

**KENYA MARINE AND FISHERIES RESEARCH INSTITUTE**

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**Website: [www.kmfri.co.ke](http://www.kmfri.co.ke)**

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**REQUEST FOR TENDER AND FRAMEWORK AGREEMENTS FOR PROVISION OF  
MONTHLY FUMIGATION OF RV MTAFITI TENDER NO. KMF/HQS/06/2019-2020**

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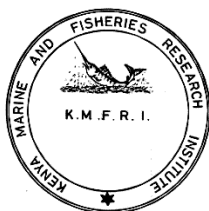
**COMPANY /FIRM.....**

**TENDER NAME.....**

**TENDER No. ....**

**CLOSING/OPENING DATE; WEDNESDAY JULY 31<sup>ST</sup>, 2019**

# KENYA MARINE AND FISHERIES RESEARCH INSTITUTE



## **TENDER AND FRAMEWORK AGREEMENT FOR AIR-TRAVEL FOR 2019-2020**

Kenya Marine and Fisheries Research Institute (KMFRI) is a research body established within the provision of Science and Technology Act (1979) Cap 250 charged with the responsibility to undertake research in Marine and freshwater fisheries, aquaculture, environmental and ecological studies and marine research including chemical and physical oceanography, in order to provide scientific data and information for sustainable exploitation, management and conservation of Kenya's fisheries resources and aquatic environment and contribute to National strategies towards food security, poverty alleviation, and creation of employment.

The Director KMFRI invites tenders and framework agreements for Provision of Monthly Fumigation of RV Mtafiti from eligible bidders for the financial years 2019-2020.

Bidders are informed that these items, will be procured on "As and when need arises basis" This is for the framework agreements for the Provision of Monthly Fumigation of RV Mtafiti Tender No. KMF/HQS/06/2019-2020.

- a. Interested firms may obtain tender and framework agreements documents from the office of the Head of Procurement Function at KMFRI Headquarters located at English Point Mkomani in Mombasa during normal working office hours (Monday–Friday) upon payment of a non-refundable fee of Kshs 1,000/= (One thousand Shillings only) for the document only payable to the KMFRI Cashier in Mombasa. The document can also be viewed and downloaded from the website [www.kmfri.co.ke](http://www.kmfri.co.ke) at no fee Firms previously pre-qualified **Must Apply Afresh** to be considered/ listed. Enquiries can be made via email address: [kmfriprocurement@kmfri.co.ke](mailto:kmfriprocurement@kmfri.co.ke)
- b. Duly Completed tender and framework agreements Documents should be in plain sealed envelope clearly indicating respective "**Tender Title and Reference Number**"& should be addressed to:-

The Director, Kenya Marine and Fisheries Research Institute,  
East African Time: 0900 to 1500 hours. Silos Road, English Point – Mkomani,  
MOMBASA. Email: [kmfriprocurement@kmfri.co.ke](mailto:kmfriprocurement@kmfri.co.ke) / [supplies@kmfri.co.ke](mailto:supplies@kmfri.co.ke) Telephone:  
+254-20-2353904 or +254-20-8041560/1/ +254 020 8021560/1 Tel: +254 41 475154 or  
+25420 8041560/1, +254 020 8021560/1

OR be deposited into the Tender Box mounted at the entrance of the supplies office of Kenya Marine and Fisheries Research Institute situated at English point MOSC Wing, Mkomani, Mombasa on or before **Wednesday, 31<sup>ST</sup> JULY, 2019 at 12.00 noon.**

Tender opening shall be done on **Wednesday, 31<sup>ST</sup> JULY, 2019 at 12.00 noon**, in the Institute's Dolphin Conference Hall – HQS, Mombasa.

**c. Qualifications requirements include:**

1. Certified - financial standing Audited financial statements for the last three years (2016, 2017 & 2018) provided. Companies registered within the last one year should submit certified bank statements for at least twelve months or the duration of registration
2. Proof of similar contracts in scope and value
3. Certificate(s) of incorporation
4. Valid tax compliance certificate
5. Site visit is Mandatory

**INVITATION LETTER**

**DATE :** .....

**TENDER REF. NO:** .....

**TENDER NAME:** .....

- 1.1 KMFRI invites sealed applications from eligible and interested candidates for Provision of Monthly Fumigation of RV Mtafiti for the year 2019 and 2020.

