may also request for them through tenders.kcep-crallprogramme@gmail.com

5.4 SPECIFICATIONS

5.4.1 Materials Generally

All materials used on the works shall be new and of the qualities and kinds specified herein and equal to the approved samples. Deliveries shall be made sufficiently in advance to enable samples to be taken and tested if required. No materials shall be used until approved and all materials which are not approved or which are damaged, contaminated or have deteriorated in any way or do not comply in any way with the requirements of this specification shall be rejected and shall be immediately removed from the site at the Contractors expense.

5.4.2 Material for which there is a Kenya Bureau of Standard specification

All materials used in the works for which a Kenya Bureau of Standards Specification has been published shall conform with the latest edition thereof in every way. The Architect reserves the right to demand that the Contractor shall obtain at his own expense a certificate in respect of any materials to state that is in accordance with the Kenya Bureau of Standard specification.

5.4.3 Materials for which there is no Kenya Bureau of Standards specification

All materials used in the works for which no Kenya Bureau of Standards specification has been published shall conform with the British Standards Specification for such materials. If there are no published standards as specified for any materials, the quality of such materials shall be generally of a standard equal to those for which there is a Kenya Bureau of Standards or British Standard specification.

5.5 EXCAVATION AND EARTHWORK

5.5.1 Site Clearance

Site Clearance shall include the cutting down of all trees, stumps, bushes, vegetation and rubbish, burning the debris arising in approved locations and carting remaining material to a tip provided by the Contractor.

5.5.2 Nature of the Soil

The Contractor is advised to visit the site and ascertain the nature of the ground to be excavated and he shall price accordingly and no claim will be allowed for want of knowledge in this respect. Rates for excavation shall include for excavation in soil, earth, black cotton, sandy soil, Murram, tuff, soft rock, boulders or whatever other subsoil is encountered except hard rock as defined below.

5.5.3 Foundation Excavations

- 1) The foundation trenches and column bases shall be excavated to the widths and depths of the concrete foundations shown on the drawings or to such widths and depths as the Engineer may instruct after examination of the excavations. Quantities of all excavations shall be measured and valued by the Quantity Surveyor and any difference between such measurements and the measurements herein given shall be dealt with as a variation to the Contract.
- 2) If however, the Contractor excavates to any greater depths than shown in the drawings or as instructed by the Engineer, then he shall at his own expense fill in such extra depth of excavation with concrete as specified for the foundations to the satisfaction of the Engineer. The Contractor shall not be paid for the cost of any excavation executed deeper or wider than shown on the drawings or instructed by the Engineer nor the cost of back filling such excavation or disposing of surplus.

5.5.4 Surplus Soil Disposal

Excavated material not required for subsequent refilling shall be removed to areas off site which shall be approved by the Architect.

5.5.5 Top Soil for Spreading

Where required in the Bills of Quantities, top soil required for subsequent spreading over finished work shall be especially selected and shall be dumped in special heaps as indicated by the Architect. Such top soil shall be reasonably free from vegetation to the satisfaction of the Architect and shall be compacted as little as possible in the heaps.

5.5.6 Filling under Surface Beds in Buildings

5.5.6.1 Murram filling

Murram for filling as base course shall be from an approved source and of the highest quality. It shall be laid in layers not less than 150mm thick and not greater than 230mm thick prior to compaction. Water will be applied to O.M.C. and each layer will be thoroughly compacted by a 2 tonne vibrating roller until all movement ceases and 100% MDD is achieved.

5.5.6.2 Hardcore filling

Hardcore filling shall be crushed rock, broken concrete or other approved hard granular materials broken to pass not greater than a 150mm ring or to be 75% of the finished thickness of the layers being compacted whichever is the less and graded so that it can be easily and thoroughly compacted by rolling. The filling is to be laid in layers each of a consolidated thickness not exceeding 230mm.

