NG-CDF BOARD

National Government Constituencies Development Fund Board
Webuye East Constituency
At Webuye East Sub County HQs
P.O Box 404-50205, WEBUYE
Tel: ..... | Cell: 070426594
Email: cdfwebuyeeast@ngcdf.go.ke | Website:www.ngcdf.go.ke

Date: 24-09-2024

ADVERTISEMENT!!

TENDER INVITATION NOTICE!!!!!

NG-CDF WEBUYE EAST AND THE PMC FOR ST. CECILIA MISIKHU GIRLS HIGH SCHOOL INVITES BIDS FROM ELIGIBLE BIDDERS PRE-QUALIFIED BY NG-CDF WEBUYE EAST FOR PROPOSED ERECTION AND COMPLETION OF A DORMITORY BOCK AS ILLUSTRATED BELOW; -

	TENDER NO.	SCHOOL NAME	SCOPE DESCRIPTION	TARGET GROUP
1	NG-CDF/STCMGHS/001/2022-2023-4	St. Cecilia Misikhu Girls High School	Construction to completion of a 120 students' capacity dormitory block with allowance to connect to an existing septic tank.	Open

Eligible bidders are invited to submit their filled application in **original** and **duplicate copies** put in separate envelopes, marked original/duplicate respectively; and marked with the **relevant tender number** as above.

The tender documents can be downloaded from Public Procurement Information Portal (PPIP) website www.tenders.go.ke or NG-CDF website www.ngcdf.go.ke for free.

NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND
0704 265941
WEBUYE EAST CONSTITUENCY
24 SEP 2024
FUND ACCOUNT MANAGER
P.O. Box 404-50205, WEBUYE (K)

MANDATORY REQUIREMENTS

1. Certified copy of Company registration/incorporation.
2. Certified copy of NCA certificate category 8 and above.
3. Certified renewed copy of annual practicing license with NCA.
4. Certified copy of valid/current tax compliance certificate (KRA).
5. Certified copy of KRA pin certificate.
6. Certified copy of CR12 for limited companies (should be within 12 months).
7. Certified copies of IDs/passports for directors as per attached CR12.
8. Certified copy of valid single business permit from any county government authority.
9. Prove of previous works done of similar magnitude (Completion Certificate from public Works).
10. Certified copies of Bank statements for 6 months from the time of advertisement.
11. Dully filled, signed and stamped self-declaration form SD1 (Public Procurement and Disposal Act non debarment form).
12. Dully filled, signed and stamped self-declaration form SD2 (Anti-corruption pledge).
13. All pages MUST be stamped and serialized/paged.
14. Dully filled, signed and stamped form of tender in the format prescribed **(on the contractor's letter head).**
15. Provision of Bid Security of Kshs.50, 000 from reputable bank or Insurance Company in republic of Kenya approved by PPRA.

All bids to be dropped in the tender box at the Webuye East NG-CDF Office by Wednesday 2nd October, 2024 on or before 10.00am and immediately thereafter, tenders shall be opened in the presence of the tenderers or their representatives.

Tenders to be addressed to the **Fund Account Manager Webuye East NG-CDF** as per the below address; -

THE FUND ACCOUNT MANAGER

NG-CDF WEBUYE EAST

P.O BOX 404-50205

WEBUYE.



REPUBLIC OF KENYA
DEPARTMENT OF PUBLIC WORKS

SPECIFICATIONS AND BILLS OF QUANTITIES

FOR

PROPOSED ERECTION AND COMPLETION WORKS OF DORMITORY BLOCK AT

ST. CECILIA GIRLS HIGH SCHOOL - MISIKHU

IN BUNGOMA COUNTY

TENDER NO.....

PREPARED BY

County Quantity Surveyor
P.O Box 763
Bungoma.

COUNTY WORKS OFFICER
BUNGOMA COUNTY
P.O. Box 763
BUNGOMA

County Architect
P.O Box 763
Bungoma.

County Elect. Mech. Engineer
P.O Box 763
Bungoma.

County structural Engineer
P.O Box 763
Bungoma.

Issued By:
County Works Officer
Department of Public Works
P.O. Box 763

PROPOSED ERECTION AND COMPLETION WORKS OF DORMITORY BLOCK AT ST. CECILIA MISIKHU GIRLS HIGH SCHOOL-WEBUYE EAST SUB-COUNTY IN BUNGOMA COUNTY.

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PART1: TENDERING PROCEDURES

CTION I - INSTRUCTIONS TO TENDERERS

GENERAL PROVISIONS

1.0 Scope of tender

1.1 The Procuring Entity as defined in the Appendix to Conditions of Contract invites tenders for Works Contractas described in the tender documents. The name, identification, and number of lots (contracts) of this Tender Document arespecifiedintheTDS.

1.2 Throughoutthistenderingdocument:

a) The term "in writing" means communicated in written form (e.g. by mail, e-mail, fax, including if specified in the TDS, distributed or received through the electronic-procurement system used by the Procuring Entity) with proof of receipt;

b) If the context so requires,"singular"means"plural"and vice versa;

c) "Day"means calendar day, unless otherwise specified as "Business Day". A Business Day is any day that lan official working day of the Procuring Entity.It excludes official public holidays.

2.0 Fraudand corruption

2.1 The Procuring Entity requires compliance with the provisions of the Public Procurement and Asset DisposalAct, 2015, Section 62 "Declaration not to engage in corruption". The tender submitted by a person shall include a declaration that the persons hall not engage in any corrupt or fraudulent practice and a declaration that the person or his or her sub-contractors are not debarred from participating in public procurement proceedings.

2.2 The Procuring Entity requirescompliancewith the provisions of the Competition Act2010, regarding collusive practices in contracting. Any tenderer found to have engaged in collusive conduct shall be disqualified and criminal and / or civil sanctions may be imposed. To this effect, Tenders shall be required to complete and sign the"Certificate of Independent Tender Determination"annexed to the Form of Tender.

2.3 Tenderersshallpermitandshallcausetheiragents(whetherdeclaredornot),sub-contractors,sub-consultants, service providers, suppliers, and their personnel, to permit the Procuring Entity to inspect allaccounts, records and other documents relating to any initial selection process, pre-qualification process,tender submission, proposal submission, and contract performance (in the case of award), and to have themauditedbyauditorsappointedbythe ProcuringEntity.

2.4 Unfair Competitive Advantage - Fairness and transparency in the tender process require that the firms or theirAffiliates competing for a specific assignment do not derive a competitive advantage from having providedconsulting services related to this tender. To that end, the Procuring Entity shall indicate in the **Data Sheet**and make available to all the firms together with this tender document all information that would in thatrespectgive suchfirmany unfaircompetitiveadvantage overcompetingfirms.

3.0 Eligible tenderers

3.1 ATenderer may be afirm that is aprivate entity, a state-owned enterprise or institution subject to ITT3.8, oran individual or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the intent to enter in to such an agreement supported by a letter of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the entire Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall havethe authority to conduct all business for and on behalf of any and all the members of the JV during thetendering process and, in the event the JV is awarded the Contract, during contract execution. Members of ajoint venture may not also make an individual tender, be a subcontractor in a separate tender or be part ofanother joint venture for the purposes of the same Tender. The maximum number of JV members shall bespecified inthe **TDS**.

3.2 Public Officers of the Procuring Entity, their Spouses, Child, Parent, Brothers or Sister, Child, Parent, Brother or Sister of a Spouse, their business associates or agents and firms /organizations in which they have a substantial or controlling interest shall not be eligible to tender or be awarded acontract. Public Officers are also not allowed to participate in any procurement proceedings.

3.3 A Tenderer shall not have a conflict of interest. Any tenderer found to have a conflict of interest shall bedisqualified. A tenderer may be considered to have a conflict of interest for the purpose of this tendering process, if the tenderer:

a) Directly or indirectly controls, is controlled by or is under common control with another tenderer;

b) Receives or has received any direct or in direct subsidy from another tenderer;

c) Has the same legal representative as another tenderer;

d) Has a relationship with another tenderer, directly or through common third parties, that put sit in aposition to influence the tender of another tenderer, or influence the decisions of the Procuring Entity regarding this tendering process;

e) Any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the goods or works that are the subject of the tender;

f) Any of its affiliates has been hired (or is proposed to be hired) by the Procuring Entity as a consultant for Contract implementation;

g) Would be providing goods, works, or non-consulting services resulting from or directly related toconsulting services for the preparation or implementation of the contract specified in this Tender Document;

h) Has a close business or personal relationship with senior management or professional staff of the Procuring Entity who has the ability toinfluence the bidding process and:

i) Are directly or indirectly involved in the preparation of the Tender document or specifications oftheContract, and/or theTender evaluation process of such contract; or

ii) Maybe involved in the implementation or supervision of such Contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Procuring Entity through out the tendering process and execution of the Contract.

3.4 A tenderer shall not be involved in corrupt, coercive, obstructive or fraudulent practice. A tenderer that is proven to have been involved in any of these practices hall be automatically disqualified

3.5 A Tenderer (either individually or as a JV member) shall not participate in more than one Tender, except for permitted alternative tenders. This includes participation as a sub-contractor in other Tenders. Such participation shall result in the disqualification of all Tenders in which the firm is involved. Members of a joint venture may not also make an individual tender, be a sub-contractor in a separate tender or be part ofanother joint venture for the purposes of the same Tender. A firm that is not a tenderer or a JV member may participate as asubcontract or in more than one tender.

3.6 A Tenderer may have the nationality of any country, subject to the restrictions pursuant to ITT3.9. A Tenderer shall be deemed to have the nationality of a country if the Tenderer is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case maybe. This criterion also shall apply to the determination of the nationality of proposed sub-contractors or sub-consultants for any part of the Contract including related Services.

3.7 A Tenderer that has been debarred from participating in public procurement shall be ineligible to tender or beawarded a contract. The list of debarred firms and individuals is available from the website of PPRA www.ppra.go.ke.

3.8 A Tenderer that is a state-owned enterprise or a public institution in Kenya may be eligible to tender and be awarded Contract(s) only if it is determined by the Procuring Entity to meet the following conditions, i.e. if itis:

i) A legal public entity of Government and/or public administration,

ii) financially autonomous and not receiving any significant subsidies or budget support from any publicentityorGovernment and;

(iii) Operating under commercial law and vested with legal rights and liabilities similar to any commercial enterprises to enable it compete with firms in the private sector on an equal basis.

3.9 Firms and individuals shall be ineligible if their countries of origin are:

(a) As a matter of law or official regulations, Kenya prohibits commercial relations with that country;

(b) By an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Kenya prohibits any import of goods or contracting of works or services from that country, or any payments to any country, person, or entity in that country.

A tenderer shall provide such documentary evidence of eligibility satisfactory to the Procuring Entity, as the Procuring Entity shall reasonably request.

3.10 Foreign tenderers are required to source at least forty (40%) percent of their contract inputs (in supplies, local sub-contracts and labor) from citizen suppliers and contractors.To this end, a foreign tenderer shall provide inits tender documentary evidence that this requirement is met. Foreign tenderers not meeting this criterion will be automatically disqualified. Information required to enable the Procuring Entity determine if this condition is met shall be provided for this purpose in *"SECTION III-EVALUATION AND QUALIFICATION CRITERIA, Item9"*.

3.11 Pursuant to the eligibility requirements of ITT3.10, atender is considered aforeign tenderer, if it is registered in Kenya and has less than 51 percent ownership by nationals of Kenya and if it does not subcontract to foreign firms or individuals more than 10 percent of the contract price, excluding provisional sums. JVs are considered as foreign tenderers if the individual member firms registered in Kenya have less 51 percent ownership by nationals of Kenya. The JV shall not subcontract to foreign firms more than 10 percent of the contract price, excluding provisional sums.

3.12 The National Construction Authority Act of Kenya requires that all local and foreign contractors be registered with the National Construction Authority and be issued with a Registration Certificate before they can undertake any construction works in Kenya. Registration shall not be a condition for tender, but it shall be a condition of contract award and signature. A selected tenderer shall be given opportunity to register before such award and signature of contract. Application for registration with National Construction Authority may be accessed from the website www.nca.go.ke.

3.13 The Competition Act of Kenya requires that firms wishing to tender as Joint Venture undertakings which may prevent, distort or lessen competition in provision of services are prohibited unless they are exempt inaccordance with the provisions of Section 25 of the Competition Act, 2010. JVs will be required to seek for exemption from the Competition Authority.Exemption shall not be acondition for tender, but it shall be acondition of contract award and signature. A JV tenderer shall be given opportunity to seek such exemption as a condition of award and signature of contract. Application for exemption from the Competition Authority of Kenya maybe accessed from the website www.cak.go.ke.

4.14 A Kenya in tenderer shall be eligible to tender if it provides evidence of having fulfilled his/her tax obligations by producing valid tax compliance certificate or tax exemption certificate issued by the Kenya Revenue Authority.

4.0 Eligible goods, equipment, and services

4.1 Goods, equipment and services to be supplied under the Contract may have their origin in any country that is not ineligible under ITT3.9. At the Procuring Entity's request, Tenderers may be required to provide evidence of the origin of Goods, equipmentand services.

4.2 Any goods, works and production processes with characteristics that have been declared by the relevant national environmental protection agency or by other competent authority as harmful to human beings and to the environment shall not be eligible for procurement.

5.0 Tenderer'sresponsibilities

5.1 The tenderer shall bear all costs associated with the preparation and submission of his/her tender, and the Procuring Entity will in nocase be responsible or liable for those costs.

5.2 The tenderer, at the tenderer's own responsibility and risk, is encouraged to visit and examine and inspect the Site of the Works and its surroundings and obtain all information that may be necessary for preparing the tender and entering in to a contract for construction of the Works. The costs of visiting the Site shall be at the tenderer's own expense.

5.3 The Tenderer and any of its personnel or agents will be granted permission by the Procuring Entity to enter upon its premises and lands for the purpose of such visit.The Tenderer shall indemnify the Procuring Entity against all liability arising from death or personal injury, loss of or damage to property, and any other losses and expenses incurred as a result of the examination and inspection.

5.4 The tenderer shall provide in the Form of Tender and Qualification Information, a preliminary description of the proposed work method and schedule, including charts, as necessary or required.

B. CONTENTS OF TENDER DOCUMENTS

6.0 Sections of Tender Document

6.1 The tender document consists of Parts 1, 2, and 3, which includes all the sections specified below, and which should be read inconjunction with anyAddenda issued inaccordance with ITT10.

PART 1: Tendering Procedures
Section I – Instructions to Tenderers
Section II – Tender Data Sheet (TDS)
Section III- Evaluation and Qualification
Criteria SectionIV–Tendering Forms

PART 2: Works' Requirements
Section V - Bills of Quantities
Section VI - Specifications
SectionVII-Drawings

PART 3: Conditions of Contract and Contract Forms
Section VIII-General Conditions (GCC)
Section IX – Special Conditions of Contract
SectionX– Contract Forms

6.2 The Invitation to Tender Notice issued by the Procuring Entity is not part of the Contract documents. Unless obtained directly from the Procuring Entity, the Procuring Entity is not responsible for the completeness of the Tender document, responses to requests for clarification, the minutes of a pre-arranged site visit and those of the pre-Tender meeting (if any), or Addenda to theTender document in accordance with ITT10. In case of any contradiction, documents obtained directly from the Procuring Entity shall prevail.

6.3 TheTenderer is expected to examine all instructions, forms, terms, and specifications in the Tender Document and to furnish with its Tender all information and documentation as is required by the Tender document.

7.0 Clarification of Tender Document, SiteVisit, Pre-tender Meeting

7.1 ATenderer requiring any clarification of the Tender Document shall contact the Procuring Entity in writing at the Procuring Entity's address specified in the **TDS** or raise its enquiries during the pre-Tender meeting if provided for in accordance with ITT 7.2. The Procuring Entity will respond in writing to any request for clarification, provided that such request is received no later than the period specified in the **TDS** prior to the deadline for submission of tenders. The Procuring Entity shall forward copies of its response to all tenderers who have acquired the Tender documents inaccordance with ITT7.4, including adescription of the inquiry but without identifying its source. If so specified in the **TDS**, the Procuring Entity shall also promptly publish its response at the web page identified in the **TDS**. Should the clarification result inchanges to the essential elements of the Tender Documents, the Procuring Entity shall amend the Tender Documents following the procedure under ITT8 and ITT 22.2.

7.2 The Tenderer, at the Tenderer's own responsibility and risk, is encouraged to visit and examine and inspect the site (s) of the required contract sand obtainall information that may be necessary for preparing a tender.The costs of visiting the Site shall be at the Tenderer's own expense. The Procuring Entity shall specify in the**TDS** if a pre-arranged Site visit and or a pre-tender meeting will be held, when and where. The Tenderer's designated representative is invited to attend a pre-arranged site visit and a pre-tender meeting, as the casemay be. The purpose of the site visit and the pre-tender meeting will be to clarify issue sand to answerquestions on anymatterthatmaybe raisedatthatstage.

7.3 The Tenderer is requested to submit any questions in writing, to reach the Procuring Entity not later than the period specified in the**TDS** before the meeting.

7.4 Minutes of a pre-arranged site visit and those of the pre-tender meeting, if applicable, including the text of the

questions asked by Tenderersand the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Tenderers who have acquired the Tender Documents. Minutes shall not identify the source of the questions asked.

75 The Procuring Entity shall also promptly publish anonymized (*nonames*) Minutes of the pre-arranged sitevisit and those of the pre-tender meeting at the web page identified in the **TDS**. Any modification to theTender Documents that may become necessary as a result of the pre-arranged site visit and those of the pre-tender meeting shall be made by the Procuring Entity exclusively through the issue of an Addendum pursuantto ITT8 and not through the minutes of the pre-Tender meeting. Non-attendance at the pre-arranged site visitandthepre-tender meetingwillnotbeacause for disqualificationofaTenderer.

80 Amendment of Tender Documents

81 At any time prior to the deadline for submission of Tenders, the Procuring Entity may amend the Tender Documents by issuing addenda.

82 Any addendum issued shall be part of the Tender Documents and shall be communicated in writing to allwhohave obtained the Tender Documents from the Procuring Entity. The Procuring Entity shall also promptly publish the addendum on the Procuring Entity's website inaccordance with ITT 7.5.

83 To give Tenderers reasonable time in which to take an addendum into account in preparing their Tenders, the Procuring Entity should extend the deadline for the submission of Tenders, pursuant to ITT 22.2.

C. PREPARATION OF TENDERS

9. Cost of Tendering

TheTenderer shall bear all costs associated with the preparation and submission of its Tender, and the Procuring Entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.

10.0Language of Tender

The Tender, as well as all correspondence and documents relating to the tender exchanged by the tenderer and the Procuring Entity, shall be written in the English Language.Supporting documents and printed literature that are part of the Tender may be in another language provided they are accompanied by an accurate and authorized translation of the relevant passages in to the English Language, in which case, for purposes of interpretation of the Tender, such translation shall govern.

11.0 Documents Comprising the Tender

11.1 The Tender shall comprise the following:

a) Form of Tender prepared inaccordance with ITT 12;
b) Schedules including priced Bill of Quantities, completed inaccordance with ITT 12 and ITT 14;
c) Tender Security or Tender-Securing Declaration, inaccordance with ITT 19.1;
d) Alternative Tender, if permissible, inaccordance with ITT 13;
e) ***Authorization***: written confirmation authorizing the signatory of the Tender to commit the Tenderer, inaccordance with ITT 20.3;
f) *Qualifications*: documentary evidence inaccordance with ITT 17 establishing the Tenderer's qualifications to perform the Contract if its Tender is accepted;
g) *Conformity*: atechnical proposal inaccordance with ITT 16;
h) Any other document required in the **TDS**.

11.2 In addition to the requirements under ITT 11.1, Tenders submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of a successful Tender shall be signed by all members and submitted with the Tender, together with a copy of the proposed JV Agreement. Change of membership and conditions of the JV prior to contract signature will render the tender liable for disqualification.

12.0 Form of Tender and Schedules

12.1 The Form of Tender and Schedules, including the Bill of Quantities, shall be prepared using the relevant forms furnished in Section IV, Tendering Forms.The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITT 20.3. All blank spaces shall be filled in with the information requested. The Tenderer shall chronologically serialize all pages of the tender documents submitted.

12.2 The Tenderer shall furnish in the Form of Tender information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Tender.

13. Alternative Tenders

13.1 Unless otherwise specified in the TDS, alternative Tenders shall not be considered.

13.2 When alternative times for completion are explicitly invited, a statement to that effect will be included in the **TDS**, and the method of evaluating different alternative times for completion will be described in Section III, Evaluation and Qualification Criteria.

13.3 Except as provided under ITT 13.4 below, Tenderers wishing to offer technical alternatives to the requirements of the Tender Documents must first price the Procuring Entity's design as described in the Tender Documents and shall further provide all information necessary for a complete evaluation of the alternative by the Procuring Entity, including drawings, design calculations, technical specifications, breakdown of prices, and proposed construction methodology and other relevant details. Only the technical lalternatives, if any, of the Tenderer with the Winning Tender conforming to the basic technical requirements shall be considered by the Procuring Entity.

13.4 When specified in the **TDS**, Tenderers are permitted to submit alternative technical solutions for specified parts of the Works, and such parts will be identified in the **TDS**, as will the method for their evaluating, and described in Section VII, Works' Requirements.

14.0 Tender Prices and Discounts

14.1 The prices and discounts (including any price reduction) quoted by the Tenderer in the Form of Tender and in the Bill of Quantities shall conform to the requirements specified below.

14.2 The Tenderer shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items against which no rate or price is entered by the Tenderer shall be deemed covered by the rates for other items in the Bill of Quantities and will not be paid for separately by the Procuring Entity. An item not listed in the priced Bill of Quantities shall be assumed to be not included in the Tender, and provided that the Tender is determined substantially responsive notwithstanding this omission, the average price of the item quoted by substantially responsive Tenderers will be added to the Tender price and the equivalent total cost of the Tender so determined will be used for price comparison.

14.3 The price to be quoted in the Form of Tender, inaccordance with ITT 12.1, shall be the total price of the Tender, including any discounts offered.

14.4 The Tenderer shall quote any discounts and the methodology for their application in the Form of Tender, inaccordance with ITT 12.1.

14.5 It will be specified in the **TDS** if the rates and price quoted by the Tenderer are or are not subject to adjustment during the performance of the Contract inaccordance with the provisions of the Conditions of Contract, except in cases where the contract is subject to fluctuations and adjustments, not fixed price. In such a case, the Tenderer shall furnish the indices and weightings for the price adjustment formulae in the Schedule of Adjustment Data and the Procuring Entity may require the Tenderer to justify its proposed indices and weightings.

14.6 Where tenders are being invited for individual lots (contracts) or for any combination of lots (packages), tenderers wishing to offer discounts for the award of more than one Contract shall specify in their Tender theprice reductions applicable to each package, or alternatively, to individual Contracts within the package. Discounts shall be submitted in accordance with ITT 14.4, provided the Tenders for all lots (contracts) are opened at the same time.

147 All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 30 days prior to the deadline for submission of Tenders, shall be included in the rates and prices and the total Tender Price submitted by the Tenderer.

150 **Currencies of Tender and Payment**

151 The currency (ies) of theTender and the currency (ies) of payments shall be the same.

152 Tenderers shall quote entirely in Kenya Shillings.The unit rates and the prices shall be quoted by the Tenderer in theBill of Quantities, entirely in Kenya shillings.

a) A Tenderer expecting to incur expenditures in other currencies for inputs to the Works supplied from outside Kenya (referred to as"the foreign currency requirements") shall (if so allowed in the **TDS**) indicate in the Appendix to Tender the percentage(s) of the Tender Price (excluding Provisional Sums), needed by the Tenderer for the payment of such foreign currency requirements, limited to not more than two foreign currencies.

b) The rates of exchange to be used by the Tenderer in arriving at the local currency equivalent and the percentage (s) mentioned in (a) above shall be specified by the Tenderer in the Appendix to Tender and shall be based on the exchange rate provided by the Central Bank of Kenya on t he date 30 days prior to the actual date of tender opening. Such exchange rate shall apply for all foreign payments under the Contract.

153 Tenderers may be required by the Procuring Entity to justify, to the Procuring Entity's satisfaction, their local and foreign currency requirements, and to substantiate that the amounts included in the unit rates and prices and shown in the Schedule of Adjustment Data in the Appendix to Tenderare reasonable, in which case a detailed breakdown of the foreign currency requirements shall be provided by Tenderers.

16.0 Documents Comprising the Technical Proposal

The Tenderer shall furnish a technical proposal including a statement of work methods, equipment, personnel, schedule and any other information as stipulated in SectionIV, Tender Forms, and insufficient detail to demonstrate the adequacy of the Tenderer's proposal to meet the work's requirements and the completion time.

170 **Documents Establishing the Eligibility and Qualifications of the Tenderer**

171 Tenderers shall complete the Form of Tender, included in Section IV, Tender Forms, to establish Tenderer's eligibility inaccordance with ITT4.

172 In accordance with Section III, Evaluation and Qualification Criteria, to establish its qualifications to perform the Contract the Tenderer shall provide the information requested in the corresponding information sheets included in Section IV, Tender Forms.

173 If a margin of preference applies as specified in accordance with ITT 33.1, national tenderers, individually origin joint ventures, applying for eligibility for nationa lpreference shall supply all information required to satisfy the criteria for eligibility specified inaccordance with ITT 33.1.

174 Tenderers shall be asked to provide, as part of the data for qualification, such information, including details of ownership, as shall be required to determine whether, according to the classification established by the Procuring Entity, a particular contractor or group of contractors qualifies for amargin of preference. Further the information will enable the Procuring Entity identify any actual or potential conflict of interest in relation to the procurement and / or contract management processes, or a possibility of collusion between tenderers, and thereby help to prevent any corrupt influence in relation to the procurement process or contract management.

175 The purpose of the information described in ITT 17.4 above overrides any claims to confidentiality which atenderer may have. There can be no circumstances in which it would be justified for a tenderer to keepinformation relating to its ownership and control confidential where it is tendering to undertake public secto rwork and receive public sector funds. Thus, confidentiality will not be accepted by the Procuring Entity as ajustification for a Tenderer's failure to disclose, or failure to provide required information on its ownership and control.

176 TheTenderer shall provide further documentary proof, information or authorizations that the Procuring Entity may request in relation to ownership and control which information on any changes to the information which was provided by the tenderer under ITT 6.4. The obligations to require this information shall continue for the duration of the procurement process and contract performance and after completion of the contract, if any change to the information previously provided may reveal a conflict of interest in relation to the award or management of the contract.

177 All information provided by the tenderer pursuant to the se requirements must be complete, current and accurate as at the date of provision to the Procuring Entity. In submitting the information required pursuant to these requirements, the Tenderer shall warrant that the information submitted is complete, current and accurate as at the date of submission to the procuring Entity.

17.8 If atenderer fails to submit the information required by these requirements, its tender will be rejected. Similarly, if the Procuring Entity is unable, after taking reasonable steps to verify to areasonable degree the information submitted by atenderer pursuant to these requirements, then the tender will be rejected.

17.9 If information submitted by atenderer pursuant to these requirements, or obtained by the Procuring Entity (whether through its own enquiries, through notification by the public or otherwise), shows any conflict of interest which could materially and improperly benefit the tenderer in relation to the procurement or contract management process, then:

i) If the procurement process is still ongoing, the tenderer will be disqualified from the procurement process,

ii) If the contract has been awarded to that tenderer, the contract award will be set aside pending the outcome of,

iii) The tenderer will be referred to the relevant law enforcement authorities for investigation of whether the tenderer or any other persons have committed any criminal offence.

17.10 If a tenderer submits information pursuant to these requirements that is incomplete, inaccurate or out-of-date, or attempts to obstruct the verification process, then the consequences ITT17.8 will ensue unless the tenderer can show to the reasonable satisfaction of the Procuring Entity that any such act was not material, or was due to genuine error which was not attributable to the intentional act, negligence or recklessness of the tender.

18.0 Period of Validity of Tenders

18.1. Tenders shall remain valid for theTenderValidity period specified in the **TDS**.The Tender Validity period starts from the date fixed for the Tender submission deadline (asprescribed by the Procuring Entity inaccordance with ITT22). Atender valid for a shorter period shall be rejected by the Procuring Entityasnon-responsive.

18.2 In exceptional circumstances, prior to the expiration of theTender validity period, the Procuring Entity may request Tenderers to extend the period of validity of their Tenders.The request and the responses shall be made in writing. If a Tender Security is requested inaccordance with ITT 19, it shall also be extended for thirty (30) days beyond the deadline of the extended validity period. A Tenderer may refuse the request without forfeiting its Tender security. ATenderer granting the request shall not be required or permitted to modify itsTender.

19.0 Tender Security

19.1 The Tenderer shall furnish as part of its Tender, either a Tender-Securing Declaration or a Tender Security as specified in the**TDS**. in original formand, in the case of aTender Security, in the amount and currency **specified** in the**TDS**.ATender-Securing Declaration shall use the form included in Section IV, Tender Forms.

19.2 If aTender Security is specified pursuant to ITT 19.1, the Tender Security shall be ademand guarantee in any of the following forms at the Tenderer's option:

i) cash;

ii) abank guarantee;

iii) aguarantee by an insurance company registered and licensed by the Insurance Regulatory Authority listed by the Authority;

(iv) A guarantee issued by afinancial institution approved and licensed by the Central Bank of Kenya, from a reputable source, and an eligible country.

19.3 If an unconditional bank guarantee isissued by abank located outside Kenya, the issuing bank shall have acorrespondent bank located in Kenya to make it enforceable. The Tender Security shall be valid for thirty (30) days beyond the original validity period of the Tender, or beyond any period of extension if requested under ITT 18.2.

19.4 If aTender Security or Tender-Securing Declaration is specified pursuant to ITT19.1, any Tender not accompanied by a substantially responsive Tender Security or Tender-Securing Declaration shall be rejected by the Procuring Entity as non-responsive.

19.5 If aTender Security is specified pursuant to ITT 19.1, the Tender Security of unsuccessful Tenderers shall be returned as promptly as possible upon the successful Tenderer's signing the Contract and furnishing the Performance Security and any other documents required in the TDS.The Procuring Entity shall also promptly return the tender security to the tenderers where the procurement proceedings are terminated, all tenders were determined non-responsive or a bider declines to extend tender validity period.

19.6 The Tender Security of the successful Tenderer shall be returned as promptly aspossible once the successful tenderer has signed the Contract and furnished the required Performance Security, and any other documents required in the TDS.

19.7 TheTender Security maybe forfeited or the Tender-Securing Declaration executed:

a) If a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer on the Form of Tender, or any extension there to provide by the Tenderer; or

b) If the successful Tenderer fails to:-

i) Sign the Contract inaccordance with ITT47; or

ii) Furnish aPerformance Security and if required in the TDS, and any other documents required in the TDS.

19.8 Where tender securing declaration is executed, the Procuring Entity shall recommend to the PPRA to debars the Tenderer from participating in public procurement as provided in the law.

19.9 The Tender Security or the Tender-Securing Declaration of a JV shall be in the name of the JV that submits the Tender. If the JV has not been legally constituted in to alegally enforceable JV at the time of tendering, the Tender Security or the Tender-Securing Declaration shall be in the names of all future members as named in the letter of intent referred to in ITT4.1 and ITT 11.2.

19.10 A tenderer shall not issue a tender security to guarantee itself.

20.0 Format and Signing of Tender

20.1 The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT 11 and clearly mark it "ORIGINAL." Alternative Tenders, if permitted in accordance with ITT 13, shall be clearly marked "ALTERNATIVE." Inaddition, the Tenderer shall submit copies of the Tender, in the numbe rspecified in the**TDS** and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.

20.2 Tenderers shall mark as "CONFIDENTIAL" all information in their Tenders which is confidential to their business. This may include proprietary information, trade secrets, or commercial or financially sensitive information.

20.3 The original and all copies of theTender shall be typed or written in indelible ink and shall be signed by aperson duly authorized to sign on behalf of the Tenderer.This authorization shall consist of a written confirmation as specified in the**TDS** and shall be attached to the Tender.The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of theTender where entries or amendments have been made shall be signed or initialed by the person signing theTender.

20.4 Incase the Tenderer is a JV, the Tender shall be signed by an authorized representative of the JV on behalf of the JV, and so as to be legally binding on all the members as evidenced by apower of attorney signed by their legally authorized representatives.

20.5 Any inter-lineation, erasures, or overwriting shall be valid only if they are signed or initialed by the personsigningtheTender.

D. SUBMISSION AND OPENING OF TENDERS

21.0 Sealing and Marking of Tenders

21.1 The Tenderer shall deliver the Tender in a single sealed envelope, or in a single sealed package, or in a single sealed container bearing the name and Reference number of the Tender, addressed to the Procuring Entity and a warning not to open before the time and date for Tender opening date. Within the single envelope, package or container, the Tenderer shall place the following separate, sealed envelopes:

a) In an envelope or packageor container marked "ORIGINAL", all documents comprising the Tender, as described in ITT11; and

b) In an envelope or package or container marked "COPIES", all required copies of the Tender; and

c) If alternative Tenders are permitted inaccordance with ITT13, and if relevant:

i) In an envelope or package or container marked "ORIGINAL–ALTERNATIVE TENDER", the alternativeTender; and

ii) In the envelope or package or container marked "COPIES-ALTERNATIVE TENDER", all required copies of the alternative Tender.

25.5 Next, all remaining envelopes shall be opened one at a time, reading out: the name of the Tenderer and whether there is amodification; the total Tender Price, perlot (contract) if applicable, including any discounts and alternative Tenders; the presence or absence of a Tender Security or Tender-Securing Declaration, if required; and any other details as the Procuring Entity may consider appropriate.

25.6 Only Tenders, alternative Tenders and discounts that are opened and read out at Tender opening shall be considered further for evaluation. The Form of Tender and pages of the Bill of Quantities (to be decided on by the tender opening committee) are to be initialed by the members of the tender opening committee attending theopening.

25.7 At theTender Opening, the Procuring Entity shall neither discuss the merits of any Tender nor reject any Tender (except for lateTenders, inaccordance with ITT 23.1).

25.8 The Procuring Entity shall prepare minutes of the Tender Opening that shall include, as a minimum:-

a) The name of theTenderer and whether there is awithdrawal, substitution, or modification;

b) TheTender Price, perlot (contract) if applicable, including any discounts;

c) Any alternative Tenders;

d) The presence or absence of a Tender Security, if it was required;

e) Number of pages of each tender document submitted.

25.9 The Tenderers' representatives who are present shall be requested to sign the minutes. The omission of aTenderer's signature on the minutes shall not invalidate the contents and effect of the minutes. A copy of thetenderopeningregistershallbedistributedtoallTenderers.

E. EVALUATION AND COMPARISON OF TENDERS

26. Confidentiality

26.1 Information relating to the evaluation of Tenders and recommendation of contract award shall not be disclosed to Tenderers or any other persons not officially concerned with the Tender process until information on Intention to Award the Contract is transmitted to all Tenderers inaccordance with ITT 43.

26.2 Any effort by a Tenderer to influence the Procuring Entity in the evaluation of the Tenders or Contract Award decisions may result in the rejection of its tender.

26.3 Notwithstanding ITT 26.2, from the time of tender opening to the time of contract award, if tenderer wishes to contact the Procuring Entity on any matter related to the tendering process, it shall do so in writing.

27.0 Clarification of Tenders

27.1 To assist in the examination, evaluation, and comparison of the tenders, and qualification of the tenderers, the Procuring Entity may, at its discretion, ask any tenderer for a clarification of its tender, given a reasonable time for a response. Any clarification submitted by a tenderer that is not in response to a request by the Procuring Entity shall not be considered. The Procuring Entity's request for clarification and the response shall be in writing. No change, including any voluntary increase ordecrease, in the prices or substance of the tender shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Procuring Entity in the evaluation of the tenders, inaccordance with ITT 31.

27.2 If a tenderer does not provide clarifications of its tender by the date and time set in the Procuring Entity's request for clarification, its Tende rmay be rejected.

28.0 Deviations, Reservations, and Omissions

28.1 During the evaluation of tenders, the following definitions apply:-

a) *"Deviation"* is adeparture from the requirements specified in the tender document;

b) *"Reservation"* is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the tender document, and

c) *"Omission"* is the failure to submit part or all of the information or documentation required in the Tender document.

29.0 Determination of Responsiveness

29.1 The Procuring Entity's determination of a Tender's responsiveness is to be based on the contents of the tender itself, as defined in ITT 11.

29.2 A substantially responsive Tender is one that meets the requirements of the Tender document without material deviation, reservation, or omission. Amaterial deviation, reservation, oromission is one that, if accepted, would:

a) Affect in any substantial way the scope, quality, or performance of theWorks specified in the Contract;

b) Limit in any substantial way, inconsistent with the tender document, the Procuring Entity's rights or the tenderer's obligations under the proposed contract;

c) if rectified, would unfairly affect the competitive position of other tenderers presenting substantially responsive tenders.

29.3 The Procuring Entity shall examine the technical aspects of the tender submitted inaccordance with ITT 16, to confirm that all requirements of Section VII, Works' Requirements have been met without any material deviation, reservation or omission.

29.4 If a tender is not substantially responsive to the requirements of the tender document, it shall berejected by the Procuring Entity and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

30.0 **Non-material Non-conformities**

30.1 Provided that a tender is substantially responsive, the Procuring Entity may waive any non-conformities in the tender.

30.2 Provided that a Tender is substantiall yresponsive, the Procuring Entity may request that the tenderer submit the necessary information or documentation, within a reasonable period of time, to rectify non-material non-conformities in the tender related to documentation requirements. Requesting information or documentation on such non-conformities shall not be related to any aspect of the price of the tender. Failure of the tenderer to comply with the request may result in the rejection of its tender.

30.3 Provided that a tender is substantially responsive, the Procuring Entity shall rectify quantifiable non-material, non-conformities related to the Tender Price.To this effect, the Tender Price shall be adjusted, for comparison purposes only, to reflect the price of a missing o rnon-conforming item or component in the manner specified **in the TDS.**

31.0 **Arithmetical Errors**

31.1 The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any person or entity.

31.2 Provided that the Tender is substantially responsive, the Procuring Entity shall handle errors on the following basis:-

a) Any error detected if considered a major deviation that affects the substance of the tender, shall lead to disqualification of the tender as non-responsive.

b) Any errors in the submitted tender arising from a miscalculation of unit price, quantity, sub-total and total bid price shall be considered as a major deviation that affects the substance of the tender and shall lead to disqualification of the tender as non-responsive. and

c) If there is a discrepancy between word sand figures, the amount in words shall prevail

31.3 Tenderers shall be notified of any error detected in their bid during the notification of award.

32.0 **Conversion to Single Currency**

For evaluation and comparison purposes, thecurrency (ies) of theTender shall be converted in to a single currency as specified in the **TDS**.

33.0 **Margin of Preference and Reservations**

33.1 A margin of preference may be allowed only when the contract is open to international competitive tendering where foreign contractors are expected to participate in the tendering process and where the contract exceeds the value / threshold specified in the Regulations.

33.2 A margin of preference shall not be allowed unless it is specified so in the**TDS**.

33.3 Contracts procured on basis of international competitive tendering shall not be subject to reservations exclusive to specific groups as provided in ITT 33.4.

33.4 Where it is intended to reserve a contract to a specific group of businesses (these groups areSmall and Medium Enterprises,Women Enterprises, Youth Enterprises and Enterprises of persons living with disability, as the case may be), and who are appropriately registered as such by the authority to be specified in the **TDS**, a procuring entity shall ensure that the invitation to tender specifically indicates that only businesses or firms belonging to the specified group are eligible to tender.No tender shall be reserved to more than one group.If not so stated in the Invitation to Tender and in the Tender documents, the invitation to tender will be open to all interested tenderers.

34.0 Nominated Sub-contractors

34.1 Unless otherwise stated in the **TDS,** the Procuring Entity does not intend to execute any specific elements of the Works by sub –contractors selected / nominated by the Procuring Entity. In case the Procuring Entity nominates a subcontractor, the sub-contract agreement shall be signed by the Sub-contractor and the Procuring Entity. The main contract shall specify the working arrangements between the main contractor and the nominated subcontractor.

34.2 Tenderers may propose sub-contracting up to the percentage of total value of contracts or the volume of works as specified in the **TDS**. Sub-contractors proposed by the Tenderer shall be fully qualified for their parts of the Works.

34.3 Domestic sub-contractor's qualifications shall not be used by the Tenderer to qualify for the Works unless their specialized parts of the Works were previously designated so by the Procuring Entity in the **TDS** as can be met by sub-contractors referred to hereafter as 'Specialized Subcontractors', in which case, the qualifications of the Specialized Sub-contractors proposed by the Tenderer may be added to the qualifications of the Tenderer.

35. Evaluation of Tenders

35.1 The Procuring Entity shall use the criteria and methodologies listed in this ITT and Section III, Evaluation and Qualification Criteria No other evaluation criteria o methodologies shall be permitted. By applying the criteria and methodologies the Procuring Entity shall determine the Lowest Evaluated Tender inaccordance with ITT 40.

35.2 To evaluate a Tender, the Procuring Entity shall consider the following:

a) Price adjustment inaccordance with ITT 31.1 (iii); excluding provisional sums and contingencies, if any, but including Daywork items,where priced competitively;

b) Price adjustment due to discounts offered inaccordance with ITT 14.4;

c) converting the amount resulting from applying (a) and (b) above, if relevant, to a single currency inaccordance with ITT32;

d) price adjustment due to quantifiable non- material, non-conformities inaccordance with ITT 30.3; and

e) any additional evaluation factors specified in the **TDS** and Section III, Evaluation and Qualification Criteria.

35.3 The estimate defect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be considered in tender evaluation.

35.4 Where the tender involves multiple lots or contracts, the tenderer will be allowed to tender for one or more lots (contracts). Each lot or contract will be evaluated in accordance with ITT 35.2. The methodology to determine the lowest evaluated tenderer or tenderers base done lot (contract) or base done acombination of lots (contracts), will be specified in Section III, Evaluation and Qualification Criteria. In the case of multiple lots or contracts, tenderer will be required to prepare the Eligibility and Qualification Criteria Form for each Lot.

36.0 Comparison of tenders

The Procuring Entity shall compare the evaluated costs of all substantially responsive Tenders established inaccordance with ITT 35.2 to determine theTender that has the lowest evaluated cost.

37.0 Abnormally low tenders and abnormally high

Abnormally LowTenders

37.1 An Abnormally Low Tender is one where the Tender price, in combination with other elements of the Tender, appears so low that it raises material concerns as to the capability of the Tenderer in regards to the Tenderer's ability to perform the Contract for the offered Tender Price or that genuine competition between Tenderers is compromised.

37.2 In the event of identification of apotentially Abnormally Low Tender, the Procuring Entity shall seek written clarifications from the Tenderer, including detailed price analyses of its Tender price in relation to the subject matter of the contract, scope, proposed methodology, schedule, allocation of risks and responsibilities and any other requirements of theTender document.

37.3 After evaluation of the price analyses, in the event that the Procuring Entity determines that the Tenderer has failed to demonstrate its capability to perform the Contract for the offered Tender Price, the Procuring Entity shall reject theTender.

Abnormally high tenders

37.4 An abnormally high tender price is one where the tender price, in combination with other constituent elements of the Tender, appears unreasonably too high to the extent that the Procuring Entity is concerned that it (the Procuring Entity) may not be getting value for money or it may be paying too high a price for the contract compared with market prices or that genuine competition between Tenderers is compromised.