This document includes a questionnaire to be completed and returned and be supported by the requisite documents from eligible and competent bidders. All statutory requirements are compulsory.

- 1.2 Duly filled Framework documents in plain sealed envelopes, clearly marked:

TENDER/ FRAMEWORK DOCUMENT for the Provision of Monthly Fumigation of RV Mtafiti. **Tender No. KMF/HQS/06/2019-2020;**

And marking each “ORIGINAL” and “COPY” should be deposited into the Tender Box mounted at the entrance of the supplies office of Kenya Marine and Fisheries Research Institute situated at English point MOSC Wing, Mkomani, Mombasa or be addressed and posted to:

**The Director,  
Kenya Marine and Fisheries Research Institute,  
Silos Road, English Point – Mkomani,  
MOMBASA.**

ON or BEFORE, **Wednesday, 31<sup>ST</sup> JULY, 2019 at 12.00 noon** internet time. Bids submitted later than this date and time shall be rejected and returned unopened.

Opening of the submitted Tender & framework Agreement documents will take place immediately thereafter at Kenya Marine and Fisheries Research Institute’s Dolphin Conference Hall in the presence of bidders/their representatives who may wish to attend.

Kenya Marine & Fisheries Research Institute reserves the right to accept or reject any tendering whole or part and does not bind itself to accept the lowest or any offer

Chief Officer, Supply Chain Management

**For: DIRECTOR/KMFRI**

**16<sup>th</sup> July, 2019**

## **GENERAL INFORMATION:**

### **INTRODUCTION**

#### **1. Eligible applicant**

- 1.1** This invitation for supplier registration application is open to all suppliers and manufacturers eligible as described in the application documents.
- 1.2** Applicants should not have been debarred in participating in the public procurement process as per the Public Procurement and Disposal Act (2015).
- 1.3** Applicants shall bear all costs associated with the submission of their applications and Kenya Marine and Fisheries Research Institute will in no case be liable for such costs, regardless of the conduct or outcome of the process.
- 1.4** The applicant shall furnish, as part of his/her application, documents establishing their eligibility to apply and qualifications to perform the contract if it is accepted.
- 1.5** The documentary evidence of the applicant qualification to perform the contract if the application for registration is accepted shall establish to the Institution's satisfaction.
  - a) That in the case of an applicant offering goods which the applicant do not manufacture or otherwise produce, the applicant has been duly authorized by the goods' manufacturer or producer to supply them.
  - b) That the applicant has financial, technical and production capability necessary to perform the contract.
  - c) That the applicant has an established physical and postal address for ease of contact and he/she is licensed by the Kenyan Government to trade in the category applied for.
  - d) That the applicant is willing to do business with Kenya Marine and Fisheries Research Institute and shall allow credit facilities and acceptable trade terms.

#### **2. GOODS ELIGIBILITY AND CONFORMITY**

- 2.1** The applicant shall furnish as part of this application, documents establishing the eligibility and conformity to the application of all goods that the applicant proposes to supply if accepted.
- 2.2** The documentary evidence of the eligibility to supply goods and service shall consist of a price schedule, brochures, catalogues of the goods and services offered which in some cases shall be confirmed by a certificate of origin issued at the time of shipment.
- 2.3** The documentary evidence of conformity of the goods to the application documents may be in the form of literature, drawings and data and shall consist of:-
  - a) Where applicable a detailed description of essential technical and performance characteristics of the goods.
  - b) A list giving full particulars including available sources and current prices of the spare part, special tools etc, necessary for the proper and continued functioning of the **goods/Services for a period of one (1) year** following commencement of the use of the goods

### **3. SUBMISSION OF APPLICATION**

#### **3.1 Validity of Tenders**

- 3.1.1 Tenders shall remain valid for 150 days. A tender valid for a shorter period shall be rejected by the Procuring entity as nonresponsive.
- 3.1.2 In exceptional circumstances, the Procuring entity may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing.