5.5.7 Anti-termite treatment

Where described the top surface of filling shall be treated with Gladiator T C Pesticides to be supplied and applied by Rentokil Ltd. P.O. Box 44360, Nairobi or other equal and approved firm strictly in accordance with the satisfaction of the Architect. The Contractor must destroy any termite nests found within the perimeter of the building and within 20 metres from the building externally and take out and destroy queens, impregnate holes and tunnels with approved insecticide and backfill with hard material, well rammed and consolidated. The specialist shall be required to issue a 10-year guarantee to the Employer.

5.5.8 Polythene Sheeting

Polythene sheeting shall be produced by an approved manufacturer. Joints in sheeting shall be treble folded with a 150mm fold and taped at 300mm intervals with 50mm wide back plastic adhesive tapes. The sheeting shall not be stretched but shall be laid with sufficient wrinkles to permit shrinkage up to 15%. The Contractor shall ensure that the membrane is not pierced during laying and concreting.

5.5.9 Existing Services

Before commencing works, the Contractor shall at his own expense ascertain in writing from the relevant Local Authorities and all other Public bodies, companies and persons who may be affected, the position and depths of their respective ducts, cables, mains or pipes and appurtenance. He shall thereupon search for and locate such services. Active existing services shall be adequately protected from damage or relocated as directed by the Architect. Inactive services shall be removed or sealed off in accordance with the direction of the Architect.

5.5.10 Protection

The Contractor shall protect all graded and filled areas from the actions of the elements. Any settlement or washing away that occur prior to acceptance of the works shall be repaired and grades re-established to the required elevations and slopes

5.6 CONCRETE WORK

5.6.1 Codes of Practice

All workmanship, materials, tests and performances in connection with reinforced concrete shall be in conformity with the latest edition of the British Standard for concrete works 9B.S. B110 parts 1 & 2, B.S. 8004, B.S. 8007) and any other approved Local and International Standards. Where inconsistency exists between these preambles and these Standards, the Contractor shall notify the Engineer in good time for his Clarification as to which of the two implications on the Contract.

5.6.2 Supervision

A competent person approved by the Engineer shall be employed by the Contractor whose duty will be to supervise all stages in the preparation and placing of the concrete. All cubes shall be made and site tests carried out under his direct supervision on Consultation with the Engineer.

5.6.3 Cement

Cement unless otherwise specified shall be ordinary Portland cement of a brand and source approved by the Engineer and shall comply with the requirements of K.S.02 -21. A manufacturer's certificate of test in accordance with K.S.02-21 shall be supplied for each consignment delivered to the Site.

5.6.4 Aggregate

Aggregates shall conform with the requirement K.S.02-95 and all the proposed sources, types and grading test results of all aggregates are to be approved in all respects by the Engineer before work commences.

If in the opinion of the Engineer the aggregate meets with the above requirements but is dirty or adulterated in any manner it shall be screened and/or washed with clean water at the Contractors expense.

5.6.5 Water

The water used for mixing concrete shall be from an approved source, clean, fresh and free from harmful matter and comply with the requirements of B.S.3148.

5.6.6 Quality Control at Works Stage

Once the concrete mix is accepted from preliminary to works stage, the principal basis of control shall be analysis of the cube test results at 28 days.

5.6.7 Cement

The Quantity of cement shall be measured by weight. Where delivered in bags, each batch of concrete is to contain one or more bags of cement in accordance with the proportions specified.

For non-structural concrete, volume batching may be used as indicated below:

Class of Concrete	15	10
Nominal mix by volume	1:3:6	1:4:8

Cubic metres of fine aggregate Per 50 kg. Bag of cement	0.12	0.16
Cubic metres of coarse aggregate Per 50kg bag of cement	0.24	0.32

Max. size of coarse aggregate 40mm* 40mm* *or 20mm for blinding concrete where described. Where batching is by volume, approved gauge boxes of such a size as will give the correct proportions shall be used, and full account shall be taken of bulking due to high moisture content.

5.6.8 Construction Joints

Construction joints shall be permitted only at the positions predetermined on the drawings or as instructed on the site by the Engineer. In general they shall be located at points of minimum shear, viz, vertical at, or near mid spans of slabs, ribs and deems.