37.5 In case of an abnormally high price, the Procuring Entity shall make a survey of the market prices, check if the estimated cost of the contract is correct and review theTender Documents to check if the specifications, scope of work and conditions of contract are contributory to the abnormally high tenders. The Procuring Entity may also seek written clarification from the tenderer on the reason for the high tender price. The Procuring Entity shall proceed as follows:

i) If the tende rprice is abnormally high based on wrong estimated cost of the contract, the Procuring Entity may accept or not accept the tender depending on the Procuring Entity's budget considerations.

ii) If specifications, scope of work and / or conditions of contract are contributory to the abnormally high tender prices, the Procuring Entity shall reject all tenders and may retender for the contract based on revised estimates, specifications, scope of work and conditions of contract, as the case may be.

37.6 If the Procuring Entity determines that the Tender Price is abnormally too high because genuine competition between tenderers is compromised (*often due to collusion, corruption or other manipulations*), the Procuring Entity shall reject all Tenders and shall institute or cause competent Government Agencies to institute an investigation on the cause of the compromise, beforere tendering.

38.0 **Unbalanced and/ or front-loaded tenders**

38.1 If in the Procuring Entity's opinion, the Tender that is evaluated as the lowest evaluated price is seriously unbalanced and /or front loaded, the Procuring Entity may require theTenderer to provide written clarifications. Clarifications may include detailed price analyses to demonstrate the consistency of the tender prices with thes cope of works, proposed methodology, schedule and any other requirements of the Tender document.

38.2 After the evaluation of the information and detailed price analyses presented by theTenderer, the Procuring Entity may as appropriate:

a) Accept theTender;

b) Require that the total amount of the Performance Security be increased at the expense of the Tenderer to a level not exceeding a 30% of theContract Price;

c) agree on a payment mode that eliminates the inherent risk of the Procuring Entity paying too much for undelivered works;

d) reject theTender.

39.0 Qualifications of the tenderer

39.1 The Procuring Entity shall determine to its satisfaction whether the eligible Tenderer that is selected as having submitted the lowest evaluated cost and substantially responsive Tender, meets the qualifying criteria specified in Section III, Evaluation and Qualification Criteria.

39.2 The determination shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT 17. The determination shall not take in to consideration qualifications of other firms such as the Tenderer's subsidiaries, parent entities, affiliates, subcontractors (otherthan Specialized Sub-contractors if permitted in the Tender document), or any other firm (s) different from the Tenderer.

39.3 An affirmative determination shall be aprerequisite for award of the Contract to the Tenderer. Anegative determination shall result in disqualification of the Tender, in which event the Procuring Entity shall proceed to the Tenderer who offers a substantially responsive Tender with the next lowest evaluated price to make asimilar determinationofthatTenderer'squalificationstoperformsatisfactorily.

40.0 Lowest evaluated tender

Having compared the evaluated prices of Tenders, the Procuring Entity shall determine the Lowest Evaluated Tender. The Lowest Evaluated Tender is the Tender of the Tenderer that meets the Qualification Criteria and whose Tender has been determined to be:

a) Most responsive to the Tender document; and

b) The lowest evaluated price.

41.0 Procuring entity's right to accept any tender, and to reject any or all tenders.

The Procuring Entity reserves the right to accept or reject any Tender and to annul the Tender process and reject all Tenders at any time prior to Contract Award, without thereby incurring any liability to Tenderers. Incase of annulment, all Tenders submitted and specifically, Tender securities, shall be promptly returned to the Tenderers.

F. AWARD OF CONTRACT

42.0 Award criteria

The Procuring Entity shall award the Contract to the successful tenderer whose tender has been determined to be the Lowest Evaluated Tender.

43.0 Notice of Intention to Enter in to a Contract / Notification of Award

Upon award of the contract and Prior to the expiry of the Tender Validity Period the Procuring Entity shall issuea Notification ofIntention to enter in to a Contract / Notification of award to all tenderers which shall contain, at a minimum, the following information:

a) The name and address of the Tenderer submitting the successful tender;

b) The Contract price of the successful tender;

c) a statement of the reason (s) the tender of the unsuccessful tenderer to whom the letter is addressed was unsuccessful, unless the price information in (c) above already reveals the reason;

d) the expiry date of the Standstill Period; and

e) instructions on how to request a debriefing and / or submit a complaint during the standstill period;

44.0 Standstill Period

44.1 The Contract shall not be signed earlier than the expiry of a Standstill Period of 14 days to allow any dissatisfied tender to launch a complaint.Where only one Tender is submitted, the Standstill Period shall not apply.

44.2 Where a Standstill Period applies, it shall commence when the Procuring Entity has transmitted to each Tenderer the Notification of Intention to enter in to aContract with the successful Tenderer.

45.0 Debriefing by the Procuring Entity

45.1 On receipt of the Procuring Entity's Notification of Intention to Enter into a Contract referred to in ITT 43, an unsuccessful tenderer may make a written request to the Procuring Entity for a debriefing on specific issues or concerns regarding their tender.The Procuring Entity shall provide the debriefing within five days of receipt of the request.

45.2 Debriefings of unsuccessful Tenderers may be done in writing or verbally. The Tenderer shall bear its own costs of attending such adebriefing meeting.

46.0 Letter of Award

Prior to the expiry of the Tender Validity Perioda nd upon expiry of the Standstill Period specified in ITT 42.1, Upon addressing acomplaint that has been filed within the Standstill Period; the Procuring Entity shall transmit the Letter of Award to the successful Tenderer. The letter of award shall request the successful tenderer to furnish the Performance Security within 21 days of the date of the letter.

47.0 Signing of Contract

47.1 Upon the expiry of the fourteen days of the Notification of Intention to enter in to contract and upon the parties meeting their respective statutory requirements, the Procuring Entity shall send the successful Tenderer the Contract Agreement.

47.2 Within fourteen (14) days of receipt of the Contract Agreement, the successful Tenderer shall sign, date, andreturnittotheProcuringEntity.

47.3 The written contract shall be entered into within the period specified in the notification of award and before expiry of the tender validity period.

48.0 Performance Security

48.1 Within twenty-one (21) days of the receipt of the Letter of Award from the Procuring Entity, the successful Tenderer shall furnish the Performance Security and, any other documents required in the **TDS**, inaccordance with the General Conditions of Contract, subject to ITT 38.2 (b), using the Performance Security and other Forms included in Section X, Contract Forms, or another form acceptable to the Procuring Entity. A foreign institution providing abank guarantee shall have acorrespondent financial institution located in Kenya, unless the Procuring Entity has agreed in writing that a correspondent bank is not required.

48.2 Failure of the successful Tenderer to submit the above-mentioned Performance Security and other documents required in the **TDS** or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security. In that event the Procuring Entity may award the Contract to the Tenderer offering the next Best Evaluated Tender.

48.3 Performance security shall not be required for contracts estimated to cost less than the amount specified in the regulations.

49.0 Publication of Procurement Contract

Within fourteen days after signing the contract, the Procuring Entity shall publish the awarded contract at its notice boards and websites; and on the Website of the Authority. At the minimum, the notice shall contain the following information:

a) Name and address of the Procuring Entity;
b) Name and reference number of the contract being awarded, a summary of its scope and the selection method used;
c) The name of the successful Tenderer, the final total contract price, the contract duration;
d) Dates of signature, commencement and completion of contract;
e) Names of all Tenderers that submitted Tenders and their Tender prices as read out at Tender opening.

50.0 Procurement related Complaints and Administrative Review

50.1 The procedures for making Procurement-related Complaints are as specified in the **TDS.**

50.2 A request for administrative review shall be made in the form provided under contract forms.

Section II – Tender Data Sheet (TDS)

The following specific data shall complement, supplement, or amend the provisions in the Instructions to Tenderers (ITT). Whenever there is a conflict; the provisions here in shall prevailoverthose in ITT.

Reference to ITC Clause	PARTICULARS OFAPPENDIX TO INSTRUCTIONS TO TENDERS
A. General	
ITT1.1	The name of the contract is PROPOSED ERECTION AND COMPLETION OF 120 CAPACITY DORMITORY BLOCK._____ The reference number of the Contract is_____ The number and identification of lots (contracts) comprising this Tender are *[insert number and identification of lots (contracts)]* Lot 1-Name _____ Lot 2-Name _____ Lot…Name _____ ETC
ITT2.3	The information made available on competing firms is a sfollows:
ITT2.4	The firms that provided consulting services for the contract being tendered for are:_____
ITT3.1	Maximum number of members in the Joint Venture (JV) shall be:
B. Contents of Tender Documents	
ITT7.1	(i) TheTenderer will submit any request for clarifications in writing at the Address _____ To reach the Procuring Entity not later than_____ (ii) The Procuring Entity shall publish its response at the website _____
ITT7.2	(A) A pre-arranged pretender site visit *[insert "shall" or "shall not"]* take place at the following date. time and place: Date:_____ Time:_____ Place:_____ (B) Pre-Tender meeting *[insert "shall" or "shall not"]* take place at the following date. time and place: Date:_____ Time:_____ Place:_____
ITT7.3	The Tenderer will submit any questions in writing, to reach the Procuring Entity not later than _____Before the meeting.
ITT7.5	The Procuring Entity's website where Minutes of the pre-Tender meeting and the pre-arranged pre-tender will be published is _____

ITT9.1	For Clarification of Tender purposes, for obtaining further information and for purchasing tender documents, the Procuring Entity's address is: (1) Name of Procuring Entity----------

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	(2) Physical address for hand Courier Delivery to an office or Tender Box (City, Street, Building, Floor Number and Room)---------- (3) Postal Address---------- (4) Insert name, telephone number and e-mail address of the officer to be contacted.----------
C. Preparation of Tenders	
ITT 11.1(h)	TheTenderer shall submitthe following additional documents in its Tender: ……
ITT13.1	Alternative Tenders *[insert "shall be "or"shallnot be"]*_____considered.
ITT13.2	Alternative times for completion *[insert "shallbe"or"shall not be"]*_____permitted.
ITT 13.4	Alternative technical solutions shall be permitted for the following parts of the Works: _____
ITT14.5	The prices quoted by the Tenderer shall be:_____
ITT15.2 (a)	Foreign currency requirements **allowed / not allowed.**
ITT18.1	TheTender validity period shall be_____days.
ITT18.3	(a) The Number of days beyond the expiry of the initial tender validity period will be _____days. (b) TheTender prices hall be adjusted by the following percentages of the tender price: *(i) By_____% of the local currency portion of the Contract price adjusted to reflect local inflation during the period of extension.* *and* *(ii) By_____% the foreign currency portion of the Contract price adjusted to reflect the international inflation during th eperiod of extension.*
ITT19.1	Tender shall provide **aTender-Securing Declaration or aTender Security** *(select one)* The type of Tender security shall be ---------- in the amount of Kenya shillings _____
ITT20.1	In addition to the original of the Tender, the number of copies is:_____
ITT20.3	The written confirmation of authorization to sign on behalf of theTenderer shall consist of: _____
D. Submission and Opening of Tenders	
ITT22.1	(A) For Tender submission purposes only, the Procuring Entity's address is: (1) Name of Procuring Entity is ST. CECILIA MISKHU GIRLS HIGH SCHOOL. (2) Postal Address P.O BOX…… (3) …… (4) Date and time for submission of Tenders…… (5) Tenders shall **submit / shall not submit** tenders electronically.
ITT25.1	The Tender opening shall take place at the time and the address for Opening of Tenders provided below:

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
	(1) Name of Procuring Entity …ST. CECILIA GIRLS HIGH SHOOL MISIKHU…….. (2) Physical address for the location …… (3) ……
ITT25.1	If Tenderers are allowed to submit Tenders electronically, they shall follow the electronic tender submission procedures **Specified below**_____
E. Evaluation, and Comparison of Tenders	
ITT 30.3	The adjustment shall be based on the_____*[insert "average" or "highest"]* price of the item or component as quoted in other substantially responsive Tenders. If the price of the item orcomponent can not be derived from the price of other substantially responsive Tenders, the Procuring Entity shall use its best estimate.
TT 32.1	The currency that shall be used for Tender evaluation and comparison purposes only to convert at the selling exchange rate all Tender prices expressed in various currencies into a single currency is:_____ The source of exchange rate shall be: **The Central bank of Kenya** (mean rate) The date for the exchange rate shall be: **the deadline datefor Submission oft heTenders.**
ITT33.2	A margin of preference *[insert either "shall"or"shall not"]*_____apply.
ITT33.4	The invitation to tender is extended to the following group that qualify for Reservations _____
ITT34.1	At this time, the Procuring Entity_____*[insert"intends"or"does not intend"]* to Execute certain specific parts of the Works by sub-contractors selected inadvance.
ITT34.2	Contractor's may proposed contracting: Maximum percentage of subcontracting permitted is: _____*% of the total contract amount.* Tenderers planning to subcontract more than 10% of total volume of work shall specify, in the Form of Tender, the activity (ies) or parts of the Works to be sub-contracted along with complete details of the sub-contractors and their qualification and experience.
ITT34.3	*[Indicate N/A if not applicable]* The parts of the Works for which the Procuring Entity permits Tenderers to propose Specialized Sub-contractors are designated as follows: _____

Reference to ITC Clause	PARTICULARSOFAPPENDIXTOINSTRUCTIONS TOTENDERS
	_____ For the above-designated parts of the Works that may require Specialized Sub-contractors, the relevant qualifications of the proposed Specialized Sub-contractors will be added to the qualifications of the Tenderer for the purpose of evaluation.
ITT35.2(e)	Additional requirements apply. These are detailed in the evaluation criteria in Section III, Evaluation and Qualification Criteria.
ITT48.1	Other documents required inaddition to the Performance Securityare _____
ITT50.1	The procedures for making a Procurement-related Complaint are detailed in the "Notice of Intention to Award the Contract" herein and are also available from the PPRA Websitewww.ppra.go.keor emailcomplaints@ppra.go.ke. If a Tenderer wishes to make a Procurement-related Complaint, the Tenderer should submit its complaint following these procedures, in writing (by the quickest means available, that is either by hand delivery or email to: For the attention: *[insert full name of person receiving complaints]* Title / position: *[insert title/ position]* Procuring Entity: *[insert name of Procuring Entity]* Email address: *[insert email address]* Insummary, aProcurement-related Complaint may challenge any of the following (among others): (i) The terms of the Tender Documents; and (ii) The Procuring Entity's decision to award the contract.

SECTION III-EVALUATION AND QUALIFICATION CRITERIA

:r tender opening, the tenders will be evaluated in3 stages, namely:

1. Determination of Responsiveness
2. Detailed Technical Examination
3. Financial Evaluation.

\GE 1-DETERMINATION OF RESPONSIVENESS

A) PRELIMINARY EXAMINATION

; stage of evaluation shall involve examination of the pre-qualification conditions as set out in the Tender Advertisement Notice or er of Invitation toTenderand any other conditions stated in the bid document.

se conditions may include the following:

Category of Registration with National Construction Authority in the relevant trade and or any other statutory bodies for building works: **NCA8** and above.

, Certified copy of Valid Single business permit from any county government authority

Certified copy of ValidTax compliance certificate issued by Kenya Revenue Authority.

Certifiedcopyof Company certificate of incorporation / certificate of registration.

Dully filled, signed and stamped Form of Tender.

Provision of Bid Security of Kshs 50,000.00 from reputable bank or approved insurance firm by PPRA.

) Certified copy of CR 12 and must provide copies of IDs / passport for Directors.

ii Certified Renewed copy of practicing license with NCA as per the tender notice.

All pages MUST beserialized / paged

employer may seek further clarification confirmation if necessary to confirm authenticity/compliance of any condition of the er.

tenderers who do not satisfy any of the above requirements shall be considered Non-Responsive and their tenders will not valuated further.

COMPLETENESS OF TENDER DOCUMENT

tende rdocument shall be examined based on the Instruction to Tenderers which states as follows:

ccordance to Instructions to Tenderers, the tenderers will be required to provide evidence for eligibility of the award of the tender by ;fying the employer of their eligibility and adequacy of resources to effectively carry out the subject contract. The tenderers shall be iired to fill the Standards Forms provided for the purposes of providing the required information. The tenderers may also attach the iired information if they so desire.

award of points for the **STANDARD FORMS** considered in this section shall be as shown below:

PARAMETER	**MAXIMUM POINTS**
Statement of Compliance 3 (ii)	
Confidential business questionnaire	5
Key personnel	20
Contract Completed in the last Five (5) years	12
Schedules of on-going projects	4
Schedules of contractors equipment	8
Contracts performance with the client	15
Audited Financial Report for the last 3 years	10
Evidence of Financial Resources	10
Name, Address and Telephone of Banks (Contractor to provide)	5
Litigation History	3
Sanctity of the tender document as inaccordance with clause 5 Of instruction to tenderer	
TOTAL	**100**

SECTION III-EVALUATION AND QUALIFICATION CRITERIA

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Dully filled, signed and stamped Form of Tender.

Provision of Bid Security of Kshs 50,000.00 from reputable bank or approved insurance firm by PPRA.

) Certified copy of CR 12 and must provide copies of IDs / passport for Directors.

ii Certified Renewed copy of practicing license with NCA as per the tender notice.

All pages MUST beserialized / paged

employer may seek further clarification/confirmation if necessary to confirm authenticity/compliance of any condition of the er.

tenderers who do not satisfy any of the above requirements shall be considered Non-Responsive and their tenders will not valuated further.

detailed scoring plan shall be as shown in table 1 below:-

n	Description	Point Scored	Max.Point	
	Statement of Compliance Filled signed and stamped ----------3 Signed but not stamped or vice versa ----------2 Not signed nor stamped 0		3	
	Confidential Business Questionnaire Form. Completely filled----------5 Partiallyfilled----------3 Not filled----------0		5	
	Key Personnel (Attach evidence)			20
	Director of the firm ○ Holder of degree or diploma in relevant Engineering field--4 ○ Holder of certificate in relevant Engineering field----3 ○ Holder of trade test certificate in relevant Engineering field 1 ○ No relevant certificate----------0		4	
	At least 2No. degree/diploma holder of key personnel inrelevant Engineering field ○ With over 10 years relevantexperience---------- 3 ○ With over 5 years relevant experience---------- 2 ○ With under 5 year relevant experience ---------- 1		6	
	Atleast 2No. certificate holder of key personnel in relevant Engineering field ○ With over 10 years relevant experience ---------- 3 ○ With over 5 years relevant experience---------- 2 ○ With under 5 years relevant experience ---------- 1		6	
	Contract completed in the last five (5) years (Amaxof 4No. Projects) (attach evidence) ○ Project of similar nature. complexity and magnitude----3 ○ Project of similar nature but of lower value than the one inconsideration----------2 ○ No completed project of similar nature---------- 0		12	
	On-going projects (Amax of 2No. Projects) (attachevidence) ○ Project of similar nature. complexity and magnitude----2 ○ Project of similar nature but of lower value than the one in		4	

	consideration–.....1 oNo ongoing project of similar nature---------- 0			
vi	**Schedules of contractors equipment and transport (attach proof or evidence of ownership)** o Means o ftransport (Vehicle)----------4 o No means of transport ---------- 0		4	**8**
	For each specific equipment required in the installation of the work being tendered for. (Maximum No. of equipment to be considered–2No.) --2		4	
vii	**Contracts performance with clients** • Contracts on schedule/New contracts ..... 15 • Contracts behind schedule without redress from project manager..... 5 • Contract with default notices without redress from projectmanager ..... 3 • Terminated contracts in the last five years… 0			**15**
viii	**Financialreport** **Audited financial report (last three (3) years)** o Annual turnover greater or equal to 5 times the cost of theproject.....10 o Annual turnover greater or equal to 3 times the cost of the project.....6 o Annual turn over greater or equal to the cost of the project---------- ----------4 o Turnover below the cost of the project----------2		**10**	
ix	**EvideiceofFinancial Resources (cash in hand, lines of credit, over draft facility etc)** o Has financial resources equal or above the cost of the project.....10 o Has financial resources below the cost of the project---5 o Has not indicated sources of financial resources----0		**10**	
x	**Name, Address and Telephone of Banks (Contractor toprovide)** o Provided.....5 o Not provided.....0		**5**	
xi	**Litigation History** o Filled.....3 o Not filled.....0		**3**	
xii	**Sanctity of the tender document** o Having the document intact (not tampered with in any way) ------ 5		**5**	

	OHaving mutilated or modified the tender document-------0		
	TOTAL		**100**

bidder who scores 60 points and above shall be considered for further evaluation

\GE2-TECHNICALEVALUATION

COMPLIANCE WITH TECHNICAL SPECIFICATIONS
›requipment)

ıis section, the bid will be analyzed to determine compliance with General and Particular technical specifications for the works dicatedin the tender document.

tenderer shall fill in the Technical Schedule as specified in the tender document for Equipment and Items indicating the ntryofOrigin, Model/Make/ManufactureroftheItem/Equipmenttheyproposetosupply.

ɜre the Equipment proposed by the tenderer differs with the models specified in the tender document, it is mandatory that ›rochures/catalogues of the same be submitted with the tender document highlighting the catalogues Numbers of the proposed ıs. Such brochures/catalogues should indicate comprehensive relevant data of the proposed equipment/items which should include notlimitedtothefollowing:

a) Standardsof manufacture
b) Performanceratings/characteristics
c) Materialofmanufacture
d) Electricalpowerratingsand
e) Any other necessary requirements (Specify)

owing the above analyses, where the proposed equipment are found not to satisfy the specifications, the tender will eemed Non – Responsiveandwillnotbe evaluatedfurther.

)ETAILED TECHNICAL EXAMINATION

: Builders work only tenders' rates shall apply)

ıis section, the information provided in Schedule of Unit Rates and Technical Schedule will be analyzed and points awarded own below.

PARAMETER	MAXIMUMPOINTS
Tender rates	30
Technical Schedule -	40
TOTAL	70

detailed scoring plan shall be as shown in table 2 below:

BLE2

I n	Description	Score	Max.score
i	**Tender rates** (The average of tender sums of the bidders less PCs Sums and contingency shall be worked out. The deviation of bidders tender Sum from the average shall then be worked out as a percentage of the average and score allocated as follow:-) ○ Deviation of between 0% to 5% ----------30 ○ Deviation of between 5% to 10%----------25 ○ Deviation of between 10%to 15%----------20 ○ Deviation of between 15%to 20%----------15 ○ Deviation of between 20%to 25%----------10 ○ Deviation of between 25%to 30%---------- 5 ○ Deviation of above 30%----------2		**30**
ii	**Technicalschedule** ○ Relevant Manufacturer Brochures for items in the technical schedule with Equipments to be supplied highlighted and meets specification (Where alternative are to supplied----------40 or ○ Completely filled Technical Schedule indicating Brand, Model/Countryoforiginasperspecificationinthetender----------40 ○ Relevant Manufacturer Brochures for items in the technical schedulewith equipments to be supplied not highlighted but within range ofthosespecifiedandmeetsspecifications----------30 or ○ Completely filled Technical Schedule indicating items as specified in the tender but withabout75% of technical dataleftout----------30 ○ Relevant Manufacturer Brochures for less than50% of items in thetechnical schedulewithequipments to be supplied highlighted andmeetsspecifications --------- 20 or ○ About 50% of Technical Schedule filled indicating Brand, Model/Country of origin for the items considered as specified in thetender.....20 No technical data provided, either in form of brochures or filling of TechnicalSchedule.....0		**40**
	TOTAL		70

For a bidder to be deemed technically responsive they must score 40 points and above based on the above scoring plan. For bidders in building and civil works they will be deemed technically responsive if they score 15 points out of 30 points. Any tenderer whose tender figure is deemed to be unreasonably too high or unreasonably too low shall not be included during the tabulation of the averages of the tender sum.

\GE 3-FINANCIAL EVALUATION

evaluation shall be in two sections
'reliminary examinations and
'ender sum Comparisons

'RELIMINARY EXAMINATIONS

preliminary examination in the Financial Evaluation shall be in accordance with Instruction to

derers.The parameter to be considered under this section includes the following:

a) Arithmetic errors

The bid shall be checked for arithmetic errors based on the rates and the total sums indicated in the bills of quantities.

b) Confirmation shall be sought in writing from the tenderers whose tender sums will be determined to have a significant arithmetic error to their disadvantage, to confirm whether they stand by their tender sums. The error shall be treated as per **the Instructions to Tenderers**.

Non compliance with the above shall lead to **automatic disqualification from further evaluation.**

Discount if any shall be treated as an error inpursuant to the Instructions to Tenderers

'ENDER SUM COMPARISONS

evaluation team shall compare the prices offered by the tenderers and the financial scores (Fs) will be determined using the ıulae bellow. The financial score will be allocated a maximum of 30%.

30 x Fm/F

:re Fs is the financial score, Fm is the lowest priced responsive financial bid and F is the price of the bid under consideration

NCLUSION

MBINATION OF TECHNICAL AND FINANCIAL SCORE

: evaluation team shall combine Technical and Financial Score as below:

ınical score (Ts) +Financial Score (Fs) = 70%+30%

COMMENDATION

combined technical and financial score shall be determined and the employer shall recommend for award of the **Tender** to the achieving the highest combined technical and financial scores.

TE: The technical score will range between 60 and 70 while that one for the financial will be between 40 and 30 depending he project, to be decided by the client. But the combined total will remain at 100 points.

QUALIFICATIONFORM*

1	2	3	4	5
Item No.	**Qualification Subject**	**Qualification Requirement**	***Document To be Completedby Tenderer***	***ForProcuringEntity's Use (Qualification met orNot Met)***
1	Nationality	Nationalityinaccordancewith ITT 3.6	Forms ELI– 1.1 and 1.2,with attachments	
2	Tax Obligations for KenyanTenderers	Has produced a current tax clearance certificate or tax exemption certificate issued by Kenya Revenue Authority Inaccordance with ITT3.14.	Attachment	
3	Conflict of Interest	No conflicts of interest inaccordance with ITT3.3	Formof Tender	
4	PPRA Eligibility	Not havingbeendeclaredineligiblebythePPRAas describedinITT 3.7	Formof Tender	
5	State-owned Enterprise	MeetsconditionsofITT3.8	Forms ELI– 1.1 and 1.2,with attachments	
6	Goods, equipment and services to be supplied Under the contract	Tohavetheirorigin inanycountrythatisnotdeterminedineligibleunderITT4.1	Forms ELI – 1.1 and 1.2, withattachments	
7	History of Non-Performing Contracts	Non-performanceofacontract didnotoccurasaresult of contractordefaultsince 1st January [……./.	FormCON-2	
8	Suspension Based on Execution of Tender/Proposal Securing Declaration by the Procuring Entity	Not under suspension based on-execution of a Tender/ProposalSecuringDeclarationpursuantto ITT 9.9	Formof Tender	
9	PendingLitigation	Tender's financial position and prospective long-termprofitabilitystillsoundaccordingtocriteriaestablishedin 3.1andassumingthatallpendinglitigationwill NOTbe resolvedagainst theTenderer.	FormCON– 2	
10	Litigation History	Noconsistenthistoryofcourt/arbitral awarddecisions againsttheTenderer since1st January……	FormCON– 2	

11	Financial Capability	(i) The Tenderer shall demonstrate that it has access to, or has available, liquid assets, unencumbered real assets, lines of credit, and other financial means (independent of any contractual advance payment) sufficient to meet the construction cash flow requirements estimated as Kenya Shillings equivalent for the subject contract(s) net of the Tenderer's other commitments. (ii) The Tenderers shall also demonstrate, to the satisfaction of the Procuring Entity, that it has adequate sources of finance to meet the cash flow requirements on works currently in progress and for future contract commitments.	For Stage 1 – 3 with attachments	

1	2	3	4	5
Item No.	**QualificationSubject**	**QualificationRequirement**	***Document To be Completedby Tenderer***	***ForProcuringEntity's Use (Qualification met orNot Met)***
		(iii) The audited balance sheets or, if not required by thelaws of the Tenderer's country, other financial statementsacceptabletothe ProcuringEntity, forthelast ……years shall be submitted and mustdemonstrate the current soundness of the Tenderer'sfinancialpositionandindicateitsprospectivelo ng-term profitability.		
12	Average AnnualConstructionT urnover	Minimum average annual construction turnover of KenyaShillings *[insert amount]*, equivalent calculated as totalcertifiedpaymentsreceivedforcontractsinprogressand/o rcompletedwithinthelast ..... years, div·dedby ……years	FormFIN – 3.2	
13	General ConstructionExperie nce	Experienceunder constructioncontractsintheroleofprimecontrac o:, JV member, sub-contractor, or managementcontractorforat leastthelast .....years. starting1st January……	FormEXP–4.1	
14	Specific Construction &Contract ManagementExperience	Aminimumnumberof..... similarcontractsspecified below that have been satisfactorily and substantiallycompleted as a prime contractor, joint venture member,management contractor or sub-contractor between 1stJanuary……andtendersubmissiondeadlinei.e….. (number) contracts, each of minimum value Kenyashillings…..equivalent. | Thesimilarityofthecontractsshall bebasedonthefollowing:	FormEXP4.2(a)	

ECTION IV-TENDERING FORMS

QUALIFICATION FORMS

1. FOREIGNTENDERERS 40% RULE

PursuanttoITT3.9, aforeign tenderer must completethisformtodemonstratethat thetenderfulfilsthiscondition.

ITEM	DescriptionofWorkItem	Describelocationof Source	COSTin K. shillings	Comments, if any
A	Local Labor			
1				
2				
3				
4				
5				
B	SubcontractsfromLocal sources			
1				
2				
3				
4				
5				
C	Local materials			
1				
2				
3				
4				
5				
D	UseofLocal PlantandEquipment			
1				
2				
3				
4				
5				
E	Addanyotheritems			
1				
2				
3				
4				
5				
6				
	TOTALCOSTLOCALCONTENT		XXXXX	
	PERCENTAGEOFCONTRACTPRICE			

2. FORMEOU: EQUIPMENT

The Tenderer shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for the key equipment listed in Section III, Evaluation and Qualification Criteria. A separate Form shall be prepared for each item of equipment listed, or for alternative equipment proposed by the Tenderer.

Item of equipment		
Equipment information	Name of manufacturer	Model and power rating
	Capacity	Year of manufacture
Current status	Current location	
	Details of current commitments	
Source	Indicate source of the equipment ☐ Owned ☐ Rented ☐ Leased ☐ Specially manufactured	

Omit the following information for equipment owned by the Tenderer.

Owner	Name of owner	
	Address of owner	
	Telephone	Contact name and title
	Fax	Telex
Agreements	Details of rental/lease/manufacture agreements specific to the project	

3. FORMPER-1

Contractor'sRepresentative and Key Personnel Schedule

Tenderersshouldprovidethenamesanddetailsofthesuitablyqualified Contractor'sRepresentativeandKeyPersonneltoper form the Contract. The data on their experience should be supplied using the Form PER-2 below for eachcandidate.

Contractor'RepresentativeandKeyPersonnel

1.	**Titleofposition: Contractor's Representative**	
	Name of candidate:	
	Duration ofappointment:	StartDate…… EndDate……
	Time commitment: for this position:	…… ……
	Expected time scheduleforthisposition:	……
2.	**Title of position: [_____]**	
	Name of candidate:	
	Duration of appointment:	StartDate…… EndDate……
	Time commitment: forthis position:	…… ……
	Expected time schedule for this position:	……
3	**Title of position: [_____]**	
	Nameofcandidate:	
	Duration ofappointment:	StartDate…… EndDate……
	Time commitment: for this position:	…… ……
	Expected time scheduleforthisposition:	……
4.	**Title of position: [_____]**	
	Nameofcandidate:	
	Duration ofappointment:	StartDate…… EndDate……
	Time commitment: forthis position:	…… ……
	Expected time scheduleforthisposition:	……
5.	**Title of position: [_____]**	
	Nameofcandidate	
	Duration ofappointment:	StartDate…… EndDate……
	Timec ommitment: for this position:	…… ……
	Expected time scheduleforthisposition:	……

4. FORM PER-2:

ResumeandDeclaration -Contractor'sRepresentativeandKeyPersonnel.

NameofTenderer

Position[*#1*]:[*titleofpositionfromFormPER-1*]		
Personneli nformation	Name:	Dateofbirth:
	Address:	E-mail:
	Professionalqualifications:	
	Academicqualifications:	
	Languageproficiency:	
Details		
	AddressofProcuringEntity:	
	Telephone:	Contact(manager/personnelofficer):
	Fax:	
	Jobtitle:	YearswithpresentProcuringEntity:

Summarizeprofessionalexperienceinreversechronologicalorder.Indicateparticulartechnicalandmanagerialexperiencerelevanttothe project.

Project	**Role**	**Durationof involvement**	**Relevantexperience**

Declaration

I, the under signed.....,certify that to the best of my knowledge and belief, the information contained in this Form PER-2 correctly describes myself, my qualifications and my experience.

IconfirmthatIamavailableascertifiedinthefollowingtableandthroughouttheexpectedtimescheduleforthisposition asprovidedintheTender:

Commitment	Details
Commitmenttodurationofcontract:	StartDate..... EndDate.....
Timecommitment:	StartDate..... EndDate.....

Iunderstandthat anymisrepresentationoromission inthisFormmay:

a) betakenintoconsiderationduringTenderevaluation;
b) resultinmydisqualificationfromparticipatingintheTender;
c) resultinmydismissalfromthecontract.

Nameof Contractor's Representative or Key Personnel: [*insert name*]

Signature:_____

Date:(daymonthyear):

_____Countersignatureo

fauthorizedrepresentativeoftheTenderer:

Signature:_____

Date:(daymonthyear):_____

5. TENDERERS QUALIFICATION WITHOUT PREQUALIFICATION

To establish its qualifications to perform the contract in accordance with Section III, Evaluation and Qualification Criteria the Tenderer shall provide the information requested in the corresponding Information Sheets included hereunder.

5.1 FORMELI -1.1

TendererInformationForm
Date:_____

ITTNo. And title:_____

Tenderer'sname
In case ofJoint Venture (JV), nameofeachmember:
Tenderer'sactualorintendedcountryofregistration:
Tenderer'sactualorintendedyearofincorporation:
Tenderer'slegaladdress[incountryofregistration]:
Tenderer's authorized representative informationName:_____ Address:_____ Telephone/Faxnumbers:_____ _____ E-mailaddress:_____
1.Attachedarecopiesoforiginaldocumentsof ☐ ArticlesofIncorporation(orequivalentdocumentsofconstitutionorassociation), and/ordocuments of registration of the legal entity named above, inaccordance with ITT3.6 ☐ Incase of JV, letter of intent to form JVor JV agreement, inaccordance with ITT3.5 ☐ Incaseofstate-owned enterprise or institution, inaccordance with ITT3.8, documents establishing: • Legal and financial autonomy • Operation under commercial law • EstablishingthattheTendererisnotunderthesupervisionoftheProcuringEntity 2.Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

5.2 FORMELI -1.2

Tenderer'sJVInformationForm
(tobecompletedforeachmemberof Tenderer'sJV)
Date:_____

ITTNo.andtitle:_____

Tenderer'sJVname:
JVmember'sname:
JVmember'scountryofregistration:
JVmember'syearofconstitution:
JVmember'slegaladdressincountryofconstitution:
JV member's authorized representative informationName:_____ Address: _____ Telephone/Faxnumbers:_____ E-mailaddress:_____
1.Attached are copies of original documents of ☐Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above, inaccordance with ITT3.6. ☐ Incaseofstate-owned enterprise or institution, documents establishing legal and financial autonomy, operation inaccordance with commercial law, and that they are not under the supervision of the Procuring Entity, inaccordancewithITT3.8. 2.Included are the organizational chart, alist of Board of Directors, and the beneficial ownership.

5.3 FORMCON –2

HistoricalContractNon-Performance, PendingLitigationandLitigationHistory

Tenderer'sName:_____
Date:_____
JVMember'sName

_____
ITTNo.andtitle:_____

Non-PerformedContractsinaccordancewithSectionIII, EvaluationandQualificationCriteria			
☐ Contractnon-performancedidnotoccursince1st January*[insertyear]*specifiedinSectionIII,EvaluationandQualificationCriteria,Sub-Factor2.1. ☐ Contract(s)notperformedsince1st January*[insertyear]* specifiedinSectionIII,EvaluationandQualificationCriteria,requirement2.1			
Year	**Non-performedportion ofcontract**	**ContractIdentification**	**Total ContractAmount (currentvalue, currency,exchange rate andKenyaShilling equivalent)**
.....	.....	ContractIdentification: .... Name of Procuring Entity: ..... AddressofProcuringEntity: ..... Reason(s)fornonperformance:.....	.....
PendingLitigation.inaccordancewithSectionIII,EvaluationandQualificationCriteria			
☐ Nopendinglitigationinaccordancewith SectionIII,EvaluationandQualificationCriteria,Sub-Factor2.3. ☐ Pendinglitigationinaccordancewith SectionIII,EvaluationandQualificationCriteria,Sub-Factor2.3 asindicatedbelow.			

Year ofdispute	**Amountindispute(currency)**	**ContractIdentification**	**Total ContractAmount (currency),Kenya Shilling Equivalent (exchangerate)**
		ContractIdentification:_____ NameofProcuringEntity:_____ AddressofProcuringEntity:_____ Matterindispute:_____ Partywhoinitiatedthedispute:Statusof dispute:_____	
		Contract Identification:Name of Procuring Entity:AddressofProcuringEntity:Matterindispute: Partywhoinitiatedthedispute:St	

		atusof dispute:	

LitigationHistoryinaccordancewithSectionIII,EvaluationandQua!ificationCriteria

☐ NoLitigationHistoryinaccordancewithSectionIII,EvaluationandQualificationCriteria,Sub-Factor2.4.

☐ Litigation HistoryinaccordancewithSectionIII,EvaluationandQualification Criteria,Sub-Factor2.4asindicated

below.			
Year ofawar d	**Outcome aspercentage of NetWorth**	**ContractIdentification**	**Total ContractAmount (currency),KenyaS hilling Equivalent(exc hangerate)**
……	……	ContractIdentification:…….. …….. NameofProcuringEntity:…… …… AddressofProcuringEntity:…… …… Matterindispute:…… Partywhoinitiatedthedispute: …… Reason(s)forLitigationandawarddecision ……	……

5.4 FORMFIN –3.1:

FinancialSituationandPerformance

Tenderer'sName:_____
Date:_____
JVMember'sName

_____

ITTNo.andtitle:_____

5.4.1. FinancialData

TypeofFinancialinformation_____ (currency)	**Historicinformationforprevious_____*years*, (amountincurrency,currency,exchangerate*,USDequivalent)**				
	Year1	**Year2**	**Year3**	**Year4**	**Year5**
StatementofFinancialPosition(InformationfromBalanceSheet)					
TotalAssets(TA)					
TotalLiabilities(TL)					
TotalEquity/NetWorth(NW)					
CurrentAssets(CA)					
CurrentLiabilities(CL)					
WorkingCapital(WC)					
InformationfromIncomeStatement					
TotalRevenue(TR)					
ProfitsBeforeTaxes(PBT)					
CashFlowInformation					
CashFlowfromOperating Activities					

*RefertoITT15fortheexchangerate

5.4.2 SourcesofFinance

Specify sources of finance to meet the cash flow requirements on works currently in progress and for future contractcommitments.

No.	Sourceoffinance	Amount(KenyaShillingequivalent)
1		
2		
3		

5.4.3 Financial documents

The Tenderer and its parties shall provide copies of financial statements for_____years pursuant Section III, Evaluation and Qualifications Criteria, Sub-factor3.1. The financial statements shall:

(a) Reflect the financial situation of the Tendererorincase of JV member, and not an affiliated entity (such as parentcompanyorgroupmember).

(b) Be independentlyauditedorcertifiedinaccordancewithlocallegislation.

(c) Be complete,including all notes to the financial statements.

(d) correspondtoaccountingperiodsalreadycompletedandaudited.

☐ Attachedarecopiesoffinancialstatements[1] for the _____yearsrequiredabove;andcomplyingwiththerequirements

[1] If the most recent set of financial statements is for a period earlier than 12 months from the date of Tender, the reason for this should bejustified.

5.5 FORMFIN –3.2:

AverageAnnual ConstructionTurnover

Tenderer'sName:_____
Date:_____
JVMember'sName

_____
ITTNo.andtitle:_____

	Annualturnoverdata(constructiononly)		
Year	**Amount Currency**	**Exchangerate**	**KenyaShillingequivalent**
AverageAnnualConstruction Turnover*			

* SeeSectionIII,EvaluationandQualificationCriteria,Sub-Factor3.2.

5.6 FORMFIN –3.3:

FinancialResources

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financialmeans, net of current commitments, available to meet the total construction cash flow demands of the subject contract orcontractsas specifiedin SectionIII, Evaluationand Qualification Criteria

FinancialResources		
No.	**Sourceoffinancing**	**Amount(KenyaShilling equivalent)**
1		
2		
3		

5.7 FORMFIN –3.4:

CurrentContract Commitments/WorksinProgress

Tenderers and each member to a JV should provide information on their current commitments on all contracts that have beenawarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but forwhichan unqualified,fullcompletioncertificate hasyettobe issued.

CurrentContractCommitments

	Name ofContract	Procuring Entity'sContactAddress,Tel,	ValueofOutstandingWork[CurrentKenyaShilling /monthEquivalent]	EstimatedCompletionDate	Average MonthlyInvoicingOverLastSixMonths [KenyaShilling /month)]
1					
2					
3					
4					
5					

5.8 FORMEXP-4.1

GeneralConstructionExperience

Tenderer'sName:_____
Date:_____
JVMember'sName

_____
ITTNo.andtitle:_____

Page_____of_____pages

Starting Year	Ending Year	ContractIdentification	Role ofTender er
		Contractname:_____ BriefDescriptionoftheWorksperformedbytheTe nderer:_____ _____A mountofcontract:_____ NameofProcuringEntity:_____ Address:_____	
		Contractname:_____ Brief Description of the Works performed by theTenderer:_____ _____Amou ntofcontract:_____ NameofProcuringEntity:_____ Address:_____	
		Contractname:_____ _____Brie fDescriptionoftheWorksperformedbytheTender er:_____ _____Am ountofcontract:_____ NameofProcuringEntity:_____ Address:_____	

5.9 FORMEXP -4.2(a)

SpecificConstructionandContractManagementExperience

Tenderer'sName:_____
Date:_____
JVMember'sName

_____
ITTNo.andtitle:_____

SimilarContractNo.	**Information**			
ContractIdentification				
Awarddate				
Completiondate				
RoleinContract	PrimeContractor☐	Member inJV ☐	Management Contractor ☐	Sub-contractor ☐
TotalContractAmount			**KenyaShilling**	
If member in a JV or sub-contractor,specify participation in total Contractamount				
ProcuringEntity'sName:				
Address: Telephone/fax numberE-mail:				

5.10 FORMEXP-4.2(a)(cont.)

SpecificConstructionandContractManagementExperience(cont.)

SimilarContractNo.	**Information**
Descriptionofthesimilarityinaccordance withSub-Factor4.2(a)ofSectionIII:	
1. Amount	
2. Physicalsizeofrequiredworks items	
3. Complexity	
4. Methods/Technology	
5. Constructionrateforkeyactivities	
6. OtherCharacteristics	

5.11 FORMEXP-4.2(b)

ConstructionExperienceinKeyActivities

Tenderer'sName:_____
Date:_____
Tenderer'sJVMemberName:_____
Sub-contractor's Name[2](as per ITT 34):ITTNo.andtitle:_____

AllSub-contractorsforkeyactivitiesmustcompletetheinformationinthisformasperITT34andSectionIII,EvaluationandQualificationCriteria,Sub-Factor4.2.