#### **3.2 Format and Signing of Tender**

- 3.2.1 The tenderer shall prepare two copies of the tender, clearly / marking each **"ORIGINAL"** and **"COPY,"** as appropriate. In the event of any discrepancy between them, the original shall govern.
- 3.2.2 The original and all copies of the tender shall be typed or written in indelible ink and shall be signed by the tenderer or a person or persons duly authorized to bind the tenderer to the contract. All pages of the tender, except for unamended printed literature, shall be initialed by the person or persons signing the tender.
- 3.2.3 The tender shall have no interlineations, erasures, or overwriting except as necessary to correct errors made by the tenderer, in which case such corrections shall be initialed by the person or persons signing the tender.

#### **3.3 Sealing and Marking of Tenders**

- 3.3.1 The tenderer shall seal the original and each copy of the tender in separate envelopes, duly marking the envelopes as **"ORIGINAL"** and **"COPY."** The envelopes shall then be sealed in an outer envelope.
  - 3.3.2 The inner and outer envelopes shall:
    - (a) be addressed to the Procuring entity at the address given in the invitation to tender
    - (b) Bear, tender number and name in the invitation to tender and the words: **"DO NOT OPEN BEFORE Wednesday, 31<sup>ST</sup> JULY, 2019 at 12.00 noon"**.
  - 3.3.3 The inner envelopes shall also indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declared "late".
  - 3.3.4 If the outer envelope is not sealed and marked as required by paragraph 3.3.2 the Procuring entity will assume no responsibility for the tender's misplacement or premature opening.
- 3.4** Applications must be received by the Institution at the address, date and time specified on the invitation for .
- 3.5** The Institution may at its discretion, extend this deadline by amending the application documents as per regulations governing amendments of tender documents in which case

all rights and obligations of both the Institution and applicants previously subject to the initial deadline will thereafter be subject to the deadlines as extended.

#### **4. MODIFICATION AND WITHDRAWAL OF APPLICATION**

- 4.1** The applicant may modify or withdraw his/her application after submission, provided that written notice of modification, including substitution or withdrawal of the application is received by the Institution prior to the deadline prescribed for submission of applications.
- 4.2** The applicant's modification or withdrawal notice shall be prepared, sealed, marked and dispatched as specified earlier. Withdrawal notice may also be sent by cable, but followed by signed confirmation copy, post marked not later than the deadline for submission of the application.
- 4.3** No application may be withdrawn in the interval between the deadline for submission of the application and expiration of the period of application validity specified on the application form.

#### **5. OPENING AND EVALUATION OF APPLICATIONS**

##### **5.1 Opening**

The Institution will open all the applications in the presence of applicant's representatives who choose to attend in the designated place as per invitation to . Applicant's representatives who choose to witness the opening shall sign a register evidencing their attendance.

- 5.2** The applicant's names, modifications or withdrawals and other details the Institution considers appropriate will be announced at the opening.
- 5.3** The Institution will prepare minutes of the opening.

#### **6. CLARIFICATION OF APPLICATION**

- 6.1** To assist in the examination, evaluation and comparison of applications, the Institution may at its discretion ask the applicant for clarification of his/her application. The request for clarification and the response shall be in writing and no change in the substance of the application shall be sought, offered, or permitted.
- 6.2** Any effort by the applicant to influence the Institution during evaluation, application comparison or acceptance decision making may result in rejection of the applicant's application.

<b>CLARIFICATION OF APPLICATION ON CONTENTS OF BIDDING DOCUMENTS</b>
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For <b>Clarification of bid purposes</b> only, the Client's address is: Attention: <i>Director– Kenya Marine &amp; Fisheries Research Institute,</i> Address: <i>Silos Road, English Point – Mkomani.</i> Telephone: +254-72 037 4726 Electronic mail address: <a href="mailto:kmfriprocurement@kmfri.co.ke">kmfriprocurement@kmfri.co.ke</a> / <a href="mailto:supplies@kmfri.co.ke">supplies@kmfri.co.ke</a>
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## **7. EXAMINATION FOR ACCEPTANCE**

**7.1** Prior to the detailed evaluation, the Institution will determine the substantial, responsiveness of each application document. A substantially responsive application is one which conforms to all the terms and conditions without material deviations. The Institution's determination of applicants' responsiveness will be based on the content of the application without re-course to extrinsic evidence.