5.6.9 Faulty Concrete

Any concrete which fails to comply with these Preambles, or which shows signs of setting before it is placed shall be taken out and removed from the site, where concrete is found to be defective after it has set the concrete shall be cut out and replaced in accordance with the Engineer's instructions. On no account shall any faulty, honeycombed, or otherwise defective concrete be repaired or patched until the Engineer has made an inspection and issued instructions for the repair.

5.6.10 Steel reinforcement

The steel reinforcement shall comply with the latest requirements of the following British Standards

5.6.11 Fabric Reinforcement

Fabric reinforcement shall be electrically cross-welded steel wire mesh reinforcement to B.S. 4483 and of the size and weight specified and made of wire to B.S. 4482.

5.6.12 Fixing Steel Reinforcement

Reinforcement shall be accurately bent to the shapes and dimensions shown on the Drawings and Schedules and in accordance with B.S. 4466 and B.S. 8110. reinforcement must be cut and bent cold and no welded joints will be permitted unless detailed or directed by the Engineer

5.7 Formwork

The method and system of formwork which the Contractor proposed to use shall be approved by the Engineer before construction commences. Formwork shall be substantially and rigidly constructed of timber, steel, plastic, precast concrete or other approved material. All timber formwork shall be good, sound, clean, sawn, well-seasoned timber free from warps and loose knots and of scantlings sufficiently strong for their purpose.

5.8 WALLING

5.8.1 MATERIALS

5.8.1.1 Cement

Cement used for making mortar shall be as described in concrete work.

5.8.1.2 Lime

The lime for making mortar shall be obtained from an approved source and shall comply with BS 890 Class A for non-hydraulic lime. The lime to be run to putty in an approved lined pit or container. The water to be first run into the pit or container and the lime to be added until it is completely submerged, stirred vigorously until all lumps are disintegrated and shall be kept constantly covered with water and regularly stirred for at least four weeks. The resulting milk -

lime then to be run through a fine sieve and run into a pit or other container and kept clean and moist for not less than two weeks before being used in the works.

5.8.1.3 Sand

Sand used for making mortar shall be clean, well graded siliceous sand of good sharp hard quality equal to samples which shall be deposited with and approved by the Architect. It shall be free from lumps of stone, earth, loam, dust, salt, organic matter and other deleterious substances, passed through a fine sieve and washed with clean water if so directed by the Architect.

5.8.1.4 Water

Shall be as described in Concrete work.

5.8.1.5 Stone

All stone shall comply with the requirements of CP 121.202 for masonry and rubble walls respectively except where amended or extended by the following clauses

5.8.1.6 Reinforced Walls

Steel reinforcing bars in walls shall be carefully placed and spacers used to ensure that a minimum of 20mm cover is given to the reinforcement unless otherwise specified. Horizontal reinforcement in mortar joints shall be laid such that the reinforcement is not in contact with the blocks or stone.

5.8.1.7 Wall Ties

Wall ties shall be provided to connect walls to steel or concrete columns and beams to connect two unbounded leaves of wall. Wall ties shall be provided at 450mm centres both vertically and 900mm centres horizontally and shall be staggered when used to connect two leaves of unbounded wall. Wall ties shall be embedded into each material by a minimum of 50mm

5.8.1.8 Fair Face

All concrete and hollow blockwork described as finished with a fair face is to be built to a true and even face with the joints finished as specified hereinafter.

5.8.1.9 Pointing

Pointing of walls shall be prepared for pointing by raking out all loose or friable material to a minimum of 15mm to form a square recess. The joints shall then be wetted and new mortar shall be forced into the joints and finished as directed

5.8.2 FLOOR, WALL AND CEILING FINISHINGS

5.8.2.1 PLASTERWORK

5.8.2.1.1 Generally

Render, both internal and external shall be cement and sand in the proportions 1:4 finished to the thickness specified. Plaster shall consist of an undercoat of 1 part cement to 6 parts sand by volume, and a finishing coat of 1 part cement to 10 parts lime putty. Each coat shall be finished to the thickness specified.

5.8.2.1.2 Cement

Ordinary Portland cement and shall comply with K.S. 02-21. White and coloured cements shall comply with B.S. 12 and be obtained from an approved manufacturer.

