

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | KSHS. CTS. |
|------|---|------------|
| A | <p>ATTENDANCE UPON OTHER TRADESMEN, ETC.</p> <p>The Contractor shall allow for the attendance upon trade and shall afford any tradesmen or other persons employed for the execution of any work not included in this Contract every facility for carrying out their work and also for use of his ordinary scaffolding. The Contractor, however, shall not be required to erect any special scaffolding for them. The Contractor shall perform such cutting away for and making good after the work of such tradesmen or persons as may be ordered by the Project Manager and the work will be measured and paid for to the extent executed at rates provided in these Bills.</p> | |
| B | <p>NOMINATED SUPPLIERS</p> <p>The Contractor shall take delivery as directed by the Project Manager of all materials or goods supplied by the Nominated Suppliers and shall sign a receipt as having received them in good order and condition. The Contractor shall insure, off load, transport to site, unload, hoist, provide safe storage and thereafter be responsible for any loss or damage or replacement of any such lost or damaged articles at his own expense and shall return empty cases if so required.</p> | |
| C | <p>FIXING ONLY</p> <p>Fix Only:- "Fix Only" shall mean take delivery at nearest railway station (Unless otherwise stated), pay all demurrage charges, load and transport to site where necessary, unload, store in weather protected storage, unpack, assemble as necessary, distribute to position, hoist and fix only.</p> <p>Fixing only items to be supplied under Provisional or Prime Cost Sums or items to be supplied by the Government shall include the above.</p> | |
| D | <p>BLASTING OPERATIONS</p> <p>Blasting will only be allowed with the express permission of the Project Manager in writing. All blasting activities shall be carried out at the Contractor's sole risk and cost in accordance with any Government regulations in force for the time being, and any special regulations laid down by the Project Manager governing the use and storage of explosives.</p> | |
| E | <p>MATERIALS ARISING FROM EXCAVATIONS</p> <p>Materials of any kind obtained from the excavations shall be the property of the Government. Unless the Project Manager directs otherwise, such materials shall be dealt with as provided in the Contract. Such materials shall only be used in the works, in substitution of materials which the Contractor would otherwise have had to supply with the written permission of the Project Manager. Should such permission be given, the Contractor shall make due allowance for the value of the materials so used at a price to be agreed.</p> | |
| F | <p>PROTECTION OF THE WORKS.</p> <p>Provide protection of the whole of the works contained in the Bills of Quantities, including casing, casing up, covering or such other means as may be necessary to avoid damage to the satisfaction of the Project Manager and remove such protection when no longer required and make good any damage which may nevertheless have been done at completion free of cost to the Government.</p> <p>In the event of any damage occurring to the works, materials, sewers, drains, gullies, paths or other works on the site in temporary possession of the Contractor for the purpose of this contract either from the weather, want of proper protection, defects or insufficiency of the works of any other cause whatsoever during the progress of the works, the Contractor shall be responsible and shall without extra charge, make good all damage and pay all costs which may be levied.</p> | |
| | CARRIED TO COLLECTION | |

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|------|---|------------|
| A | <p>REMOVAL OF RUBBISH ETC. Removal of rubbish and debris from the Buildings and site as it accumulates and at the completion of the works and remove all plant, scaffolding and unused materials at completion.</p> | |
| B | <p>WORKS TO BE DELIVERED UP CLEAN Before handing over any building the Contractor shall properly clean and flush all gutters, rainwater and waste pipes, manholes and drains and wash (except where such treatment might cause damage) all floors, sanitary fittings and finished surfaces, clean glass inside and outside and any other parts of the works and remove all marks, blemishes, stains and defects from joinery, fittings and decorated surfaces generally, polish door furniture and bright parts of metal work and leave all sanitary and other appliances in full working order. He shall also cut and weed all grassed areas, clean down external steps, paths and roads and leave the whole in perfect condition ready for occupation. The whole of the building shall be left watertight, clean, perfect and fit for occupation to the approval of the Project Manager.</p> | |
| C | <p>GOVERNMENT ACTS REGARDING WORKPEOPLE ETC. Allow for complying with all Government Acts, Orders and Regulations in connection with the employment of Labour and other matters related to the execution of the works. In particular the Contractor's attention is drawn to the provisions of the Factory Act 1950 and his tender must include for all costs arising or resulting from compliance with any Act, Order or Regulation relating to Insurances, pensions and holidays for workpeople or so the safety, health and welfare of the workpeople.</p> <p>The Contractor must make himself fully acquainted with current Acts and Regulations, including Police Regulations regarding the movement, housing, security and control of labour, labour camps , passes for transport, etc. It is most important that the Contractor, before tendering, shall obtain from the relevant Authority the fullest information regarding all such regulations and/or restrictions which may affect the organisation of the works, supply and control of labour, etc., and allow accordingly in his tender. No claim in respect of want of knowledge in this connection will be entertained.</p> | |
| D | <p>TRAINING LEVY The Contractor's attention is drawn to legal notice No. 237 of October, 1971, which requires payment by the Contractor of a Training Levy at the rate of 1/4 % of the Contract sum on all contracts of more than Kshs. 50,000.00 in value. His tender must include for all costs arising or resulting therefrom.</p> | |
| E | <p>STANDARD LEVY The Contractor's attention is drawn to the Legal Notice No. 267 of 22nd June 1990 which require payment by the Contractor of a Standard Levy. His tender must include for all costs arising or resulting therefrom.</p> | |
| F | <p>THE NCA REGULATIONS The Contractor's attention is drawn to The National Construction Authority Regulations Legal Notice No. 74 dated 6th June 2014. The Contractor must ensure that the project, his workers and site supervisors are registered and accredited under the NCA regulations.</p> | |
| G | <p>NEMA REQUIREMENTS The Contractor shall be responsible for complying with NEMA requirements and shall allow for all costs arising or resulting therefrom. No claim of extension of time shall be allowed as result of complains regarding NEMA requirements.</p> | |
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| ITEM | DESCRIPTION | KSHS. CTS. |
|------|--|------------|
| A | <p>COVID-19 REGULATIONS COMPLIANCE The Contractor is required to comply with all COVID-19 regulations and requirements as stipulated in by-laws (and any subsequent revisions) of the Republic of Kenya and any directives issued at any time by the Government of Kenya.</p> | |
| B | <p>FIRM PRICE CONTRACT Unless otherwise specifically stated, price adjustment has been allowed for in this contract due to its complexity and scope, and an amount has been provided in the provisional sums/works for that purpose of adjustments for labour and/or materials during the currency of the contract.</p> | |
| C | <p>VALUE ADDED TAX The Contractor's attention is drawn to the Legal Notice in the Finance Act part 3 Section 21(b) operative from 1st September, 1993, and any other amendments thereafter, which requires payment of VAT on all Building Construction Contracts. The Contractor should therefore include allowance in his rates and prices for prices for VAT and any other Government taxes currently in force.</p> <p>The Contractor is to add VAT to the final figure at the Tender Summary and the tender will be deemed to include for all costs arising or resulting therefrom.</p> | |
| D | <p>OCCUPATION CERTIFICATE The Contractor's attention is drawn to the requirement of obtaining an occupation certificate from Laikipia County upon completion of the works and subsequent occupation of the completed premises. The Contractor shall therefore allow for any sums or monies payable to the County for the same including liaising with them to obtain the said Certificate.</p> | |
| E | <p>STAMP CHARGES The Contractor shall allow for the payment of all stamp charges in connection with the Surety Bond and the Contract Agreement.</p> | |
| F | <p>WARRANTY, GUARANTEES & MAINTENANCE MANUALS The Contractor shall submit all warranties, guarantees and manuals for specialized materials, workmanship and installed equipment, all in their name, to the Employer within the defects liability period.</p> | |
| G | <p>AS-BUILT DRAWINGS & DOCUMENTATIONS The Contractor is to allow for costs of preparing as-built/ as-installed drawings and requisite documentation (in a format approved by the Project Manager). These shall be submitted within the defects liability period and shall be a true representation of all the works carried out on ground.</p> | |
| H | <p>GENERAL SPECIFICATION For the full description of materials and workmanship, method of execution of the work and notes for pricing, the Contractor is referred to the Ministry of Roads, Public Works and Housing General Specification dated 1976 or any subsequent revision thereof which is issued as a separate document, and which shall be allowed in all respects unless it conflicts with the General Preliminaries, Trade Preambles or other items in these Bills of Quantities.</p> | |
| | CARRIED TO COLLECTION | |

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| ITEM | DESCRIPTION | KSHS. CTS. |
|---|---|------------|
| A | <p>COPYRIGHT, DETAILS TO BE PRIVATE AND CONFIDENTIAL</p> <p>The copyright of these Bills of Quantities is vested in the Project Manager and they may not be reproduced in whole or in part without the Project Manager's written permission.</p> <p>The Drawings, Bills of Quantities and Contract documents applicable to this contract are restricted by copyright. The Contractor shall treat the details of this Contract as private and confidential for his own information only and shall not publish or disclose the details of the Contract in any trade or technical paper or elsewhere (except as necessary for the purpose hereof) without the previous consent in writing of the Project Manager.</p> | |
| CARRIED TO COLLECTION | | |
| | | |
| <p>COLLECTION</p> <p>Brought Forward from Page Bill 1/ 1</p> <p>Brought Forward from Page Bill 1/ 2</p> <p>Brought Forward from Page Bill 1/ 3</p> <p>Brought Forward from Page Bill 1/ 4</p> <p>Brought Forward from Page Bill 1/ 5</p> <p>Brought Forward from Page Bill 1/ 6</p> <p>Brought Forward from Page Bill 1/ 7</p> <p>Brought Forward from Page Bill 1/ 8</p> <p>Brought Forward from Page Bill 1/ 9</p> <p>Brought Forward from Page Bill 1/ 10</p> <p>Brought Forward from Page Bill 1/ 11</p> <p>TOTAL</p> | | |
| GENERAL PRELIMINARIES | | |
| CARRIED TO SUMMARY OF BILL NO. 1 | | |
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PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | KSHS. CTS. |
|------|---|------------|
| | <p><u>PARTICULAR PRELIMINARIES</u></p> <p>A PARTIES</p> <p><u>(i) Employer</u> The Term "Employer" shall be deemed to mean The Principal Secretary, SDHUD Represented by the Secretary, Urban and Metropolitan Development, P.O. Box 30450-00100, NAIROBI.</p> <p>The term "Employer" and "Government" wherever used in the contract document shall be synonymous.</p> <p><u>(ii) Project Manager</u> The term "Project Manager" or "P.M." wherever used in these Bills of Quantities shall be deemed to imply the Project Manager as defined in the Conditions of Contract or such person or persons as may be duly authorised to represent him on behalf of the Government.</p> <p><u>(iii) Architect</u> The term "Architect" shall be deemed to mean "The P.M." as defined above whose address unless otherwise notified is Urban Development Department, P.O. Box 30450-00100, NAIROBI.</p> <p><u>(iv) Quantity Surveyor</u> The term "Quantity Surveyor" shall be deemed to mean "The P.M." as defined above whose address unless otherwise notified is Urban Development Department, P.O. Box 30450-00100, NAIROBI.</p> <p><u>(v) Electrical Engineer</u> The term "Electrical Engineer" shall be deemed to mean "The P.M." as defined above whose address unless otherwise notified is Urban Development Department, P.O. Box 30450-00100, NAIROBI.</p> <p><u>(vi) Mechanical Engineer</u> The term "Mechanical Engineer" shall be deemed to mean "The P.M." as defined above whose address unless otherwise notified is Urban Development Department, P.O. Box 30450-00100, NAIROBI.</p> <p><u>(vii) Civil/ Structural Engineer</u> The term "Structural Engineer" shall be deemed to mean "The P.M." as defined above whose address unless otherwise notified is Urban Development Department, P.O. Box 30450-00100, NAIROBI.</p> <p>B LOCATION OF THE SITE</p> <p>The site for works is located within the jurisdiction of the County Government of Busia. The Tenderer shall be deemed to have visited the site and familiarised himself with all site conditions prior to submission of tenders. No claims arising from tenderer's failure to do so will be entertained.</p> <p>The site is located in Busia County within Butula Constituency.</p> | |
| | CARRIED TO COLLECTION | |
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| ITEM | DESCRIPTION | KSHS. CTS. |
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| A | <p>SCOPE OF THE CONTRACT</p> <p>The works to be carried out under this contract comprise of development of a new retail market hub comprising: Parking and loading zones; Administration offices and Meeting rooms; Security and Surveillance office; Dispensary, Daycare; Foodcourt and hot kitchens; Trader stalls; Public Toilets; Storage Units; External Works including a boundary wall, landscaping; Gate Houses; and Civil Works.</p> <p>Services installations comprise of mechanical installations and electrical installations.</p> | |
| B | <p>DESCRIPTION OF THE WORKS</p> <p>The works comprise of development of a retail market with associated facilities as per the above scope to completion to the specifications given.</p> | |
| C | <p>MEASUREMENTS</p> <p>The measurements for all Contract Bills shall be in accordance with the Standard Method of Measurement of Building and Associated Civil Works for Eastern Africa, published by the Architectural Association of Kenya, Quantity Surveyors Chapter; 2nd Edition Metric; (June 2008).</p> <p>In the event of any discrepancies arising between the Bills of Quantities and the actual works, the site measurements shall generally take precedence. However, such discrepancies between any contract documents shall immediately be referred to the Project Manager in accordance with the Conditions of Contract. The discrepancies shall then be treated as a variation and be dealt with in accordance with the said Conditions.</p> | |
| D | <p>EXCEPTION TO THE STANDARD METHOD OF MEASUREMENT</p> <p>Attendance; Clause B20(a) of the Standard Method of Measurement is deleted and the following clause is substituted:-</p> <p>Attendance on nominated Sub-Contractors shall be given as an item in each case and shall be deemed to include: allowing use of standing scaffolding, mess rooms, sanitary accommodation and welfare facilities; provision of special scaffolding where necessary; providing space for office accommodation and for storage of plant and materials; providing light and water for their work: clearing away rubbish; unloading checking and hoisting: providing electric power and removing and replacing duct covers, pipe casings and the like necessary for the execution and testing of Sub- Contractors' work and being responsible for the accuracy of the same.</p> <p>Provisional Sums; Clause A6(i) of the Standard Method of Measurement is deleted and the following clause is substituted:-</p> <p>The term "provisional sum" shall mean a sum provided for work or for costs which cannot be entirely foreseen, defined or detailed at the time the tendering documents are issued. Such sum shall be deemed to be exclusive of any profit and any attendance required by the general contractor and provision shall be made for the addition thereof.</p> | |
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|------|---|------------|
| A | <p>TENDER DOCUMENTS Tender documents are as listed in Page 4/B of the Instruction to Tenderers.</p> | |
| B | <p>PRICING RATES The tenderer shall include for all costs in executing the whole of the works, including transport, replacing damaged items, fixing, all to comply with the said Conditions of Contract.</p> | |
| C | <p>SIGNING OF THE TENDER DOCUMENTS The bidder shall append his / her signature and / or company's rubber stamp on each and every page of tender document.</p> | |
| D | <p>DELIVERY OF TENDER Tenders and all documents in connection therewith must be delivered in an addressed envelope which should be properly sealed and deposited at the offices as specified in the letter accompanying these documents or as indicated in the advertisement.</p> <p>Tenders will be opened at the time specified in the letter accompanying these Tender Documents or as indicated in the advertisement. Tenders delivered/received later than the above time will not be opened.</p> | |
| E | <p>SUFFICIENCY OF TENDER The Contractor shall be deemed to have satisfied himself before tendering as to the correctness and sufficiency of his tender for the works, the rates and prices stated in the priced Bills of Quantities, which rates and prices shall cover all his obligations under the contract and all matters and things necessary for the proper execution, completion and maintenance of the works.</p> | |
| F | <p>CONTRACT PERIOD The contract period in accordance with of the conditions of contract must be adhered to.</p> <p>The Project Manager shall strictly monitor the Contractor's progress in relation to the progress chart and should it be found necessary the Project Manager shall inform the Contractor in writing that his actual performance on site is not satisfactory. In all such cases the Contractor shall accelerate his rate of performance production and progress by all means; such additional labour, plant, etc. and working overtime shall be at the Contractor's cost.</p> | |
| G | <p>URGENCY OF THE WORKS The Contractor is notified that these "works are urgent" and should be completed within the period stated in these Particular Preliminaries.</p> <p>The Contractor shall allow in his rates for any costs he/ she deems that he/she may incur by having to complete these works within the stipulated contract period.</p> | |
| H | <p>SIGNBOARD Allow for providing, erecting, maintaining throughout the course of the Contract and afterwards clearing away a maximum of 4 No. signboards as designed, specified and approved by the Project Manager.</p> | |
| J | <p>LABOUR CAMPS The Contractor shall not be allowed to house labour on site.</p> | |
| | <p>CARRIED TO COLLECTION</p> | |

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| ITEM | DESCRIPTION | KSHS. CTS. |
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| A | <p>EXISTING SERVICES Prior to the commencement of any work, the Contractor is to ascertain from the relevant authority the exact position, depth and level of all existing services in the area and he/she shall make whatever provisions may be required by the authorities concerned for the support, maintenance and protection of such services.</p> | |
| B | <p>DEMOLITIONS AND ALTERATIONS The Contractor is to allow for all temporary protection required during the works including ordinary and special dust screens, hoardings, barriers, warning signs, etc as directed by the Project Manager and as necessary for the adequate propping and protection of existing property, finishes, workmen employed on the site, employer's agents and the public. Any damage or loss incurred due to the insufficiency of such protection must be made good by the Contractor. All protective devices are to be removed on completion of the works and any necessary making good consequent upon this is to be executed to the satisfaction of the Project Manager.</p> <p>The works shall be propped, strutted and supported as necessary before any alteration or demolition work commences. Prices shall include for all cleaning and preparatory work to structure and finishes and for making good to all finishes on completion whether or not specifically described. Unless described as set aside for re-use all arising debris and surplus materials shall be carefully removed from building and carted away from site. The Contractor shall be entirely responsible for any breakage or damage which may occur to materials required for re-use during their removal unless it is certified by the Project Manager that such damage or breakage was inevitable as a result of the condition of the item concerned.</p> | |
| C | <p>MATERIALS FROM DEMOLITIONS Any reusable materials arising from demolitions and not re-used in this contract shall become the property of the Government. The Contractor shall allow in his rates the cost of transporting the such materials to the location specified by the Project Manager.</p> | |
| D | <p>PREVENTION OF ACCIDENT, DAMAGE OR LOSS The Contractor is instructed to take reasonable care in the execution of the works as to prevent accidents, damage or loss and disruption of normal activities being carried out by the Employer. The Contractor shall allow in his rates any expense he deems necessary by taking such care within site.</p> | |
| E | <p>CLEARING AWAY The Contractor shall remove all temporary works, rubbish, debris and surplus materials from the site as they accumulate and upon completion of the works, remove and clear away all plant, equipment, rubbish, unused materials and stains and leave in a clean and tidy state to the reasonable satisfaction of the Project Manager. The whole of the works shall be delivered up clean, complete and in perfect condition in every respect to the satisfaction of the Project Manager.</p> | |
| F | <p>WORKING CONDITIONS The Contractor shall also allow in his rates for any interference that he may encounter in the course of execution of the works for the Government may, in some cases, ask the Contractor not to proceed with the works until some activities within the site are completed.</p> | |
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| ITEM | DESCRIPTION | KSHS. CTS. |
|------|--|------------|
| A | <p>PAYMENTS All payments shall be made in accordance with Clause 14 of the Conditions of Contract. The tenderer's attention is drawn to the fact that no payments shall be effected other than as prescribed. In order to facilitate this, a list of the general component elements for the works is given at the summary page of these specifications and the tenderer is requested to break down his tender sum commensurate to the said elements.</p> | |
| B | <p>PAYMENT FOR MATERIALS ON SITE All materials for incorporation in the works must be stored on site before payment is effected, unless specifically exempted by the Project Manager. This is to include materials of the Contractor, nominated sub-Contractors and nominated suppliers.</p> | |
| C | <p>CLAIMS It shall be a condition of this contract that upon it becoming reasonably apparent to the Contractor that he has incurred losses and / or expenses due to any of the contract conditions, or by any other reason whatsoever, he shall present such a claim or intent to claim notice to the Project Manager within the contract period. No claim shall be entertained upon the expiry of the said contract period.</p> | |
| D | <p>FORM OF CONTRACT The Form of Contract shall be as stipulated in the Republic of Kenya's Standard Tender Document for Procurement of Works: Building and Associated Civil Engineering Works (2021 Edition) included herein.</p> | |
| E | <p>SPECIAL CONDITIONS OF CONTRACT</p> <ul style="list-style-type: none"> - Procuring Entity's name and address: <u>As prescribed in the Particular Preliminaries</u> - Name and Ref. NO. of Contract: <u>As prescribed in the Particular Preliminaries</u> - Project Manager name and Address: <u>As prescribed in the Particular Preliminaries</u> - Contrator's Representative name: <u>To be advised by the Contractor upon Contract Award.</u> - Key Personnel names: <u>To be advised upon Contract Award.</u> - Time for completion: <u>To be filled by the tenderer in the Form of Tender</u> - Defects Notification period: <u>6 months</u> - Sections: <u>To be advised by the Project Manager upon Contract Award.</u> - Electronic Transmission Systems: <u>To be advised by the Project Manager upon Contract Award.</u> - Time for the Parties entering into a Contract Agreement: <u>Within 30 days</u> - Commencement date: <u>To be advised by the Project Manager upon Contract Award.</u> - Time for access to the Site: <u>No later than the Commencement Date, and not later than 14 days after Commencement Date</u> - Project Manager duties and Authority: <u>Variations resulting in an increase of the Accepted Contract Amount in excess of 1% shall require approval of the Procuring Entity.</u> | |
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| ITEM | DESCRIPTION | KSHS. CTS. |
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| | <p><u>Special Conditions of Contract (cont.)</u></p> <ul style="list-style-type: none"> - Performance security: <u>10 % of the contract amount from a reputable bank</u> - Liquidated and Ascertained damages: <u>At the rate of Kshs.. 40,000... per week or part thereof</u> - Maximum amount of damages: <u>2% of the final Contract Price.</u> - Provisional Sums: <u>2%</u> - Adjustment for changes in cost: <u>To be advised by the Project Manager upon Contract Award.</u> - Total Advance Payment: <u>20% of the accepted Contract Price.</u> - Repayment amortization rate of advance payment: <u>To be advised by the Project Manager upon Contract Award.</u> - Percentage of Certified Value Retained: <u>10% of the Contract Price</u> - Limit of Retention: <u>5% of the Contract Price</u> - Plant and Materials: <u>To be advised by the Contractor upon Contract Award.</u> - Minimum amount of Interim Payment Certificates: <u>5% of the Contract Price</u> - Publishing source of commercial interest rates for financial charges in case of delayed payment: <u>To be advised by the Project Manager upon Contract Award.</u> - Maximum total liability of the Contractor to the Procuring Entity : <u>To be advised by the Project Manager upon Contract Award.</u> - Periods for submission of insurance: <u>30 days</u> - Maximum amount of deductibles for insurance of the Procuring Entity's risks: <u>To be advised by the Project Manager upon Contract Award.</u> - Minimum amount of third-party insurance: <u>To be advised by the Project Manager upon Contract Award.</u> - The place of arbitration : <u>Kenya</u> <p>A TAXES AND OTHER STATUTORY REQUIREMENTS</p> <p>The Contractor shall make allowance for costs incurred in complying with all statutory requirements including payment of taxes and other rates. No claims shall be entertained for contractor's failure to quote for the same or spread such costs in the rates for individual items.</p> <p>The contractor shall include in the rates for any other costs which are not captured with items in this Bills of Quantities</p> | |
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| ITEM | DESCRIPTION | KSHS. CTS. |
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| | <p>COLLECTION</p> <p>Brought forward from page Bill 1/13</p> <p>Brought forward from page Bill 1/14</p> <p>Brought forward from page Bill 1/15</p> <p>Brought forward from page Bill 1/16</p> <p>Brought forward from page Bill 1/17</p> <p>Brought down from Bill 1/18</p> | |
| | TOTAL PARTICULAR PRELIMINARIES | |
| | CARRIED TO SUMMARY OF BILL NO. 1 | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY | | | | |
|--|--|------------------------|--|--|
| <u>BILL NO. 1</u> | | | | |
| <u>PRELIMINARIES</u> | | | | |
| <u>SUMMARY</u> | | | | |
| | | <u>PAGE NO.</u> | | |
| 1. GENERAL PRELIMINARIES | | : Bill 1/12 | | |
| 2. PARTICULAR PRELIMINARIES | | : Bill 1/19 | | |
| TOTAL | | | | |
| PRELIMINARIES | | | | |
| CARRIED TO GRAND SUMMARY | | | | |

BILL NO. 1

PROJECT PROVISIONS

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | KSHS. | CTS. |
|------|---|-------------|-----|------|--------------|------|
| | <u>SECTION 2</u> | | | | | |
| | <u>PROJECT PROVISIONS</u> | | | | | |
| | <u>Note: The following provisions are the Project Manager's Project Provisions. The Contractor is advised to price for other preliminaries under the General and Particular Preliminaries Section in this tender document.</u> | | | | | |
| | <u>Project Manager's Supervision</u> | | | | | |
| A | Allow a Provisional Sum of Kenya Shillings Five Million Five Hundred Thousand (Kshs. 5,500,000.00) to be expended as directed by the Project Manager for the Project Management Team during the currency of the project | LUMP SUM | | | 5,500,000.00 | |
| | <u>Project Manager's Site Office, Furniture and Equipment</u> | | | | | |
| B | Allow a Provisional Sum of Kenya Shillings For Hundred Thousand (Kshs. 400,000.00) for the Project Manager's miscellaneous account for the due performance of the Project Manager's office, to be spent in whole or part as instructed by the Project Manager and to be reimbursed against receipts. | LUMP SUM | | | 400,000.00 | |
| | <u>Services for the Project Manager's Staff and Offices</u> | | | | | |
| C | Allow a Provisional Sum of Kenya Shillings Five Hundred Thousand (Kshs. 500,000) to be expended as directed by the Project Manager for design reviews, model making, documentation and liaison with county Government staff. | LUMP SUM | | | 500,000.00 | |
| | <u>Environmental Scoping, Monitoring and Requisite Audits</u> | | | | | |
| E | Allow a Provisional Sum of Kenya Shillings Four Hundred and Eighty Thousand (Kshs. 480,000.00) to be expended as directed by the Project Manager for carrying out Environmental scoping, Monitoring and requisite audits for the project including Implementation of the Environmental Management plan and obtaining NEMA license | LUMP SUM | | | 480,000.00 | |
| | <u>HIV/AIDS Awareness Creation and Sensitization</u> | | | | | |
| F | Allow a Provisional Sum of Kenya Shillings Four Hundred and Sixty Thousand (Kshs. 460,000.00) to be expended as directed by the Project Manager for HIV/AIDS awareness creation and sensitization during project implementation. | LUMP SUM | | | 460,000.00 | |
| | <u>Profit and Overheads</u> | | | | | |
| G | Allow for Profit and overheads in relation to items A-F above. | % | | | | |
| | Carried Forward to Collection | | | | | |

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|------|---|----------|-----|---------|---------------|
| A | <u>Project Manager's Staff</u> Provide for sum of Kenya Shillings Two Million Five Hundred Thousand (Kshs. 2,500,000.00) to be expended at the discretion of of the project manager for supervision as follows: 1 No. Clerks of Works, and 1 No. Inspector of Works | LUMP SUM | | | 2,500,000.00 |
| B | <u>Project Manager's Vehicle</u> Provide a sum of Kenya Shillings One Million Four Hundred Thousand (Kshs. 1,400,000.00) to be expended at the discretion of the project manager for fueling and maintaining project manager's vehicle during the entire project duration and defects liability period | LUMP SUM | | | 1,400,000.00 |
| C | Allow a provisional Sum of Kenya Shilling One Million (kshs. 1,000,000.00) to be expended at the discretion of the project manager for stakeholder engagement | | | | 1,000,000.00 |
| | <u>Profit and Overheads</u> Allow for Profit and overheads in relation to items A, B and C above. | % | | | |
| | <u>Project Manager's Equipment</u> | | | | |
| D | Supply Brand New laptop computer as "HP Omen 16" with the following mimum specifications: 11th Gen Intel Core i7-11800H; 16GB RAM; 1TB SSD; 16" FHD IPS Displa;y Bluetooth; Webcam; WiFi; NVIDIA RTX 3070 8GB Graphics Windows 11 Together with 1 year Guarantee | 1 | NO | 350,000 | 350,000.00 |
| E | Supply brand new Epson WorkForce Pro WF-C869RDTWFC with Printer with print, fax, scan and copy facilities up to A3 plus 180k; colour printing; delivered with one year guarantee | 1 | NO | 500,000 | 500,000.00 |
| | Carried Forward to Collection | | | | |
| | <u>SMART STALLS</u> | | | | |
| A | Allow a Prime Cost Sum of Kenya Shillings Eighteen Million (Kshs. 18,000,000.00) to be used in whole or in part as directed by the Project Manager for the Supply and Installation of Smart Stalls by a nominated sub-contractor. | | SUM | | 18,000,000.00 |
| B | Allow for attendance for Item "A" above | | % | | |
| C | Allow for Profits and Overheads for Item "A" above | | % | | |
| | Carried Forward to Collection | | | | |
| | | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | KSHS. CTS. |
|------|---|------|-----|------|------------|
| | <u>COLLECTION</u> | | | | |
| | Brought Forward from Page Bill 1/1 | | | | |
| | Brought Forward from Page Bill 1/2 | | | | |
| | Brought Down from Above | | | | |
| | TOTAL CARRIED FORWARD TO GRAND SUMMARY | | | | |