1. KeyActivityNoOne:_

	Information			
ContractIdentification				
Awarddate				
Completiondate				
RoleinContract	PrimeContractor ☐	MemberinJV ☐	Management Contractor ☐	Sub-contractor ☐
TotalContractAmount			**KenyaShilling**	
Quantity (Volume, number or rate ofproduction, as applicable) performed underthecontract peryearorpartofthe year	Totalquantityinthecontract (i)	Percentageparticipation(ii)		ActualQuantityPerformed (i)x(ii)
Year1				
Year2				
Year3				
Year4				
ProcuringEntity'sName:				
Address:Telephone/fax numberE-mail:				

[2]applicable

	Information
Description of the key activities inaccordancewithSub-Factor4.2(b)ofSectionIII:	

2. ActivityNo.Two
3.....

OTHERFORMS

6. FORMOFTENDER

INSTRUCTIONS TO TENDERERS

i) *The Tendere rmust prepare this Form of Tender on stationery with its letterhead clearly showing the Tenderer's complete name and business address.*

ii) *Allitalicized text is to help Tendere in preparing this form.*

iii) *Tenderer must complete and sign CERTIFICATE OF INDEPENDENT TENDER DETERMINATION and the SELF DECLARATION OF THE TENDERER attached to this Form of Tender.*

iv) *The Form of Tender shall include the following Forms duly completed and signed by the Tenderer.*

- *Tenderer's Eligibility-Confidential Business Questionnaire*
- *Certificate of Independent Tender Determination*
- *Self-Declaration of the Tenderer*

Date of thisTender submission:.....

Request for Tender No.:.....

Name and description of Tender.....

Alternative No.:.....

To:.....

Dear Sirs,

1. Inaccordance with the Conditions of Contract, Specifications, Drawings and Bills of Quantities for the execution of the above named Works, we, the undersigned offer to construct and complete the Works and remedy any defects therein for the sum of Kenya Shillings[*[*_____Kenya Shillings*[amount in words]*_____.

   The above amount includes foreign currency amount (s) of [*state figure or a percentage and currency*] [figures]_____[words]_____.

   The percentage or amount quoted above does not include provisional sums, and only allows not more than two foreign currencies.

2. We undertake, if our tender is accepted, to commence the Works as soon as is reasonably possible after the receipt of the Project Manager's notice to commence, and to complete the whole of the Works comprised in the Contract w t h in the time stated inthe Special Conditions of Contract.

3. We agree to adhere by this tender until
   _____*[Insertdate]*, and it shall remain binding upon us and maybe accepted at any timebefore that date.

4. Unless and until aformal Agreement is prepared and executed this tender together with your written acceptance thereof,shall constitute abinding Contract between us. We further understand that you are not bound to accept the lowest or any tender you may receive.

5. We, the undersigned, further declare that:
   i) *No reservations:* We have examined and have no reservations to the tender document, including Addenda issued inaccordance with ITT28;
   ii) *Eligibility:* Wemeettheeligibilityrequirementsandhavenoconflictofinterestinaccordancewith ITT3and4;
   iii) *Tender-Securing Declaration:* We have not been suspended nor declared ineligible by the Procuring Entity based on execution of a Tender-Securing or Proposal-Securing Declaration in the Procuring Entity's Country inaccordance with ITT 19.8;

iv) *Conformity:* We offer to execute in conformity with the tendering documents and inaccordance with the implementation and completion specified in the construction schedule, the following Works:
Brief descriptionofthe Works.....

v) *Tende rPrice:* Thetotalpriceofour Tender, excludinganydiscountsofferedinitem1aboveis:.....
.....

viOption1, incaseofonelot: Totalpriceis:[*insertthetotalpriceoftheTenderinwordsandfigures, indicatingthevariousamounts and the respectivecurrencies*];Or

.....
.....
.....
.....
.....
.....

Option2, incaseofmultiplelots:

a) Totalpriceofeachlot[*insert thetotalpriceofeachlotinwordsandfigures, indicatingthevariousamountsandtherespectivecurrencies*];and

.....
.....
.....
.....
.....
.....
.....

b) Totalpriceofalllots(sumofalllots)[*insertthetotalpriceofalllotsinwordsandfigures, indicating thevariousamountsandthe respective currencies*];

.....
.....
.....
.....
.....
.....
.....

vii) *Discount :* The discounts offered and the methodology for their applicationare:

viii) Thediscountsofferedare:

.....
.....
.....
.....
.....
.....
.....

The exact method ofcalculationstodeterminethenetpriceafterapplicationofdiscountsisshownbelow:

.....
.....
.....
.....
.....
.....
.....

applicable)fromthedatefixedfortheTendersubmissiondeadlinespecifiedinTDS22.1(asamended,if applicable),anditshallremainbindinguponusandmaybeacceptedatanytimebeforetheexpirationofthatperiod;

x) *PerformanceSecurity:*IfourTenderisaccepted,wecommittoobtainaPerformanceSecurityinaccordancewiththeTenderingdocument;

xi) *OneTenderPerTender:* WearenotsubmittinganyotherTender(s)asanindividualTender,andwearenotparticipatinginanyotherTender(s)asaJointVenturememberorasasubcontractor,andmeettherequirementsofITT3.4,otherthanalternativeTenderssubmittedinaccordancewithITT13.3;

xii) *SuspensionandDebarment:* We,alongwithanyofoursubcontractors,suppliers,ProjectManager,manufacturers,orserviceprovidersforanypartofthecontract,arenotsubjectto,andnotcontrolledbyanyentityorindividualthatissubjectto,atemporarysuspensionoradebarmentimposedbythePublicProcurementRegulatoryAuthorityoranyotherentityoftheGovernmentofKenya,oranyinternationalorganization.

xiii) *State-owned enterprise or institution:*[*select the appropriate option and delete the other*] [*We are not a state-owned enterprise or institution*] / [*We are a state-owned enterprise or institution but meet the requirements of ITT 3.8*];

xiv) Commissions,gratuities,fees: Wehavepaid,orwillpaythefollowingcommissions,gratuities,orfeeswithrespecttothetenderprocessorexecutionoftheContract:*[insertcompletenameofeachRecipient,itsfulladdress,thereasonforwhicheachcommissionorgratuitywaspaidandtheamountandcurrencyofeachsuchcommissionorgratuity].*

NameofRecipient	Address	Reason	Amount

(If nonehasbeenpaidor istobepaid,indicate "none.")

xv) BindingContract: WeunderstandthatthisTender,togetherwithyourwrittenacceptancethereofincludedinyourLetter of Acceptance, shall constitute a binding contract between us, until a formal contract ispreparedandexecuted;

xvi) NotBoundtoAccept: Weunderstandthatyouarenotboundtoacceptthelowestevaluatedcost Tender,the MostAdvantageous TenderoranyotherTenderthatyoumayreceive;

xvii) FraudandCorruption: WeherebycertifythatwehavetakenstepstoensurethatnopersonactingforusoronourbehalfengagesinanytypeofFraudandCorruption;

xviii) Collusivepractices:Weherebycertifyandconfirmthatthetenderisgenuine,non-collusiveandmadewiththeintentionofaccepting thecontractifawarded.Tothiseffectwehavesignedthe"CertificateofIndependentTenderDetermination "attachedbelow.

xix) WeundertaketoadherebytheCodeofEthicsforPersonsParticipatinginPublicProcurementandAssetDisposal, copyavailablefrom _____(*specifywebsite*)duringtheprocurementprocessandtheexecutionofanyresultingcontract.

xx) We,theTenderer,havecompletedfullyandsignedthefollowingFormsaspartofourTender:
   a) Tenderer'sEligibility;ConfidentialBusinessQuestionnaire–toestablishwearenotinanyconflict tointerest.
   b) CertificateofIndependentTenderDetermination–todeclarethatwecompletedthetenderwithout colludingwithothertenderers.
   c) Self-DeclarationoftheTenderer– todeclarethatwewill,ifawardedacontract,notengageinanyformoffraudandcorruption.
   d) DeclarationandcommitmenttotheCodeofEthicsforPersonsParticipatinginPublicProcurement andAssetDisposal

Further, we confirm that we have read and understood the full content and scope of fraud and corruptionasinformed in**"Appendix1-FraudandCorruption"** attachedto theFormof Tender.

NameoftheTenderer:.....

Nameofthepersondulyauthorizedtosigntheonbehalfofthe:**.....
.....
.....

TitleofthepersonsigningtheTender:.....

Signatureof the

personnamedabove:.....

.....

.....

.....

Datesigned

Datesigned_____dayof_____,_____

(a) TENDERER'SELIGIBILITY-CONFIDENTIALBUSINESSQUESTIONNAIRE

Instructionto Tenderer

Tenderisinstructedtocompletetheparticularsrequiredin thisForm,*oneformforeachentityif TenderisaJV*.Tendererisfurtherremindedthatitisanoffencetogivefalseinformationonthis Form.

(a) Tenderer'sdetails

	ITEM	DESCRIPTION
1	Nameof theProcuringEntity	
2	Reference NumberoftheTender	
3	Date andTimeofTender Opening	
4	Nameof theTenderer	
5	Full Address and Contact Details oftheTenderer.	1. Country 2. City 3. Location 4. Building 5. Floor 6. PostalAddress 7. Nameandemailofcontactperson.
6	CurrentTradeLicenseRegistration Number and Expiringdate	
7	Name, country and full address(*postal and physical addresses,email,andtelephone number*) of RegisteringBody/Agency	
8	DescriptionofNatureofBusiness	
9	Maximumvalueofbusinesswhich theTendererhandles.	
10	State if Tenders Company is listed instock exchange, give name and fulladdress (*postal and physicaladdresses, email, and telephonenumber*)of statewhichstockexchange	

eneralandSpecificDetails

(b) **SoleProprietor,**providethefollowingdetails.

Nameinfull _____ Age _____
Nationality _____ CountryofOrigin _____
Citizenship _____

(c) **Partnership,**providethefollowingdetails.

	NamesofPartners	Nationality	Citizenship	%Sharesowned
1				
2				
3				

(d) **RegisteredCompany,** provide the following details.

I) Private or public Company_____

ii) State the nominal and issued capital of the Company_____

NominalKenyaShillings(Equivalent).....
IssuedKenyaShillings(Equivalent).....

iii) GivedetailsofDirectorsasfollows.

	NamesofDirector	Nationality	Citizenship	%Sharesowned
1				
2				
3				

(e) DISCLOSUREOFINTEREST-InterestoftheFirmintheProcuringEntity.

i) Arethereanyperson/personsin… .....(*NameofProcuringEntity)*whohas/haveaninterest or relationship in this firm?Yes/No……

If yes, provide details as follows.

	NamesofPerson	Designation in theProcuringEntity	Interest or Relationship withTenderer
1			
2			
3			

) **Conflictofinterestdisclosure**

	Type of Conflict	Disclosure YESOR NO	IfYESprovidedetailsoftherelationshipwith Tenderer
1	Tenderer is directly or indirectlycontrols, is controlled by or is undercommoncontrol with another tenderer.		
2	Tenderer receives or has receivedanydirect orindirect subsidyfrom anothertenderer.		
3	Tenderer hasthesamelegal representativeasanothertenderer		
4	Tender has a relationship withanother tenderer, directly or throughcommon third parties, that puts it in aposition to influence the tender ofanother tenderer, or influence thedecisionsof theProcuringEntity regardingthistenderingprocess.		
5	Any of the Tenderer's affiliatesparticipated as a consultant in thepreparationofthedesignortechnicalspecifications oftheworksthatare the subjectofthetender.		
6	Tendererwouldbeprovidinggoods,works, non-consulting services orconsulting services duringimplementationofthecontract specifiedinthisTenderDocument.		
7	Tenderer has a close business orfamily relationship with aprofessionalstaffoftheProcuring Entitywho aredirectlyorindirectly		

	TypeofConflict	Disclosure YESORNO	IfYESprovidedetailsoftherelationshipwith Tenderer
	involved in the preparation of theTender document or specificationsofthe Contract,and/ortheTender evaluationprocessof suchcontract.		
8	Tenderer has a close business orfamily relationship with aprofessional staff of the ProcuringEntity who would beinvolved intheimplementationorsupervision ofthesuchContract.		
9	Has the conflict stemming fromsuch relationship stated in item 7and 8 above been resolved in amanner acceptable to the ProcuringEntity throughout the tenderingprocess and execution ofthe Contract.		

CertificationOnbehalfoftheTenderer,Icertifythattheinformationgivenaboveiscomplete,currentandaccurateasatthedateo f submission.FullName

_____

_____

TitleorDesignation_____

(Signature) *(Date)*

a) CERTIFICATE OF INDEPENDENT TENDER DETERMINATION

I, the undersigned, in submitting the accompanying Letter of Tender to the_____ _____[Name of Procuring Entity] for: and number of _____[Name tender] in response to the request for tenders made by:_____ _____[Name of Tenderer] do hereby make the following statements that I certify to be true and complete in every respect:

I certify, onbehalf of_____[Name of Tenderer] that:

1. IhavereadandIunderstandthecontentsofthisCertificate;

2. IunderstandthattheTenderwillbedisqualifiedifthisCertificateisfoundnottobetrueandcompleteinevery respect;

3. Iam theauthorized representative of the Tenderer with authority to sign this Certificate, and to submit the Tender onbehalf of the Tenderer;

4. For the purposes of this Certificate and the Tender, I understand that the word "competitor" shall include any individual or organization, other than the Tenderer, whether or not affiliated with the Tenderer, who:
   a) Has been requested to submit a Tender inresponse to this request for tenders;
   b) could potentially submit a tender in response to this request for tenders, based on their qualifications, abilities orexperience;

5. The Tenderer discloses that [check one of the following, as applicable:
   a) The Tenderer has arrived at the Tender independently from, and without consultation, communication, agreement or arrangement with, anycompetitor,
   b) the Tenderer has entered into consultations, communications, agreements or arrangements withone or more competitors regarding this request for tenders, and the Tenderer discloses, in theattached document(s), complete details thereof, including the names of the competitors and the nature of, and reasons for, such consultations, communications, agreements or arrangements;

6. In particular, without limiting the generality of paragraphs (5)(a)or(5)(b)above,therehasbeennoconsultation, communication,agreementorarrangementwithanycompetitorregarding:
   a) prices;
   b) methods, factorsorformulasusedtocalculateprices;
   c) theintentionordecisiontosubmit,ornottosubmit,atender;or
   d) the submission of a tender which does not meet the specifications of the request for Tenders;except as specificallydisclosedpursuanttoparagraph(5)(b)above;

7. Inaddition,therehasbeennoconsultation,communication,agreementorarrangementwithanycompetitorregar dingthequality,quantity,specificationsordeliveryparticularsoftheworksorservicestowhichthisrequestforten dersrelates,exceptasspecificallyauthorizedbytheprocuringauthorityorasspecificallydisclosedpursuanttopar agraph(5)(b)above;

8. thetermsoftheTenderhavenotbeen,andwillnotbe,knowinglydisclosedbytheTenderer,directlyorindirectly, toanycompetitor,priortothedateandtimeoftheofficialtenderopening,oroftheawardingoftheContract,whiche vercomesfirst,unlessotherwiserequiredbylaworasspecificallydisclosedpursuanttoparagraph(5)(b)above.

Name_____
Title_____
Date _____

(c) **SELF-DECLARATIONFORMS**

FORMSD1

SELF DECLARATION THAT THE PERSON/TENDERER IS NOT DEBARRED IN THE MATTER OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL ACT 2015.

I,.....,of Post Office Box.....being a resident of..... in the Republic of ..... do hereby make a statement as follows:-

1. THAT Iam the Company Secretary/ChiefExecutive/ManagingDirector/PrincipalOfficer/Director of .....who is a Bidder in respect of **TenderNo.** .....for .....for .....
   And duly authorized and competent to make this statement.

2. THAT the aforesaid Bidder, its Directors and subcontractors have not been debarred from participating in procurement proceeding under Part IV of the Act.

3. THATwhatis deponed toherein above is true to the best of my knowledge, information and belief.

....

(Title) (Signature) (Date)

BidderOfficialStamp

FORMSD2

SELF DECLARATION THAT THE PERSON/TENDERER WILL NOT ENGAGE IN ANY CORRUPT ORFRAUDULENTPRACTICE.

I, ...of P.O. Box..... beingaresidentof .....intheRepublicof.....doherebymakeastatement asfollows:-

1. THATIamtheChiefExecutive/ManagingDirector/PrincipalOfficer/Directorof..... (insertnameoftheCompany)whoisaBidderinrespectof**TenderNo** ..... for ..... for.....anddulyauthorizedand competent tomakethisstatement.

2. THATtheaforesaidBidder,itsservantsand/oragents/subcontractorswillnotengageinanycorruptorfraudulent practiceandhasnotbeenrequestedtopayanyinducementtoanymemberoftheBoard,Management,Staffand/or employeesand/oragentsof..... whichisthe procuringentity.

3. THATtheaforesaidBidder,itsservantsand/oragents/subcontractorshavenotofferedanyinducementtoanymemberoft heBoard,Management,Staffand/oremployeesand/oragentsof ..... *(nameofthe procuringentity).*

4. THAT the aforesaid Bidder will not engage /has not engaged in any corrosive practice with other biddersparticipatinginthesubjecttender

5. THATwhatisdeponedtohereinaboveistruetothebestofmyknowledgeinformationandbelief.

....

.....(Title) (Signature)

(Date)

Bidder's Official Stamp

DECLARATION AND COMMITMENT TO THE CODE OF ETHICS

I.....(person)onbehalfof*(Nameof theBusiness/Company/Firm)*.....
.....declarethatIhavereadandfullyunderstoodthecontentsofthePublicProcureme nt&AssetDisposalAct,2015,RegulationsandtheCodeofEthicsforpersonsparticipatinginPublicProcurementandAssetDisposalan dmyresponsibilitiesundertheCode.

IdoherebycommittoabidebytheprovisionsoftheCodeofEthicsforpersonsparticipatinginPublicProcurementand AssetDisposal.

NameofAuthorizedsignatory.....

Sign.....

Position.....

Officeaddress.....Telephone.....

E-mail.....

NameoftheFirm/Company.....

Date.....

(CompanySeal/ RubberStampwhereapplicable)

WitnessName.....

.....

Sign.....

Date.....

(d) APPENDIX1-FRAUDANDCORRUPTION

(Appendix1 shallnotbe modified)

1. Purpose

1.1 The Government of Kenya's Anti-Corruption and Economic Crime laws and their sanction's policies andprocedures, Public Procurement and Asset Disposal Act *(no. 33 of 2015)* and its Regulation, and any otherKenya's Acts or Regulations related to Fraud and Corruption, and similar offences, shall apply with respect toPublicProcurementProcessesandContractsthataregovernedbythelawsofKenya.

2. Requirements

2.1 TheGovernmentofKenyarequiresthatallpartiesincludingProcuringEntities,Tenderers,(applicants/proposers), Consultants, Contractors and Suppliers; any Sub-contractors, Sub-consultants, ServiceprovidersorSuppliers;anyAgents(whetherdeclaredornot);andanyoftheirPersonnel,involvedandengagedi nprocurementunderKenya'sLawsandRegulation,observethehigheststandardofethicsduringtheprocurementproc ess,selectionandcontractexecutionofallcontracts,andrefrainfromFraudandCorruptionandfullycomplywithKeny a'slawsandRegulationsasperparagraphs1.1above.

2.2 Kenya'spublicprocurementandassetdisposalact*(no.33of2015)*underSection66describesrulestobefollowedandac tionstobetakenindealingwithCorrupt,Coercive,Obstructive,CollusiveorFraudulentpractices,andConflictsofInter estinprocurementincludingconsequencesforoffencescommitted.Afewoftheprovisionsnotedbelowhighlightken ya'spolicyofnotoleranceforsuchpracticesandbehavior:

1) A person to whom this Act applies shall not be involved in any corrupt, coercive, obstructive, collusive or fraudulent practice; or conflictsofinterestinanyprocurementorassetdisposalproceeding;

2) A personreferredtoundersubsection(1)whocontravenestheprovisionsofthatsub-sectioncommitsanoffence;

3) Withoutlimitingthegeneralityofthesubsection(1)and(2),thepersonshallbe:-

   a) disqualifiedfromenteringintoacontractforaprocurementorassetdisposalproceeding;or

   b) ifacontracthasalreadybeenenteredintowiththeperson,thecontractshallbevoidable;

4) Thevoidingofacontractbytheprocuringentityundersubsection(7)doesnotlimitanylegalremedythe procuringentitymayhave;

5) Anemployeeoragentoftheprocuringentityoramemberoftheboardorcommitteeoftheprocuringentity whohasaconflictofinterestwithrespecttoaprocurement:-

   a) Shallnottakepartintheprocurementproceedings;

   b) shallnot,afteraprocurementcontracthasbeenenteredinto,takepartinanydecisionrelatingtothe procurementorcontract;and

   c) shallnotbeasubcontractorforthetendertowhomwasawardedcontract,oramemberofthegroupoftenderer stowhomthecontractwasawarded,butthesubcontractorappointedshallmeetalltherequirementsofthisA ct.

6) An employee, agent or member described in subsection (1) who refrains from doing anything prohibitedunder that subsection, but for that subsection, would have been within his or her duties shall disclose theconflictofinteresttotheprocuringentity;

7) Ifapersoncontravenessubsection(1)withrespecttoaconflictofinterestdescribedinsubsection(5)(a)andt hecontractisawardedtothepersonorhisrelativeortoanotherpersoninwhomoneofthemhadadirectorindi rectpecuniaryinterest,thecontractshallbeterminatedandallcostsincurredbythepublicentityshallbema degoodbytheawardingofficer.Etc.

3. IncompliancewithKenya'slaws,regulationsandpoliciesmentionedabove,theProcuringEntity:

a) Definesbroadly,forthepurposesoftheaboveprovisions,thetermssetforthbelowasfollows:

i) "corruptpractice" is the offering,giving,receiving,orsoliciting,directlyorindirectly,ofanythingofvaluetoinfluenceimproperlytheactionsofanotherparty;

ii) "fraudulentpractice"isanyactoromission, including isrepresentation,thatknowinglyorrecklesslymisleads,orattemptstomislead,apartytoobtainfinancialorotherbenefitortoavoidanobligation;

iii) "collusivepractice"isanarrangementbetweentwoormorepartiesdesignedtoachieveanimproperpurpose,includingtoinfluenceimproperlytheactionsofanotherparty;"coercivepractice"isimpairingorharming,orthreateningtoimpairorharm,directlyorindirectly,anypartyorthepropertyofthepartytoinfluenceimproperlytheactionsofaparty;

iv) "obstructivepractice"is:

- Deliberatelydestroying,falsifying,altering,orconcealingofevidencematerialtotheinvestigation or makingfalsestatementstoinvestigatorsinordertomateriallyimpedeinvestigationbyPublicProcurementRegulatoryAuthority(PPRA)oranyotherappropriateauthorityappointedbyGovernmentofKenyaintoallegationsofacorrupt,fraudulent,coercive,orcollusivepractice;and/orthreatening,harassing,orintimidatinganypartytopreventitfromdisclosingitsknowledgeofmattersrelevanttotheinvestigation orfrompursuingtheinvestigation;or

- actsintendedtomateriallyimpedetheexerciseofthePPRA'sortheappointedauthority'sinspectionand auditrightsprovidedforunderparagraph2.3e.below.

b) Definesmorespecifically,inaccordancewiththeaboveprocurementActprovisionssetforthforfraudulent andcollusivepracticesasfollows:

"fraudulentpractice"includesamisrepresentationoffactinordertoinfluenceaprocurementordisposalprocessortheexerciseofacontracttothedetrimentoftheprocuringentityorthetendererorthecontractor,andincludescollusivepracticesamongsttendererspriortooraftertendersubmissiondesignedtoestablishtenderpricesatartificialnon-competitivelevelsandtodeprivetheprocuringentityofthebenefitsoffreeandopencompetition.

c) Rejectsaproposalforaward'ofacontractifPPRAdeterminesthatthefirmorindividualrecommendedforaward,anyofitspersonnel,oritsagents,oritssub-consultants,sub-contractors,serviceproviders,suppliersand/ortheiremployees,has,directlyorindirectly,engagedincorrupt,fraudulent,collusive,coercive,orobstructivepracticesincompetingforthecontractinquestion;

d) PursuanttotheKenya'sabovestatedActsandRegulations,mayrecommendtoappropriateauthority(ies)forsanctioninganddebarmentofafirmorindividual,asapplicableundertheActsandRegulations;

e) Requires that a clause be included in Tender documents and Request for Proposal documents requiring(i)Tenderers(applicants/proposers),Consultants,Contractors,andSuppliers,andtheirSub-contractors,Sub-consultants, Service providers, Suppliers, Agents personnel, permit the PPRA or any other appropriateauthorityappointedbyGovernmentofKenyatoinspect'allaccounts,recordsandotherdocumentsrelating to theprocurementprocess,selectionand/orcontractexecution,andtohavethemauditedbyauditorsappointedbythePPRAoranyotherappropriateauthorityappointedbyGovernmentofKenya;and

f) Pursuant to Section 62 of the above Act, requires Applicants/Tenderers to submit along with theirApplications/Tenders/Proposals a "Self-Declaration Form" as included in the procurement documentdeclaring that they and all parties involved in the procurement process and contract execution have notengaged/willnotengageinanycorruptorfraudulentpractices.

'ortheavoidanceofdoubt,aparty'sineligibilitytobeawardedacontractshallincludee,withoutlimitation,(i)applyingforpre-qualification,expressinginterestin

consultancy,andtendering,eitherdirectlyorasanominatedsub-

ntractor,nominatedconsultant,nominatedmanufacturerorsupplier,ornominatedserviceprovider,inrespectofsuchcontract,and(ii)enteringintoanaddendumoramendmentintroducingamaterialmodificationtoanexistingcontract.

'Inspectionsinthiscontextusuallyarеinvestigative(e.g.forensicinnature.Theyinvolvefact-findingactivitiesundertakenbytheInvestigatingUnitorpersonsappointedbytheProcuringEntitytoaddressspecificmatterrelatedtoinvestigations/audits,suchasevaluatingtheveracityofanallegationofpossible

Fraudand/Corruption.throughtheappropriatemechanisms.Suchactivityincludesbutisnotlimitedto:accessingandexaminingafirm'sorindividual'sfinancialrecordsandinformation,andmakingcopiesthereofasrelevant;accessingandexaminingan,otherdocuments,data,andinformationwhetherinhardcopyorelectronicformatdeemedrelevantfortheinvestigation/audit,andmakingcopiesthereofasrelevant;interviewingstaffandotherrelevantindividuals;performingphysicalinspectionsandsitevisits;andobtainingthirdpartyverificationofinformation.

FORM OF TENDER SECURITY-[Option1–DemandBankGuarantee]

Beneficiary:_____

RequestforTendersNo:

_____

Date:_____

TENDERGUARANTEENo.:_____

Guarantor:_____

1. Wehavebeen informedthat_____(here inafter called "the Applicant") has submitted orwillsubmittotheBeneficiaryitsTender(hereinaftercalled"theTender")fortheexecutionof_____ underRequestforTendersNo. _____("the ITT").

2. Furthermore, we understand that, according to the Beneficiary's conditions, Tenders must be supported by aTenderguarantee.

3. At the request of the Applicant, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sumorsumsnotexceedingin totalan amount of_____(_____)uponreceiptbyusoftheBeneficiary's complying demand, supported by the Beneficiary's statement, whether in the demand itself or aseparatesigneddocument accompanyingoridentifyingthe demand,statingthateithertheApplicant:

(a)has withdrawn its Tender during the period of Tender validity set forth in the Applicant's Letter of Tender ("theTenderValidityPeriod"), oranyextensionthereto providedbythe Applicant;or

b)having been notified of the acceptance of its Tender by the Beneficiary during the Tender Validity Period or anyextension thereto provided by the Applicant, (i) has failed to execute the contract agreement, or (ii) has failedtofurnishthe Performance.

4. This guarantee will expire: (a) if the Applicant is the successful Tenderer, upon our receipt of copies of thecontract agreement signed by the Applicant and the Performance Security and, or (b) if the Applicant is not thesuccessful Tenderer, upon the earlier of (i) our receipt of a copy of the Beneficiary's notification to theApplicantoftheresultsoftheTenderingprocess;or(ii)thirtydaysaftertheendoftheTenderValidityPeriod.

5. Consequently, any demand for payment under this guarantee must be received by us at the office indicatedaboveonorbeforethatdate.

_____

[signature(s)]

Note:Allitalicizedtext isforuseinpreparingthisformandshallbedeletedfrom thefinalproduct.

FORMAT OF TENDER SECURITY [Option 2–Insurance Guarantee]

TENDER GUARANTEE No.: _____

1. Whereas.....[*Nameof thetenderer]* (hereinaftercalled"thetenderer")hassubmitteditstenderdated.....[*Dateofsubmissionoftender]*forthe..... *[Nameand/ordescriptionofthetender]*(hereinaftercalled"theTender")fortheexecutionofunderRequestforTendersNo ._____("theITT").

2. KNOW ALL PEOPLE by these presents that WE.....of.....**[Name of Insurance Company]** having our registered office at.....(hereinaftercalled"theGuarantor"),areboundunto .....[*Nameof Procuring Entity*](hereinaftercalled"theProcuring Entity") in the sum of ..... (Currency and guarantee amount) for which payment well and truly to be made to the saidProcuring Entity, the Guarantor binds itself, its successors and assigns,jointly and severally, firmly by thesepresents.

SealedwiththeCommonSealofthesaidGuarantorthisdayof_____20.

3. NOW,THEREFORE,THECONDITIONOFTHISOBLIGATIONissuchthatiftheApplicant:

   a) haswithdrawnitsTenderduringtheperiodofTendervaliditysetforthinthe Principal's LetterofTender("theTenderValidityPeriod"),oranyextensiontheretoprovided bythePrincipal;or

   b) havingbeennotifiedoftheacceptanceofitsTenderbytheProcuringEntityduringtheTenderValidityPeriodoranye xtensiontheretoprovidedbythePrincipal; (i)failedtoexecutetheContractagreement;or(ii)hasfailedtofurnishthePerformanceSecurity,inaccordancewitht heInstructionstotenderers("ITT")ofthe ProcuringEntity's Tenderingdocument.

thentheguaranteeundertakestoimmediatelypaytotheProcuringEntityuptotheaboveamountuponreceiptoftheProcurin gEntity'sfirstwrittendemand,withouttheProcuringEntity having tosubstantiateitsdemand,providedthatinitsdemandtheProcuringEntityshallstatethatthedemandarisesfromtheoccurr ence ofanyofthe aboveevents,specifyingwhichevent(s)hasoccurred.

4. Thisguaranteewillexpire:(a)iftheApplicantisthesuccessfulTenderer,uponourreceiptofcopiesofthecontractagreemen tsignedbytheApplicantandthePerformanceSecurityand,or(b)iftheApplicantisnotthesuccessfulTenderer,upontheear lierof(i)ourreceiptofacopyoftheBeneficiary'snotificationtotheApplicantoftheresultsoftheTenderingprocess; or(ii)twenty-eightdaysaftertheendoftheTenderValidityPeriod.

5. Consequently,anydemandforpaymentunderthisguaranteemustbereceivedbyusattheofficeindicatedabove on orbeforethatdate.

_____ *[Date]*

_____ *[SignatureoftheGuarantor]*

_____ *[Witness]*

_____ *[Seal]*

Note:Allitalicizedtext isforuseinpreparingthisformandshallbedeletedfrom thefinalproduct.

FORMOFTENDER-SECURINGDECLARATION

[TheBiddershallcompletethisFormin accordancewiththeinstructionsindicated]

Date: .....*[insertdate(asday,monthandyear)of TenderSubmission]*

TenderNo. ..... *[insertnumberoftenderingprocess]*

To: .....*[insertcompletenameofPurchaser]*I/We,theundersigned,declarethat:

1. I/Weunderstandthat,accordingtoyourconditions,bidsmustbesupportedbyaTender-SecuringDeclaration.

2. I/Weaccept that I/wewill automaticallybesuspendedfrombeingeligiblefortenderinginanycontract withthePurchaserfortheperiodoftimeof[insertnumberofmonthsoryears]startingon[insertdate],ifweareinbreachofo urobligation(s)underthebidconditions,becausewe– (a)havewithdrawnourtenderduringtheperiodoftendervalidityspecifiedbyusintheTenderingDataSheet;or(b)having beennotifiedoftheacceptanceofourBidbythePurchaserduringtheperiodofbidvalidity,(i)failorrefusetoexecutetheC ontract,ifrequired,or(ii)failorrefusetofurnishthePerformanceSecurity,inaccordancewiththeinstructionstotenders.

3. I/WeunderstandthatthisTenderSecuringDeclarationshallexpireifwearenotthesuccessfulTenderer(s),upon theearlierof:
   a) Ourreceiptofacopyofyournotificationofthenameofthesuccessful Tenderer;or
   b) thirtydaysaftertheexpirationofourTender.

4. I/Weunderstandthatiflam/weare/inaJointVenture,theTenderSecuringDeclarationmustbeinthenameoftheJointVen turethatsubmitsthebid, and the JointVenturehasnotbeenlegallyconstitutedatthetimeofbidding,theTenderSecur ingDeclarationshallbeinthenamesofallfuturepartnersasnamedintheletterofintent.

Signed:.....

Capacity/title(directororpartnerorsoleproprietor,etc.).....

Name:.....

Dulyauthorizedtosignthebidforandonbehalfof:*[insertcompletenameofTenderer]*

Dated on .....dayof ....*[Insertdateofsigning]*Sealorstamp

AppendixtoTender

ScheduleofCurrencyrequirements

SummaryofcurrenciesoftheTenderfor_____*[insertnameofSectionoftheWorks]*

Nameof currency	*Amountspayable*
Localcurrency: _____	
Foreigncurrency#1: _____	
Foreigncurrency#2: _____	
Foreigncurrency#3: _____	
Provisionalsumsexpressedinlocal currency	[*To beenteredbythe Procuring Entity*]

PARTII -WORKSREQUIREMENTS

SECTIONV-BILLSOFQUANTITIES

(a) Preambles

1. The method of measurement of completed work for payment shall be in accordance withthe metric standardunits ofmeasurement.

2. TheSiteissituatedwithinBungomaCounty.

3. The Contractor shall obtain the Architect's approval on the siting of all temporary buildings, spoil heaps,temporary access path, and storage of materials. The Contractor shall also obtain the Architect approval anddirectionregardingtheuseofanymaterialsfoundontheSite.

4. Thedrawingsusedinthepreparationoftheseb illsofQuantitiescanbeinspectedattheofficesoftheProcuringEntit yorProcuringEntity'sRepresentativeduringnormalworkinghours.TwosetsoftheWorkingDrawingsshall beprovidedtothecontractorbutadditionalcopiesshallbeprovidedatacosttobedeterminedbytheEngineer.

5. TheContractorshallallowforthepaymentofallbankchargesinconnectionwiththeprocurementofBankGuaranteesan dstampchargesinconnectionwiththiscontractAgreement.

6. TheContractorshallcarryoutthevarioussectionsoftheWorksinsuchanorderastheArchitectMaydirect.TheP rocuringEntityreservestherighttooccupytheWorksbysectionsoncompletionprovidedthatsuchoccupation isconsideredtobebothpracticalandreasonableandwillnotinterferewiththeWorks.TheContractorshallallow anycostsassociatedwithsuchoccupation.

7. ThemainContractorwillbefullyresponsibleforpayinghisSub-ContractorbuttheProcuringEntityreservesthe rightin very exceptional circumstances to make such payments direct in the interests of the project where thecompletion thereof might be jeopardized by any dispute or vicariousness between the Contractor and the Sub-Contractorinvolve.

8. TheContractorshallcompleteanddelivertheWorks in the periodinsertedintheFormofTenderashistimeforcompletiono ftheWorks fromthedateforPossession,tobeagreedwiththeEngineer.TheContractPeriodispresumedtohavebeencalculatedmak ingdueallowanceforseasonalinclementweatherconditions.Noclaimforextensionoftimeduetothenormalinclement weatherforthisareashallbeentertained.

9. TheContractorshall,uponreceivinginstructionstoproceedwiththeWorks,drawupaProgrammeandProgressChartset tingouttheorderinwhichtheWorksaretobecarriedout, with the appropriatedatesthereof.ThisChartshallbeagreed withtheArchitectandnodeviationfromtheordersetoutinitwillbepermittedwithoutthewrittenconsentoftheEngineer. TheContractorwillberesponsibleforarrangingtheaboveprogrammewithallhis sub-ContractorsandSpecialties.TheContractorshallallowinhisratesforcarryingoutthisexercise,andforupdating itasrequired.

10. TheContractorshallsubmittotheArchitectonthefirstdayofeachweekorsuchlongerperiodastheArchitectfromtime totimedirect,aProgressReportandanyinformationfortheproceedingperiod,showingtheprogressduringtheperiod andtheup-to-datecumulativeprogressonallimportantitemsofeachsectionorportionoftheWorks.

11. TheContractorshallarrangeforphotographsoftheSitetobetakenbyaprofessionalphotographerapprovedbytheEngin eer.ThePhotographsshallprovidearecordoftheSiteandadjacentareaspriortothecommencementoftheWorksandshal lcoversuchportionoftheworksinprogressandcompletionastheArchitectshalldirect.Allprintsshallbefullplatesize,u nmounted,andmarkedonthereversesidewiththedateofexposure,identificationreferenceandbriefdescription.Theco pyrightofallphotographsshallbevestedintheProcuringEntity.Thenegativesandfourprintsfromeachnegativeshallbe deliveredtotheArchitectwithintwoweeksofexposure.

12. Figured dimensions are to be followed in preference to dimensions scaled from the Drawings, but whenever possible dimensions are to be taken on the Site or from the buildings. Before any work is commenced by Sub-Contractors or Specialist Firms, dimensions must be checked on the site comparable dimensions shown on the drawings. The Contractor shall be responsible for the accuracy of such dimensions.

13. Prior to commencement of any work the Contractor is to ascertain from the relevant Authorities the exact position, depth and level of all existing electric cables, water pipes or other services in the area and he shall make whatever provisions may be required by the Authorities concerned for the support and protection of such services. Any damage or disturbance caused to any services shall be reported immediately to the Architect and the relevant Authority and shall be made good to their satisfaction at the Contractor's expense. Where appropriate the Contractor shall open up the ground in advance of the main work by hand digging if necessary, to locate precisely the position and details of the services which are likely to affect his operations.

14. The Contractor shall include in his prices for the transport of materials, workmen, etc./, to and from the site of the proposed works, at such hours and by such route as are permitted by the Authorities.

15. The Contractor will be required to make good, at his own expense and damage he may cause to the present road surface and pavements within or beyond the boundary of the Site, during the period of the works. All existing paths, storm water channels, etc., that may be destroyed or damaged during the progress of the Works shall be reinstated by the Contractor to the satisfaction of the Engineer.

16. The Contractor is to allow for complying with all instructions and regulations of the Police Authorities.

17. All water shall be fresh, clean and pure, free from earthly, vegetable or organic matter, acid or alkaline substance in solution. The Contractor shall provide at his own risk and cost all water for use in connection with the Works, (including works of sub–contractors). If need be, he shall make arrangements with the Local Water Authority for the installation of a separate meter for all water used by him throughout the Contract and pay all cost and fees in connection therewith. He shall also provide temporary storage tanks and tubing, etc., as may be necessary, and clear away at completion.

18. The Contractor shall provide all artificial lighting and power for his own use on the Works, (including Sub – Contractor's) including all temporary connections, wiring, fittings, etc., and clearing away on completion. The Contractor shall pay all fees and obtain all permits in connection therewith.

19. The Contractor shall constantly keep on the Works a Literate English-speaking Agent or Representative, competent and experienced in the kind of work involved, who shall give his whole time to the superintendence of the works. (Including works of sub–contractors). Such Agent or Representative shall receive on behalf of the Contractor directions and instruction from the Engineer, and such directions and instructions shall be deemed to be given to the contractor in accordance with the Conditions of Contract. The Agent shall not be replaced without the specific approval of the Engineer.

20. The Contractor shall ensure that the safety of his work people and all authorized visitors to the site are protected at all times. In particular, there shall be the proper provision of guard–rails to scaffolding, protection against falling materials, tools on site, dust, nail and other sharp objects. The site shall be kept tidy and clear of dangerous rubbish.

The Architect shall be empowered to suspend work on site should it be considered this condition is not being observed and no claim arising from such suspension will be allowed.

21. The area available to the Contractor for work yards, offices and other facilities shall be directed by the Architect and any existing features to remain shall be protected from damage throughout the Contract Period and handed back in good condition when they are vacated at the end of the Contract. If additional areas are required, the contractor shall source them at his own cost.

22. The Contractor shall give the Architect reasonable notice of the intention to set out or take levels for any part of the Works so that arrangements may be made for checking the work. The accuracy of setting out and levelings shall be within the tolerances specified in the Specification or on the Drawings. The checking of setting out or levelings by the Architect shall not relieve the Contractor of his duties or responsibilities under the Contract.

23. The Contractor must take steps necessary to safeguard and shall be held fully responsible for any damage caused to existing and adjacent property, including buildings that are not a subject of demolition. He shall make good at his o

wncostdamagetopersonsandpropertycausedthereon,andheshallindemnifytheProcuringEntityagainstanyl
ossorclaimthatmayarise.

24. The Contractor shall take such steps and exercise such care and diligence as to minimize nuisance arising fromdust, noise or any other cause to the occupiers of the existing and adjacent property. He must provide suchtemporary and special screens and tarpaulins or gummy bags, hoarding, barriers, warning signs etc. as heconsiders necessary and sufficient for the protection of the existing and adjacent property and or prevention ofnuisanceetc.asdirectedbyEngineer.

25. The Contractors attention is drawn to the standards levy order which was amended on 15th October 1998.Legalnotice No.154 of 1998. The Contractor is required to pay a monthly level of 0.2% of his factory price ofconstructionworkswitheffectfromJanuary1999.Tenderershallallowforthisinthebuild-upofhisrates.

26. TheContractorshallprovidetemporarysheds,officesmeshrooms,sanitary,accommodationandothertemporary buildingsfortheuseofthecontractorandsub-contractors,includinglightingfurnitureequipmentandattendance.

27. Contractorshallprovide/buildlaborcampsatareastobeagreedwiththeEngineer.Laborcampsshallbecomplete withsanitaryaccommodationandfencinggates.

28. The Contractor must provide the necessary toilet facilities to the requirement and satisfaction of the HealthAuthorities and maintain the same in a thoroughly clean and sanitary condition and pay all conservancy feesduringtheperiodoftheWorksandremovewhennolongerrequired.

29. TheContractorshallprovideathisownriskandcostallwatchingandlightingasnecessarytosafeguardtheWorks, Plantandmaterialsagainstdamageandtheft.

30. TheContractorshallprovideallnecessaryhoists,tackle,plant,equipment,vehicles,toolsandappliancesofeverydescri ption forthe dueand satisfactory completion oftheWorksandshall removethe sameoncompletion.Allsuchplant,toolsandequipmentshallcomplywithallregulationsinforcethroughouttheperiodo ftheContractandshallbealteredoradoptedduringtheContractperiodasmaybenecessarytocomplywithanyamendme ntsinoradditionstosuchregulations.

31. Provide,erectandmaintainallnecessary scaffolding,sufficientlystrongandefficientforthedueperformance of the Wo rks,includingSub-ContractWorks,provide specialscaffoldingasrequiredbySub-Contractors,alterandadoptallscaffoldingasandwhenrequiredduringtheWorks,andremoveoncompletion.No scaffo ldingismeasuredhereinafterandtheContractormustallowinhisratesforthis.

32. TheContractorshalltakeallnecessaryprecautionssuchastemporaryfencing,hoardingfans,plankedfootways, guard–railsgantriesscreen,etc.,forthesafecustodyoftheWorks,materialsandpublicprotectionandadjacentproperties.

33. Coverupallandprotectfromdamage,includingdamagefrominclementweather,allfinishedworkandunfixedmaterials , includingthatofSub-Contractors, etc.,to thesatisfaction ofthe Architectuntilthe completionoftheContract.