5.8.2.1.3 Lime

Lime shall be prepared from hydrated lime complying with B.S. 890, Part 2.

5.8.2.1.4 Sands

Sands for cement and lime mixes shall comply with B.S. 1199, Table 1.

5.8.2.1.5 Water

Water shall be clean and kept free from all impurities.

5.8.2.1.6 Mixing of materials

All materials shall be thoroughly mixed in the proportions described. No mixes of plasters, other than described shall be used.

5.8.2.1.7 Period between coats

Cement -lime undercoats shall be allowed to dry out thoroughly before a further coat is applied.

5.8.2.1.8 Surfaces of beds and backings

Screeded beds for insitu finishing of floor finishing bedded in mortar, shall be left rough from the screeding board. Floated beds for inflexible floor finishing bedded in mastic, shall be left with a plain untextured surface.

Trowelled beds for flexible finishings shall be finished smooth and free from score marks, grooves or depressions. Screeded backings for insitu wall finishing or wall finishings bedded in mortar shall be scratched for key. Floated backings for inflexible wall finishing fixed with adhesive shall be left with a plain surface.

Trowelled backings for flexible wall finishing shall be finished smooth and free from score marks or depressions.

Beds and Backings for finishing by specialists shall be to the approval of the specialist.

5.8.2.1.9 Preparation of surfaces

All surfaces to receive the finishing in this section shall be thoroughly cleaned. Screeds to receive finishing bedded in mortar shall be well wetted before laying is commenced.

5.8.3 PAINTING AND DECORATING

5.8.3.1 MATERIALS

5.8.3.2 Colour range

Painting and decorative schemes shall be carried out in colours selected by the Architect from the approved range of colours.

5.8.3.3 Approval of brands

The Contractor shall seek, in writing, approval from the Architect for all brands of paint he wishes to use.

5.8.3.4 Quality of Products

Where a type of paint is produced by the Manufacturer in more than one quality, only paints and materials of the first or best quality shall be used in the works. The container label shall indicate clearly the quality of the paint being used.

Where it is not evident that the first or best quality of paint is being used, the Architect will order the removal of such materials from the site and rectification of any work executed with those materials, all at the Contractors expense.

5.8.3.5 Same makers materials used for coating

While materials for the work may be obtained from several makers, undercoats and finishing coats for a particular surface must be obtained from the same maker, (i.e. one markers undercoat).

5.8.3.6 Remedying defects due to defective materials

All materials, which in the opinion of the Architect are unsatisfactory, shall be immediately removed from the site and any work executed with such defective materials shall be made good by the Contractor, at his expense, to the satisfaction of the Architect.

5.8.3.7 Emulsion paint

Emulsion paint (interior and/or exterior), shall have a P.V.A. base and shall be of an approved brand. The first coat shall be thinned in accordance with the manufactures instructions. Where described as applied externally, the paint shall incorporate an approved fungicide to prevent fungus growth.

5.8.3.8 Black bituminous paint

Black bituminous paint shall comply with B.S. 3416, Type 1 for general use, and Type ii for drinking water tanks.

5.8.3.9 Plaster, rendering, concrete blockwork and brickwork

All plaster or mortar splashes, etc. shall be removed from plaster rendering, concrete, block work and brickwork by careful scraping; all holes, cracks, etc., shall be stopped and the whole of the surfaces shall be brushed down to remove dust and loose materials. In addition, all traces of mould oil shall be removed from concrete surfaces by scrubbing with water and detergent and rinsing with clean water to remove all detergent.

5.8.3.10 Standard of workmanship

Prior to the commencement of internal or external decoration, areas not exceeding 50 square metres in total area, and designated by the Architect, shall be completely decorated, and after approval shall be used as a standard for the whole of the works. Any additional cost involved in carrying out such decoration in advance of the general work shall be deemed to be included in the Contract Sum. Such decorated surfaces shall be made good and touched up as necessary prior to the handing over of the works.