**7.2** If an application is not substantially responsive, it will be rejected by the Institution and may not subsequently be made responsive by applicant through correcting the non-conformity.

## **8. EVALUATION AND COMPARISON OF APPLICATIONS**

**8.1** The Institution will only evaluate and compare applications that have been determined to be substantially responsive.

### **SECTION IV – EVALUATION CRITERIA**

All applicants for this framework Agreement are requested to submit the below listed requirements without which they shall be disqualified (which shall be used during Preliminary Examination to determine responsiveness):-

**The following Evaluation criteria will be used:-**

<b>S/No</b>	<b>Evaluation Attribute</b>	<b>Remarks</b>
1	A copy of certificate of Registration/incorporation	Mandatory
2	Copy of Current Business Permit / Trade License	Mandatory
3	Valid Tax compliance Certificate	Mandatory
4	Registration with the National treasury (Directorate of Procurement) for The Special groups	Mandatory
5	Copy of Certificate of Registration with relevant regulatory bodies	Mandatory
6	Pin Certificate	Mandatory
7	Site Visit is Required and Must for all Bidders	Mandatory
8	Certified - financial standing Audited financial statements for the last three years (2016, 2017 & 2018) provided. Companies registered within the last one year should submit certified bank statements for at least twelve months or the duration of registration	Mandatory/ Not mandatory for special groups
9	Letters of recommendation from your current corporate clients	Technical requirement
10	Professional certification where applicable with their CV	Technical requirement
11	Letter or certification from Regulatory bodies	Technical requirement

## SCORE

S/NO	REQUIRED INFORMATION	FORM REF.	SCORE
1	documents	Form A	20
2	submission	Form B	15
3	Confidential Business Questionnaire	Form C	15
4	Financial position	Form D	15
5	Curriculum Vitae	Form E	10
6	Firms Referees	Form F	15
7	Credit Facility	Form G	10
	<b>TOTAL</b>		<b>100</b>

## NOTE:

1. Kindly note that evaluation will be based on the above mentioned requirements. Firms that attain a pass mark of 70% and above shall be registered in the list of suppliers.
2. The mandatory requirements must be met in order to qualify for the technical evaluation.



8.2 The Institution's evaluation of an application will also take into account the eligibility of the applicant and the evaluation criteria as attached.

## 9 SPECIAL CONDITIONS OF CONTRACT

9.1 Special conditions of contract as relates to the GCC

<b>SPECIAL CONDITIONS OF CONTRACT</b>
---------------------------------------

<b>Delivery of goods and services if awarded the contract</b>
---------------------------------------------------------------

- |                                                                                                                                                                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"><li>• The tenderers shall make delivery to KMFRI-HQS MSA.</li><li>• Goods must be accompanied by Delivery Note(s)/ Packing List and Invoices.</li><li>• The Local Purchase Order number must be indicated on Delivery Note(s).Packaging and Invoices.</li></ul> |
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## 10. CORRUPT FRAUDULENT PRACTICES

10.1 The Institution requires that applicants observe the highest standard of ethics during the procurement process. In pursuance of this policy the Institution:-

- a) Defines for the purpose of this provision, the terms set forth below as follows:-
  - i. "Corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of a Institution official in the procurement process or in contract execution including acceptance of this application.
  - ii. "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or execution of a contract to the detriment of the Institution and includes collusive practice among suppliers (prior to or after application submission) designed to establish item prices at artificial non-competitive levels and to deprive the Institution of the benefit of free and open competition.
  
- b) Will reject a proposal for award if it determines that the applicant recommended for award (acceptance) has engaged in corrupt or fraudulent practices in competing for the application in question'.
  
- c) Will declare an applicant ineligible, either indefinitely or for a period of time and blacklist them for award of any Institution contract if at any time it is determined that the applicant has engaged in corrupt or fraudulent practices.