34. TheContractorshall,aftercompletionoftheworks,athisownexpense,removeandclearawayallsurplusexcavateddem olitionmaterials,plant,rubbishandunusedmaterialsandshallleavethewholeoftheSiteandWorksinacleanandtidystat etothesatisfactionoftheEngineer,sheds,camps,etc.Particularcareshallbetakentoleavecleanallfloorsandwindowsan dtoremoveallpaintandcementallrubbishanddirtasitaccumulates.TheContractoristofindhisowndumpandshallpaya llchargesinconnectiontherewith.

35. Concretetestcubesshallbepreparedinasetofthree,asdescribedincludingtestingfees,laborandmaterials,makingmold s,transport,handling,etc.Allowinyourratesformakingatleastfourcubesoneachoccasion,fromdifferentbatches;thec oncretebeingtakenfromthepointofdeposit.

36. TheContractorshallfurnishattheearliestpossibleopportunitybeforeworkcommences,andathisowncost,anysamples ofmaterialsandworkmanshipthatmaybecalledforbytheArchitectfortheapproval orrejection,andanyfurthersamples in the caseofrejection,untilsuchsamplesareapprovedbytheEngineer.Suchsamples,whenapproved, shallbetheminimumstandardfortheworktowhichtheyapply.Theprocedureforsubmittingsamples ofmaterialsfortestingorapprovalandthemethodofmarkingforidentificationshallbeaslaiddow nbytheEngineer.TheContractorshallallowinhisTenderforsuchsamplesandtests,includingthoseinconnectionwith hisSub-Contractorswork.

37. The Contractors attention is drawn to the Finance Bill of the year 2000/2001 on withholding tax on contractualpaymentsection35(7)(i)(ii)whichbecameeffectiveon1stJuly2000.A3%withholdingtaxwillbeapplicabl etoallinterimpaymentsexceedingKshs..... forworkdoneinrespectofbuildingorcivilworks.The contractorshallallowforanycostsarisingresultingtherefrominthebuild-upofrates.

38. Blastingwillonlybcallowedwiththeexpresspermissionof theArchitectinwriting.Allblastingoperationsshall becarriedoutattheContractor'ssoleriskandcost,inaccordancewithanyGovernmentregulationsinforceforthe timebeing,andanyspecialregulationslaiddownbytheArchitectgoverningtheuseandstorageofexplosives.

39. The National Construction Authority is a state corporation established under the national constructionauthorityActNo.14of2011.ThebroadMandateoftheAuthorityistooverseetheconstructionindustryand coordinateitsdevelopment.TheNationalConstructionAuthorityRegulations2014withaneffectivedateof6th June2014,regulation25,-Allow0.5%ofthetendersum/contractsumforconstructionlevy.

40. TheContractorattentionisdrawntoFinanceBillof1993whereVAT wasintroducedinallcontractsforconstructionservices.Thetendererisalsodrawnto VATActCap476clause19(9).The tenderermustallowforVAT1.19asinstructedelsewhere.

41. Thecontractorshallallowandpayforallinsurancetocoverrisksandindemnitiesrequired Items17and18ofthe ConditionsofcontractandalsospecifiedintheSpecialConditionsofContract.

SECTION VI-SPECIFICATIONS

SECTIONVII- DRAWINGS

PART III - THE CONDITIONS OF CONTRACT ANDCONTRACT

SECTION VIII –GENERAL CONDITIONS OF CONTRACT (GCC)

Name of Procurin: Entity ST. CECILIA MISIKHU GIRLS HIGH SCHOOL

Name of Contract: PROPOSED ERECTION AND COMPLETION WORKS OF 120 CAPACITY DORMITORY BLOCK IN WEBUYE EAST SUB-COUNTY

The Engineer is,

County works Officer,

Ministry of Roads, Infrastructure And Public Works

P.OBox 763, Bungoma

General Conditions of Contract

I. GENERALPROVISIONS

I.1 Definitions

In th is Contract, except where context otherwise requires, the following terms shall be interpreted as indicated belowWords indicating persons or parties include corporations and other legal entities, except where thecontext 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 there after 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 theAgreement Form and signed by the parties including all attachments and appendices thereto and all documentsincorporatedbyreferencethereinto execute, complete, and maintaintheWorks.

"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 theContract.

"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 (ifany), 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 Contract orutilizes 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 Contract or appointed from time to time by the Contract or 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.

"Day works" means Work inputs subject to payment on a time basis for labour and the associated materials and plant.

"Defect" means anypart of the Works not completed inaccordance with the Contract.

"DefectsLiabilityCertificate" meansthecertificateissuedbyArchitectuponcorrectionofdefectsbytheContractor.

"Defects Liability Period" means the period named in the Special Conditions of Contract and calculated from the Completion Date, within which the contractorisliableforanydefectsthat 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 may be) under Sub-Clause11.1[CompletionofOutstandingWorkandRemedyingDefects], which extendsoverthedaysstated 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 onbehalf of) the Procuring Entity inaccordance with the Contract.

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

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

"ForceMajeure" is defined in Clause19 [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'sEquipment, Materials, Plantand Temporary Works, or any of the misappropriate.

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

"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 atender, signed by Procuring Entity including any annexed memoranda comprisingagreements between and signed by both Parties.

"LocalCurrency" 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-onlymaterials(ifany) tobe 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 itsdissatisfactionandintention 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 thecontextrequires.

"Payment Certificate" means a payment certificate issued under Clause 14 [Contract Price and

Payment]."**Performance Certificate"** means the certificate issued under Sub-Clause11.9 [Performance

Certificate]. **"Performance Security"** means the security (or securities, Ifany) under Sub-Clause4.2

[Performance Security] **"PermanentWorks"** 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 Contractor in the execution of theWorks, 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, laborandotheremployeesoftheArchitectand 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 personnamedintheAppendixto Conditions of Contract (or any other competentpersonappointed by theProcuring Entity and notified to the Contractor, to act in replacement of the Engineer) who is responsible forsupervising the execution of the Works and administering the Contract and shall be an "Architect" or a "QuantitySurveyor" registered under the Architects and Quantity Surveyors Act Cap 525 or an "Engineer" registered underEngineersRegistrationActCap530.

"Engineer" means the person appointed by the Procuring Entity to act as th eArchitect 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 orservicesunderSub-Clause13.5[ProvisionalSums].

"RetentionMoney" means the accumulatedretentionmoneyswhich theProcuringEntityretainsunderSub-Clause 14.3[ApplicationforInterimPayment Certificates]and pays underSub-Clause14.9[Payment ofRetentionMoney].

"Schedules" meansthedocument(s)entitled schedules, completed by theContractorandsubmitted withtheFormof Tender, as included in the Contract.

"Section" means apart of theWorksspecifiedintheSpecial ConditionsofContract asaSection(ifany)

"Site Investigation Reports" are those reports that may be included in the tendering documents which are factual and interpretative aboutthesurfaceandsub-surfaceconditionsattheSite.

"Site"meanstheplaceswherethePermanentWorksaretobeexecuted,includingstorageandworkingareas,andtowhichPlantandMaterialsaretobedelivered,andanyotherplacesasmaybespecifiedintheContractasformingpartoftheSite.

"Specification" means the document entitled specification, as included in the Contract, and any additions andmodificationstothespecificationinaccordancewith theContract.Such document specifiestheWorks.

"Start Date" or "Commencement Date"is the latest date when the Contractor shall commence execution of theWorks.Itdoes notnecessarilycoincidewith the Sitepossession date(s).

"Statement"meansastatementsubmittedbytheContractoraspartofanapplication,underClause14[ContractPrice andPayment],for a paymentcertificate.

"Subcontractor" means any person named in the Contract as a subcontractor, or any person appointed as asubcontractor,fora partoftheWorks.

"Taking-OverCertificate"meansacertificateissuedunderClause10[ProcuringEntity'sTakingOver].

"TemporaryWorks"meansalltemporaryworksofeverykind(otherthanContractor'sEquipment)requiredonSite for theexecutionandcompletionofthePermanentWorksandtheremedyingofanydefects.

"Temporaryworks"meansworksdesigned,constructed,installed,andremovedbytheContractorwhichareneeded forconstructionorinstallationoftheWorks.

"Tender"meanstheFormofTenderandallotherdocumentswhichtheContractorsubmittedwiththeFormofTender,asincludedin theContract.

"TestsafterCompletion"meansthetests(ifany)whicharespecifiedintheContractandwhicharecarriedoutin

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

"TestsonCompletion"meansthetestswhicharespecifiedintheContractoragreedbybothPartiesorinstructedasaVariation ,andwhicharecarriedoutunderClause9[TestsonCompletion]beforetheWorksoraSection(as the casemaybe)a

retakenoverbytheProcuringEntity.

"Time for Completion" means the time for completing the Works or a Section (as the case may be) as stated in theSpecial Conditions of Contract (withanyextensioncalculatedfromtheCommencementDate.

"Unforeseeable"meansnot reasonablyforeseeablebyanexperiencedcontractorbytheBaseDate.

"Variation"meansanychangetotheWorks,whichisinstructedorapprovedasavariationunderClause13[Variations andAdjustments].

"Works"meanstheitemstheProcuringEntityrequirestheContractortoundertakeasdefinedintheAppendixtoConditionsof Contract.**"Works"may**alsomeanthePermanentWorksandtheTemporaryWorks,oreitherofthemasappropriate.

1.2 Interpretation

IntheContract,exceptwherethecontextrequiresotherwise:

a) Wordsindicatingonegenderincludeallgenders;
b) words indicating the singular also include the plural and words indicating the plural also include thesingular;
c) provisions including the word "agree", "agreed" or "agreement" require the agreement to be recorded inwriting;
d) "written" or "in writing" means hand-written, type-written, printed or electronically made, and resultinginapermanentrecord;and

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

1.3 Communications

13.1 WherevertheseConditionsprovideforthegivingorissuingofapprovals,certificates,consents,determinations, notices,requestsanddischarges,thesecommunicationsshallbe:

a) Inwritinganddeliveredbyhand(againstreceipt),sentbymailorcourier,or transmitted using any oftheagreedsystemsofelectronictransmissionasstatedintheSpecialConditionsofContract;and
b) delivered,sentortransmittedtotheaddressfortherecipient'scommunicationsasstated intheSpecialConditionsofContract.However:

i) if the recipient gives notice of another address, communications shall thereafter be deliveredaccordingly;and
ii) if the recipient has not stated otherwise when requesting an approval or consent, it may be sent to theaddressfromwhichtherequestwasissued.

13.2 Approvals,certificates,consentsanddeterminationsshallnotbeunreasonablywithheldordelayed.Whenacertificate isissuedtoaParty,thecertifiershallsendacopytotheotherParty.Whenanoticeisissuedtoa Party,bytheotherPartyorth eEngineer,acopyshallbesenttotheArchitectortheotherParty,asthecasemaybe.

1.4 LawandLanguage

1.4.1 TheContractshallbegovernedbythelawsof**Kenya**.

1.4.2 TherulinglanguageoftheContractshallbe**English**.

1.5 PriorityofDocuments

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 inaccordance 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 ContractAgreement

The Parties shall enter in to 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.Thecostsofstampdutiesandsimilarcharges(ifany)imposedbylawinconnectionwithentryintotheContractAgreementshallbebornebytheProcuringEntity.

1.7 Assignment

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

a) MayassignthewholeoranypartwiththepriorconsentoftheprocuringEntity,and
b) may,assecurityinfavorofabankorfinancialinstitution,assignitsrighttomoneysdue,ortobecomedue, undertheContract.

1.8 CareandSupplyofDocuments

18.1 TheSpecificationsandDrawingsshallbeinthecustodyandcareoftheProcuringEntity.Unlessotherwisestated in theContract, two copies of the Contract and of each subsequent Drawings and Bills of Quantities shall besuppliedtotheContractor,whomaymakeorrequestfurthercopiesatthecostoftheContractor.

18.2 EachoftheContractor'sDocumentsshallbeinthecustodyandcareoftheContractor,unlessanduntiltakenover bytheProcuringEntity.Unlessotherwisestatedinthecontract,theContractorshallsupplytotheArchitecttwo copiesofeachoftheContractor'sDocuments.

18.3 The Contractor shall keep, on the Site, a copy of the Contract, publications named in the Specification, theContractor's Documents (if any), the Drawings and Variations and other communications given under theContract.TheProcuringEntity'sPersonnelshallhavetherightofaccesstoallthesedocumentsatallreasonabletimes.

18.4 IfaPartybecomesawareofanerrorordefectinadocumentwhichwaspreparedforuseinexecutingtheWorks, thePartyshallpromptlygivenoticetotheotherPartyofsucherrorordefect.

1.9 TimelyprovisionofDrawingsorInstructions

19.1 TheContractorshallgivenoticetotheArchitectwhenevertheWorksarelikelytobedelayedordisruptedifanynecessarydrawingorinstructionisnotissuedtotheContractorwithinaparticulartime,whichshallbereasonable.Thenoticeshallincludedetailsofthenecessarydrawingorinstruction,detailsofwhyandbywhenitshouldbeissued,andthenaturean damountofthedelayordisruptionlikelytobesufferedifitislate.

19.2 IftheContractorsuffersdelayand/orincursCostasaresultofafailureoftheArchitecttoissuethenotifieddrawingorinstructionwithinatimewhichisreasonableandisspecifiedinthenoticewithsupportingdetails,theContractorshallgiveafurthernoticetotheArchitectandshallbeentitledsubjecttoSub-Clause20.1[Contractor'sClaims]to:

a) anextensionoftimeforanysuchdelay,ifcompletionisorwillbedelayed,underSub-Clause8.4[ExtensionofTimeforCompletion],and

b) paymentofanyotherassociatedcostsaccrued,whichshallbeincludedintheContractPrice.

1.9.3 Afterreceivingthisfurthernotice,theArchitectshallproceedinaccordancewithSub-Clause3.5[Determinations]toagreeordeterminethesematters.

1.9.4 However,ifandto theextentthattheArchitectfailurewascausedbyany errorordelay bytheContractor,includinganerrorin,ordelayinthesubmissionof,anyoftheContractor'sDocuments,theContractorshallnotbeentitledtosuchextensionoftime,orcostsaccrued.

1.10 ProcuringEntity'sUseofContractor'sDocuments

1.10.1 AsagreedbetweentheParties,theContractorshallretainthecopyrightandotherintellectualpropertyrightsin theContractor'sDocumentsandotherdesigndocumentsmadeby(oronbehalfof)theContractor.

1.10.2 The Contractor shall be deemed (by signing the Contract) to give to the Procuring Entity a non-terminabletransferable non-exclusive royalty-free license to copy, use and communicate the Contractor's Documents,includingmakingandusingmodificationsofthem.Thislicenseshall:

a) applythroughouttheactualorintendedworkinglife(whicheverislonger)oftherelevantpartsoftheWorks,
b) entitleanypersoninproperpossessionoftherelevantpartoftheWorkstocopy,useandcommunicatetheContractor'sDocumentsforthepurposesofcompleting,operating,maintaining,altering,adjusting,repairingandd emolishingtheWorks,and
c) in the caseofContractor'sDocumentswhichareintheformofcomputerprogramsandothersoftware, permittheir use on any computer on the Site and other places as envisaged by the Contract, includingreplacementsofanycomputerssuppliedbytheContractor.

1.10.3 TheContractor'sDocumentsandotherdesigndocumentsmadeby(oronbehalfof)theContractorshallnot, withoutthe Contractor's consent, be used, copied or communicated to a third party by (or on behalf of) theProcuringEntityforpurposesotherthanthosepermitteduderSub-Clause1.10.2.

1.11 Contractor'sUseofProcuringEntity'sDocuments

AsagreedbetweentheParties,theProcuringEntityshallretainthecopyrightandotherintellectualpropertyrightsintheSpecification,theDrawingsandotherdocumentsmadeby(oronbehalfof)theProcuringEntity.TheContractormay,athiscost,copy,use,andobtaincommunicationofthesedocumentsforthepurposesoftheContract.Theyshallnot,withouttheProcuringEntity'sconsent,becopied,usedorcommunicatedtoathirdpartybytheContractor,exceptasnecessaryforthepurposesoftheContract.

1.12 ConfidentialDetails

1.12.1 TheContractor'sandtheProcuringEntity'sPersonnelshallensureconfidentialityatalltimes.Theconfidentialityshallsurviveterminationorcompletionofthecontract.Theyshalldiscloseallsuchconfidential and other information as may be reasonably required in order to verify compliance with theContractandallowitsproperimplementation.

1.12.2 TheContractor'sandtheProcuringEntity'sPersonnelshallalsotreatthedetailsoftheContractasprivateandconfidential, except to the extent necessary to carry out their respective obligations under the Contract or tocomplywithapplicableLaws.EachofthemshallnotpublishordiscloseanyparticularsoftheWorksprepared by theotherPartywithoutthepreviousagreementoftheotherParty.However,theContractorshallbepermittedtodisclo seanypubliclyavailableinformation,orinformationotherwiserequiredtoestablishhisqualificationstocompetefo rotherprojects.

1.13 CompliancewithLaws

TheContractorshall,inperformingtheContract,complywithapplicableLaws.Unlessotherwisestatedinthe SpecialConditionsofContract:

a) TheProcuringEntityshallhaveobtained(orshallobtain)theplanning,zoning,buildingpermitorsimilarpermissionforthePermanentWorks,andanyotherpermissionsdescribedintheSpecificationsashavingbeen(orto be)obtainedbytheProcuringEntity; and the ProcuringEntity shallindemnifyandholdtheContractorharmlessagainstandfromtheconsequencesofanyfailuretodoso,and

b) the Contractor shall give all notices, pay all taxes, duties and fees, and obtain all permits, licenses andapprovals,asrequiredbytheLawsinrelationtotheexecutionandcompletionoftheWorksandtheremedyingofanydefects;andtheContractorshallindemnifyandholdtheProcuringEntityharmlessagainstandfromtheconsequencesofanyfailuretodoso,unlesstheContractorisimpededtoaccomplishtheseactionsandshowsevidenceofitsdiligence.

1.14 JointandSeveralLiability

IftheContractorconstitutes(underapplicableLaws)ajointventure,consortiumorotherunincorporatedgroupingoftwoor more persons:

a) ThesepersonsshallbedeemedtobejointlyandseverallyliabletotheprocuringEntityfortheperformance of theContract;
b) thesepersonsshallnotifytheProcuringEntityoftheirleaderwhoshallhaveauthoritytobindtheContractorandeachofthesepersons;and
c) theContractorshallnotalteritscompositionorlegalstatuswithoutthepriorconsentoftheProcuringEntity.

1.15 InspectionsandAuditbytheProcuringEntity

Pursuanttoparagraph2.2(e).ofAppendixBtotheGeneralConditions,theContractorshallpermitandshall cause itssubcontractors and sub-consultants to permit, the Public Procurement RegulatoryAuthority,ProcuringEntityand/orpersonsappointedordesignatedbytheGovernmentofKenyatoinspecttheSiteand/ortheaccountsandrecordsrelatingtotheprocurementprocess,selectionand/orcontractexecution,andtohavesuchaccountsandrecordsauditedbyauditorsappointedbytheProcuringEntityifrequestedbytheProcuring Entity. TheContractor'sanditsSubcontractors'andsub-consultants'attentionisdrawntoSub-Clause15.6(FraudandCorruption)whichprovides,interalia,thatactsintendedtomateriallyimpedetheexerciseoftheProcuringEntity'sinspectionandauditrightsconstituteaprohibitedpracticesubjecttocontracttermination(aswellastoadeterminationofineligibilitypursuanttotheProcuringEntity'sprevailingsanctionsprocedures).

2 THEPROCURINGENTITY

2.1 RightofAccesstotheSite

2.1.1 TheProcuringEntityshallgivetheContractorrightofaccessto,andpossessionof,allpartsoftheSitewithinthetime(ortimes)statedintheSpecialConditionsofContract. Therightandpossessionmaynotbeexclusivetothe Contractor. If,undertheContract,theProcuringEntityisrequiredtogive(to the Contractor)possessionofanyfoundation,structure,plantormeansofaccess,theProcuringEntityshalldosointhetimeandmannerstatedintheSpecification.However,theProcuringEntitymaywithholdanysuchrightorpossessionuntilthePerformanceSecurityhasbeenreceived.

2.1.2 If no such time is stated in the Special Conditions of Contract, the Procuring Entity shall give the Contractorrightofaccessto,andpossessionof,theSitewithinsuchtimesasrequiredtoenabletheContractortoproceedwithoutdisruptioninaccordancewiththeprogrammesubmittedunderSub-Clause8.3[Programme].

2.1.3 IftheContractorsuffersdelayand/orincursCostasaresultofafailurebytheProcuringEntitytogiveanysuch right orpossessionwithinsuchtime,theContractorshallgivenoticetotheArchitectandshallbeentitledsubjecttoSub-Clause20.1[Contractor'sClaims]to:
a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4[ExtensionofTimeforCompletion],and
b) paymentofanysuchCost-plusprofit,whichshallbeincludedintheContractPrice.

2.1.4 Afterreceivingthisnotice,theArchitectshallproceedinaccordancewithSub-Clause3.5[Determinations]to agreeordeterminethesematters.

2.1.5 However, if and to the extent that the Procuring Entity's failure was caused by any error or delay by theContractor, including an error in, or delay in the submission of, any of the Contractor's Documents, theContractorshallnotbeentitledtosuchextensionoftime,Costorprofit.

2.2 Permits, Licenses or Approvals

2.2.1 The Procuring Entity shall provide, at the request of the Contractor, such reasonable assistance 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.

2.3 Procuring Entity's Personnel

The Procuring Entity shall be responsible for ensuring that the Procuring Entity's Personnel and the Procuring Entity's other contractors on 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].

2.4 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 assigned 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 Thefollowingprovisionsshallapply:

TheArchitectshallobtainthespecificapprovaloftheProcuringEntitybeforetakingactionunderthe-following Sub-ClausesoftheseConditions:

a) Sub-Clause4.12:agreeingordeterminingan extensionoftimeand/oradditionalcost.

b) Sub-Clause13.1:instructingaVariation,except;

i) Inanemergencysituationasdeterminedbytheengineer,or

ii) IfsuchaVariationwouldincreasetheAcceptedContractAmountbylessthanthepercentagespecifiedint he**SpecialConditionsofContract.**

c) Sub-Clause13.3:ApprovingaproposalforVariationsubmittedbytheContractorinaccordancewithSub Clause13.1or13.2.

d) Sub-Clause13.4:Specifyingtheamountpayableineachoftheapplicablethreecurrencies.

3.1.7 Notwithstandingtheobligation,assetoutabove,toobtainapproval,if,intheopinionoftheEngineer,anemergencyoc cursaffectingthesafetyoflifeoroftheWorksorofadjoiningproperty,hemay,withoutrelievingtheContractorofanyo fhisdutiesandresponsibilityundertheContract,instructtheContractortoexecuteallsuchworkortodoallsuchthings asmay,in the opinionoftheEngineer,benecessarytoabateorreducetherisk.TheCo ntractorshallforthwithcomply,despitetheabsenceofapprovaloftheProcuringEntity,withanysuchinstructionofth eEngineer.TheArchitectshalldetermineanadditiontotheContractPrice,inrespectofsuchinstruction,inaccordanc ewithClause13andshallnotifytheContractoraccordingly,withacopytotheProcuringEntity.

3.2 DelegationbytheEngineer

3.2.1 TheArchitectmayfromtimetotimeassigndutiesanddelegateauthoritytoassistantsandmayalsorevokesuchassign mentordelegation.Theseassistantsmayincludearesidentengineer,and/orindependentinspectorsappointedtoinsp ectand/ortestitemsofPlantand/orMaterials.Theassignment,delegationorrevocationshallbeinwriting andshallnottakeeffectuntilcopieshavebeenreceivedby bothParties.However,unlessotherwiseagreedbybothParties,theArchitectshallnotdelegatetheauthoritytodeterm ineanymatterinaccordancewithSub-Clause2.5[Determinations].

3.2.2 Eachassistant,towhomdutieshavebeenassignedorauthorityhasbeendelegated,shallonlybeauthorizedtoissueinst ructions 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, inaccordance with the delegation, shall have the same effect as though the act had been an act of the Engineer.However:

a) Anyfailuretodisapproveanywork,PlantorMaterialsshallnotconstituteapproval,andshallthereforenot prejudicetherightoftheArchitecttorejectthework,PlantorMaterials;

b) IftheContractorquestionsanydeterminationorinstructionofanassistant,theContractormayreferthe mattertotheEngineer,whoshallpromptlyconfirm,reverseorvarythedeterminationorinstruction.

3.3 InstructionsoftheEngineer

3.3.1 TheArchitectmayissuetotheContractor(atanytime)instructionsandadditionalormodifiedDrawingswhichmaybe necessaryfortheexecutionoftheWorksandtheremedyingofanydefects,allinaccordancewiththeContract.TheCon tractorshallonlytakeinstructionsfromtheEngineer,orfromanassistanttowhomtheappropriateauthorityhasbeend elegatedunderClause3.2.1.

3.3.2 TheContractorshallcomplywiththeinstructionsgivenbytheArchitectordelegatedassistant,onanymatter relatedtotheContract.Wheneverpracticable,theirinstructionsshallbegiveninwriting.IftheArchitectora delegatedassistant:

a) Givesanoralinstruction,

b) receives a written confirmation of the instruction, from (or on behalf of) the Contractor, within twoworkingdaysaftergivingtheinstruction,and

c) doesnotreplybyissuingawrittenrejectionand/orinstructionwithintwoworkingdaysafterreceivingthe confirmation,

Thentheconfirmationshallconstitutethewritteninstructionof theArchitectordelegatedassistant(as the casemaybe).

3.4 ReplacementoftheEngineer

IftheProcuringEntityintendstoreplacetheEngineer,theProcuringEntityshall,innotlessthan21daysbefore theintendeddateofreplacement,givenoticetotheContractorofthename,addressandrelevantexperienceoft heintendedpersontoreplacetheEngineer.

3.5 Determinations

3.5.1 WhenevertheseConditionsprovidethattheArchitectshallproceedinaccordancewiththisSub-Clause3.5toagreeordetermineanymatter,theArchitectshallconsultwitheachPartyinan endeavor toreachagreement.Ifagreementisnotachieved,theArchitectshallmakeafairdeterminationinaccordancewiththeC ontract,takingdueregardofallrelevantcircumstances.

3.5.1 TheArchitectshallgivenoticetobothPartiesofeachagreementordetermination,withsupportingparticulars,within 30days from the receipt of the corresponding claim or request except when otherwise specified. EachParty shall give effect to each agreement or determination unless and until revised under Clause 20 [Claims,DisputesandArbitration].

4 THECONTRACTOR

4.1 Contractor'sGeneralObligations

4.1.1 The Contractor shall design (to the extent specified in the Contract), execute and complete the Works inaccordancewiththeContractandwiththeArchitectinstructions,andshallremedyanydefectsintheWorks.

4.1.2 The Contractor shall provide the Plant and Contractor's Documents specified in the Contract, and allContractor's Personnel, Goods, consumables and other things and services, whether of a temporary orpermanentnature,requiredinandforthisdesign,execution,completionandremedyingofdefects.

4.1.3 Allequipment,material,andservicestobeincorporatedinorrequiredfortheWorksshallhavetheiroriginin anyeligiblesourcecountry.

4.1.4 TheContractorshallberesponsiblefortheadequacy,stabilityandsafetyofallSiteoperationsandofallmethodsofcon struction.ExcepttotheextentspecifiedintheContract,theContractor(i)shallberesponsibleforallContractor'sDocu ments,TemporaryWorks,andsuchdesignofeachitemofPlantandMaterialsasisrequiredfortheitemtobeinaccorda ncewiththeContract,and(ii)shallnototherwiseberesponsibleforthedesignorspecificationofthePermanentWorks .

4.1.5 The Contractor shall, whenever required by the Engineer, submit details of the arrangements and methodswhich the Contractor proposes to adopt for the execution of the Works. No significant alteration to thesearrangementsandmethodsshallbemadewithoutthishavingpreviouslybeennotifiedtotheEngineer.

4.1.6 IftheContractspecifiesthattheContractorshalldesignanypartofthePermanentWorks,thenunlessotherwise statedintheSpecialConditions:

a) TheContractorshallsubmittotheArchitecttheContractor'sDocumentsforthispartinaccordancewith theproceduresspecifiedintheContract;

b) theseContractor'sDocumentsshallbeinaccordancewiththeSpecificationandDrawings,shallbewritteninthe languageforcommunicationsdefinedinSub-Clause1.4[LawandLanguage],andshallincludeadditionalinformationrequiredbytheArchitecttoaddtothe Drawingsforco-ordinationofeachParty'sdesigns;

c) theContractorshallberesponsibleforthispartanditshall,whentheWorksarecompleted,befitforsuch purposesforwhichthepartisintendedasarespecifiedintheContract;and

d) priortothecommencementoftheTests onCompletion,theContractorshallsubmittotheArchitectthe "as-built"documentsand,ifapplicable,operationandmaintenancemanualsinaccordancewiththeSpecificationa ndinsufficientdetailfortheProcuringEntitytooperate,maintain,dismantle,reassemble,adjustandrepairthis partoftheWorks.SuchpartshallnotbeconsideredtobecompletedforthepurposesoftakingoverunderSub-Clause10.1[TakingOveroftheWorksandSections]untilthesedocumentsandmanualshavebeensubmittedto

42 PerformanceSecurity

42.1 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 Contractor in afreely 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 TheContractorshalldeliverthePerformanceSecuritytothe ProcuringEntitywithin30daysafterreceivingtheNotification ofAwardandshallsend acopy totheEngineer. ThePerformanceSecurityshallbe issuedby areputablebankselectedbytheContractorandshallbeintheformannexedtotheSpecialConditions,asstipulatedbyt heProcuringEntityintheSpecialConditionsofContract,orin anotherformapprovedbytheProcuringEntity.

423 TheContractorshallensurethatthePerformanceSecurityisvalidandenforceableuntiltheContractorhasexecutedan dcompletedtheWorksandremediedanydefects.Ifthetermsofthe PerformanceSecurityspecifyitsexpirydate,andth eContractorhasnotbecomeentitledtoreceivethePerformanceCertificatebythedate30dayspriortotheexpirydate,t heContractorshallextendthevalidityofthePerformanceSecurityuntiltheWorkshavebeencompletedandanydefec tshavebeenremedied.

424 TheProcuringEntityshallnotmakeaclaimunderthePerformanceSecurity,exceptforamountstowhichthe ProcuringEntityisentitledundertheContract.

425 The Procuring Entity shall indemnify and hold the Contractor harmless against and from all damages, lossesandexpenses(includinglegalfeesandexpenses)resultingfromaclaimunderthePerformanceSecuritytothee xtenttowhichtheProcuringEntitywasnotentitledtomaketheclaim.

426 TheProcuringEntityshallreturnthePerformanceSecuritytotheContractorwithin14daysafterreceivinga copyoftheTaking-OverCertificate.

427 Withoutlimitationtotheprovisionsoftherestofthis Sub-Clause,whenevertheArchitectdeterminesanadditionorareductiontotheContractPriceasaresultofachangeincost and/orlegislation,orasaresultofaVariation,amountingtomorethan25percentoftheportionoftheContractPricepay ableinaspecificcurrency,theContractorshallattheArchitectrequestpromptlyincrease,ormaydecrease, as the casemaybe,thevalueofthePerfor manceSecurityinthatcurrencybyanequalpercentage.

43 Contractor'sRepresentative

43.1 TheContractorshallappointtheContractor'sRepresentativeandshallgivehimallauthoritynecessarytoactontheCo ntractor'sbehalfunder theContract. TheContractor'sRepresentative'sNameandAddressshallbeprovidedintheSpecialConditionsofContract.

432 UnlesstheContractor'sRepresentative**isnamedintheContract**,theContractorshall,priortotheCommencementD ate,submittotheArchitectforconsentthenameandparticularsofthepersontheContractorproposestoappointasCon tractor'sRepresentative.Ifconsentiswithheldorsubsequentlyrevokedintermsof Sub-Clause6.9[Contractor'sPersonnel],oriftheappointedpersonfailstoactasContractor'sRepresentative,theContract orshallsimilarlysubmitthenameandparticularsofanothersuitablepersonforsuchappointment.

433 TheContractorshallnot,withoutthepriorconsentoftheEngineer,revoketheappointmentoftheContractor's Representativeorappointareplacement.

434 ThewholetimeoftheContractor'sRepresentativeshallbegiventodirectingtheContractor'sperformanceoftheContr act.IftheContractor'sRepresentativeistobetemporarilyabsentfromtheSiteduringtheexecutionof theWorks,asuitablereplacementpersonshallbeappointed,subjecttotheArchitectpriorconsent,andtheArchitectsh allbenotifiedaccordingly.

435 The Contractor's Representative shall, on behalf of the Contractor, receive instructions under Sub-Clause3.3[InstructionsoftheEngineer].

436 The Contractor's Representative may delegate any powers, functions and authority to any competent person,andmayatanytimerevokethedelegation.AnydelegationorrevocationshallnottakeeffectuntiltheArchitect hasreceived prior notice signed by the Contractor's Representative, naming the person and specifying thepowers,functionsandauthoritybeingdelegatedorrevoked.

437 TheContractor'sRepresentativeshallbefluentinthelanguageforcommunicationsdefinedinSub-Clause1.4[LawandLanguage].IftheContractor'sRepresentative'sdelegatesarenotfluentinthesaidlanguage,the

Contractorshallmakecompetentinterpretersavailableduringallworkinghoursinanumberdeemedsufficient bytheEngineer.

44 Sub-contractors

44.1 TheContractorshallnotsubcontractthewholeoftheWorks.Thecontractormayhoweversubcontracttheworksaspro videdinClause34.2.

44.2 TheContractorshallberesponsiblefortheactsordefaultsofanySubcontractor,hisagentsoremployees,asif theyweretheactsordefaultsoftheContractor.UnlessotherwisestatedintheSpecialConditions:

a) TheContractorshallnotberequiredtoobtainconsenttosupplierssolelyofMaterials,ortoasubcontract forwhichtheSubcontractorisnamedintheContract;
b) ThepriorconsentoftheProcuringEntityshallbeobtainedtootherproposedSubcontractors;
c) the Contractor shall give the Procuring Entity not less than 14 days' notice of the intended date of thecommencementofeachSubcontractor'swork,andofthecommencementofsuchworkontheSite;and
d) eachsubcontractshallincludeprovisionswhichwouldentitletheProcuringEntitytorequirethesubcontracttob eassignedtotheProcuringEntityunderSub-Clause4.5[AssignmentofBenefitofSubcontract](iforwhenapplicable)orintheeventofterminationunderSu b-Clause15.2[TerminationbyProcuringEntity].

44.3 TheContractorshallensurethattherequirementsimposedontheContractorbySub-Clause1.12[ConfidentialDetails]applyequallytoeachSubcontractor.

44.4 Wherepracticable,theContractorshallgivefairandreasonableopportunityforcontractorsfromKenyatobe appointedasSubcontractors.

45 AssignmentofBenefitofSubcontract

IfaSubcontractor'sobligationsextendbeyondtheexpirydateoftherelevantDefectsNotificationPeriodandtheEngineer, priortothisdate,instructstheContractortoassignthebenefitofsuchobligationstotheProcuring Entity,thentheContractorshalldoso.Unlessotherwisestatedintheassignment,theContractorshallhavenoliability tothe ProcuringEntityfortheworkcarriedoutbytheSubcontractoraftertheassignmenttakeseffect.

46 Co-operation

46.1 TheContractorshall,asspecifiedintheContractorasinstructedbytheEngineer,allowappropriateopportunitiesforc arryingoutworkto:

a) TheProcuringEntity'sPersonnel,
b) Anyothercontractorsemployedbytheprocuringentity,and
c) Thepersonnelofanylegallyconstitutedpublicauthorities,whomaybeemployedintheexecutiononor neartheSiteofanyworknotincludedintheContract.

46.2 AnysuchinstructionshallconstituteaVariationifandtotheextentthatitcausestheContractortosufferdelaysand/ort oincurUnforeseeableCost.Servicesforthesepersonnelandothercontractorsmayincludetheuseof Contractor'sEqu ipment,TemporaryWorksoraccessarrangementswhicharetheresponsibilityoftheContractor.

46.3 If,undertheContract,theProcuringEntityisrequiredtogivetotheContractorpossessionofanyfoundation,structure, plantormeansofaccessinaccordancewithContractor'sDocuments,theContractorshallsubmitsuchdocumentstoth eArchitectinthetimeandmannerstatedintheSpecification.

47 Setting Out of the Works

47.1 TheContractorshallsetouttheWorksinrelationtooriginalpoints,linesandlevelsofreferencespecifiedintheContrac tornotifiedbytheEngineer.TheContractorshallberesponsibleforthecorrectpositioningofallpartsoftheWorks,and shallrectifyanyerrorinthepositions,levels,dimensionsoralignmentoftheWorks.

47.2 TheProcuringEntityshallberesponsibleforanyerrorsinthesespecifiedornotifieditemsofreference,butthe Contractorshallusereasonableeffortstoverifytheiraccuracybeforetheyareused.

47.3 IftheContractorsuffersdelayand/orincursCostfromexecutingworkwhichwasnecessitatedbyanerrorinthese items of reference, and an experienced contractor could not reasonably have discovered such error andavoidedthisdelayand/orCost,theContractorshallgivenoticetotheArchitectandshallbeentitledsubjecttoSub-

Clause20.1[Contractor'sClaims]to:

a) anextensionoftimeforanysuchdelay,ifcompletionisorwillbedelayed,underSub-Clause8.4[ExtensionofTimeforCompletion],and
b) paymentofanysuchcostsaccrued,whichshallbeincludedintheContractPrice.

4.7.4 AfterreceivingthisnoticetheArchitectshallproceedinaccordancewithSub-Clause3.5[Determinations]toagreeordetermine(i)whetherand(ifso)towhatextenttheerrorcouldnotreasonablyhavebeendiscovered,and(ii)themattersdescribedinsub-paragraphs(a)and(b)aboverelatedtothise.

48 SafetyProcedures

TheContractorshall:

a) Complywithallapplicablesafetyregulations,
b) Takecareforthesafetyofallpersonsentitledtobeontheite,
c) Usereasonableeffortstokeeptheiteandworksclearofunnecessaryobstructionsoastoavoiddangertothesepersons,
d) providefencing,lighting,guardingandwatchingoftheWorksuntilcompletionandtakingoverunderClause10[ProcuringEntity'sTakingOver],and
e) provide any Temporary Works (including roadways, footways, guards and fences) which may benecessary,becauseoftheexecutionoftheWorks,fortheuseandprotectionofthepublicandofownersandoccupiersofadjacentland.

49 QualityAssurance

49.1 TheContractorshallinstituteaqualityassurancesystemtodemonstratecompliancewiththerequirementsoftheContract.Thesystemshallbeinaccordancewiththedetailsstatedin theContract.TheArchitectshallbeentitledtoauditanyaspectofthesystem.

49.2 Detailsofallproceduresandcompliancedocumentsshallbesubmittedtothe Architectforinformationbeforeeachdesign and execution stage is commenced. When any document of a technical nature is issued to theEngineer,evidenceofthepriorapprovalbytheContractoritselfshallbeapparentonthedocumentitself.

Compliancewiththequalityassurancesystemshallnotrelievethe Contractorofanyofhisduties,obligations orresponsibilitiesundertheContract.

410 Site Data

4.10.1 TheProcuringEntityshallhavemadeavailabletotheContractorforhisinformation,priortotheBaseDate,allrelevantdataintheProcuringEntity'spossessiononsub-surfaceandhydrologicalconditionsattheite,includingenvironmentalaspects.TheProcuringEntityshallsimilarlymakeavailabletotheContractorallsuchdatawhichcomeintotheProcuringEntity'spossessionafterthe BaseDate.TheContractorshallberesponsibleforinterpretingallsuchdata.

4.10.2 To theextentwhichwaspracticable(takingaccountofcostandtime),theContractorshallbedeemedtohaveobtainedallnecessaryinformationastorisks,contingenciesandothercircumstanceswhichmayinfluenceoraffecttheTenderorWorks.Tothesameextent,theContractorshallbedeemedtohaveinspectedandexaminedtheite,itssurroundings,theabovedataandotheravailableinformation,andtohavebeensatisfiedbeforesubmittingtheTenderastoallrelevant matters, including(withoutlimitation):

a) Theformandnatureoftheite,includingsub-surfaceconditions,
b) thehydrologicalandclimaticconditions,
c) theextentandnatureoftheworkandGoodsnecessaryfortheexecutionandcompletionoftheWorksandtheremedyingofanydefects,
d) theLaws,proceduresandlabourpracticesofKenya,and
e) the Contractor's requirements for access, accommodation, facilities, personnel, power, transport, waterandotherservices.

411 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 ont he data, interpretations, necessary information, inspections, examinations and satisfaction astoallrelevantmattersreferredtoinSub-Clause4.10[SiteData].

4.11.2 UnlessotherwisestatedintheContract,theAcceptedContractAmountcoversalltheContractor'sobligationsundert he Contract (including those under Provisional Sums, if any) and all things necessary for the properexecutionandcompletionoftheWorksandtheremedyingofanydefects.

4.12 UnforeseeablePhysicalConditions

4.12.1 InthisSub-Clause,"physicalconditions"meansnaturalphysicalconditionsandman-madeandotherphysicalobstructionsandpollutants,whichtheContractorencountersattheSitewhenexecutingthe Works,including sub-surfaceandhydrologicalconditionsbutexcludingclimaticconditions.

4.12.2 IftheContractorencountersadversephysicalconditionswhichheconsiderstohavebeenUnforeseeable,the Contractorshallgivenoticetothe Architectassoonaspracticable.

4.12.3 Thisnoticeshalldescribethephysicalconditions,sothattheycanbeinspectedbytheArchitectandshallsetout thereasonswhytheContractorconsidersthemtobeUnforeseeable.TheContractorshallcontinueexecutingt heWorks,usingsuchproperandreasonablemeasuresasareappropriateforthephysicalconditions,andshallc omplywithanyinstructionswhichtheArchitectmaygive.Ifaninstructionconstitutesa Variation,Clause13 [VariationsandAdjustments]shallapply.

4.12.4 Ifand to theextentthattheContractorencounters physicalconditions which are Unforeseeable,givessuchanotice andsuffersdelayand/orincursCostduetotheseconditions,theContractorshallbe entitledsubjecttonoticeunderSub-Clause20.1[Contractor'sClaims]to:

a) anextensionoftimeforanysuchdelay,ifcompletionisorwillbedelayed,underSub-Clause8.4[ExtensionofTimeforCompletion]and

b) paymentofanysuchCost,whichshallbeincludedintheContractPrice.

4.12.5 Uponreceiving suchnoticeand inspectingand/orinvestigating thesephysicalconditions, theArchitectshallproceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) whether and (if so) towhatextentthesephysicalconditionswereUnforeseeable,and(ii)themattersdescribedinsub-paragraphs(a)and(b)aboverelatedtothisextent.

4.12.6 However,beforeadditional Costisfinallyagreedordeterminedundersub-paragraph(ii),theArchitectmayalsoreviewwhetherotherphysicalconditionsinsimilarpartsoftheWorks(ifany)we remorefavorablethancouldreasonablyhavebeenforeseenwhentheContractorsubmittedtheTender.Ifandtotheext entthatthese more favorableconditionswereencountered,theArchitectmayproceedinaccordancewithSub-Clause3.5[Determinations]toagreeordeterminethereductionsinCostwhichwereduetotheseconditions,whichma ybeincluded(asdeductions)intheContractPriceandPaymentCertificates.However,theneteffectofalladjustments undersub-paragraph(b)andallthesereductions,forallthephysicalconditionsencounteredinsimilarpartsoftheWorks,shallno tresultinanetreductionintheContractPrice.