BILL NO. 2

MARKET BUILDING

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|-------------|--|-------------|------------|-------------|---------------|
| | BILL NO. 2 | | | | |
| | <u>MARKET BUILDING</u> | | | | |
| | <u>SECTION NO. 1: SUBSTRUCTURE</u> | | | | |
| | <u>Site Clearance</u> | | | | |
| A | Clear site of all grass, hedges, shrubs, bushes grub up roots, load and burn the arising material on site | SM | 3,335 | | |
| | <u>Vegetable soil</u> | | | | |
| B | Strip off vegetable soil, 200mm deep, and deposit in temporary spoil heaps on site; all for double handling of material and movement on site | SM | 3,335 | | |
| C | Bulk Excavation in black cotton soil and other type of soil not exceeding 1.5m deep commencing from ground level | CM | 2,668 | | |
| D | Extra over excavation for breaking up builtup surfaces | SM | 2,668 | | |
| | <u>Column Base Excavations</u> | | | | |
| E | Excavate for column bases depth not exceeding 1.50 metres starting from formation levels. | CM | 358 | | |
| F | Ditto commencing from reduced level; 1.5-3.0m deep | CM | 120 | | |
| | <u>Excavate for trenches, maximum depth 1.5m</u> | | | | |
| | Excavate for strip foundations depth not exceeding 1.50 metres starting from formation levels. | CM | 262 | | |
| | Total Carried to Collection Page | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|-------------|---|-------------|------------|-------------|---------------|
| | Backfilling and Disposal | | | | |
| A | Return, fill and ram selected excavated material around foundations and compact in layers not exceeding 150mm thick | CM | 369 | | |
| B | Approved imported fillings in murrum or red soil to make up levels and around foundations: backfill, water and compact in 150 mm layers | CM | 668 | | |
| C | Load and cart away surplus spoil to disposal site approved by the local government | CM | 2,829 | | |
| | Excavation in hard material: | | | | |
| D | Extra over all excavation for breaking up rock irrespective of class of rock | CM | 320 | | |
| | Planking and Strutting | | | | |
| E | Provide all necessary planking and strutting to uphold sides of excavations | | | | |
| | Water Disposal | | | | |
| F | Allow for keeping all excavations water free by pumping, bailing or otherwise. | | | | |
| | Filling | | | | |
| G | 300mm Thick hardcore filling in making up levels; laid, well levelled and compacted in 150 mm thick (maximum) layers | SM | 3,266 | | |
| H | 50mm Thick approved quality murrum blinding to surfaces of hardcore. | SM | 3,266 | | |
| | Total Carried to Collection Page | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|---|---|------|-------|------|--------|
| | Anti- termite treatment | | | | |
| A | Termidor 25EC anti-termite chemical treatment, or other equal and approved anti-termite insecticide: applied by approved professional pest control specialist: applied strictly in accordance with the manufacturer's instructions: 10 year | SM | 3,266 | | |
| | Damp proof membrane | | | | |
| B | 1000 Gauge polythene sheet damp proofing membrane laid over hardcore bed, laid in minimum 150mm side laps; (measured nett - no allowances made for laps) - Allow for laps. | SM | 3,266 | | |
| | Mass Concrete | | | | |
| C | 50mm thick Plain concrete mix 1:3:6 blinding to the strip foundation footing. | SM | 437 | | |
| D | Ditto to the column base footing | SM | 239 | | |
| | Vibrated reinforced concrete class 25/20 in:- | | | | |
| E | 200mm thick strip foundation footing | SM | 437 | | |
| F | Column Bases | CM | 83 | | |
| G | Substructural columns | CM | 39 | | |
| H | 150 mm floor slab | SM | 3,266 | | |
| Total Carried to Collection Page | | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|---|---|-------------|------------|-------------|---------------|
| | Reinforcement to BS 4449:1997 , Grade 460B high strength type 2 Ribbed bars with proof stress of 460 N/mm²; Including all necessary cutting, bending fixing and provision of spacer blocks and stools to S.E's detail (MEASURED PROVISIONALLY). | | | | |
| A | Assorted bars | KG | 17,004 | | |
| | Steel mesh fabric reinforcement to BS 4483 : including setting in concrete with 300mm laps(measured nett : no allowance for laps): | | | | |
| B | Mesh reference A142 weighing 2.22 kilogrammes per square metre in floor beds | SM | 3,266 | | |
| | Sawn formwork as described to:- | | | | |
| C | Sides of strip footing; exceeding 150mm high but not exceeding 225mm high | LM | 1,455 | | |
| D | Sides of column bases | SM | 226 | | |
| E | Vertical sides of substructural columns | SM | 394 | | |
| F | Edges: ground floor slab, 75 - 150 mm girth. | LM | 459 | | |
| Total Carried to Collection Page | | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|------|--|------|-----|------|--------|
| | <p>Approved load bearing square shaped natural stones from approved quarry, medium chisel dressed on both sides, built to courses in cement/ sand (1:3) mortar; reinforced with 25mm (SWG 20) hoop iron strips built into every third course, as described in:-</p> | | | | |
| A | 200 mm Thick foundation walls | SM | 946 | | |
| | <p><u>Expansion joints</u></p> <p>150mm wide expansion joint filled with stropo styrofoam and sealed with a mastic sealant</p> | | | | |
| B | Styrofoam | LM | 116 | | |
| C | Mastic Sealant | LM | 116 | | |
| | <p><u>Plinth Treatment</u></p> | | | | |
| D | 16mm Thick cement/sand (1:3) render to plinth; wood float finish. | SM | 367 | | |
| E | Approved bituminous paint to rendered plinths. | SM | 367 | | |
| F | <p><u>Damp Proof Course</u></p> | | | | |
| G | 200mm wide hesian based bitumen damp proof course on cement and sand (1:3) bed | LM | 728 | | |
| | Total Carried to Collection Page | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|--|--|------|-----|------|--------|
| <u>COLLECTION PAGE</u> | | | | | |
| A | Brought Forward from page Bill 2/S1/1 | | | | |
| B | Brought Forward from page Bill 2/S1/2 | | | | |
| C | Brought Forward from page Bill 2/S1/3 | | | | |
| D | Brought Forward from page Bill 2/S1/4 | | | | |
| E | Brought Forward from page Bill 2/S1/5 | | | | |
| TOTAL SUBSTRUCTURES CARRIED TO BILL NO. 2 SUMMARY | | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|------|---|------|--------|------|--------|
| | BILL NO. 2 | | | | |
| | <u>MARKET BUILDING</u> | | | | |
| | <u>SECTION NO. 2</u> | | | | |
| | <u>BUILDING FRAME</u> | | | | |
| | <u>(All Provisional)</u> | | | | |
| | Vibrated reinforced concrete class 25/20 | | | | |
| A | Beams | CM | 122 | | |
| B | Columns | CM | 78 | | |
| C | Suspended roof slab-175 mm | SM | 870 | | |
| | Reinforcement | | | | |
| | <i>High yield deformed steel bar</i> | | | | |
| | <i>reinforcement to B.S. 4449; including</i> | | | | |
| | <i>spacer blocks, tying wire, bending, and</i> | | | | |
| D | Assorted bars | KG | 60,298 | | |
| | Sawn formwork to: | | | | |
| E | Sides and soffits of beams | SM | 1,225 | | |
| F | Soffits of slabs | SM | 870 | | |
| G | Sides of slabs 150mm to 225mm high | LM | 227 | | |
| H | Side of columns | SM | 781 | | |
| | Total Carried to Collection Page | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|--|---|------|-----|------|--------|
| A | <p><u>Expansion joints</u> 25mm wide at 9 bays expansion joint filled with stropo styrofoam and sealed with a mastic sealant Styrofoam</p> | SM | 21 | | |
| B | Mastic Sealant | LM | 91 | | |
| C | 100mm wide and 25mm thick mahogany hardwood with rounded top edges on all exposed expansion joints in soffits and columns; screwed into the joint; primed on area in contact with plastered/screeded/cabro surfaces, painted in two number coats of first quality clear varnish | LM | 132 | | |
| Total Carried to Collection Page | | | | | |
| <u>COLLECTION PAGE</u> | | | | | |
| D | Brought Forward from page Bill 2/S2/1 | | | | |
| E | Brought Forward from page Above | | | | |
| TOTAL FOR BUILDING FRAME CARRIED TO BILL NO.2 SUMMARY | | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|------|--|------|-----|------|--------|
| | <p>BILL NO. 2</p> <p><u>SUPERSTRUCTURE WALLING</u></p> <p><u>SECTION NO. 3</u></p> <p><u>GROUND FLOOR WALLING</u></p> <p><u>(ALL PROVISIONAL)</u></p> <p>Natural hard machine cut "Thika" stone or equal from approved quarry in walling bedded and jointed in cement and sand (1:4) mortar, reinforcement with and including 25mm wide x 20 gauge hoop iron at every alternate course; including fair raking cutting as described in;</p> | | | | |
| A | 200mm thick external walling | SM | 151 | | |
| B | 200mm thick internal walls | SM | 66 | | |
| C | Ditto but 150mm thick internal walls | LM | 113 | | |
| | Total for Ground Floor Wall Carried to Section No. 3 Summary | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|------|--|------|-----|------|--------|
| | <p>BILL NO. 2:</p> <p><u>FIRST FLOOR WALLING</u></p> <p><u>SECTION NO. 2</u></p> <p><u>(ALL PROVISIONAL)</u></p> <p>Natural hard machine cut "Thika" stone or equal from approved quarry in walling bedded and jointed in cement and sand (1:4) mortar, reinforcement with and including 25mm wide x 20 gauge hoop iron at every alternate course; including fair raking cutting as described in;</p> | | | | |
| A | 200mm thick external walling | SM | 839 | | |
| B | 200mm thick internal walls | SM | 214 | | |
| | <p>Building "Clayworks" or other approved equal solid brick Class SW for more severe exposure in walling bedded and jointed in cement and sand (1:4) mortar, reinforcement with and including 25mm wide x 20 gauge hoop iron at every alternate course; including fair raking cutting as described in;</p> | | | | |
| C | 150mm thick | SM | 72 | | |
| D | Ditto but uptand walls; 200mm high | LM | 66 | | |
| | Total Carried to Collection | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|--|--|------|-----|------|--------|
| A | <p>In-Situ Coping</p> <p>Cast in-situ reinforced coping; shaped moulded to detailed; reinforced with 8mm diameter ribbed bars at 100mm spacing both ways; 200x100mm high; tapered, weathered and throated twice; all to engineer's detail</p> | LM | 60 | | |
| Total Carried to Collection | | | | | |
| <p align="center"><u>COLLECTION</u></p> <p>Brought Forward from page Bill 2/S3/2</p> <p>Brought Down from Above</p> | | | | | |
| Total for First Floor Walling Carried to Section No. 3 Summary | | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|------|--|------|-----|------|--------|
| | BILL NO. 2: SECTION NO. 2 | | | | |
| | <u>KITCHEN WORKTOP</u> | | | | |
| | Natural hard machine cut "Thika" stone or equal from approved quarry in walling bedded and jointed in cement and sand (1:4) mortar, reinforcement with and including 25mm wide x 20 gauge hoop iron at every alternate course; including fair raking cutting as described in; | | | | |
| A | 100mm thick | SM | 8 | | |
| | <u>Lime Plaster</u> | | | | |
| | <u>Lime Plaster</u> | | | | |
| | 12mm (minimum) two coat lime plaster complete with wire gauze anti-crack mechanism at the intersection of masonry walling and concrete beams as described to:- | | | | |
| B | Masonry walls | SM | 16 | | |
| | <u>Formwork</u> | | | | |
| C | Wrot formwork under concrete countertop | SM | 6 | | |
| D | 75mm thick vibrated reinforced concrete counter in class 25 concrete | SM | 6 | | |
| | Total Carried to Collection | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|------|---|------|-----|------|--------|
| | Reinforcement to BS 4449:1997 , Grade 460B high strength type 2 Ribbed bars with proof stress of 460 N/mm²; Including all necessary cutting, bending fixing and provision of spacer blocks and stools to S.E's detail | | | | |
| A | Assorted reinforcement bars | KG | 30 | | |
| | Worktop | | | | |
| B | 400x400mm polished marble tiles on 32mm thick cement and sand (1:3) backing, installed using approved tile adhesive; including corner strips, expansion joint, etc | SM | 6 | | |
| | Kitchen Cabinets | | | | |
| C | Allow a sum for constructions of kitchen cabinets under countertop consisting of at least 6no doors of 900x600mm and 6no drawers all with soft close mechanism and handles and with a total volume of 6CM; shelves of 3000x400x500mm high with two number shelves and three partitions with 2no. doors; all build from 18mm thick laminated particle board and with matching lipping on exposed cut edges | ITEM | | | |
| D | Allow a sum for builder's work associated with mechanical and electrical installations | ITEM | | | |
| | Total Carried to Collection | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|-------------|--|-------------|------------|----------------------------|---------------|
| | <u>COLLECTION</u> | | | | |
| A | Brought Forward from page Bill 2/S3/4 | | | | |
| B | Brought Forward from page Bill 2/S3/5 | | | | |
| | Total for Kitchen Worktops Carried to Section No. 3 Summary | | | | |
| | <u>SECTION NO.3 SUMMARY</u> | | | | |
| C | GROUND FLOOR WALLING | | | BILL 2/S3/1 | |
| D | FIRST FLOOR WALLING | | | BILL 2/S3/3 | |
| E | KITCHEN WORKTOP | | | BILL 2/S3/6 (Above) | |
| | TOTAL SUPERSTRUCTURES WALLING CARRIED TO BILL NO. 2 SUMMARY | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|------|---|------|-------|------|--------|
| | <u>BILL NO. 2</u> | | | | |
| | <u>MARKET BUILDING</u> | | | | |
| | <u>SECTION NO. 4: STAIRCASE</u> | | | | |
| | <u>(All Provisional)</u> | | | | |
| | Vibrated reinforced concrete class 25/20 to: | | | | |
| A | Stairs | CM | 12 | | |
| B | Landings 200 mm thick | SM | 30 | | |
| C | Upstand walls; 200mm high | CM | 2 | | |
| D | Beams | CM | 2 | | |
| | Reinforcement | | | | |
| | Reinforcement to BS 4449:1997 , Grade 460B high strength type 2 Ribbed bars with proof stress of 460 N/mm²; Including all necessary cutting, bending fixing and provision of spacer blocks and stools to S.E's detail (MEASURED PROVISIONALLY). | | | | |
| E | Assorted Bars | KG | 6,224 | | |
| | Sawn formwork to: | | | | |
| F | Sloping soffits of stairs | SM | 40 | | |
| G | soffits of landings | SM | 30 | | |
| H | Risers 75mm to 150mm high | LM | 109 | | |
| J | Ditto but sides of landing | LM | 22 | | |
| K | Staircase string, etc, extreme height 300mm cut and fitted to profile of treads and risers | LM | 27 | | |
| L | Sides of upstand walls; 150-225mm girth | LM | 97 | | |
| | Total Carried to Collection Page | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|------|---|------|-----|------|--------|
| | <u>Staircase Finishes</u> | | | | |
| | 15mm Thick insitu textured granolithic paving with chippings of colours approved by the Project Manager and to Project Manager's design and patterns on screeded bed (m.s.). | | | | |
| A | Risers; 150mm high | LM | 109 | | |
| B | Treads; 300mm wide | LM | 109 | | |
| C | Landing | SM | 30 | | |
| D | 100 x 20mm Thick terrazzo skirting | LM | 49 | | |
| E | 25mm wide; 2 in no strips of non slip carborundum insert strips | LM | 218 | | |
| | Cement and sand (1:4) backings etc | | | | |
| F | Risers; 20x152mm high | LM | 109 | | |
| G | Treads; 25x300mm wide | LM | 109 | | |
| H | 32mm thick to landing | SM | 30 | | |
| | <u>Lime Plaster</u> | | | | |
| | 12mm (minimum) two coat lime plaster complete with wire gauze anti-crack mechanism at the intersection of masonry walling and concrete beams as described to:- | | | | |
| J | Ditto to sloping soffites exceeding 15° from horizontal | SM | 40 | | |
| K | Staircase string 300mm extreme girth and cut to profile of steps and upstand wall | SM | 49 | | |
| L | Soffits of staircase and landing | SM | 30 | | |
| | <u>Prepare and apply skimming, three coats first quality permaplast emulsion paint on:-</u> | | | | |
| M | Plastered concrete surfaces internally | SM | 119 | | |
| | Total Carried to Collection Page | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|---|--|------|-----|------|--------|
| <u>COLLECTION PAGE</u> | | | | | |
| A | Brought Forward from page Bill 2/S4/1 | | | | |
| B | Brought Forward from page Bill 2/S4/2 | | | | |
| | | | | | |
| TOTAL FOR STAIRCASE CARRIED TO BILL NO.2 SUMMARY | | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|------|--|------|--------|------|--------|
| | <p><u>BILL NO. 2</u></p> <p><u>MARKET BUILDING</u></p> <p><u>SECTION NO. 5: ROOF CONSTRUCTION</u></p> <p><u>(All Quantities are Provisional)</u></p> <p>All steel work shall be primed with two coats zinc chromate primer before fixing and touched up with one coat after fixing. Prices shall include cost of steel members, assembling, fixing in position and of all associated gusset plates, cleats, caps, splice plates, brackets, stiffeners and any other sundries; weight of the sundries is aggregated with the weight of the member to which they are attached; All to be in accordance to the Project Manager's details and approval</p> <p><u>Rafters</u></p> | | | | |
| A | 150x100x4mm thick RHS rafters | KG | 13,926 | | |
| B | 400x400x10mm thick base plate four times drilled for bolts welded to rafter or bolted to concrete with 4no bolts (m.s) | NO | 240 | | |
| C | 20 mm diameter x 300mm long anchor bolts with one end built into concrete slab including nuts and washers | NO | 480 | | |
| D | 60x60x4mm thick rolled steel angle braces; bolted together at points of intersection | LM | 998 | | |
| E | 12mm diameter anti-sag rods, staggered and bolted into purlins; including nuts and washers | LM | 603 | | |
| F | Allow a sum for producing fabricators shop drawings for all kinds of connections including other incidental works/costs | SUM | | | |
| | Total Carried to Collection Page | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|------|--|------|-------|------|--------|
| | <u>Purlins</u> | | | | |
| A | 152.4x50.8x22x2mm (4.44kg/m) thick Z-purlins welded to roof trusses at 1200mm maximum centers | KG | 3,196 | | |
| | <u>Steel Columns</u> | | | | |
| B | 150x100x4mm RHS columns, slanted to detail | KG | 5,514 | | |
| | <u>Roof Covering</u> | | | | |
| C | IT5 28 gauge prepainted galvanized iron sheets as MRM or other equal and approved equivalent, with overall width of 1,020mm, effective cover width of 910mm and end laps of 250mm (all measured net); fixed to mild steel zed-purlins (m.s.) with and including nails or 8mm dia. corroshield self-tapping screws; with rubber washers and capping; complete with raking cutting as necessary; all fixed in accordance with manufacturer's printed instructions. | SM | 3,519 | | |
| D | Ditto but Cleardek transparent sheets | SM | 221 | | |
| E | Supply and fix ridge cap matching roofing material | LM | 56 | | |
| | <u>Concrete Gutter</u> | | | | |
| | Vibrated reinforced concrete class 25, with "Sika-1" waterproofing admixture to manufacturer's printed instructions or other equal and approved; including 10 years guarantee to: | | | | |
| G | Concrete gutter; floor and walls | CM | 54 | | |
| H | Extra over concrete works for making holes in gutter outlets | NO | 12 | | |
| | Total Carried to Collection Page | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|------|---|------|--------|------|--------|
| | Formwork | | | | |
| | Wrot formwork to: | | | | |
| A | Sides and soffits of gutter beams | SM | 303 | | |
| B | Internal sides of gutter | SM | 135 | | |
| | Reinforcement to BS 4449:1997 , Grade 460B high strength type 2 Ribbed bars with proof stress of 460 N/mm2; Including all necessary cutting, bending fixing and provision of spacer blocks and stools to S.E's detail | | | | |
| C | Assorted bars | KG | 10,962 | | |
| | Gutter finishes | | | | |
| | APP/EPDM membrane with mineral finish weighing 4kg/sm; laid on primer with torch-on process from an approved manufacturer; finish to internal floor and sides of concrete gutter, including gutter ends; executed by a specialist under 10 years guarantee; Contractor shall appoint a specialist for Project Manager's Approval | | | | |
| D | EPDM rubber or APP membrane waterproofing to concrete roof slab as per suppliers specifications and architects | SM | 238 | | |
| E | 20mm thick cement and sand (1:4) plaster to vertical internal and horizontal floors of gutter with "SIKA-1" admixture or other approved equal, mixed and applied according to manufacturer's printed instructions, including 10 year guarantee | SM | 238 | | |
| F | Extra over ditto for working around gutter outlet | NO | 12 | | |
| G | 15mm thick cement and sand plaster to sides and soffits of gutter beams; externally; wood floated | SM | 303 | | |
| | Total Carried to Collection Page | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|--|--|------|-----|------|--------|
| <u>COLLECTION PAGE</u> | | | | | |
| A | Brought Forward from page Bill 2/S4/1 | | | | |
| B | Brought Forward from page Bill 2/S4/2 | | | | |
| C | Brought Forward from page Bill 2/S4/3 | | | | |
| | | | | | |
| TOTAL FOR ROOF CONSTRUCTION CARRIED TO BILL NO. 2 SUMMARY | | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|---|---|------|-----|------|--------|
| A | <p>Prepare and apply one coat primer caot to wood surfaces White primer or other equal and approved; 200-300mm girth</p> <p><u>Mild Steel Doors</u></p> <p>Supply and fix purpose made mild steel doors with 50x50x3mm SHS frame, top and bottom rail, 50x25x3mm vertical and horizontal intemediate rails at 500mm centers, 18 gauge steel panels, and 20x3mm flat bars as necessary, complete with lugs for fixing into masory and concrete work mortices in cement and sand (1:3) mortar and latches, delivered with one coat manufacturer's red oxide primer:-</p> | LM | 100 | | |
| B | Size 900x2400mm | NO | 3 | | |
| C | Size 900X1500mm double door | NO | 9 | | |
| D | Size 2000x2400mm double door | NO | 2 | | |
| | prepare and apply three coats of premium grade gloss oil paint to: | | | | |
| E | Steel door surfaces (both sides) | SM | 58 | | |
| Total Carried to Collection Page | | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|------|--|------|-----|------|--------|
| | <u>BILL NO. 2</u> <u>MARKET BUILDING</u> <u>SECTION NO. 7</u> <u>WINDOWS</u> (All Quantities are Provisional) Supply, assemble and fix the following purpose-made mild steel casement windows; standard metal section from approved manufacturer complete with frames, transomes, mullions and with and including permanent ventilators comprising "T" bar, gauze and 16 gauge sheet metal hood 50mm high x 50mm projection to full width of window, coupling mullions, approved ironmongery and one coat manufacturer's primer; all welding ground to smooth finish Steel; for glazing with putty, lugs to two jambs, cutting and pinning to concrete or blockwork, fixing to head and sill with screws; plugging 2000X1600mm high 2000x700mm high 2000x1800mm high | | | | |
| | | NO | 23 | | |
| | | NO | 5 | | |
| | | NO | 5 | | |
| | Total Carried to Collection Page | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|--|--|------|-----|------|--------|
| A | Clear sheet glass 4 mm Glass and glazing to metal with putty in panes over 0.10 square metres but not exceeding 0.50 square metres | SM | 99 | | |
| B | Approved obscured glass 6 mm Glass and glazing to metal with putty in panes over 0.10 square metres but not exceeding 0.50 square metres | SM | 2 | | |
| Total Carried to Collection Page | | | | | |
| <u>COLLECTION PAGE</u> | | | | | |
| C | Brought Forward from page Bill 2/S7/1 | | | | |
| D | Brought Down from Above | | | | |
| TOTAL FOR WINDOWS CARRIED TO BILL NO. 2 SUMMARY | | | | | |

| | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|---|---|------|-------|------|--------|
| | <p><u>Moulding in Column</u></p> <p>100x50mm vibrated reinforced concrete moulding around columns with and including 8mm diameter ribbed reinforcement bars secured on the column as directed by the architect; finished with 12mm thick wood floated plaster; all to architect's details</p> | LM | 36 | | |
| A | | | | | |
| | <p>12mm thick wood-floated cement and sand (1:3) backing as described to:-</p> <p>Sides of columns to receive mazeras cladding (m.s)</p> | SM | 58 | | |
| B | | | | | |
| | <p>Sides of masonry walls, including anti-crack wire gauze at intersections with concrete to receive brick cladding</p> | SM | 72 | | |
| C | | | | | |
| | <p>Prepare and apply one coat undercoat and two finishing coats permaplast long lasting interior paint to surfaces as described:-</p> <p>Plastered walls</p> | SM | 1,995 | | |
| D | | | | | |
| | <p>Prepare and apply one coat undercoat and two finishing coats permaplast long lasting exterior/ weatheguard paint to surfaces as described in:-</p> <p>Masonry walls</p> | SM | 1,995 | | |
| E | | | | | |
| | <p>Ceramic wall tiles</p> <p>Supply and Fix 600x600x6mm thick Saj ceramic wall tiles or equal and approved; Bidder to include all materials needed for fixing to completion as selected by the Architect: on prepared backings(m.s) with proprietary adhesive; jointed and pointed in matching coloured proprietary grouting: including pvc spacers and expansion joint as necessary: all to Architect's approval. - Wall Surfaces</p> | SM | 86 | | |
| F | | | | | |
| | <p>Cement and sand (1:4) backing:-</p> <p>20mm thick to receive Wall tiles tiles - Wet areas</p> | SM | 86 | | |
| G | | | | | |
| | Total Carried to Collection Page | | | | |

| | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|---|---|------|-----|------|--------|
| | <u>COLLECTION PAGE</u> | | | | |
| A | Brought Forward from page Bill 2/S9/1 | | | | |
| B | Brought Forward from page Bill 2/S9/2 | | | | |
| | WALL FINISHES CARRIED TO SECTION SUMMARY | | | | |

| | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|---|--|------|-------|------|--------|
| | FLOOR FINISHES | | | | |
| | <u>In-situ polished terrazzo</u> | | | | |
| | 15mm Thick insitu textured granolithic paving with chippings of colours approved by the Project Manager and to Project Manager's design and patterns on screeded bed (m.s.); including polishing; | | | | |
| A | Terrazzo paving | SM | 3,439 | | |
| | Screed: cement and sand (1:4) on concrete: wood floated:- | | | | |
| B | 25mm Thick screed with approved integral dust proofing additive; laid to falls and cross falls, wood float finished; to receive terrazzo finish (m.s) | SM | 3,439 | | |
| C | 10x100mm high terrazzo skirting with rounded top and coved at intersection with floor | LM | 185 | | |
| | <u>Ceramic Floor tiles</u> | | | | |
| D | Supply and Fix 600x600 thick Non slip ceramic tiles as 'Saj Ceramics' or other equal and approved equivalent; Bidder to include all materials needed for fixing to completion as selected by the Architect: on prepared bed(m.s) with proprietary adhesive; jointed and pointed in matching coloured proprietary grouting: including pvc spacers and expansion joint as necessary: all to Architect's approval. - Floor Surfaces | SM | 610 | | |
| | <u>Skirting</u> | | | | |
| E | Ditto 100mm wide Wall Skirtings | LM | 405 | | |
| F | Cement and sand (1:4) beds and backings Beds to receive tile flooring. etc, finished with a steel trowel, thickness 32 mm | SM | 610 | | |
| | Total Carried to Collection Page | | | | |

| | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|---|--|------|-----|------|--------|
| | <u>Louves</u> Mild steel uprights and Z-shaped extruded steel blades (Blade pitch: 75 mm) with A4080 Ventilation louvre (Louvre depth: 127 mm) fitted with Bird/vermin guards and high Airflow Coefficient | SM | 295 | | |
| | Total Carried to Collection Page | | | | |
| | <u>COLLECTION PAGE</u> | | | | |
| A | Brought Forward from page Bill 2/S9/4 | | | | |
| B | Brought Down from Above | | | | |
| | FLOOR FINISHES CARRIED TO SECTION SUMMARY | | | | |

| | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|--|--|------|---------------------|------|--------|
| | <u>CEILING FINISHES</u> | | | | |
| | <u>Lime plaster</u> 15mm (minimum) two coat lime plaster complete with wire gauze anti-crack mechanism at the intersection of masonry and concrete as described to:- | | | | |
| | Soffits of concrete roof slab; including sides and soffits of beams | SM | 403 | | |
| | <u>Ceiling Board</u> | | | | |
| | Celotex plasterboard ceiling | SM | 399 | | |
| | 12 x 100mm celotex cornice | LM | 266 | | |
| | Prepare and apply three coats first quality permaplast emulsion paint on:- | | | | |
| | Plastered ceiling surfaces and beams | SM | 403 | | |
| | Celotex ceiling | SM | 399 | | |
| | FLOOR FINISHES CARRIED TO SECTION SUMMARY | | | | |
| | <u>SUMMARY</u> | | | | |
| | <u>WALL FINISHES</u> | | Bill 2/S9/3 | | |
| | <u>FLOOR FINISHES</u> | | Bill 2/S9/5 | | |
| | <u>CEILING FINISHES</u> | | Bill 2/S9/6 (Above) | | |
| | TOTAL FOR FINISHES CARRIED TO BILL NO. 2 SUMMARY | | | | |

| ITEM | DESCRIPTION | | AMOUNT |
|---|------------------------|---------------------|---------------|
| <u>BILL NO. 2 SUMMARY</u> | | | |
| <u>MARKET BUILDING</u> | | <u>PAGE.</u> | |
| A | SUBSTRUCTURES | Bill 2/S1/6 | |
| B | FRAME | Bill 2/S2/2 | |
| C | SUPERSTRUCTURE WALLING | Bill 2/S3/6 | |
| D | STAIRCASE | Bill 2/S4/3 | |
| E | ROOF CONSTRUCTION | Bill 2/S5/4 | |
| F | DOORS | Bill 2/S6/4 | |
| G | WINDOWS | Bill 2/S7/2 | |
| H | BALUSTRADING | Bill 2/S8/1 | |
| G | FINISHES | Bill 2/S9/6 | |
| TOTAL FOR MARKET BUILDING CARRIED TO GRAND SUMMARY | | | |

BILL NO. 3

CIVIL WORKS

CIVIL WORKS-ROADS & PAVEMENTS

BUMALA - CIVIL WORKS

BILL № 1: Preliminary and General Items

| ITEM | DESCRIPTION | UNIT | QUANTITY | RATE (KSH) | AMOUNT (KSH) |
|---|---|-----------|----------|------------|--------------|
| 1.01 | Allow Provisional sum of Kenya shillings (KSh 500,000/=) for materials testing as instructed by the Engineer. | Prov. Sum | 1 | 500,000 | 500,000 |
| 1.02 | Extra Over on Item 1.01 for Contractors overheads and profits | % | | | |
| 1.03 | Allow a Prime Cost (P.C) sum of Kenya Shillings five hundred thousand (KShs. 500,000) for training of Engineers, Technicians and other support staff as maybe instructed by the Engineer. | PC Sum | 1 | 500,000 | 500,000 |
| 1.04 | Extra Over on Item 1.03 above for the Contractors overheads and profits | % | | | |
| BILL 1 TOTAL CARRIED TO SUMMARY PAGE | | | | | |

BILL № 4: Site Clearance and Topsoil Stripping

| ITEM | DESCRIPTION | UNIT | QUANTITY | RATE (KShs) | AMOUNT (KShs) |
|------|--|----------------|----------|-------------|---------------|
| 4.01 | Clear site including removal of trees (girth less than 300 mm), hedges, bushes and other vegetation and other deleterious materials, grub up roots and backfilling of holes left by removal of stumps and roots in accordance with the Specifications, as shown on the drawings and as instructed by Engineer. | ha | 0.33 | | |
| 4.02 | Removal of top soil to a maximum depth of 200 mm including excavation, loading and disposal | m ³ | 658.20 | | |
| 4.03 | Cutting of trees of all girth above 300 mm including cutting of trunks, branches, uprooting and removal of all materials and stacking within the Right of Way and complete with filling of depressions/pits by earth including liaison with concerned authorities for obtaining permissions. | | | | |
| | (i) Girth from 300 mm to 600 mm | № | 20 | | |
| | (ii) Girth above 600 mm but up to 900 mm | № | 9 | | |
| | (iii) Girth above 900 mm but up to 1800 mm | № | 8 | | |
| 4.04 | Transpotation of the existing trees of girth above 600 mm girth as instructed by Engineer, including shifting of the tree and storing at locations as instructed by the Engineer. | № | 17 | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | Total of Bill № 4 (Carried Forward to Summary) | | | | |

| BILL № 5: Earthworks | | | | | |
|-----------------------------|--|-------------|-----------------|--------------------|----------------------|
| ITEM | DESCRIPTION | UNIT | QUANTITY | RATE (KShs) | AMOUNT (KShs) |
| | No separate payments shall be made for the overhaul of the material and the cost of such haulage shall be included in the rates and or prices. | | | | |
| 5.01 | Cut to spoil in soft material | m3 | 4,114 | | |
| 5.02 | As Item 5.01 but in hard material | m3 | 1,646 | | |
| 5.03 | Provide, spread, water, process and compact 300 mm improved subgrade to 100% MDD (AASHTO T99) in two layers of 150 mm thickness. | m3 | 987 | | |
| 5.04 | Provide and compact soft material as fill material as shown in the drawing and as directed by the Engineer | m3 | 3,291 | | |
| 5.05 | Provide and fill in hard material as shown in the drawing and as directed by the Engineer. | m3 | 1,097 | | |
| 5.06 | Provide, Spread and compact rockfill in swampy areas | m3 | 274 | | |
| | Total of Bill № 5 (Carried Forward to Summary) | | | | |

| BILL № 9: Passage of Traffic | | | | | | |
|-------------------------------------|---|-------------|-----------------|--------------------|----------------------|--|
| ITEM | DESCRIPTION | UNIT | QUANTITY | RATE (KShs) | AMOUNT (KShs) | |
| | | | | | | |
| 9.01 | Provide and maintain the signs and barriers for safe passage of traffic including signage, Barricades - drum type, Barricades - steel portable, Flashing light arrow panels in accordance with section 907 of the standard specifications | Months | 12 | | | |
| | | | | | | |
| 9.02 | Allow for passage of traffic through the works | Months | | | | |
| 9.03 | Maintain the routes within and around the Market used as deviations as per clause 907 of the Standard specification by regular grading and murraming using lateritic gravel | KM | 0.3 | | | |
| | Total of Bill № 9 (Carried Forward to Summary) | | | | | |

| BILL № 12: Natural Material for Sub-base and Base | | | | | |
|--|--|-------------|-----------------|--------------------|----------------------|
| ITEM | DESCRIPTION | UNIT | QUANTITY | RATE (KShs) | AMOUNT (KShs) |
| | | | | | |
| | Measurements and payment by method 'A' as defined in the standard specifications. No separate payments shall be made for the overhaul of material and the cost of such haulage shall be included in the rates and or prices | | | | |
| 12.01 | Provide, place, water and compact Natural Gravel Material to 95% MDD (AASHTO T180) of sub base quality for base for the walkways of thickness 150mm and on the carriageway and parking to a consolidated thickness of not more than 300mm as shown in the drawings and as instructed by the Engineer | m3 | 987.30 | | |
| 12.02 | Prepare surface provide, place, handpack (200mm in one layer)and compact quarry chips (natural blue stone) to refusal densities on the carriageway and parking as directed by the Engineer. | m3 | 658.20 | | |
| | | | | | |
| | Total of Bill № 12 (Carried Forward to Summary) | | | | |

| BILL № 17: Concrete Works | | | | | |
|--|---|-------------|-----------------|-------------------|---------------------|
| ITEM | DESCRIPTION | UNIT | QUANTITY | RATE (KSH) | AMOUNT (KSH) |
| 17 | CONCRETE | | | | |
| 17.01 | Provide and fix on the carriageway and parking interlocking concrete paved unishaped blocks (monolithic single layer precast concrete blocks) of any specified colour/size & shape, with approved pattern of 80 mm thick having average crushing strength of 50 N/mm ² on average thickness of 50 mm complete with uniformly graded river sand cushioning properly compacted with a mechanical compactor to required level, grade and camber as instructed by Engineer. Rate to include bedding sand and that to fill the joints, ties and edge restraints | m2 | 3,291 | | |
| | | | | | |
| 17.01B | Extra over item 17.01 for laying blocks at speed bumps | m2 | 41 | | |
| | | | | | |
| 17.02 | Ditto item 17.01 above but for 60mm heavy duty blocks at the walkway | m2 | 0 | | |
| | | | | | |
| 17.03 | Provide, lay in place and joint 600x600x50mm well cured paving slabs on 50mm well compacted sand/quarry dust bed to footpaths/islands and around the blocks as stipulated in the special Specifications. | m2 | 200 | | |
| | | | | | |
| BILL 17 TOTAL CARRIED TO SUMMARY PAGE | | | | | |
| | | | | | |

| BILL № 20: Road Furniture | | | | | |
|--|---|-------------|-----------------|--------------------|----------------------|
| ITEM | DESCRIPTION | UNIT | QUANTITY | RATE (KShs) | AMOUNT (KShs) |
| 20A | Road Marking and Road Signs | | | | |
| | Road Marking | | | | |
| 20A.01 | Provide and lay hot applied thermoplastic road marking compound in approved colour and shade (ASTM 9) for road marking on bituminous surface on centerline, 100 mm, edge line 150 mm wide 3.0 mm thick, using fully automatic extrusion machine and using pre-melter for melting thermoplastic material including cleaning the surface of all dirt, dust, and other foreign matter, complete with demarcation at site/pre-marking, finishing and managing the traffic movements. Marking to be done as per the specifications, detailed drawings and as instructed by the Engineer. | | | | |
| | (i) For lane marking (broken lines) with white paint, 100 mm wide | m2 | 36 | | |
| | (ii) For lane marking with yellow paint, 100mm wide | m2 | 390 | | |
| | (iii) For raised kerb lines with black paint, 150 mm wide | m2 | 54 | | |
| 20A.03 | Provide and lay hot applied thermoplastic road marking compound in approved colour and shade (ASTM 9) for road marking on bituminous road surface on pedestrian crossings, chevrons, directional arrows, give way and stop lines mm thick using fully automatic extrusion machine and using pre-melter for melting thermoplastic. Material, including dispensing drop on glass beads of approved make and as per BS 6088 at the rate of 250g/m ² including cleaning the surface of all dirt, dust, and other foreign matter, complete with demarcation at site/ pre-marking, finishing and managing the traffic control. Marking to be done as per the specifications, drawings and as instructed by the Engineer. | m2 | 300 | | |
| 20B | Other Road Furniture | | | | |
| 20B.01 | Provide, lay and Joint complete with haunching as shown on the drawings and as instructed by the Engineer | | | | |
| | (i) Raised Kerbs | m | 360 | | |
| | (ii) Flush Kerbs | m | 100 | | |
| 20B.02 | Provide, lay and Joint complete with haunching as shown on the drawings and as instructed by the Engineer 100 x 125 mm channels for the walkways and shallow drains | m | 432 | | |
| Total of Bill № 20 (Carried Forward to Summary) | | | | | |

Roads Summary

| Bill No. | DESCRIPTION | AMOUNT KSHS. |
|----------|--|--------------|
| 1 | Preliminary and General Items | |
| 4 | Site Clearance and Topsoil Stripping | |
| 5 | Earthworks | |
| 8 | Culverts and Drainage Works | |
| 9 | Passage of Traffic | |
| 12 | Natural Material for Sub-base and Base | |
| 17 | Concrete Works | |
| 20 | Road Furniture | |
| A | TOTAL FOR ROADS CARRIED TO GRAND SUMMARY | |

CIVIL WORKS - SEWER

| BILL NO. 1.1 - PRELIMINARIES AND GENERAL ITEMS | | | | | |
|---|--|-------------|-----------------|--------------------|----------------------|
| Item No | Description | Unit | Quantity | Rate (KSh.) | Amount (KSh.) |
| CLASS A - GENERAL ITEMS | | | | | |
| Contractual Requirements | | | | | |
| A140.2 | Provide for preparation and submission to the employer 1No set of virograph and 2No sets of blue print copies (A1 SIZE) of as built drawings for all the sewer pipelines in the contract. Note that manhole positions in the layout should be actual (geo-referenced to the national grid). | sum | 1 | | |
| Specified Requirements | | | | | |
| A211 | Provide for leasing of contractor's temporary yard including offices and stores. Rate to include for all necessary equiping to meet the contractor's requirements. | month | 0 | | |
| Specified Requirements | | | | | |
| Testing of Materials and Works | | | | | |
| A250 | Provide for concrete strength test. Rate to include for casting of the necessary number of cubes, curing,transport from site to testing institution and fees payable for the service. | nr | 10 | | |
| A250.1 | Provide for testing of the sewer pipes.Rate to include for transportation to the testing institutions and fees payable for this service. | nr | 10 | | |
| Temporary Works | | | | | |
| A272 | Traffic regulation (including signages,warning tapes and warning signs); establishment, operation and removal. | Item | Sum | | |
| Bill No. 1.1- PAGE 1 TOTAL CARRIED TO SEWER SUMMARRY | | | | | |

BILL NO. 4

**PROPOSED BUMALA COUNTY STRATEGIC
MARKET MECHANICAL INSTALLATIONS**

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | QTY | UNIT | RATE | KSHS |
|--|---|------------|-------------|-------------|-------------|
| Carried Forward to Collection Page | | | | | |
| A | <p><u>Mirrors</u> 6mm thick polished plate glass, silver backed mirror with beveled edges, size 610x497mm plugged and screwed to wall with 4No. Chrome plated chrome capped screws and 5mm thick foam back rest.</p> | 6 | No | | |
| B | <p><u>Toilet Brush Holder.</u> Toilet brush holder in vitreous china mounted onto cocealed screw to wall wedges.</p> | 8 | No | | |
| C | <p><u>Toilet Roll holder.</u> Fully recessed toilet roll holder in vitreous China of size 165x165 mm in approved colour as "TWYFORD VC" 9806 WH or equal and approved.</p> | 8 | No | | |
| D | <p><u>Robe Hook</u> Vitreous China in approved colour mounted onto cocealed screw to wall wedges in approved colour. As "TWYFOND OCEAN" OC 6858 WH or approved equivalent.</p> | 12 | No | | |
| E | <p><u>Flexible tubing</u> 12mm diameter 300mm long Copper tubing bent as required including jointing to GMS pipe and fitting complete with 15mm diameter angle valve.</p> | 20 | No | | |
| Carried Forward to Collection Page | | | | | |
| <u>COLLECTION PAGE</u> | | | | | |
| A | Brought Forward from page Bill 4/S1/1 | | | | |
| B | Brought Forward from page Bill 4/S1/2 | | | | |
| C | Brought Down From Above | | | | |
| TOTAL SANITARY FITTING CARRIED TO SUMMARY | | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

SECTION NO. 4

RAIN WATER GOODS

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|------|------------------------------|------|-----|------|--------|
| | <u>RAIN WATER HARVESTING</u> | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | QTY | UNIT | | |
|-------------------------------------|---|-----|------|--|--|
| | <u>HOSE REEL INSTALLATION SYSTEM</u> | | | | |
| | Supply and fix the following fire fighting installations and equipment as described and shown on the drawing. | | | | |
| | Pipework shall be to BS 1387 class 'B' medium grade galvanized mild steel and fittings to BS 143 medium grade galvanized steel. | | | | |
| | Tenderers must allow in pipework prices for all couplings, unions, nipples, sockets connectors, joints, etc in running lengths of pipes and also where necessary for fixing clips, holderbats plugged and screwed. | | | | |
| | <u>GMS Pipework</u> | | | | |
| A | 25mm diameter pipe GMS class 'B' | 40 | LM | | |
| B | 50mm ditto | 145 | LM | | |
| | <u>Elbows</u> | | | | |
| C | 25mm diameter malleable iron elbow | 24 | No. | | |
| D | 50mm ditto | 24 | No. | | |
| | <u>Tees</u> | | | | |
| E | 50x25mm diameter malleable iron unequal tee | 16 | No. | | |
| F | 50mm dia equal tee | 16 | No. | | |
| | <u>Reducers</u> | | | | |
| G | 50x25mm diameter reducer | 4 | No. | | |
| | <u>Gate Valves</u> | | | | |
| H | 25mm diameter bronze gate valve to BS 5154 | 8 | No. | | |
| I | 50mm ditto | 16 | No. | | |
| J | 50mm diameter non return valve | 2 | No. | | |
| | <u>Unions</u> | | | | |
| K | 25mm dia. Unions | 32 | No. | | |
| L | 50mm ditto | 12 | No. | | |
| | <u>Sockets</u> | | | | |
| M | 50mm dia sockets | 28 | No. | | |
| | <u>Hose reel</u> | | | | |
| N | 20mm dia. x 30m long swinging type fire hosereel complete with delivery valve, mild steel feed pipe, isolation valve guide, 5mm dia. bronze nozzle and all other necessary accessories as 'ANGUS FIRE ARMOUR' or equal and approved equivalent. | 4 | No. | | |
| Carried Forward to Next Page | | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| | | | | | |
|---|---|------|-----|--|--|
| Brought Forward from Previous Page | | | | | |
| <u>Pumps for Hose-reel System</u> | | | | | |
| A | <p>Fully automatic package unit water pressure booster pumpset capable of delivering 2.3 litres/sec against a static pressure head of 25m. The pumpset shall comprise 2No. pumps (one duty, one standby), mountings, control gear, pressure switch and pneumatic vessel, all on a common frame.</p> <p>Control shall be effected via a pressure switch through a pre-wired control panel, which shall give automatic changeover from duty to standby after every cycle of operation. The controls shall also include motor under-voltage/over-voltage protection devices and incorporate a float switch for protection against dry running.</p> <p>The pumpset shall be pre-assembled complete with pipework, and fittings (unions, water strainers, isolation valves, non-return valves, etc) ready for connection to water tank outlet and to the hose-reel supply pipework.</p> <p>The pumpset shall be as 'PULLEN FIREPAK' AS MANUFACTURED BY Pullen Pumps Ltd or equal and approved.</p> | 1 | set | | |
| B | <p><u>Electrical works</u></p> <p>Electrical works including wiring and fitting from the isolator to the pumps and float switch. The power connection to the isolator shall be provided by others.</p> | Item | sum | | |
| TOTAL HOSEREEL INSTALLATION SYSTEM CARRIED TO COLLECTION | | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| | | |
|---|--|--|
| | <u>COLLECTION PAGE</u> | |
| A | PORTABLE FIRE FIGTHING EQUIPMENT | |
| B | HOSEREEL INSTALLATION SYSTEM | |
| | | |
| | TOTAL FIRE SUPPRESSION | |
| | TOTAL FIRE SUPPRESSION CARRIED TO SUMMARY | |