## 11. STANDARD FORMS

These Forms shall include:

- a) Form A – Documents
- b) Form B – Submission

- c) Form C - Confidential Business Questionnaire
- d) Form D - Financial Position.
- e) Form E -Format of Curriculum Vitae (CV) for Proposed Staff (**One Technical Staff.**)
- f) Form F – Firm’s References ( **to be filled by Three Referees, three forms are attached**)
- g) Form G - Credit Facility Declaration
- h) Form H – Schedule of Requirements

**FORM A: PRE-QUALIFICATION DOCUMENTS**  
**(ALL THESE ARE MANDATORY, AND FAILURE TO ATTACH ANY OF THEM**  
**WILL LEAD TO AN AUTOMATIC DISQUALIFICATION)**

All firms must provide:-

1. Copy of Certificate of Registration/ Incorporation
2. Valid Tax Compliance Certificate from Kenya Revenue Authority
3. Copy of Pin Certificates of firm/company/individual.
4. Copy of current Business permit/Trade License
5. Registration with the National treasury (Directorate of Procurement) for The Special groups
6. Financial standing Audited financial statements for the last three years (2016, 2017 & 2018) provided. Companies registered within the last one year should submit certified bank statements for at least twelve months or the duration of registration
7. Copy of Certificate of Registration with relevant regulatory bodies
8. Current Single Business Permit
9. Proof of similar contracts within the last three years

**NOTE:** Expired Documents are deemed NOT-ATTACHED

**FORM B: / TENDER/ FRAMEWORK AGREEMENT SUBMISSION**

Date \_\_\_\_\_

To: \_\_\_\_\_  
*[name and address of procuring entity]*

Gentlemen and/or Ladies:

We, the undersigned, submit our form for \_\_\_\_\_

\_\_\_\_\_ in accordance with  
*(Title of bid)*

Requested for No. \_\_\_\_\_  
*(Tender No)*

Dated \_\_\_\_\_ and our Proposal. We are hereby submitting our

Prequalified documents which include the following attachments;

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Our Price list as submitted by as shall be binding upon us up to expiration of validity period specified in the instruction to candidate. We undertake that if our application is acceptable we will deliver goods/services in accordance with the delivery schedule as requirement or official an order signed by authorized officer(s) of the Institution.

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

We remain

Yours Sincerely

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

Name and title of signature and stamp .....

Name of Applicant's company.....

Address.....

In presence of Witness name and signature.....

Date.....

**FORM C: CONFIDENTIAL BUSINESS QUESTIONNAIRE -**

You are requested to give the particulars indicated:

You are advised that it is a serious offence to give false information on this form

**PART 1 – GENERAL**

- a) Business Name .....
- b) Location of business premises County//Town .....
- c) Street / Road.....
- d) Building.....
- e) Plot Number .....
- f) Postal Address ..... Telephone No. ....
- g) Email Address.....
- h) Nature of Business ..... And Specialization.....
- i) Current Single business permit/Trade License  
No. ....Expiring Date..... (Attach copy)
- j) Certificate of Incorporation..... (Attach copy)
- k) Current Tax Compliance Certificate/ or Exemption letter from VAT Dep't  
No..... Expiring Date .....(Attach copy)
- l) Maximum Value of Business which you can handle at any one time Kshs.....
- m) Name of your Bankers ..... Branch .....
- n) Your trade terms (including mode of payment, credit allowed and discount)  
.....
- o) Banker Certificate on the applicants liquidity, suitability and credit limitation  
.....

p) Name and Telephone of contact person

.....

q) Any other .....

.....

**PART 2 (A) – SOLE PROPRIETORS**

a) Your name in full ..... Age .....

b) Nationality ..... Country of Origin .....

Citizenship details .....

**PART 2 (B) – PARTNERSHIP**

Give details of partners as follows:-

NAME	NATIONALITY	SHARES
1. ....	.....	.....
2. ....	.....	.....
3. ....	.....	.....
4. ....	.....	.....

**PART 2(C) REGISTERED COMPANY**

a) **Private or Public** ..... State the nominal and

Issued capital of the company:-

**Nominal Kshs.** .....

**Issued Kshs.** .....

b) **Details of Directors:**

NAME	NATIONALITY	SHARES
------	-------------	--------

1. ....
2. ....
3. ....
4. ....

If Kenyan Citizen, indicate under “Citizenship Details” whether by birth, naturalization or registration.

**FORM D: FINANCIAL POSITION**

Attach a copy of firm’s latest two years certified audited financial statements, three months bank statement, giving summary of assets and liabilities, income and expenditure, cash flow statement.