5.8.3.11 Manufacturer's instructions

All materials shall be used strictly in accordance with instructions issued by the manufacturers concerned. The addition of thinners, driers or other materials will only be permitted when specially required by the maker and the procedure approved by the Architect.

5.8.3.12 Brush work

Unless otherwise described, all coatings shall be applied by Brush. Written permission must be obtained from the Architect for the application of coatings by spray or roller where not so described, and if permission is granted, such application shall not result in extra cost to the Employer.

5.9 BILL OF QUANTITIES

The Bills of Quantities forms part of the Contract Documents and are to be read in conjunction with the Instructions to Bidders, Conditions of Contract Parts I and II, Specifications and Drawings.

The prices and rates inserted in the Bills of Quantities will be used for valuing the work executed, and the Engineer will only measure the whole of the works executed in accordance with this Contract.

NAIMA REFURBISHMENT BOQ				
DESCRIPTION	QTY	UNIT	RATE	KSHS
VENTILATION WINDOWS				
1200 x 600 mm Purpose made steel casement ventilation Windows.	18	NO		
FINISHES				
Provide, place and compact 300mm thick hardcore in layers n.e 150mm	90	CM		
Provide, place and compact quarry waste into the surface of hardcore.	300	SM		
Provide and place BRC mesh A142 as instructed on site	300	SM		
Provide and place 150mm thick concrete class 25/20 in floor slab	45	CM		
25mm thick cement sand (1:4) paving as described in:- Floors laid to receive Terrazzo	300	SM		
Floor Finish: Terrazzo to architect's approval	300	SM		
15mm thick gauged Cement lime (1:1:6) plaster trowelled smooth comprising 12mm thick backline and 3mm thick finishing coat as described in walls internally and externally	710	SM		
PAINTING AND DECORATION				
Prepare and apply plastic emulsion paint to:- plastered walls, undercoat	710	SM		
Prepare and apply three coats first quality plastic emulsion paint to plastered walls	710	SM		
Prepare and apply three coats emulsion paint to the surfaces of ceiling.	74	SM		
Allow a provisional sum of fifty thousand for scaffolding.	1	SUM	50,000	50,000
Allow for a lumpsum amount of two hundred and fifty thousand for site supervision and approvals	1	SUM	250,000	250,000
Extra offer on overheads and profit of the lumpsum for supervision and approvals.	350,000.00	%		
SUB TOTAL 1				
Add 16% VAT				
TOTAL				

SECTION V

STANDARD FORMS

List of Standard Forms

- 1) Form of Tender
- 2) Form of Agreement
- 3) Mandatory Business Questionnaire Form
- 4) Tender Securing Declaration Form
- 5) Tender Security Form
- 6) Performance Security form
- 7) Declaration Form
- 8) Letter of Notification of Award
- 9) Qualification Information
- 10) Tender Questionnaire

1. Form of Tender

To: Kenya Cereal Enhancement Programme-Climate Resilient Livelihood Window of P.O. Box 30028-00100 Nairobi

Tender Name: TENDER FOR REFURBISHMENT AND COMPLETION OF NAIMA STORAGE FACILITY:

Tender Reference: MOALF/SDCD/KCEP CRAL/PROC/019/2018-2019

Dear Sir,

1. In accordance with the Conditions of Contract, Specifications, Drawings and Bills of Quantities for the execution of the above-named Works, we, the undersigned offer to construct, install and complete such Works and remedy any defects therein for the sum of Kshs. _____ [*Amount in figures*] Kenya Shillings _____ [*Amount in words*]
2. We undertake, if our tender is accepted, to commence the Works as soon as is reasonably possible after the receipt of the Employer’s Representative’s notice to commence, and to complete the whole of the Works comprised in the Contract within the time stated in the Appendix to Conditions of Contract.
3. We agree to abide by this Tender for a period of [number] **120** days from the date fixed for tender opening of the Instructions to tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
4. The Tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be subject of correction, adjustment or amendment in any way by any person or entity.
5. Unless and until a formal Agreement is prepared and executed this tender together with your written acceptance thereof and signing of the contract by the accounting officer or an officer authorized in writing by the accounting officer shall constitute a binding Contract between us.
6. We understand that you are not bound to accept the lowest or any tender you may receive.