BILL NO. 4: SECTION NO. 6

ELEVATED WATER TOWER

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|-------------|--|-------------|------------|-------------|---------------|
| | <u>ELEVATED WATER TANK</u> | | | | |
| | (All Provisional) | | | | |
| | <u>SUBSTRUCTURES</u> | | | | |
| A | Clear site of all bushes, scrub, and undergrowth, grab up their roots and burn the arising materials on site | SM | 22 | | |
| B | Column pit excavations commencing from ground level but not exceeding 1.5m deep | CM | 4 | | |
| C | Ditto but exceeding 1.5m deep but no exceeding 3.0m deep | CM | 4 | | |
| D | Extra over all kinds of excavations for rock | CM | 2 | | |
| E | Load and cart away excavated materials to a site approved by the local authority | CM | 6 | | |
| | <u>Backfilling</u> | | | | |
| F | Backfill approved imported murrum around foundations and compact | CM | 2 | | |
| | <u>Column Base</u> | | | | |
| | Plain in-situ concrete class 15/20; tamped: | | | | |
| G | 50mm thick under column bases | SM | 11 | | |
| | Vibrated reinforcement concrete; class 25/20: | | | | |
| H | Column Base | CM | 4 | | |
| J | Columns | CM | 2 | | |
| | Carried Forward to Collection | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|------|---|------|-----|------|--------|
| | <u>Formwork</u> | | | | |
| A | Sawn formwork to: | | | | |
| B | Edges of concrete blinding not exceeding 75mm high | LM | 26 | | |
| C | Edges of column bases; 75-150mm high | LM | 26 | | |
| D | Column Sides | SM | 15 | | |
| | <i>High yield deformed steel bar reinforcement to B.S 4449; including cutting, bending, tying wire, and spacer block;</i> | | | | |
| E | Assorted reinforcement bars | KG | 750 | | |
| | <u>Base Plate</u> | | | | |
| F | 400x400x20mm thick mild steel base plate with 4 in no. holes | NO | 4 | | |
| G | 450mm long holding down bolts; 25mm diameter complete with nuts and washers | NO | 16 | | |
| | Carried Forward to Collection | | | | |
| | <u>COLLECTION</u> | | | | |
| H | Brought forward from page BILL 4/S6/1 | | | | |
| J | Brought Down from Above | | | | |
| | TOTAL FOR SUBSTRUCTURES CARRIED TO SUMMARY | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|------|---|------|-----|------|--------|
| | <u>STEEL TOWER</u> | | | | |
| | All steel work shall be primed with two coats zinc chromate primer before fixing and touched up with one coat after fixing. Prices shall include cost of steel members, assembling, fixing in position and of all associated gusset plates, cleats, caps, splice plates, brackets, stiffeners and any other sundries; weight of the sundries is aggregated with the weight of the member to which they are attached; All to be in accordance to the Project Manager's details and approval | | | | |
| A | 150x150x10mm thick SHS column; 3m long with top and bottom plates (m.s) | LM | 36 | | |
| B | 75x75x6mm RSA vertical braces | LM | 108 | | |
| C | 50x50x6mm thick SHS beams | LM | 36 | | |
| D | 50x50x6mm thick RSA horizontal braces | LM | 18 | | |
| E | 254x146mm (31kg/m) Uninversal Beam | KG | 312 | | |
| F | 200x100x24kg/m Universal beam | KG | 896 | | |
| G | 50x50x4mm thick RSA support angles | LM | 22 | | |
| H | Ditto on under tank | LM | 38 | | |
| J | 50x50x6mm thick RSA under walking platform | LM | 38 | | |
| K | Prefabricated cat ladder to engineer's detail | LM | 12 | | |
| L | Railing around walkway to detail | SM | 23 | | |
| M | 3mm thick chequered plate | SM | 15 | | |
| | TOTAL FOR STEEL TOWER CARRIED TO SUMMARY | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|------|--|------|-----|------|--------|
| | <u>SUMMARY</u> | | | | |
| A | SUBSTRUCTURES | | | | |
| B | STEEL TOWER | | | | |
| | TOTAL FOR STEEL TOWER CARRIED TO MAIN SUMMARY | | | | |

| ITEM | DESCRIPTION | AMOUNT |
|--|----------------------|--------|
| BILL NO. 4 SUMMARY | | |
| <u>MECHANICAL INSTALLATIONS</u> | | |
| A | SANITARY & PLUMBING | |
| B | COLDROOMS | |
| C | WATER RETICULATION | |
| D | RAIN WATER GOODS | |
| E | FIRE SUPPRESSION | |
| F | ELEVATED WATER TOWER | |
| TOTAL CARRIED TO GRAND SUMMARY | | |

BILL NO. 5

**PROPOSED BUMALA MARKET ELECTRICAL
INSTALLATIONS**

BILL NO. 5: SECTION 1

**GROUND FLOOR
ELECTRICAL INSTALLATIONS**

| SECTION 1 : LIGHTING INSTALLATIONS | | | | | |
|--|--|-------------|------------|-------------|---------------|
| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
| | | | | SHS. | SHS. |
| | <i>Supply, install, test and commission the following:</i> | | | | |
| | <u>LIGHTING POINTS AND SWITCHES</u> | | | | |
| A | Lighting points wired in 3 x 1.5sq.mm PVC insulated single core copper wires drawn in 20 mm diameter heavy gauge PVC conduits saddled surface on the ceiling slab and roof trusses,one way switched complete with all accessories, but excluding switch and fitting. | | | | |
| | i) One way switching | No. | 20 | | |
| | ii) Two way switching | No. | 80 | | |
| B | 10A white moulded plate switches flush mounted on wall as MK Logic Plus WHI/Crabtree/Clipsal. | | | | |
| | i) One gang, one way | No. | 20 | | |
| | ii) One gang, two way | No. | 7 | | |
| | iii) Two gang, two way | No. | 2 | | |
| | iv) Three gang, two way | No. | 1 | | |
| | v) Four gang, two way | No. | 1 | | |
| | vi) Contactor 3P 240V 20A | No. | 1 | | |
| | vii) Timer digital switch as Tronic | No. | 1 | | |
| C | Photocell control switch as Zodion or approved equal | No. | 1 | | |
| | <u>LIGHTING FITTINGS</u> | | | | |
| D | Vapour proof Circular Surface Light fitting with Opal Glass diffuser white finish base as Fumagalli or Approved Equivalent c/w 15W Philips LED bulb | No. | 5 | | |
| E | 1200mm, 1x18W Bare batten LED fitting as Osram ledvance or approved equal | No. | 10 | | |
| F | 1200mm, 1x18W IP65 rated dust and moisture resistant LED fitting with injection moulded GRP Canopy and Polycarbonate diffuser and stainless steel toggles as Osram or approved equal | No. | 80 | | |
| G | 1200mm, 2x18W IP65 rated dust and moisture resistant LED fitting with injection moulded GRP Canopy and Polycarbonate diffuser and stainless steel toggles as Osram or approved equal | No. | 10 | | |
| H | Solar LED Light Fitting: 300W LED w integrated lithium ion battery, & automatic charger and controller, arm mounted w bracket + mounting sundries as Dayliff Pathway or approved equal to last down | No. | 16 | | |
| Total Section1 / Pg1 Carried Forward to Collection Page | | | | | |

| SECTION 1 / PG 2: POWER INSTALLATIONS | | | | | |
|--|--|------|------|------|--------|
| ITEM | DESCRIPTION | UNIT | QTY. | RATE | AMOUNT |
| | | | | SHS. | SHS. |
| | <i>Supply, install, test and commission the following:</i> | | | | |
| A | 13 Amp ringmain socket outlet points wired in 3 x 2.5sq mm PVC single core copper cables drawn in 25mm H/G PVC conduits concealed in wall and floor slab complete with all accessories but excluding the socket outlet plate | No. | 25 | | |
| B | 13Amp standard twin switched moulded socket outlet plates with neon indicator, mounted flush on wall as MK Logic Plus WHI or | No. | 25 | | |
| C | 25mm diameter heavy gauge PVC conduit links concealed in walls and floor slab, complete with couplers, threads, etc. | LM | 80 | | |
| D | 38mm diameter heavy gauge PVC conduit links concealed in walls and floor slab, complete with couplers, threads, etc. | LM | 100 | | |
| E | Shower DP power points comprising wiring in 3 x 4.0mm ² PVC/SC/CU cables drawn in 20mmØ HG/PVC conduits complete with all necessary accessories | No. | 4 | | |
| F | 20A, DP control switch with neon light and cord outlet for Shower above as Crabtree or approved equivalent | No. | 4 | | |
| G | Water/hose reel pump power points comprising wiring in 5 x 4mm ² PVC/SC/CU cables drawn in 25mmØ HG/PVC conduits complete with all necessary accessories (approximate length of 50m for each point) | No. | 3 | | |
| H | 32A TPN isolator cord outlet as KATKO,Tronic or approved equivalent | No. | 3 | | |
| I | Data outlet points comprising 25mmØ concealed HG PVC conduits complete with draw wire c/w blanking cover. | No. | 15 | | |
| J | 4-Way, SPN Consumer Unit c/w 100A integral DP Isolator as Schneider Electric,Tronic, Dorman Smith or approved equivalent | No. | 1 | | |
| K | Curve 'B' SP Miniature circuit breakers for the consumer unit above as Schneider Electric,ABB, Terrasaki or approved equivalent | | | | |
| | i) 10A | No. | 1 | | |
| | ii) 20A | No. | 1 | | |
| | iii) blanking plates | No. | 2 | | |
| L | 6-Way, SPN Consumer Unit c/w 100A integral DP Isolator as Schneider Electric,Tronic, Dorman Smith or approved equivalent | No. | 3 | | |
| M | Miniature circuit breakers (MCB) type 'B' for the consumer unit above as Schneider Electric,ABB, Terrasaki or approved equivalent | | | | |
| | i) 10A | No. | 3 | | |
| | ii) 20A | No. | 3 | | |
| | iii) blanking plates | No. | 12 | | |
| Total Section1 / Pg2 Total Carried Forward to Collection Page | | | | | |

| SECTION 1 / PG 3: POWER INSTALLATIONS | | | | | |
|--|--|------|------|------|--------|
| ITEM | DESCRIPTION | UNIT | QTY. | RATE | AMOUNT |
| | | | | SHS. | SHS. |
| | <i>*continued power installations</i> | | | | |
| A | 4-Way, TPN Distribution Board c/w integral 125A integral isolator MCCB as Schneider Electric, Tronic, Dorman Smith or approved equivalent | No. | 2 | | |
| B | Miniature circuit breakers (MCB) type 'B' for the consumer unit above as Schneider Electric, ABB, Terrasaki or approved equivalent | | | | |
| | i) 10A | No. | 2 | | |
| | ii) 20A | No. | 2 | | |
| | iii) 32A | No. | 2 | | |
| | iv) 32A MCCB TP | No. | 1 | | |
| | v) blanking plates | No. | 3 | | |
| C | Sub-mains comprising of 6mm ² 2-C PVC/PVC copper Twin w Earth cable from the Meter Board to Consumer Units | Lm | 200 | | |
| D | Sub-mains comprising of 4-Core 6mm ² PVC/SWA/PVC Copper Cable drawn in 38mm dia. H/G PVC conduits from meter board to the cold room DBs | Lm | 50 | | |
| E | Sub-mains comprising of 4-Core 10mm ² PVC/SWA/PVC Copper Cable | Lm | 80 | | |
| F | 250 x 250 x 50mm G.I. Recessed adaptable box | No. | 1 | | |
| G | Purpose built powder coated steel gauge 14 cabinet to house 1no. 3P contactor + timer + override switch c/w din rail, screws, plugs and all mounting accessories et al | No. | 1 | | |
| Total Section1 / Pg3 Carried Forward to Collection Page | | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | AMOUNT SHS. |
|------|---|----------------|
| | <p>COLLECTION PAGE</p> <p>C1.1 TOTAL FOR SECTION 1 / PG Bill 5/S1/1 BROUGHT FORWARD</p> <p>C1.2 TOTAL FOR SECTION 1 / PG Bill 5/S1/2 BROUGHT FORWARD</p> <p>C1.3 TOTAL FOR SECTION 1 / PG Bill 5/S1/3 BROUGHT FORWARD</p> | |
| | <p>TOTAL FOR BILL No. 5/SECTION 1/ C/ F TO MAIN SUMMARY PAGE</p> | |

BILL NO. 5: SECTION 2
FIRST FLOOR
ELECTRICAL INSTALLATIONS

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| SECTION 2 / PG 1: LIGHTING INSTALLATIONS | | | | | |
|--|--|-------------|------------|-------------|---------------|
| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
| | | | | SHS. | SHS. |
| | <i>Supply, install, test and commission the following:</i> | | | | |
| | <u>LIGHTING POINTS AND SWITCHES</u> | | | | |
| A | Lighting points wired in 3 x 1.5sq.mm PVC insulated single core copper wires drawn in 20 mm diameter heavy gauge PVC conduits saddled surface on the ceiling slab and roof trusses,one way switched complete with all accessories, but excluding switch and fitting. | | | | |
| | i) One way switching | No. | 59 | | |
| | ii) Two way switching | No. | 20 | | |
| B | 10A white moulded plate switches flush mounted on wall as MK Logic Plus WHI/Crabtree/Clipsal. | | | | |
| | i) One gang, one way | No. | 30 | | |
| | ii) One gang, two way | No. | 5 | | |
| | iii) Two gang, two way | No. | 3 | | |
| C | Photocell control switch as Zodion or approved equal | No. | 1 | | |
| | <u>LIGHTING FITTINGS</u> | | | | |
| D | 1200mm, 1x18W IP65 rated dust and moisture resistant LED fitting with injection moulded GRP Canopy and Polycarbonate diffuser and stainless steel toggles as Osram or approved equal | No. | 48 | | |
| E | 1200mm, 2x18W IP65 rated dust and moisture resistant LED fitting with injection moulded GRP Canopy and Polycarbonate diffuser and stainless steel toggles as Osram or approved equal | No. | 4 | | |
| F | Ceiling mounted standard straight batten c/w short skirt and B22 / E27 terminal as Crabtree or approved equal. | No. | 20 | | |
| G | Bulkhead light fitting c/w LED bulb as THORN PIAZZA or approved equal | No. | 7 | | |
| Total Section2 / Pg1 Carried Forward to Collection Page | | | | | |

| SECTION 2 / PG 2: POWER INSTALLATIONS | | | | | |
|--|--|-------------|-------------|-------------|---------------|
| ITEM | DESCRIPTION | UNIT | QTY. | RATE | AMOUNT |
| | | | | SHS. | SHS. |
| | <i>Supply, install, test and commission the following:</i> | | | | |
| A | 13 Amp ringmain socket outlet points wired in 3 x 2.5sq mm PVC single core copper cables drawn in 25mm H/G PVC conduits concealed in wall and floor slab complete with all accessories but excluding the socket outlet plate | No. | 75 | | |
| B | 13Amp standard twin switched moulded socket outlet plates with neon indicator, mounted flush on wall as MK Logic Plus WHI, | No. | 75 | | |
| C | Data outlet points comprising 25mmØ concealed HG PVC conduits complete with draw wire c/w blanking cover. | No. | 50 | | |
| D | 4-Way, SPN Consumer Unit c/w 100A integral DP Isolator as Schneider,Crabtree or approved equivalent | No. | 22 | | |
| E | Curve 'B' SP Miniature circuit breakers for the consumer unit above as Merlin Gerin or approved equivalent | | | | |
| | i) 10A | No. | 22 | | |
| | ii) 32A | No. | 22 | | |
| | iii) blanking plates | No. | 34 | | |
| F | 6-Way, SPN Consumer Unit c/w 100A integral DP Isolator as Merlin Gerin or approved equivalent | No. | 1 | | |
| G | Miniature circuit breakers (MCB) type 'B' for the consumer unit above as Merlin Gerin or approved equivalent | | | | |
| | i) 10A | No. | 1 | | |
| | ii) 20A | No. | 1 | | |
| | iii) 32A | No. | 1 | | |
| | iv) blanking plates | No. | 6 | | |
| Total Section2 / Pg2 Total Carried Forward to Collection Page | | | | | |

| SECTION 2 / PG 3: POWER INSTALLATIONS | | | | | |
|--|--|-------------|-------------|-------------|---------------|
| ITEM | DESCRIPTION | UNIT | QTY. | RATE | AMOUNT |
| | | | | SHS. | SHS. |
| | <i>*continued power installations</i> | | | | |
| A | 8-Way, SPN Consumer Unit c/w 100A integral DP Isolator as Merlin Gerin or approved equivalent | No. | 1 | | |
| B | Miniature circuit breakers (MCB) type 'B' for the consumer unit above as Merlin Gerin or approved equivalent | | | | |
| | i) 10A | No. | 3 | | |
| | ii) 20A | No. | 6 | | |
| | iii) 32A | No. | 6 | | |
| | iv) blanking plates | No. | 9 | | |
| C | Sub-mains comprising of 6mm ² 2-C PVC/PVC copper Twin w Earth cable from the Meter Board to Consumer Units | Lm | 1,350 | | |
| D | 400 x 400 x 50mm G.I. Recessed adaptable box | No. | 4 | | |
| E | 25mm diameter heavy gauge PVC conduit links concealed in walls and floor slab, complete with couplers, threads, bends etc. | LM | 100 | | |
| F | 32mm diameter heavy gauge PVC conduit links concealed in walls and floor slab, complete with couplers, threads, bends etc. | LM | 100 | | |
| <u>DATA / COMMUNICATION POINTS & ACCESSORIES</u> | | | | | |
| G | 250 x 50mm 2-compartment trunking to details, in 14-gauge steel sheet powder coated finish, complete with cover, screws, and all mounting accessories. | Lm | 53 | | |
| H | i) 250 x 50mm, factory-made corner-bends for the above trunking, same material and colour finish. | No. | 5 | | |
| | ii) Single-outlet plates on the trunking, same colour finish | No. | 18 | | |
| | iii) Twin-outlet plates on the trunking, same colour finish | No. | 18 | | |
| | iv) Allow for bonding of the entire trunking above to the standards | Lot | 1 | | |
| Total Section2 / Pg3 Carried Forward to Collection Page | | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | AMOUNT SHS. |
|------|--|----------------|
| | <p>COLLECTION PAGE</p> <p>C2.1 TOTAL FOR SECTION 2 / PG 1 BROUGHT FORWARD</p> <p>C2.2 TOTAL FOR SECTION 2 / PG 2 BROUGHT FORWARD</p> <p>C2.3 TOTAL FOR SECTION 2 / PG 3 BROUGHT FORWARD</p> | |
| | <p>TOTAL FOR BILL No. 5/SECTION 2/ C/ F TO MAIN SUMMARY PAGE</p> | |

BILL NO. 5: SECTION 3

**MAINS INTAKE, DUCTING
ELECTRICAL INSTALLATIONS**

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| SECTION 3 / PG 1: MAINS INTAKE, DUCTING AND POWER RETICULATION | | | | | |
|---|---|-------------|------------|-------------|---------------|
| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
| | | | | SHS. | SHS. |
| | <i>Supply, install, test, and commission the following:</i> | | | | |
| A | Front access key lockable metal clad meter board suitable for wall mounting and manufactured in 2mm gauge mild steel sheet, powder coated RAL grey complete with the following: i) Space for 1no. Three Phase Meter ii) Space for 22no. Single Phase Meters iii) Space for 3no. KPLC cut-outs including studs for mounting KPLC seals iv) Space for 32A MCCB 3P v) Space for 63A MCCB 3P v) Sealable studs for all cover plate screws, din-rail and all necessary accessories vi) R,Y,B phase indicator LED lamps vii) Heavy duty rubber lining for the door & perspex viewing viii) 26No. 63/80Amps DP Switch viii) 1No. 100A TPN MCCB(adj. to 0.9I,0.8I and 0.7I) for the | Item | 1 | | |
| B | Comprehensive protective multiple earthing to achieve the required resistance (below one ohm) and earthing tests and preparation and submission of the report to the engineer comprising of a 6.0mm earth lead and 1800mm long by 15mm Diam. copper earth electrode with driving tip and rod to cable clamp,earth mats, treatment of the soil and allow for inspection manhole of 450mm by 300mm by 500mm deep manhole with cover marked "Earth" | No. | 1 | | |
| C | Attendance and follow up with power service provider (KPLC) during all relevant stages including application, follow up, service line and meter connections | Sum | 1 | | |
| D | Labeling of all the final circuits in all Cus, DBs and the meter board above using traffolyte labels | | | | |
| E | 100mm HG PVC conduit | No. | 20 | | |
| F | 150mm HG PVC conduit | No. | 10 | | |
| TOTAL FOR BILL No. 5/SECTION3 C/ F TO MAIN SUMMARY PAGE | | | | | |

BILL NO. 4; SECTION 4

**CCTV SURVEILLANCE
ELECTRICAL INSTALLATIONS**

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| Item | Description | Unit | Qty | Rate Kshs | Total Kshs |
|---|---|------|-----|-----------|------------|
| SECTION 4 / PG 1 | | | | | |
| | <i>Supply, install, test, commission, and handover the following:</i> | | | | |
| A | 16 channel NVR 16POE/POE+ ports H.265+ & H.264+ dual Codec 256Mbps bandwidth 1xHDMI & 1x VGA simultaneous output 1x RJ45 & 2x USB ports as Dahua N4216 or approved equal | No. | 2 | | |
| B | 10TB Surveillance Internal Hard Drive SATA 6Gb/s, 256MB cache as Western Digital or Seagate or approved equal | No. | 4 | | |
| C | 4MP Bullet Network Camera H.265+ compression, IP67, IK10, 2.8mm-12mm lens, 50m IR range, microSDXC slot of upto 256GB, night vision as Dahua or approved equal | No. | 20 | | |
| D | 43" LED Monitor with HDMI, VGA and USB input ports | No. | 1 | | |
| E | 8-port Gigabit POE switch 802.1x security, as Dahua or approved equal | No. | 1 | | |
| F | 16-port Gigabit POE switch 1Gb SFP ports, 802.1x security, as Dahua or approved equal | No. | 2 | | |
| G | 1kVA 2U Rack-mount line interactive UPS pure sinewave, AVR, LCD display, EN/IEC 62040 as APC Smart or approved equal | No. | 1 | | |
| H | 1U Rack Mount 6 Way Power Distribution Unit (PDU) | No. | 1 | | |
| J | 750VA line interactive UPS pure sinewave, AVR, EN/IEC 62040 as APC or approved | No. | 1 | | |
| K | 64GB microSDXC card as SanDisk Extreme or approved eq | No. | 20 | | |
| SECTION 4 / PG1 CARRIED FORWARD TO COLLECTION PAGE | | | | | |

| Item | Description | Unit | Qty | Rate Kshs | Total Kshs |
|---|---|------|-----|-----------|------------|
| SECTION 4 / PG 2 | | | | | |
| A | 15U Data Cabinet steel framework black, framed safety glass front lockable door, top and bottom cable access knockouts c/w patch panel racks & cable managers as Toten or approved equal | No. | 1 | | |
| B | 6U Data Cabinet steel framework black, framed safety glass front lockable door, top and bottom cable access knockouts c/w patch panel racks & cable managers as Toten or approved equal | No. | 1 | | |
| C | 48-port patch panel CAT6A 10Gb/s as Siemon or approved equal | No. | 1 | | |
| D | 24-port patch panel CAT6A 10Gb/s as Siemon or approved equal | No. | 2 | | |
| E | UTP 250MHz Category 6 data cable Cu conductor(305m roll) | No. | 3 | | |
| F | 1M CAT6 patchcords | No. | 60 | | |
| G | RJ45 CAT6 data outlet plate | No. | 60 | | |
| H | Accessories i.e. RJ45 terminal clips&boots, screws, cable ties, cable clips, wall plugs et al | Lot | 1 | | |
| TOTAL FOR SECTION 7 / PG1 CARRIED FORWARD TO COLLECTION PAGE | | | | | |

| | | | | | |
|--|--|--|--|--|--|
| | COLLECTION PAGE Brought forward from Bill 2 / Section 4 / Pg1 Brought forward from Bill 2 / Section 4 / Pg2 | | | | |
| | TOTAL BILL NO. 5/SECTION 4/CCTV SURVEILLANCE CARRIED FORWARD TO SUMMARY PAGE | | | | |

BILL NO. 4; SECTION 5

**ADDRESSABLE FIRE DETECTION
ELECTRICAL INSTALLATIONS**

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| Item | Description | Unit | Qty | Rate Kshs | Total Kshs |
|--|--|------|-----|--------------|---------------|
| SECTION 10 / PG 1 | | | | | |
| | <i>Supply, install, test, commission, and handover the following:</i> | | | | |
| A | Fire Alarm system points comprising wiring in 2-core 1.5mm ² fire resistant screened cable drawn into concealed 20mm Ø PVC conduit. Cable to be FP200 or FIRETUF or approved | No. | 28 | | |
| B | Intelligent optical smoke detector incorporating a short circuit isolator and alarm indicator LED visible 360 degrees, complete with base as CAP320 or approved equivalent | No. | 15 | | |
| C | Intelligent thermal heat/smoke detector incorporating a short circuit isolator and alarm indicator LED visible 360 degrees, complete with base as CAH330 or approved equivalent | No. | 5 | | |
| D | Addressable resettable call point incorporating integral short circuit isolator and reset key, designed to comply with EN54 pt11, complete with base as Cooper CBG370S or approved equal | No. | 4 | | |
| E | Addressable wall sounder 2tone pulsed with flashing strobe and built in short circuit isolator as Cooper CASB383 or approved equal | No. | 4 | | |
| F | 2loop intelligent addressable control panel EN54 certified, monitoring of open and short circuit, with integral battery and power supply unit as Cooper CF3000 or approved equal | No. | 1 | | |
| G | Network interface for synchronising item F above as Cooper DF6000 | No. | 1 | | |
| H | 750VA line interactive UPS pure sinewave, AVR, EN/IEC 62040 as APC or approved equal | No. | 1 | | |
| J | Interface module unit slc | No. | 1 | | |
| K | Spur Unit Isolator Switch | No. | 1 | | |
| TOTAL BILL NO. 5/SECTION 5 /Detection CARRIED FORWARD TO SUMMARY PAGE | | | | | |

BILL NO. 5; SECTION 6
30 METRE HIGH MAST LIGHTING
ELECTRICAL INSTALLATIONS

| ITEM | DESCRIPTION | UNIT | QTY. | RATE | AMOUNT |
|--|---|------|------|------|--------|
| Section 6 / Pg 21 | | | | | |
| Supply, deliver, install and set to work the following:- | | | | | |
| <u>Sub-structure</u> | | | | | |
| A | Excavate to for column bases[m/s] to an average depth not exceeding 1500mm deep; cart away and dispose the arising to a location authorised by the PMR. | CM | 5 | | |
| B | Excavate pits in normal soil for for column bases commencing from 1500mm up to a depth not exceeding 3000mm deep from the ground level. | CM | 5 | | |
| C | Extra over for excavating in rock . | CM | 3 | | |
| D | Load, cart away and spread extra excavation material on sited as directed by the PMR. | CM | 5 | | |
| E | Return, fill and ram selected excavated materials to sides of foundation wall. | CM | 3 | | |
| <u>Plain concrete (1:4:8) as described in :-</u> | | | | | |
| F | Ditto but to column bases | CM | 2 | | |
| <u>Reinforced concrete 1:1.5:3 as described in :-</u> | | | | | |
| G | Column bases | CM | 1.5 | | |
| H | Columns | CM | 1.5 | | |
| <u>Sawn formwork as described to :-</u> | | | | | |
| J | Edges of column bases | SM | 4 | | |
| K | Sides of columns | SM | 5 | | |
| <u>High Tensile Reinforcement Bars to B. S. 4461 including cutting, bending and all necessary spacer blocks : (Provisional) [100 Kg/Cm] :-</u> | | | | | |
| L | 16 mm diameter | Kg | 80 | | |
| Section 6 / Pg 21 Sub-Total carried forward to Collection Page | | | | | |

| ITEM | DESCRIPTION | UNIT | QTY. | RATE | AMOUNT |
|---|--|------|------|------|--------|
| Section 6 / Pg 22 | | | | | |
| <u>STRUCTURAL STEEL MAST</u> | | | | | |
| A | 30m high 8-sided [octagonal] mild steel street lighting column with an average radius of 100mm; fixed on to concrete columns | 1 | No. | | |
| B | Luminaire carriage assembly for mounting the flood lights | 1 | No. | | |
| C | 400W warm white LED Floodlights fittings complete with control gear and LED lamp >50,000hours, IP66 as Philips or approved equal | 9 | No. | | |
| D | Electrical mechanical winch for lowering and raising the luminaire carriage assembly. | 1 | No. | | |
| E | Installation of beacon light for the mast | 1 | No. | | |
| F | Lockable Control Pillar IP66 , to house KPLC meter and associated switchgear. | 1 | No. | | |
| G | 4 way consumer Unit w 100Amp integral DP Isolator as MG or approved equal | 1 | No. | | |
| H | 40A Double Pole contactor as MG or approved equal | 1 | No. | | |
| J | 15A Miniature Circuit breaker as MG or approved equal | 1 | No. | | |
| K | 40mA current operated earth leakage circuit breaker with rated leakage current of 0.5A as MG or approved equal | 1 | No. | | |
| L | 63A MCB with enclosure as MG or approved equal | 1 | No. | | |
| M | Earthing comprising of 6.0mm ² earth lead and 1800mm long by 15mm diameter copper earth electrode with driving tip and clamp in a 300mm by 300mm concrete manhole with removable cover. | 1 | No. | | |
| N | 10.0mm ² x 2core PVC/SWA/PVC copper cable to connect power from the Market Distribution Board to the Highmast control pillar in HG/PVC conduit measured elsewhere. | 100 | Lm | | |
| P | Trenching, cable laying, tilling and back filling | 120 | Lm | | |
| Q | Cable glands to terminate underground cable above | 2 | No. | | |
| R | 12 months maintenance of the Highmasts | 1 | Item | | |
| Section 6 / Pg 22 Sub-Total carried forward to Collection Page | | | | | |

| ITEM | DESCRIPTION | UNIT | QTY. | RATE | AMOUNT |
|---|--|------|------|------|--------|
| Section 6 / Pg 23 | | | | | |
| A | Allow for lightning protecting installation complete with air terminal base (arrestors) and any other necessary accessories. | 1 | No. | | |
| B | 2.5mm ² 2 core flexible cable from the terminal block to the luminaires. | 75 | M | | |
| C | Allow for final connection to the luminaires in Twin with earth 1.5mm ² Copper PVC Insulated cable | 18 | M | | |
| D | Allow for painting of the mast with reflective red/white paint to meet the requirements of the Kenya Civil Aviation (KCAA) and Energy and Petroleum Regulatory Authority (EPRA). | 1 | No. | | |
| E | Allow for dusk to dawn timer switch with contactor control system with an overriding switch | 1 | No. | | |
| Section 6 / Pg 23 Sub-Total carried forward to Collection Page | | | | | |

| ITEM | DESCRIPTION | AMOUNT |
|------|--|--------|
| | Section 6 / Pg 24 | |
| | COLLECTION PAGE | |
| | Total For Section 6 / Pg 21 | |
| | Total For Section 6 / Pg 22 | |
| | Total For Section 6 / Pg 23 | |
| | | |
| | TOTAL FOR BILL No. 5/HIGH MAST LIGHTING / Section 6 C/ F TO MAIN SUMMARY PAGE | |

**PROPOSED CONSTRUCTION OF BUMALA MARKET IN
ELECTRICAL INSTALLATIONS - BILLS
OF QUANTITIES**

MAIN SUMMARY PAGE

| ITEM | DESCRIPTION | AMOUNT |
|------|---|---------------------|
| | | SHS. |
| MS.1 | Total for Section 1 - Ground Floor | |
| MS.2 | Total for Section 2 - First Floor | |
| MS.3 | Total For Section 3 - Mains Intake, Ducting & Power Reticulation | |
| MS.4 | Total for Section 4 - CCTV Surveillance | |
| MS.5 | Total for Section 5 - Addressable Fire Detection | |
| MS.6 | Total for Section 6 - High Mast Lighting | |
| | <u>KPLC CHARGES</u> | |
| S.4 | ALLOW A PROVISIONAL SUM OF KES THREE MILLION (KES 3,000,000) FOR KPLC METERS, CAPITAL CONTRIBUTION, SERVICE LINE CONNECTION CHARGES AND RELATED INSTALLATIONS (To be expended as per KPLC quotation with the discretion of The PM) | 3,000,000.00 |
| | TOTAL FOR ELECTRICAL INSTALLATION WORKS CARRIED TO GRAND SUMMARY PAGE | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | UNIT | QTY | RATE | AMOUNT |
|------|---|------|-----|------|---------------|
| | <u>BILL NO. 6</u> | | | | |
| | <u>PROVISIONAL AND PRIME COST SUMS</u> | | | | |
| | <u>Contingencies</u> | | | | |
| A | Allow a provisional sum of Kenya Shillings Twelve Million (Kshs. 12,000,000.00) to be expended by the project manager to cover for contingencies | | | | 12,000,000.00 |
| | <u>Branding</u> | | | | |
| B | Allow a provisional sum of Kenya Shillings Four Hundred Thousand (Kshs. 400,000.00) for the supply and installation of various type of Branding as directed by the project manager | | | | 400,000.00 |
| | <u>Boundary wall and gates</u> | | | | |
| C | Allow a provisional sum of Kenya Shillings Five million Five Hundred Thousand (Kshs. 5,500,000.00) for the construction of the boundary wall and the supply and installation of gates to be expended as directed by the project manager | | | | 5,500,000.00 |
| | <u>Gate houses</u> | | | | |
| D | Allow a provisional sum of Kenya Shillings Four million (Kshs. 4,000,000.00) for the construction of gate houses to be expended as directed by the project manager | | | | 4,000,000.00 |
| | <u>Landscaping</u> | | | | |
| E | Allow a provisional sum of Kenya Shillings One million (Kshs. 1,000,000.00) for Landscaping to be expended as directed by the project manager | | | | 1,000,000.00 |
| | TOTAL PROVISIONAL SUM CARRIED TO SUMMARY | | | | |

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

| ITEM | DESCRIPTION | AMOUNT |
|------|---|--------|
| | <u>PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY</u> | |
| | <u>GRAND SUMMARY</u> | |
| A | BILL NO. 1: GENERALS AND PARTICULAR PRELIMINARIES | |
| B | BILL NO 1: PROJECT PROVISIONS | |
| C | BILL NO. 2: MARKET BUILDING | |
| D | BILL NO. 3: ASSOCIATED CIVIL WORKS | |
| E | BILL NO. 4: MECHANICAL WORKS | |
| F | BILL NO. 5: ELECTRICAL WORKS | |
| G | BILL NO. 6: PROVISIONAL SUMS | |
| | SUB-TOTAL | |
| | ADD 16% VAT | |
| | GRAND TOTAL CARRIED TO FORM OF TENDER | |
| | Amount in Words: | |
| | | |
| | | |
| | Tenderer's Official Stamp | |
| | Signed: _____ | |
| | _____ | |
| | (Contractor) | |
| | Address: _____ | |
| | Date: _____ | |
| | Witness: _____ | |
| | Signed: _____ | |
| | Address: _____ | |
| | Date: _____ | |

PART III - THE CONDITIONS OF CONTRACT AND CONTRACT

SECTION VIII - GENERAL CONDITIONS OF CONTRACT (GCC)

STATE DEPARTMENT FOR HOUSING AND URBAN DEVELOPMENT

PROPOSED CONSTRUCTION OF BUMALA COUNTY STRATEGIC MARKET IN BUSIA COUNTY

General Conditions of Contract

1 GENERAL PROVISIONS

1.1 Definitions

In this Contract, except where context otherwise requires, the following terms shall be interpreted as indicated below. Words indicating persons or parties include corporations and other legal entities, except where the context requires otherwise.

“Accepted Contract Amount” means the amount accepted in the Letter of Acceptance for the execution and completion of the Works and the remedying of any defects.

“Base Date” means a date 30 day prior to the submission of tenders.

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

“Completion Date” means the date of completion of the Works as certified by the Engineer.

“Contract Price” means the price defined in the contract and thereafter as adjusted in accordance with the provisions of the Contract.

“Contract” means the agreement entered into between the Procuring Entity and the Contractor as recorded in the Agreement Form and signed by the parties including all attachments and appendices thereto and all documents incorporated by reference therein to execute, complete, and maintain the Works.

“Contractor's Documents” means the calculations, computer programs and other software, progress reports, drawings, manuals, models and other documents of a technical nature (if any) supplied by the Contractor under the Contract.

“Contractor's Equipment” means all apparatus, machinery, vehicles and other things required for the execution and completion of the Works and the remedying of any defects. However, Contractor's Equipment excludes Temporary Works, Procuring Entity's Equipment (if any), Plant, Materials and any other things intended to form or forming part of the Permanent Works.

“Contractor's Personnel” means the Contractor's Representative and all personnel whom the Contractor utilizes on Site, who may include the staff, labor and other employees of the Contractor and of each Subcontractor; and any other personnel assisting the Contractor in the execution of the Works.

“Contractor's Representative” means the person named by the Contractor in the Contractor appointed from time to time by the Contractor who acts on behalf of the Contractor.

“Contractor” means the person(s) named as contractor in the Form of Tender accepted by the Procuring Entity.

“Cost” means expenditure reasonably incurred (or to be incurred) by the Contractor, whether on or off the Site, including overhead and similar charges, but does not include profit.

“Day” means a calendar day and **“year”** means 365 days.

“Dayworks” means Work inputs subject to payment on a time basis for labour and the associated materials and plant.

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

“Defects Liability Certificate” means the certificate issued by Architect upon correction of defects by the Contractor.

“Defects Liability Period” means the period named in the Special Conditions of Contract and calculated from the Completion Date, within which the contractor is liable for any defects that may develop in the handed over works.

“Defects Notification Period” means the period for notifying defects in the Works or a Section (as the case maybe) under Sub-Clause 11.1 [Completion of Outstanding Work and Remedying Defects], which extends over the days stated in the Special Conditions of Contract.

“Drawings” means the drawings of the Works, as included in the Contract, and any additional and modified drawings issued by (or on behalf of) the Procuring Entity in accordance with the Contract.

“Final Payment Certificate” means the payment certificate issued under Sub-Clause 14.13 [Issue of Final Payment Certificate].

“Final Statement” means the statement defined in Sub-Clause 14.11 [Application for Final Payment Certificate].

“Force Majeure” is defined in Clause 19 [Force Majeure].