4.12.7 The Architect shall take account of any evidence of the physical conditions foreseen by the Contractorwhensubmitting the Tender, which shall be made available by the Contractor, but shall not be bound by theContractor'sinterpretationofanysuchevidence.

4.13 RightsofWayandFacilities

UnlessotherwisespecifiedintheContracttheProcuringEntityshallprovideeffectiveaccesstoandpossession of theSiteincludingspecialand/ortemporaryrights-of-

facilitiesoutsidetheSitewhichhemayrequireforthepurposesoftheworks.

4.14 AvoidanceofInterference

4.14.1 TheContractorshallnotinterfereunnecessarilyorimproperlywith:

a) Theconvenienceofthepublic,or

b) Theaccesstoanduseandoccupationofallroadsandfootpaths,irrespectiveofwhethertheyarepublicor in thepossessionoftheProcuringEntityorofothers.

4.14.2 The Contractor shall indemnify and hold the Procuring Entity harmless against and from all damages, lossesandexpenses(includinglegalfeesandexpenses)resultingfromanysuchunnecessaryorimproperinterferenc e.

4.15 AccessRoute

4.15.1 TheContractorshallbedeemedtohavebeensatisfiedastothesuitabilityandavailabilityofaccessroutestotheSiteatB aseDate.TheContractorshallusereasonableeffortstopreventanyroadorbridgefrombeingdamagedbytheContract or'strafficorbytheContractor'sPersonnel.Theseeffortsshallincludetheproperuseofappropriatevehiclesandroute s.

4.15.2 ExceptasotherwisestatedintheseConditions:

a) TheContractorshall(asbetweentheParties)beresponsibleforanymaintenancewhichmayberequired forhisuseofaccessroutes;

b) the Contractor shall provide all necessary signs or directions along access routes, and shall obtain anypermissionwhichmayberequiredfromtherelevantauthoritiesforhisuseofroutes,signsanddirections;

c) theProcuringEntityshallnotberesponsibleforanyclaimswhichmayarisefromtheuseorotherwiseof anyaccessroute;

d) theProcuringEntitydoesnotguaranteethesuitabilityoravailabilityofparticularaccessroutes;and

e) Costs due to non-suitability or non-availability, for the use required by the Contractor, of accessroutesshallbebornebytheContractor.

4.16 TransportofGoods

UnlessotherwisestatedintheSpecial Conditions:

a) the Contractor shall give the Architect not less than 21 days' notice of the date on which any Plant or amajoritemofotherGoodswillbedeliveredtotheSite;

b) theContractorshallberesponsibleforpacking,loading,transporting,receiving,unloading,storingand protectingallGoodsandotherthingsrequiredfortheWorks;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 thetransportof Goods andshallnegotiateandpayallclaimsarisingfromtheirtransport.

4.17 Contractor'sEquipment

TheContractorshallberesponsibleforallContractor'sEquipment.WhenbroughtontotheSite,Contractor'sEquipments hallbedeemedtobeexclusivelyintendedfortheexecutionoftheWorks.TheContractorshallnotremovefromtheSiteany majoritemsofContractor'sEquipmentwithouttheconsentoftheEngineer.However, consentshallnotberequiredforvehiclestransportingGoodsorContractor'sPersonneloffSite.

4.18 ProtectionoftheEnvironment

4.18.1 Thecontractorshallcomplywiththeapplicableenvironmentallaws,regulationsandpolicies.

4.18.2 TheContractorshalltakeallreasonablestepstoprotecttheenvironment(bothonandoffttheSite)andtolimitd amageandnuisancetopeopleandpropertyresultingfrompollution,noiseandotherresultsofhisoperations.

4.18.3 TheContractorshallensurethatemissions,surfacedischargesandeffluentfromtheContractor'sactivitiesshall notexceedthevaluesstatedintheSpecificationorprescribedbyapplicableLaws.

4.19 Electricity,WaterandGas

4.19.1 The Contractor shall, except as stated below, be responsible for the provision of all power, water and otherservices he may require for his construction activities and to the extent defined in the Specifications, for thetests.

4.192 TheContractorshallbeentitledtouseforthepurposesoftheWorkssuchsuppliesofelectricity,water,gasandotherservicesasmaybeavailableontheSiteandofwhichdetailsandpricesaregivenintheSpecifications.TheContractorshall,athisriskandcost,provideanyapparatusnecessaryforhisuseoftheseservicesandformeasuringthequantitiesconsumed.

4.193 Thequantitiesconsumedandtheamountsdue(attheseprices)forsuchservicesshallbeagreedordeterminedbytheArchitectinaccordancewithSub-Clause2.5[ProcuringEntity'sClaims]andSub-Clause3.5[Determinations].TheContractorshallpaytheseamountstotheProcuringEntity.

420 ProcuringEntity'sEquipmentandFree-IssueMaterials

420.1 TheProcuringEntityshallmaketheProcuringEntity'sEquipment(ifany)availablefortheuseoftheContractorintheexecutionoftheWorksinaccordancewiththedetails,arrangementsandpricesstatedintheSpecification.UnlessotherwisestatedintheSpecification:

a) TheProcuringEntityshallberesponsiblefortheProcuringEntity'sEquipment,exceptthat

b) the Contractor shall be responsible for each item of Procuring Entity's Equipment whilst any of theContractor'sPersonnelisoperatingit,drivingit,directingitorinpossessionorcontrolofit.

420.1 Theappropriatequantitiesandtheamountsdue(atsuchstatedprices)fortheuseofProcuringEntity'sEquipmentshallbeagreedordeterminedbytheArchitectinaccordancewithSub-Clause2.5[ProcuringEntity'sClaims]andSub-Clause3.5[Determinations].TheContractorshallpaytheseamountstotheProcuringEntity.

420.2 TheProcuringEntityshallsupply,freeofcharge,the"free-issuematerials"(ifany)inaccordancewiththedetailsstatedintheSpecification.TheProcuringEntityshall,athisriskandcost,providethesematerialsatthetimeandplacespecifiedintheContract.TheContractorshallthenvisuallyinspectthemandshallpromptlygivenotice to the Architect of any shortage, defect or default in these materials. Unless otherwise agreed by bothParties,theProcuringEntityshallimmediatelyrectifythenotifiedshortage,defectordefault.

420.3 Afterthisvisualinspection,thefree-issuematerialsshallcomeunderthecare,custodyandcontroloftheContractor.TheContractor'sobligationsofinspection,care,custodyandcontrolshallnotrelievetheProcuringEntityofliabilityforanyshortage,defectordefaultnotapparentfromavisualinspection.

421 ProgressReports

421.1 Unless otherwise stated in the Special Conditions, monthly progress reports shall be prepared by theContractorandsubmittedtotheArchitectinsixcopies.Thefirstreportshallcovertheperioduptotheendofthefirstcalendarmonthfollowingthe CommencementDate.Reportsshallbesubmittedmonthlythereafter,each within7daysafterthelastdayoftheperiodtowhichitrelates.

421.2 ReportingshallcontinueuntiltheContractorhascompletedallworkwhichisknowntobeoutstandingat thecompletiondatestatedintheTaking-OverCertificatefortheWorks.Eachreportshallinclude:

a) charts and detailed descriptions of progress, including each stage of design (if any), Contractor'sDocuments, procurement, manufacture, delivery to Site, construction, erection and testing; andincludingthesestagesforworkbyeachnominatedSubcontractor(asdefinedinClause5[Nominated Subcontractors]).

b) photographsshowingthestatusofmanufactureandofprogressontheSite;

c) for the manufacture of each main item of Plant and Materials, the name of the manufacturer,manufacturelocation,percentageprogress,andthe actualorexpecteddatesof:

i) commencementofmanufacture,

ii) Contractor'sinspections,

iii) tests,and

iv) shipmentandarrivalattheSite;

d) thedetailsdescribedinSub-Clause6.10[RecordsofContractor'sPersonnelandEquipment];

e) copiesofqualityassurancedocuments,testresultsandcertificatesofMaterials;

f) listofnoticesgivenunderSub-Clause2.5[ProcuringEntity'sClaims]andnoticesgivenunderSub-

g) safetystatistics,includingdetailsofanyhazardousincidentsandactivitiesrelatingto

environmentalaspectsandpublicrelations;and

h) comparisonsofactualandplannedprogress,withdetailsofanyeventsorcircumstanceswhichmayjeopardizethecompletioninaccordancewiththeContract,andthemeasuresbeing(ortobe)adoptedtoovercomedelays.

4.22 Security of the Site

UnlessotherwisestatedintheSpecial Conditions:

a) The Contractor shall beresponsibleforkeepingunauthorizedpersonsofftheSite,and

b) authorized persons shall be limited to the Contractor's Personnel and the Procuring Entity'sPersonnel; and to any other personnel notified to the Contractor, by the Procuring Entity or theEngineer,asauthorizedpersonneloftheProcuringEntity'sothercontractorsontheSite.

4.23 Contractor'sOperationsonSite

4.23.1 TheContractorshallconfinehisoperationstotheSite,andtoanyadditionalareaswhichmaybeobtainedbytheContractorandagreedbytheArchitectasadditionalworkingareas.TheContractorshalltakeallnecessaryprecautionstokeepContractor'sEquipmentandContractor'sPersonnelwithintheSiteandtheseadditionalareas,andtokeepthemoffadjacentland.

4.23.2 DuringtheexecutionoftheWorks,theContractorshallkeeptheSitefreefromallunnecessaryobstructionandshallstoreordisposeofanyContractor'sEquipmentorsurplusmaterials.TheContractorshallclear away andremovefromtheSiteanywreckage,rubbishandTemporaryWorkswhicharenolongerrequired.

4.23.3 UpontheissueofaTaking-OverCertificate,theContractorshallclearawayandremove,fromthatpartof the SiteandWorks towhichtheTaking-OverCertificaterefers,allContractor'sEquipment,surplusmaterial,wreckage,rubbishandTemporaryWorks. TheContractorshallleavethatpartoftheSiteandtheWorksinacleanandsafecondition.However,theContractormayretainonSite,duringtheDefectsNotificationPeriod,suchGoodsasarerequiredfortheContractortofulfilhisobligationsunder theContract.

4.24 Fossils

4.24.1 All fossils, coins, articles of value or antiquity, and structures and other remains or items of geological orarchaeological interest found on the Site shall be placed under the care and authority of the ProcuringEntity.The Contractor shall take reasonable precautions to prevent Contractor's Personnel or other persons fromremovingordamaginganyofthesefindings.

4.24.2 TheContractorshall,upondiscoveryofanysuchfinding,promptlygivenoticetotheEngineer,whoshallissueinstructionsfordealingwithit.IftheContractorsuffersdelayand/orincursCostfromcomplyingwiththeinstructions,theContractorshallgiveafurthernoticetotheArchitectandshallbeentitledsubjecttoSub-Clause20.1[Contractor'sClaims]to:

a) anextensionoftimeforanysuch delay,ifcompletionisorwillbedelayed,underSub-Clause8.4[ExtensionofTimeforCompletion],and

b) paymentofanysuchCost,whichshallbeincludedintheContractPrice.

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

5. NOMINATEDSUBCONTRACTORS

5.1 Definitionof"nominatedSubcontractor"

InthisContract,"nominatedSubcontractor"meansaSubcontractor:

a) WhoisnominatedbytheProcuringEntity,or

b) ContractorhasnominatedasaSubcontractorsubjecttoSub-Clause5.2[ObjectiontoNotification].

5.2 ObjectiontoNomination

TheContractorshallnotbeunderanyobligationtoemployanominatedSubcontractoragainstwhomtheContractorraisesreasonableobjectionbynoticetotheProcuringEntityassoonaspracticable,withsupportingparticulars.Anobjectionshallbedeemedreasonableifitarisesfrom(amongotherthings)anyofthefollowingmatters,unlesstheProcurin

financialstrength;

b) the nominated Subcontractor does not accept to indemnify the Contractor against and from anynegligenceormisuseofGoodsbythenominatedSubcontractor,hisagentsandemployees;or

c) the nominated Subcontractor does not accept to enter into a subcontract which specifies that, for thesubcontractedwork(includingdesign,ifany),thenominatedSubcontractorshall:

i) undertaketotheContractorsuchobligationsandliabilitiesaswillenabletheContractortodischarge hisobligationsandliabilitiesundertheContract;

ii) indemnify the Contractor against and from all obligations and liabilities arising under or inconnection with the Contract and from the consequences of any failure by the Subcontractor toperformtheseobligationsortofulfiltheseliabilities,and

iii) bepaidonlyifandwhentheContractorhasreceivedfromtheProcuringEntitypaymentsforsumsdue undertheSubcontractreferredtounderSub-Clause5.3[PaymenttonominatedSubcontractors].

5.3 PaymentstonominatedSubcontractors TheContractorshallpaytothenominatedSubcontractortheamountssho wnonthenominatedSubcontractor'sinvoicesapprovedbytheContractorwhichtheArchitectcertifiestobedueinacc ordancewiththesubcontract.Theseamountsplusotherchargesshallbeincludedin theContractPriceinaccordancew ithsub-paragraph(b)ofSub-Clause13.5[ProvisionalSums],exceptasstatedinSub-Clause5.4[EvidenceofPayments].

5.4 EvidenceofPayments

5.4.1 Before issuing a Payment Certificate which includes an amount payable to a nominated Subcontractor, theArchitect may request the Contractor to supply reasonable evidence that the nominated Subcontractor hasreceived all amounts due in accordance with previous Payment Certificates, less applicable deductions forretentionorotherwise.UnlesstheContractor:

(a) SubmitsthisreasonableevidencetotheEngineer,or

(b) i) SatisfiestheArchitectinwritingthattheContractorisreasonablyentitledtowithholdorrefuseto paytheseamounts,and

ii) SubmitstotheArchitectreasonableevidencethatthenominatedSubcontractorhasbeennotified oftheContractor'sentitlement,thentheProcuringEntitymay(athissolediscretion)pay,directtothenominatedSubcontractor,partorallofsuchamountspreviouslycertified(lessapplicabledeductions) as are due to the nominated Subcontractor and for which the Contractor has failed tosubmittheevidencedescribedinsub-paragraphs(a)or(b)above.TheContractorshallthenrepay,totheProcuringEntity,theamountwhichthe nominatedSubcontractorwasdirectlypaidbytheProcuringEntity.

6 STAFFANDLABOR

6.1 EngagementofStaffandLabor

ExceptasotherwisestatedintheSpecification,theContractorshallmakearrangementsfortheengagementofallstaffa ndlabor,localorotherwise,andfortheirpayment,feeding,transport,and,whenappropriate,housing.

The Contractorisencouraged,totheextentpracticableandreasonable,toemploystaffandlaborwithappropriatequalifica tionsandexperiencefromsourceswithinKenya.

6.2 RatesofWagesandConditionsofLabor

6.2.1 TheContractorshallpayratesofwages,andobserveconditionsoflabor,whicharenotlowerthanthoseestablishedfort hetradeorindustrywheretheworkiscarriedout.Ifnoestablishedratesorconditionsareapplicable,theContractorsha llpayratesofwagesandobserveconditionswhicharenotlowerthanthegenerallevelofwagesandconditionsobserve dlocallybyProcuringEntity'swhosetradeorindustryissimilartothatoftheContractor.

6.2.2 The Contractor shall inform the Contractor's Personnel about their liability to pay personal income taxes inKenya in respect of such of their salaries, wages, allowances and any benefits as are subject to tax under theLaws of Kenya for the time being in force, and the Contractor shall perform such duties in regard to suchdeductionsthereofasmaybeimposedonhimbysuchLaws.

6.3 PersonsintheServiceofProcuringEntity

TheContractorshallnotrecruit,orattempttorecruit,staffandlabourfromamongsttheProcuringEntity'sPersonnel.

6.4 LaborLaws

TheContractorshallcomplywithalltherelevantlabourLawsapplicabletotheContractor'sPersonnel,includingLaw srelatingtotheiremployment,employmentofchildren,health,safety,welfare,immigrationandemigration, and shall allow them all their legal rights. The Contractor shall require his employees to obey allapplicableLaws,includingthoseconcerningsafetyatwork.

6.5 WorkingHours

NoworkshallbecarriedoutontheSiteonlocallyrecognizeddaysofrest,oroutsidethenormalworkinghours statedintheSpecialConditionsofContract,unless:

a) OtherwisestatedintheContract,
b) TheArchitectgivesconsent,or
c) Theworkisunavoidable,ornecessaryfortheprotectionoflifeorpropertyorforthesafetyoftheWorks,in whichcase theContractor shall immediately advisetheEngineer, provided thatwork doneoutsidethenormalworkinghoursshallbeconsideredandpaidforasovertime.

6.6 FacilitiesforStaffandLabor

ExceptasotherwisestatedintheSpecification,theContractorshallprovideandmaintainallnecessaryaccommodationan dwelfarefacilitiesonsitefortheContractor'sPersonnel.TheContractorshallalsoprovidefacilitiesfortheProcuringEntit y'sPersonnelasstatedintheSpecifications.TheContractorshallnotpermitanyoftheContractor'sPersonneltomaintainan ytemporaryorpermanentlivingquarterswithinthestructuresformingpartofthePermanentWorks.

6.7 HealthandSafety

6.7.1 TheContractorshallatalltimestakeallreasonableprecautionstomaintainthehealthandsafetyoftheContractor'sPer sonnel.Incollaborationwithlocalhealthauthorities,theContractorshallensurethatmedical staff, firstaidfacilities,sickbayandambulanceserviceareavailableatalltimesattheSiteandatanyaccommodationforCon tractor'sandProcuringEntity'sPersonnel,andthatsuitablearrangementsaremadeforallnecessarywelfareandhygie nerequirementsandforthepreventionofepidemics.

6.7.2 TheContractorshallappointanaccidentpreventionofficerattheSite,responsibleformaintainingsafetyandprotecti onagainstaccidents.Thispersonshallbequalifiedforthisresponsibilityandshallhavetheauthoritytoi ssueinstructio nsandtakeprotectivemeasurestopreventaccidents.Throughouttheexecutionofthe Works,theContractorshallpro videwhateverisrequiredbythispersontoexercisethisresponsibilityandauthority.

6.7.3 The Contractorshallsend,tothe Engineer,detailsofanyaccidentassoonaspracticableafteritsoccurrence.TheContractorshallmaintainrecordsand makereportsconcerninghealth,safetyandwelfareofpersons,anddamagetoproperty,as the Architectmayreasonablyrequire.

6.7.4 TheContractorshallconductanawarenessprogrammeonHIVandothersexuallytransmitteddiseasesviaanapprove d service provider and shall undertake such other measures taken to reduce the risk of the transfer ofthesediseasesbetweenandamongtheContractor'sPersonnelandthelocalcommunity,topromoteearlydiagnosisa ndtoassistaffectedindividuals.

6.8 Contractor'sSuperintendence

6.8.1 ThroughouttheexecutionoftheWorks,andaslongthereafterasisnecessarytofulfiltheContractor'sobligations,theC ontractorshallprovideallnecessarysuperintendencetoplan,arrange,direct,manage,inspectandtestthework.

6.8.2 Superintendenceshallbegivenbyasufficientnumberofpersonshavingadequateknowledgeofthelanguageforcom munications (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 ofpreventingaccidents),forthe satisfactoryandsafeexecutionoftheWorks.

6.9 Contractor'sPersonnel

6.9.1 TheContractor'sPersonnelshallbeappropriatelyqualified,skilledandexperiencedintheirrespectivetradesoroccu pations. TheContractorsKeypersonnelshallbenamedintheSpecialConditionsofContract. TheArchitectmayrequi retheContractortoremove(orcausetoberemoved)anypersonemployedontheSiteorWorks,includingtheContract or'sRepresentativeifapplicable,who:

a) Persistsinanymisconductorlackofcare,
b) Carriesoutdutiesincompetentlyornegligently,
c) failstoconformwithanyprovisionsoftheContract,
d) persistsinanyconductwhichisprejudicialtosafety,health,ortheprotectionoftheenvironment,or
e) based on reasonable evidence, is determined to have engaged in Fraud and Corruption during theexecutionoftheWorks.

6.9.2 Ifappropriate,theContractorshallthenappoint(orcausetobeappointed)asuitablereplacementperson.

6.10 RecordsofContractor'sPersonnelandEquipment

TheContractorshallsubmit,totheEngineer,detailsshowingthenumberofeachclassofContractor'sPersonnelandof eachtypeofContractor'sEquipmentontheSite.Detailsshallbesubmittedeachcalendarmonth,inaformapprovedby theEngineer,untiltheContractorhascompletedallworkwhichisknowntobeoutstandingatthecompletiondatestate dintheTaking-OverCertificatefortheWorks.

6.11 DisorderlyConduct

TheContractorshallatalltimestakeallreasonableprecautionstopreventanyunlawful,riotousordisorderlyconductbyor amongsttheContractor'sPersonnel,andtopreservepeaceandprotectionofpersonsandproperty onandneartheSite.

6.12 ForeignPersonnel

6.12.1 TheContractorshallnotemployforeignpersonnelunlessthecontractordemonstratesthattherearenoKenyans withtherequiredskills.

6.12.2 TheContractorshallberesponsibleforthereturnofanyforeignpersonneltotheplacewheretheywererecruitedortoth eirdomicile.Intheeventofthedeathin Kenyaofanyofthesepersonnelormembersoftheirfamilies,theContractorsha llsimilarlyberesponsibleformakingtheappropriatearrangementsfortheirreturnorburial.

6.13 SupplyofWater

TheContractorshall,havingregardtolocalconditions,provideontheSiteanadequatesupplyofdrinkingand otherwaterfortheuseoftheContractor'sPersonnel.

6.14 MeasuresagainstInsectandPestNuisance

TheContractorshallatalltimestakethenecessaryprecautionstoprotecttheContractor'sPersonnelemployed on theSitefrominsectandpestnuisance,andtoreducethedangertotheirhealth.TheContractorshallcomplywithallther egulationsofthelocalhealthauthorities,includinguseofappropriateinsecticide.

6.15 AlcoholicLiquororDrugs

TheContractorshallnot,otherwisethaninaccordancewiththeLawsofKenya,onsite,import,sell,give,barter orotherwisedisposeofanyalcoholicliquorordrugs,orpermitorallowimportation,sale,gift,barterordisposal thereofbyContractor'sPersonnel.

6.16 ProhibitionofForcedorCompulsoryLabour

TheContractorshallnotemployforcedlabor,whichconsistsofanyworkorservice,notvoluntarilyperformed,thatis exacted from an individual under threat of force or penalty, and includes any kind of involuntary orcompulsorylabor,suchasindenturedlabor,bondedlabororsimilarlabor-contractingarrangements.

6.17 ProhibitionofHarmfulChildLabor

TheContractorshallnotemploychildreninamannerthatiseconomicallyexploitative,orislikelytobehazardous,ortointe rferewith,thechild'seducation,ortobeharmfultothechild'shealthorphysical,mental,spiritual,moral,orsocialdevelopm ent.Wheretherelevantlabourlaws ofKenyahaveprovisionsforemploymentofminors,theContractorshallfollowthosel awsapplicabletotheContractor.Childrenbelowtheageof18yearsshallnotbeemployedindangerouswork.

6.18 EmploymentRecordsofWorkers

TheContractorshallkeepcompleteandaccuraterecordsoftheemployment oflabourattheSite.Therecords shall includethenames,ages,genders,hoursworkedandwagespaidtoallworkers.Theserecordsshallbesummarizedona monthlybasisandsubmittedtotheEngineer.Theserecordsshallbeincludedinthedetailstobesubmittedby theContractorunderSub-Clause6.10[RecordsofContractor'sPersonnelandEquipment].

6.19 Workers'Organizations

TheContractorshallcomplywiththerelevantlaborlawsthatrecognizeworkers'rightstoformandtojoinworkers'organiz ationsoftheirchoosingwithoutinterference.

6.20 Non-DiscriminationandEqualOpportunity

TheContractorshallbasethelabouremploymentontheprincipleofequalopportunityandfairtreatmentandshallnotdiscri minatewithrespecttoaspectsoftheemploymentrelationship,includingrecruitmentandhiring,compensation(including wagesandbenefits),workingconditionsandtermsofemployment,accesstotraining, promotion,terminationofemploymentorretirement,anddiscipline.

7. PLANT,MATERIALSANDWORKMANSHIP

7.1 MannerofExecution

TheContractorshallcarryoutthemanufacture/assembleofplant,theproductionandmanufactureofMaterials, andallotherexecutionoftheWorks:

a) Inthemanner(ifany)specifiedintheContract,
b) inaproperworkmanlikeandcarefulmanner,inaccordancewithrecognizedgoodpractice,and
c) with properly equipped facilities and non-hazardous Materials, except as otherwise specified in theContract.

7.2 Samples

TheContractorshallsubmitthefollowingsamplesofMaterials,andrelevantinformation, to the Architectforconsentpriortousingthe Materialsinorforthe Works.

a) manufacturer'sstandardsamplesofMaterialsandsamplesspecifiedintheContract,allattheContractor's cost,and
b) additionalsamplesinstructedbytheArchitectasaVariation.

Eachsampleshallbelabeledastooriginandintendeduseinthe Works.

7.3 Inspection

7.3.1 ThePocuringEntity'sPersonnelshallatallreasonabletimes:

a) Havefullaccesstoallpartsofthe Siteandtoallplacesfromwhichnatural Materialsarebeingobtained,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 ofPlantandproductionandmanufactureofMaterials.

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 theContractorfromanyobligationorresponsibility.

7.3.3 TheContractorshallgivenoticetotheArchitectwheneveranyworkisreadyandbeforeitiscoveredup,putout of sight,orpackagedforstorageortransport.TheArchitectshalltheneithercarryouttheexamination,inspection,measu rementortestingwithoutunreasonabledelay,orpromptlygivenoticetotheContractorthattheArchitectdoesnotrequ iretodoso.IftheContractorfailstogivethenotice,heshall,ifandwhenrequiredbytheEngineer,uncovertheworkandt herafterreinstateandmakegood,allattheContractor'scost.

7.4 Testing

7.4.1 ThisSub-ClauseshallapplytoalltestsspecifiedintheContract.

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.

7.4.3 The Architect may, under Clause13[VariationsandAdjustments], vary the location or detailsof 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 inaccordance with the Contract, the cost of carrying out this Variation shall be borne by the Contractor, not withstanding other provisions of the Contract.

7.4.4 The Architect shall give the Contractor not less than 24hours' 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.

7.4.5 IftheContractorsuffersdelayand/orincursCostfromcomplyingwiththeseinstructionsorasaresultofadelayforwhich the Procuring Entity is responsible, the Contractor shall give notice to the Architect and shall beentitledsubjecttoSub-Clause20.1[Contractor'sClaims]to:

a) anextensionoftimeforanysuch 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.

7.4.6 After receiving this notice, the Architect shall proceed inaccordancewith Sub-Clause 3.5 [Determinations] to agree or determine these matters.

7.4.7 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 acertificate to him, to that effect. If the Architect has not attended the tests, he shall be deemed to have accepted the readings asaccurate.

7.5 Rejection

7.5.1 If, as a result of an examination, inspection, measurement or testing, any Plant, Materials or workmanship isfoundtobedefectiveorotherwisenotinaccordancewiththeContract,theArchitectmayrejectthePlant,Materialsorworkmanshipbygivingnoticetothe Contractor,withreasons.TheContractorshallthenpromptlymakegoodthedefectandensurethattherejecteditemcomplieswiththeContract.

7.5.2 IftheArchitectrequiresthisPlant,Materialsorworkmanshiptoberetested,thetestsshallberepeatedunderthesametermsandconditions.Iftherejectionandretestingcausethe ProcuringEntitytoincuradditionalcosts,the Contractorshallsubjectto Sub-Clause2.5[ProcuringEntity'sClaims]paythesecoststotheProcuringEntity.

7.6 RemedialWork

7.6.1 Notwithstandinganyprevioustestorcertification,theArchitectmayinstructtheContractorto:

a) RemovefromtheSiteandreplaceanyPlantorMaterialswhichisnotinaccordancewiththeContract,
b) removeandre-executeanyotherworkwhichisnotinaccordancewiththeContract,and
c) executeanyworkwhichisurgentlyrequiredforthesafetyoftheWorks,whetherbecauseofanaccident, unforeseenableeventorotherwise.

7.6.2 The Contractor shall comply with the instruction within a reasonable time, which shall be the time (if any)specifiedintheinstruction,orimmediatelyifurgencyisspecifiedundersub-paragraph(c).

7.6.3 IftheContractorfailstocomplywiththeinstruction,theProcuringEntityshallbeentitledtoemployandpayotherpersons to carry out the work. Except to the extent that the Contractor would have been entitled to paymentforthework,theContractorshallsubjecttoSub-Clause2.5[ProcuringEntity'sClaims]paytotheProcuringEntityallcostsarisingfromthisfailure.

7.6.4 If the contractor repeatedly delivers defective work, the Procuring Entity may consider termination inaccordancewithClause15.

7.7 OwnershipofPlantandMaterials

ExceptasotherwiseprovidedintheContract,eachitemofPlantandMaterialsshallbecomethepropertyofthe

a) WhenitisincorporatedintheWorks;

b) when the Contractor is paid the corresponding value of the Plant and Materials under Sub-Clause 8.10[PaymentforPlantandMaterialsinEventofSuspension].

7.8 Royalties

Unlessotherwisestatedin theSpecification,theContractorshallpayallroyalties,rentsandotherpaymentsfor:

a) Naturalmaterialsobtainedfromoutsidethe Site,and

b) thedisposalofmaterialfromdemolitionsandexcavationsandofothersurplusmaterial(whethernatural orman-made),exceptto theextentthatdisposalareaswithintheSitearespecifiedintheContract.

8 COMMENCEMENT, DELAYS AND SUSPENSION

8.1 Commencement of Works

8.1.1 ExceptasotherwisespecifiedintheSpecialConditionsofContract,theCommencementDateshallbethedateatwhich thefollowingprecedentconditionshaveallbeenfulfilledandtheArchitectnotificationrecordingtheagreementofboth Partiesonsuchfulfilmentandinstructingtocommencethe Workisreceivedbythe Contractor:

a) SignatureoftheContractAgreementbybothParties,andifrequired,approvaloftheContractbyrelevant authoritiesofKenya;

b) exceptifotherwisespecifiedintheSpecialConditionsofContract,effectiveaccesstoandpossessionof theSitegiventotheContractortogetherwithsuchpermission(s)under(a)ofSub-Clause1.13[CompliancewithLaws]asrequiredforthecommencementoftheWorks.

c) ReceiptbytheContractoroftheAdvancePaymentunderSub-Clause14.2[AdvancePayment]providedthatthecorrespondingbankguaranteehasbeendeliveredbytheContractor.

8.1.2 IfthesaidArchitectinstructionisnotreceivedbytheContractorwithin180daysfromhisreceiptoftheLetterof Acceptance,theContractorshallbeentitledtoterminatetheContractunderSub-Clause16.2[TerminationbyContractor].

8.1.3 TheContractorshallcommencetheexecutionoftheWorksassoonasisreasonablypracticableafterthe Commencement Dateandshallthenproceedwiththe Workswithdueexpeditionandwithoutdelay.

8.2 TimeforCompletion

The Contractor shall complete the whole of the Works, and each Section (if any), within the Time forCompletionfortheWorks orSection (asthe case maybe),including:

a) AchievingthepassingoftheTestsonCompletion,and

b) completing all work which is stated in the Contract as being required for the Works or Section to beconsideredtobecompletedforthepurposesoftaking-overunderSub-Clause10.1[TakingOveroftheWorksandSections].

8.3 Programme

8.3.1 TheContractorshallsubmitadetailedtimeprogrammetotheArchitectwithin14daysafterreceivingthenotice underSub-Clause8.1[CommencementofWorks].TheContractorshallalsosubmitarevisedprogrammewhenever the previous programme is inconsistent with actual progress or with the Contractor's obligations.Eachprogrammeshallinclude:

a) TheorderinwhichtheContractorintendstocarryouttheWorks,includingtheanticipatedtimingofeachstageof design (if any), Contractor's Documents, procurement, manufacture of Plant, delivery to Site,construction,erectionandtesting,

b) each of these stages for work by each nominated Subcontractor (as defined in Clause 5 [NominatedSubcontractors]),

c) thesequenceandtimingofinspectionsandtestsspecifiedintheContract,and

d) asupportingreportwhichincludes:

i) ageneraldescriptionofthemethodswhichtheContractorintendstoadopt,andofthemajorstages, in theexecutionoftheWorks,and

ii) details showing the Contractor's reasonable estimate of the number of each class of Contractor'sPersonnelandofeachtypeof Contractor'sEquipment,requiredontheSitefor eachmajorstage.

extent to which it does not comply with the Contract, the Contractor shall proceed in accordance with theprogramme, subject to his other obligations under the Contract. The Procuring Entity's Personnel shall beentitledtorelyupontheprogrammewhenplanningtheiractivities.

8.3.3 TheContractorshallpromptlygivenoticetotheArchitectofspecificprobablefutureeventsorcircumstances whichmayadverselyaffectthework,increasetheContractPriceordelaytheexecutionoftheWorks.

8.3.4 If, at anytime, the Architect gives notice to the Contractor that a programme fails (to the extent stated) tocomply with the Contractor to be consistent with actual progress and the Contractor's stated intentions, theContractorshall submit a revisedprogrammeto theArchitect inaccordancewiththis Sub-Clause.

8.4 ExtensionofTimeforCompletion

8.4.1 The Contractor shall be entitledsubject toSub-Clause20.1 [Contractor'sClaims] to an extension of theTime for Completion if and to the extent that completion for the purposes of Sub-Clause 10.1[Taking OveroftheWorksandSections]isor will be delayedbyanyofthe followingcauses:

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 theContract,

b) acauseofdelaygivinganentitlement toextensionoftimeunderaSub-ClauseoftheseConditions,

c) exceptionallyadverseclimaticconditions,

d) Unforeseeable shortages in the availability of personnel or Goods caused by epidemic orgovernmental actions,or

e) anydelay,impedimentorpreventioncausedbyorattributabletotheProcuringEntity,theProcuringEntity's Personnel,orthe ProcuringEntity's othercontractors.

8.4.2 If the Contractor considers itself to be entitled to an extension of the Time for Completion, the ContractorshallgivenoticetotheArchitectinaccordancewithSub-Clause20.1[Contractor'sClaims].Whendeterminingeachextensionoftimeunder Sub-Clause20.1 theArchitectshallreviewpreviousdeterminationsand maymakecase,butshallnotdecrease,thetotalextensionoftime.

8.5 DelaysCausedbyAuthorities

Ifthefollowingconditionsapply,namely:

a) The Contractor has diligently followed the procedures laid down by the relevant legally constitutedpublicauthoritiesinKenya,

b) Theseauthoritiesdelayordisruptthecontractor'swork,and

c) the delay or disruption was Unforeseeable, then this delay or disruption will be considered as a causeofdelayundersub-paragraph (b) ofSub-Clause 8.4[ExtensionofTime forCompletion].

8.6 Rate of Progress

8.6.1 If, at any time:

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.

8.6.2 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.

8.6.3 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

8.7.1 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 every day 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.

8.7.2 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

8.8.1 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.

8.8.2 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

8.9.1 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.

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

8.9.3 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 PaymentforPlantandMaterialsinEventofSuspension

TheContractorshallbeentitledtopaymentofthevalue(asatthedateofsuspension)ofPlantand/orMaterials

whichhavenotbeendeliveredtoSite,if:

a) TheworkonPlantordeliveryofPlantand/orMaterialshasbeensuspendedformorethan30days,and

b) the Contractor has marked the Plant and/or Materials as the Procuring Entity's property in accordancewiththe Architectinstructions.

8.11 ProlongedSuspension

Ifthesuspension underSub-Clause 8.8 [Suspension ofWork] has continued formorethan 84days,theContractor may request the Architect permission to proceed. If the Architect does not give permissionwithin30daysafterbeingrequestedtodoso,theContractormay,bygivingnoticetotheEngineer,treatthes uspensionasanomissionunderClause13[VariationsandAdjustments] of the affectedpartoftheWorks.Ifthesuspensionaffectsthe wholeoftheWorks,theContractormaygivenoticeofterminationunderSub-Clause16.2[TerminationbyContractor].

8.12 ResumptionofWork

Afterthepermissionorinstructiontoproceedisgiven,theContractorandtheArchitectshalljointlyexaminetheWorks andthePlantandMaterialsaffectedbythesuspension.TheContractorshallmakegoodanydeteriorationordefectinorl ossoftheWorksorPlantorMaterials,whichhasoccurredduringthesuspensionafterreceivingfromtheArchitectanin structiontothiseffectunderClause13[VariationsandAdjustments].

9. TESTSONCOMPLETION

9.1 Contractor'sObligations

9.1.1 TheContractorshallcarryoutthe TestsonCompletioninaccordancewiththisClauseandSub-Clause7.4[Testing],afterprovidingthedocumentsinaccordancewithsub-paragraph(d)ofSub-Clause4.1[Contractor'sGeneralObligations].

9.1.2 TheContractorshallgivetotheArchitectnotlessthan21days'noticeofthedateafterwhichtheContractorwill beready tocarry outeachoftheTestsonCompletion.Unlessotherwiseagreed, TestsonCompletionshallbec arriedoutwithin14daysafterthisdate,onsuchdayordaysastheArchitectshallinstruct.

9.1.3 Inconsideringtheresultsofthe TestsonCompletion,theArchitectshallmakeallowancesfortheeffectofanyu seoftheWorksbytheProcuringEntityontheperformanceorothercharacteristicsoftheWorks.Assoonasthe Works,oraSection,havepassedanyTestsonCompletion,theContractorshallsubmitacertifiedreportoftther esultsofthese TeststotheEngineer.

9.2 DelayedTests

9.2.1 If the Tests on Completion are being unduly delayed by the Procuring Entity, Sub-Clause 7.4 [Testing] (fifthparagraph)and/orSub-Clause10.3[InterferencewithTestsonCompletion]shallbeapplicable.

9.2.2 IftheTestsonCompletionarebeingundulydelayedbytheContractor,theArchitectmaybynoticerequiretheContract or to carry out the Tests within 21 days after receiving the notice. The Contractor shall carry out theTestsonsuchdayordayswithinthatperiodastheContractormayfixandofwhichheshallgivenoticetotheEngineer

9.2.3 IftheContractorfailstocarryoutthe TestsonCompletionwithintheperiodof21days,theProcuringEntity'sP ersonnelmayproceedwiththeTestsattheriskandcostoftheContractor.TheTestsonCompletionshallthenb edeemedtohavebeencarriedoutinthepresenceoftheContractorandtheresultsoftheTestsshallbeaccepted asaccurate.

9.3 Retestingofrelatedworks

IftheWorks,oraSection,failtopassthe TestsonCompletion,Sub-Clause7.5[Rejection]shallapply,andtheArchitect or the Contractor may require the failed Tests, and Tests on Completion on any related work, to berepeatedunderthesametermsandconditions.

9.4 FailuretoPass TestsonCompletion

9.4.1 IftheWorks,oraSection,failtopassthe TestsonCompletionrepeatedunderSub-Clause9.3[Retesting],the

a) Orderfurtherrepetitionof TestsonCompletionunderSub-Clause9.3;or

b) if the failure deprives the Procuring Entity of substantially the whole benefit of the Works or Section, reject the Worksor Section (as the case may be),In which event the Procuring Entityshall have the same remedies as are provided in sub-paragraph(c) of Sub-Clause11.4[FailuretoRemedyDefects].

10. PROCURING ENTITY'S TAKING OVER

10.1 TakingOveroftheWorksandSections

10.1.1 ExceptasstatedinSub-Clause9.4[FailuretoPassTestsonCompletion],theWorksshallbetakenoverbytheProcuringEntitywhen(i)theWorkshavebeencompletedinaccordancewiththeContract,includingthemattersdescribedinSub-Clause8.2[TimeforCompletion]andexceptasallowedinsub-paragraph(a)below,and(ii)aTaking-OverCertificatefortheWorkshasbeenissued,orisdeemedtohavebeenissuedinaccordancewiththisSub-Clause.

10.1.2 TheContractormayapplybynoticetotheArchitectforaTaking-OverCertificatenotearlierthan14daysbeforetheWorkswill, in the Contractor'sopinion,becompleteandreadyfortakingover.IftheWorksaredividedinto Sections,theContractormaysimilarlyapplyforaTaking-OverCertificateforeachSection.

10.1.3 TheArchitectshall,within30daysafterreceivingtheContractor'sapplication:

a) IssuetheTaking-OverCertificatetotheContractor,statingthedateonwhichtheWorksorSectionwerecompletedinaccordancewiththeContract,exceptforanyminoroutstandingworkanddefectswhichwill notsubstantiallyaffecttheuseoftheWorksorSectionfortheirintendedpurpose(eitheruntilorwhilstthis workiscompletedandthesedefectsareremedied);or

b) reject the application, giving reasons and specifying the work required to be done by the Contractor toenable the Taking-Over Certificate to be issued. The Contractor shall then complete this work beforeissuingafurthernoticeunderthisSub-Clause.

10.1.4 IftheArchitectfailseithertoissuetheTaking-OverCertificateortorejecttheContractor'sapplicationwithintheperiodof30days,andiftheWorksorSection(as the casemaybe)aresubstantiallyinaccordancewiththeContract,theTaking-OverCertificateshallbedeemedtohavebeenissuedonthelastdayofthatperiod.

10.2 TakingOverofPartsoftheWorks

10.2.1 TheArchitectmay,atthesolediscretionoftheProcuringEntity,issueaTaking-OverCertificateforanypartof thePermanentWorks.

10.2.2 The Procuring Entity shallnotuseany partoftheWorks(otherthanasatemporarymeasurewhich iseitherspecifiedintheContractoragreedbybothParties)unlessanduntiltheArchitecthasissuedaTaking-OverCertificateforthispart.However,iftheProcuringEntitydoesuseanypartoftheWorksbeforetheTaking-OverCertificateisissued:

a) Thepartwhichisusedshallbedeemedtohavebeentakenoverasfromthedateonwhichitisused,

b) theContractorshallceasetobeliableforthecareofsuchpartasfromthisdate,whenresponsibilityshall passtotheProcuringEntity,and

c) ifrequestedbytheContractor,theArchitectshallissueaTaking-OverCertificateforthispart.

10.2.3 AftertheArchitecthasissuedaTaking-OverCertificateforapartoftheWorks,theContractorshallbegiventheearliestopportunitytotakesuchstepsasmaybe necessarytocarryoutanyoutstandingTestsonCompletion.TheContractor shall carry out these Tests on Completion as soon as practicable before the expiry date of therelevantDefectsNotificationPeriod.

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,otherthansuchuseasisspecifiedintheContractoragreedbytheContractor,theContractorshall(i)givenoticetotheArchitect and (ii) be entitled subject to Sub-Clause 20.1 {Contractor's Claims} to payment of any suchaccrued costs, which shall be included in the Contract Price. After receiving this notice, the Architect shallproceedinaccordancewithSub-Clause3.5[Determinations]toagreeordeterminethisaccruedcost.

10.2.5 IfaTaking-OverCertificatehasbeenissuedforapartoftheWorks (otherthanaSection),thedelaydamagesthereafterforcompletionoftheremainderoftheWorksshallbereduced.Similarly,thedelaydamagesfortheremainder of the Section (if any) in which this part is included shall also be reduced. For any period of delayafter the datestatedinthisTaking-

calculatedastheproportionwhichthevalueofthepartsocertifiedbearstothevalueoftheWorksorSection(asthecase maybe)asawhole.TheArchitectshallproceedinaccordancewithSub-Clause3.5[Determinations]toagreeordeterminetheseproportions.Theprovisionsofthisparagraphshallonlyapply tothedailyrateofdelaydamagesunderSub-Clause8.7[DelayDamages]andshallnotaffectthemaximumamountofthesedamages.