Dated this _____ day of _____ 20_____

Signature _____ in the capacity of _____

duly authorized to sign tenders for and on behalf of

_____ [*Name of Tenderer*] of

_____ [*Address of Tenderer*]

2. FORM OF AGREEMENT

THIS AGREEMENT, made the _____ day of _____ 20 ____ between State Department for Crops Development on behalf of Kenya Cereal Enhancement Programme-Climate Resilient Livelihood Window of P.O. Box 30028-00100 Nairobi whose registered office is situated at Kilimo House along Cathedral Road, (hereinafter referred to as “the Client”) whose expression shall where the context so admits include its successors, administrators or permitted assignees on the one part

AND _____ of _____ (hereinafter called “the contractor”) whose Certificate of Registration is _____ whose registered office is situated at _____ of the other part whose expression shall where the context so admits include its successors, administrators or permitted assignees on the other part.

WHEREAS Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) is desirous that the Contractor executes

_____ (*name and identification number of Contract*) (hereinafter called “the Works”) located at _____ [*Place/location of the Works*] and Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods (KCEP-CRAL) has accepted the tender submitted by the Contractor for the execution and completion of such Works and the remedying of any defects therein for the Contract Price of Kshs _____ [*Amount in figures*], Kenya Shillings _____ [*Amount in words*].

NOW THIS AGREEMENT WITNESSETH as follows:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to.
2. The following documents shall be deemed to form and shall be read and construed as part of this Agreement i.e.
 - (i) Appendix to Conditions of Contract
 - (ii) Conditions of Contract Part I and II
 - (iii) Specifications
 - (iv) Drawings
 - (v) Priced Bill of Quantities
 - (vi) Form of Tender
 - (vii) Letter of Award
 - (viii) Letter of Acceptance
 - (ix) The Tenderers bid document
3. In consideration of the payments to be made by Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods to the Contractor as hereinafter mentioned, the Contractor hereby covenants with Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihood to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract.
4. Kenya Cereals Enhancement Programme-Climate Resilient Agricultural Livelihoods hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such other sum

as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties thereto have caused this Agreement to be executed the day and year first before written.

NAME: _____

Date: _____

WITNESSED BY:

NAME:

Date:

For and on behalf of the Contractor:

Name:

Date:

WITNESSED BY:

Name:
Designation:

Date:

3. MANDATORY CONFIDENTIAL BUSINESS QUESTIONNAIRE

Name of Applicant(s).....

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

You are advised that it is a serious offence to give false information on this form will lead to automatic disqualification/termination of your business proposal at your cost.

Part 1 -General

Business Name

.....

Location of Business Premises

.....

Plot No ... Street/Road..... Postal address..... Tel No.

.....

Fax Email.....

Nature of Business (Attach Company Profile)

.....

Registration Certificate No. (Attach Copy)

.....

Tax Compliance No (Attach Copy)

.....

Maximum value of business which you can handle at any one time –

Ksh.....

Name of your bankers.....

Branch.....

Bank Account Number.....

Payment Terms.....

Part 2 (a) – Sole Proprietor

Your name in full.....Age.....

Nationality..... Country of Origin.....

Citizenship details.....

If a Kenyan Citizen, indicate under Citizenship Details whether by Birth, Naturalization or Registration

Part 2 (b) – Partnership

Given details of partners as follows

Name	Nationality	Citizenship Details	Shares
------	-------------	---------------------	--------

1.....

2.....

3.....

4.....

If a Kenyan Citizen, indicate under Citizenship Details whether by Birth, Naturalization or Registration

Part 2 (c) – Registered Company

Private or Public

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

State the nominal and issued capital of company

Nominal Kshs. Issued Kshs.

Give details of all directors as follows

Name	Nationality	Citizenship Details	Shares
------	-------------	---------------------	--------

1.

2.

3.

4.

Part 3- List of corporate client customers and their addresses, telephone numbers and contact person.

1. Company.....Tel/ Mobile.....

Contact Person.....Designation.....