“Foreign Currency” means a currency of another country (not Kenya) in which part (or all) of the Contract Price is payable, but not the Local Currency.

“Goods” means Contractor's Equipment, Materials, Plant and Temporary Works, or any of them as appropriate.

“Interim Payment Certificate” means a payment certificate issued under Clause 14 [Contract Price and Payment], other than the Final Payment Certificate.

“Laws” means all national legislation, statutes, ordinances, and regulations and by-laws of any legally constituted public authority.

“Letter of Acceptance” means the letter of formal acceptance of a tender, signed by Procuring Entity, including any annexed memoranda comprising agreements between and signed by both Parties.

“Local Currency” means the currency of Kenya.

“Materials” means things of all kinds (other than Plant) intended to form or forming part of the Permanent Works, including the supply-only materials (if any) to be supplied by the Contractor under the Contract.

“Notice of Dissatisfaction” means the notice given by either Party to the other under Sub-Clause 20.3 indicating its dissatisfaction and intention to commence arbitration.

“Special Conditions of Contract” means the pages completed by the Procuring Entity entitled Special Conditions of Contract which constitute Part A of the Special Conditions.

“Party” means the Procuring Entity or the Contractor, as the context requires.

“Payment Certificate” means a payment certificate issued under Clause 14 [Contract Price and Payment].

“Performance Certificate” means the certificate issued under Sub-Clause 11.9 [Performance Certificate].

“Performance Security” means the security (or securities, if any) under Sub-Clause 4.2 [Performance Security].

“Permanent Works” means the permanent works to be executed by the Contractor under the Contract.

“Plant” means the apparatus, machinery and other equipment intended to form or forming part of the Permanent Works, including vehicles purchased for the Procuring Entity and relating to the construction or operation of the Works.

“Procuring Entity's Equipment” means the apparatus, machinery and vehicles (if any) made available by the

Procuring Entity for the use of the Contract or in the execution of the Works, as stated in the Specification; but does not include Plant which has not been taken over by the Procuring Entity.

“Procuring Entity's Personnel” means the Engineer, the Engineer, the assistants and all other staff, labor and other employees of the Architect and of the Procuring Entity; and any other personnel notified to the Contractor, by the Procuring Entity or the Engineer, as Procuring Entity's Personnel.

“Procuring Entity” means the Entity named in the Special Conditions of Contract.

“Engineer” is the person named in the Appendix to Conditions of Contract (or any other competent person appointed by the Procuring Entity and notified to the Contractor, to act in replacement of the Engineer) who is responsible for supervising the execution of the Works and administering the Contract and shall be an “Architect” or a “Quantity Surveyor” registered under the Architects and Quantity Surveyors Act Cap 525 or an “Engineer” registered under Engineers Registration Act Cap 530.

“Engineer” means the person appointed by the Procuring Entity to act as the Architect for the purposes of the Contract and named in the Special Conditions of Contract, or other person appointed from time to time by the Procuring Entity and notified to the Contractor

“Provisional Sum” means a sum (if any) which is specified in the Contract as a provisional sum, for the execution of any part of the Works or for the supply of Plant, Materials or services under Sub-Clause 13.5 [Provisional Sums].

“Retention Money” means the accumulated retention moneys which the Procuring Entity retains under Sub-Clause 14.3 [Application for Interim Payment Certificates] and pays under Sub-Clause 14.9 [Payment of Retention Money].

“Schedules” means the document(s) entitled schedules, completed by the Contractor and submitted with the Form of Tender, as included in the Contract.

“Section” means a part of the Works specified in the Special Conditions of Contract as a Section (if any)

“Site Investigation Reports” are those reports that may be included in the tendering documents which a ref actual and interpretative about the surface and sub-surface condition sat the Site.

“Site” means the places where the Permanent Works are to be executed, including storage and working areas, and to which Plant and Materials are to be delivered, and any other places as may be specified in the Contract as forming part of the Site.

“Specification” means the document entitled specification, as included in the Contract, and any additions and modifications to the specification in accordance with the Contract. Such document specifies the Works.

“Start Date” or “Commencement Date” is the latest date when the Contractor shall commence execution of the Works. It does not necessarily coincide with the Site possession date(s).

“Statement” means a statement submitted by the Contractor as part of an application, under Clause 14 [Contract Price and Payment], for a payment certificate.

“Subcontractor” means any person named in the Contract as a subcontractor, or any person appointed as a subcontractor, for a part of the Works.

“Taking-Over Certificate” means a certificate issued under Clause 10 [Procuring Entity's Taking Over].

“Temporary Works” means all temporary works of every kind (other than Contractor's Equipment) required on Site for the execution and completion of the Permanent Works and the remedying of any defects.

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

“Tender” means the Form of Tender and all other documents which the Contractor submitted with the Form of Tender, as included in the Contract.

“Tests after Completion” means the tests (if any) which are specified in the Contract and which are carried out in

accordance with the Specification after the Works or a Section (as the case may be) are taken over by the Procuring Entity.

“Testson Completion” means the tests which are specified in the Contractor agreed by both Parties or instructed as a Variation, and which are carried out under Clause 9 [Tests on Completion] before the Works or a Section (as the case may be) are taken over by the Procuring Entity.

“Time for Completion” means the time for completing the Works or a Section (as the case may be) as stated in the Special Conditions of Contract (with any extension calculated from the Commencement Date.

“Unforeseeable” means not reasonably foreseeable by an experienced contractor by the Base Date.

“Variation” means any change to the Works, which is instructed or approved as a variation under Clause 13 [Variations and Adjustments].

“Works” means the items the Procuring Entity requires the Contractor to undertake as defined in the Appendix to Conditions of Contract. **“Works” may** also mean the Permanent Works and the Temporary Works, or either of them as appropriate.

1.2 Interpretation

In the Contract, except where the context requires otherwise:

- a) Words indicating one gender include all genders;
- b) words indicating the singular also include the plural and words indicating the plural also include the singular;
- c) provisions including the word “agree”, “agreed” or “agreement” require the agreement to be recorded in writing;
- d) “written” or “in writing” means hand-written, type-written, printed or electronically made, and resulting in a permanent record; and

The marginal words and other headings shall not be taken into consideration in the interpretation of these Conditions.

1.3 Communications

1.3.1 Wherever these Conditions provide for the giving or issuing of approvals, certificates, consents, determinations, notices, requests and discharges, these communications shall be:

- a) In writing and delivered by hand (against receipt), sent by mail or courier, or transmitted using any of the agreed systems of electronic transmission as stated in the Special Conditions of Contract; and
- b) delivered, sent or transmitted to the address for the recipient's communications as stated in the Special Conditions of Contract. However:
 - i) if the recipient gives notice of another address, communications shall thereafter be delivered accordingly; and
 - ii) if the recipient has not stated otherwise when requesting an approval or consent, it may be sent to the address from which the request was issued.

1.3.2 Approvals, certificates, consents and determinations shall not be unreasonably withheld or delayed. When a certificate is issued to a Party, the certifier shall send a copy to the other Party. When a notice is issued to a Party, by the other Party or the Engineer, a copy shall be sent to the Architect or the other Party, as the case may be.

1.4 Law and Language

1.4.1 The Contract shall be governed by the laws of **Kenya**.

1.4.2 The ruling language of the Contract shall be **English**.

1.5 Priority of Documents

The documents forming the Contract are to be taken as mutually explanatory of one another. For the purposes of interpretation, the priority of the documents shall be in accordance with the following sequence:

- a) The Contract Agreement,
- b) The Letter of Acceptance,
- c) The Special Conditions – Part A,
- d) the Special Conditions – Part B
- e) the General Conditions of Contract
- f) the Form of Tender,
- g) the Specifications and Bills of Quantities
- h) the Drawings, and
- i) the Schedules and any other documents forming part of the Contract.

If an ambiguity or discrepancy is found in the documents, the Architect shall issue any necessary clarification or instruction.

1.6 Contract Agreement

The Parties shall enter into a Contract Agreement within 14 days after the Contractor receives the Contract Agreement, unless the Special Conditions establish otherwise. The Contract Agreement shall be based upon the form annexed to the Special Conditions. The costs of stamp duties and similar charges (if any) imposed by law in connection with entry into the Contract Agreement shall be borne by the Procuring Entity.

1.7 Assignment

The Contractor shall not assign the whole or any part of the Contract or any benefit or interest in or under the Contract. However, the contractor:

- a) May as sign the whole or any part with the prior consent of the Procuring Entity, and
- b) may, as security in favor of a bank or financial institution, assign its right to moneys due, or to become due, under the Contract.

1.8 Care and Supply of Documents

- 1.81 The Specifications and Drawings shall be in the custody and care of the Procuring Entity. Unless otherwise stated in the Contract, two copies of the Contract and of each subsequent Drawings and Bills of Quantities shall be supplied to the Contractor, who may make or request further copies at the cost of the Contractor.
- 1.82 Each of the Contractor's Documents shall be in the custody and care of the Contractor, unless and until taken over by the Procuring Entity. Unless otherwise stated in the Contract, the Contractor shall supply to the Architect two copies of each of the Contractor's Documents.
- 1.83 The Contractor shall keep, on the Site, a copy of the Contract, publications named in the Specification, the Contractor's Documents (if any), the Drawings and Variations and other communications given under the Contract. The Procuring Entity's Personnel shall have the right of access to all these documents at all reasonable times.
- 1.84 If a Party becomes aware of an error or defect in a document which was prepared for use in executing the Works, the Party shall promptly give notice to the other Party of such error or defect.

1.9 Timely provision of Drawings or Instructions

- 1.91 The Contractor shall give notice to the Architect whenever the Works are likely to be delayed or disrupted if any necessary drawing or instruction is not issued to the Contractor within a particular time, which shall be reasonable. The notice shall include details of the necessary drawing or instruction, details of why and by when it should be issued, and the nature and amount of the delay or disruption likely to be suffered if it is late.
- 1.92 If the Contractor suffers delay and/or incurs Cost as a result of a failure of the Architect to issue the notified drawing or instruction within a time which is reasonable and is specified in the notice with supporting details, the Contractor shall give a further notice to the Architect and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:
 - a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and

b) payment of any other associated costs accrued, which shall be included in the Contract Price.

1.93 After receiving this further notice, the Architect shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

1.94 However, if and to the extent that the Architect failure was caused by any error or delay by the Contractor, including an error in, or delay in the submission of, any of the Contractor's Documents, the Contractor shall not be entitled to such extension of time, or costs accrued.

1.10 Procuring Entity's Use of Contractor's Documents

1.10.1 As agreed between the Parties, the Contractor shall retain the copyright and other intellectual property rights in the Contractor's Documents and other design documents made by (or on behalf of) the Contractor.

1.10.2 The Contractor shall be deemed (by signing the Contract) to give to the Procuring Entity a non-terminable transferable non-exclusive royalty-free license to copy, use and communicate the Contractor's Documents, including making and using modifications of them. This license shall:

- a) apply throughout the actual or intended working life (whichever is longer) of the relevant parts of the Works,
- b) entitle any person in proper possession of the relevant part of the Works to copy, use and communicate the Contractor's Documents for the purposes of completing, operating, maintaining, altering, adjusting, repairing and demolishing the Works, and
- c) in the case of Contractor's Documents which are in the form of computer programs and other software, permit their use on any computer on the Site and other places as envisaged by the Contract, including replacements of any computers supplied by the Contractor.

1.10.3 The Contractor's Documents and other design documents made by (or on behalf of) the Contractor shall not, without the Contractor's consent, be used, copied or communicated to a third party by (or on behalf of) the Procuring Entity for purposes other than those permitted under Sub-Clause 1.10.2.

1.11 Contractor's Use of Procuring Entity's Documents

As agreed between the Parties, the Procuring Entity shall retain the copyright and other intellectual property rights in the Specification, the Drawings and other documents made by (or on behalf of) the Procuring Entity. The Contractor may, at his cost, copy, use, and obtain communication of these documents for the purposes of the Contract. They shall not, without the Procuring Entity's consent, be copied, used or communicated to a third party by the Contractor, except as necessary for the purposes of the Contract.

1.12 Confidential Details

1.12.1 The Contractor's and the Procuring Entity's Personnel shall ensure confidentiality at all times. The confidentiality shall survive termination or completion of the contract. They shall disclose all such confidential and other information as may be reasonably required in order to verify compliance with the Contract and allow its proper implementation.

1.12.2 The Contractor's and the Procuring Entity's Personnel shall also treat the details of the Contract as private and confidential, except to the extent necessary to carry out their respective obligations under the Contract or to comply with applicable Laws. Each of them shall not publish or disclose any particulars of the Works prepared by the other Party without the previous agreement of the other Party. However, the Contractor shall be permitted to disclose any publicly available information, or information otherwise required to establish his qualifications to compete for other projects.

1.13 Compliance with Laws

The Contractor shall, in performing the Contract, comply with applicable Laws. Unless otherwise stated in the Special Conditions of Contract:

- a) The Procuring Entity shall have obtained (or shall obtain) the planning, zoning, building permit or similar permission for the Permanent Works, and any other permissions described in the Specifications as having been (or to be) obtained by the Procuring Entity; and the Procuring Entity shall indemnify and hold the Contractor harmless against and from the consequences of any failure to do so; and

- b) the Contractor shall give all notices, pay all taxes, duties and fees, and obtain all permits, licenses and approvals, as required by the Laws in relation to the execution and completion of the Works and the remedying of any defects; and the Contractor shall indemnify and hold the Procuring Entity harmless against and from the consequences of any failure to do so, unless the Contractor is impeded to accomplish these actions and shows evidence of its diligence.

1.14 Joint and Several Liability

If the Contractor constitutes (under applicable Laws) a joint venture, consortium or other unincorporated grouping of two or more persons:

- a) These persons shall be deemed to be jointly and severally liable to the Procuring Entity for the performance of the Contract;
- b) these persons shall notify the Procuring Entity of their leader who shall have authority to bind the Contractor and each of these persons; and
- c) the Contractor shall not alter its composition or legal status without the prior consent of the Procuring Entity.

1.15 Inspections and Audit by the Procuring Entity

Pursuant to paragraph 2.2(e). of Appendix B to the General Conditions, the Contractor shall permit and shall cause its subcontractors and sub-consultants to permit, the Public Procurement Regulatory Authority, Procuring Entity and/or persons appointed or designated by the Government of Kenya to inspect the Site and/or the accounts and records relating to the procurement process, selection and/or contract execution, and to have such accounts and records audited by auditors appointed by the Procuring Entity if requested by the Procuring Entity. The Contractor's and its Subcontractors' and sub-consultants' attention is drawn to Sub-Clause 15.6 (Fraud and Corruption) which provides, inter alia, that acts intended to materially impede the exercise of the Procuring Entity's inspection and audit rights constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the Procuring Entity's prevailing sanctions procedures).

2 THE PROCURING ENTITY

2.1 Right of Access to the Site

- 2.1.1 The Procuring Entity shall give the Contractor right of access to, and possession of, all parts of the Site within the time (or times) stated in the **Special Conditions of Contract**. The right and possession may not be exclusive to the Contractor. If, under the Contract, the Procuring Entity is required to give (to the Contractor) possession of any foundation, structure, plant or means of access, the Procuring Entity shall do so in the time and manner stated in the Specification. However, the Procuring Entity may withhold any such right or possession until the Performance Security has been received.
- 2.1.2 If no such time is stated in the Special Conditions of Contract, the Procuring Entity shall give the Contractor right of access to, and possession of, the Site within such times as required to enable the Contractor to proceed without disruption in accordance with the programme submitted under Sub-Clause 8.3 [Programme].
- 2.1.3 If the Contractor suffers delay and/or incurs Cost as a result of a failure by the Procuring Entity to give any such right or possession within such time, the Contractor shall give notice to the Architect and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:
 - a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
 - b) payment of any such Cost-plus profit, which shall be included in the Contract Price.
- 2.1.4 After receiving this notice, the Architect shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.
- 2.1.5 However, if and to the extent that the Procuring Entity's failure was caused by any error or delay by the Contractor, including an error in, or delay in the submission of, any of the Contractor's Documents, the Contractor shall not be entitled to such extension of time, Cost or profit.

22 Permits, Licenses or Approvals

22.1 The Procuring Entity shall provide, at the request of the Contractor, such reasonable assistance as to allow the Contractor to obtain properly:

- a) Copies of the Laws of Kenya which are relevant to the Contract but are not readily available, and
- b) any permits, licenses or approvals required by the Laws of Kenya:
 - i) which the Contractor is required to obtain under Sub-Clause 1.13 [Compliance with Laws],
 - ii) for the delivery of Goods, including clearance through customs, and
 - iii) for the export of Contractor's Equipment when it is removed from the Site.

23 Procuring Entity's Personnel

The Procuring Entity shall be responsible for ensuring that the Procuring Entity's Personnel and the Procuring Entity's other contractor son the Site:

- a) co-operate with the Contractor's efforts under Sub-Clause 4.6 [Co-operation], and
- b) take actions similar to those which the Contractor is required to take under sub-paragraphs (a), (b) and (c) of Sub-Clause 4.8 [Safety Procedures] and under Sub-Clause 4.18 [Protection of the Environment].

24 Procuring Entity's Financial Arrangements

The Procuring Entity shall make and maintain all necessary financial arrangements which will enable the Procuring Entity to pay the Contract Price punctually (as estimated at that time) in accordance with Clause 14 [Contract Price and Payment].

3 THE ENGINEER

3.1 Architect Duties and Authority

3.1.1 The Procuring Entity shall appoint the Architect who shall carry out the duties as signed to him in the Contract. The Architect staff shall include suitably qualified Assistants and other professionals who are competent to carry out these duties. The Architect Name and Address shall be provided in the **Special Conditions of Contract**.

3.1.2 The Architect shall have no authority to amend the Contract.

3.1.3 The Architect May exercise the authority attributable to the Architect as specified in or necessarily to be implied from the Contract. If the Architect is required to obtain the approval of the Procuring Entity before exercising a specified authority, the requirements shall be as stated in the **Special Conditions of Contract**. The Procuring Entity shall promptly inform the Contractor of any change to the authority attributed to the Engineer.

3.1.4 However, whenever the Architect exercises a specified authority for which the Procuring Entity's approval is required, then (for the purposes of the Contract) the contractor shall require the Architect to provide evidence of such approval before complying with the instruction.

3.1.5 Except as otherwise stated in these Conditions:

- a) Whenever carrying out duties or exercising authority, specified in or implied by the Contract, the Architect shall be deemed to act for the Procuring Entity;
- b) the Architect has no authority to relieve either Party of any duties, obligations or responsibilities under the Contract;
- c) any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by the Architect (including absence of disapproval) shall not relieve the Contractor from any responsibility he has under the Contract, including responsibility for errors, omissions, discrepancies and non-compliances; and
- d) any act by the Architect in response to a Contractor's request shall be notified in writing to the Contractor within 14 days of receipt.

3.1.6 The following provisions shall apply:

The Architect shall obtain the specific approval of the Procuring Entity before taking action under the following Sub-Clauses of these Conditions:

- a) Sub-Clause 4.12: agreeing or determining an extension of time and/or additional cost.
- b) Sub-Clause 13.1: instructing a Variation, except;
 - i) In an emergency situation as determined by the Engineer, or
 - ii) If such a Variation would increase the Accepted Contract Amount by less than the percentage specified in the **Special Conditions of Contract**.
- c) Sub-Clause 13.3: Approving a proposal for Variation submitted by the Contractor in accordance with Sub Clause 13.1 or 13.2.
- d) Sub-Clause 13.4: Specifying the amount payable in each of the applicable three currencies.

3.1.7 Notwithstanding the obligation, as set out above, to obtain approval, if, in the opinion of the Engineer, an emergency occurs affecting the safety of life or of the Works or of adjoining property, he may, without relieving the Contractor of any of his duties and responsibility under the Contract, instruct the Contractor to execute all such work or to do all such things as may, in the opinion of the Engineer, be necessary to abate or reduce the risk. The Contractor shall forth with comply, despite the absence of approval of the Procuring Entity, with any such instruction of the Engineer. The Architect shall determine an addition to the Contract Price, in respect of such instruction, in accordance with Clause 13 and shall notify the Contractor accordingly, with a copy to the Procuring Entity.

32 Delegation by the Engineer

3.2.1 The Architect may from time to time assign duties and delegate authority to assistants and may also revoke such assignment or delegation. These assistants may include a resident Engineer, and/or independent inspectors appointed to inspect and/ or test items of Plant and/or Materials. The assignment, delegation or revocation shall be in writing and shall not take effect until copies have been received by both Parties. However, unless otherwise agreed by both Parties, the Architect shall not delegate the authority to determine any matter in accordance with Sub-Clause 3.5 [Determinations].

3.2.2 Each assistant, to whom duties have been assigned or authority has been delegated, shall only be authorized to issue instructions to the Contractor to the extent defined by the delegation. Any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by an assistant, in accordance with the delegation, shall have the same effect as though the act had been an act of the Engineer. However:

- a) Any failure to disapprove any work, Plant or Materials shall not constitute approval, and shall therefore not prejudice the right of the Architect to reject the work, Plant or Materials;
- b) If the Contractor questions any determination or instruction of an assistant, the Contractor may refer the matter to the Engineer, who shall promptly confirm, reverse or vary the determination or instruction.

33 Instructions of the Engineer

3.3.1 The Architect may issue to the Contractor (at any time) instructions and additional or modified Drawings which may be necessary for the execution of the Works and the remedying of any defects, all in accordance with the Contract. The Contractor shall only take instructions from the Engineer, or from an assistant to whom the appropriate authority has been delegated under Clause 3.2.1.

3.3.2 The Contractor shall comply with the instructions given by the Architect or delegated assistant, on any matter related to the Contract. Whenever practicable, their instructions shall be given in writing. If the Architect or a delegated assistant:

- a) Gives an oral instruction,
- b) receives a written confirmation of the instruction, from (or on behalf of) the Contractor, within two working days after giving the instruction, and

- c) does not reply by issuing a written rejection and/or instruction within two working days after receiving the confirmation,

Then the confirmation shall constitute the written instruction of the Architect or delegated assistant (as the case may be).

34 Replacement of the Engineer

If the Procuring Entity intends to replace the Engineer, the Procuring Entity shall, in not less than 21 days before the intended date of replacement, give notice to the Contractor of the name, address and relevant experience of the intended person to replace the Engineer.

35 Determinations

35.1 Whenever these Conditions provide that the Architect shall proceed in accordance with this Sub-Clause 3.5 to agree or determine any matter, the Architect shall consult with each Party in an endeavor to reach agreement. If agreement is not achieved, the Architect shall make a fair determination in accordance with the Contract, taking due regard of all relevant circumstances.

3.5.1 The Architect shall give notice to both Parties of each agreement or determination, with supporting particulars, within 30 days from the receipt of the corresponding claim or request except when otherwise specified. Each Party shall give effect to each agreement or determination unless and until revised under Clause 20 [Claims, Disputes and Arbitration].

4 THE CONTRACTOR

4.1 Contractor's General Obligations

4.1.1 The Contractor shall design (to the extent specified in the Contract), execute and complete the Works in accordance with the Contract and with the Architect instructions, and shall remedy any defects in the Works.

4.1.2 The Contractor shall provide the Plant and Contractor's Documents specified in the Contract, and all Contractor's Personnel, Goods, consumables and other things and services, whether of a temporary or permanent nature, required in and for this design, execution, completion and remedying of defects.

4.1.3 All equipment, material, and services to be incorporated in or required for the Works shall have their origin in any eligible source country.

4.1.4 The Contractor shall be responsible for the adequacy, stability and safety of all Site operations and of all methods of construction. Except to the extent specified in the Contract, the Contractor (i) shall be responsible for all Contractor's Documents, Temporary Works, and such design of each item of Plant and Materials as is required for the item to be in accordance with the Contract, and (ii) shall not otherwise be responsible for the design or specification of the Permanent Works.

4.1.5 The Contractor shall, whenever required by the Engineer, submit details of the arrangements and methods which the Contractor proposes to adopt for the execution of the Works. No significant alteration to these arrangements and methods shall be made without this having previously been notified to the Engineer.

4.1.6 If the Contract specifies that the Contractor shall design any part of the Permanent Works, then unless otherwise stated in the Special Conditions:

- a) The Contractor shall submit to the Architect the Contractor's Documents for this part in accordance with the procedures specified in the Contract;
- b) these Contractor's Documents shall be in accordance with the Specification and Drawings, shall be written in the language for communications defined in Sub-Clause 1.4 [Law and Language], and shall include additional information required by the Architect to add to the Drawings for co-ordination of each Party's designs;
- c) the Contractor shall be responsible for this part and it shall, when the Works are completed, be fit for such purposes for which the part is intended as are specified in the Contract; and
- d) prior to the commencement of the Tests on Completion, the Contractor shall submit to the Architect the "as-built" documents and, if applicable, operation and maintenance manuals in accordance with the Specification and in sufficient detail for the Procuring Entity to operate, maintain, dismantle, reassemble, adjust and repair this part of the Works. Such part shall not be considered to be completed for the purposes of taking-over under Sub-Clause 10.1 [Taking Over of the Works and Sections] until these documents and manuals have been submitted to the Engineer.

42 Performance Security

- 421 The Contractor shall obtain (at his cost) a Performance Security for proper performance, in the amount stated in the **Special Conditions of Contract** and denominated in the currency (ies) of the Contract or in a freely convertible currency acceptable to the Procuring Entity. If an amount is not stated in the Special Conditions of Contract, this Sub-Clause shall not apply.
- 422 The Contractor shall deliver the Performance Security to the Procuring Entity within 30 days after receiving the Notification of Award and shall send a copy to the Engineer. The Performance Security shall be issued by a reputable bank selected by the Contractor and shall be in the form annexed to the Special Conditions, as stipulated by the Procuring Entity in the Special Conditions of Contract, or in another form approved by the Procuring Entity.
- 423 The Contractor shall ensure that the Performance Security is valid and enforceable until the Contractor has executed and completed the Works and remedied any defects. If the terms of the Performance Security specify its expiry date, and the Contractor has not become entitled to receive the Performance Certificate by the date 30 days prior to the expiry date, the Contractor shall extend the validity of the Performance Security until the Works have been completed and any defects have been remedied.
- 424 The Procuring Entity shall not make a claim under the Performance Security, except for amounts to which the Procuring Entity is entitled under the Contract.
- 425 The Procuring Entity shall indemnify and hold the Contractor harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from a claim under the Performance Security to the extent to which the Procuring Entity was not entitled to make the claim.
- 426 The Procuring Entity shall return the Performance Security to the Contractor within 14 days after receiving a copy of the Taking-Over Certificate.
- 427 Without limitation to the provisions of the rest of this Sub-Clause, whenever the Architect determines an addition or a reduction to the Contract Price as a result of a change in cost and/ or legislation, or as a result of a Variation, amounting to more than 25 percent of the portion of the Contract Price payable in a specific currency, the Contractor shall at the Architect request promptly increase, or may decrease, as the case may be, the value of the Performance Security in that currency by an equal percentage.

43 Contractor's Representative

- 431 The Contractor shall appoint the Contractor's Representative and shall give him all authority necessary to act on the Contractor's behalf under the Contract. The Contractor's Representative's Name and Address shall be provided in the **Special Conditions of Contract**.
- 432 Unless the Contractor's Representative **is named in the Contract**, the Contractor shall, prior to the Commencement Date, submit to the Architect for consent the name and particulars of the person the Contractor proposes to appoint as Contractor's Representative. If consent is withheld or subsequently revoked in terms of Sub-Clause 6.9 [Contractor's Personnel], or if the appointed person fails to act as Contractor's Representative, the Contractor shall similarly submit the name and particulars of another suitable person for such appointment.
- 433 The Contractor shall not, without the prior consent of the Engineer, revoke the appointment of the Contractor's Representative or appoint a replacement.
- 434 The whole time of the Contractor's Representative shall be given to directing the Contractor's performance of the Contract. If the Contractor's Representative is to be temporarily absent from the Site during the execution of the Works, a suitable replacement person shall be appointed, subject to the Architect prior consent, and the Architect shall be notified accordingly.
- 435 The Contractor's Representative shall, on behalf of the Contractor, receive instructions under Sub-Clause 3.3 [Instructions of the Engineer].
- 436 The Contractor's Representative may delegate any powers, functions and authority to any competent person, and may at any time revoke the delegation. Any delegation or revocation shall not take effect until the Architect has received prior notice signed by the Contractor's Representative, naming the person and specifying the powers, functions and authority being delegated or revoked.
- 437 The Contractor's Representative shall be fluent in the language for communications defined in Sub-Clause 1.4

[Law and Language]. If the Contractor's Representative's delegates are not fluent in the said language, the Contractor shall make competent interpreters available during all working hours in a number deemed sufficient by the Engineer.

44 Sub-contractors

44.1 The Contractor shall not subcontract the whole of the Works. The contractor may however subcontract the works as provided in Clause 34.2.

44.2 The Contractor shall be responsible for the acts or defaults of any Subcontractor, his agents or employees, as if they were the acts or defaults of the Contractor. Unless otherwise stated in the Special Conditions:

- a) The Contractor shall not be required to obtain consent to suppliers solely of Materials, or to a subcontract for which the Subcontractor is named in the Contract;
- b) The prior consent of the Procuring Entity shall be obtained to other proposed Subcontractors;
- c) the Contractor shall give the Procuring Entity not less than 14 days' notice of the intended date of the commencement of each Subcontractor's work, and of the commencement of such work on the Site; and
- d) each subcontract shall include provisions which would entitle the Procuring Entity to require the subcontract to be assigned to the Procuring Entity under Sub-Clause 4.5 [Assignment of Benefit of Subcontract] (if or when applicable) or in the event of termination under Sub-Clause 15.2 [Termination by Procuring Entity].

44.3 The Contractor shall ensure that the requirements imposed on the Contractor by Sub-Clause 1.12 [Confidential Details] apply equally to each Subcontractor.

44.4 Where practicable, the Contractor shall give fair and reasonable opportunity for contractors from Kenya to be appointed as Subcontractors.

45 Assignment of Benefit of Subcontract

If a Subcontractor's obligations extend beyond the expiry date of the relevant Defects Notification Period and the Engineer, prior to this date, instructs the Contractor to assign the benefit of such obligations to the Procuring Entity, then the Contractor shall do so. Unless otherwise stated in the assignment, the Contractor shall have no liability to the Procuring Entity for the work carried out by the Subcontractor after the assignment takes effect.

46 Co-operation

46.1 The Contractor shall, as specified in the Contract or as instructed by the Engineer, allow appropriate opportunities for carrying out work to:

- a) The Procuring Entity's Personnel,
- b) Any other contractors employed by the Procuring Entity, and
- c) The personnel of any legally constituted public authorities, who may be employed in the execution on or near the Site of any work not included in the Contract.

46.2 Any such instruction shall constitute a Variation if and to the extent that it causes the Contractor to suffer delays and/or to incur Unforeseeable Cost. Services for these personnel and other contractors may include the use of Contractor's Equipment, Temporary Works or access arrangements which are the responsibility of the Contractor.

46.3 If, under the Contract, the Procuring Entity is required to give to the Contractor possession of any foundation, structure, plant or means of access in accordance with Contractor's Documents, the Contractor shall submit such documents to the Architect in the time and manner stated in the Specification.

47 Setting Out of the Works

47.1 The Contractor shall set out the Works in relation to original points, lines and levels of reference specified in the Contract notified by the Engineer. The Contractor shall be responsible for the correct positioning of all parts of the Works, and shall rectify any error in the positions, levels, dimensions or alignment of the Works.

47.2 The Procuring Entity shall be responsible for any errors in these specified or notified items of reference, but the Contractor shall use reasonable efforts to verify their accuracy before they are used.

- 4.73 If the Contractor suffers delay and/or incurs Cost from executing work which was necessitated by an error in these items of reference, and an experienced contractor could not reasonably have discovered such error and avoided this delay and/or Cost, the Contractor shall give notice to the Architect and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:
- a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
 - b) payment of any such costs accrued, which shall be included in the Contract Price.
- 4.7.4 After receiving this notice, the Architect shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) whether and (if so) to what extent the error could not reasonably have been discovered, and (ii) the matters described in sub-paragraphs (a) and (b) above related to this.

48 Safety Procedures

The Contractor shall:

- a) Comply with all applicable safety regulations,
- b) Take care for the safety of all persons entitled to be on the Site,
- c) Use reasonable efforts to keep the Site and Works clear of unnecessary obstruction so as to avoid danger to these persons,
- d) provide fencing, lighting, guarding and watching of the Works until completion and taking over under Clause 10 [Procuring Entity's Taking Over], and
- e) provide any Temporary Works (including roadways, footways, guards and fences) which may be necessary, because of the execution of the Works, for the use and protection of the public and of owners and occupiers of adjacent land.

49 Quality Assurance

- 49.1 The Contractor shall institute a quality assurance system to demonstrate compliance with the requirements of the Contract. The system shall be in accordance with the details stated in the Contract. The Architect shall be entitled to audit any aspect of the system.
- 49.2 Details of all procedures and compliance documents shall be submitted to the Architect for information before each design and execution stage is commenced. When any document of a technical nature is issued to the Engineer, evidence of the prior approval by the Contractor itself shall be apparent on the document itself.

Compliance with the quality assurance system shall not relieve the Contractor of any of his duties, obligations or responsibilities under the Contract.

4.10 Site Data

- 4.10.1 The Procuring Entity shall have made available to the Contractor for his information, prior to the Base Date, all relevant data in the Procuring Entity's possession on sub-surface and hydrological conditions at the Site, including environmental aspects. The Procuring Entity shall similarly make available to the Contractor all such data which come into the Procuring Entity's possession after the Base Date. The Contractor shall be responsible for interpreting all such data.
- 4.10.2 To the extent which was practicable (taking account of cost and time), the Contractor shall be deemed to have obtained all necessary information as to risks, contingencies and other circumstances which may influence or affect the Tender or Works. To the same extent, the Contractor shall be deemed to have inspected and examined the Site, its surroundings, the above data and other available information, and to have been satisfied before submitting the Tender as to all relevant matters, including (without limitation):
- a) The form and nature of the Site, including sub-surface conditions,
 - b) the hydrological and climatic conditions,
 - c) the extent and nature of the work and Goods necessary for the execution and completion of the Works and the remedying of any defects,
 - d) the Laws, procedures and labour practices of Kenya, and
 - e) the Contractor's requirements for access, accommodation, facilities, personnel, power, transport, water and other services.

4.11 Sufficiency of the Accepted Contract Amount

4.11.1 The Contractor shall be deemed to:

- a) Have satisfied itself as to the correctness and sufficiency of the Accepted Contract Amount, and
- b) have based the Accepted Contract Amount on the data, interpretations, necessary information, inspections, examinations and satisfaction as to all relevant matters referred to in Sub-Clause 4.10 [Site Data].

4.11.2 Unless otherwise stated in the Contract, the Accepted Contract Amount covers all the Contractor's obligations under the Contract (including those under Provisional Sums, if any) and all things necessary for the proper execution and completion of the Works and the remedying of any defects.

4.12 Unforeseeable Physical Conditions

4.12.1 In this Sub-Clause, "physical conditions" means natural physical conditions and man-made and other physical obstructions and pollutants, which the Contractor encounters at the Site when executing the Works, including sub-surface and hydrological conditions but excluding climatic conditions.

4.12.2 If the Contractor encounters adverse physical conditions which he considers to have been Unforeseeable, the Contractor shall give notice to the Architect as soon as practicable.

4.12.3 This notice shall describe the physical conditions, so that they can be inspected by the Architect and shall set out the reasons why the Contractor considers them to be Unforeseeable. The Contractor shall continue executing the Works, using such proper and reasonable measures as are appropriate for the physical conditions, and shall comply with any instructions which the Architect may give. If an instruction constitutes a Variation, Clause 13 [Variations and Adjustments] shall apply.

4.12.4 If and to the extent that the Contractor encounters physical conditions which are Unforeseeable, gives such a notice, and suffers delay and/or incurs Cost due to these conditions, the Contractor shall be entitled subject to notice under Sub-Clause 20.1 [Contractor's Claims] to:

- a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- b) payment of any such Cost, which shall be included in the Contract Price.

4.12.5 Upon receiving such notice and inspecting and/or investigating these physical conditions, the Architect shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) whether and (if so) to what extent these physical conditions were Unforeseeable, and (ii) the matters described in sub-paragraphs (a) and (b) above related to this extent.

4.12.6 However, before additional Cost is finally agreed or determined under sub-paragraph (ii), the Architect may also review whether other physical conditions in similar parts of the Works (if any) were more favorable than could reasonably have been foreseen when the Contractor submitted the Tender. If and to the extent that these more favorable conditions were encountered, the Architect may proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine the reductions in Cost which were due to these conditions, which may be included (as deductions) in the Contract Price and Payment Certificates. However, the net effect of all adjustments under sub-paragraph (b) and all these reductions, for all the physical conditions encountered in similar parts of the Works, shall not result in a net reduction in the Contract Price.

4.12.7 The Architect shall take account of any evidence of the physical conditions foreseen by the Contractor when submitting the Tender, which shall be made available by the Contractor, but shall not be bound by the Contractor's interpretation of any such evidence.

4.13 Rights of Way and Facilities

Unless otherwise specified in the Contract the Procuring Entity shall provide effective access to and possession of the Site including special and/or temporary rights-of-way which are necessary for the Works. The Contractor shall obtain, at his risk and cost, any additional rights of way or facilities out side the Site

which he may require for the purposes of the Works.

4.14 Avoidance of Interference

4.14.1 The Contractor shall not interfere unnecessarily or improperly with:

- a) The convenience of the public, or
- b) The access to and use and occupation of all roads and foot paths, irrespective of whether they are public or in the possession of the Procuring Entity or of others.

4.14.2 The Contractor shall indemnify and hold the Procuring Entity harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from any such unnecessary or improper interference.

4.15 Access Route

4.15.1 The Contractor shall be deemed to have been satisfied as to the suitability and availability of access routes to the Site at Base Date. The Contractor shall use reasonable efforts to prevent any road or bridge from being damaged by the Contractor's traffic or by the Contractor's Personnel. These efforts shall include the proper use of appropriate vehicles and routes.

4.15.2 Except as otherwise stated in these Conditions:

- a) The Contractor shall (as between the Parties) be responsible for any maintenance which may be required for his use of access routes;
- b) the Contractor shall provide all necessary signs or directions along access routes, and shall obtain any permission which may be required from the relevant authorities for his use of routes, signs and directions;
- c) the Procuring Entity shall not be responsible for any claims which may arise from the use or otherwise of any access route;
- d) the Procuring Entity does not guarantee the suitability or availability of particular access routes; and
- e) Costs due to non-suitability or non-availability, for the use required by the Contractor, of access routes shall be borne by the Contractor.