**FORM E: FORMAT OF CURRICULUM VITAE (CV) FOR PROPOSED STAFF - (QUALIFICATIONS AND EXPERIENCE OF ONE TECHNICAL STAFF PROPOSED FOR ADMINISTRATION AND EXECUTION OF THE CONTRACT, BOTH ON AND OFF SITE)**

**Proposed Position:** \_\_\_\_\_

**Name of Staff:** \_\_\_\_\_

**Profession:** \_\_\_\_\_

**Date of Birth:** \_\_\_\_\_

**Years with Firm:** \_\_\_\_\_ **Nationality:** \_\_\_\_\_

**Membership in Professional Societies:** \_\_\_\_\_

**Detailed Tasks Assigned:** \_\_\_\_\_

**Key Qualifications:**

*[Give an outline of staff member's experience and training most pertinent to tasks on assignment. Describe degree of responsibility held by staff member on relevant previous assignments and give dates and locations].*

**Education:** \_\_\_\_\_

*[Summarize college/university and other specialized education of staff member, giving names of schools, dates attended and degree[s] obtained.]*

**Employment Record:** \_\_\_\_\_

*[Starting with present position, list in reverse order every employment held. List all positions held by staff member since graduation, giving dates, names of employing organizations, titles of positions held, and locations of assignments.]*

**Certification:**

I, the undersigned, certify that these data correctly describe me, my qualifications, and my experience.

**Full name of staff member:** \_\_\_\_\_

*[Signature of staff member]:* \_\_\_\_\_

**Contact (Mobile) number:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Full name of authorized representative:** \_\_\_\_\_

*[Signature of authorized representative of the firm]:* \_\_\_\_\_

**Contact (Mobile) number:** \_\_\_\_\_

**Date:** \_\_\_\_\_



**FORM F: FIRM'S REFERENCES – REFEREE THREE 3**

Relevant Services carried out in the last three Years that Best Illustrate Qualifications. Relevant projects done with Public Institution for the last three years would be an added advantage. **Minimum required referees are three (3).**

**(MUST ATTACH EVIDENCE e.g LOCAL PURCHASE ORDER, AWARD LETTER)**

**1. i) Name of 1st client (Organization).....**

ii) Address of Client (Organization).....

iii) Name of contact person at the client (Organization).....

iv) Telephone No. of Client.....

v) Value of contract.....

vi) Duration of contract (date).....

**2. (i) Name of 2nd client (Organization).....**

(ii) Address of client (Organization).....

(iii) Name of contact person at the client (Organization).....

(iv) Telephone No. of Client.....

(v) Value of contract.....

(vi) Duration of contract (Date).....

**3.i) Name of 3rd Client (Organization).....**

ii) Address of Client (Organization).....

iii) Telephone No. of Client.....

iv) Name of contact person at the client (Organization).....

v) Value of contract.....

vi) Duration of contract (Date).....

**FORM G: CREDIT FACILITY DECLARATION FORM-**

**Will you offer credit to the Institution if awarded the tender?**

*(Please tick (✓) appropriately)*

.....  
**YES**

.....  
**NO**

**If yes please indicate number of credit days.....**

**DECLARATION**

Having studied the pre-qualification information for the above exercise, I/we hereby state that the information furnished in our application is accurate to the best of our knowledge.

Name .....

For and on behalf of.....

Position.....

**Sign**.....

**Stamp**.....

**FORM H – SCHEDULES OF REQUIREMENTS****1. TENDER NO. KMFRI/HQS/06/2019-2020 – FRAMEWORK AGREEMENT,  
BEING FOR THE PROVISION OF MONTHLY FUMIGATION OF RV MTAFITI**

S/No	ITEM/SERVICES DESCRIPTION/DETAILS	UNIT OF QTY	QTY	UNIT PRICE	TOTAL COST VAT & DISC INCLUSIVE	DAYS OF DELIVERY IF GIVEN ORDER
<b>Grand Total in Kenya Shillings Transferred to Form of Tender</b>						

Signature of Tenderer \_\_\_\_\_

Note: In case of discrepancy between unit price and total, the unit price shall prevail