2. Company.....Tel/Mobile.....

Contact Person.....Designation.....

3. Company.....Tel/Mobile.....

Contact Person.....Designation.....

4. Company.....Tel/Mobile.....

Contact Person.....Designation.....

Part 4-(a) Debarment

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

Full Names.....

Signature.....

Dated thisday of2019

In the capacity of.....

Duly authorized to sign Tender for and on behalf of

.....

Part 4-(b) Bankruptcy / Insolvency / receivership.

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

Full Names.....

Signature.....

Dated thisday of2019

Duly authorized to sign Tender for and on behalf of

.....

Part 4-(c) -Criminal Offence

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

a).....

b).....

c).....

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

Signed.....

For and on behalf of M/s.....

In the capacity of

.....

Dated thisday of2019

Suppliers' / Company's Official Rubber Stamp

.....

Part 4-(d) Conflict of Interest

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

a)

b)

c)

d)

For and on behalf of M/s.....

In the capacity of

Dated thisday of2019

Suppliers' / Company's Official Rubber Stamp

.....

Part 4-(e) – Interest in the Firm:

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

Yes/No (Delete as necessary)

Institution

(Title) (Signature) (Date)

.....

.....

PART 5(I) – EXPERIENCE: Please list here below similar projects accomplished or companies / clients you have supplied with similar items or materials / Services in the last 5 years

	COMPANY NAME	COUNTRY	CONTRACT ORDER NO	VALUE	CONTRACT PERSON (FULL NAMES)	EMAIL	CELL PHONE NO
1							
2							
3							
4							
5							

Part 6(i or j) – Bank account details:

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

Account No.....

Name of the person(s) in the CR12 form OR in the partnership deed OR in the sole proprietor Certificate...../.....

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

Banker Representative.....Date.....

Part 7--Declaration

I/We the undersigned state that the above information is correct and that I/We give KCEP-CRAL to seek any other references concerning my/our company from whatever sources deemed e.g. company registrar's office, banks etc.

Full names

.....

Signature.....

For and on behalf of M/s

In the capacity of

.....

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

Company's Rubber Stamp.....

4. TENDER SECURING DECLARATION FORM

[The Bidder shall complete in this Form in accordance with the instructions indicated]

Date: of Bid Submission] Tender No. of bidding process]

To: [insert complete name of Purchaser]

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 withdrawn 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 the successful Bidder; or

(i) 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 Declaration 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]

Dated on day of, [Insert date of signing]

5. FORM OF TENDER SECURITY

WHEREAS (hereinafter called “the Tenderer”) has submitted his tender dated for the construction of (name of Contract)

KNOW ALL PEOPLE by these presents that WE having our registered office at (hereinafter called “the Bank”), are bound unto (hereinafter called “the Employer”) in the sum of Kshs..... for which payment well and truly to be made to the said Employer, the Bank binds itself, its successors and assigns by these presents sealed with the Common Seal of the said Bank this Day of20.....

THE CONDITIONS of this obligation are:

- 1. If after tender opening the tenderer withdraws his tender during the period of tender validity specified in the instructions to tenderers
Or
- 2. If the tenderer, having been notified of the acceptance of his tender by the Employer during the period of tender validity:
 - (a) fails or refuses to execute the form of Agreement in accordance with the Instructions to Tenderers, if required; or
 - (b) fails or refuses to furnish the Performance Security, in accordance with the Instructions to Tenderers;

We undertake to pay to the Employer up to the above amount upon receipt of his first written demand, without the Employer having to substantiate his demand, provided that in his demand the Employer will note that the amount claimed by him is due to him, owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This guarantee will remain in force up to and including thirty (30) days after the period of tender validity, and any demand in respect thereof should reach the Bank not later than the said date.