4.16 Transport of Goods

Unless otherwise stated in the Special Conditions:

- a) the Contractor shall give the Architect not less than 21 days' notice of the date on which any Plant or a major item of other Goods will be delivered to the Site;
- b) the Contractor shall be responsible for packing, loading, transporting, receiving, unloading, storing and protecting all Goods and other things required for the Works; and
- c) the Contractor shall indemnify and hold the Procuring Entity harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from the transport of Goods and shall negotiate and pay all claims arising from their transport.

4.17 Contractor's Equipment

The Contractor shall be responsible for all Contractor's Equipment. When brought on to the Site, Contractor's Equipment shall be deemed to be exclusively intended for the execution of the Works. The Contractor shall not remove from the Site any major items of Contractor's Equipment without the consent of the Engineer. However, consent shall not be required for vehicles transporting Goods or Contractor's Personnel off Site.

4.18 Protection of the Environment

4.18.1 The contractor shall comply with the applicable environmental laws, regulations and policies.

4.18.2 The Contractor shall take all reasonable steps to protect the environment (both on and off the Site) and to limit damage and nuisance to people and property resulting from pollution, noise and other results of his operations.

4.18.3 The Contractors shall ensure that emissions, surfaced is charges and effluent from the Contractor's activities shall not exceed the values stated in the Specification or prescribed by applicable Laws.

4.19 Electricity, Water and Gas

- 4.19.1 The Contractor shall, except as stated below, be responsible for the provision of all power, water and other services he may require for his construction activities and to the extent defined in the Specifications, for the tests.
- 4.19.2 The Contractor shall be entitled to use for the purposes of the Works such supplies of electricity, water, gas and other services as may be available on the Site and of which details and prices are given in the Specifications. The Contractor shall, at his risk and cost, provide any apparatus necessary for his use of these services and for measuring the quantities consumed.
- 4.19.3 The quantities consumed and the amounts due (at these prices) for such services shall be agreed or determined by the Architect in accordance with Sub-Clause 2.5 [Procuring Entity's Claims] and Sub-Clause 3.5 [Determinations]. The Contractor shall pay these amounts to the Procuring Entity.

4.20 Procuring Entity's Equipment and Free-Issue Materials

- 4.20.1 The Procuring Entity shall make the Procuring Entity's Equipment (if any) available for the use of the Contractor in the execution of the Works in accordance with the details, arrangements and prices stated in the Specification. Unless otherwise stated in the Specification:
- a) The Procuring Entity shall be responsible for the Procuring Entity's Equipment, except that
 - b) the Contractor shall be responsible for each item of Procuring Entity's Equipment whilst any of the Contractor's Personnel is operating it, driving it, directing it or in possession or control of it.
- 4.20.1 The appropriate quantities and the amounts due (at such stated prices) for the use of Procuring Entity's Equipment shall be agreed or determined by the Architect in accordance with Sub-Clause 2.5 [Procuring Entity's Claims] and Sub-Clause 3.5 [Determinations]. The Contractor shall pay these amounts to the Procuring Entity.
- 4.20.2 The Procuring Entity shall supply, free of charge, the "free-issue materials" (if any) in accordance with the details stated in the Specification. The Procuring Entity shall, at his risk and cost, provide these materials at the time and place specified in the Contract. The Contractor shall then visually inspect them and shall promptly give notice to the Architect of any shortage, defect or default in these materials. Unless otherwise agreed by both Parties, the Procuring Entity shall immediately rectify the notified shortage, defect or default.
- 4.20.3 After this visual inspection, the free-issue materials shall come under the care, custody and control of the Contractor. The Contractor's obligations of inspection, care, custody and control shall not relieve the Procuring Entity of liability for any shortage, defect or default not apparent from a visual inspection.

4.21 Progress Reports

- 4.21.1 Unless otherwise stated in the Special Conditions, monthly progress reports shall be prepared by the Contractor and submitted to the Architect in six copies. The first report shall cover the period up to the end of the first calendar month following the Commencement Date. Reports shall be submitted monthly thereafter, each within 7 days after the last day of the period to which it relates.
- 4.21.2 Reporting shall continue until the Contractor has completed all work which is known to be outstanding at the completion date stated in the Taking-Over Certificate for the Works. Each report shall include:
- a) charts and detailed descriptions of progress, including each stage of design (if any), Contractor's Documents, procurement, manufacture, delivery to Site, construction, erection and testing; and including these stages for work by each nominated Subcontractor (as defined in Clause 5 [Nominated Subcontractors]),
 - b) photographs showing the status of manufacture and of progress on the Site;
 - c) for the manufacture of each main item of Plant and Materials, the name of the manufacturer, manufacture location, percentage progress, and the actual or expected dates of:
 - i) commencement of manufacture,
 - ii) Contractor's inspections,
 - iii) tests, and

- iv) shipment and arrival at the Site;
- d) the details described in Sub-Clause 6.10 [Records of Contractor's Personnel and Equipment];
- e) copies of quality assurance documents, test results and certificates of Materials;
- f) list of notices given under Sub-Clause 2.5 [Procuring Entity's Claims] and notices given under Sub-Clause 20.1 [Contractor's Claims];
- g) safety statistics, including details of any hazardous incidents and activities relating to environmental aspects and public relations; and
- h) comparison so factual and planned progress, with details of any events or circumstances which may jeopardize the completion in accordance with the Contract, and the measures being (or to be) adopted to overcome delays.

4.22 Security of the Site

Unless otherwise stated in the Special Conditions:

- a) The Contractor shall be responsible for keeping unauthorized persons off the Site, and
- b) authorized persons shall be limited to the Contractor's Personnel and the Procuring Entity's Personnel; and to any other personnel notified to the Contractor, by the Procuring Entity or the Engineer, as authorized personnel of the Procuring Entity's other contractors on the Site.

4.23 Contractor's Operations on Site

4.23.1 The Contractor shall confine his operations to the Site, and to any additional areas which may be obtained by the Contractor and agreed by the Architect as additional working areas. The Contractor shall take all necessary precautions to keep Contractor's Equipment and Contractor's Personnel within the Site and these additional areas, and to keep them off adjacent land.

4.23.2 During the execution of the Works, the Contractor shall keep the Site free from all unnecessary obstruction and shall store or dispose of any Contractor's Equipment or surplus materials. The Contractor shall clear away and remove from the Site any wreckage, rubbish and Temporary Works which are no longer required.

4.23.3 Upon the issue of a Taking-Over Certificate, the Contractor shall clear away and remove, from that part of the Site and Works to which the Taking-Over Certificate refers, all Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works. The Contractor shall leave that part of the Site and the Works in a clean and safe condition. However, the Contractor may retain on Site, during the Defects Notification Period, such Goods as are required for the Contractor to fulfil obligations under the Contract.

4.24 Fossils

4.24.1 All fossils, coins, articles of value or antiquity, and structures and other remains or items of geological or archaeological interest found on the Site shall be placed under the care and authority of the Procuring Entity. The Contractor shall take reasonable precautions to prevent Contractor's Personnel or other persons from removing or damaging any of these findings.

4.24.2 The Contractor shall, upon discovery of any such finding, promptly give notice to the Engineer, who shall issue instructions for dealing with it. If the Contractor suffers delay and/or incurs Cost from complying with the instructions, the Contractor shall give a further notice to the Architect and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- b) payment of any such Cost, which shall be included in the Contract Price.
After receiving this further notice, the Architect shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

5 NOMINATED SUBCONTRACTORS

5.1 Definition of "nominated Subcontractor"

In this Contract, "nominated Subcontractor" means a Subcontractor:

- a) Who is nominated by the Procuring Entity, or
- b) Contractor has nominated as a Subcontractor subject to Sub-Clause 5.2 [Objection to Notification].

52 Objection to Nomination

The Contractor shall not be under any obligation to employ a nominated Subcontractor against whom the Contractor raises reasonable objection by notice to the Procuring Entity as soon as practicable, with supporting particulars. An objection shall be deemed reasonable if it arises from (among other things) any of the following matters, unless the Procuring Entity agrees in writing to indemnify the Contractor against and from the consequences of the matter:

- a) there are reasons to believe that the Subcontractor does not have sufficient competence, resources or financial strength;
- b) the nominated Subcontractor does not accept to indemnify the Contractor against and from any negligence or misuse of Goods by the nominated Subcontractor, his agents and employees; or
- c) the nominated Subcontractor does not accept to enter into a subcontract which specifies that, for the subcontracted work (including design, if any), the nominated Subcontractor shall:
 - i) undertake to the Contractor such obligations and liabilities as will enable the Contractor to discharge his obligations and liabilities under the Contract;
 - ii) indemnify the Contractor against and from all obligations and liabilities arising under or in connection with the Contract and from the consequences of any failure by the Subcontractor to perform these obligations or to fulfil these liabilities, and
 - iii) be paid only if and when the Contractor has received from the Procuring Entity payments for sums due under the Subcontract referred to under Sub-Clause 5.3 [Payment to nominated Subcontractors].

53 Payments to nominated Subcontractors

The Contractor shall pay to the nominated Subcontractor the amounts shown on the nominated Subcontractor's invoices approved by the Contractor which the Architect certifies to be due in accordance with the subcontract. These amounts plus other charges shall be included in the Contract Price in accordance with sub-paragraph (b) of Sub-Clause 13.5 [Provisional Sums], except as stated in Sub-Clause 5.4 [Evidence of Payments].

54 Evidence of Payments

54.1 Before issuing a Payment Certificate which includes an amount payable to a nominated Subcontractor, the Architect may request the Contractor to supply reasonable evidence that the nominated Subcontractor has received all amounts due in accordance with previous Payment Certificates, less applicable deductions for retention or otherwise. Unless the Contractor:

- (a) Submits this reasonable evidence to the Engineer, or
- (b)
 - i) Satisfies the Architect in writing that the Contractor is reasonably entitled to withhold or refuse to pay these amounts, and
 - ii) Submits to the Architect reasonable evidence that the nominated Subcontractor has been notified of the Contractor's entitlement, then the Procuring Entity may (at his sole discretion) pay, direct to the nominated Subcontractor, part or all of such amounts previously certified (less applicable deductions) as are due to the nominated Subcontractor and for which the Contractor has failed to submit the evidence described in sub-paragraphs (a) or (b) above. The Contractor shall then repay, to the Procuring Entity, the amount which the nominated Subcontractor was directly paid by the Procuring Entity.

6 STAFF AND LABOR

6.1 Engagement of Staff and Labor

Except as otherwise stated in the Specification, the Contractor shall make arrangements for the engagement of all staff and labor, local or otherwise, and for their payment, feeding, transport, and, when appropriate, housing. The Contractor is encouraged, to the extent practicable and reasonable, to employ staff and labor with appropriate qualifications and experience from sources within Kenya.

6.2 Rates of Wages and Conditions of Labor

6.2.1 The Contractor shall pay rates of wages, and observe conditions of labor, which are not lower than those established for the trade or industry where the work is carried out. If no established rates or conditions are applicable, the Contractor shall pay rates of wages and observe conditions which are not lower than the general level of wages and conditions observed locally by Procuring Entity's whose trade or industry is similar

to that of the Contractor.

622 The Contractor shall inform the Contractor's Personnel about their liability to pay personal income taxes in Kenya in respect of such of their salaries, wages, allowances and any benefits as are subject to tax under the Laws of Kenya for the time being in force, and the Contractor shall perform such duties in regard to such deductions there of as may be imposed on him by such Laws.

63 Persons in the Service of Procuring Entity

The Contractor shall not recruit, or attempt to recruit, staff and labour from amongst the Procuring Entity's Personnel.

64 Lab or Laws

The Contractor shall comply with all the relevant labour Laws applicable to the Contractor's Personnel, including Laws relating to their employment, employment of children, health, safety, welfare, immigration and emigration, and shall allow them all their legal rights. The Contractor shall require his employees to obey all applicable Laws, including those concerning safety at work.

65 Working Hours

No work shall be carried out on the Site on locally recognized days of rest, or outside the normal working hours stated in the **Special Conditions of Contract**, unless:

- a) Otherwise stated in the Contract,
- b) The Architect gives consent, or
- c) The work is unavoidable, or necessary for the protection of life or property or for the safety of the Works, in which case the Contractor shall immediately advise the Engineer, provided that work done outside the normal working hours shall be considered and paid for as overtime.

66 Facilities for Staff and Labor

Except as otherwise stated in the Specification, the Contractor shall provide and maintain all necessary accommodation and welfare facilities on site for the Contractor's Personnel. The Contractor shall also provide facilities for the Procuring Entity's Personnel as stated in the Specifications. The Contractor shall not permit any of the Contractor's Personnel to maintain any temporary or permanent living quarters within the structures forming part of the Permanent Works.

67 Health and Safety

67.1 The Contractor shall at all times take all reasonable precautions to maintain the health and safety of the Contractor's Personnel. In collaboration with local health authorities, the Contractor shall ensure that medical staff, first aid facilities, sick bay and ambulance service are available at all times at the Site and at any accommodation for Contractor's and Procuring Entity's Personnel, and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics.

67.2 The Contractor shall appoint an accident prevention officer at the Site, responsible for maintaining safety and protection against accidents. This person shall be qualified for this responsibility and shall have the authority to issue instructions and take protective measures to prevent accidents. Throughout the execution of the Works, the Contractor shall provide whatever is required by this person to exercise this responsibility and authority.

67.3 The Contractor shall send, to the Engineer, details of any accident as soon as practicable after its occurrence. The Contractor shall maintain records and make reports concerning health, safety and welfare of persons, and damage to property, as the Architect may reasonably require.

67.4 The Contractor shall conduct an awareness programme on HIV and other sexually transmitted diseases via an approved service provider and shall undertake such other measures taken to reduce the risk of the transfer of these diseases between and among the Contractor's Personnel and the local community, to promote early diagnosis and to assist affected individuals.

68 Contractor's Superintendence

68.1 Throughout the execution of the Works, and as long thereafter as is necessary to fulfil the Contractor's obligations, the Contractor shall provide all necessary superintendence to plan, arrange, direct, manage, inspect and test the work.

6.8.2 Superintendence shall be given by a sufficient number of persons having adequate knowledge of the language for communications (defined in Sub-Clause 1.4 [Law and Language]) and of the operations to be carried out (including the methods and techniques required, the hazards likely to be encountered and methods of preventing accidents), for the satisfactory and safe execution of the Works.

6.9 Contractor's Personnel

6.9.1 The Contractor's Personnel shall be appropriately qualified, skilled and experienced in their respective trades or occupations. The Contractor's Key personnel shall be named in the Special Conditions of Contract. The Architect may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Contractor's Representative if applicable, who:

- a) Persists in any misconduct or lack of care,
- b) Carries out duties in competently or negligently,
- c) fails to conform with any provisions of the Contract,
- d) persists in any conduct which is prejudicial to safety, health, or the protection of the environment, or
- e) based on reasonable evidence, is determined to have engaged in Fraud and Corruption during the execution of the Works.

6.9.2 If appropriate, the Contractor shall then appoint (or cause to be appointed) a suitable replacement person.

6.10 Records of Contractor's Personnel and Equipment

The Contractor shall submit, to the Engineer, details showing the number of each class of Contractor's Personnel and of each type of Contractor's Equipment on the Site. Details shall be submitted each calendar month, in a form approved by the Engineer, until the Contractor has completed all work which is known to be outstanding at the completion date stated in the Taking-Over Certificate for the Works.

6.11 Disorderly Conduct

The Contractor shall at all times take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst the Contractor's Personnel, and to preserve peace and protection of persons and property on and near the Site.

6.12 Foreign Personnel

6.12.1 The Contractor shall not employ foreign personnel unless the contractor demonstrates that there are no Kenyans with the required skills.

6.12.2 The Contractor shall be responsible for the return of any foreign personnel to the place where they were recruited or to their domicile. In the event of the death in Kenya of any of these personnel or members of their families, the Contractor shall similarly be responsible for making the appropriate arrangements for their return or burial.

6.13 Supply of Water

The Contractor shall, having regard to local conditions, provide on the Site an adequate supply of drinking and other water for the use of the Contractor's Personnel.

6.14 Measures against Insect and Pest Nuisance

The Contractor shall at all times take the necessary precautions to protect the Contractor's Personnel employed on the Site from insect and pest nuisance, and to reduce the danger to their health. The Contractor shall comply with all the regulations of the local health authorities, including use of appropriate insecticide.

6.15 Alcoholic Liquor or Drugs

The Contractor shall not, otherwise than in accordance with the Laws of Kenya, onsite, import, sell, give, barter or otherwise dispose of any alcoholic liquor or drugs, or permit or allow importation, sale, gift, barter or disposal thereof by Contractor's Personnel.

6.16 Prohibition of Forced or Compulsory Labour

The Contractor shall not employ forced labor, which consists of any work or service, not voluntarily performed, that is exacted from an individual under threat of force or penalty, and includes any kind of

involuntary or compulsory labor, such as indentured labor, bonded labor or similar labor-contracting arrangements.

6.17 Prohibition of Harmful Child Labor

The Contractor shall not employ children in a manner that is economically exploitative, or is likely to be hazardous, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development. Where the relevant labour laws of Kenya have provisions for employment of minors, the Contractor shall follow those laws applicable to the Contractor. Children below the age of 18 years shall not be employed in dangerous work.

6.18 Employment Records of Workers

The Contractor shall keep complete and accurate records of the employment of labour at the Site. The records shall include the names, ages, genders, hours worked and wages paid to all workers. These records shall be summarized on a monthly basis and submitted to the Engineer. These records shall be included in the details to be submitted by the Contractor under Sub-Clause 6.10 [Records of Contractor's Personnel and Equipment].

6.19 Workers' Organizations

The Contractor shall comply with the relevant labor laws that recognize workers' rights to form and to join workers' organizations of their choosing without interference.

6.20 Non-Discrimination and Equal Opportunity

The Contractor shall base the labour employment on the principle of equal opportunity and fair treatment and shall not discriminate with respect to aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, promotion, termination of employment, retirement, and discipline.

7. PLANT, MATERIALS AND WORKMANSHIP

7.1 Manner of Execution

The Contractor shall carry out the manufacture/assemble of plant, the production and manufacture of Materials, and all other execution of the Works:

- a) In the manner (if any) specified in the Contract,
- b) in a proper workman like and careful manner, in accordance with recognized good practice, and
- c) with properly equipped facilities and non-hazardous Materials, except as otherwise specified in the Contract.

7.2 Samples

The Contractor shall submit the following samples of Materials, and relevant information, to the Architect for consent prior to using the Material in or for the Works:

- a) manufacturer's standard samples of Materials and samples specified in the Contract, all at the Contractor's cost, and
- b) additional samples instructed by the Architect as a Variation.

Each sample shall be labeled as to origin and intended use in the Works.

7.3 Inspection

7.3.1 The Procuring Entity's Personnel shall at all reasonable times:

- a) Have full access to all parts of the Site and to all places from which natural Materials are being obtained, and
- b) during production, manufacture and construction (at the Site and elsewhere), be entitled to examine, inspect, measure and test the materials and workmanship, and to check the progress of manufacture of Plant and production and manufacture of Materials.

7.3.2 The Contractor shall give the Procuring Entity's Personnel full opportunity to carry out these activities,

including providing access, facilities, permissions and safety equipment. No such activity shall relieve the Contractor from any obligation or responsibility.

733 The Contractor shall give notice to the Architect whenever any work is ready and before it is covered up, put out of sight, or packaged for storage or transport. The Architect shall then either carry out the examination, inspection, measurement or testing without unreasonable delay, or promptly give notice to the Contractor that the Architect does not require to do so. If the Contractor fails to give the notice, he shall, if and when required by the Engineer, uncover the work and there after reinstate and make good, all at the Contractor's cost.

74 Testing

741 This Sub-Clause shall apply to all tests specified in the Contract.

742 Except as otherwise specified in the Contract, the Contractor shall provide all apparatus, assistance, documents and other information, electricity, equipment, fuel, consumables, instruments, labor, materials, and suitably qualified and experienced staff, as are necessary to carry out the specified tests efficiently. The Contractor shall agree, with the Engineer, the time and place for the specified testing of any Plant, Materials and other parts of the Works.

743 The Architect may, under Clause 13 [Variations and Adjustments], vary the location or details of specified tests, or instruct the Contractor to carry out additional tests. If these varied or additional tests show that the tested Plant, Materials or workmanship is not in accordance with the Contract, the cost of carrying out this Variation shall be borne by the Contractor, notwithstanding other provisions of the Contract.

744 The Architect shall give the Contractor not less than 24 hours' notice of the Architect intention to attend the tests. If the Architect does not attend at the time and place agreed, the Contractor may proceed with the tests, unless otherwise instructed by the Engineer, and the tests shall then be deemed to have been made in the Architect presence.

745 If the Contractor suffers delay and/ or incurs Cost from complying with these instructions or as a result of a delay for which the Procuring Entity is responsible, the Contractor shall give notice to the Architect and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- b) payment of any such Cost-plus profit, which shall be included in the Contract Price.

746 After receiving this notice, the Architect shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

747 The Contractor shall promptly forward to the Architect duly certified reports of the tests. When the specified tests have been passed, the Architect shall endorse the Contractor's test certificate, or issue a certificate to him, to that effect. If the Architect has not attended the tests, he shall be deemed to have accepted the readings as accurate.

75 Rejection

751 If, as a result of an examination, inspection, measurement or testing, any Plant, Materials or workmanship is found to be defective or otherwise not in accordance with the Contract, the Architect may reject the Plant, Materials or workmanship by giving notice to the Contractor, with reasons. The Contractor shall then promptly make good the defect and ensure that the rejected item complies with the Contract.

752 If the Architect requires this Plant, Materials or workmanship to be retested, the tests shall be repeated under the same terms and conditions. If the rejection and retesting cause the Procuring Entity to incur additional costs, the Contractor shall subject to Sub-Clause 2.5 [Procuring Entity's Claims] pay these costs to the Procuring Entity.

76 Remedial Work

76.1 Notwithstanding any previous test or certification, the Architect may instruct the Contractor to:

- a) Remove from the Site and replace any Plant or Materials which is not in accordance with the Contract,
- b) remove and re-execute any other work which is not in accordance with the Contract, and
- c) execute any work which is urgently required for the safety of the Works, whether because of an accident, unforeseen able event or otherwise.

7.62 The Contractor shall comply with the instruction within a reasonable time, which shall be the time (if any) specified in the instruction, or immediately if urgency is specified under sub-paragraph (c).

7.63 If the Contractor fails to comply with the instruction, the Procuring Entity shall be entitled to employ and pay other persons to carry out the work. Except to the extent that the Contractor would have been entitled to payment for the work, the Contractor shall subject to Sub-Clause 2.5 [Procuring Entity's Claims] pay to the Procuring Entity all costs arising from this failure.

7.64 If the contractor repeatedly delivers defective work, the Procuring Entity may consider termination in accordance with Clause 15.

7.7 Ownership of Plant and Materials

Except as otherwise provided in the Contract, each item of Plant and Materials shall become the property of the Procuring Entity at whichever is the earlier of the following times, free from liens and other encumbrances:

- a) When it is incorporated in the Works;
- b) when the Contractor is paid the corresponding value of the Plant and Materials under Sub-Clause 8.10 [Payment for Plant and Materials in Event of Suspension].

7.8 Royalties

Unless otherwise stated in the Specification, the Contractor shall pay all royalties, rents and other payments for:

- a) Natural materials obtained from outside the Site, and
- b) The disposal of material from demolitions and excavations and of other surplus material (whether natural or man-made), except to the extent that disposal are as within the Site are specified in the Contract.

8 COMMENCEMENT, DELAYS AND SUSPENSION

8.1 Commencement of Works

8.1.1 Except as otherwise specified in the Special Conditions of Contract, the Commencement Date shall be the date at which the following precedent condition shall have all been fulfilled and the Architect notification recording the agreement of both Parties on such fulfilment and instructing to commence the Work is received by the Contractor:

- a) Signature of the Contract Agreement by both Parties, and if required, approval of the Contract by relevant authorities of Kenya;
- b) except if otherwise specified in the Special Conditions of Contract, effective access to and possession of the Site given to the Contractor together with such permission(s) under (a) of Sub-Clause 1.13 [Compliance with Laws] as required for the commencement of the Works.
- c) Receipt by the Contractor of the Advance Payment under Sub-Clause 14.2 [Advance Payment] provided that the corresponding bank guarantee has been delivered by the Contractor.

8.1.2 If the said Architect instruction is not received by the Contractor within 180 days from his receipt of the Letter of Acceptance, the Contractor shall be entitled to terminate the Contract under Sub-Clause 16.2 [Termination by Contractor].

8.1.3 The Contractor shall commence the execution of the Works as soon as is reasonably practicable after the Commencement Date and shall then proceed with the Works with due expedition and without delay.

8.2 Time for Completion

The Contractor shall complete the whole of the Works, and each Section (if any), within the Time for Completion for the Works or Section (as the case may be), including:

- a) Achieving the passing of the Tests on Completion, and
- b) completing all work which is stated in the Contract as being required for the Works or Section to be considered to be completed for the purposes of taking-over under Sub-Clause 10.1 [Taking Over of the Works and Sections].

8.3 Programme

8.3.1 The Contractor shall submit a detailed time programme to the Architect within 14 days after receiving the

notice under Sub-Clause 8.1 [Commencement of Works]. The Contractor shall also submit a revised programme whenever the previous programme is inconsistent with actual progress or with the Contractor's obligations. Each programme shall include:

- a) The order in which the Contractor intends to carry out the Works, including the anticipated timing of each stage of design (if any), Contractor's Documents, procurement, manufacture of Plant, delivery to Site, construction, erection and testing,
- b) each of these stages for work by each nominated Subcontractor (as defined in Clause 5 [Nominated Subcontractors]),
- c) the sequence and timing of inspections and tests specified in the Contract, and
- d) a supporting report which includes:
 - i) a general description of the methods which the Contractor intends to adopt, and of the major stages, in the execution of the Works, and
 - ii) details showing the Contractor's reasonable estimate of the number of each class of Contractor's Personnel and of each type of Contractor's Equipment, required on the Site for each major stage.

832 Unless the Engineer, within 14 days after receiving a programme, gives notice to the Contractor stating the extent to which it does not comply with the Contract, the Contractor shall proceed in accordance with the programme, subject to his other obligations under the Contract. The Procuring Entity's Personnel shall be entitled to rely upon the programme when planning their activities.

833 The Contractor shall promptly give notice to the Architect of specific probable future events or circumstances which may adversely affect the work, increase the Contract Price or delay the execution of the Works.

834 If, at any time, the Architect gives notice to the Contractor that a programme fails (to the extent stated) to comply with the Contractor to be consistent with actual progress and the Contractor's stated intentions, the Contractor shall submit a revised programme to the Architect in accordance with this Sub-Clause.

8.4 Extension of Time for Completion

841 The Contractor shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to an extension of the Time for Completion if and to the extent that completion for the purposes of Sub-Clause 10.1 [Taking Over of the Works and Sections] is or will be delayed by any of the following causes:

- a) a Variation (unless an adjustment to the Time for Completion has been agreed under Sub-Clause 13.3 [Variation Procedure]) or other substantial change in the quantity of an item of work included in the Contract,
- b) a cause of delay giving an entitlement to extension of time under a Sub-Clause of these Conditions,
- c) exceptionally adverse climatic conditions,
- d) Unforeseeable shortages in the availability of personnel or Goods caused by epidemic or governmental actions, or
- e) any delay, impediment or prevention caused by or attributable to the Procuring Entity, the Procuring Entity's Personnel, or the Procuring Entity's other contractors.

842 If the Contractor considers itself to be entitled to an extension of the Time for Completion, the Contractor shall give notice to the Architect in accordance with Sub-Clause 20.1 [Contractor's Claims]. When determining each extension of time under Sub-Clause 20.1, the Architect shall review previous determinations and may increase, but shall not decrease, the total extension of time.

8.5 Delays Caused by Authorities

If the following conditions apply, namely:

- a) The Contractor has diligently followed the procedures laid down by the relevant legally constituted public authorities in Kenya,
- b) These authorities delay or disrupt the Contractor's work, and
- c) the delay or disruption was Unforeseeable, then this delay or disruption will be considered as a cause of delay under sub-paragraph (b) of Sub-Clause 8.4 [Extension of Time for Completion].

8.6 Rate of Progress

861 If, at anytime:

- a) Actual progress is too slow to complete within the Time for Completion, and/or
- b) Progress has fallen (or will fall) behind the current programme under Sub-Clause 8.3 [Programme], other than as a result of a cause listed in Sub-Clause 8.4 [Extension of Time for Completion], then the Architect may instruct the Contractor to submit, under Sub-Clause 8.3 [Programme], a revised programme and supporting report describing the revised methods which the Contractor proposes to adopt in order to expedite progress and complete within the Time for Completion.

862 Unless the Architect notifies otherwise, the Contractor shall adopt these revised methods, which may require increases in the working hours and/or in the numbers of Contractor's Personnel and/or Goods, at the risk and cost of the Contractor. If these revised methods cause the Procuring Entity to incur additional costs, the Contractor shall subject to notice under Sub-Clause 2.5 [Procuring Entity's Claims] pay these costs to the Procuring Entity, in addition to delay damages (if any) under Sub-Clause 8.7 below.

863 Additional costs of revised methods including acceleration measures, instructed by the Architect to reduce delays resulting from causes listed under Sub-Clause 8.4 [Extension of Time for Completion] shall be paid by the Procuring Entity, without generating, however, any other additional payment benefit to the Contractor.

8.7 Delay Damages

871 If the Contractor fails to comply with Sub-Clause 8.2 [Time for Completion], the Contractor shall subject to notice under Sub-Clause 2.5 [Procuring Entity's Claims] pay delay damages to the Procuring Entity for this default. These delay damages shall be the sum stated in the **Special Conditions of Contract**, which shall be paid for everyday which shall elapse between the relevant Time for Completion and the date stated in the taking-Over Certificate. However, the total amount due under this Sub-Clause shall not exceed the maximum amount of delay damages (if any) stated in the Special Conditions of Contract.

872 These delay damages shall be the only damages due from the Contractor for such default, other than in the event of termination under Sub-Clause 15.2 [Termination by Procuring Entity] prior to completion of the Works. These damages shall not relieve the Contractor from his obligation to complete the Works, or from any other duties, obligations or responsibilities which he may have under the Contract.

8.8 Suspension of Work

881 The Architect may at any time instruct the Contractor to suspend progress of part or all of the Works. During such suspension, the Contractor shall protect, store and secure such part or the Works against any deterioration, loss or damage.

882 The Architect may also notify the cause for the suspension. If and to the extent that the cause is notified and is the responsibility of the Contractor, the following Sub-Clauses 8.9, 8.10 and 8.11 shall not apply.

8.9 Consequences of Suspension

891 If the Contractor suffers delay and/or incurs Cost from complying with the Architect instructions under Sub-Clause 8.8 [Suspension of Work] and/or from resuming the work, the Contractor shall give notice to the Architect and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- b) Payment of any such Cost, which shall be included in the Contract Price.

892 After receiving this notice, the Architect shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

893 The Contractor shall not be entitled to an extension of time for, or to payment of the Cost incurred in, making good the consequences of the Contractor's faulty design, workmanship or materials, or of the Contractor's failure to protect, store or secure in accordance with Sub-Clause 8.8 [Suspension of Work].

8.10 Payment for Plant and Materials in Event of Suspension

The Contractor shall be entitled to payment of the value (as at the date of suspension) of Plant and/ or

Materials which have not been delivered to Site, if:

- a) The work on Plant or delivery of Plant and/ or Materials has been suspended for more than 30 days, and
- b) the Contractor has marked the Plant and/or Materials as the Procuring Entity's property in accordance with the Architect instructions.

8.11 Prolonged Suspension

If the suspension under Sub-Clause 8.8 [Suspension of Work] has continued for more than 84 days, the Contractor may request the Architect permission to proceed. If the Architect does not give permission within 30 days after being requested to do so, the Contractor may, by giving notice to the Engineer, treat the suspension as an omission under Clause 13 [Variations and Adjustments] of the affected part of the Works. If the suspension affects the whole of the Works, the Contractor may give notice of termination under Sub-Clause 16.2 [Termination by Contractor].

8.12 Resumption of Work

After the permission or instruction to proceed is given, the Contractor and the Architect shall jointly examine the Works and the Plant and Materials affected by the suspension. The Contractor shall make good any deterioration or defect in or loss of the Works or Plant or Materials, which has occurred during the suspension after receiving from the Architect an instruction to this effect under Clause 13 [Variations and Adjustments].

9 TESTS ON COMPLETION

9.1 Contractor's Obligations

- 9.1.1 The Contractor shall carry out the Tests on Completion in accordance with this Clause and Sub-Clause 7.4 [Testing], after providing the documents in accordance with sub-paragraph (d) of Sub-Clause 4.1 [Contractor's General Obligations].
- 9.1.2 The Contractor shall give to the Architect not less than 21 days' notice of the date after which the Contractor will be ready to carry out each of the Tests on Completion. Unless otherwise agreed, Tests on Completion shall be carried out within 14 days after this date, on such day or days as the Architect shall instruct.
- 9.1.3 In considering the results of the Tests on Completion, the Architect shall make allowances for the effect of any use of the Works by the Procuring Entity on the performance or other characteristics of the Works. As soon as the Works, or a Section, have passed any Tests on Completion, the Contractor shall submit a certified report of the results of these Tests to the Engineer.

9.2 Delayed Tests

- 9.2.1 If the Tests on Completion are being unduly delayed by the Procuring Entity, Sub-Clause 7.4 [Testing] (fifth paragraph) and/ or Sub-Clause 10.3 [Interference with Tests on Completion] shall be applicable.
- 9.2.2 If the Tests on Completion are being unduly delayed by the Contractor, the Architect may by notice require the Contractor to carry out the Tests within 21 days after receiving the notice. The Contractor shall carry out the Tests on such day or days within that period as the Contractor may fix and of which he shall give notice to the Engineer.
- 9.2.3 If the Contractor fails to carry out the Tests on Completion within the period of 21 days, the Procuring Entity's Personnel may proceed with the Test at the risk and cost of the Contractor. The Tests on Completion shall then be deemed to have been carried out in the presence of the Contractor and the results of the Tests shall be accepted as accurate.

9.3 Retesting of related works

If the Works, or a Section, fail to pass the Tests on Completion, Sub-Clause 7.5 [Rejection] shall apply, and the Architect or the Contractor may require the failed Tests, and Tests on Completion on any related work, to be repeated under the same terms and conditions.

9.4 Failure to Pass Tests on Completion

- 9.4.1 If the Works, or a Section, fail to pass the Tests on Completion repeated under Sub-Clause 9.3 [Retesting], the Architect shall be entitled to:

- a) Order further repetition of Tests on Completion under Sub-Clause 9.3; or
- b) if the failure deprives the Procuring Entity of substantially the whole benefit of the Works or Section, reject the Works or Section (as the case may be), in which event the Procuring Entity shall have the same remedies as are provided in sub-paragraph (c) of Sub-Clause 1.4 [Failure to Remedy Defects].

10. PROCURING ENTITY'S TAKING OVER

10.1 Taking Over of the Works and Sections

- 10.1.1 Except as stated in Sub-Clause 9.4 [Failure to Pass Tests on Completion], the Works shall be taken over by the Procuring Entity when (i) the Works have been completed in accordance with the Contract, including the matters described in Sub-Clause 8.2 [Time for Completion] and except as allowed in sub-paragraph (a) below, and (ii) a Taking-Over Certificate for the Works has been issued, or is deemed to have been issued in accordance with this Sub-Clause.
- 10.1.2 The Contractor may apply by notice to the Architect for a Taking-Over Certificate not earlier than 14 days before the Works will, in the Contractor's opinion, be complete and ready for taking over. If the Works are divided into Sections, the Contractor may similarly apply for a Taking-Over Certificate for each Section.
- 10.1.3 The Architect shall, within 30 days after receiving the Contractor's application:
- a) Issue the Taking-Over Certificate to the Contractor, stating the date on which the Works or Section were completed in accordance with the Contract, except for any minor outstanding work and defects which will not substantially affect the use of the Works or Section for their intended purpose (either until or whilst this work is completed and these defects are remedied); or
 - b) reject the application, giving reasons and specifying the work required to be done by the Contractor to enable the Taking-Over Certificate to be issued. The Contractor shall then complete this work before issuing a further notice under this Sub-Clause.
- 10.1.4 If the Architect fails either to issue the Taking-Over Certificate or to reject the Contractor's application within the period of 30 days, and if the Works or Section (as the case may be) are substantially in accordance with the Contract, the Taking-Over Certificate shall be deemed to have been issued on the last day of that period.

10.2 Taking Over of Parts of the Works

- 10.2.1 The Architect may, at the sole discretion of the Procuring Entity, issue a Taking-Over Certificate for any part of the Permanent Works.
- 10.2.2 The Procuring Entity shall not use any part of the Works (other than as a temporary measure which is either specified in the Contract or agreed by both Parties) unless and until the Architect has issued a Taking-Over Certificate for this part. However, if the Procuring Entity does use any part of the Works before the Taking-Over Certificate is issued:
- a) The part which is used shall be deemed to have been taken over as from the date on which it is used,
 - b) the Contractor shall cease to be liable for the care of such part as from this date, when responsibility shall pass to the Procuring Entity, and
 - c) if requested by the Contractor, the Architect shall issue a Taking-Over Certificate for this part.
- 10.2.3 After the Architect has issued a Taking-Over Certificate for a part of the Works, the Contractor shall be given the earliest opportunity to take such steps as may be necessary to carry out any outstanding Tests on Completion. The Contractor shall carry out these Tests on Completion as soon as practicable before the expiry date of the relevant Defects Notification Period.
- 10.2.4 If the Contractor incurs Cost as a result of the Procuring Entity taking over and/or using a part of the Works, other than such use as is specified in the Contract, the Contractor shall (i) give notice to the Architect and (ii) be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to payment of any such accrued costs, which shall be included in the Contract Price. After receiving this notice, the Architect shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine this accrued cost.
- 10.2.5 If a Taking-Over Certificate has been issued for a part of the Works (other than a Section), the delay damages thereafter for completion of the remainder of the Works shall be reduced. Similarly, the delay damages for the remainder of the Section (if any) in which this part is included shall also be reduced. For any period of delay after the date stated in this Taking-Over Certificate, the proportional reduction in these delay damages shall be calculated as the proportion which the value of the part so certified bears to the value of the Works or Section (as the case may be) as a whole. The Architect shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these proportions. The provisions of this paragraph shall only apply

to the daily rate of delay damages under Sub-Clause 8.7 [Delay Damages] and shall not affect the maximum amount of these damages.