10.3 InterferencewithTestsonCompletion

10.3.1 IftheContractorisprevented,formorethan14days,fromcarryingouttheTestsonCompletionbyacauseforwhichtheProcuringEntityisresponsible,theProcuringEntityshallbedeemedtohavetakenovertheWorksorSection(asthecasemaybe)onthedatewhentheTestsonCompletionwouldotherwisehavebeencompleted.

10.3.2 TheArchitectshallthenissueaTaking-OverCertificateaccordingly,andtheContractorshallcarryouttheTestsonCompletionassoonaspracticable,beforetheexpirydateoftheDefectsNotificationPeriod.TheArchitectshallrequire the Tests on Completion to be carried out by giving 14 days' notice and in accordance with therelevantprovisionsoftheContract.

10.3.3 If the Contractor suffers delay and/or incurs Cost as a result of this delay in carrying out the Tests onCompletion, the Contractor shall give notice to the Architect and shall be entitled subject to Sub-Clause20.1[Contractor'sClaims]to:

a) anextensionoftimeforanysuch delay,ifcompletionisorwillbedelayed,underSub-Clause8.4[ExtensionofTimeforCompletion],and

b) paymentofanysuchaccruedcosts,whichshallbeincludedintheContractPrice.

10.3.4 Afterreceivingthisnotice,theArchitectshallproceedinaccordancewithSub-Clause3.5[Determinations]to agreeordeterminethesematters.

10.4 SurfacesRequiringReinstatement

Exceptasotherwisestatedina Taking-OverCertificate,acertificateforaSectionorpartoftheWorksshallnot bedeemedtocertifycompletionofanygroundorothersurfacesrequiringreinstatement.

11. DEFECTSLIABILITY

11.1 CompletionofOutstandingWorkandRemedyingDefects

11.1.1 InorderthattheWorksandContractor'sDocuments,andeachSection,shallbeintheconditionrequired bythe Contract(fairwearandtearexcepted)bytheexpirydateoftherelevantDefectsNotificationPeriod[illegible] practicablethereafter,theContractorshall:

a) complete any work which is outstanding on the date stated in a Taking-Over Certificate, within suchreasonabletimeasisinstructedbytheEngineer,and

b) execute all work required to remedy defects or damage, as may be notified by (or on behalf of) theProcuringEntityonorbeforetheexpirydateoftheDefectsNotificationPeriodfortheWorksorSection(asthecasemaybe).

11.1.2 Ifadefectappearsordamageoccurs,theContractorshallbenotifiedaccordinglybytheEngineer.

11.2 CostofRemedyingDefects

11.2.1 Allworkreferredtoinsub-paragraph(b)ofSub-Clause11.1[CompletionofOutstandingWorkandRemedyingDefects]shallbeexecutedattheriskandcostoftheContractor,ifandtotheextentthattheworkisattributableto:

a) AnydesignforwhichtheContractorisresponsible,

b) Plant,Materialsorworkmanshipnotbeinginaccordancewiththe Contract,or

c) FailurebytheContractortocomplywithanyotherobligation.

11.2.2 Ifandtotheextentthatsuchworkisattributabletoanyothercause,theContractorshallbenotifiedpromptlyby (oronbehalfof)theProcuringEntity,andSub-Clause13.3[VariationProcedure]shallapply.

11.3 ExtensionofDefectsNotificationPeriod

11.3.1 TheProcuringEntityshallbeentitledsubjecttoSub-Clause2.5[ProcuringEntity'sClaims]toanextensionoftheDefectsNotificationPeriodfortheWorksoraSection(ifandtotheextentthattheWorks,Sectionoramajoritemof Plant (as the case may be, and after taking over) cannot be used for the purposes for which they are intendedbyreasonofadefectorbyreasonofdamageattributabletotheContractor.However,aDefectsNotificationPeriodshallnotbeextendedbymorethantwoyears.

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 defect 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 or 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 defect or 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 defect or 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 part 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

11.92 TheArchitectshallissuetheCompletionCertificatewithin30daysafterthelatestoftheexpirydatesofthe

DefectsLiabilityPeriod,orassoonthereafterastheContractorhassuppliedalltheContractor'sDocumentsandcompl eted and tested all the Works, including remedying any defects. A copy of the Completionn CertificateshallbeissuedtotheProcuringEntity.

11.9.3 OnlytheCompletionCertificateshallbedeemedtoconstituteacceptanceoftheWorks.

11.10 UnfulfilledObligations

AftertheCompletionCertificatehasbeenissued,eachPartyshallremainliableforthefulfilmentofanyobligationwhichr emainsunperformedatthattime.Forthepurposesofdeterminingthenatureandextentofunperformedobligations,theCo ntractshallbedeemedtoremaininforce.

11.11 ClearanceofSite

11.11.1 UponreceivingtheCompletionCertificate,theContractorshallremoveanyremainingContractor'sEquipment,sur plusmaterial,wreckage,rubbishandTemporaryWorksfromtheSite.

11.11.2 Ifalltheseitemshavenotbeenremovedwithin30daysafterreceiptbytheContractoroftheCompletionCertificate,th eProcuringEntitymaysellorotherwisedisposeofanyremainingitems.TheProcuringEntityshallbeentitledtobepa idthecostsincurredinconnectionwith,orattributableto,suchsaleordisposalandrestoringtheSite.

11.11.3 AnybalanceofthemoneysfromthesaleshallbepaidtotheContractor.Ifthesemoneysarelessthantheprocuringentit y'scosts,theContractorshallpaytheoutstandingbalancetotheProcuringEntity.

12. MEASUREMENTANDEVALUATION

12.1 WorkstobeMeasured

12.1.1 TheWorks shallbemeasured,andvaluedforpayment,inaccordancewiththisClause.TheContractorshall show ineach application under Sub-Clauses 14.3 [Application for Interim Payment Certificates], 14.10 [StatementonCompletion]and14.11[ApplicationforFinalPaymentCertificate]thequantitiesandotherparticular sdetailingtheamountswhichheconsiderstobeentitledundertheContract.

12.1.2 WhenevertheArchitectrequiresanypartoftheWorkstobemeasured,reasonablenoticeshallbegiventothe Contractor'sRepresentative,whoshall:

a) promptly either attend or send another qualified representative to assist the Architect in making themeasurement,and
b) supplyanyparticularsrequestedbytheEngineer.

12.1.3 If the Contractor fails to attend or send a representative, the measurement made by the Architect shall beacceptedasaccurate.

12.1.4 ExceptasotherwisestatedintheContract,whereveranyPermanentWorksaretobemeasuredfromrecords, theseshallbepreparedbytheEngineer.TheContractorshall,asandwhenrequested,attendtoexamineanda greetherecordswiththeEngineer,andshallsignthesamewhenagreed.IftheContractordoesnotattend,the recordsshallbeacceptedasaccurate.

12.1.5 IftheContractorexaminesanddisagreestherecords,and/ordoesnotsignthemasagreed,thentheContractor shallgivenoticetotheArchitectoftherespectsinwhichtherecordsareassertedtobeinaccurate.Afterreceivingthisn otice,theArchitectshallreview therecordsandeitherconfirm orvarythemandcertifythepaymentoftheundisputedpart.IftheContractordoesnotsogivenoticetotheArchitectwit hin14daysafterbeingrequestedtoexaminetherecords,theyshallbeacceptedasaccurate.

12.2 MethodofMeasurement

ExceptasotherwisestatedintheContract:

a) Measurementshallbemadeofthenetactualquantityofeachitemofthepermanentworks,and
b) the method of measurement shall be in accordance with the Bill of Quantities or other applicableSchedules.

12.3 Evaluation

12.3.1 ExceptasotherwisestatedintheContract,theArchitectshallproceedinaccordancewithSub-Clause3.5

[Determinations]toagreeordeterminethevalueofworkdonebyevaluatingeachitemofwork,applyingthemeasurementagreedordeterminedinaccordancewiththeaboveSub-Clauses12.1and12.2andtheappropriaterateorpricefortheitem.

12.3.2 Foreachitemofwork,theappropriaterateorpricefortheitemshallbetherateorpricespecifiedforsuchitem in theContractor,ifthereisnosuchitem,specifiedforsimilarwork.

12.3.3 AnyitemofworkincludedintheBillofQuantitiesforwhichnorateorpricewasspecifiedshallbeconsidered asincludedinotherratesandpricesintheBillofQuantitiesandwillnotbepaidforseparately.

12.3.4 However,foranewitemofwork,anewrateorpriceshallbeappropriateforsuchitemofworkif:

a) TheworkisinstructedunderClause13[VariationsandAdjustments],

b) norateorpriceisspecifiedintheContractforthisitem,and

c) no specified rate or price is appropriate because the item of work is not of similar character, or is notexecutedundersimilarconditions,asanyitemintheContract.

12.3.5 EachnewrateorpriceshallbederivedfromanyrelevantratesorpricesintheContract.Ifnoratesorpricesarerelevantforthenewitemofwork,itshallbederivedfromthereasonableCostofexecutingsuchwork,prevailing marketrates,togetherwithprofit,takingaccountofanyotherrelevantmatters.

12.3.6 Until such time as an appropriate rate or price is agreed or determined, the Architect shall determine aprovisional rate or price for the purposes of Interim Payment Certificates as soon as the concerned workcommences.

12.3.7 Wherethecontractpriceisdifferentfromthecorrectedtenderprice,inordertoensurethecontractorisnotpaidlessormorerelativetothecontractprice(*whichwouldbethetenderprice*),paymentvaluationcertificatesandvariationordersonomissionsandadditionsvaluedbasedonratesintheBillofQuantitiesorscheduleofratesin theTender,willbeadjustedbyaplusorminuspercentage.Thepercentagealreadyworkedoutduringtenderevaluationisworkedoutasfollows:*(correctedtenderprice–tenderprice)/tenderpriceX100.*

12.4 Omissions

Whenevertheomissionofanyworkformspart(orall)ofaVariation,thevalueofwhichhasnotbeenagreed,if:

a) TheContractorwillincur(orhasincurred)costwhich,iftheworkhadnotbeenomitted,wouldhavebeen deemedtobecoveredbyasumformingpartoftheAcceptedContractAmount;

b) Theomissionoftheworkwillresult(orhasresulted)inthissumnotformingpartoftheContractPrice;and

c) thiscostisnotdeemedtobeincludedintheevaluationofanysubstitutedwork;thentheContractorshallgivenoticetotheArchitectaccordingly,withsupportingparticulars.Uponreceivingthisnotice,theArchitect shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine thiscost,whichshallbeincludedintheContractPrice.

13. VARIATIONSANDADJUSTMENTS

13.1 RighttoVary

13.1.1 VariationsmaybeinitiatedbytheArchitectatanytimepriortoissuingtheTaking-OverCertificatefortheWorks,eitherbyaninstructionorbyarequestfortheContractortosubmitaproposal.NoVariationinstructedbytheArchitectunderthisClauseshallinanywayvitiateorinvalidatetheContract.

13.1.2 TheContractorshallexecuteandbeboundbyeachVariation,unlesstheContractorpromptlygivesnoticetotheArchitectstating(withsupportingparticulars)that(i)theContractorcannotreadilyobtaintheGoodsrequired for theVariation,or(ii)suchVariationtriggersasubstantialchangeinthesequenceorprogressoftheWorks.Uponreceivingthisnotice,theArchitectshallcancel,confirmorvarytheinstruction.

13.1.3 EachVariationmayinclude:

a) changes to the quantities of any item of work included in the Contract (however, such changes do notnecessarilyconstituteaVariation),

b) changestothequalityandothercharacteristicsofanyitemofwork,

c) changestothelevels,positionsand/ordimensionsofanypartoftheWorks,

d) omissionofanyworkunlessitistobecarriedoutbyothers,

e) anyadditionalwork,Plant,MaterialsorservicesnecessaryforthePermanentWorks,includinganyassociatedTestsonCompletion,boreholesandothertestingandexploratorywork,or

f) changestothesequenceortimingoftheexecutionoftheWorks.

13.1.4 TheContractorshallnotmakeanyalterationand/ormodificationofthePermanentWorks,unlessanduntiltheArchitectinstructsafterobtainingapprovaloftheProcuringEntity.

13.2 VariationOrderProcedure

13.2.1 PriortoanyVariationOrderunderSub-Clause13.1.4theArchitectshallnotifytheContractorofthenatureandformofsuchvariation.Assoonaspossibleafterhavingreceivedsuchnotice,theContractorshallsubmittotheEngineer:

a) Adescriptionofwork,ifany,tobeperformedandaprogrammeforitsexecution,and

b) theContractor'sproposalsforanynecessarymodificationstotheProgrammeaccordingtoSub-Clause8.3ortoanyoftheContractor'sobligationsundertheContract,and

c) theContractor'sproposalsforadjustmenttotheContractPrice.

FollowingthereceiptoftheContractor'ssubmissiontheArchitectshall,afterdueconsultationwiththeEmployerandtheContractor,decideassoonaspossiblewhetherornotthevariationshallbecarriedout.IftheArchitectdecidesthatthevariationshallbecarriedout,heshallissueaVariationOrderclearlyidentifiedassuchinaccordancewiththeContractor'ssubmissionorasmodifiedbyagreement.

If the Architect and the Contractor are unable to agree the adjustment of the Contract Price, the provisions ofSub-Clause13.2.2shallapply.

13.2.2 DisagreementonAdjustmentoftheContractPrice

IftheContractorandtheArchitectareunabletoagreeontheadjustmentoftheContractPrice,theadjustmentshallbedeterminedinaccordancewiththeratesspecifiedintheBillsofQuantitiesorScheduleofDayworkPrices.Iftheratescontainedin theBillsofQuantitiesor DayworksPricesarenotdirectly applicableto thespecificworkinquestion,suitableratesshallbeestablishedbytheArchitectreflectingthelevelofpricingintheDayworksPrices.Whereratesarenotcontainedinthesaid Prices,theamountshallbesuchasisinallthecircumstancesreasonable,reflectingamarketprice.Dueaccountshallbetakenofanyover-orunder-recoveryofoverheadsbytheContractorinconsequenceofthevariation.TheContractorshallalsobeentitledtobepaid:

a) Thecostofanypartialexecutionofthe Worksrendereduselessbyanysuchvariation,

b) Thecostofmakingnecessaryalterationstoplantalreadymanufacturedorinthecourseofmanufactureor ofanyworkdonethathastobealteredinconsequenceofsuchavariation,

c) anyadditionalcostsincurredbytheContractorbythedisruptionoftheprogressoftheWorksasdetailed in theProgramme,and

d) thenetEffectoftheContractor'sfinancecosts,includinginterest,causedbythevariation.

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

13.2.3 ContractortoProceed

OnreceiptofaVariationOrder,theContractorshallforthwithproceedtocarryoutthevariationandbeboundto these

Conditionsinsodoingasifsuchvariationwasstatedin theContract. Theworkshallnotbedelayedpendingthegranting ofanextensionoftheTimeforCompletionoranadjustmenttotheContractPriceunderSub-Clause31.3.

13.3 ValueEngineering

13.3.1 TheContractormay,atanytime,submittotheArchitectwrittenproposalwhich(intheContractor'sopinion)will,ifadopted,(i)acceleratecompletion,(ii)reducethecosttotheProcuringEntity ofexecuting,maintainingoroperatingtheWorks,(iii)improvetheefficiencyorvaluetotheProcuringEntityofthecompletedWorks,or (iv)otherwisebeofbenefit totheProcuringEntity.

13.3.2 Theproposalshallbepreparedatthecostoftheandshallincludetheitemslistedin Sub-Clause13.3[VariationProcedure].

13.2.3 If a proposal, which is approved by the Engineer, includes a change in the design of part of the PermanentWorks,thenunlessotherwiseagreedbybothParties:

a) TheContractorshalldesignthispart,

b) sub-paragraphs(a)to(d)ofSub-Clause4.1[Contractor'sGeneralObligations]shallapply,and

c) ifthischangeresultsinareductioninthecontractvalueofthispart,theArchitectshallproceedinaccordancewith

Clause3.5[Determinations]toagreeordetermineafee,whichshallbeincludedintheContractPrice.Thisfeesh allbehalf(50%)ofthedifferencebetweenthefollowingamounts:

i) suchreductionincontractvalue,resultingfromthechange,excludingadjustmentsunderSub-Clause 13.8 [Adjustments for Changes in Legislation] and Sub-Clause 13.8 [Adjustments for Changes inCost],and

ii) thereduction(ifany) in the valuetotheProcuringEntityofthevariedworks,takingaccountofanyimprovementinquality,ant icipatedlifeoroperationalefficiencies.

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 amountestablishedinitem13.2.3(c (ii),it shallresultina price variationtotheProcuringEntity.

13.4 VariationProcedureforValueEngineeringproposal

13.4.1 IftheArchitectrequestsaproposal,priortoinstructingaVariation, theContractorshallrespondinwritingassoonaspracticable,eitherbygivingreasonswhyhecannotcomply(ifthisisth ecase)orbysubmitting:

a) Adescriptionoftheproposedworktobeperformedandaprogrammeforitsexecution,

b) theContractor'sproposalforanynecessarymodificationstotheprogrammeaccordingtoSub-Clause8.3[Programme]andtotheTimeforCompletion,and

c) theContractor'sproposalforevaluationoftheVariation.

13.4.2 TheArchitectshall,assoonaspracticableafterreceivingsuchproposal(underSub-Clause13.2[ValueProjectEngineering]orotherwise),respondwithapproval,disapprovalorcomments.TheContra ctorshallnotdelayanyworkwhilstawaitingaresponse.

13.4.3 EachinstructiontoexecuteaVariation,withanyrequirementsfortherecordingofCosts,shallbeissuedbythe ArchitecttotheContractor,whoshallacknowledgereceipt.

13.4.4 EachVariationshallbevaluatedinaccordancewithClause12[MeasurementandEvaluation],unlesstheArchitecti nstructsorapprovesotherwiseinaccordancewiththisClause.

13.5 PaymentinApplicableCurrencies

IftheContractprovidesforpaymentoftheContractPriceinmorethanonecurrency,thenwheneveranadjustmentisagreed, approvedordeterminedasstatedabove,theamountpayableineachoftheapplicablecurrenciesshallbespecified.Forthis purpose,referenceshallbemadetotheactualorexpectedcurrencyproportionsoftheCostofthevariedwork,andtotheprop ortionsofvariouscurrenciesspecifiedforpaymentoftheContractPrice.

13.6 ProvisionalSums

13.6.1 EachProvisionalSumshallonlybeused,inwholeorinpart,inaccordancewiththeArchitectinstructions,andtheCont ract 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 haveinstructed.ForeachProvisionalSum,theArchitectMayinstruct:

a) Worktobeexecuted(includingPlant,Materialsorservicestobesupplied)bytheContractorandvalued underSub-Clause13.3[VariationProcedure];and/or

b) Plant,Materialsorservicestobepurchasedbythecontractor,fromanominatedSubcontractor(asdefinedinCla use5[NominatedSubcontractors])orotherwise;andforwhichthereshallbeincludedintheContractPrice:

i) Theactualamountspaid(orduetobepaid)bytheContractor,and

ii) asumforoverheadchargesandprofit,calculatedasapercentageoftheseactualamountsbyapplyingtherele vant percentage rate (if any) stated in the appropriate Schedule. If there is no such rate, thepercentageratestatedin**theSpecialConditionsofContract**shallbeapplied.

13.6.2 TheContractorshall,whenrequiredbytheEngineer,producequotations,invoices,vouchersandaccountsor receiptsinsubstantiation.

13.7 Dayworks

13.7.1 For work of a minor or incidental nature, the Architect may instruct that a Variation shall be executed on adaywork basis. The work shall then be valued in accordance with the Daywork Schedule included in theContract, and the followingprocedureshallapply.IfaDayworkScheduleisnotincludedintheContract,this Sub-Clauseshallnotapply.

13.7.2 BeforeorderingGoodsforthework,theContractorshallsubmitquotationstotheEngineer.Whenapplyingfor payment,theContractorshallsubmitinvoices,vouchersandaccountsorreceiptsforanyGoods.

13.7.3 Except for any items for which the Daywork Schedule specifies that payment is not due, the Contractor shalldelivereachdaytotheArchitectaccuratestatementsinduplicatewhichshallincludethefollowingdetailsofthere sourcesusedinexecutingthepreviousday'swork:

a) Thenames,occupationsandtimeofContractor'sPersonnel,
b) theidentification,typeandtimeofContractor'sEquipmentandTemporaryWorks,and
c) thequantitiesandtypesofPlantandMaterialsused.

13.7.4 Onecopyofeachstatementwill,ifcorrect,orwhenagreed,besignedbytheArchitectandreturnedtotheContractor.Th eContractorshallthensubmitpricedstatementsoftheseresourcestotheEngineer,priortotheirinclusioninthenextSt atementunderSub-Clause14.3[ApplicationforInterimPaymentCertificates].

13.8 AdjustmentsforChangesinLegislation

13.8.1 TheContractPriceshallbeadjustedtotakeaccountofanyincreaseordecreaseinCostresultingfromachangeintheLa wsofKenya(includingtheintroductionofnewLawsandtherepealormodificationofexistingLaws)orinthejudicialo rofficialgovernmentalinterpretationofsuchLaws,madeaftertheBaseDate,whichaffecttheContractorintheperfor manceofobligationsundertheContract.

13.8.2 IftheContractorsuffers(orwillsuffer)delayand/orincurs(orwillincur)additionalCost asaresultofthesechangesintheLawsorinsuchinterpretations,madeaftertheBaseDate,theContractorshallgivenoti cetotheArchitectandshallbeentitledsubjecttoSub-Clause20.1[Contractor'sClaims]to:

a) anextensionoftimeforanysuch delay,ifcompletionisorwillbedelayed,underSub-Clause8.4[ExtensionofTimeforCompletion] and
b) paymentofanysuchCost,whichshallbeincludedintheContractPrice.

13.8.3 AfterreceivingthisnoticetheArchitectshallproceedinaccordancewithSub-Clause3.5[Determinations]to agreeordeterminethesematters.

13.8.4 Notwithstandingtheforegoing,theContractorshallnotbeentitledtoanextensionoftimeiftherelevantdelayhasalrea dy beentakenintoaccountinthedeterminationofapreviousextensionoftimeandsuchCostshallnot beseparatelypaidifthesameshallalreadyhavebeentakenintoaccountintheindexingof anyinputstothetableofadjustmentdatainaccordancewiththeprovisionsofSub-Clause13.8[AdjustmentsforChangesinCost].

13.9 AdjustmentsforChangesinCost

13.9.1 InthisSub-Clause,"tableofadjustmentdata"meansthecompletedtableofadjustmentdataforlocalandforeigncurrenciesinclu dedintheSchedules.Ifthereisnosuchtableofadjustmentdata,thisSub-Clauseshallnotapply.

13.9.2 IfthisSub-Clauseapplies,theamountspayabletotheContractorshallbeadjustedforrisesorfallsinthecostoflabor,Goods and other inputs to the Works, by the addition or deduction of the amounts determined by theformulaeprescribedinthisSub-Clause.Totheextentthatfullcompensationforanyriseorfallin Costsisnotcoveredbytheprovisionsofthisorother Clauses,theAcceptedContractAmountshallbedeemedtohaveincludedamountstocoverthecontingencyofotherrisesa ndfallsincosts.

13.9.3 Theadjustmenttobeappliedtotheamountotherwisepayabletothe Contractor,asvaluedinaccordancewitht heappropriateScheduleandcertifiedinPaymentCertificates,shallbedeterminedfromformulaeforeachoft hecurrenciesinwhichtheContractPriceispayable.Noadjustmentistobeappliedtoworkvaluedonthebasis ofCostorcurrentprices.Theformulaeshallbeofthefollowinggeneraltype:

approximate figure (usually 0.15) to take account of fixed cost elements or othernonadjustable components. The sum of the adjustments for each currency are added totheContract Price.

13.9.4 Thecostindicesorreferencepricesstatedinthetableofadjustmentdatashallbeused.Iftheirsourceisindoubt,itshallbedeterminedbytheEngineer.Forthispurpose,referenceshallbemadetothevaluesoftheindicesatstateddates(quotedinthefourthandfifthcolumnsrespectivelyofthetable) for the purposesofclarificationofthesource;althoughthesedates(andthusthesevalues)maynotcorrespondtothebasecostindices.

13.9.5 Incaseswherethe"currencyofindex"isnottherelevantcurrencyofpayment,eachindexshallbeconvertedintotherelevantcurrencyofpaymentatthesellingrate,establishedbytheCentralBankofKenya,ofthisrelevantcurrencyonthe abovedateforwhichtheindexisrequiredtobeapplicable.

13.9.6 Untilsuchtimeaseachcurrentcostindexisavailable,theArchitectshalldetermineaprovisionalindexforthe issue ofInterimPaymentCertificates.Whenacurrentcostindexisavailable,theadjustmentshallberecalculatedaccordingly.

13.9.7 IftheContractorfailstocompletetheWorkswithintheTimeforCompletion,adjustmentofpricesthereaftershallbemadeusingeither(i)eachindexorpriceapplicableonthedate49dayspriortotheexpiryoftheTime forCompletionoftheWorks,or(ii)thecurrentindexorprice,whicheverismorefavorabletotheProcuringEntity.

13.9.8 Theweightings(coefficients)foreachofthefactorsofcoststatedinthetable(s)ofadjustmentdatashallonlybe adjustediftheyhavebeenrenderedunreasonable,unbalancedorinapplicable,asaresultofVariations.

14 CONTRACTPRICEANDPAYMENT

14.1 TheContractPrice

14.1.1 UnlessotherwisestatedintheSpecialConditions:

a) Thevalueofthepaymentcertificateshallbeagreedordeterminedunder Sub-Clause12.3[Evaluation]andbesubjecttoadjustmentsinaccordancewiththeContract;

b) theContractorshallpayalltaxes,dutiesandfeesrequiredtobepaidbyhimundertheContract,andtheContractPriceshallnotbeadjustedforanyofthesecostsexceptasstatedinSub-Clause13.7[AdjustmentsforChangesinLegislation];

c) anyquantitieswhichmaybesetoutintheBillofQuantitiesorotherScheduleareestimatedquantitiesand arenottobetakenastheactualandcorrectquantities.

i) oftheWorkswhichtheContractorisrequiredtoexecute,or

ii) forthepurposesofClause12[MeasurementandEvaluation];and

d) theContractorshallsubmittotheEngineer,within30daysaftertheCommencementDate,a proposedbreakdownofeachlumpsumpriceintheSchedules.TheArchitectmaytakeaccountofthebreakdown whenpreparingPaymentCertificatesbutshallnotbeboundbyit.

14.12 Notwithstanding the provisions of subparagraph (b), Contractor's Equipment, including essential spare partstherefor,importedbytheContractorforthesolepurposeofexecutingtheContractshallnotbeexemptfromthepa ymentofimportdutiesandtaxesuponimportation.

14.2 AdvancePayment

14.2.1 TheProcuringEntityshallmakeanadvancepayment,asaninterest-freeloanformobilizationandcashflowsupport,whentheContractorsubmitsaguaranteeinaccordancewiththisClau se.Thetotaladvancepayment,thenumberandtimingofinstalments(ifmorethanone), and the applicablecurrenciesandproportions,shallbeasstatedint heSpecialConditionsofContract.

14.2.2 UnlessanduntiltheProcuringEntityreceivesthisguarantee,orifthetotaladvancepaymentisnotstatedinthe SpecialConditionsofContract,thisSub-Clauseshallnotapply.

14.2.3 TheArchitectshalldelivertotheProcuringEntityandtotheContractoranInterimPaymentCertificatefortheadvance paymentoritsfirstinstalmentafterreceivingaStatement(underSub-Clause14.3[ApplicationforInterimPaymentCertificates])andaftertheProcuringEntityreceives(i)thePerforman ceSecurityinaccordancewithSub-Clause4.2[PerformanceSecurity]and(ii)aguaranteeinamountsandcurrenciesequaltotheadvancepayment.Thisg uaranteeshallbeissuedbyareputablebankorfinancialinstitutionselectedbytheContractorandshallbeintheforman nexedtotheSpecialConditionsorinanotherformapprovedbytheProcuringEntity.

14.2.4 TheContractorshallensurethattheguaranteeisvalidandenforceableuntiltheadvancepaymenthasbeenrepaid.butit samountshallbeprogressivelyreducedbytheamountrepaidbytheContractorasindicatedinthePaymentCertificate s.Ifthetermsoftheguarantee specifyitsexpirydate,andtheadvancepaymenthasnotbeenrepaidbythedate30dayspriortotheexpirydate,theCont ractorshallextendthevalidityoftheguaranteeuntiltheadvancepaymenthasbeenrepaid.

14.2.5 Unlessstatedotherwiseinthe**SpecialConditionsofContract**,theadvancepaymentshallberepaidthroughperce ntagedeductionsfromtheinterimpaymentsdeterminedbytheArchitectinaccordancewithSub-Clause14.6[IssueofInterimPaymentCertificates], as follows:

a) DeductionsshallcommenceinthenextinterimPaymentCertificatefollowingthatinwhichthetotalofall certifiedinterimpayments(excludingtheadvancepaymentanddeductionsandrepaymentsofretention) exceeds30percent(30%)ofthe AcceptedContractAmountlessProvisionalSums;and

b) deductions shall be made at the amortization rate stated in the **Special Conditions of Contract** of theamount of each Interim Payment Certificate (excluding the advance payment and deductions for itsrepaymentsaswellasdeductionsforretentionmoney)inthecurrenciesandproportionsoftheadvancepaym entuntilsuchtimeastheadvancepaymenthasbeenrepaid;providedthattheadvancepaymentshallbecomplete ly repaid prior to the time when 90 percent (90%) of the Accepted Contract Amount lessProvisionalSumshasbeencertifiedforpayment.

14.2.6 If the advance payment has not been repaid prior to the issue of the Taking-Over Certificate for the WorksorpriortoterminationunderClause15[TerminationbyProcuringEntity],Clause16[SuspensionandTermin ationbyContractor]orClause19[ForceMajeure](asthecasemaybe),thewholeofthebalancethenoutstandingshalli mmediatelybecomedueandincaseofterminationunderClause15[TerminationbyProcuringEntity],exceptforSub-Clause14.2.7[ProcuringEntity'sEntitlementtoTerminationforConvenience],payablebytheContractortotheProc uringEntity.

14.3 ApplicationforInterimPaymentCertificates

143.1 TheContractorshallsubmitaStatement(innumberofcopiesindicatedintheSpecialConditionsofContract) to theArchitectaftertheendofeachmonth,inaformapprovedbytheEngineer,showingindetailtheamounts

towhichtheContractorconsidersitselftobeentitled,togetherwithsupportingdocumentswhichshallinclude thereportontheprogressduringthismonthinaccordancewithSub-Clause4.21[ProgressReports].

1432 The Statement shall include the following items, as applicable, which shall be expressed in the variouscurrenciesinwhichtheContractPriceispayable,inthe sequencelisted:

a) theestimatedcontractvalueoftheWorksexecutedandtheContractor'sDocumentsproduceduptotheendofthe month(includingVariationsbutexcludingitemsdescribedinsub-paragraphs(b)to(g)below);

b) anyamountstobeaddedanddeductedforchangesinlegislationandchangesincost,inaccordancewithSub-Clause13.7[AdjustmentsforChangesinLegislation]andSub-Clause13.8[AdjustmentsforChangesinCost];

c) anyamounttobedeductedforretention,calculatedbyapplyingthepercentageofretentionstatedin**the SpecialConditions of Contract** to the total of the above amounts, until the amount so retained by theProcuring Entity reaches the limit of Retention Money (if any) stated **in the Special Conditions ofContract**;

d) anyamountstobeaddedfortheadvancepaymentand(ifmorethanoneinstalment)andtobedeductedfor itsrepaymentsinaccordancewithSub-Clause14.2[AdvancePayment];

e) anyamountstobeaddedanddeductedforPlantandMaterialsinaccordancewithSub-Clause14.5[PlantandMaterialsintendedfortheWorks];

f) anyotheradditionsordeductionswhichmayhavebecomedueundertheContractorotherwise,including thoseunderClause20[Claims,DisputesandArbitration];and

g) thedeductionofamountscertifiedinallpreviousPaymentCertificates.

144 ScheduleofPayments

144.1 IftheContractincludesascheduleofpaymentsspecifyingtheinstalmentsinwhichtheContractPricewillbe paid,thenunlessotherwisestatedinthisschedule:

a) Theinstalmentsquotedinthisscheduleofpaymentsshallbetheestimatedcontractvaluesforthepurposes ofsub-paragraph(a)ofSub-Clause14.3[ApplicationforInterimPaymentCertificates];

b) Sub-Clause14.5[PlantandMaterialsintendedfortheWorks]shallnotapply;and

c) Iftheseinstalmentsarenotdefinedbyreferencetotheactualprogressachievedinexecutingthe Works,andifactu alprogressisfoundtobelessormorethanthatonwhichthisscheduleofpaymentswasbased,thentheArchitect may proceedinaccordancewithSub-Clause3.5[Determinations]toagreeordeterminerevisedinstalments,whichshalltakeaccountoftheextentto whichprogressislessormorethanthatonwhichtheinstalmentswerepreviouslybased.

1442 IftheContractdoesnotincludeascheduleofpayments,theContractorshallsubmitnon-bindingestimatesofthepaymentswhichheexpectstobecomedueduringeachquarterlyperiod.Thefirstestimateshal lbesubmitted within 42 days after the Commencement Date. Revised estimates shall be submitted at quarterlyintervals,untiltheTaking-OverCertificatehasbeenissuedfortheWorks.

145 PlantandMaterialsintendedfortheWorks

145.1 IfthisSub-Clauseapplies,InterimPaymentCertificatesshallinclude,undersub-paragraph(e)ofSub-Clause14.3,(i)anamountforPlantandMaterialswhichhavebeensenttotheSiteforincorporationinthePermanent Works, and(ii)areductionwhenthecontractvalueofsuchPlantandMaterialsisincludedaspartofthePermanentWorksunder sub-paragraph(a)ofSub-Clause14.3[ApplicationforInterimPaymentCertificates].

1452 Ifthelistsreferredtoinsub-paragraphs(b)(i)or(c)(i)belowarenotincludedintheSchedules,thisSub-Clauseshallnotapply.

1453 TheArchitectshalldetermineandcertifyeachadditioniftheconditionsaresatisfied:

a) TheContractorhas:

i) kept satisfactory records (including the orders, receipts, Costs and use of Plant and Materials)whichareavailableforinspection,and

(ii) submitted statementoftheCostofacquiringanddeliveringthePlantandMaterialstotheSite,supported bysatisfactoryevidence;

andeither:

b) therelevantPlantandMaterials:

ii) havebeenshippedtoKenya,enroutetotheSite,inaccordancewiththeContract;and

iii) are described in a clean shipped billoflading or otherevidenceofshipment, which hasbeensubmitted to the Architect together with evidence of payment of freight and insurance, any otherdocumentsreasonablyrequired,andabankguaranteeinaformandissuedbyanentityapprovedbythe ProcuringEntityinamountsandcurrenciesequaltotheamountdueunderthisSub-Clause:thisguaranteemaybeinasimilarformtotheformreferredtoinSub-Clause14.2[AdvancePayment] andshallbevaliduntilthePlantandMaterialsareproperlystoredonSiteandprotectedagainstloss,damageordeterioration;or

c) therelevantPlantandMaterials:

i) arethoselistedintheSchedulesforpaymentwhendeliveredtotheSite,and

ii) have been delivered to and are properly stored on the Site, are protected against loss, damage ordeteriorationandappeartobeinaccordancewiththeContract.

14.5.4 The additional amount to be certified shall be the equivalent of eighty percent (80%) of the Architectdetermination of the cost of the Plant and Materials (including delivery to Site), taking account of thedocumentsmentionedinthisSub-Clauseandofthecontractvalueofthe PlantandMaterials.

14.5.5 Thecurrenciesforthisadditionalamountshallbethesameasthoseinwhichpaymentwillbecomeduewhen thecontractvalueisincludedundersub-paragraph(a)ofSub-Clause14.3[ApplicationforInterimPaymentCertificates].Atthattime,thePaymentCertificateshallincludetheapplicablereductionwhichshallbeequivalentto,andinthesamecurrenciesandproportionsas,thisadditionalamountfortherelevantPlantandMaterials.

14.6 IssueofInterimPaymentCertificates

14.6.1 NoamountwillbecertifiedorpaiduntiltheProcuringEntityhasreceivedandapprovedthePerformanceSecurity.Thereafter,theArchitectshall,within30daysafterreceivingaStatementandsupportingdocuments,delivertotheProcuringEntityandtotheContractoranInterimPaymentCertificatewhichshallstatetheamountwhichtheArchitectfairlydeterminestobedue,withallsupportingparticularsforanyreductionorwithholdingmadebytheArchitectontheStatementifany.

14.6.2 However,priortoissuingtheTaking-OverCertificatefortheWorks,theArchitectshallnotbeboundtoissueanInterimPaymentCertificateinanamountwhichwould(afterretentionandotherdeductions)belessthantheminimumamountofInterimPaymentCertificates(ifany)stated**intheSpecialConditionsofContract**.Inthis event,theArchitectshallgivenoticetotheContractoraccordingly.

14.6.3 AnInterimPaymentCertificateshallnotbewithheldforanyotherreason,although:

a) if anything supplied or work done by the Contractor is not in accordance with the Contract, the cost ofrectification or replacement may be withheld until rectification or replacement has been completed;and/or

b) iftheContractorwasorisfailingtoperformanyworkorobligationinaccordancewiththeContract,andhadbeensonotifiedbytheEngineer,thevalueofthisworkorobligationmaybewithhelduntiltheworkorobligationhasbeenperformed.

4.6.4

TheArchitectmayinanyPaymentCertificatemakeanycorrectionormodificationthatshouldproperlybemadetoanypreviousPaymentCertificate.APaymentCertificateshallnotbedeemedtoindicatetheArchitectacceptance,approval,consentorsatisfaction.

14.7 Payment

14.7.1 TheProcuringEntityshallpaytotheContractor:

a) Theadvancepaymentshallbepaidwithin60daysaftersigningofthecontractbybothpartiesorwithin60 daysafterreceivingthedocumentsinaccordancewithSub-Clause4.2[PerformanceSecurity]andSub-Clause14.2[AdvancePayment],whicheverislater;

b) TheamountcertifiedineachInterimPaymentCertificatewithin60daysafterthe ArchitectIssuesInterim PaymentCertificate;and

mentCertificate;orafterdeterminationofanydisputedamountshowninthefinalStatementinaccordancewith Sub-Clause16.2[TerminationbyContractor].

14.7.2 Paymentoftheamountdueineachcurrencyshallbemadeintothebankaccount,nominatedbytheContractor,inthepaymentcountry(forthiscurrency)specifiedintheContract.

14.8 DelayedPayment

14.8.1 IftheContractordoesnotreceivepaymentinaccordancewithSub-Clause14.7[Payment],theContractorshallbeentitled to receive financing charges (simple interest) monthly on the amount unpaid during the period ofdelay. 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 PaymentCertificateisissued.

14.8.2 ThesefinancingchargesshallbecalculatedattheannualrateofthreepercentagepointsabovethemeanrateoftheCentralBankinKenyaofthecurrencyofpayment,orifnotavailable,theinterbankofferedrate,andshallbepaidinsuchcurrency.

14.8.3 TheContractorshallbeentitledtothispaymentwithoutformalnoticeandcertification,andwithoutprejudicetoanyotherrightorremedy.

14.9 PaymentofRetentionMoney

14.9.1 WhentheTaking-OverCertificatehasbeenissuedfortheWorks,thefirsthalfoftheRetentionMoneyshallbecertifiedbytheArchitectforpaymenttotheContractor.IfaTaking-OverCertificateisissuedforaSectionorpartoftheWorks,aproportionoftheRetentionMoneyshallbecertifiedandpaid.Thisproportionshallbehalf(50%)oftheproportioncalculatedbydividingtheestimatedcontractvalueoftheSectionorpart,bytheestimatedfinalContractPrice.

14.9.2 Promptly after the latest of the expiry dates of the Defects Liability Periods, the outstanding balance of theRetentionMoneyshallbecertifiedbytheArchitectforpaymenttotheContractor.IfaTaking-OverCertificatewasissued for a Section, a proportion of the second half of the Retention Money shall be certified and paidpromptly 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 ContractPrice.

14.9.3 However,ifanyworkremainstobeexecutedunderClause11[DefectsLiability],theArchitectshallbeentitledtowithholdcertificationoftheestimatedcostofthisworkuntilithasbeenexecuted.

14.9.4 Whencalculatingtheseproportions,noaccountshallbetakenofanyadjustmentsunderSub-Clause13.7[AdjustmentsforChangesinLegislation]andSub-Clause13.8[AdjustmentsforChangesinCost].

14.9.5 Unless otherwise stated in the Special Conditions, when the Taking-Over Certificate has been issued for theWorksandthefirsthalfoftheRetentionMoneyhasbeencertifiedforpaymentbytheEngineer,theContractor shall beentitled to substitute a Retention Money Security guarantee, in the form annexed to the Special ConditionsorinanotherformapprovedbytheprocuringentityandissuedbyareputablebankorfinancialinstitutionselectedbytheContractor,forthesecondhalfoftheRetentionMoney.

14.9.6 TheProcuringEntityshall returntheRetentionMoneySecurityguaranteetotheContractorwithin14daysafterreceivingacopyoftheCompletionCertificate.

14.10 StatementatCompletion

14.10.1 Within 84 days after receiving the Taking-Over Certificate for the Works, the Contractor shall submit totheArchitect three copies of a Statement at completion with supporting documents, in accordance with Sub-Clause14.3[ApplicationforInterimPaymentCertificates],showing:

a) the value of all work done in accordance with the Contract up to the date stated in the Taking-OverCertificatefortheWorks.
b) anyfurthersumswhichtheContractorconsiderstobedue,and
c) an estimate of any other amounts which the Contractor considers will become due to him undertheContract.Estimatedamountsshallbeshownseparatelyinthis Statementatcompletion.

14.11 ApplicationforFinalPaymentCertificate

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

a) Thevalueofallworkdoneinaccordancewiththe Contract,and
b) AnyfurthersumswhichtheContractorconsiderstobeduetohimundertheContractorotherwise.

14.11.2 IftheArchitectdisagreeswithorcannotverifyanypartofthedraftfinalstatement,theContractorshallsubmit suchfurtherinformationastheArchitectmayreasonablyrequirewithin30daysfromreceiptofsaiddraftand shallmakesuchchangesinthedraftasmaybeagreedbetweenthem.TheContractorshallthenprepareandsub mittotheArchitectthefinalstatementasagreed.Thisagreedstatementisreferredtointhese Conditionsas the"FinalStatement".

14.11.3 However,if,followingdiscussionsbetweentheArchitectandtheContractorandanychangestothedraftfinalstatem entwhichareagreed,itbecomesevidentthatadisputeexists,theArchitectshalldelivertotheProcuringEntity(witha copytotheContractor)anInterimPaymentCertificatefortheagreedpartsofthedraftfinalstatement.Thereafter,ifth edisputeisfinallyresolvedunderSub-Clause20.4[ObtainingDisputeBoard'sDecision]orSub-Clause20.5[AmicableSettlement],theContractorshallthenprepareandsubmittotheProcuringEntity(withacopyt otheEngineer)aFinalStatement.