_____	_____
<i>[date]</i>	<i>[signature of the Bank]</i>
_____	_____
<i>[witness]</i>	<i>[seal]</i>

6. PERFORMANCE SECURITY FORM

To: [Name KCEP-CRAL]

Dear Sir,

WHEREAS _____(hereinafter called “the Contractor”) has undertaken, in pursuance of Contract No. _____ dated _____ to execute _____ (hereinafter called “the Works”);

AND WHEREAS it has been stipulated by you in the said Contract that the Contractor shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

AND WHEREAS we have agreed to give the Contractor such a Bank Guarantee:

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Contractor, up to a total of Kshs. _____ (amount of Guarantee in figures) Kenya Shillings _____ (amount of Guarantee in words), and we undertake to pay you, upon your first written demand and without civil or argument, any sum or sums within the limits of Kenya Shillings _____ (amount of Guarantee in words) as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Contractor before presenting us with the demand.

We further agree that no change, addition or other modification of the terms of the Contract or of the Works to be performed thereunder or of any of the Contract documents which may be made between you and the Contractor shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any change, addition, or modification.

This guarantee shall be valid until the date of issue of the Certificate of Completion.

SIGNATURE AND SEAL OF THE GUARANTOR _____

Name of Bank _____

Address _____

Date _____

8. 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 ACCOUNTING OFFICER

9. QUALIFICATION INFORMATION

1. Individual Tenderers or Individual Members of Joint Ventures

1.1 Constitution or legal status of tenderer (attach copy or Incorporation Certificate);
Place of registration: _____

Principal place of business _____

Power of attorney of signatory of tender _____

1.2 Total annual volume of construction work performed in the last five years

Year	Volume	
	Currency	Value

1.3 Work performed as Main Contractor on works of a similar nature and volume over the last five years. Also list details of work under way or committed, including expected completion date.

Project name	Name of client and contact person	Type of work performed and year of completion	Value of Contract

1.4 Major items of Contractor's Equipment proposed for carrying out the Works. List all information requested below.

Item of Equipment	Description, Make and age (years)	Condition(new, good, poor) and number available	Owned, leased (from whom?), or to be purchased (from whom?)

1.5 Qualifications and experience of key personnel proposed for administration and execution of the Contract. Attach biographical data.

Position	Name	Years of experience (general)	Years of experience in proposed position
Project Manager			
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
(etc.)			

1.6 Financial reports for the last five years: balance sheets, profit and loss statements, auditor's reports, etc. List below and attach copies.

1.7 Evidence of access to financial resources to meet the qualification requirements: cash in hand, lines of credit, etc. List below and attach copies of supportive documents.

1.8 Name, address and telephone, telex and facsimile numbers of banks that may provide reference if contacted by the Employer.

1.9 Statement of compliance with the requirements of Clause 1.2 of the Instructions to Tenderers.

1.10 Proposed program (work method and schedule) for the whole of the Works.

2 Joint Ventures

2.0 The information listed in 1.1 – 2.0 above shall be provided for each partner of the joint venture.

2.1 The information required in 1.11 above shall be provided for the joint venture.

2.2 Attach the power of attorney of the signatory(ies) of the tender authorizing signature of the tender on behalf of the joint venture

2.3 Attach the Agreement among all partners of the joint venture (and which is legally binding on all partners), which shows that:

- a) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
- b) one of the partners will be nominated as being in charge, authorized to incur liabilities and receive instructions for and on behalf of any and all partners of the joint venture; and
- c) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.

3 Details of Sub-Contractors

If the Tenderer wishes to sublet any portions of the Works under any heading, he must give below details of the sub-contractors he intends to employ for each portion.

Failure to comply with this requirement may invalidate the tender.

(1) Portion of Works to be sublet:

[i] Full name of Sub-contractor
and address of head office:.....

Sub-contractor's experience
of similar works carried out
in the last 3 years with
Contract value:

(2) Portion of Works to sublet:

(i) Full name of sub-contractor
and address of head office:.....

(ii) Sub-contractor's experience
of similar works carried out
in the last 3 years with
contract value:

.....

[Signature of Tenderer)

Date

10. TENDER QUESTIONNAIRE

Please fill in block letters.

1. Full names of tenderer;

.....

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

.....

3. Telephone number (s) of tenderer;

.....

4. Telex of tenderer;

.....

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

.....

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

.....

.....

Signature of Tenderer

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