103 Interference with Tests on Completion

- 103.1 If the Contractor is prevented, for more than 14 days, from carrying out the Tests on Completion by a cause for which the Procuring Entity is responsible, the Procuring Entity shall be deemed to have taken over the Works or Section (as the case may be) on the date when the Tests on Completion would otherwise have been completed.
- 103.2 The Architect shall then issue a Taking-Over Certificate accordingly, and the Contractor shall carry out the Tests on Completion as soon as practicable, before the expiry date of the Defects Notification Period. The Architect shall require the Tests on Completion to be carried out by giving 14 days' notice and in accordance with the relevant provisions of the Contract.
- 103.3 If the Contractor suffers delay and/or incurs Cost as a result of this delay in carrying out the Tests on Completion, the Contractor shall give notice to the Architect and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:
- a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
 - b) payment of any such accrued costs, which shall be included in the Contract Price.
- 103.4 After receiving this notice, the Architect shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

104 Surfaces Requiring Reinstatement

Except as otherwise stated in a Taking-Over Certificate, a certificate for a Section or part of the Works shall not be deemed to certify completion of any ground or other surfaces requiring reinstatement.

11. DEFECTS LIABILITY

11.1 Completion of Outstanding Work and Remedying Defects

- 11.1.1 In order that the Works and Contractor's Documents, and each Section, shall be in the condition required by the Contract (fair wear and tear excepted) by the expiry date of the relevant Defects Notification Period or as soon as practicable thereafter, the Contractor shall:
- a) complete any work which is outstanding on the date stated in a Taking-Over Certificate, within such reasonable time as is instructed by the Engineer, and
 - b) execute all work required to remedy defects or damage, as may be notified by (or on behalf of) the Procuring Entity on or before the expiry date of the Defects Notification Period for the Works or Section (as the case may be).
- 11.1.2 If a defect appears or damage occurs, the Contractor shall be notified accordingly by the Engineer.

11.2 Cost of Remedying Defects

- 11.2.1 All work referred to in sub-paragraph (b) of Sub-Clause 11.1 [Completion of Outstanding Work and Remedying Defects] shall be executed at the risk and cost of the Contractor, if and to the extent that the work is attributable to:
- a) Any design for which the Contractor is responsible,
 - b) Plant, Materials or workmanship not being in accordance with the Contract, or
 - c) Failure by the Contractor to comply with any other obligation.
- 11.2.2 If and to the extent that such work is attributable to any other cause, the Contractor shall be notified promptly by (or on behalf of) the Procuring Entity, and Sub-Clause 13.3 [Variation Procedure] shall apply.

11.3 Extension of Defects Notification Period

- 11.3.1 The Procuring Entity shall be entitled subject to Sub-Clause 2.5 [Procuring Entity's Claims] to an extension of the Defects Notification Period for the Works or a Section if and to the extent that the Works, Section or a major item of Plant (as the case may be, and after taking over) cannot be used for the purposes for which they

are intended by reason of a defect or by reason of damage attributable to the Contractor. However, a Defects Notification Period shall not be extended by more than two years.

- 11.3.2 If delivery and/ or erection of Plant and/ or Materials was suspended under Sub-Clause 8.8 [Suspension of Work] or Sub-Clause 16.1 [Contractor's Entitlement to Suspend Work], the Contractor's obligations under this Clause shall not apply to any defects or damage occurring more than two years after the Defects Notification Period for the Plant and/ or Materials would otherwise have expired.

11.4 Failure to Remedy Defects

- 11.4.1 If the Contractor fails to remedy any defect or damage within a reasonable time, a date may be fixed by the Engineer, on or by which the defect or damage is to be remedied. The Contractor shall be given reasonable notice of this date.
- 11.4.2 If the Contractor fails to remedy the defect or damage by this notified date and this remedial work was to be executed at the cost of the Contractor under Sub-Clause 11.2 [Cost of Remedying Defects], the Procuring Entity may (at his option):
- (a) Carry out the work itself or by others, in a reasonable manner and at the Contractor's cost, but the Contractor shall have no responsibility for this work; and the Contractor shall subject to Sub-Clause 2.5 [Procuring Entity's Claims] pay to the Procuring Entity the costs reasonably incurred by the Procuring Entity in remedying the defect or damage;
 - (b) Require the Architect to agree or determine a reasonable reduction in the Contract Price in accordance with Sub-Clause 3.5 [Determinations]; or
 - (c) if the defect or damage deprives the Procuring Entity of substantially the whole benefit of the Works or any major part of the Works, terminate the Contract as a whole, or in respect of such major part which cannot be put to the intended use. Without prejudice to any other rights, under the Contract otherwise, the Procuring Entity shall then be entitled to recover all sums paid for the Works or for such part (as the case may be), plus financing costs and the cost of dismantling the same, clearing the Site and returning Plant and Materials to the Contractor.

11.5 Removal of Defective Work

If the defector damage cannot be remedied expeditiously on the Site and the Procuring Entity gives consent, the Contractor may remove from the Site for the purposes of repair such items of Plant as are defective or damaged. This consent may require the Contractor to increase the amount of the Performance Security by the full replacement cost of these items, or to provide other appropriate security.

11.6 Further Tests

- 11.6.1 If the work of remedying of any defector damage may affect the performance of the Works, the Architect may require the repetition of any of the tests described in the Contract. The requirement shall be made by notice within 14 days after the defect or damage is remedied.
- 11.6.2 These tests shall be carried out in accordance with the terms applicable to the previous tests, except that they shall be carried out at the risk and cost of the Party liable, under Sub-Clause 11.2 [Cost of Remedying Defects], for the cost of the remedial work.

11.7 Right of Access

Until the Completion Certificate has been issued, the Contractor shall have such right of access to the Works as is reasonably required in order to comply with this Clause, except as may be inconsistent with the Procuring Entity's reasonable security restrictions.

11.8 Contractor to Search

The Contractor shall, if required by the Engineer, search for the cause of any defect on parts of the works that have already accepted, under the direction of the Engineer. Unless the defect is to be remedied at the cost of the Contractor under Sub-Clause 11.2 [Cost of Remedying Defects], the Cost of the search plus profit shall be agreed or determined by the Architect in accordance with Sub-Clause 3.5 [Determinations] and shall be included in the Contract Price.

11.9 Completion Certificate

- 11.9.1 Performance of the Contractor's obligations shall not be considered to have been completed until the Architect has issued the Completion Certificate to the Contractor, stating the date on which the Contractor completed

his obligations under the Contract.

- 11.92 The Architect shall issue the Completion Certificate within 30 days after the latest of the expiry dates of the Defects Liability Period, or as soon thereafter as the Contractor has supplied all the Contractor's Documents and completed and tested all the Works, including remedying any defects. A copy of the Completion Certificate shall be issued to the Procuring Entity.
- 11.93 Only the Completion Certificate shall be deemed to constitute acceptance of the Works.

11.10 Unfulfilled Obligations

After the Completion Certificate has been issued, each Party shall remain liable for the fulfilment of any obligation which remains unperformed at that time. For the purposes of determining the nature and extent of unperformed obligations, the Contract shall be deemed to remain in force.

11.11 Clearance of Site

- 11.11.1 Upon receiving the Completion Certificate, the Contractor shall remove any remaining Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works from the Site.
- 11.11.2 If all these items have not been removed within 30 days after receipt by the Contractor of the Completion Certificate, the Procuring Entity may sell or otherwise dispose of any remaining items. The Procuring Entity shall be entitled to be paid the costs incurred in connection with, or attributable to, such sale or disposal and restoring the Site.
- 11.11.3 Any balance of the moneys from the sale shall be paid to the Contractor. If these moneys are less than the Procuring Entity's costs, the Contractor shall pay the outstanding balance to the Procuring Entity.

12 MEASUREMENT AND DEVALUATION

12.1 Works to be Measured

- 12.1.1 The Works shall be measured, and valued for payment, in accordance with this Clause. The Contractor shall show in each application under Sub-Clauses 14.3 [Application for Interim Payment Certificates], 14.10 [Statement on Completion] and 14.11 [Application for Final Payment Certificate] the quantities and other particulars detailing the amounts which he considers to be entitled under the Contract.
- 12.1.2 Whenever the Architect requires any part of the Works to be measured, reasonable notice shall be given to the Contractor's Representative, who shall:
- a) promptly either attend or send another qualified representative to assist the Architect in making the measurement, and
 - b) supply any particulars requested by the Engineer.
- 12.1.3 If the Contractor fails to attend or send a representative, the measurement made by the Architect shall be accepted as accurate.
- 12.1.4 Except as otherwise stated in the Contract, wherever any Permanent Works are to be measured from records, these shall be prepared by the Engineer. The Contractor shall, as and when requested, attend to examine and agree the records with the Engineer, and shall sign the same when agreed. If the Contractor does not attend, the records shall be accepted as accurate.
- 12.1.5 If the Contractor examines and disagrees the records, and/ or does not sign them as agreed, then the Contractor shall give notice to the Architect of the respects in which the records are asserted to be inaccurate. After receiving this notice, the Architect shall review the records and either confirm or vary them and certify the payment of the undisputed part. If the Contractor does not so give notice to the Architect within 14 days after being requested to examine the records, they shall be accepted as accurate.

12.2 Method of Measurement

Except as otherwise stated in the Contract:

- a) Measurement shall be made of the net actual quantity of each item of the Permanent Works, and
- b) the method of measurement shall be in accordance with the Bill of Quantities or other applicable Schedules.

123 Evaluation

- 123.1 Except as otherwise stated in the Contract, the Architect shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine the value of work done by evaluating each item of work, applying the measurement agreed or determined in accordance with the above Sub-Clauses 12.1 and 12.2 and the appropriate rate or price for the item.
- 123.2 For each item of work, the appropriate rate or price for the item shall be the rate or price specified for such item in the Contractor, if there is no such item, specified for similar work.
- 123.3 Any item of work included in the Bill of Quantities for which no rate or price was specified shall be considered as included in other rates and prices in the Bill of Quantities and will not be paid for separately.
- 123.4 However, for a new item of work, a new rate or price shall be appropriate for such item of work if:
- The work is instructed under Clause 13 [Variations and Adjustments],
 - no rate or price is specified in the Contract for this item, and
 - no specified rate or price is appropriate because the item of work is not of similar character, or is not executed under similar conditions, as any item in the Contract.
- 123.5 Each new rate or price shall be derived from any relevant rates or prices in the Contract. If no rates or prices are relevant for the new item of work, it shall be derived from the reasonable Cost of executing such work, prevailing market rates, together with profit, taking account of any other relevant matters.
- 123.6 Until such time as an appropriate rate or price is agreed or determined, the Architect shall determine a provisional rate or price for the purposes of Interim Payment Certificates as soon as the concerned work commences.
- 123.7 Where the contract price is different from the corrected tender price, in order to ensure the contractor is not paid less or more relative to the contract price (*which would be the tender price*), payment valuation certificates and variation orders on omissions and additions valued based on rates in the Bill of Quantities or schedule of rates in the Tender, will be adjusted by a plus or minus percentage. The percentage already worked out during tender evaluation is worked out as follows: $(\text{corrected tender price} - \text{tender price}) / \text{tender price} \times 100$.

124 Omissions

Whenever the omission of any work forms part (or all) of a Variation, the value of which has not been agreed, if:

- The Contractor will incur (or has incurred) cost which, if the work had not been omitted, would have been deemed to be covered by a sum forming part of the Accepted Contract Amount;
- The omission of the work will result (or has resulted) in this sum not forming part of the Contract Price; and
- this cost is not deemed to be included in the evaluation of any substituted work; then the Contractor shall give notice to the Architect accordingly, with supporting particulars. Upon receiving this notice, the Architect shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine this cost, which shall be included in the Contract Price.

13 VARIATIONS AND ADJUSTMENTS

13.1 Right to Vary

- 13.1.1 Variations may be initiated by the Architect at any time prior to issuing the Taking-Over Certificate for the Works, either by an instruction or by a request for the Contractor to submit a proposal. No Variation instructed by the Architect under this Clause shall in any way vitiate or invalidate the Contract.
- 13.1.2 The Contractor shall execute and be bound by each Variation, unless the Contractor promptly gives notice to the Architect stating (with supporting particulars) that (i) the Contractor cannot readily obtain the Goods required for the Variation, or (ii) such Variation triggers a substantial change in the sequence or progress of the Works. Upon receiving this notice, the Architect shall cancel, confirm or vary the instruction.
- 13.1.3 Each Variation may include:
- changes to the quantities of any item of work included in the Contract (however, such changes do not necessarily constitute a Variation),
 - changes to the quality and other characteristics of any item of work,
 - changes to the levels, positions and/ or dimensions of any part of the Works,

- d) omission of any work unless it is to be carried out by others,
- e) any additional work, Plant, Materials or services necessary for the Permanent Works, including any associated Tests on Completion, boreholes and other testing and exploratory work, or
- f) changes to the sequence or timing of the execution of the Works.

13.14 The Contractor shall not make any alteration and/or modification of the Permanent Works, unless and until the Architect instructs after obtaining approval of the Procuring Entity.

132 Variation Order Procedure

1321 Prior to any Variation Order under Sub-Clause 13.1.4 the Architect shall notify the Contractor of the nature and form of such variation. As soon as possible after having received such notice, the Contractor shall submit to the Engineer:

- a) A description of work, if any, to be performed and a programme for its execution, and
- b) the Contractor's proposals for any necessary modifications to the Programme according to Sub-Clause 8.3 or to any of the Contractor's obligations under the Contract, and
- c) the Contractor's proposals for adjustment to the Contract Price.

Following the receipt of the Contractor's submission the Architect shall, after due consultation with the Employer and the Contractor, decide as soon as possible whether or not the variation shall be carried out. If the Architect decides that the variation shall be carried out, he shall issue a Variation Order clearly identified as such in accordance with the Contractor's submission or as modified by agreement.

If the Architect and the Contractor are unable to agree the adjustment of the Contract Price, the provisions of Sub-Clause 13.2.2 shall apply.

1322 Disagreement on Adjustment of the Contract Price

If the Contractor and the Architecture unable to agree on the adjustment of the Contract Price, the adjustment shall be determined in accordance with the rates specified in the Bills of Quantities or Schedule of Daywork Prices. If the rates contained in the Bills of Quantities or Dayworks Prices are not directly applicable to the specific work in question, suitable rates shall be established by the Architect reflecting the level of pricing in the Dayworks Prices. Where rates are not contained in the said Prices, the amount shall be such as is in all the circumstances reasonable, reflecting a market price. Due account shall be taken of any over-or under-recovery of overheads by the Contractor in consequence of the variation. The Contractor shall also be entitled to be paid:

- a) The cost of any partial execution of the Works rendered useless by any such variation,
- b) The cost of making necessary alterations to Plant already manufactured or in the course of manufacture or of any work done that has to be altered in consequence of such a variation,
- c) any additional costs incurred by the Contractor by the disruption of the progress of the Works as detailed in the Programme, and
- d) the net effect of the Contractor's finance costs, including interest, caused by the variation.

The Architect shall on this basis determine the rates or prices to enable on-account payment to be included in certificates of payment.

1323 Contractor to Proceed

On receipt of a Variation Order, the Contractor shall forth with proceed to carry out the variation and be bound to these Conditions in so doing as if such variation was stated in the Contract. The work shall not be delayed pending the granting of an extension of the Time for Completion or an adjustment to the Contract Price under Sub-Clause 31.3.

133 Value Engineering

133.1 The Contractor may, at any time, submit to the Architect written proposal which (in the Contractor's opinion) will, if adopted, (i) accelerate completion, (ii) reduce the cost to the Procuring Entity of executing, maintaining or operating the Works, (iii) improve the efficiency or value to the Procuring Entity of the completed Works, or
(iv) otherwise be of benefit to the Procuring Entity.

133.2 The proposal shall be prepared at the cost of the Contractor and shall include the items listed in Sub-Clause 13.3 [Variation Procedure].

- 13.2.3 If a proposal, which is approved by the Engineer, includes a change in the design of part of the Permanent Works, then unless otherwise agreed by both Parties:
- a) The Contractor shall design this part,
 - b) sub-paragraphs (a) to (d) of Sub-Clause 4.1 [Contractor's General Obligations] shall apply, and
 - c) if this change results in a reduction in the contract value of this part, the Architect shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine a fee, which shall be included in the Contract Price. This fee shall be half (50%) of the difference between the following amounts:
 - i) such reduction in contract value, resulting from the change, excluding adjustments under Sub-Clause 13.8 [Adjustments for Changes in Legislation] and Sub-Clause 13.8 [Adjustments for Changes in Cost], and
 - ii) the reduction (if any) in the value to the Procuring Entity of the varied works, taking account of any improvement in quality, anticipated life or operational efficiencies.

13.3.4 However, if the amount established in item 13.2.3 (c) (i) is less than amount established in item 13.2.3 (c) (ii), there shall not be a fee. However, if the if the amount established in item 13.2.3 (c) (i) is more than amount established in item 13.2.3 (c) (ii), it shall result in a price variation to the Procuring Entity.

134 Variation Procedure for Value Engineering proposal

- 134.1 If the Architect requests a proposal, prior to instructing a Variation, the Contractor shall respond in writing as soon as practicable, either by giving reasons why he cannot comply (if this is the case) or by submitting:
- a) A description of the proposed work to be performed and a programme for its execution,
 - b) the Contractor's proposal for any necessary modifications to the programme according to Sub-Clause 8.3 [Programme] and to the Time for Completion, and
 - c) the Contractor's proposal for evaluation of the Variation.
- 134.2 The Architect shall, as soon as practicable after receiving such proposal (under Sub-Clause 13.2 [Value Project Engineering] or otherwise), respond with approval, disapproval or comments. The Contractor shall not delay any work whilst awaiting a response.
- 134.3 Each instruction to execute a Variation, with any requirements for the recording of Costs, shall be issued by the Architect to the Contractor, who shall acknowledge receipt.
- 134.4 Each Variation shall be evaluated in accordance with Clause 12 [Measurement and Evaluation], unless the Architect instructs or approves otherwise in accordance with this Clause.

135 Payment in Applicable Currencies

If the Contract provides for payment of the Contract Price in more than one currency, then whenever an adjustment is agreed, approved or determined as stated above, the amount payable in each of the applicable currencies shall be specified. For this purpose, reference shall be made to the actual or expected currency proportions of the Cost of the varied work, and to the proportions of various currencies specified for payment of the Contract Price.

136 Provisional Sums

- 136.1 Each Provisional Sum shall only be used, in whole or in part, in accordance with the Architect instructions, and the Contract Price shall be adjusted accordingly. The total sum paid to the Contractor shall include only such amounts, for the work, supplies or services to which the Provisional Sum relates, as the Architect shall have instructed. For each Provisional Sum, the Architect May instruct:
- a) Work to be executed (including Plant, Materials or services to be supplied) by the Contractor and valued under Sub-Clause 13.3 [Variation Procedure]; and/or
 - b) Plant, Materials or services to be purchased by the Contractor, from a nominated Subcontractor (as defined in Clause 5 [Nominated Subcontractors]) or otherwise; and for which there shall be included in the Contract Price:
 - i) The actual amounts paid (or due to be paid) by the Contractor, and
 - ii) a sum for overhead charges and profit, calculated as a percentage of these actual amounts by applying the relevant percentage rate (if any) stated in the appropriate Schedule. If there is no such rate, the percentage rate stated in **the Special Conditions of Contract** shall be applied.
- 136.2 The Contractor shall, when required by the Engineer, produce quotations, invoices, vouchers and accounts or receipts in substantiation.

137 Dayworks

- 13.7.1 For work of a minor or incidental nature, the Architect may instruct that a Variation shall be executed on a daywork basis. The work shall then be valued in accordance with the Daywork Schedule included in the Contract, and the following procedure shall apply. If a Daywork Schedule is not included in the Contract, this Sub-Clause shall not apply.
- 13.7.2 Before ordering Goods for the work, the Contractor shall submit quotations to the Engineer. When applying for payment, the Contractor shall submit invoices, vouchers and accounts or receipts for any Goods.
- 13.7.3 Except for any items for which the Daywork Schedule specifies that payment is not due, the Contractor shall deliver each day to the Architect accurate statements induplicate which shall include the following details of the resources used in executing the previous day's work:
- a) The names, occupations and time of Contractor's Personnel,
 - b) the identification, type and time of Contractor's Equipment and Temporary Works, and
 - c) the quantities and types of Plant and Materials used.
- 13.7.4 One copy of each statement will, if correct, or when agreed, be signed by the Architect and returned to the Contractor. The Contractor shall then submit priced statements of these resources to the Engineer, prior to their inclusion in the next Statement under Sub-Clause 14.3 [Application for Interim Payment Certificates].

138 Adjustments for Changes in Legislation

- 13.8.1 The Contract Price shall be adjusted to take account of any increase or decrease in Cost resulting from a change in the Laws of Kenya (including the introduction of new Laws and the repeal or modification of existing Laws) or in the judicial or official governmental interpretation of such Laws, made after the Base Date, which affect the Contractor in the performance of obligations under the Contract.
- 13.8.2 If the Contractor suffers (or will suffer) delay and/or incurs (or will incur) additional Cost as a result of these changes in the Laws or in such interpretations, made after the Base Date, the Contractor shall give notice to the Architect and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:
- a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
 - b) payment of any such Cost, which shall be included in the Contract Price.
- 13.8.3 After receiving this notice, the Architect shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.
- 13.8.4 Notwithstanding the foregoing, the Contractor shall not be entitled to an extension of time if the relevant delay has already been taken into account in the determination of a previous extension of time and such Cost shall not be separately paid if the same shall already have been taken into account in the indexing of any inputs to the table of adjustment data in accordance with the provisions of Sub-Clause 13.8 [Adjustments for Changes in Cost].

139 Adjustments for Changes in Cost

- 13.9.1 In this Sub-Clause, "table of adjustment data" means the completed table of adjustment data for local and foreign currencies included in the Schedules. If there is no such table of adjustment data, this Sub-Clause shall not apply.
- 13.9.2 If this Sub-Clause applies, the amounts payable to the Contractor shall be adjusted for rises or falls in the cost of labor, Goods and other inputs to the Works, by the addition or deduction of the amounts determined by the formulae prescribed in this Sub-Clause. To the extent that full compensation for any rise or fall in Costs is not covered by the provisions of this or other Clauses, the Accepted Contract Amount shall be deemed to have included amounts to cover the contingency of other rises and falls in costs.
- 13.9.3 The adjustment to be applied to the amount otherwise payable to the Contractor, as valued in accordance with the appropriate Schedule and certified in Payment Certificates, shall be determined from formulae for each of the currencies in which the Contract Price is payable. No adjustment is to be applied to work valued on the basis of Cost or current prices. The formulae shall be of the following general type:

Price Adjustment Formula

Prices shall be adjusted for fluctuations in the cost of inputs only if **provided for in the SCC**. If so provided, the amounts certified in each payment certificate, before deducting for Advance Payment, shall be adjusted by applying the respective price adjustment factor to the payment amounts due in each currency. A separate formula of the type specified below applies:

$$P = A + B \frac{I_m}{I_o}$$

where:

P is the adjustment factor for the portion of the Contract Price payable.

A and **B** are coefficients **specified in the SCC**, representing then on adjustable and adjustable portions, respectively, of the Contract Price payable and

I_m is the index prevailing at the end of the month being invoiced and **I_o** is the index prevailing 30 days before Bid opening for inputs payable.

NOTE: The sum of the two coefficients A and B should be 1 (one) in the formula for each currency. Normally, both coefficients shall be the same in the formulae for all currencies, since coefficient A, for the non-adjustable portion of the payments, is a very approximate figure (usually 0.15) to take account of fixed cost elements or other nonadjustable components. The sum of the adjustments for each currency are added to the Contract Price.

- 1394 The cost indices or reference prices stated in the table of adjustment data shall be used. If their source is in doubt, it shall be determined by the Engineer. Forth is purpose, reference shall be made to the values of the indices at stated dates (quoted in the fourth and fifth columns respectively of the table) for the purposes of clarification of the source; although these dates (and thus these values) may not correspond to the base cost indices.
- 1395 In cases where the “currency of index” is not the relevant currency of payment, each index shall be converted into the relevant currency of payment at the selling rate, established by the Central Bank of Kenya, of this relevant currency on the above date for which the index is required to be applicable.
- 1396 Until such time as each current cost index is available, the Architect shall determine a provisional index for the issue of Interim Payment Certificates. When a current cost index is available, the adjustment shall be recalculated accordingly.
- 1397 If the Contractor fails to complete the Works within the Time for Completion, adjustment of prices there after shall be made using either (i) each index or price applicable on the date 49 days prior to the expiry of the Time for Completion of the Works, or (ii) the current index or price, whichever is more favorable to the Procuring Entity.
- 1398 The weightings (coefficients) for each of the factors of cost stated in the table(s) of adjustment data shall only be adjusted if they have been rendered unreasonable, unbalanced or in applicable, as a result of Variations.

14 CONTRACT PRICE AND PAYMENT

14.1 The Contract Price

14.1.1 Unless otherwise stated in the Special Conditions:

- a) The value of the payment certificate shall be agreed or determined under Sub-Clause 12.3 [Evaluation] and be subject to adjustments in accordance with the Contract;
- b) the Contractor shall pay all taxes, duties and fees required to be paid by him under the Contract, and the Contract Price shall not be adjusted for any of these costs except as stated in Sub-Clause 13.7 [Adjustments for Changes in Legislation];
- c) any quantities which may be set out in the Bill of Quantities or other Schedule are estimated quantities and are not to be taken as the actual and correct quantities:

- i) of the Works which the Contractor is required to execute, or
 - ii) for the purposes of Clause 12 [Measurement and Evaluation]; and
- d) the Contractor shall submit to the Engineer, within 30 days after the Commencement Date, a proposed breakdown of each lump sum price in the Schedules. The Architect may take account of the break down when preparing Payment Certificates but shall not be bound by it.

14.1.2 Notwithstanding the provisions of subparagraph (b), Contractor's Equipment, including essential spare parts there for, imported by the Contractor for the sole purpose of executing the Contract shall not be exempt from the payment of import duties and taxes upon importation.

14.2 Advance Payment

14.2.1 The Procuring Entity shall make an advance payment, as an interest-free loan for mobilization and cashflow support, when the Contractor submits a guarantee in accordance with this Clause. The total advance payment, the number and timing of instalments (if more than one), and the applicable currencies and proportions, shall be as stated in the **Special Conditions of Contract**.

14.2.2 Unless and until the Procuring Entity receives this guarantee, or if the total advance payment is not stated in the Special Conditions of Contract, this Sub-Clause shall not apply.

14.2.3 The Architect shall deliver to the Procuring Entity and to the Contractor an Interim Payment Certificate for the advance payment or its first instalment after receiving a Statement (under Sub-Clause 14.3 [Application for Interim Payment Certificates]) and after the Procuring Entity receives (i) the Performance Security in accordance with Sub-Clause 4.2 [Performance Security] and (ii) a guarantee in amounts and currencies equal to the advance payment. This guarantee shall be issued by a reputable bank or financial institutions elected by the Contractor and shall be in the form annexed to the Special Conditions or in another form approved by the Procuring Entity.

14.2.4 The Contractor shall ensure that the guarantee is valid and enforceable until the advance payment has been repaid, but its amount shall be progressively reduced by the amount repaid by the Contractor as indicated in the Payment Certificates. If the terms of the guarantee specify its expiry date, and the advance payment has not been repaid by the date 30 days prior to the expiry date, the Contractor shall extend the validity of the guarantee until the advance payment has been repaid.

14.2.5 Unless stated otherwise in **the Special Conditions of Contract**, the advance payment shall be repaid through percentage deductions from the interim payments determined by the Architect in accordance with Sub-Clause 14.6 [Issue of Interim Payment Certificates], as follows:

- a) Deductions shall commence in the next interim Payment Certificate following that in which the total of all certified interim payments (excluding the advance payment and deductions and repayments of retention) exceeds 30 percent (30%) of the Accepted Contract Amount less Provisional Sums; and
- b) deductions shall be made at the amortization rate stated in the **Special Conditions of Contract** of the amount of each Interim Payment Certificate (excluding the advance payment and deductions for its repayments as well as deductions for retention money) in the currencies and proportions of the advance payment until such time as the advance payment has been repaid; provided that the advance payment shall be completely repaid prior to the time when 90 percent (90%) of the Accepted Contract Amount less Provisional Sums has been certified for payment.

14.2.6 If the advance payment has not been repaid prior to the issue of the Taking-Over Certificate for the Works or prior to termination under Clause 15 [Termination by Procuring Entity], Clause 16 [Suspension and Termination by Contractor] or Clause 19 [Force Majeure] (as the case may be), the whole of the balance then outstanding shall immediately become due and in case of termination under Clause 15 [Termination by Procuring Entity], except for Sub-Clause 14.2.7 [Procuring Entity's Entitlement to Termination for Convenience], payable by the Contractor to the Procuring Entity.

14.3 Application for Interim Payment Certificates

14.3.1 The Contractor shall submit a Statement (in number of copies indicated in the **Special Conditions of Contract**) to the Architect after the end of each month, in a form approved by the Engineer, showing in detail

the amounts to which the Contractor considers itself to be entitled, together with supporting documents which shall include the report on the progress during this month in accordance with Sub-Clause 4.21 [Progress Reports].

- 14.3.2 The Statement shall include the following items, as applicable, which shall be expressed in the various currencies in which the Contract Price is payable, in the sequence listed:
- a) the estimated contract value of the Works executed and the Contractor's Documents produced up to the end of the month (including Variations but excluding items described in sub-paragraphs (b) to (g) below);
 - b) any amounts to be added and deducted for changes in legislation and changes in cost, in accordance with Sub-Clause 13.7 [Adjustments for Changes in Legislation] and Sub-Clause 13.8 [Adjustments for Changes in Cost];
 - c) any amount to be deducted for retention, calculated by applying the percentage of retention stated in **the Special Conditions of Contract** to the total of the above amounts, until the amount so retained by the Procuring Entity reaches the limit of Retention Money (if any) stated in **the Special Conditions of Contract**;
 - d) any amounts to be added for the advance payment and (if more than one instalment) and to be deducted for its repayments in accordance with Sub-Clause 14.2 [Advance Payment];
 - e) any amounts to be added and deducted for Plant and Materials in accordance with Sub-Clause 14.5 [Plant and Materials intended for the Works];
 - f) any other additions or deductions which may have become due under the Contract otherwise, including those under Clause 20 [Claims, Disputes and Arbitration]; and
 - g) the deduction of amounts certified in all previous Payment Certificates.

14.4 Schedule of Payments

- 14.4.1 If the Contract includes a schedule of payments specifying the instalments in which the Contract Price will be paid, then unless otherwise stated in this schedule:
- a) The instalments quoted in this schedule of payments shall be the estimated contract values for the purposes of sub-paragraph (a) of Sub-Clause 14.3 [Application for Interim Payment Certificates];
 - b) Sub-Clause 14.5 [Plant and Materials intended for the Works] shall not apply; and
 - c) If these instalments are not defined by reference to the actual progress achieved in executing the Works, and if actual progress is found to be less or more than that on which this schedule of payments was based, then the Architect may proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine revised instalments, which shall take account of the extent to which progress is less or more than that on which the instalments were previously based.
- 14.4.2 If the Contract does not include a schedule of payments, the Contractor shall submit non-binding estimates of the payments which he expects to become due during each quarterly period. The first estimate shall be submitted within 42 days after the Commencement Date. Revised estimates shall be submitted at quarterly intervals, until the Taking-Over Certificate has been issued for the Works.

14.5 Plant and Materials intended for the Works

- 14.5.1 If this Sub-Clause applies, Interim Payment Certificates shall include, under sub-paragraph (e) of Sub-Clause 14.3, (i) an amount for Plant and Materials which have been sent to the Site for incorporation in the Permanent Works, and (ii) a reduction when the contract value of such Plant and Materials is included as part of the Permanent Works under sub-paragraph (a) of Sub-Clause 14.3 [Application for Interim Payment Certificates].
- 14.5.2 If the lists referred to in sub-paragraphs (b)(i) or (c)(i) below are not included in the Schedules, this Sub-Clause shall not apply.
- 14.5.3 The Architect shall determine and certify each addition if the following conditions are satisfied:
- a) The Contractor has:
 - i) kept satisfactory records (including the orders, receipts, Costs and use of Plant and Materials) which are available for inspection, and
 - ii) submitted statement of the Cost of acquiring and delivering the Plant and Materials to the Site, supported by satisfactory evidence;
- and either:

- b) the relevant Plant and Materials:
 - i) are those listed in the Schedules for payment when shipped,
 - ii) have been shipped to Kenya, enroute to the Site, in accordance with the Contract; and
 - iii) are described in a clean shipped bill of lading or other evidence of shipment, which has been submitted to the Architect together with evidence of payment of freight and insurance, any other documents reasonably required, and a bank guarantee in a form and issued by an entity approved by the Procuring Entity in amounts and currencies equal to the amount due under this Sub-Clause: this guarantee may be in a similar form to the form referred to in Sub-Clause 14.2 [Advance Payment] and shall be valid until the Plant and Materials are properly stored on Site and protected against loss, damage or deterioration; or
- c) the relevant Plant and Materials:
 - i) are those listed in the Schedules for payment when delivered to the Site, and
 - ii) have been delivered to and are properly stored on the Site, are protected against loss, damage or deterioration and appear to be in accordance with the Contract.

1454 The additional amount to be certified shall be the equivalent of eighty percent (80%) of the Architect determination of the cost of the Plant and Materials (including delivery to Site), taking account of the documents mentioned in this Sub-Clause and of the contract value of the Plant and Materials.

1455 The currencies for this additional amount shall be the same as those in which payment will become due when the contract value is included under sub-paragraph (a) of Sub-Clause 14.3 [Application for Interim Payment Certificates]. At that time, the Payment Certificate shall include the applicable reduction which shall be equivalent to, and in the same currencies and proportions as, this additional amount for the relevant Plant and Materials.

146 Issue of Interim Payment Certificates

146.1 No amount will be certified or paid until the Procuring Entity has received and approved the Performance Security. Thereafter, the Architect shall, within 30 days after receiving a Statement and supporting documents, deliver to the Procuring Entity and to the Contractor an Interim Payment Certificate which shall state the amount which the Architect fairly determines to be due, with all supporting particulars for any reduction or withholding made by the Architect on the Statement if any.

146.2 However, prior to issuing the Taking-Over Certificate for the Works, the Architect shall not be bound to issue an Interim Payment Certificate in an amount which would (after retention and other deductions) be less than the minimum amount of Interim Payment Certificates (if any) stated **in the Special Conditions of Contract**. In this event, the Architect shall give notice to the Contractor accordingly.

146.3 An Interim Payment Certificate shall not be withheld for any other reason, although:

- a) if anything supplied or work done by the Contractor is not in accordance with the Contract, the cost of rectification or replacement may be withheld until rectification or replacement has been completed; and/or
- b) if the Contractor was or is failing to perform any work or obligation in accordance with the Contract, and had been so notified by the Engineer, the value of this work or obligation may be withheld until the work or obligation has been performed.

4.6.4 The Architect may in any Payment Certificate make any correction or modification that should properly be made to any previous Payment Certificate. A Payment Certificate shall not be deemed to indicate the Architect acceptance, approval, consent or satisfaction.

14.7 Payment

14.7.1 The Procuring Entity shall pay to the Contractor:

- a) The advance payment shall be paid within 60 days after signing of the contract by both parties or within 60 days after receiving the documents in accordance with Sub-Clause 4.2 [Performance Security] and Sub-Clause 14.2 [Advance Payment], whichever is later;
- b) The amount certified in each Interim Payment Certificate within 60 days after the Architect Issues Interim Payment Certificate; and
- c) the amount certified in the Final Payment Certificate within 60 days after the Procuring Entity Issues Interim Payment Certificate; or after determination of any disputed amount shown in the Final Statement

in accordance with Sub-Clause 16.2 [Termination by Contractor].

14.7.2 Payment of the amount due in each currency shall be made into the bank account, nominated by the Contractor, in the payment country (forth is currency) specified in the Contract.

14.8 Delayed Payment

14.8.1 If the Contractor does not receive payment in accordance with Sub-Clause 14.7 [Payment], the Contractor shall be entitled to receive financing charges (simple interest) monthly on the amount unpaid during the period of delay. This period shall be deemed to commence on the date for payment specified in Sub-Clause 14.7 [Payment], irrespective (in the case of its sub-paragraph (b) of the date on which any Interim Payment Certificate is issued.

14.8.2 These financing charges shall be calculated at the annual rate of three percentage points above the mean rate of the Central Bank in Kenya of the currency of payment, or if not available, the inter-bank offered rate, and shall be paid in such currency.

14.8.3 The Contractor shall be entitled to this payment without formal notice and certification, and without prejudice to any other right or remedy.

14.9 Payment of Retention Money

14.9.1 When the Taking-Over Certificate has been issued for the Works, the first half of the Retention Money shall be certified by the Architect for payment to the Contractor. If a Taking-Over Certificate is issued for a Section or part of the Works, a proportion of the Retention Money shall be certified and paid. This proportion shall be half (50%) of the proportion calculated by dividing the estimated contract value of the Section or part, by the estimated final Contract Price.

14.9.2 Promptly after the latest of the expiry dates of the Defects Liability Periods, the outstanding balance of the Retention Money shall be certified by the Architect for payment to the Contractor. If a Taking-Over Certificate was issued for a Section, a proportion of the second half of the Retention Money shall be certified and paid promptly after the expiry date of the Defects Notification Period for the Section. This proportion shall be half (50%) of the proportion calculated by dividing the estimated contract value of the Section by the estimated final Contract Price.

14.9.3 However, if any work remains to be executed under Clause 11 [Defects Liability], the Architects shall be entitled to withhold certification of the estimated cost of this work until it has been executed.

14.9.4 When calculating these proportions, no account shall be taken of any adjustments under Sub-Clause 13.7 [Adjustments for Changes in Legislation] and Sub-Clause 13.8 [Adjustments for Changes in Cost].