14.12 Discharge

WhensubmittingtheFinalStatement,theContractorshallsubmitadischargewhichconfirmsthatthetotalof the FinalStatementrepresentsfullandfinalsettlementofallmoneysduetotheContractorunderorinconnectionwiththe Contract.ThisdischargemaystatethatitbecomeseffectivewhentheContractorhasreceivedthePerformanceSecur ityandtheoutstandingbalanceofthistotal,inwhicheventthedischargeshallbeeffectiveonsuchdate.

14.13 IssueofFinalPaymentCertificate

14.13.1 Within30daysafterreceivingtheFinalStatementanddischargeinaccordancewithSub-Clause14.11[ApplicationforFinalPaymentCertificate]andSub-Clause14.12[Discharge],theArchitectshalldeliver,totheProcuringEntityandtotheContractor,theFinalPayment Certificatewhichshallstate:

a) Theamountwhichhefairlydeterminesisfinallydue,and
b) Aftergivingcredittotheprocuringentityforallamountspreviouslypaidbytheprocuringentityandfor allsumstowhichtheprocuringentityisentitled,thebalance(ifany)duefromtheprocuringentitytothe ContractororfromtheContractortotheprocuringentity,asthecasemaybe.

14.13.2 IftheContractorhasnotappliedforaFinalPaymentCertificateinaccordancewithSub-Clause14.11[ApplicationforFinalPaymentCertificate]andSub-Clause14.12[Discharge],theArchitectshallrequesttheContractor todoso.IftheContractorfails tosubmitanapplicationwithinaperiodof30days,theArchitectshallissuetheFinalPaymentCertificateforsuchamo unt as hefairlydetermines to be due.

14.14 CessationofProcuringEntity'sLiability

14.14.1 TheProcuringEntityshallnotbeliabletotheContractorforanymatterorthingunderorinconnectionwiththeContrac torexecutionoftheWorks, excepttotheextentthattheContractorshallhaveincludedanamountexpresslyforit:

a) intheFinalStatementandalso,
b) (exceptformattersorthingsarisingaftertheissueoftheTaking-Over CertificatefortheWorks)intheStatementatcompletiondescribedinSub-Clause14.10[StatementatCompletion].

14.14.2 However,thisSub-ClauseshallnotlimittheProcuringEntity'sliabilityunderhisindemnificationobligations,orthe Procuring Entity's liability in any case of fraud, deliberate default or reckless misconduct by theProcuringEntity.

14.102 TheArchitectshallthencertifyinaccordancewithSub-Clause14.6[IssueofInterimPaymentCertificates].

TheContractPriceshallbepaidinthecurrencyorcurrenciesnamedintheScheduleofPaymentCurrencies.If morethanonecurrencyissonamed,paymentsshallbemadeasfollows:

a) IftheAcceptedContractAmountwasexpressedinLocalCurrencyonly:
   i) theproportionsoramountsoftheLocalandForeignCurrencies, and the fixedratesofexchangetobeusedforcalculatingthepayments,shallbeasstatedintheScheduleofPaymentCurrencies,exceptasotherwiseagreedbybothParties;
   ii) paymentsanddeductionsunderSub-Clause13.5[ProvisionalSums]andSub-Clause13.7[AdjustmentsforChangesinLegislation]shallbemadeintheapplicablecurrenciesandproportions;and
   iii) otherpaymentsanddeductionsundersub-paragraphs(a)to(d)ofSub-Clause14.3[ApplicationforInterimPaymentCertificates]shallbemadeinthecurrenciesandproportions specifiedinsub-paragraph(a)(i)above;
b) paymentofthedamagesspecifiedintheSpecialConditionsofContract,shallbemadeinthecurrencies andproportionsspecifiedintheScheduleofPaymentCurrencies;
c) otherpaymentstotheProcuringEntitybytheContractorshallbemadeinthecurrencyinwhichthesum wasexpendedbytheProcuringEntity,orinsuchcurrencyasmaybeagreedbybothParties;
d) ifanyamountpayablebytheContractortotheProcuringEntityinaparticularcurrencyexceedsthesum payablebytheProcuringEntitytotheContractorinthatcurrency,theProcuringEntitymayrecoverthe balanceofthisamountfromthesumsotherwisepayabletotheContractorinothercurrencies;and
e) ifnoratesofexchangearestatedintheScheduleofPaymentCurrencies,theyshallbethoseprevailingon theBaseDateanddeterminedbytheCentralBankofKenya.

15 TERMINATIONBYPROCURINGENTITY

15.1 Noticetocorrectanydefects orfailures

If the Contractor fails to carry out any obligation under the Contract, the Architect may by notice requiretheContractorto make good thefailureand to remedyit within 30days.

15.2 TerminationbyProcuringEntity

15.2.1 The Procuring Entity shall be entitled to terminate the Contract if the Contractor breaches the contractbasedon followingcircumstances whichshallincludebutnotlimitedto:

a) fails to comply with Sub-Clause 4.2 [Performance Security] or with a notice under Sub-Clause 15.1[Noticeto Correct],
b) abandonstheWorksorotherwiseplainlydemonstratestheintentionnottocontinueperformanceofhisobligations underthe Contract,
c) withoutreasonableexcusefails:
   i) toproceedwiththeWorksinaccordancewithClause8[Commencement,DelaysandSuspension],or
   ii) to comply with a notice issued under Sub-Clause 7.5 [Rejection] or Sub-Clause 7.6 [RemedialWork],within30daysafterreceivingit,
d) subcontractsthemajorpartorwholeoftheWorksorassignstheContractwithouttheconsentoftheProcuring Entity,
e) becomesbankruptorinsolvent,goesintoliquidation,hasareceivingoradministrationordermadeagainst him,compoundswithhiscreditors,orcarriesonbusinessunderareceiver,trusteeormanagerforthebenefitofhiscreditors,orifanyactisdoneoreventoccurswhich(underapplicableLaws)hasasimilareffecttoanyoftheseactsorevents,or
f) givesoroofferstogive(directlyorindirectly)toanypersonanybribe,gift,gratuity,commissionorother thingofvalue,asaninducementorreward:
   i) fordoingorforbearingtodoanyactioninrelationtotheContract,or
   ii) forshowingorforbearingtoshowfavorordisfavortoanypersoninrelationtotheContract,or
   iii) ifanyoftheContractor'sPersonnel,agentsorSubcontractorsgivesoroofferstogive(directlyorindirectly) toanypersonanysuchinducementorrewardasisdescribedinthissub-paragraph(f).However,lawfulinducementsandrewardstoContractor'sPersonnelshallnotentitleterm ination,or
g) Ifthecontractorrepeatedlyfailstoremedydeliversdefectivework,
h) based on reasonable evidence, has engaged in Fraud and Corruption as defined in paragraph 2.2 of theAppendixBtotheseGeneralConditions,incompetingfororinexecutingtheContract.

Contractor,terminatetheContractandexpeltheContractorfromtheSite.However,inthecaseofsub-paragraph(e)or(f)or(g)or(h),theProcuringEntitymaybynoticeterminatetheContractimmediately.

15.2.3 TheProcuringEntity'selectiontoterminatetheContractshallnotprejudiceanyotherrightsoftheProcuring Entity,undertheContractorotherwise.

15.2.4 TheContractorshallthenleavetheSiteanddeliveranyrequiredGoods,allContractor'sDocuments,andotherdesign documents made by or for him, to the Engineer. However, the Contractor shall use his best efforts tocomplyimmediatelywithanyreasonableinstructionsincludedinthenotice(i)fortheassignmentofanysubcontra ct,and(ii)fortheprotectionoflifeorpropertyorforthesafetyoftheWorks.

15.2.5 Aftertermination,theProcuringEntitymaycompletetheWorksand/orarrangeforanyotherentitiestodoso.ThePro curing Entity and these entities may then use any Goods, Contractor's Documents and other designdocumentsmadebyoronbehalfoftheContractor.

15.2.6 The Procuring Entity shall then give notice that the Contractor's Equipment and Temporary Works will bereleasedtotheContractoratornearttheSite.TheContractorshallpromptlyarrangetheirremoval,attherisk and costof the Contractor. However, if by this time the Contractor has failed to make a payment due to theProcuringEntity,theseitemsmaybesoldbytheProcuringEntityinordertorecoverthispayment.Anybalance of theproceedsshallthenbepaidtotheContractor.

15.3 ValuationatDateofTermination

AssoonaspracticableafteranoticeofterminationunderSub-Clause15.2[TerminationbyProcuringEntity]hastakeneffect,theArchitectshallproceedinaccordancewithSub-Clause3.5[Determinations]toagreeordeterminethevalueoftheWorks,GoodsandContractor'sDocuments,andan yothersumsduetotheContractorforworkexecutedinaccordancewiththeContract.

15.4 PaymentafterTermination

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

a) Proceedinaccordancewith Sub-Clause2.5[ProcurinEntity'sClaims],

b) withhold further payments to the Contractor until the costs of execution, completion and remedying ofanydefects damagesfordelayincompletion(ifany),andallothercostsincurredbytheProcuringEntity,have beenestablished,and/or

c) recoverfromtheContractoranylossesanddamagesincurredbytheProcuringEntityandanyextracostsofcomp leting 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, theProcuringEntityshallpayanybalancetotheContractor.

15.5 ProcuringEntity'sEntitlementtoTerminationforConvenience

TheProcuringEntityshallbeentitledtoterminatetheContract,atanytimeattheProcuringEntity'sconvenience,bygi vingnoticeofsuchterminationtotheContractor.Theterminationshalltakeeffect30days after thelaterofthedatesonwhichtheContractorreceivesthisnoticeortheProcuringEntityreturnsthePerformanceSecur ity.TheProcuringEntityshallnotterminatetheContractunderthisSub-Clauseinordertoexecutetheworksitselfortoarrangefortheworkstobeexecutedbyanothercontractorortoavoidat erminationoftheContractbytheContractorunderClause16.2[TerminationbyContractor].Afterthistermination,t heContractorshallproceedinaccordancewithSub-Clause16.3[CessationofWorkandRemovalofContractor'sEquipment]andshallbepaidinaccordancewithSub-Clause16.4[PaymentonTermination].

15.6 FraudandCorruption

TheContractorshallensurecompliancewith theKenyaGovernment'sAnti-CorruptionLawsanditsprevailingsanctions.

15.7 Corruptgiftsandpaymentsofcommission

15.7.1 TheContractorshallnot:

1522 Inanyoftheseeventsorcircumstances,theProcuringEntitymay,upongiving14days'noticetothe

a) Offerorgiveoragreetogivetoanypersoninthesc rviceoftheProcuringEntityanygiftorconsideration ofanykindasaninducementorrewardfordoingorforbearingtodoorforhavingdoneorforbornetodoa nyactinrelationtotheobtainingorexecutionofthisoranyotherContractfortheProcuringEntityorfor showingorforbearingtoshowfavorordisfavortoanypersoninrelationtothisoranyothercontractfort heProcuringEntity.

b) EnterintothisoranyothercontractwiththeProcuringEntityinconnectionwithwhichcommissionhasbeenpai doragreedtobepaidbyhimoronhisbehalfortohisknowledge,unlessbeforetheContractis made particularsofanysuchcommissionandofthetermsandconditionsofanyagreementforthepaymentthereofhav ebeendisclosedinwritingtotheProcuringEntity.

15.72 AnybreachofthisConditionbytheContractororbyanyoneemployedbyhimoractingonhisbehalf(whether with orwithouttheknowledgeoftheContractor)shallbeanoffenceundertheprovisionsofthePublicProcurementandAs setDisposalAct(2015)andtheAnti-CorruptionandEconomicCrimesAct(2003)oftheLaws ofKenya.

16. SUSPENSIONANDTERMINATIONBYCONTRACTOR

16.1 Contractor'sEntitlementtoSuspendWork

16.1.1 IftheArchitectfailstocertifyinaccordancewithSub-Clause14.6[IssueofInterimPaymentCertificates]orSub-Clause14.7[Payment],ornotreceivinginstructionsthatwouldenablethecontractortoproceedwiththeworksinacc ordance with the program, the Contractor may, after giving not less than 30 days' notice to the ProcuringEntity, suspendwork(orreducetherateofwork)unlessanduntiltheContractorhasreceivedthePaymentCertificate,reasona bleevidenceorpayment,asthecasemaybeandasdescribedinthenotice.

16.1.2 The Contractor's action shall not prejudice his entitlements to financing charges under Sub-Clause 14.8[DelayedPayment]andtoterminationunderSub-Clause16.2[TerminationbyContractor].

16.1.3 IftheContractorsubsequentlyreceivessuchPaymentCertificate,evidenceorpayment(asdescribedintherelevantSub-Clauseandintheabovenotice)beforegivinganoticeoftermination,theContractorshallresumenormalworkingasso onasisreasonablypracticable.

16.1.4 IftheContractorsuffersdelayand/orincursCostasaresultofsuspendingwork(orreducingtherateofwork) inaccordance with this Sub-Clause, the Contractor shall give notice to the Architect and shall be entitledsubjecttoSub-Clause20.1[Contractor'sClaims]to:

a) anextensionoftimeforanysuchdelay,ifcompletionisorwillbedelayed,underSub-Clause8.4[ExtensionofTimeforCompletion],and
b) paymentofanysuchCost-plusprofit,whichshallbeincludedintheContractPrice.

16.2 Afterreceivingthisnotice,theArchitectshallproceedinaccordancewithSub-Clause3.5[Determinations]to agreeordeterminethesematters.

16.3 TerminationbyContractor

16.3.1 TheContractorshallbeentitledtoterminatetheContractif:

a) the Architect fails, within 60 days after receiving a Statement and supporting documents, to issue therelevantPaymentCertificate,
b) theContractordoesnotreceivetheamountdueunderanInterimPaymentCertificatewithin90daysafter theexpiryofthetimestatedinSub-Clause14.7[Payment]withinwhichpaymentistobemade(exceptfor deductionsinaccordancewithSub-Clause2.5[ProcuringEntity'sClaims]),
c) theProcuringEntitysubstantiallyfailstoperformhisobligationsundertheContractinsuchmannerasto materiallyandadverselyaffecttheeconomicbalanceoftheContractand/ortheabilityoftheContractorto performtheContract,
d) aprolongedsuspensionaffectsthewholeoftheWorksasdescribedinSub-Clause8.11[ProlongedSuspension],or
e) theProcuringEntitybecomesbankruptorinsolvent,goesintoliquidation,hasareceivingoradministration order made against him, compounds with his creditors, or carries on business under areceiver, trustee or manager for the benefit of his creditors, or if any act is done or event occurs which(underapplicablelaws)hasasimilareffecttoanyoftheseactsorevents,
f) the Contractordoesnotreceive theArchitectinstructionrecordingthe agreement

Clause8.1[CommencementofWorks].

16.3.2 In any of these events or circumstances, the Contractor may, upon giving 14 days' notice to the ProcuringEntity,terminatetheContract.However,inthecaseofsub-paragraph(f)or(g),theContractormaybynoticeterminatetheContractimmediately.

16.3.3 TheContractor'selectiontoterminatetheContractshallnotprejudiceanyotherrightsoftheContractor,under theContractorotherwise.

16.4 CessationofWorkandRemovalofContractor'sEquipment

After a notice of termination under Sub-Clause 15.5 [Procuring Entity's Entitlement to Termination forConvenience], Sub-Clause 16.2 [Termination by Contractor] or Sub-Clause 19.6 [Optional Termination,Payment and Release]hastaken effect, the Contractorshallpromptly:

a) ceaseallfurtherwork,exceptforsuchworkasmayhavebeeninstructedbytheArchitectfortheprotectionoflife orpropertyorforthesafetyoftheWorks,

b) handoverContractor'sDocuments,Plant,Materialsandotherwork,forwhichtheContractorhasreceivedpay ment,and

c) removeallotherGoodsfromtheSite,exceptasnecessaryforsafety,andleavetheSite.

16.5 PaymentonTermination

After a notice of termination under Sub-Clause 16.2 [Termination by Contractor] has taken effect, theProcuringEntityshallpromptly:

a) ReturnthePerformanceSecuritytotheContractor,

b) paytheContractorinaccordance withSub-Clause19.6[OptionalTermination,PaymentandRelease],and

c) paytotheContractortheamountofanylossordamagesustainedbytheContractorasaresultofthistermination.

17. RISKANDRESPONSIBILITY

17.1 Indemnities

17.1.1 TheContractorshallindemnifyandholdharmlesstheProcuringEntity,theProcuringEntity'sPersonnel,andtheirre spective agents, against and from all claims, damages, losses and expenses (including legal fees andexpenses)inrespectof.

a) Bodilyinjury,sickness,diseaseordeath,ofanypersonwhatsoeverarisingoutoforinthecourseoforbyr easonoftheContractor'sdesign(ifany),theexecutionandcompletionoftheWorksandtheremedyingo fanydefects,unlessattributabletoanynegligence,willfulactorbreachoftheContractbytheProcuring Entity,theProcuringEntity'sPersonnel,oranyoftheirrespectiveagents,and

b) damagetoorlossofanyproperty,realorpersonal(otherthantheWorks),totheextentthatsuchdamageorlossari sesoutoforinthecourseoforbyreasonoftheContractor'sdesign(ifany),theexecutionandcompletionoftheWo rksandtheremedyingofanydefects,unlessandtotheextentthatanysuchdamageorlossisattributabletoanyneg ligence,willfulactorbreachoftheContractbytheProcuringEntity,theProcuringEntity'sPersonnel,theirrespe ctiveagents,oranyonedirectlyorindirectlyemployedbyanyofthem.

17.1.2 TheProcuringEntityshallindemnifyandholdharmlesstheContractor,theContractor'sPersonnel,andtheirrespecti veagents,againstandfromallclaims,damages,lossesandexpenses(includinglegalfeesandexpenses)in respectof (1)bodilyinjury,sickness,diseaseordeath,whichisattributabletoany negligence,willfulactorbreachoftheContractbytheProcuringEntity,theProcuringEntity'sPersonnel,oranyofthe irrespectiveagents,and(2)themattersforwhichliabilitymaybeexcludedfrominsurancecover,asdescribedin sub-paragraphs(d)(i),(ii)and(iii)ofSub-Clause18.3[InsuranceAgainstInjurytoPersonsandDamagetoProperty],unlessandtotheextentthatanysuchdama georlossisattributabletoanynegligence,willfulactorbreachoftheContractbythecontractor,thecontractor'sPerso nnel,theirrespectiveagents,oranyonedirectlyorindirectlyemployedbyanyofthem.

17.2 Contractor'sCareoftheWorks

17.2.1 TheContractorshalltakefullresponsibilityforthecareoftheWorksandGoods fromtheCommencementDateuntiltheTaking-OverCertificateisissued(orisdeemedtobeissuedunderSub-Clause10.1[TakingOveroftheWorksandSections])fortheWorks,whenresponsibilityforthecareoftheWorksshal lpasstotheProcuringEntity.IfaTaking-OverCertificateisissued(orissodeemedtobeissued)foranySectionorpartoftheWorks,responsibilityforthecareof theSectionorpartshallthenpasstotheProcuringEntity.

1722 Afterresponsibilityhasaccordinglypassedtothe ProcuringEntity,theContractorshalltakeresponsibilityfor thecareofanyworkwhichisoutstandingonthedatestatedinaTaking-OverCertificate,untilthisoutstandingworkhasbeencompleted.

1723 IfanylossordamagehappenstotheWorks,GoodsorContractor'sDocumentsduringtheperiodwhentheContractori sresponsiblefortheircare,fromanycausenotlistedinSub-Clause17.3[ProcuringEntity'sRisks],theContractorshallrectifythelossordamageattheContractor'sriskandcost, sothattheWorks,GoodsandContractor'sDocumentsconformwiththeContract.

1724 TheContractorshallbeliableforanylossordamagecausedbyanyactionsperformedbytheContractoraftera Taking-Over Certificate has been issued. The Contractor shall also be liable for any loss or damage whichoccurs after a Taking-Over Certificate has been issued and which arose from a previous event for which theContractorwasliable.

173 ProcuringEntity'sRisks

The risks referred to in Sub-Clause 17.4 [Consequences of Procuring Entity's Risks] below, insofar as theydirectlyaffectthe execution of theWorks inKenya, are:

a) Warhostilities(whetherwarbedeclaredornot),
b) rebellion,riot,commotionordisorder,terrorism,sabotagebypersonsotherthantheContractor'sPersonnel,
c) explosivematerials,ionizinggradiationorcontaminationbyradio-activity,exceptasmaybeattributabletotheContractor'suseofsuchexplosives,radiationorradio-activity,
d) pressurewavescausedbyaircraftorotheraerialdevicestravelingatsonicorsupersonicspeeds,
e) useoroccupationbytheProcuringEntityofanypartofthePermanentWorks,exceptasmaybespecifiedintheC ontract,
f) designofanypartoftheWorksbytheProcuringEntity'sPersonnelorbyothersforwhomtheProcuring Entityisresponsible,and
g) anyoperationoftheforcesofnaturewhichisUnforeseeableoragainstwhichanexperiencedcontractor couldnotreasonablyhavebeenexpectedtohavetakenadequatepreventiveprecautions.

174 ConsequencesofProcuringEntity'sRisks

1741 Iftandtotheextentthatanyoftherisks listedinSub-Clause17.3above resultsinlossordamagetotheWorks,GoodsorContractor'sDocuments,theContractorsh allpromptlygivenoticetotheArchitectandshallrectify thislossordamagetotheextentrequiredbytheEngineer.

1742 IftheContractorsuffersdelayand/orincursCostfromrectifyingthislossordamage,theContractorshallgive afurthernoticetotheArchitectandshallbeentitledsubjecttoSub-Clause20.1[Contractor'sClaims]to:

(a) Anextensionoftimeforanysuchdelay,ifcompletionisorwillbedelayed,underSub-Clause8.4[Extensionof TimeforCompletion],and
(b) paymentofanysuchCost,whichshallbeincludedintheContractPrice.Inthecaseofsub-paragraphs(e)and (g)ofSub-Clause17.3[ProcuringEntity'sRisks],AccruedCostsshall bepayable.

1743 Afterreceivingthisfurthernotice,theArchitectshallproceedinaccordancewithSub-Clause3.5[Determinations]toagreeordeterminethesematters.

175 IntellectualandIndustrialPropertyRights

1751 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 propertyright relating to the Works; and "claim" shall refer to a claim (or proceedings pursuing a claim) alleging aninfringement.

1752 WheneveraPartydoesnotgivenoticetotheotherPartyofanyclaimwithin30daysofreceivingtheclaim,the firstParty shallbedeemedtohavewaivedanyrighttoindemnityunderthisSub-Clause.

1753 TheProcuringEntity shallindemnifyandholdtheContractorharmlessagainstandfromanyclaimallegingan infringementwhichisorwas:

a) Anunavoidableresultof theContractor'scompliancewiththeContract;or
b) AresultofanyWorksbeingusedbytheProcuringEntity:
   i) forapurposeotherthanthatindicatedby,orreasonablytobeinferredfrom,theContract,or

18.13 WhereverttheProcuringEntityistheinsuringParty,eachinsuranceshallbeeffectedwithinsurersandinterms

acceptabletotheContractor.Thesetermsshallbeconsistentwithanytermsagreedbybothpartiesbeforethedateofthe Letter ofAcceptance.This agreementoftermsshall takeprecedenceovertheprovisionsofthisClause.

18.1.4 Ifapolicyisrequiredtoindemnifyjointinsured,thecovershallapplyseparatelytoeachinsuredasthougha separate policyhadbeenissuedforeachofthejointinsured.Ifapolicyindemnifiesadditionaljointinsured,namelyinadditiont otheinsuredspecifiedinthisClause,(i)theContractorshallactunderthepolicyonbehalfoftheseadditionaljointinsur edexceptthattheProcuringEntityshallactforProcuringEntity'sPersonnel,(ii)additionaljointinsuredshallnotbeen titledtoreceivepaymentsdirectlyfromtheinsurerortohaveanyotherdirectdealingswiththeinsurer,and(iii)theinsu ringPartyshallrequirealladditionaljointinsuredtocomplywiththeconditionsstipulatedinthepolicy.

18.1.5 Eachpolicyinsuringagainstlossordamageshallprovideforpaymentstobemadeinthecurrenciesrequiredto rectifythe loss or damage. Payments received from insurers shall be used for the rectification of the loss ordamage.

18.1.6 TherelevantinsuringPartyshall,withintherespectiveperiodsstatedin**theSpecialConditionsofContract**(calculatedfromtheCommencementDate),submittotheotherParty:

a) Evidencethattheinsurancesdescribedinthisclausehavebeenaffected,and
b) copies of the policies for the insurances described in Sub-Clause 18.2 [Insurance for Works andContractor's Equipment] and Sub-Clause 18.3 [Insurance against Injury to Persons and Damage toProperty].

18.1.7 Wheneachpremiumispaid,theinsuringPartyshallsubmitevidenceofpaymenttotheotherParty.Whenever evidenceorpoliciesaresubmitted,theinsuringPartyshallalsogivenoticetotheEngineer.

18.1.8 Each Party shall comply with the conditions stipulated in each of the insurance policies. The insuring Partyshall keep the insurers informed of any relevant changes to the execution of the Works and ensure thatinsuranceismaintainedinaccordancewiththisClause.

18.1.9 NeitherPartyshallmakeanymaterialalterationtotheterms ofanyinsurancewithoutthepriorapproval ofthe otherParty.Ifaninsurermakes(orattemptstomake)anyalteration,thePartyfirstnotifiedbytheinsurershall promptlygivenoticetotheotherParty.

18.1.10 IftheinsuringPartyfailstoeffectandkeepinforceanyoftheinsurancesitisrequiredtoeffectandmaintainunderthe Contractorfailstoprovidesatisfactoryevidenceandcopiesofpoliciesinaccordancewiththissub-Clause,theotherPartymay(atitsoptionandwithoutprejudicetoanyotherrightorremedy)effectinsurancefortherel evantcoverageandpaythepremiumsdue.TheinsuringPartyshallpaytheamountofthesepremiumstotheotherPart y,andtheContractPriceshallbeadjustedaccordingly.

18.1.11 Nothing in this Clause limits the obligations, liabilities or responsibilities of the Contractor or the ProcuringEntity,undertheothertermsoftheContractorotherwise.Anyamountsnotinsuredornotrecoveredfromth einsurersshallbebornebytheContractorand/ortheProcuringEntity.

18.1.12 ProcuringEntityinaccordancewiththeseobligations,liabilitiesorresponsibilities.However,iftheinsuring Party failstoeffectandkeepinforceaninsurancewhichisavailableandwhichitisrequiredtoeffectandmaintain under the Contract, and the other Party neither approves the omission nor effects insurance for thecoveragerelevanttothisdefault,anymoneyswhichshouldhavebeenrecoverableunderthisinsuranceshallbepai dbytheinsuringParty.

18.1.13 PaymentsbyonePartytotheotherPartyshallbesubjecttoSub-Clause2.5[ProcuringEntity'sClaims]orSub-Clause20.1[Contractor'sClaims],asapplicable.

18.1.14 TheContractorshallbeentitledtoplaceallinsurancerelatingtotheContract(including,butnotlimitedtothe insurancereferredtoClause18)withinsurersfromanyeligiblesourcecountry

18.2 InsuranceforWorksandContractor'sEquipment

18.2.1 TheinsuringPartyshallinsuretheWorks,Plant,MaterialsandContractor'sDocumentsformotlessthanthefullreinst atementcostincludingthecostsofdemolition,removalofdebrisandprofessionalfeesandprofit.Thisinsuranceshall beeffectivefromthedatebywhichtheevidenceistobesubmittedundersub-paragraph(a)of Sub-Clause18.1[GeneralRequirementsforInsurances]untilthedateofissueoftheTaking-OverCertificate for

s.

18.2.2 The insuring Party shall maintain this insurance to provide cover until the date of issue of the PerformanceCertificate,forlossordamageforwhichtheContractorisliablearisingfromacauseoccurringpriortoth eissue of theTaking-Over Certificate, and for loss or damage caused by the Contractor in the course of any otheroperations(includingthoseunderClause11[DefectsLiability]).

18.2.3 TheinsuringPartyshallinsuretheContractor'sEquipmentfornotlessthanthefullreplacementvalue,includingdeliv erytoSite.ForeachitemofContractor'sEquipment,theinsuranceshallbeeffectivewhileitisbeingtransportedtothe Siteanduntilitisnolongerrequiredas Contractor'sEquipment.

18.2.4 UnlessotherwisestatedintheSpecialConditions,insurancesunderthisSub-Clause:

a) Shallbeeffectedandmaintainedby theContractorasinsuringParty,

b) shall be in the joint names of the Parties, who shall be jointly entitled to receive payments from theinsurers,paymentsbeingheldorallocatedtothePartyactuallybearingthecostsofrectifyingthelossordamag e,

c) shallcoverallossanddamagefromanycausenotlistedinSub-Clause17.3[ProcuringEntity'sRisks],

d) shall also cover, to the extent specifically required in the tendering documents of the Contract, loss ordamage to a part of the Works which is attributable to the use or occupation by the Procuring Entity ofanother part of the Works, and loss or damage from the risks listed in sub-paragraphs (c), (g) and (h)ofSub-Clause 17.3 [Procuring Entity's Risks], excluding (in each case) risks which are not insurable atcommercially reasonable terms, with deductibles per occurrence of not more than the amount stated **intheSpecialConditions**ofContract(ifanamountisnotsostated,thissub-paragraph(d)shallnotapply),and

e) mayhoweverexcludelossof,damageto,andreinstatementof:

i) apartoftheWorkswhichisinadefectiveconditionduetoadefectinitsdesign,materialsorworkmanship(butcovershallincludeanyotherpartswhicharelostordamagedasadirectresultofthisdefectivecondition *andnotasdescribedinsub-paragraph(ii)below),*

ii) apartoftheWorkswhichislostordamagedinordertoreinstateanyotherpartoftheWorksifthis otherpartisinadefectiveconditionduetoadefectinitsdesign,materialsorworkmanship,

iii) apartoftheWorkswhichhasbeentakenoverbytheProcuringEntity,exceptto theextentthatthe Contractorisliabletorthelossordamage,and

iv) GoodswhilebeyondnotinKenya,subjecttoSub-Clause14.5[PlantandMaterialsintendedforthe Works].

18.2.5 If,morethanoneyearafterthe BaseDate,thecoverdescribedinsub-paragraph(d)aboveceasestobeavailableatcommerciallyreasonableterms,theContractorshall(asinsuringParty) givenoticetotheProcuringEntity,withsupportingparticulars.TheProcuringEntityshallthen(i)beentitledsubjectt oSub-Clause2.5[ProcuringEntity'sClaims]topaymentofanamountequivalenttosuchcommerciallyreasonabletermsas theContractorshouldhaveexpectedtohavepaidforsuchcover,and(ii)bedeemed,unlessheobtainsthecoveratcom mercially reasonable terms, to have approved the omission under Sub-Clause 18.1 [General Requirements for Insurances].

18.3 Insurance against Injury to Persons and Damage to Property

18.3.1 TheinsuringPartyshallinsureagainsteachParty'sliabilityforanyloss,damage,deathorbodilyinjurywhich mayoccurtoanyphysicalproperty(exceptthingsinsuredunderSub-Clause18.2[InsuranceforWorksandContractor'sEquipment])ortoanyperson(exceptpersonsinsuredunderSub-Clause18.4[InsuranceforContractor'sPersonnel]),whichmayariseoutoftheContractor'sperformanceoftheContr actandoccurringbeforetheissueofthePerformanceCertificate.

18.3.2 Thisinsuranceshallbeforalimitperoccurrenceofnotlessthantheamountstatedin**theSpecialConditions ofContract**,withnolimitonthenumberofoccurrences.Ifanamountisnotstatedin**theSpecialConditions ofContract**,thisSub-Clauseshallnotapply.

18.3.3 UnlessotherwisestatedintheSpecialConditions,theinsurancesspecifiedinthisSub-Clause:

a) Shallbeeffectedandmaintainedby theContractorasinsuringParty,

b) shallbeinthejointnamesoftheParties,

c) shall be extended to cover liability for all loss and damage to the Procuring Entity's property (exceptthingsinsuredunderSub-Clause18.2)arisingoutoftheContractor'sperformanceoftheContract,and

d) mayhoweverexcludeliabilitytotheextentthatitarisesfrom:

i) theProcuringEntity'srighttohavethePermanentWorksexecutedon,over,under,inor

ii) throughanyland,andtooccupythislandforthePermanentWorks,

iv) Worksandremedyanydefects,and

v) a cause listed in Sub-Clause 17.3 [Procuring Entity's Risks], except to the extent that cover isavailableatcommerciallyreasonableterms.

18.4 InsuranceforContractor'sPersonnel

18.4.1 TheContractorshalleffectandmaintaininsuranceagainstliabilityforclaims,damages,lossesandexpenses (includinglegalfeesandexpenses)arisingfrominjury,sickness,diseaseordeathofanypersonemployedby theContractororanyotheroftheContractor'sPersonnel.

18.4.2 TheinsuranceshallcovertheProcuringEntityandtheArchitectagainstliabilityforclaims,damages,lossesandexpe nses(includinglegalfeesandexpenses)arisingfrominjury,sickness,diseaseordeathof anyperson employedbytheContractororanyotheroftheContractor'sPersonnel,exceptthatthisinsurancemayexcludelossesa ndclaimstotheextentthattheyarisefromanyactorneglectoftheProcuringEntityoroftheProcuringEntity'sPersonn el.

18.4.3 Theinsuranceshallbemaintainedinfullforceandeffectduringthewholetimethatthesepersonnelareassistinginthe executionoftheWorks.ForaSubcontractor'semployees,theinsurancemaybeeffectedbytheSubcontractor,but the Contractorshallberesponsibleforcompliancewiththisclause.

19. FORCEMAJEURE

19.1 DefinitionofForceMajeure

19.1.1 InthisClause,"ForceMajeure"meansanexceptionaleventorcircumstance:

a) WhichisbeyondaParty'scontrol,
b) WhichsuchPartycouldnotreasonablyhaveprovidedagainstbeforeenteringintotheContract,
c) which,havingarisen,suchPartycouldnotreasonablyhaveavoidedorovercome,and
d) whichisnotsubstantiallyattributabletotheotherParty.

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 bedeclared 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 lock out by persons other than the Contractor's Personnel,
d) munitions of war, explosive materials, ionizing radiation or contamination by radio-activity, exceptas 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 NoticeofForceMajeure

19.2.1 IfaPartyisorwillbepreventedfromperformingitssubstantialobligationsundertheContractbyForceMajeure,theni tshallgivenoticetotheotherPartyoftheeventorcircumstancesconstitutingtheForceMajeureandshallspecifytheob ligations,theperformanceofwhichisorwillbeprevented.Thenoticeshallbegivenwithin14daysaftertheParty becameaware,orshouldhavebecomeaware,oftherelevanteventorcircumstanceconstitutingForceMajeure.

19.2.2 TheParty shall,havinggivennotice,beexcusedperformanceofitsobligationsforsolongassuchForceMajeurepreve ntsitfromperformingthem.

19.2.3 NotwithstandinganyotherprovisionofthisClause,ForceMajeureshallnotapplytoobligationsofeitherParty tomakepaymentstotheotherPartyundertheContract.

19.3 DutytoMinimizeDelay

EachPartyshallatalltimesuseallreasonableendeavorstominimizeanydelayintheperformanceoftheContractasaresult ofForceMajeure.APartyshallgivenoticetotheotherPartywhenitceasestobeaffectedbytheForceMajeure.

19.4 ConsequencesofForceMajeure

19.4.1 IftheContractorispreventedfromperforminghissubstantialobligationsundertheContractbyForceMajeureofwhi chnoticehasbeengivenunderSub-Clause19.2[NoticeofForceMajeure], and s uffers delay and orincurs 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,underSub-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[DefinitionofForceMajeure]and, insub-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 ForceMajeure, to the extent they are not indemnified through the insurance policy referred to in Sub-Clause18.2[InsuranceforWorksandContractor'sEquipment].

19.4.2 After receiving this notice, the Architect shallproceed inaccordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

19.5 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.

19.6 Optional Termination, Payment and Release

19.6.1 Ift he execution of substantially all the Works inprogress 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 afterthenoticeisgiven,and the Contractor shall proceed inaccordance with Sub-Clause16.3 [Cessation of Work and Removal of Contractor's Equipment].

19.6.2 Upon such termination, the Architect shall determine the value of the work done and issue a PaymentCertificatewhichshallinclude:

a) theamountspayableforanyworkcarriedoutforwhichapriceisstatedintheContract;

b) the Cost of Plant and Materials ordered or 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 theContractorintheexpectationofcompletingtheWorks;

d) theCostofremovalofTemporaryWorksandContractor'sEquipmentfromtheSiteandthereturnofthese itemstotheContractor'sworksinhiscountry(ortoanyotherdestinationatnogreatercost); and

e) theCostofrepatriationoftheContractor'sstaffandlaboremployedwhollyinconnectionwiththeWorks atthedateoftermination.

19.7 ReleasefromPerformance

Notwithstandinganyotherprovisionofthisclause,ifanyeventorcircumstanceoutsidethecontroloftheParties(including,butnotlimitedto,ForceMajeure)ariseswhichmakesitimpossibleorunlawfulforeitherorbothPartiestofulfilitsortheir contractualobligationsorwhich,underthelawgoverningtheContract,entitlesthePartiestobereleasedfromfurtherperformanceoftheContract,thenuponnoticebyeitherPartytotheotherPartyofsucheventorcircumstance:

a) ThePartiesshallbedischargedfromfurtherperformance,withoutprejudicetotherightsofeitherPartyin respectofanypreviousbreachoftheContract,and

b) ThesumpayablebytheProcuringEntitytotheContractorshallbethesameaswouldhavebeenpayableun derSub-Clause19.6[OptionalTermination,PaymentandRelease]iftheContracthadbeenterminated underSub-Clause19.6.

20. SETTLEMENT OF CLAIMS AND DISPUTES

20.1 Contractor'sClaims

20.1.1 If the Contractor considers itself to be entitled to any extension of the Time for Completion and/or anyadditional 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,orshouldhavebecomeaware,of the eventorcircumstance.

20.1.2 If the Contractor fails to give notice of acclaim 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 t oinspect all these records and shall (if instructed) submit copies to the Engineer.

20.1.5 Within42daysaftertheContractorbecameaware(orshouldhavebecomeaware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed bythe 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 Contractorshallsendfurtherinterimclaimsatmonthlyintervals,givingtheaccumulateddelayand/or amountclaimed,andsuchfurtherparticularsastheArchitectmayreasonablyrequire;and

c) TheContractorshallsendafinalclaimwithin30daysaftertheendoftheeffectsresultingfromtheeventorcircumstance,orwithinsuchotherperiodasmaybeproposedbytheContractorandapprovedbytheEngineer.

20.1.6 Within 42 days after receiving a Notice of a claim or any further particulars supporting a previous claim, orwithin such other period as may be proposed by the Architect and approved by the Contractor, the Architectshall respond with approval, or with disapproval and detailed comments. He may also request anynecessaryfurther particulars but shall nevertheless give his response on the principles of the claim within the abovedefinedtimeperiod.

20.1.7 Within the above defined period of 42 days, the Architect shall proceed in accordance with Sub-Clause 3.5[Determinations]toagreeordetermine(i)theextension(ifany)oftheTimeforCompletion(beforeorafteritsexpiry) in accordance with Sub-Clause 8.4 [Extension of Time for Completion], and/or (ii) the additionalpayment(ifany)towhichtheContractorisentitledundertheContract.

20.1.8 EachPaymentCertificateshallincludesuch additionalpaymentforanyclaim ashasbeen reasonablysubstantiatedasdueundertherelevantprovisionoftheContract.Unlessanduntiltheparticularssupplied aresufficienttosubstantiatethewholeoftheclaim,theContractorshallonlybeentitledtopaymentforsuchpartofthec laimashehasbeenabletosubstantiate.

20.1.9 IftheArchitectdoesnotrespondwithinthetimeframedefinedinthisClause,eitherPartymayconsiderthattheclaimis rejectedby theArchitectandany oftheParties mayrefer thedisputeforamicablesettlementinaccordancewithClause20.3.

20.1.10 TherequirementsofthisSub-Clauseareinadditiontothoseofanyother Sub-Clausewhichmayapplytoaclaim.IftheContractorfailstocomplywiththisoranotherSub-Clauseinrelationtoanyclaim,anyextensionoftimeand/oradditionalpaymentshalltakeaccountoftheextent(ifany)t owhichthefailurehaspreventedorprejudiced properinvestigationoftheclaim, unlesstheclaimis excluded under the secondparagraph ofthisSub-Clause20.3.

20.2 ProcuringEntity'sClaims

20.2.1 IftheProcuringEntityconsidersitselftobeentitledtoanypaymentunderanyClauseoftheseConditionsorotherwise inconnectionwiththeContract,and/ortoanyextensionoftheDefectsNotificationPeriod,the Procuring Entity or the Architect shall give notice and particulars to the Contractor. However, notice is notrequired for payments due under Sub-Clause 4.19 [Electricity, Water and Gas], under Sub-Clause 4.20[ProcuringEntity'sEquipmentandFree-IssueMaterials],orforotherservicesrequestedbytheContractor.

20.2.2 Thenoticeshallbegivenassoonaspracticableandnolongerthan30daysafterttheProcuringEntitybecameaware,ors houldhavebecomeaware, of the eventorcircumstancesgivingrisetotheclaim.Anoticerelatingto anyextensionoftheDefectsNotificationPeriodshallbegivenbeforetheexpiryofsuchperiod.

20.2.3 The particulars shall specify the Clause or other basis of the claim and shall include substantiation of theamount and/or extension to which the Procuring Entity considers itself to be entitled in connection with theContract. The Architect shall then proceed in accordance with Sub-Clause 3.5 [Determinations] to agree ordetermine(i)theamount(ifany)whichtheProcuringEntityisentitledtobepaidbytheContractor,and/or(ii)theext ension (if any) of the Defects Notification Period in accordance with Sub-Clause 11.3 [Extension ofDefectsNotificationPeriod].

20.2.4 This amount may be included as a deduction in the Contract Price and Payment Certificates. The ProcuringEntity shall only be entitled to set off against or make any deduction from an amount certified in a PaymentCertificate,ortootherwiseclaimagainsttheContractor,inaccordancewiththisSub-Clause.

20.3 AmicableSettlement

Whereanoticeofaclaimhasbeengiven,bothPartiesshallattempttosettlethedisputeamicablybeforethecommence mentofarbitration.However,unlessbothPartiesagreeotherwise,thePartygivinganoticeofaclaiminaccordancewi thSub-Clause20.1aboveshouldmovetocommencearbitrationafter60daysfromthedayonwhichanoticeofaclaimwasgiv en,evenifnoattemptatanamicablesettlementhasbeenmade.

20.4 Mattersthatmaybereferredtoarbitration

Notwithstanding anything stated herein the following matters may be referred to arbitration before thepracticalcompletionoftheWorksorabandonmentoftheWorksorterminationoftheContractbyeitherpart y:

a) Whetherornottheissueofaninstructionbythe Architectisempoweredbytheseconditions.
b) Whetherornotacertificatehasbeenimproperlywithheldorisnotinaccordancewiththeseconditions.
c) Anydisputearisinginrespectrisksarisingfrommattersreferredtoin Clause 17.3 and Clause 19.
e) All other matters shall only be referred to arbitration after the completion or alleged completion of theWorks or termination or alleged termination of the Contract, unless the Procuring Entity and theContractoragree otherwisein writing.

20.5 Arbitration

20.5.1 AnyclaimordisputebetweenthePartiesarisingoutoforinconnectionwiththeContractnotsettledamicably inaccordancewithSub-Clause20.3shallbefinallysettledbyarbitration.