14.9.5 Unless otherwise stated in the Special Conditions, when the Taking-Over Certificate has been issued for the Works and the first half of the Retention Money has been certified for payment by the Engineer, the Contractor shall be entitled to substitute a Retention Money Security guarantee, in the form annexed to the Special Conditions or in another form approved by the Procuring Entity and issued by a reputable bank or financial institution selected by the Contractor, for the second half of the Retention Money.

14.9.6 The Procuring Entity shall return the Retention Money Security guarantee to the Contractor within 14 days after receiving a copy of the Completion Certificate.

14.10 Statement at Completion

14.10.1 Within 84 days after receiving the Taking-Over Certificate for the Works, the Contractor shall submit to the Architect three copies of a Statement at completion with supporting documents, in accordance with Sub-Clause 14.3 [Application for Interim Payment Certificates], showing:

- a) the value of all work done in accordance with the Contract up to the date stated in the Taking-Over Certificate for the Works,
- b) any further sums which the Contractor considers to be due, and
- c) an estimate of any other amounts which the Contractor considers will become due to him under the Contract. Estimated amounts shall be shown separately in this Statement at completion.

14.10.2 The Architect shall then certify in accordance with Sub-Clause 14.6 [Issue of Interim Payment Certificates].

14.11 Application for Final Payment Certificate

14.11.1 Within 60 days after receiving the Completion Certificate, the Contractor shall submit, to the Engineer, six copies of a draft final statement with supporting documents showing in detail in a form approved by the Engineer:

- a) The value of all work done in accordance with the Contract, and
- b) Any further sums which the Contractor considers to be due to him under the Contract otherwise.

14.11.2 If the Architect disagrees with or cannot verify any part of the draft final statement, the Contractor shall submit such further information as the Architect may reasonably require within 30 days from receipt of said draft and shall make such changes in the draft as may be agreed between them. The Contractor shall then prepare and submit to the Architect the final statement as agreed. This agreed statement is referred to in these Conditions as the "Final Statement".

14.11.3 However, if, following discussions between the Architect and the Contractor and any changes to the draft final statement which are agreed, it becomes evident that a dispute exists, the Architect shall deliver to the Procuring Entity (with a copy to the Contractor) an Interim Payment Certificate for the agreed parts of the draft final statement. Thereafter, if the dispute is finally resolved under Sub-Clause 20.4 [Obtaining Dispute Board's Decision] or Sub-Clause 20.5 [Amicable Settlement], the Contractor shall then prepare and submit to the Procuring Entity (with a copy to the Engineer) a Final Statement.

14.12 Discharge

When submitting the Final Statement, the Contractor shall submit a discharge which confirms that the total of the Final Statement represents full and final settlement of all moneys due to the Contractor under or in connection with the Contract. This discharge may state that it becomes effective when the Contractor has received the Performance Security and the outstanding balance of this total, in which event the discharge shall be effective on such date.

14.13 Issue of Final Payment Certificate

14.13.1 Within 30 days after receiving the Final Statement and discharge in accordance with Sub-Clause 14.11 [Application for Final Payment Certificate] and Sub-Clause 14.12 [Discharge], the Architect shall deliver, to the Procuring Entity and to the Contractor, the Final Payment Certificate which shall state:

- a) The amount which he fairly determines is finally due, and
- b) After giving credit to the Procuring Entity for all amounts previously paid by the Procuring Entity and for all sums to which the Procuring Entity is entitled, the balance (if any) due from the Procuring Entity to the Contractor or from the Contractor to the Procuring Entity, as the case may be.

14.13.2 If the Contractor has not applied for a Final Payment Certificate in accordance with Sub-Clause 14.11 [Application for Final Payment Certificate] and Sub-Clause 14.12 [Discharge], the Architect shall request the Contractor to do so. If the Contractor fails to submit an application within a period of 30 days, the Architect shall issue the Final Payment Certificate for such amount as he fairly determines to be due.

14.14 Cessation of Procuring Entity's Liability

14.14.1 The Procuring Entity shall not be liable to the Contractor for any matter or thing under or in connection with the Contract or execution of the Works, except to the extent that the Contractor shall have included an amount expressly for it:

- a) in the Final Statement and also,
- b) (except for matters or things arising after the issue of the Taking-Over Certificate for the Works) in the Statement at completion described in Sub-Clause 14.10 [Statement at Completion].

14.14.2 However, this Sub-Clause shall not limit the Procuring Entity's liability under his indemnification obligations, or the Procuring Entity's liability in any case of fraud, deliberate default or reckless misconduct by the Procuring Entity.

14.15 Currencies of Payment

The Contract Price shall be paid in the currency or currencies named in the Schedule of Payment Currencies. If more than one currency is so named, payments shall be made as follows:

- a) If the Accepted Contract Amount was expressed in Local Currency only:
 - i) the proportions or amounts of the Local and Foreign Currencies, and the fixed rates of exchange to be used for calculating the payments, shall be as stated in the Schedule of Payment Currencies, except as otherwise agreed by both Parties;
 - ii) payments and deductions under Sub-Clause 13.5 [Provisional Sums] and Sub-Clause 13.7 [Adjustments for Changes in Legislation] shall be made in the applicable currencies and proportions; and
 - iii) other payments and deductions under sub-paragraphs (a) to (d) of Sub-Clause 14.3 [Application for Interim Payment Certificates] shall be made in the currencies and proportions specified in sub-paragraph (a) (i) above;
- b) payment of the damages specified in the Special Conditions of Contract, shall be made in the currencies and proportions specified in the Schedule of Payment Currencies;
- c) other payments to the Procuring Entity by the Contractor shall be made in the currency in which the sum was expended by the Procuring Entity, or in such currency as may be agreed by both Parties;
- d) if any amount payable by the Contractor to the Procuring Entity in a particular currency exceeds the sum payable by the Procuring Entity to the Contractor in that currency, the Procuring Entity may recover the balance of this amount from the sums otherwise payable to the Contractor in other currencies; and
- e) if no rates of exchange are stated in the Schedule of Payment Currencies, they shall be those prevailing on the Base Date and determined by the Central Bank of Kenya.

15 TERMINATION BY PROCURING ENTITY

15.1 Notice to correct any defects or failures

If the Contractor fails to carry out any obligation under the Contract, the Architect may by notice require the Contractor to make good the failure and to remedy it within 30 days.

15.2 Termination by Procuring Entity

- 15.2.1 The Procuring Entity shall be entitled to terminate the Contract if the Contractor breaches the contract based on following circumstances which shall include but not limited to:
- a) fails to comply with Sub-Clause 4.2 [Performance Security] or with a notice under Sub-Clause 15.1 [Notice to Correct],
 - b) abandons the Works or otherwise plainly demonstrates the intention not to continue performance of his obligations under the Contract,
 - c) without reasonable excuse fails:
 - i) to proceed with the Works in accordance with Clause 8 [Commencement, Delays and Suspension], or
 - ii) to comply with a notice issued under Sub-Clause 7.5 [Rejection] or Sub-Clause 7.6 [Remedial Work], within 30 days after receiving it,
 - d) subcontracts the major part or whole of the Works or assigns the Contract without the consent of the Procuring Entity,
 - e) becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against him, compounds with his creditors, or carries on business under a receiver, trustee or manager for the benefit of his creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events, or
 - f) gives or offers to give (directly or indirectly) to any person any bribe, gift, gratuity, commission or other thing of value, as an induce mentor reward:
 - i) for doing or for bearing to do any action in relation to the Contract, or
 - ii) for showing or for bearing to show favor or disfavor to any person in relation to the Contract, or
 - iii) if any of the Contractor's Personnel, agents or Subcontractors gives or offers to give (directly or indirectly) to any person any such induce mentor reward as is described in this sub-paragraph (f). However, lawful inducements and rewards to Contractor's Personnel shall not entitle termination, or
 - g) If the contract or repeatedly fails to remedy delivers defective work,

h) based on reasonable evidence, has engaged in Fraud and Corruption as defined in paragraph 2.2 of the Appendix B to these General Conditions, in competing for or in executing the Contract.

1522 In any of these events or circumstances, the Procuring Entity may, upon giving 14 days' notice to the Contractor, terminate the Contract and expel the Contractor from the Site. However, in the case of subparagraph (e) or (f) or (g) or (h), the Procuring Entity may by notice terminate the Contract immediately.

1523 The Procuring Entity's election to terminate the Contract shall not prejudice any other rights of the Procuring Entity, under the Contract otherwise.

1524 The Contractor shall then leave the Site and deliver any required Goods, all Contractor's Documents, and other design documents made by or for him, to the Engineer. However, the Contractor shall use his best efforts to comply immediately with any reasonable instructions included in the notice (i) for the assignment of any subcontract, and (ii) for the protection of life or property or for the safety of the Works.

1525 After termination, the Procuring Entity may complete the Works and/ or arrange for any other entities to do so. The Procuring Entity and these entities may then use any Goods, Contractor's Documents and other design documents made by or on behalf of the Contractor.

1526 The Procuring Entity shall then give notice that the Contractor's Equipment and Temporary Works will be released to the Contractor at or near the Site. The Contractor shall promptly arrange their removal, at the risk and cost of the Contractor. However, if by this time the Contractor has failed to make a payment due to the Procuring Entity, these items may be sold by the Procuring Entity in order to recover this payment. Any balance of the proceeds shall then be paid to the Contractor.

153 Valuation at Date of Termination

As soon as practicable after a notice of termination under Sub-Clause 15.2 [Termination by Procuring Entity] has taken effect, the Architect shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine the value of the Works, Goods and Contractor's Documents, and any other sums due to the Contractor for work executed in accordance with the Contract.

154 Payment after Termination

After a notice of termination under Sub-Clause 15.2 [Termination by Procuring Entity] has taken effect, the Procuring Entity may:

- a) Proceed in accordance with Sub-Clause 2.5 [Procuring Entity's Claims],
- b) withhold further payments to the Contractor until the costs of execution, completion and remedying of any defects, damages for delay in completion (if any), and all other costs incurred by the Procuring Entity, have been established, and/ or
- c) recover from the Contractor any losses and damages incurred by the Procuring Entity and any extra costs of completing the Works, after allowing for any sum due to the Contractor under Sub-Clause 15.3 [Valuation at Date of Termination]. After recovering any such losses, damages and extra costs, the Procuring Entity shall pay any balance to the Contractor.

155 Procuring Entity's Entitlement to Termination for Convenience

The Procuring Entity shall be entitled to terminate the Contract, at any time at the Procuring Entity's convenience, by giving notice of such termination to the Contractor. The termination shall take effect 30 days after the later of the dates on which the Contractor receives this notice or the Procuring Entity returns the Performance Security. The Procuring Entity shall not terminate the Contract under this Sub-Clause in order to execute the Works itself or to arrange for the Works to be executed by another contractor or to avoid a termination of the Contract by the Contractor under Clause 16.2 [Termination by Contractor]. After this termination, the Contractor shall proceed in accordance with Sub-Clause 16.3 [Cessation of Work and Removal of Contractor's Equipment] and shall be paid in accordance with Sub-Clause 16.4 [Payment on Termination].

156 Fraud and Corruption

The Contractor shall ensure compliance with the Kenya Government's Anti-Corruption Laws and its prevailing sanctions.

15.7 Corrupt gifts and payments of commission

- 15.7.1 The Contractor shall not;
- a) Offer or give or agree to give to any person in the service of the Procuring Entity any gift or consideration of any kind as an inducement or reward for doing or for bearing to door for having done or for borne to do any act in relation to the obtaining or execution of this or any other Contract for the Procuring Entity or for showing or for bearing to show favor or disfavor to any person in relation to this or any other contract for the Procuring Entity.
 - b) Enter into this or any other contract with the Procuring Entity in connection with which commission has been paid or agreed to be paid by him or on his behalf or to his knowledge, unless before the Contract is made particulars of any such commission and of the terms and conditions of any agreement for the payment there of have been disclosed in writing to the Procuring Entity.
- 15.7.2 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 provisions of the Public Procurement and Asset Disposal Act (2015) and the Anti-Corruption and Economic Crimes Act (2003) of the Laws of Kenya.

16 SUSPENSION AND TERMINATION BY CONTRACTOR

16.1 Contractor's Entitlement to Suspend Work

- 16.1.1 If the Architect fails to certify in accordance with Sub-Clause 14.6 [Issue of Interim Payment Certificates] or Sub-Clause 14.7 [Payment], or not receiving instructions that would enable the contractor to proceed with the works in accordance with the program, the Contractor may, after giving not less than 30 days' notice to the Procuring Entity, suspend work (or reduce the rate of work) unless and until the Contractor has received the Payment Certificate, reasonable evidence or payment, as the case may be and as described in the notice.
- 16.1.2 The Contractor's action shall not prejudice his entitlements to financing charges under Sub-Clause 14.8 [Delayed Payment] and to termination under Sub-Clause 16.2 [Termination by Contractor].
- 16.1.3 If the Contractor subsequently receives such Payment Certificate, evidence or payment (as described in the relevant Sub-Clause and in the above notice) before giving a notice of termination, the Contractor shall resume normal working as soon as is reasonably practicable.
- 16.1.4 If the Contractor suffers delay and/or incurs Cost as a result of suspending work (or reducing the rate of work) in accordance with this Sub-Clause, the Contractor shall give notice to the Architect and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:
- a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
 - b) payment of any such Cost-plus profit, which shall be included in the Contract Price.

- 16.2** After receiving this notice, the Architect shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

16.3 Termination by Contractor

- 16.3.1 The Contractor shall be entitled to terminate the Contract if:
- a) the Architect fails, within 60 days after receiving a Statement and supporting documents, to issue the relevant Payment Certificate,
 - b) the Contractor does not receive the amount due under an Interim Payment Certificate within 90 days after the expiry of the time stated in Sub-Clause 14.7 [Payment] within which payment is to be made (except for deductions in accordance with Sub-Clause 2.5 [Procuring Entity's Claims]),
 - c) the Procuring Entity substantially fails to perform his obligations under the Contract in such manner as to materially and adversely affect the economic balance of the Contract and/or the ability of the Contractor to perform the Contract,
 - d) a prolonged suspension affects the whole of the Works as described in Sub-Clause 8.11 [Prolonged Suspension], or
 - e) the Procuring Entity becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against him, compounds with his creditors, or carries on business under a receiver, trustee or manager for the benefit of his creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events.

- f) the Contractor does not receive the Architect instruction recording the agreement of both Parties on the fulfilment of the conditions for the Commencement of Works under Sub-Clause 8.1 [Commencement of Works].

1632 In any of these events or circumstances, the Contractor may, upon giving 14 days' notice to the Procuring Entity, terminate the Contract. However, in the case of sub-paragraph (f) or (g), the Contractor may by notice terminate the Contract immediately.

1633 The Contractor's election to terminate the Contract shall not prejudice any other rights of the Contractor, under the Contract otherwise.

164 Cessation of Work and Removal of Contractor's Equipment

After a notice of termination under Sub-Clause 15.5 [Procuring Entity's Entitlement to Termination for Convenience], Sub-Clause 16.2 [Termination by Contractor] or Sub-Clause 19.6 [Optional Termination, Payment and Release] has taken effect, the Contractor shall promptly:

- a) cease all further work, except for such work as may have been instructed by the Architect for the protection of life or property or for the safety of the Works,
- b) hand over Contractor's Documents, Plant, Materials and other work, for which the Contractor has received payment, and
- c) remove all other Goods from the Site, except as necessary for safety, and leave the Site.

165 Payment on Termination

After a notice of termination under Sub-Clause 16.2 [Termination by Contractor] has taken effect, the Procuring Entity shall promptly:

- a) Return the Performance Security to the Contractor,
- b) pay the Contractor in accordance with Sub-Clause 19.6 [Optional Termination, Payment and Release], and
- c) pay to the Contractor the amount of any loss or damage sustained by the Contractor as a result of this termination.

17. RISK AND RESPONSIBILITY

17.1 Indemnities

17.1.1 The Contractor shall indemnify and hold harmless the Procuring Entity, the Procuring Entity's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of:

- a) Bodily injury, sickness, disease or death, of any person what so ever arising out of or in the course of or by reason of the Contractor's design (if any), the execution and completion of the Works and the remedying of any defects, unless attributable to any negligence, willful actor breach of the Contract by the Procuring Entity, the Procuring Entity's Personnel, or any of their respective agents, and
- b) damage to or loss of any property, real or personal (other than the Works), to the extent that such damage or loss arises out of or in the course of or by reason of the Contractor's design (if any), the execution and completion of the Works and the remedying of any defects, unless and to the extent that any such damage or loss is attributable to any negligence, willful act or breach of the Contract by the Procuring Entity, the Procuring Entity's Personnel, their respective agents, or anyone directly or indirectly employed by any of them.

17.1.2 The Procuring Entity shall indemnify and hold harmless the Contractor, the Contractor's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of (1) bodily injury, sickness, disease or death, which is attributable to any negligence, willful act or breach of the Contract by the Procuring Entity, the Procuring Entity's Personnel, or any of their respective agents, and (2) the matters for which liability may be excluded from insurance cover, as described in sub-paragraphs (d)(i), (ii) and (iii) of Sub-Clause 18.3 [Insurance Against Injury to Persons and Damage to Property], unless and to the extent that any such damage or loss is attributable to any negligence, willful actor breach of the Contract by the contractor, the contractor's Personnel, their respective agents, or anyone directly or indirectly employed by any of them.

17.2 Contractor's Care of the Works

17.2.1 The Contractor shall take full responsibility for the care of the Works and Goods from the Commencement

Date until the Taking-Over Certificate is issued (or is deemed to be issued under Sub-Clause 10.1 [Taking Over of the Works and Sections]) for the Works, when responsibility for the care of the Works shall pass to the Procuring Entity. If a Taking-Over Certificate is issued (or is so deemed to be issued) for any Section or part of the Works, responsibility for the care of the Section or part shall then pass to the Procuring Entity.

- 1722 After responsibility has accordingly passed to the Procuring Entity, the Contractor shall take responsibility for the care of any work which is outstanding on the date stated in a Taking-Over Certificate, until this outstanding work has been completed.
- 1723 If any loss or damage happens to the Works, Goods or Contractor's Documents during the period when the Contractor is responsible for their care, from any cause not listed in Sub-Clause 17.3 [Procuring Entity's Risks], the Contractor shall rectify the loss or damage at the Contractor's risk and cost, so that the Works, Goods and Contractor's Documents conform with the Contract.
- 1724 The Contractor shall be liable for any loss or damage caused by any actions performed by the Contractor after a Taking-Over Certificate has been issued. The Contractor shall also be liable for any loss or damage which occurs after a Taking-Over Certificate has been issued and which arose from a previous event for which the Contractor was liable.

173 Procuring Entity's Risks

The risks referred to in Sub-Clause 17.4 [Consequences of Procuring Entity's Risks] below, in so far as they directly affect the execution of the Works in Kenya, are:

- a) War hostilities (whether war be declared or not),
- b) rebellion, riot, commotion or disorder, terrorism, sabotage by persons other than the Contractor's Personnel,
- c) explosive materials, ionizing gradation or contamination by radio-activity, except as may be attributable to the Contractor's use of such explosives, radiation or radio-activity,
- d) pressure waves caused by aircraft or other aerial devices traveling at sonic or supersonic speeds,
- e) use or occupation by the Procuring Entity of any part of the Permanent Works, except as may be specified in the Contract,
- f) design of any part of the Works by the Procuring Entity's Personnel or by others for whom the Procuring Entity is responsible, and
- g) any operation of the forces of nature which is Unforeseeable or against which an experienced contractor could not reasonably have been expected to have taken adequate preventive precautions.

174 Consequences of Procuring Entity's Risks

- 174.1 If and to the extent that any of the risks listed in Sub-Clause 17.3 above results in loss or damage to the Works, Goods or Contractor's Documents, the Contractor shall promptly give notice to the Architect and shall rectify this loss or damage to the extent required by the Engineer.
- 174.2 If the Contractor suffers delay and/ or incurs Cost from rectifying this loss or damage, the Contractor shall give a further notice to the Architect and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:
- (a) An extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
 - (b) payment of any such Cost, which shall be included in the Contract Price. In the case of sub-paragraphs (e) and (g) of Sub-Clause 17.3 [Procuring Entity's Risks], Accrued Costs shall be payable.
- 174.3 After receiving this further notice, the Architect shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

175 Intellectual and Industrial Property Rights

- 175.1 In this Sub-Clause, "infringement" shall refer to an infringement (or alleged infringement) of any patent, registered design, copyright, trade mark, trade name, trade secret or other intellectual or industrial property right relating to the Works; and "claim" shall refer to a claim (or proceedings pursuing a claim) alleging an infringement.
- 175.2 Whenever a Party does not give notice to the other Party of any claim within 30 days of receiving the claim, the first Party shall be deemed to have waived any right to indemnity under this Sub-Clause.

- 1753 The Procuring Entity shall indemnify and hold the Contractor harmless against and from any claim alleging an infringement which is or was:
- a) An un avoidable result of the Contractor's compliance with the Contract, or
 - b) A result of any Works being used by the Procuring Entity:
 - i) for a purpose other than that indicated by, or reasonably to be inferred from, the Contract, or
 - ii) in conjunction with anything not supplied by the Contractor, unless such use was disclosed to the Contractor prior to the Base Date or is stated in the Contract.
- 1754 The Contractor shall indemnify and hold the Procuring Entity harmless again stand from any other claim which arises out of or in relation to (i) the manufacture, use, sale or import of any Goods, or (ii) any design for which the Contractor is responsible.
- 1755 If a Party is entitled to be indemnified under this Sub-Clause, the indemnifying Party may (at its cost) conduct negotiations for the settlement of the claim, and any litigation or arbitration which may arise from it. The other Party shall, at the request and cost of the indemnifying Party, assist in contesting the claim. This other Party (and its Personnel) shall not make any admission which might be prejudicial to the indemnifying Party, unless the indemnifying Party failed to take over the conduct of any negotiations, litigation or arbitration upon being requested to do so by such other Party.
- 1756 For operation and maintenance of any plant or equipment installed, the contractor shall grant a non-exclusive and non-transferable license to the Procuring Entity under the patent, utility models ,or other intellectual rights owned by the contractor or a third party from whom the contract or has received the rights to grant sub-licenses and shall also grant to the Procuring Entity a non-exclusive and non-transferable rights (without the rights to sub-license) to use the know-how and other technical information disclosed to the contract or under the contract. Nothing contained here-in shall be construed as transferring ownership of any patent, utility model, trademark, design, copy right, know-how or other intellectual rights from the contractor or any other third party to the Procuring Entity.

17.6 Limitation of Liability

- 17.6.1 Neither Party shall be liable to the other Party for loss of use of any Works, loss of profit, loss of any contractor for any in director consequential loss or damage which may be suffered by the other Party in connection with the Contract, other than as specifically provided in Sub-Clause 8.7 [Delay Damages]; Sub-Clause 11.2 [Cost of Remediying Defects]; Sub-Clause 15.4 [Payment after Termination]; Sub-Clause 16.4 [Payment on Termination]; Sub-Clause 17.1 [Indemnities]; Sub-Clause 17.4(b) [Consequences of Procuring Entity's Risks] and Sub-Clause 17.5 [Intellectual and Industrial Property Rights].
- 17.6.2 The total liability of the Contractor to the Procuring Entity, under or in connection with the Contract other than under Sub-Clause 4.19 [Electricity, Water and Gas], Sub-Clause 4.20 [Procuring Entity's Equipment and Free- Issue Materials], Sub-Clause 17.1 [Indemnities] and Sub-Clause 17.5 [Intellectual and Industrial Property Rights], shall not exceed the sum resulting from the application of a multiplier (less or greater than one) to the Accepted Contract Amount, as stated in **the Special Conditions of Contract**, or (if such multiplier or other sum is not so stated) the Accepted Contract Amount.
- 17.6.3 This Sub-Clause shall not limit liability in any case of fraud, deliberate default or reckless misconduct by the defaulting Party.

17.7 Use of Procuring Entity's Accommodation/Facilities

- 17.7.1 The Contractor shall take full responsibility for the care of the Procuring Entity provided accommodation and facilities, if any, as detailed in the Specification, from the respective dates of hand-over to the Contractor until cessation of occupation (where hand-over or cessation of occupation may take place after the date stated in the Taking-Over Certificate for the Works).
- 17.7.2 If any loss or damage happens to any of the above items while the Contractor is responsible for their care arising from any cause whatsoever other than those for which the Procuring Entity is liable, the Contractor shall, at his own cost, rectify the loss or damage to the satisfaction of the Engineer.

18 INSURANCE

18.1 General Requirements for Insurances

- 18.1.1 In this Clause, “insuring Party” means, for each type of insurance, the Party responsible for effecting and maintaining the insurance specified in the relevant Sub-Clause.

- 18.12 Wherever the Contractor is the insuring Party, each insurance shall be effected with insurers and in terms approved by the Procuring Entity. These terms shall be consistent with any terms agreed by both Parties before the date of the Letter of Acceptance. This agreement of terms shall take precedence over the provisions of this Clause.
- 18.13 Wherever the Procuring Entity is the insuring Party, each insurance shall be effected with insurers and in terms acceptable to the Contractor. These terms shall be consistent with any terms agreed by both Parties before the date of the Letter of Acceptance. This agreement of terms shall take precedence over the provisions of this Clause.
- 18.14 If a policy is required to indemnify joint insured, the cover shall apply separately to each insured as though a separate policy had been issued for each of the joint insured. If a policy indemnifies additional joint insured, namely in addition to the insured specified in this Clause, (i) the Contractor shall act under the policy on behalf of these additional joint insured except that the Procuring Entity shall act for Procuring Entity's Personnel, (ii) additional joint insured shall not be entitled to receive payments directly from the insurer or to have any other direct dealings with the insurer, and (iii) the insuring Party shall require all additional joint insured to comply with the conditions stipulated in the policy.
- 18.15 Each policy insuring against loss or damage shall provide for payments to be made in the currencies required to rectify the loss or damage. Payments received from insurers shall be used for the rectification of the loss or damage.
- 18.16 The relevant insuring Party shall, within the respective periods stated in **the Special Conditions of Contract** (calculated from the Commencement Date), submit to the other Party:
- a) Evidence that the insurances described in this Clause have been affected, and
 - b) copies of the policies for the insurances described in Sub-Clause 18.2 [Insurance for Works and Contractor's Equipment] and Sub-Clause 18.3 [Insurance against Injury to Persons and Damage to Property].
- 18.17 When each premium is paid, the insuring Party shall submit evidence of payment to the other Party. Whenever evidence or policies are submitted, the insuring Party shall also give notice to the Engineer.
- 18.18 Each Party shall comply with the conditions stipulated in each of the insurance policies. The insuring Party shall keep the insurers informed of any relevant changes to the execution of the Works and ensure that insurance is maintained in accordance with this Clause.
- 18.19 Neither Party shall make any material alteration to the terms of any insurance without the prior approval of the other Party. If an insurer makes (or attempts to make) any alteration, the Party first notified by the insurer shall promptly give notice to the other Party.
- 18.1.10 If the insuring Party fails to effect and keep in force any of the insurances it is required to effect and maintain under the Contractor fails to provide satisfactory evidence and copies of policies in accordance with this Sub-Clause, the other Party may (at its option and without prejudice to any other right or remedy) effect insurance for the relevant coverage and pay the premiums due. The insuring Party shall pay the amount of these premiums to the other Party, and the Contract Price shall be adjusted accordingly.
- 18.1.11 Nothing in this Clause limits the obligations, liabilities or responsibilities of the Contractor or the Procuring Entity, under the other terms of the Contract otherwise. Any amounts not insured or not recovered from the insurers shall be borne by the Contractor and/or the Procuring Entity.
- 18.1.12 Procuring Entity in accordance with these obligations, liabilities or responsibilities. However, if the insuring Party fails to effect and keep in force an insurance which is available and which it is required to effect and maintain under the Contract, and the other Party neither approves the omission nor effects insurance for the coverage relevant to this default, any moneys which should have been recoverable under this insurance shall be paid by the insuring Party.
- 18.1.13 Payments by one Party to the other Party shall be subject to Sub-Clause 2.5 [Procuring Entity's Claims] or Sub-Clause 20.1 [Contractor's Claims], as applicable.
- 18.1.14 The Contractor shall be entitled to place all insurance relating to the Contract (including, but not limited to the insurance referred to Clause 18) with insurers from any eligible source country.

182 Insurance for Works and Contractor's Equipment

- 182.1 The insuring Party shall insure the Works, Plant, Material and Contractor's Documents for not less than the full reinstatement cost including the costs of demolition, removal of debris and professional fees and profit. This insurance shall be effective from the date by which the evidence is to be submitted under sub-paragraph (a) of Sub-Clause 18.1 [General Requirements for Insurances], until the date of issue of the Taking-Over Certificate for the Works.
- 182.2 The insuring Party shall maintain this insurance to provide cover until the date of issue of the Performance Certificate, for loss or damage for which the Contractor is liable arising from a cause occurring prior to the issue of the Taking-Over Certificate, and for loss or damage caused by the Contractor in the course of any other operations (including those under Clause 11 [Defects Liability]).
- 182.3 The insuring Party shall insure the Contractor's Equipment for not less than the full replacement value, including delivery to Site. For each item of Contractor's Equipment, the insurance shall be effective while it is being transported to the Site and until it is no longer required as Contractor's Equipment.
- 182.4 Unless otherwise stated in the Special Conditions, insurances under this Sub-Clause:
- a) Shall be effected and maintained by the Contractor as insuring Party,
 - b) shall be in the joint names of the Parties, who shall be jointly entitled to receive payments from the insurers, payments being held or allocated to the Party actually bearing the costs of rectifying the loss or damage,
 - c) shall cover all loss and damage from any cause not listed in Sub-Clause 17.3 [Procuring Entity's Risks],
 - d) shall also cover, to the extent specifically required in the tendering documents of the Contract, loss or damage to a part of the Works which is attributable to the use or occupation by the Procuring Entity of another part of the Works, and loss or damage from the risks listed in sub-paragraphs (c), (g) and (h) of Sub-Clause 17.3 [Procuring Entity's Risks], excluding (in each case) risks which are not insurable at commercially reasonable terms, with deductibles per occurrence of not more than the amount stated **in the Special Conditions** of Contract (if an amount is not so stated, this sub-paragraph (d) shall not apply), and
 - e) may however exclude loss of, damage to, and reinstatement of:
 - i) a part of the Works which is in a defective condition due to a defect in its design, materials or workmanship (but cover shall include any other parts which are lost or damaged as a direct result of this defective condition and not as described in sub-paragraph (ii) below),
 - ii) a part of the Works which is lost or damaged in order to reinstate any other part of the Works if this other part is in a defective condition due to a defect in its design, materials or workmanship,
 - iii) a part of the Works which has been taken over by the Procuring Entity, except to the extent that the Contractor is liable for the loss or damage, and
 - iv) Goods while they are not in Kenya, subject to Sub-Clause 14.5 [Plant and Materials intended for the Works].
- 182.5 If, more than one year after the Base Date, the cover described in sub-paragraph (d) above ceases to be available at commercially reasonable terms, the Contractor shall (as insuring Party) give notice to the Procuring Entity, with supporting particulars. The Procuring Entity shall then (i) be entitled subject to Sub-Clause 2.5 [Procuring Entity's Claims] to payment of an amount equivalent to such commercially reasonable terms as the Contractor should have expected to have paid for such cover, and (ii) be deemed, unless he obtains the cover at commercially reasonable terms, to have approved the omission under Sub-Clause 18.1 [General Requirements for Insurances].

183 Insurance against Injury to Persons and Damage to Property

- 183.1 The insuring Party shall insure against each Party's liability for any loss, damage, death or bodily injury which may occur to any physical property (except things insured under Sub-Clause 18.2 [Insurance for Works and Contractor's Equipment]) or to any person (except persons insured under Sub-Clause 18.4 [Insurance for Contractor's Personnel]), which may arise out of the Contractor's performance of the Contract and occurring before the issue of the Performance Certificate.
- 183.2 This insurance shall be for a limit per occurrence of not less than the amount stated in **the Special Conditions of Contract**, with no limit on the number of occurrences. If an amount is not stated in the **Special Conditions of Contract**, this Sub-Clause shall not apply.
- 183.3 Unless otherwise stated in the Special Conditions, the insurances specified in this Sub-Clause:
- a) Shall be effected and maintained by the Contractor as insuring Party,

- b) shall be in the joint names of the Parties,
- c) shall be extended to cover liability for all loss and damage to the Procuring Entity's property (except things insured under Sub-Clause 18.2) arising out of the Contractor's performance of the Contract, and
- d) may however exclude liability to the extent that it arises from:
 - i) the Procuring Entity's right to have the Permanent Works executed on, over, under, in or
 - ii) through any land, and to occupy this land for the Permanent Works,
 - iii) damage which is an unavoidable result of the Contractor's obligations to execute the
 - iv) Works and remedy any defects, and
 - v) a cause listed in Sub-Clause 17.3 [Procuring Entity's Risks], except to the extent that cover is available at commercially reasonable terms.

184 Insurance for Contractor's Personnel

- 184.1 The Contractor shall effect and maintain insurance against liability for claims, damages, losses and expenses (including legal fees and expenses) arising from injury, sickness, disease or death of any person employed by the Contractor or any other of the Contractor's Personnel.
- 184.2 The insurance shall cover the Procuring Entity and the Architect against liability for claims, damages, losses and expenses (including legal fees and expenses) arising from injury, sickness, disease or death of any person employed by the Contractor or any other of the Contractor's Personnel, except that this insurance may exclude losses and claims to the extent that they arise from any act or neglect of the Procuring Entity or of the Procuring Entity's Personnel.
- 184.3 The insurance shall be maintained in full force and effect during the whole time that these personnel are assisting in the execution of the Works. For a Subcontractor's employees, the insurance may be effected by the Subcontractor, but the Contractor shall be responsible for compliance with this Clause.

19. FORCE MAJEURE

19.1 Definition of Force Majeure

- 19.1.1 In this Clause, "Force Majeure" means an exceptional event or circumstance:
 - a) Which is beyond a Party's control,
 - b) Which such Party could not reasonably have provided against before entering into the Contract,
 - c) which, having arisen, such Party could not reasonably have avoided or overcome, and
 - d) which is not substantially attributable to the other Party.
- 19.1.2 Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind listed below, so long as conditions (a) to (d) above are satisfied:
 - a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,
 - b) rebellion, terrorism, sabotage by persons other than the Contractor's Personnel, revolution, insurrection, military or usurped power, or civil war,
 - c) riot, commotion, disorder, strike or lockout by persons other than the Contractor's Personnel,
 - d) munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity, and
 - e) natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity.

19.2 Notice of Force Majeure

- 192.1 If a Party is or will be prevented from performing its substantial obligations under the Contract by Force Majeure, then it shall give notice to the other Party of the event or circumstances constituting the Force Majeure and shall specify the obligations, the performance of which is or will be prevented. The notice shall be given within 14 days after the Party became aware, or should have become aware, of the relevant event or circumstance constituting Force Majeure.
- 192.2 The Party shall, having given notice, be excused performance of its obligations for so long as such Force Majeure prevents it from performing them.
- 192.3 Notwithstanding any other provision of this Clause, Force Majeure shall not apply to obligations of either Party to make payments to the other Party under the Contract.

19.3 Duty to Minimize Delay

Each Party shall at all times use all reasonable endeavors to minimize any delay in the performance of the

Contract as a result of Force Majeure. A Party shall give notice to the other Party when it ceases to be affected by the Force Majeure.

194 Consequences of Force Majeure

194.1 If the Contractor is prevented from performing his substantial obligations under the Contract by Force Majeure of which notice has been given under Sub-Clause 19.2 [Notice of Force Majeure], and suffers delay and/ or incurs Cost by reason of such Force Majeure, the Contractor shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- b) if the event or circumstance is of the kind described in sub-paragraphs (i) to (iv) of Sub-Clause 19.1 [Definition of Force Majeure] and, in sub-paragraphs (ii) to (iv), occurs in Kenya, payment of any such Cost, including the costs of rectifying or replacing the Works and/or Goods damaged or destroyed by Force Majeure, to the extent they are not indemnified through the insurance policy referred to in Sub-Clause 18.2 [Insurance for Works and Contractor's Equipment].

194.2 After receiving this notice, the Architect shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

195 Force Majeure Affecting Subcontractor

If any Subcontractor is entitled under any contract or agreement relating to the Works to relief from force majeure on terms additional to or broader than those specified in this Clause, such additional or broader force majeure events or circumstances shall not excuse the Contractor's non-performance or entitle him to relief under this Clause.

196 Optional Termination, Payment and Release

196.1 If the execution of substantially all the Works in progress is prevented for a continuous period of 84 days by reason of Force Majeure of which notice has been given under Sub-Clause 19.2 [Notice of Force Majeure], or for multiple periods which total more than 140 days due to the same notified Force Majeure, then either Party may give to the other Party a notice of termination of the Contract. In this event, the termination shall take effect 7 days after the notice is given, and the Contractor shall proceed in accordance with Sub-Clause 16.3 [Cessation of Work and Removal of Contractor's Equipment].

196.2 Upon such termination, the Architect shall determine the value of the work done and issue a Payment Certificate which shall include:

- a) the amount payable for any work carried out for which a price is stated in the Contract;
- b) the Cost of Plant and Materials ordered for the Works which have been delivered to the Contractor, or of which the Contractor is liable to accept delivery: this Plant and Materials shall become the property of (and be at the risk of) the Procuring Entity when paid for by the Procuring Entity, and the Contractor shall place the same at the Procuring Entity's disposal;
- c) other Cost or liabilities which in the circumstances were reasonably and necessarily incurred by the Contractor in the expectation of completing the Works;
- d) the Cost of removal of Temporary Works and Contractor's Equipment from the Site and the return of these items to the Contractor's works in his country (or to any other destination at no greater cost); and
- e) the Cost of repatriation of the Contractor's staff and lab or employed wholly in connection with the Works at the date of termination.

197 Release from Performance

Notwithstanding any other provision of this Clause, if any event or circumstance outside the control of the Parties (including, but not limited to, Force Majeure) arises which makes it impossible or unlawful for either or both Parties to fulfil its or their contractual obligations or which, under the law governing the Contract, entitles the Parties to be released from further performance of the Contract, then upon notice by either Party to the other Party of such event or circumstance:

- a) The Parties shall be discharged from further performance, without prejudice to the rights of either Party in respect of any previous breach of the Contract, and
- b) The sum payable by the Procuring Entity to the Contractor shall be the same as would have been payable under Sub-Clause 19.6 [Optional Termination, Payment and Release] if the Contract had been terminated under Sub-Clause 19.6.