20.5.2 Noarbitrationproceedingsshallbecommencedonanyclaimordisputewherenoticeofaclaimordisputehas notbeengivenbytheapplyingpartywithinninetydaysoftheoccurrenceordiscoveryofthematterorissuegi vingrisetothedispute.

20.5.3 Notwithstandingtheissueofanoticeasstatedabove,thearbitrationofsuchaclaimordisputeshallnotcommenceunle ssanattempthasinthefirstinstancebeenmadebythepartiestosettlesuchclaimordisputeamicablywithorwithoutthe assistanceofthirdparties.Proofofsuchattemptshallberequired.

20.5.4 TheArbitratorshall,withoutprejudicetothegeneralityofhispowers,havepowerstodirectsuchmeasurements,com putations,testsorvaluationsasmayinhisopinionbedesirableinordertodeterminetherightsofthepartiesandassessa ndawardanysumswhichoughttohavebeenthesubjectoforincludedinanycertificate.

20.5.5 The Arbitrator shall, without prejudice to the generality of his powers, have powers to open up, review andrevise any certificate, opinion, decision, requirement or notice and to determine all matters in dispute whichshallbesubmittedtohiminthesamemannerasifnosuchcertificate,opinion,decisionrequirementornoticeha dbeengiven.

20.5.6 Thearbitratorsshallhavefullpowertoopenup,reviewandreviseanycertificate,determination,instruction,opinion orvaluationoftheEngineer,relevanttothedispute.Nothingshalldisqualifyrepresentativesofthe PartiesandtheArc hitectfrombeingcalledasawitnessandgivingevidencebeforethearbitratorsonanymatterwhatsoeverrelevanttoth edispute.

20.5.7 NeitherPartyshallbe limitedin theproceedingsbeforethearbitratorstotheevidence, orto thereasonsfordissatisfactiongiveninitsNoticeofDissatisfaction.

20.5.7 Arbitrationmaybecommencedpriortooraftercompletionoftheworks.Theobligationsofthe Parties,andthe ArchitectshallnotbealteredbyreasonofanyarbitrationbeingconductedduringtheprogressoftheWorks.

20.5.8 Thetermsoftheremunerationofeachoralltthemembersof Arbitrationshallbemutuallyagreeduponbythe Parties when agreeing the terms of appointment. Each Party shall be responsible for paying one-half of thisremuneration.

20.6 ArbitrationwithNationalContractors

20.6.1 IftheContractiswithnationalcontractors,arbitrationproceedingswillbeconductedinaccordancewiththeArbitrati onLawsofKenya.Incaseofanyclaimordispute,suchclaimordisputeshallbenotifiedinwritingby eitherpartytotheotherwitharequesttosubmitittoarbitrationandtoconcurintheapp ointmentofanArbitratorwithinthirtydaysofthenotice.Thedisputeshallbereferredtothearbitrationandfinaldecisi onofapersontobeagreedbetweentheparties.Failingagreementtoconcurintheappointmentofan Arbitrator,theArb itratorshallbeappointed, on the requestoftheapplyingparty,bytheChairmanorViceChairmanofanyofthefollowin gprofessionalinstitutions;

i) ArchitecturalAssociationofKenya
ii) InstituteofQuantitySurveyorsofKenya
iii) AssociationofConsultingEngineersofKenya
iv) CharteredInstituteofArbitrators(KenyaBranch)
v) InstitutionofEngineersofKenya

20.6.2 Theinstitutionwrittentofirstbytheaggrievedpartyshalltakeprecedenceoverallotherinstitutions.

20.7 ArbitrationwithForeignContractors

20.7.1 Arbitrationwithforeigncontractorsshallbeconductedinaccordancewiththearbitrationrulesofthe United NationsCommissiononInternationalTradeLaw(UNCITRAL);orwithproceedingsadministeredbytheInternatio nalChamberofCommerce(ICC)andconductedundertheICCRulesofArbitration;byoneormorearbitratorsappoi ntedinaccordancewithsaidarbitrationrules.

20.7.2 Theplaceofarbitrationshallbealocationspecifiedinthe**SCC**;and the arbitrationshallbeconductedinthelanguag eforcommunicationsdefinedinSub-Clause1.4[LawandLanguage].

20.8 AlternativeArbitrationProceedings

Alternatively,thePartiesmayreferthemattertotheNairobiCentreforInternationalArbitration(NCIA)which offersaneutralvenuefortheconductofnationalandinternationalarbitrationwithcommitmenttoprovidinginstitutionals upporttothearbitralprocess.

20.9 FailuretoComplywithArbitrator'sDecision

20.9.1 TheawardofsuchArbitratorshallbefinalandbindinguponthe parties.

20.9.2 In the eventthataPartyfailstocomplywithafinalandbinding Arbitrator'sdecision,thentheotherPartymay, withoutprejudicetoanyotherrightsitmayhave,referthemattertoacompetentcourtoflaw.

20.10 Contractoperationstocontinue

Notwithstandinganyreferencetoarbitrationherein,

1.1.1 the parties shall continue to perform their respective obligations under the Contract unless theyotherwiseagree;and

1.1.2 theProcuringEntityshallpaytheContractoranymoniesduetheContractor.

SectionIX-Special Conditions of Contract

The following Special Conditions shall supplement the GCC. Whenever there is a conflict, the provisions herein shallprevailoverthoseinthe GCC.

Conditions	Sub-Clause	Data
PartA- Contract Data		
ProcuringEntity'sname and address	Heading	……
NameandReferenceNo.oftheContract	Heading and 1.1	……
EngineersNameandaddress	Heading and3.1.1	ChiefOfficer, Ministry of Roads, Infrastructure AndPublicWorks P.OBox 763-50200 Bungoma
Contractor's Representative'sname	4.3.1	……
KeyPersonnelnames	16.9.1	……
TimeforCompletion	1.1.	……
DefectsNotificationPeriod	1.1	*14 Days.*
Sections	1.1	_____days
Electronictransmissionsystems	1.3	_____days
Timefor thePartiesenteringintoa ContractAgreement	1.6	Within30days
CommencementDate	8.1.1	
Timeforaccess tothe Site	2.1.1	No later than the Commencement Date, and not laterthan_____days after CommencementDate
ArchitectDutiesandAuthority	3.1.6 (b)(ii)	Variations resulting in an increase of the AcceptedContract Amount in excess of% shall requireapprovalofthe ProcuringEntity.
PerformanceSecurity	4.2.1	Theperformance securitywillbein theformofa _____intheamount(s)of _____percentof the Accepted Contract Amount and in the samecurrency(ies)oftheAcceptedContract Amount.
Normalworkinghours	6.5	Specify
DelaydamagesfortheWorks	8.7 & 14.15(b)	1%oftheContract Priceper day.
Maximumamountof delay damages	8.7.1	10%ofthefinalContractPrice.
ProvisionalSums	13.6 (b)(ii)	*100%*
AdjustmentsforChangesinCost	13.9	N/A
Totaladvancepayment	14.2.1	N/A

Conditions	Sub-Clause	Data
Repaymentamortizationrateof advancepayment	14.2.5 (b)	N/A
PercentageofRetention	14.3.2 (c)	10%
LimitofRetentionMoney	14.3.2 (c)	10% of the Accepted Contract Amount
Plant andMaterials	14.5.3(b)(i)	N/A
	14.5.3(c)(i)	N/A
MinimumAmount ofInterim PaymentCertificates	14.6.2	N/A
Publishingsource ofcommercial interest rates for financial chargesincaseof delayedpayment	14.8	N/A
Maximumtotalliabilityofthe Contractorto theProcuringEntity	17.6.2	*N/A*
Periodsforsubmission of insurance: a. evidence of insurance. b. relevant policies	18.1.6	 30 days 30 days
Maximum amount of deductibles For insurance of the Procuring Entity's risks	18.2.4 (d)	*N/A*
Minimum amount of third-party insurance	18.3.2	*N/A*
The place of arbitration	20.7.2	*TOBe AgreedUpon.*

SECTIONX- CONTRACT FORMS

FORM No.1-CONTRACT AGREEMENT

FORM No. 2 - PERFORMANCE SECURITY [Option 1 - Unconditional Demand Bank Guarantee]

FORMNo. 3-PERFORMANCE SECURITY [Option2– Performance Bond]

FORM No. 4 - ADVANCE PAYMENT SECURITY

FORMNo. 5 -RETENTION MONEY SECURITY

SECTIONX- CONTRACT FORMS

FORM No.1-CONTRACT AGREEMENT

FORM No. 2 - PERFORMANCE SECURITY [Option 1 - Unconditional Demand Bank Guarantee]

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FORM No. 4 - ADVANCE PAYMENT SECURITY

FORMNo. 5 -RETENTION MONEY SECURITY

FORMNO.2- PERFORMANCE SECURITY

[Option1-Unconditional DemandBankGuarantee]

[Guarantorletterhead]

Beneficiary:_____Date:_____

Guarantor:_____

1. Wehavebeeninformedthat_____ _____(hereinaftercalled"theContractor") has entered in to Contract No._____dated_____with _____(the Procuring Entity as the Beneficiary), for the execution of _____(hereinafter called "the Contract").

2. Furthermore, weunderstand that, according to the conditions of the Contract, aperformance guarantee is required.

3. Attherequest of the Contractor, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____(*in words*), suchsumbeingpayableinthetypesandproportionsofcurrenciesinwhichtheContractPriceispayable,uponreceiptbyusoftheBeneficiary'scomplyingdemandsupportedbytheBeneficiary'sstatement,whetherinthedemanditselforaseparatesigneddocumentaccompanyingoridentifyingthedemand,statingthattheApplicantisinbreachofitsobligation(s)undertheContract,withouttheBeneficiaryneedingtoproveortoshowgroundsforyourdemandorthesumspecifiedtherein.

4. This guarantee shall expire, no later than the.....Day of.....,20. ,and any demand for payment under it must be received by us at theofficeindicatedaboveonorbeforethat date.

5. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months][oneyear]*. inresponse to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

NameofAuthorizedOfficial_____

Signature_____

Stamps_____

FORM No.3–PERFORMANCE SECURITY

[Option2–Performance Bond]

Guarantor letterhead or SWIFT identifier code]

Beneficiary:_____ **Date:**_____

PERFORMANCE BOND No.:_____

Guarantor:

Name_____

Address_____

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 "theProcuringEntity") 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, a dministrators, successors and assigns, jointly and severally, firmly by these presents.

2. WHEREAS the Contractor has entered in to a written Agreement with the Procuring Entity dated the _____dayof_____, 20 ----, for_____inaccordance with the documents, plans, specifications, and amendments thereto, which to the extent herein provided for, are by reference made part hereof and are hereinafter 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 thereunder, the Surety may promptly remedy the default, or shall promptly:
   1) Complete the Contract inaccordance with its terms and conditions; or
   2) 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 adefault or a succession of defaults under the Contractor 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 Contract or under the Contract, less the amount properly paid by Procuring Entity to Contractor; or
   3) 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 agreater 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. Norigh to faction shall accrue on this Bond to or for the use of any person or corporation other than the Procuring Entity named herein or the heirs, executors, administrators, successors, and assigns of the Procuring Entity.

6. Intestimony where of, the Contractor has here untsethishand and affixed his seal, and the Surety has caused the sepresentsto be sealed with his corporate seal duly attested by the signature of his legal representative, this dayof

_____20_____.

SIGNED ON_____on behalf of By__in the capacity of

In the presence of

SIGNED ON_____on behalf of By- in the

capacityof In the presence of

FORM NO. 4-ADVANCE PAYMENT SECURITY

[Demand Bank Guarantee]

[Guarantor letterhead]

Beneficiary:_____
Date:_____

ADVANCE PAYMENT GUARANTEE No.:_____Guarantor:

Name_____

Address_____

1. Wehavebeeninformedthat_____(hereinafter called "the Contractor") has entered into ContractNo._____*dated*_____with the Beneficiary, for the execution of_____

2. Further more, weunderstand that, according to the conditions of the Contract, anadvancepayment in the sum _____(*inwords*) is to bemadeagainstanadvancepaymentguarantee.

3. At the request of the Contractor, weas Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of_____(*in words*_____)' upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whetherinthe 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 inaccordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.

4. Ademandunderthisguaranteemaybepresentedasfromthepresentationtothe Guarantorofacertificatefromt heBeneficiary'sbankstatingthattheadvancepaymentreferredtoabovehasbeencreditedtotheContractoron itsaccountnumber _____at_____.

5. Themaximumamountofthisguaranteeshallbeprogressivelyreducedbytheamountoftheadvancepayment repaid bythe Contractor as specified in copies of interim statements or payment certificates which shall be presented tous.Thisguaranteeshallexpire.atthelatest.uponourreceiptofacopyoftheinterimpaymentcertificateindicatingthatni nety(90)percentoftheAcceptedContractAmount.lessprovisionalsums.hasbeen certifiedforpayment.oronthe dayof .2.whicheverisearlier.Consequently.ademandforpaymentunderthisguaranteemustbereceivedbyusatthisofficeonor beforethatdate.

6. TheGuarantoragreestoaone-timeextensionofthisguaranteeforaperiodnottoexceed*[sixmonths]/[oneyear]*.inresponsetotheBeneficiary' swrittenrequestforsuchextension.suchrequesttobepresentedtotheGuarantorbeforetheexpiryoftheguarant ee.

NameofAuthorizedOfficial_____

Signature_____

Stamps_____

FORMNO. 5-RETENTIONMONEYSECURITY

[DemandBankGuarantee]

[Guarantorletterhead]

Beneficiary: _____

Date:_____

Advancepaymentguaranteeno._____

Guarantor:

Name_____

Address_____

1. We have beeninformedthathereinaftercalled"theContractor") has entered in to 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, 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 firs thalf of the Retention Money has been certified for payment, and payment of /insert these cond 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 anamount of *[insertamountinfigures]*_____upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in aseparate 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 show grounds for your demand or the sum specified therein.

4. A demand under this guarantee may be presented as from the presentation to the Guarantor of acertificate fromtheBeneficiary'sbankstatingthatthesecondhalfoftheRetention MoneyasreferredtoabovehasbeencreditedtotheContractor onitsaccountnumber_at___.

5. 5.Thisguaranteeshallexpirenolaterthanthe.....Dayof ..... 2..... , andanydemandforpaymentunderitmustbereceivedbyusattheofficeindicatedaboveonorbeforethatdate.

6. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months] [oneyear]*, inresponse to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.

NameofAuthorizedOfficial_____

Signature_____

Stamps_____

PARTICULAR PRELIMINARIES

Item	DESCRIPTION	Kshs.	Cts
A	**PRICING ITEMS OF PRELIMINARIES** Prices **SHALL BE INSERTED** against items of "preliminaries" in the tenderer's priced Bills of Quantities. The contractor is advised to read and understand all preliminary items.		
B	**DESCRIPTION OF THE WORKS** The works to be carried out under this contract basically involve Substructures, Reinforced Concrete Frame, Superstructure walling, Roofing, Doors and Windows, Finishes, Fittings and Fixtures, Painting, Electrical installations & K. P. L. service line, mechanical works complete with a septic Tank.		
C	**FLOOR AREAS** The total gross floor areas are approximated as follows: - **346 square metres** The overall floor area is given ***without warranty*** but for guidance only.		
D	**MEASUREMENTS** 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 Clause 22 of the Conditions of Contract. The discrepancies shall then be treated as a variation and be dealt with in accordance with Clause 22 of the said Conditions.		
E	**LOCATION OF SITE** The site of the proposed works is within Bungoma County. The Contractor is advised to visit the site to familiarize with the nature and position of the site. No claims arising from the Contractor's failure to do so will be entertained.		
	Carried to Collection		

Item	DESCRIPTION	Kshs.	Cts
A	**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 works 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.		
B	**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 claim or intent to claim notice to the PROJECT MANAGER within the contract period. No claims shall be entertained upon the expiry of the said contract period.		
C	**PAYMENTS** The tenderer's attention is drawn to the fact that the GOVERNMENT DOES NOT MAKE ADVANCE PAYMENTS but pays for work done and materials delivered to site: all in accordance with Clause 23 of the Conditions of Contract Agreement. 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.		
D	**PREVENTION OF ACCIDENT, DAMAGE OR LOSS** The Contractor is notified that these works are to be carried out on a restricted site where the client is going on with other normal activities. 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 Client. The Contractor shall allow in his rates any expense he deems necessary by taking such care within the site.		
	Carried to Collection		

Item	DESCRIPTION	Kshs.	Cts
A	**WORKING CONDITIONS** The Contractor shall allow in his rates for any interference that he may encounter in the course of execution of the works for the Client may in some cases ask the Contractor not to proceed with the works until some activities within the site are completed, as the College will be operating as usual during the course of the contract.		
B	**SIGNBOARD** Allow for providing, erecting, maintaining throughout the course of the Contract and afterwards clearing away a signboard as designed, specified and approved by the Project Manager.		
C	**LABOUR CAMPS** The Contractor shall not be allowed to house labour on site. Allow for transporting workers to and from the site during the tenure of the contract.		
D	**MATERIALS FROM DEMOLITIONS** Any materials arising from demolitions and not re-used shall become the property of the government. The Contractor shall allow in his rates the cost of transporting the demolished materials to the County Works Office BUNGOMA		
E	**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.		
F	**TENDER VALIDITY** Tenders shall remain valid for a period of One Hundred and Fifty (150) days from the date of Tender Opening, and not Ninety (90) days. All Tenderers are advised to note this amendment when filling the Form of Tender.		
	Carried to Collection		

Item	DESCRIPTION	Kshs.	Cts
A	**SECURITY** The Contractor shall allow for providing adequate security for the works and the workers in the course of execution of this contract. No claim will be entertained from the Contractor for not maintaining adequate security for both the works and workers.		
B	**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. The Contractor shall allow in his rates for any costs he deems that he/she may incur by having to complete the works within the stipulated contract Period.		
C	**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.		
D	**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.		
E	**TENDER SECURITY** Bid Bond/Tender Security, which must be from an established Bank or Insurance company, shall remain valid for a period of One Hundred and Fifty (150) days from the date of Tender Opening		
	Carried to Collection		

Item	DESCRIPTION	Kshs.	Cts
A	**PERFORMANCE BOND** A bond of 5% of the contract sum will be required in accordance with clause 6.00 on award of contract of the Instructions to Tenderer's. No payment on account for the works executed will be made to the contractor until he has submitted the Performance Bond to the Project Manager duly signed, sealed and stamped from an approved Bank.		
B	**TENDER DOCUMENTS** Tender documents are as listed in Clause 2.1 of the Instruction to Tenderer's Page STD/8		
C	**DELIVERY OF TENDER** Tenders and all documents in connection therewith, as specified above must be delivered in the 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. 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.		
D	**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 which requires payment of VAT on all contracts. The Contractor should therefore include allowance for VAT as indicated in the Main Summary. Any other Government taxes currently in force should be included in the tenderer's rates. The tenderer is advised that in accordance with Government public notice No. 35 & 36 Dated 11th September 2003 operational from **1st October 2003,** withholding **VAT** will be levied against the contract sum by the Employer and **remitted** to the Commissioner of VAT through all interim certificates. It should however be noted that this is not additional tax but a new mode of payment for VAT, any excess payment will be refundable once the Contractor has submitted monthly returns to the Commissioner of VAT who will do the refunds when satisfied that the VAT regulations have been complied with. **NB:** This item **SHALL** be priced at the Bill Summary page.		
	Carried to Collection		

Item	DESCRIPTION		Kshs.	Cts
	PARTICULARS OF INSERTIONS TO BE MADE IN APPENDIX TO CONTRACT AGREEMENT			
	The following are the insertions to be made in the appendix to the Contract Agreement: -			
A	**Period of Final Measurement**	3 Months From Practical completion		
B	**Defects Liability Period**	6 Months from practical completion		
C	**Date for Possession**	To be agreed with the Project Manager		
D	**Date for Completion**	16 **Weeks** from date of Possession		
E	**Liquidated and Ascertained**	At the rate of Kshs 5,000.00 per week or part thereof		
F	**Prime cost sums for which the The Contractor desires to tender**	....		
G	**Period of Interim Certificates**	Monthly		
H	**Period of Honouring Certificates**	30 days		
I	**Percentage of Certified Value Retained**	10%		
J	**Limit of Retention Fund**	10%		
K	Allow a provisional sum of Kshs. Three Hundred Fifty thousand (Kshs. 350,000.00) only for Mechanical Works and connections		**350,000**	**00**
	Carried to Collection		**350,000**	**00**

Item	DESCRIPTION	Kshs.	Cts
	COLLECTION		
	Brought forward from page PP/1		
	Brought forward from page PP/2		
	Brought forward from page PP/3		
	Brought forward from page PP/4		
	Brought forward from page PP/5		
	Brought forward from page PP/6		
	PARTICULAR PRELIMINARIES CARRIED TO BILL NO. 1 SUMMARY		

Ite m	DESCRIPTION	Kshs.	Cts
	BILL NO 1 SUMMARY		
	General Preliminaries From Page GP/13		
	Particular Preliminaries from Page PP/7		
	TOTAL BILL NO. 1 SUMMARY CARRIED TO GRAND SUMMARY		

PROPOSED CONSTRUCTION OF DORMITORY BLOCK AT ST. CECILIA GIRLS HIGH SCHOOL IN BUNGOMA COUNTY.

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	SUBSTRUCTURE (ALL PROVISIONAL)				
	EXCAVATION AND EARTHWORKS				
	SITE PREPARATION				
	Clearing site vegetation; grubbing up roots and filling up voids left with selected				
A	Bushes, shrubs, undergrowth or the like and cart away from site	353	SM		
	EXCAVATION				
B	Excavating vegetable soil for preservation, average 150 mm thick	353	SM		
	Excavating Surface to reduce level.				
C	Over 300mm deep	104	CM		
	Excavating Trenches; to receive foundations starting from reduced level				
D	Not exceeding 1.50m deep	104	CM		
	Breaking out existing material; extra over all kinds of excavations irrespective of depth				
E	Rock irrespective of class	5	CM		
F	Excavate pit for pier bases starting from stripped level n.e 1.5 metres deep	42	CM		
	Total Carried to collection				

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	Disposal				
A	Excavated material; Backfilling depositing and compacting in layers maximum 150mm thick	198	CM		
B	Surplus excavated material; removing from site mechanically	57	CM		
	DISPOSAL OF WATER				
C	Labour and materials, keeping excavations free from general water		ITEM		
	PLANKING AND STRUTTING				
D	Labour and materials, to uphold sides of excavation generally		ITEM		
	FILLING				
	Hardcore				
E	300mm thick depositing and compacting in layers maximum 150mm thick in making up	346	SM		
	Murram				
F	Blinding surfaces of fill 50 mm thick	346	SM		
	ANTI-TERMITE AND HERBICIDE TREATMENT				
	Applying "Termidor 25 EC" solution or other equal and approved sprayed evenly				
G	To surface of fill and tops of foundation walls	346	SM		
	CONCRETE WORK				
	INSITU CONCRETE				
H	Plain mix 1:4:8 in foundation strip blinding 50mm thick	104	SM		
I	Ditto in pier bases	24	SM		
	Total Carried to collection				

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	Vibrated reinforced concrete Class 20/20mm (1:2:4) in:-				
A	Foundation strip	14	CM		
B	pier bases	2	CM		
C	Floor Beds 150 mm thick	346	SM		
	REINFORCEMENT				
	Bars : high tensile steel; cold worked; B. S. 4461 including bends, hooks, tying wire, distance blocks and spacers				
D	10mm ditto	236	KG		
E	12 mm diameter; in any location	397	KG		
	Fabric, B.S 4483				
F	Reference A142; mesh 200 x 200 mm weight 2.22 kgs per square meter (Measured net - no allowance made for laps); including bends, tying wire and distance blocks in any location	346	SM		
	Expansion Joint				
G	20 mm thick flexcel or other equal and approved expansion joint filler	12	SM		
	Total Carried to collection				

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	SAWN FORMWORK TO INSITU CONCRETE				
A	Edges of floor bed 75 to 150 mm wide	99	LM		
	WALLING				
B	225mm thick approved local stone, roughly squared; bedding and jointing in cement mortar (1:4); reinforced with hoop iron gauge 500 in every alternate course	198	SM		
	DAMP PROOF MEMBRANES **500 gauge Polythenelaid with 150mm laps,(No allowance made for laps)**				
C	Horizontal, 1 No. of layer(s) over 300 mm wide	346	SM		
	PLINTH FINISHES				
D	**Render, cement and sand (1:4) wood floated** 12mm thick 2 No. coat work, to concrete or blockwork base (m/s) generally external	45	SM		
E	**Painting; 3 coats black bituminous paint to** Rendered surfaces external	45	SM		
	PAVING SLABS **Precast Concrete; class 20/20**				
F	600 x 600 x50 mm thick slabs laid on and including 50 mm (consolidated) bed of sand; jointed and pointed in cement sand 1:3 mortar V-joints	59	SM		
	Total Carried to collection				

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	COLLECTION				
A	Brought forward from page 1				
B	Brought forward from page 2				
C	Brought forward from page 3				
D	Brought forward from page 4				
	Total for Substructures carried to Summary				

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	REINFORCED CONCRETE FRAME CONCRETE WORK				
	INSITU CONCRETE				
	Vibrated class 20/20mm (1:2:4) in:-				
A	Beams	8	CM		
	REINFORCEMENT				
	Bars : high tensile steel; cold worked; B. S. 4461 including bends, hooks, tying wire, distance blocks and spacers				
B	8mm diameter in any location	274	KG		
C	12mm ditto	492	KG		
	FORMWORK TO INSITU CONCRETE				
D	Sides and soffites of beams	101	SM		
	Expansion Joint				
E	20 mm thick flexcel or other equal and approved expansion joint filler	24	SM		
	Total Reinforcement Concrete carried to Summary				

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	WALLING				
	Approved natural stone, fine chisel dressed one side beddend and jointed in recessed pointing one side in cement sand mortar				
A	Walls 200mm thick reinforced with hoop iron gauge 500 in every alternate course	680	SM		
B	100mm thick ditto	101	SM		
C	Form or leave 250mm x 250mm opening in 200 mm walling for permanent ventilation(m.s)	40	NO		
D	225mm x 225mm precast concrete permanent vent with mosquito gauze laid in cement sand 1:3 mortar	80	NO		
	DAMP PROOF COURSES				
	B.S 743, type A, bitumen hessian base 150mm laps, No allowances made for laps				
E	200mm wide, bedded in cement mortar (1:3)	115	LM		
F	150mm wide, bedded in cement mortar (1:3)	54	LM		
	Total Walling carried to Summary				

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	ROOFING				
	ROOF COVERING				
A	Gauge 28 pre-painted galvanised corrugated ironsheets fixed to purlins (m/s)	519	SM		
B	Ridge cap in matching materials do	44	LM		
	CARPENTRY				
	STRUCTURAL TIMBERS impregnated				
C	75mm x 50mm purlin	455	LM		
D	100 x 50mm Wall plate bedded in cement : sand (1:3) mortar bolted to concrete with and including 16mm diameter bolts cast in concrete at 1000mm 1000 mm centres	126	LM		
E	100 x 50mm Tie or strut	540	LM		
F	150 x 50mm Rafters	309	LM		
G	Ditto tie beam	246	LM		
H	150mm x 50mm support beam/ collar plates	60	LM		
	BOARDING **Wrought cypress, prime grade, pressure impregnated**				
I	225 x 25mm thick Fascia or barge boards	105	LM		
	Total Carried to collection				

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	RAINWATER INSTALLATIONS				
	Gutterwork , PVC gutter and fittings				
A	150 mm PVC Gutters half round in running lengths, fixing with brackets at 1000mm centres (M.S) and with appropriate jointing (M.S)	86	LM		
B	Extra over gutters for 100mm diameter pipe	4	NO		
C	Ditto stopped end	4	NO		
D	Ditto brackets	87	NO		
E	Ditto Corners	8	NO		
F	Ditto joints	17	NO		
	Rainwater pipework				
G	100mm diameter pipes complete with connections in the running lengths, fixing with PVC holdersbats at 1000mm centers to backgrounds requiring plugging on walls	18	LM		
H	Extra over pipework for shoes	4	NO		
I	Ditto swanneck	4	NO		
	PAINTING AND DECORATING				
	ONE UNDERCOAT TWO COATS OIL PAINT				
	FULL GLOSS FINISH TO CROWN PAINTS				
	OR EQUAL AND APPROVED				
J	Ditto 200 to 300mm girth external	79	LM		
	Total Carried to collection				
	COLLECTION				
K	Brought forward from page 10				
L	Brought down from page 11 above				
	Total Roofing Carried to Summary				

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	WINDOWS				
	Precast concrete, Normal, Class 20/ 20mm vibrated				
A	Sills 250 x 75mm thick, once sunk weathered, once throated, reinforced as necessary for handling, bedding jointing and pointing in cement mortar (1:4)	29	LM		
	METAL WORK				
	PURPOSE MADE UNITS				
	Casement mid hang window with horizontal pivots; standard metal casement sections, permanent ventilators comprising T-bar gauze wire and metal hood to fill width of window, but 100mm deep one coat primer by manufacturer; complete with all necessary ironmongery, steel for glazing with putty, cutting and pinning lugs to concrete or blockwork, fixing to head and sill with screws and plugging.				
B	Overall size 1500 x 1500 mm high	23	NO		
C	Overall size 1500 x 600 mm high	4	NO		
	GLAZING				
D	4mm thick clear sheet glass and glazing to metal with putty in panes n.e 0.1m²	55	SM		
	PAINTING AND DECORATING ONE UNDERCOAT TWO COATS OIL PAINT GLOSS OIL FINISH AS CROWN PAINTS OR OTHER EQUAL AND APPROVED CATALOGUE				
E	Metal window surfaces generally internally and externally measured overall.	111	SM		
	TOTAL FOR WINDOWS CARRIED TO SUMMARY				

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	DOORS				
	STEEL DOORS **Standard steel door complete with all necessary ironmongery, permanent vent with mosquito gauze & sheet hood assembled and fixed to opening including cutting and pinning lugs to concrete or sand mortar (1:4) all primed with red oxide before fixing**				
A	1500 x 2400mm steel casement door comprising 50 x 50 x 3mm fixed frame; 14G mild steel plate on both sides bottom half welded and 40 x 25 mm RHS grills at 100 mm centres vertically upper half welded complete with 5 - lever mortice lock and 3 No. tower bolts	4	NO		
	PAINTING AND DECORATING				
	ONE UNDERCOAT, TWO COATS POLYURETHANE CLEAR VARNISH TO CROWN PAINTS OR EQUAL AND APPROVED				
B	General wood surfaces externally and internally	29	SM		
C	General Metal surfaces externally and internally	38	SM		
	Total Doors carried to Summary				

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	DOORS				
	JOINERY				
	Frames; Wrot Mahogany				
A	150 x 50mm rebated frame once laboured	57	LM		
B	45 x 25mm Architraves	57	LM		
C	15 x 15mm quadrant	57	LM		
	Timber doors				
D	Solid core flush door 45mm thick, 900 x 2100mm high, 6mm mahogany veneer facing both sides, hardwood lipping on all exposed edges with fanlight	10	NO		
	IRONMONGERY				
	Supply and fix the following : -				
F	Steel butt hinges 100mm	15	PRS		
G	Indicator bolts	10	NO		
H	225 x 25 x 3mm thick door fixing cramps one end bent and twice screwed to frame and the other end fanged and built into blockwork	60	NO		
I	Door stops fixed to wall or floor with screws	10	NO		
J	2-lever 'Union' mortice lock complete with set lever handle furniture	10	NO		
F	Three lever mortice lock cataloque No. 2237 complete with set lever handle furniture Indicator bolt	0	NO		
	Supply and fix double leaf special door all inclusive wit double swing hinges and make good	2	NO		
	Total Carried to collection				

	DESCRIPTION				250,700
	COLLECTION				
A	Brought forward from Page 11				
B	Brought forward from Page 12 above				
	Total Doors carried to Summary				

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	FINISHES				
	FLOOR, WALL AND CEILING FINISHES				
	FLOORS				
A	25mm thick cement sand screed (1:4)	346	SM		
B	15mm thick well polished terrazo floor finish complate with non-slip strips and make good.	346	SM		
C	20mm x 100mm high Terrazo skirting with rounded junction with wall finish and coved junction with floor	210	LM		
	WALLS				
D	12mm thick, 2 No. coat work Plaster 1:2:6 to concrete or blockwork base (m/s) generally, walls internal steel trowelled	630	SM		
E	Keying and painting to walls externally	302	SM		
	PAINTING AND DECORATING				
	ONE UNDERCOAT TWO COATS OIL PAINT FULL GLOSS FINISH TO CROWN PAINTS OR EQUAL AND APPROVED				
F	Plastered wall surfaces internally	630	SM		
	Total Finishes carried to Summary				

ITEM	DESCRIPTION	KSHS
	SUMMARY	
A	SUBSTRUCTURES	
B	REINFORCED CONCRETE FRAME	
C	WALLING	
D	ROOFING	
E	WINDOWS	
F	DOORS	
G	FINISHES	
	TOTAL BUILDING WORKS CARRIED TO GRAND SUMMARY	

PROPOSED ELECTRICAL WORKS TO DORMITORY

ITEM	DESCRIPTION	QTY	UNIT	RATE	AMOUNT
	Supply and install,test and the following				
	LIGHTING POINTS.				
1.01	Lighting points wired with 3x1.5mm^2 single core PVCI copper cables drawn in concealed 20mm dia. HG PVC conduit for				
	a) one way switching.	16	NO.		
	b)two way switching.	10	NO.		
	SWITCHES.				
1.02	10 Amps, moulded plate flush mounted switches with screw covers,as CLIPSAL, BG or approved equivalent being :-				
	a) 1 gang 1 way.	9	NO.		
	b) 1 gang 2 way.	4	NO.		
	c) 2 gang 1 way	8	NO.		
	e) intermediate switch	1	NO.		
	LIGHTING FITTINGS.				
1.03	Lighting fittings complete with lamps and all other necessary accessories.				
	a) 100 Watts, cast aluminium bulkhead fitting for 18W BC lamp with glass bowl as THORN or approved equivalent. **(TYPE 3)**	14	No.		
	b) 1200mm, 1x 36 Watts batten fluorescent fitting as FITZGERALD,THORN or approved equivalent.**(TYPE B1)**	7	No.		
	POWER POINTS.				
1.04	13 Amps. Power points wired ring comprising of 3x2.5 mm sq. single core PVCI copper cables drawn in concealed 25mm HG PVC conduits	1	NO.		
1.05	13 Amps. Moulded plate switched socket outlet with neon indicator as BG,CLIPSAL or approved equivalent being -				
	a) twin	1	NO.		
	Sub total carried forwad to collection page.				

ITEM	DESCRIPTION	QTY	UNIT	RATE	AMOUNT
	Supply and install,test and the following				
	SUB-MAIN CIRCUIT				
2.01	2x10 mm^2 + 1x6mm^2 SC PVC copper cables drawn in 38mm dia. Cable from Main Cable Loop in Box to Consumer Unit.	20	LM.		
	DISTRIBUTION BOARD.				
2.02	6 ways, 100 Amps, SPN Flush mounted Consumer unit complete with 100 Amps. Integral microgap switch with a hinged cover as Crabtree or approved equivalent.	1	NO.		
2.03	Mcbs for item 2.02 .				
	a) 10 Amps, SP.	4	NO.		
	b) 30 Amps, SP.	1	NO.		
	c) blanking plates.	1	NO.		
2.04	4x10.0mm armoured underground cables 600/1000V.(Real measurement to be taken on site).	50	LM		
2.05	Treanching, tilling and back filling	45	LM		
2.06	Electrical earthing comprising 6.0mmsq single core copper cables drawn inside HG conduits with 1500mm by 15mm diameter copper electrode c/w clamp and pre-cast concrete pit with cover.	1	NO.		
	Sub total carried forwad to collection page.				
	COLLECTION PAGE				
2.07	Collection from page E/1				
2.08	Collection from page above.				
	TOTALS CARRIED FORWARD TO SUMMARY PAGE.				

ITEM	DESCRIPTION	QTY	UNIT	RATE	KSHS
	P.C AND PROVISIONAL SUMS				
A.	Allow a provisional Sum of Kenya shillings Fourty Five Thousand (Kshs. 45,000) only for sign post-metallic commemoration plague				45,000
B	Allow a provisional Sum of Kenya shillings One Hundred Fifty Thousand (Kshs. 150,000) only for Technical supervision				150,000
C	Allow a provisional Sum of Kenya shillings One Hundred Fifty Thousand (Kshs. 150,000) only for ~~Technical supervision~~ Pmc cost				150,000
D	Allow a provisional Sum of Kenya shillings Twenty Fifty Thousand (Kshs. 50,000) only for Documentation				50,000
E	Allow a provisional Sum of Kenya shillings Five Thousand (Kshs. 5,000) only for Public Health Officer Report and approval				5,000
	TOTAL FOR P.C AND PROVISIONAL SUMS CARRIED TO GRAND SUMMARY				**400,000**

ITEM	DESCRIPTION	Page No.	For Official use only	For Tenderer's use only
	GRAND SUMMARY			
A	Bill No. 1 Preliminaries	pp/8		
B	Bill No. 1 Builder's Works	16		
C	Bill No. 3 Electrical works	19		
D	Bill No. 4 Mechanical works			
	GRAND TOTAL FOR BUILDERS WORKS (VAT INCLUSIVE): KSHS.			

Amount in words: Kenya Shillings .....

.....

Tenderer's Signature .....

Address .....

.....

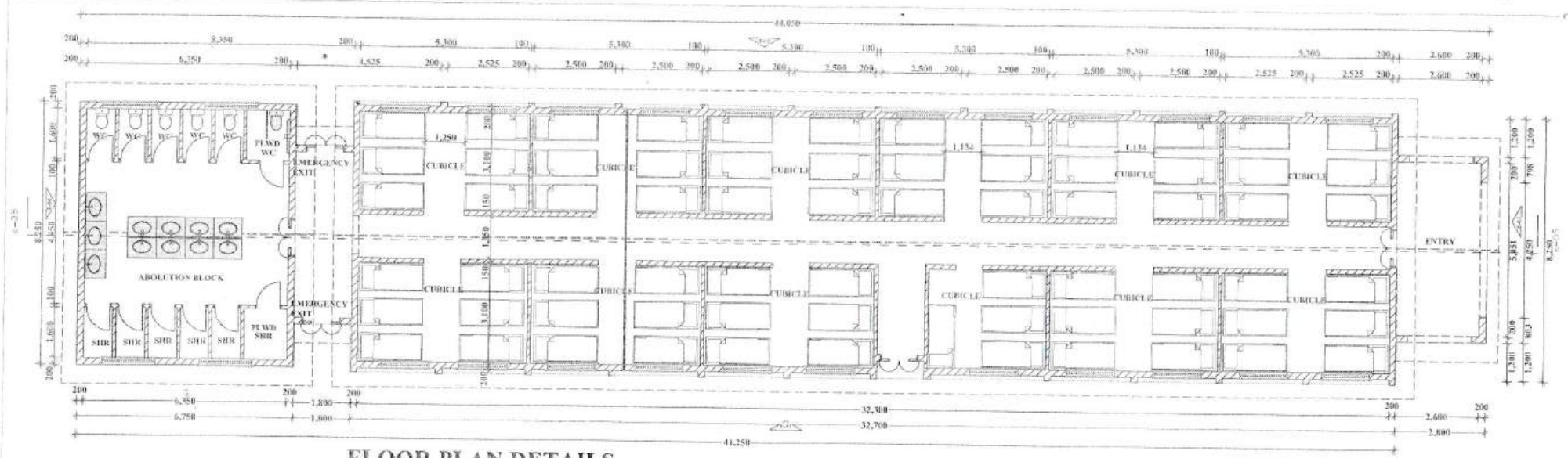
Date .....

Witness Signature .....

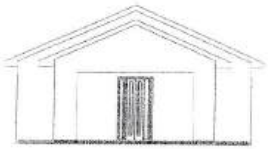
Address .....

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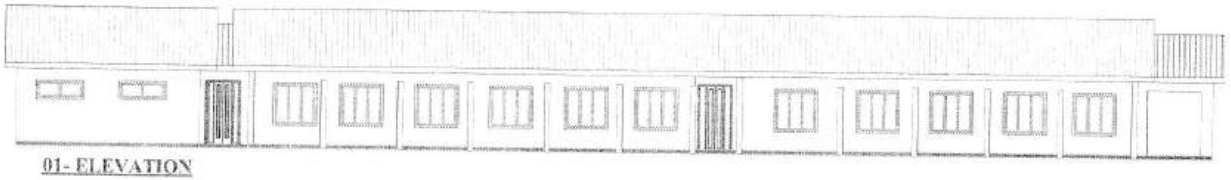
COUNTY WORKS OFFICER
BUNGOMA COUNTY
P.O. Box 763
BUNGOMA.



FLOOR PLAN DETAILS



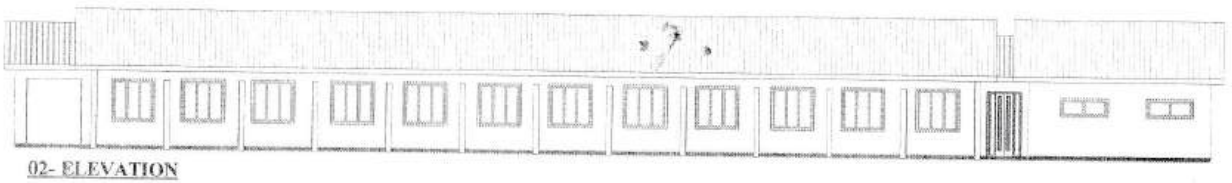
03- ELEVATION



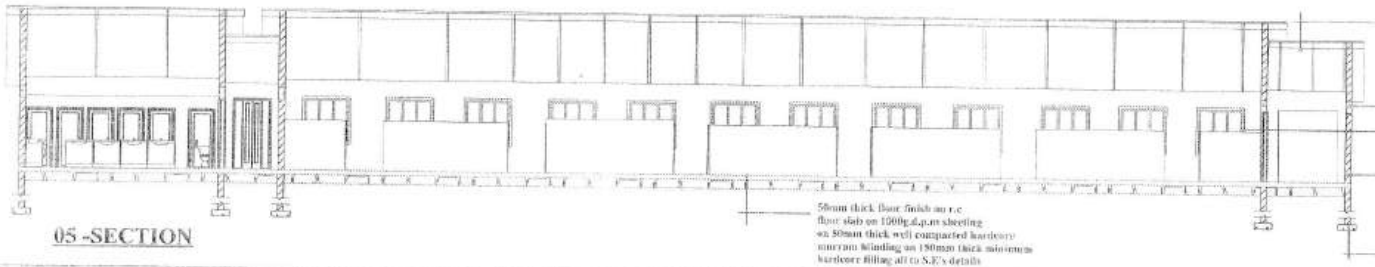
01- ELEVATION



04- ELEVATION



02- ELEVATION



05 -SECTION

COUNTY WORKS OFFICER
BUNGOMA COUNTY
P.O. Box 763
BUNGOMA.

CLIENT: MINISTRY OF EDUCATION	JOB / PROJECT: PROPOSED 140 STUDENTS CAPACITY DORMITORY BLOCK AT ST. CECILIA GIRLS HIGH SCHOOL.	DRAWING TITLE: Plan,Elevations & Section	SCALE(S)		Name	Signature	Date
			A 1/100	Drawn	Moses W.		7/10/2024
			B	Checked	Arch. J. Musialo		"
				C.w.o	Qs. H. K Situagi		"

CLIENT APPROVAL
NAME: .....
DESIGN'T'N: .....
Date: ...../...../.....

DWG NO

MINISTRY OF PUBLIC WORKS
Architectural Department
BUNGOMA COUNTY WORKS OFFICE
P.O. BOX 763–50200 BUNGOMA.