20 SETTLEMENT OF CLAIMS AND DISPUTES

20.1 Contractor's Claims

- 20.1.1 If the Contractor considers itself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give Notice to the Engineer, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 30 days after the Contractor became aware, or should have become aware, of the event or circumstance.
- 20.1.2 If the Contractor fails to give notice of a claim within such period of 30 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Procuring Entity shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub-Clause shall apply.
- 20.1.3 The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all as relevant to such event or circumstance.
- 20.1.4 The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Engineer. Without admitting the Procuring Entity's liability, the Architect may, after receiving any notice under this Sub-Clause, monitor the record-keeping and/or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Architect to inspect all these records and shall (if instructed) submit copies to the Engineer.
- 20.1.5 Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Engineer, the Contractor shall send to the Architect fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/ or additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect:
- a) This fully detailed claim shall be considered as interim;
 - b) The Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/ or amount claimed, and such further particulars as the Architect may reasonably require; and
 - c) The Contractor shall send a final claim within 30 days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Engineer.
- 20.1.6 Within 42 days after receiving a Notice of a claim or any further particulars supporting a previous claim, or within such other period as may be proposed by the Architect and approved by the Contractor, the Architect shall respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars but shall nevertheless give his response on the principles of the claim within the above defined time period.
- 20.1.7 Within the above defined period of 42 days, the Architect shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with Sub-Clause 8.4 [Extension of Time for Completion], and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.
- 20.1.8 Each Payment Certificate shall include such additional payment for any claim as has been reasonably substantiated as due under the relevant provision of the Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim as he has been able to substantiate.
- 20.1.9 If the Architect does not respond within the time frame defined in this Clause, either Party may consider that the claim is rejected by the Architect and any of the Parties may refer the dispute for amicable settlement in accordance with Clause 20.3.
- 20.1.10 The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/ or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub-Clause 20.3.

- 2055 The Arbitrator shall, without prejudice to the generality of his powers, have powers to open up, review and revise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute which shall be submitted to him in the same manner as if no such certificate, opinion, decision require mentor notice had been given.
- 2056 The arbitrators shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of the Engineer, relevant to the dispute. Nothing shall disqualify representatives of the Parties and the Architect from being called as a witness and giving evidence before the arbitrators on any matter whatsoever relevant to the dispute.
- 2057 Neither Party shall be limited in the proceedings before the arbitrators to the evidence, or to the reasons for dissatisfaction given in its Notice of Dissatisfaction.
- 2057 Arbitration may be commenced prior to or after completion of the Works. The obligations of the Parties, and the Architect shall not be altered by reason of any arbitration being conducted during the progress of the Works.
- 2058 The terms of the remuneration of each or all the members of Arbitration shall be mutually agreed upon by the Parties when agreeing the terms of appointment. Each Party shall be responsible for paying one-half of this remuneration.

20.6 Arbitration with National Contractors

- 2061 If the Contract is with national contractors, arbitration proceedings will be conducted in accordance with the Arbitration Laws of Kenya. In case of any claim or dispute, such claim or dispute shall be notified in writing by either party to the other with a request to submit it to arbitration and to concur in the appointment of an Arbitrator within thirty days of the notice. The dispute shall be referred to the arbitration and final decision of a person to be agreed between the parties. Failing agreement to concur in the appointment of an Arbitrator, the Arbitrator shall be appointed, on the request of the applying party, by the Chairman or Vice Chairman of any of the following professional institutions;
- i) Architectural Association of Kenya
 - ii) Institute of Quantity Surveyors of Kenya
 - iii) Association of Consulting Engineers of Kenya
 - iv) Chartered Institute of Arbitrators (Kenya Branch)
 - v) Institution of Engineers of Kenya
- 2062 The institution written to first by the aggrieved party shall take precedence over all other institutions.

20.7 Arbitration with Foreign Contractors

- 2071 Arbitration with foreign contractors shall be conducted in accordance with the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL); or with proceedings administered by the International Chamber of Commerce (ICC) and conducted under the ICC Rules of Arbitration; by one or more arbitrators appointed in accordance with said arbitration rules.
- 2072 The place of arbitration shall be a location specified in the **SCC**; and the arbitration shall be conducted in the language for communications defined in Sub-Clause 1.4 [Law and Language].

20.8 Alternative Arbitration Proceedings

Alternatively, the Parties may refer the matter to the Nairobi Centre for International Arbitration (NCIA) which offers a neutral venue for the conduct of national and international arbitration with commitment to providing institutional support to the arbitral process.

20.9 Failure to Comply with Arbitrator's Decision

- 2091 The award of such Arbitrator shall be final and binding up on the parties.
- 2092 In the event that a Party fails to comply with a final and binding Arbitrator's decision, then the other Party may, without prejudice to any other rights it may have, refer the matter to a competent court of law.

20.10 Contract operations to continue

Notwithstanding any reference to arbitration herein,

- 1.1.1 the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and
- 1.1.2 the Procuring Entity shall pay the Contractor any monies due the Contractor.

Section IX - Special Conditions of Contract

The following Special Conditions shall supplement the GCC. Whenever there is a conflict, the provisions here in shall prevail over those in the GCC.

| Conditions | Sub-Clause | Data |
|---|-------------------|--|
| Part A - Contract Data | | |
| Procuring Entity's name and address | Heading | The Procuring Entity is State Department of Housing and Urban Development |
| Name and Reference No. of the Contract | Heading and 1.1 | Proposed Construction of Bumala County Strategic Market in Busia County Tender No. MLPWHUD/SDHUD/UDD/366/2023-2024 |
| Engineers Name and address | Heading and 3.1.1 | Director, Urban Development Department. State Department for Housing and Urban Development, P.O Box 30119-00100, Nairobi, Kenya |
| Contractor's Representative's name | 4.3.1 | <i>[insert the name of the Contractor's Representative agreed by the Procuring Entity prior to Contract signature]</i> |
| Key Personnel names | 16.9.1 | <i>[insert the name of each Key Personnel agreed by the Procuring Entity prior to Contract signature]</i> |
| Time for Completion | 1.1. | 18 Months |
| Defects Liability Period | 1.1 | 6 months |
| Defects Notification Period | 1.1 | 30 days |
| Sections | 1.1 | <i>If Sections are to be used, refer to Table: Summary of Sections below</i> |
| Electronic transmission systems | 1.3 | N/A |
| Time for the Parties entering into a Contract Agreement | 1.6 | Within 30 days |
| Commencement Date | 8.1.1 | The start date shall be 14 days after site handing over |
| Time for access to the Site | 2.1.1 | No later than the Commencement Date, and not later than 14 no. days after Commencement Date |
| Architect Duties and Authority | 3.1.6 (b) (ii) | Variations resulting in an increase of the Accepted Contract Amount shall be as guided by the Public Procurement and Asset Disposal Act, 2015 and all amendments thereafter and attendant Regulations. |
| Performance Security | 4.2.1 | The performance security will be in the form of a performance bond in the amount(s) of 10% percent of the Accepted Contract Amount and in the same currency(ies) of the Accepted Contract Amount. The Security issued shall be of its full value, and partial/split Securities shall be rejected. |
| Nominated Sub-Contractors | 5.1 | <i>Add the following Paragraphs at the end of Sub-clause 5.1:</i> 5.1.1. The provisions governing Provisional Sums under Clause 13.6 shall similarly apply, with necessary modifications, to the Prime Cost Sums included in the contract Bills of Quantities. |

| Conditions | Sub- Clause | Data |
|------------|----------------|--|
| | | <p>5.1.2. The nominated sub-contractor shall carry out and complete the sub-contract works in every respect to the reasonable satisfaction of the Contractor and of the Architect and in conformity with all the reasonable directions and requirement of the Contractor.</p> <p>5.1.3. The Contractor and the nominated sub-contractor shall enter into a sub-contract agreement which provides (inter alia):</p> <p>5.1.3.1. That the nominated sub-contractor shall observe, perform and comply with all the provisions of this contract on the part of the Contractor to be observed, performed and complied with so far as they relate and apply to the sub-contract works or to any portion of the same.</p> <p>5.1.3.2. That the nominated sub-contractor shall indemnify the Contractor against the same liabilities in respect of the sub-contract works as those for which the Contractor is liable to indemnify the Procuring Entity under this contract.</p> <p>5.1.3.3. That the nominated sub-contractor shall indemnify the Contractor against claims in respect of any negligence, omission or default of such subcontractor, his servants or agents or any misuse by him or them of any scaffolding or other equipment, and shall insure himself against any such claims and produce the policy or policies and receipts in respect of premiums paid as and when required by either the Architect or the Contractor.</p> <p>5.1.3.4. That the sub-contract works shall be completed within the period or (where they are to be completed in parts) periods therein specified.</p> <p>5.1.3.5. That the Contractor shall not without the written consent of the Architect, grant any extension of time for the completion of the sub-contract works or any section thereof, and that the Contractor shall inform the Architect of any representation made by the nominated sub-contractor as to the cause of any delay in the progress or completion of the sub-contract works or any section thereof.</p> <p>5.1.3.6. That if the nominated sub-contractor shall fail to complete the sub-contract works or (where the sub-contract works are to be completed in sections) any section thereof, within the period therein specified or within any extended time granted by the Contractor with the written consent of the Architect and the Architect certifies in writing to the Contractor that the same ought reasonable so to have been completed, the nominated sub-contractor shall pay or allow to the Contractor either a sum</p> |

| Conditions | Sub- Clause | Data |
|------------|----------------|--|
| | | <p>calculated at the rate therein agreed as liquidated damages for the period during which the said works or any section thereof, as the case may be, shall so remain or have remained incomplete or (where no such rate is therein agree), a sum equivalent to any loss or damage suffered or incurred by the Contractor and caused by the failure of the nominated sub-contractor as aforesaid.</p> <p>5.1.3.7. That the Contractor shall retain from the sum directed by the Architect as having been included in the calculation of the amount stated as due in any certificate issued under Clause 14.0 of these conditions in respect of the total value of work, materials or goods executed or supplied by the nominated sub- contractor the percentage of such value named in the Special Conditions (Part A) as the Percentage of Retention.</p> <p>5.1.3.8. That the Procuring Entity, the Architect, and other agents of the Procuring Entity, shall have a right of access to the workshops and other places of the nominated sub-contractor where work is being prepared as provided for in Clause 7.3 of these conditions.</p> <p>5.1.4. The Architect shall direct the Contractor as to the total value of the work, materials or goods executed or supplied by a nominated sub-contractor included in the calculation of the amount stated as due in any certificate issued under clause 14.0 of these conditions and shall forthwith inform the nominated sub-contractor in writing of the amount of the said total value. The sum representing such total value shall be paid by the Contractor within seven days after receipt by the Contractor of the sum to which the Contractor shall be entitled by virtue of the certificate less only;</p> <p>5.1.4.1. Any retention money which the Contract may be entitled to deduct under the terms of the sub-contract, and</p> <p>5.1.4.2. Any sum to which the Contractor may be entitled in respect of delay in the completion of the sub-contract works or any section thereof, and</p> <p>5.1.4.3. Amounts already paid under previous certificates.</p> <p>5.1.4.4. Where applicable, the Architect may, with the consent of the Procuring Entity, certify and authorize payments to Nominated Subcontractors that diverge from the milestones outlined in the Schedule of Payments. Subsequent Certificates shall be adjusted to account for amounts previously certified in the preceding or divergent Certificates.</p> |

| Conditions | Sub- Clause | Data |
|------------|----------------|---|
| | | <p>5.1.5. Prior to issuing any Certificate as per Clause 14.0 of these conditions, the Architect may require the Contractor to provide reasonable evidence that all amounts included in previous certificates as due to any nominated subcontractor have been appropriately paid. If the Contractor fails to fulfill such a request, the Architect may advise the Procuring Entity to directly pay the owed amount to the relevant nominated subcontractor and deduct it from any sums due or to become due to the Contractor.</p> <p>5.1.6. Should any nominated subcontractor fail to complete the subcontract works within the stipulated period, or within any extended time granted by the Contractor with the written consent of the Architect, the Architect shall certify in writing if completion could reasonably have been expected. Upon issuance, the Architect shall promptly provide a copy of such certification to both the nominated subcontractor and the Procuring Entity.</p> <p>5.1.7. The Contractor may be permitted to tender any of the works for which Prime Cost Sums are included in the contract Bills of Quantities but without prejudice to the Procuring Entity's right to reject the lowest or any tender.</p> <p>5.1.8. If a nominated sub-contractor terminates the sub-contract or the Contractor terminates the sub-contract on the advice of the Architect, the Procuring Entity shall make a further nomination of a sub-contractor as may be necessary to carry out and complete the work left incomplete by the sub-contractor whose employment has been terminated. Any additional costs arising therefrom shall be borne by the Procuring Entity.</p> <p>5.1.9. Notwithstanding the above, the Architect may instruct, with the consent of the Procuring Entity and the Contractor, that the incomplete work shall be executed by the Contractor and such instruction shall be deemed to be a variation to the contract.</p> <p>5.1.10. Provided that where a nominated sub-contractor terminates the sub-contract as a result of a default by the Contractor, or the Contractor terminates the sub-contract without the written advice of the Architect, the Contractor shall be liable to the Procuring Entity for any additional costs arising therefrom.</p> <p>5.1.11. Where a nominated sub-contract provides a defect liability period which extends beyond the Contractor's defects liability period, the Contractor's obligations and liabilities in connection with the defects of the nominated sub-contract shall nevertheless terminate at the end of the Contractor's defects liability period. The remaining portion of the nominated sub-contractor's defects liability period shall be subject to a direct agreement between the</p> |

| Conditions | Sub-Clause | Data |
|--|----------------|---|
| | | <p>Procuring Entity and the nominated sub-contractor and shall not form part of this agreement.</p> <p>5.1.12. Where a sub-contractor is required to give a guarantee or warranty relating to the sub-contract works such guarantee or warranty shall be assigned by the sub-contractor to the Procuring Entity.</p> <p>5.1.13. The employment of a nominated sub-contractor under these conditions shall terminate forthwith upon the termination (for any reason) of the Contractor's employment under the contract.</p> <p>5.1.14. Neither the existence nor the exercise of the foregoing powers nor anything else contained in these conditions shall render the Procuring Entity in any way liable to any nominated sub-contractor.</p> |
| Delay damages for the Works | 8.7 & 14.15(b) | <p>0.05 % of the Contract Price per week or part thereof.</p> <p><i>If Sections are to be used, refer to Table: Summary of Sections below</i></p> |
| Maximum amount of delay damages | 8.7.1 | 10% of the final Contract Price. |
| Provisional Sums | 13.6. (b)(ii) | N/A |
| Adjustments for Changes in Cost | 13.9 | N/A |
| Total advance payment | 14.2.1 | Upto 20% of the Accepted Contract Amount payable in the currencies and proportions in which the Accepted Contract Amount is payable. |
| Advance Payment Guarantee | 14.2.1 | <p>The advance payment guarantee will be issued in the prescribed format in the amount of the full value of the Total Advance Payment and in the same currency(ies) of the Advance Payment.</p> <p>The Guarantee issued shall be of its full value, and partial/split Guarantees shall be rejected.</p> |
| Repayment amortization rate of advance payment | 14.2.5 (b) | <p>The amounts to be recovered in each payment certificate shall be computed using the following formula:</p> $R = \frac{A(x^1 - x^{11})}{90 - 30}$ <p>Where; A - Amount of the advance which has been granted.</p> <p>x¹ - The amount of proposed cumulative payments as a percentage of the original amount of the Contract. This figure will exceed 30% but not exceed 90%.</p> <p>x¹¹ - The amount of the previous cumulative payments as a percentage of the original amount of the Contract. This figure will be below 90% but not less than 30%.</p> <p>R - Amount to be reimbursed in current valuation.</p> |
| Percentage of Retention | 14.3.2 (c) | 10% of the certified amounts. |
| Limit of Retention Money | 14.3.2 (c) | 5% of the Accepted Contract Amount |
| Plant and Materials | 14.5.3(b)(i) | Not applicable |
| | 14.5.3(c)(i) | Not applicable |

| Conditions | Sub-Clause | Data |
|---|------------|--|
| Minimum Amount of Interim Payment Certificates | 14.6.2 | 5% of the Accepted Contract Amount |
| Publishing source of commercial interest rates for financial charges in case of delayed payment | 14.8 | Shall be in accordance with the prevailing mean commercial lending rate as determined by the Central Bank of Kenya. |
| Maximum total liability of the Contractor to the Procuring Entity | 17.6.2 | The product of 1.1 times the Accepted Contract Amount. |
| Periods for submission of insurance: a. Evidence of insurance. b. Relevant policies | 18.1.6 | 14 days 14 days |
| Maximum amount of deductibles for insurance of the Procuring Entity's risks | 18.2.4 (d) | <i>[Insert maximum amount of deductibles]</i> -N/A |
| Minimum amount of third-party insurance | 18.3.2 | <i>[Insert amount of third-party insurance]</i> - N/A |
| The place of arbitration | 20.7.2 | Nairobi, Kenya |

SECTION X - CONTRACT FORMS

FORM No. 1 - NOTIFICATION OF INTENTION TO AWARD

FORM No. 2 - REQUEST FOR REVIEW

FORM No. 3 - LETTER OF AWARD

FORM No. 4 - CONTRACT AGREEMENT

FORM No. 5 - PERFORMANCE SECURITY [Option 1 - Unconditional Demand Bank Guarantee]

FORM No. 6 - PERFORMANCE SECURITY [Option 2– Performance Bond]

FORM No. 7 - ADVANCE PAYMENT SECURITY

FORM No. 8 - RETENTION MONEY SECURITY

FORM No 1: NOTIFICATION OF INTENTION TO AWARD OF CONTRACT

This Notification of Award shall be sent to each Tenderer that submitted a Tender and was not successful. Send this Notification to the Tenderer's Authorized Representative named in the Tender Information Form on the format below.

FORMAT

1. For the attention of Tenderer's Authorized Representative
 - i) Name: *[insert Authorized Representative's name]*
 - ii) Address: *[insert Authorized Representative's Address]*
 - iii) Telephone: *[insert Authorized Representative's telephone/fax numbers]*
 - iv) Email Address: *[insert Authorized Representative's email address]*

[IMPORTANT: insert the date that this Notification is transmitted to Tenderers. The Notification must be sent to all Tenderers simultaneously. This means on the same date and as close to the same time as possible.]

2. Date of transmission: *[email]* on *[date]* (local time)

This Notification is sent by *(Name and designation)* _____

3. Notification of Award
 - i) Procuring Entity: *[insert the name of the Procuring Entity]*
 - ii) Project: *[insert name of project]*
 - iii) Contract title: *[insert the name of the contract]*
 - iv) ITT No: *[insert ITT reference number from Procurement Plan]*

This Notification of Intention to Award (Notification) notifies you of our decision to award the above contract. The transmission of this Notification begins the Standstill Period. During the Standstill Period, you may:

4. Request a debriefing in relation to the evaluation of your tender by submitting a Procurement-related Complaint in relation to the decision to award the contracts.
 - a) The successful tenderers
 - i) Name of successful Tender _____
 - ii) Address of the successful Tender _____

 - iii) Contract price of the successful Tender Kenya Shillings _____
(in words _____)
 - b) The reasons for your tender being unsuccessful are as follows:
 - c) Other Tenderers

Names of all Tenderers that submitted a Tender. If the Tender's price was evaluated include the evaluated price as well as the Tender price as read out.

| SNo | Name of Tender | Tender Price as read out | Tender's evaluated price (Note a) | One Reason Why Not Evaluated |
|-----|----------------|--------------------------|-----------------------------------|------------------------------|
| 1 | | | | |
| 2 | | | | |
| 3 | | | | |
| 4 | | | | |
| 5 | | | | |
| | | | | |

(Note a) State NE if not evaluated

5. How to request a debriefing

- a) DEADLINE: The dead line to request a debriefing expires at midnight on [*insert date*] (*local time*).
- b) You may request a debriefing in relation to the results of the evaluation of your Tender. If you decide to request a debriefing your written request must be made within three (3) Business Days of receipt of this Notification of Intention to Award.
- c) Provide the contract name, reference number, name of the Tenderer, contact details; and address the request for debriefing as follows:
 - i) Attention: [*insert full name of person, if applicable*]
 - ii) Title/position: [*insert title/position*]
 - iii) Agency: [*insert name of Procuring Entity*]
 - iv) Email address: [*insert email address*]
- d) If your request for a debriefing is received within the 3 Days deadline, we will provide the debriefing within five (3) Business Days of receipt of your request. If we are unable to provide the debriefing within this period, the Standstill Period shall be extended by five (3) Days after the date that the debriefing is provided. If this happens, we will notify you and confirm the date that the extended Standstill Period will end.
- e) The debriefing may be in writing, by phone, video conference call or in person. We shall promptly advise you in writing how the debriefing will take place and confirm the date and time.
- f) If the deadline to request a debriefing has expired, you may still request a debriefing. In this case, we will provide the debriefing as soon as practicable, and normally no later than fifteen (15) Days from the date of publication of the Contract Award Notice.

6. How to make a complaint

- a) Period: Procurement-related Complaint challenging the decision to award shall be submitted by midnight, [*insert date*] (*local time*).
- b) Provide the contract name, reference number, name of the Tenderer, contact details; and address the Procurement-related Complaint as follows:
 - i) Attention: [*insert full name of person, if applicable*]
 - ii) Title/position: [*insert title/ position*]
 - iii) Agency: [*insert name of Procuring Entity*]
 - iv) Email address: [*insert email address*]
- c) At this point in the procurement process, you may submit a Procurement-related Complaint challenging the decision to award the contract. You do not need to have requested, or received, a debriefing before making this complaint. Your complaint must be submitted within the Standstill Period and received by us before the Standstill Period ends.
- d) Further information: For more information refer to the Public Procurement and Disposals Act 2015 and its Regulations available from the Website www.ppra.go.ke.

You should read these documents before preparing and submitting your complaint.

- e) There are four essential requirements:
 - i) You must be an 'interested party'. In this case, that means a Tenderer who submitted a Tender in this tendering process and is the recipient of a Notification of Intention to Award.
 - ii) The complaint can only challenge the decision to award the contract.
 - iii) You must submit the complaint within the period stated above.
 - iv) You must include, in your complaint, all of the information required to support your complaint.

7. Standstill Period

- i) **DEADLINE:** The Standstill Period is due to end at midnight on [*insert date*] (local time).
- ii) The Standstill Period lasts ten (14) Days after the date of transmission of this Notification of Intention to Award.
- iii) The Standstill Period may be extended as stated in paragraph Section 5(d) above.

If you have any questions regarding this Notification please do not hesitate to contact us. On behalf of the Procuring Entity:

Signature: _____

Name: _____

Title/position: _____

Telephone: _____

FORM NO. 2- REQUEST FOR REVIEW

FORM FOR REVIEW (r.203(1))

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO..... OF.....20.....

BETWEEN

..... APPLICANT

AND

.....RESPONDENT (Procuring Entity)

Request for review of the decision of the..... (Name of the Procuring Entity ofdated the...day of20.....in the matter of Tender No.....of20..... for (Tender description).

REQUEST FOR REVIEW

I/We....., the above named Applicant(s), of address: Physical address..... P. O. Box No..... Tel. No..... Email, hereby request the Public Procurement Administrative Review Board to review the whole/part of the above mentioned decision on the following grounds , namely:

- 1.
- 2.

By this memorandum, the Applicant requests the Board for an order/orders that:

- 1.
- 2.

SIGNED(Applicant) Dated on.....day of/...20.....

FOR OFFICIAL USE ONLY Lodged with the Secretary Public Procurement Administrative Review Board on.....day of20.....

SIGNED

Board Secretary

FORM NO 3: LETTER OF AWARD

letterhead paper of the Procuring Entity]

[date]

To: *[name and address of the Contractor]*

This is to notify you that your Tender dated *[date]* for execution of the *[name of the Contract and identification number, as given in the Contract Data]* for the Accepted Contract Amount *[amount in numbers and words]* *[name of currency]*, as corrected and modified in accordance with the Instructions to Tenderers, is here by accepted by..... *(name of Procuring Entity)*.

You are requested to furnish the Performance Security within in accordance with the Conditions of Contract, using, for that purpose, one of the Performance Security Forms included in Section VIII, Contract Forms, of the Tender Document.

Authorized Signature:

Name and Title of Signatory:

Name of Procuring Entity:

Attachment: *Contract Agreement*:

FORM NO 4: CONTRACT AGREEMENT

THIS AGREEMENT made the day of..... 20....., between.....
.....of..... (hereinafter “the Procuring Entity”), of the one part, and _____ of _____ (hereinafter “the Contractor”), of the other part:

WHEREAS the Procuring Entity desires that the Works known as _____ should be executed by the Contractor, and has accepted a Tender by the Contractor for the execution and completion of these Works and the remedying of any defects there in,

The Procuring Entity and the Contractor agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.
 - a) The Notification of Award
 - b) the Form of Tender
 - c) the addenda Nos _____ (if any)
 - d) the Special Conditions of Contract
 - e) the General Conditions of Contract;
 - f) the Specifications
 - g) the Drawings; and
 - h) the completed Schedules and any other documents forming part of the contract.
3. In consideration of the payments to be made by the Procuring Entity to the Contractor as specified in this Agreement, the Contractor here by covenants with the Procuring Entity to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Procuring Entity here by covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects there in, 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.

INWITNESS where of the parties here to have caused this Agreement to be executed in accordance with the Laws of Kenya on the day, month and year specified above.

Signed and sealed by _____ (for the Procuring Entity)

Signed and sealed by _____ (for the Contractor).

FORM NO. 5 - PERFORMANCE SECURITY

[Option 1 - Unconditional Demand Bank Guarantee]

[Guarantor letterhead]

Beneficiary: *[insert name and Address of Procuring Entity]*

Date: _____ *[Insert date of issue]*

Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

1. We have been informed that _____ (hereinafter called "the Contractor") has entered into Contract No. _____ dated _____ with (name of Procuring Entity) _____ (the Procuring Entity as the Beneficiary), for the execution of _____ (hereinafter called "the Contract").
2. Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.
3. At the request of the Contractor, we as Guarantor, here by irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____ (in words),¹ such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.
4. This guarantee shall expire, no later than the.....Day of.....,2.....², and any demand for payment under it must be received by us at the office indicated above on or before that date.
5. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months] [one year]*, in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.”

[Name of Authorized Official, signature(s) and seals/stamps]

Note: *All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.*

¹The Guarantor shall insert an amount representing the percentage of the Accepted Contract Amount specified in the Letter of Acceptance, less provisional sums, if any, and denominated either in the currency of the Contract or a freely convertible currency acceptable to the Beneficiary.

²Insert the date twenty-eight days after the expected completion date as described in GC Clause 11.9. The Procuring Entity should note that in the event of an extension of this date for completion of the Contract, the Procuring Entity would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee.

FORM No. 6- PERFORMANCE SECURITY

[Option 2– Performance Bond]

[Note: Procuring Entities are advised to use Performance Security – Unconditional Demand Bank Guarantee instead of Performance Bond due to difficulties involved in calling Bond holder to action]

[Guarantor letterhead or SWIFT identifier code] **Beneficiary:** *[insert name and Address of Procuring Entity]*

Date: _____ *[Insert date of issue]* **PERFORMANCE BOND No.:** _____

Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

1. By this Bond _____ as Principal (hereinafter called “the Contractor”) and _____] as Surety (hereinafter called “the Surety”), are held and firmly bound unto _____] as Obligee (hereinafter called “the Procuring Entity”) in the amount of _____ for the payment of which sum well and truly to be made in the types and proportions of currencies in which the Contract Price is payable, the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.
2. WHEREAS the Contractor has entered into a written Agreement with the Procuring Entity dated the _____ day of _____, 20_____, for _____ in accordance with the documents, plans, specifications, and amendments there to, which to the extent here in provided for, are by reference made part here of and are here in after referred to as the Contract.
3. NOW, THEREFORE, the Condition of this Obligation is such that, if the Contractor shall promptly and faithfully perform the said Contract (including any amendments thereto), then this obligation shall be null and void; otherwise, it shall remain in full force and effect. Whenever the Contractor shall be, and declared by the Procuring Entity to be, in default under the Contract, the Procuring Entity having performed the Procuring Entity's obligations there under, the Surety may promptly remedy the default, or shall promptly:
 - a) Complete the Contract in accordance with its terms and conditions; or
 - b) Obtain a tender or tenders from qualified tenderers for submission to the Procuring Entity for completing the Contract in accordance with its terms and conditions, and upon determination by the Procuring Entity and the Surety of the lowest responsive Tenderers, arrange for a Contract between such Tenderer, and Procuring Entity and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the Balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term “Balance of the Contract Price,” as used in this paragraph, shall mean the total amount payable by Procuring Entity to Contractor under the Contract, less the amount properly paid by Procuring Entity to Contractor; or
 - c) Pay the Procuring Entity the amount required by Procuring Entity to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.
4. The Surety shall not be liable for a greater sum than the specified penalty of this Bond.
5. Any suit under this Bond must be instituted before the expiration of one year from the date of the issuing of the Taking-Over Certificate. No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Procuring Entity named here in or the heirs, executors, administrators, successors, and assigns of the Procuring Entity.
6. In testimony whereof, the Contractor has here unto set his hand and affixed his seal, and the Surety has caused these presents to be sealed with his corporate seal duly at tested by the signature of his legal representative, this day _____ of _____ 20_____.

SIGNED ON _____ on behalf of _____

By _____ in the capacity of _____

In the presence of _____

SIGNED ON _____ on behalf of _____

By _____ in the capacity of _____

In the presence of _____

FORM NO. 7 - ADVANCE PAYMENT SECURITY

[Demand Bank Guarantee]

[Guarantor letterhead]

Beneficiary: _____ *[Insert name and Address of Procuring Entity]* **Date:** _____ *[Insert date of issue]*

ADVANCE PAYMENT GUARANTEE No.: *[Insert guarantee reference number]*

Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

1. We have been informed that _____ (hereinafter called "the Contractor") has entered into Contract No. _____ dated _____ with the Beneficiary, for the execution of _____ (hereinafter called "the Contract").
2. Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum _____ (in words _____) is to be made against an advance payment guarantee.
3. At the request of the Contractor, we as Guarantor, here by irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____ (in words _____)¹ upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating either that the Applicant:
 - a) Has used the advance payment for purposes other than the costs of mobilization in respect of the Works; or
 - b) Has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.
4. A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the advance payment referred to above has been credited to the Contractor on its account number _____ at _____.
5. The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractor as specified in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety (90) percent of the Accepted Contract Amount, less provisional sums, has been certified for payment, or on the _____ day of _____, ² _____, ² _____, whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.
6. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months]* *[one year]*, in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.

[Name of Authorized Official, signature(s) and seals/stamps]

Note: *All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.*

¹The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency of the advance payment as specified in the Contract.

²Insert the expected expiration date of the Time for Completion. The Procuring Entity should note that in the event of an extension of the time for completion of the Contract, the Procuring Entity would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee.

FORM NO. 8 – RETENTION MONEY SECURITY

[Demand Bank Guarantee]

[Guarantor letterhead]

Beneficiary: _____ *[Insert name and Address of Procuring Entity]*

Date: _____ *[Insert date of issue]*

Advance payment guarantee no. *[Insert guarantee reference number]*

Guarantor: *[Insert name and address of place of issue, unless indicated in the letterhead]*

1. We have been informed that _____ *[insert name of Contractor, which in the case of a joint venture shall be the name of the joint venture]* (hereinafter called "the Contractor") has entered into Contract No. _____ *[insert reference number of the contract]* dated _____ with the Beneficiary, for the execution of _____ *[insert name of contract and brief description of Works]* (hereinafter called "the Contract").
2. Furthermore, we understand that, according to the conditions of the Contract, the Beneficiary retains moneys up to the limit set forth in the Contract ("the Retention Money"), and that when the Taking-Over Certificate has been issued under the Contract and the first half of the Retention Money has been certified for payment, and payment of *[insert the second half of the Retention Money]* is to be made against a Retention Money guarantee.
3. At the request of the Contractor, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of *[insert amount in figures]* _____ *([insert amount in words _____])*¹ upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or showgrounds for your demand or the sum specified there in.
4. A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the second half of the Retention Money as referred to above has been credited to the Contractor on its account number _____ at _____ *[insert name and address of Applicant's bank]*.
5. This guarantee shall expire no later than the.....Day of.....2.....², and any demand for payment under it must be received by us at the office indicated above on or before that date.
6. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months]* *[one year]*, in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.

[Name of Authorized Official, signature(s) and seals/stamps]

Note: *All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.*

¹The Guarantor shall insert an amount representing the amount of the second half of the Retention Money.

²Insert a date that is twenty-eight days after the expiry of retention period after the actual completion date of the contract. The Procuring Entity should note that in the event of an extension of this date for completion of the Contract, the Procuring Entity would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee.

FORM NO. 9 BENEFICIAL OWNERSHIP DISCLOSURE FORM

(Amended and issued pursuant to PPRA CIRCULAR No. 02/2022)

INSTRUCTIONS TO TENDERERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE FORM

This Beneficial Ownership Disclosure Form (“Form”) is to be completed by the successful tenderer pursuant to Regulation 13 (2A) and 13 (6) of the Companies (Beneficial Ownership Information) Regulations, 2020. In case of joint venture, the tenderer must submit a separate Form for each member. The beneficial ownership information to be submitted in this Form shall be current as of the date of its submission.

For the purposes of this Form, a Beneficial Owner of a Tenderer is any natural person who ultimately owns or controls the legal person (tenderer) or arrangements or a natural person on whose behalf a transaction is conducted, and includes those persons who exercise ultimate effective control over a legal person (Tenderer) or arrangement.

Tender Reference No.: _____ [insert identification
no] Name of the Tender Title/Description: _____ [insert name of the
assignment] to: _____ [insert complete name of Procuring Entity]

In response to the requirement in your notification of award dated ___ [insert date of notification of award] to furnish additional information on beneficial ownership: _____ [select one option as applicable and delete the options that are not applicable]

I) We here by provide the following beneficial ownership information.

Details of Beneficial ownership

| | Details of all Beneficial Owners | | % of shares a person holds in the company Directly or indirectly | % of voting rights a person holds in the company | Whether a person directly or indirectly holds a right to appoint or remove a member of the board of directors of the company or an equivalent governing body of the Tenderer (Yes / No) | Whether a person directly or indirectly exercises significant influence or control over the Company (tenderer) (Yes / No) |
|--------------------------|---|--|---|---|--|--|
| 1. | Full Name | | Directly----- ----- % of shares Indirectly---- ----- % of shares | Directly.....% of voting rights Indirectly----- % of voting rights | 1. Having the right to appoint a majority of the board of the directors or an equivalent governing body of the Tenderer: Yes ----No---- 2. Is this right held directly or indirectly?: Direct..... ... Indirect..... ... | 1. Exercises significant influence or control over the Company body of the Company (tenderer) Yes ----No---- 2. Is this influence or control exercised directly or indirectly? Direct..... Indirect..... |
| | National identity card number or Passport number | | | | | |
| | Personal Identification Number (where applicable) | | | | | |
| | Nationality | | | | | |
| | Date of birth [dd/mm/yyyy] | | | | | |
| | Postal address | | | | | |
| | Residential address | | | | | |
| | Telephone number | | | | | |
| | Email address | | | | | |
| Occupation or profession | | | | | | |

| Details of all Beneficial Owners | | % of shares a person holds in the company Directly or indirectly | % of voting rights a person holds in the company | Whether a person directly or indirectly holds a right to appoint or remove a member of the board of directors of the company or an equivalent governing body of the Tenderer (Yes / No) | Whether a person directly or indirectly exercises significant influence or control over the Company (tenderer) (Yes / No) |
|----------------------------------|---|---|---|---|---|
| 2. | Full Name | Directly----- ----- % of shares Indirectly---- ----- % of shares | Directly.....% of voting rights Indirectly----- % of voting rights | 1. Having the right to appoint a majority of the board of the directors or an equivalent governing body of the Tenderer: Yes ----No---- 2. Is this right held directly or indirectly?: Direct..... ... Indirect..... ... | 1. Exercises significant influence or control over the Company body of the Company (tenderer) Yes ----No---- 2. Is this influence or control exercised directly or indirectly? Direct..... Indirect..... |
| | National identity card number or Passport number | | | | |
| | Personal Identification Number (where applicable) | | | | |
| | Nationality(ies) | | | | |
| | Date of birth [dd/mm/yyyy] | | | | |
| | Postal address | | | | |
| | Residential address | | | | |
| | Telephone number | | | | |
| | Email address | | | | |
| | Occupation or profession | | | | |
| 3. | | | | | |
| e.t | | | | | |
| .c | | | | | |

II) Am fully aware that beneficial ownership information above shall be reported to the Public Procurement Regulatory Authority together with other details in relation to contract awards and shall be maintained in the Government Portal, published and made publicly available pursuant to Regulation 13(5) of the Companies (Beneficial Ownership Information) Regulations, 2020. (Notwithstanding this paragraph Personally Identifiable Information in line with the Data Protection Act shall not be published or made public). *Note that Personally Identifiable Information (PII) is defined as any information that can be used to distinguish one person from another and can be used to deanonymize previously anonymous data. This information includes National identity card number or Passport number, Personal Identification Number, Date of birth, Residential address, email address and Telephone number.*

III) In determining who meets the threshold of who a beneficial owner is, the Tenderer must consider a natural person who in relation to the company:

- (a) holds at least ten percent of the issued shares in the company either directly or indirectly;
- (b) exercises at least ten percent of the voting rights in the company either directly or indirectly;
- (c) holds a right, directly or indirectly, to appoint or remove a director of the company; or
- (d) exercises significant influence or control, directly or indirectly, over the company.

IV) What is stated to herein above is true to the best of my knowledge, information and belief.

Name of the Tenderer:[insert complete name of the Tenderer]_____*

*Name of the person duly authorized to sign the Tender on behalf of the Tenderer: ** [insert complete name of person duly authorized to sign the Tender]*

Designation of the person signing the Tender: [insert complete title of the person signing the Tender]

Signature of the person named above: [insert signature of person whose name and capacity are shown above]

Date this [insert date of signing] day of..... [Insert month], [insert year]

Bidder Official Stamp