



THIKA WATER AND SEWERAGE COMPANY LIMITED (THIWASCO)

TENDER NO: THIWASCO/070/2021-2022

**IMPROVEMENT OF WATER SUPPLY LANDLESS, SALAMA & GATUANYAGA
(BIDCO-ENGEN PIPELINE UPGRADE)**

**MANAGING DIRECTOR
THIKA WATER AND SEWERAGE COMPANY LTD,
P.O. BOX 6103 - 00100, THIKA – KENYA.**

(2021-2022)

**CLOSING DATE
Wednesday, November 17, 2021 at 10.00am**

INVITATION TO TENDER

PROCURING ENTITY: *Thika Water & Sewerage Company Limited (THIWASCO)*

CONTRACT NAME AND DESCRIPTION: *Improvement of Water Supply Landless, Salama & Gatuanyaga (Bidco-Egen Pipeline Upgrade (THIWASCO/070/2021-2022))*

1. THIWASCO invites sealed tenders for the **Improvement of Water Supply Landless, Salama & Gatuanyaga (Bidco-Egen Pipeline Upgrade)**
2. Tendering will be conducted under open competitive method (**National**) using a standardized tender document. Tendering is open to all qualified and interested Tenderers.
3. Qualified and interested tenderers may obtain further information and inspect the Tender Documents during office hours [0800hrs to 1600 hrs] at the address given below.
4. A complete set of tender documents may be purchased or obtained by interested tenders upon payment of a non-refundable fees of (*1,000 Kenya shillings*) in cash or Banker's Cheque and payable to the address given below. Tender documents may be obtained electronically from the Website. Tender documents obtained electronically will be free of charge.
ACCOUNT NAME: THIKA WATER AND SEWERAGE COMPANY LTD
BANK: EQUITY
ACCOUNT NO: 0090294392028 Code 027
5. Tender documents may be viewed and downloaded for free from the website www.thikawater.co.ke. Tenderers who download the tender document must forward their particulars immediately to procurement@thikawater.co.ke to facilitate any further clarification or addendum.
6. Tenders shall be quoted be in Kenya Shillings and shall include all taxes. Tenders shall remain valid for (182) days from the date of opening of tenders.
7. All Tenders must be accompanied by a **tender Security of Kshs.220,000.00**
8. The Tenderer shall chronologically serialize all pages of the tender documents submitted.
9. Completed tenders must be delivered to the address below on or before **Wednesday, November 17, 2021 at 10.00am**. Electronic Tenders **will or will not** be permitted.
10. Tenders will be opened immediately after the deadline date and time specified above or any dead line date and times pecified later. Tenders will be publicly opened in the presence of the Tenderers' designated representatives who choose to attend at the address below.
11. Late tenders will be rejected.
12. The addresses referred to above are:

A. Address for obtaining further information and for purchasing tender documents

- (1) Name of Procuring Entity: **Thika Water and Sewerage Company Ltd**
- (2) Physical address for hand Courier Delivery to an office or Tender Box: **Thika Head Office Near Bluepost Hotel, Along Haile Sellasie Road**
- (3) Postal Address: **P.O. Box 6103-01000 Thika**
- (4) Insert name, telephone number and e-mail address of the officer to be contacted.: **Procurement Office, 0724-418444, Procurement@thikawater.co.ke**

B. Address for Submission of Tenders.

- 1) Name of Procuring Entity: **Thika Water & Sewerage Company Ltd**
- 2) Postal Address **P.O. Box 6103-01000 Thika**
- (1) Physical address for hand Courier Delivery to an office or Tender Box: **Thika Head Office Near Bluepost Hotel, Along Haile Sellasie Road**

C. Address for Opening of Tenders.

- 1) Name of Procuring Entity: **Thika Water & Sewerag Company Ltd**
- (1) Physical address for the location: **Thika Head Office Near Bluepost Hotel, Along Haile Sellasie Road**

[Authorized Official]

Name: Dr. Moses Kinya

Designation: Managing Director

Signature _____

Date _____

PART1: TENDERING PROCEDURES

SECTION I - INSTRUCTIONS TO TENDERERS

A GENERAL PROVISIONS

10 Scope of tender

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

12 Throughout this tendering document:

- a) The term “inwriting” 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 is an official working day of the Procuring Entity. It excludes official public holidays.

20 Fraud and corruption

21 The Procuring Entity requires compliance with the provisions of the Public Procurement and Asset Disposal Act, 2015, Section 62 “Declaration not to engage in corruption”. The tender submitted by a person shall include a declaration that the person shall 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.

22 The Procuring Entity requires compliance with the provisions of the Competition Act 2010, 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.

23 Tenderers shall permit and shall cause their agents (whether declared or not), subcontractors, sub-consultants, service providers, suppliers, and their personnel, to permit the Procuring Entity to inspect all accounts, 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 them audited by auditors appointed by the Procuring Entity.

24 Unfair Competitive Advantage - Fairness and transparency in the tender process require that the firms or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting 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 that respect give such firm any unfair competitive advantage over competing firms.

30 Eligible tenderers

31 A Tenderer may be a firm that is a private entity, a state-owned enterprise or institution subject to ITT 3.8, or an individual or any combination of such entities in the form of a joint venture (JV) under an existing agreement with the intent to enter into 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 have the authority to conduct all business for and on behalf of any and all the members of the JV during the tendering process and, in the event the JV is awarded the Contract, during contract execution. Members of a joint venture may not also make an individual tender, be a subcontractor in a separate tender or be part of another joint venture for the purposes of the same Tender. The maximum number of JV members shall be specified in the **TDS**.

32 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 a contract. Public Officers are also not allowed to participate in any procurement proceedings.

33 A Tenderer shall not have a conflict of interest. Any tenderer found to have a conflict of interest shall be disqualified. 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 an other tenderer;
 - b) Receives or has received any director indirect subsidy from another tenderer;
 - c) Has the same legal representative as an other tenderer;
 - d) Has a relationship with an other tenderer, directly or through common third parties, that puts it in a position to influence the tender of an other 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 to consulting 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 to influence the bidding process and:
 - i) Are directly or indirectly involved in the preparation of the Tender document or specifications of the Contract, and/or the Tender evaluation process of such contract; or
 - ii) May be involved in the implementation or supervision of such Contract unless the conflicts stemming from such relationship has been resolved in a manner acceptable to the Procuring Entity throughout the tendering process and execution of the Contract.
- 34** 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 shall be automatically disqualified
- 35** 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 subcontractor 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 of another joint venture for the purposes of the same Tender. A firm that is not a tenderer or a JV member may participate as a subcontractor in more than one tender.
- 36** 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 may be. 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.
- 37** A Tenderer that has been debarred from participating in public procurement shall be ineligible to tender or be awarded a contract. The list of debarred firms and individuals is available from the website of PPRA www.ppra.go.ke.
- 38** 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 it is:
- 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 public entity or Government, and;
 - (iii) operating under commercial law and vested with legal rights and liabilities similar to any commercial enterprise to enable it compete with firms in the private sector on an equal basis.
- 39** 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 in its 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 II - EVALUATION AND QUALIFICATION CRITERIA, Item 9*”.
- 3.11** Pursuant to the eligibility requirements of ITT 3.10, a tender is considered a foreign 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 in accordance 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 a condition for tender, but it shall be a condition 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 may be accessed from the website www.cak.go.ke.
- 4.14 A kenyan 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.
- 40 Eligible goods, equipment, and services**
- 41** Goods, equipment and services to be supplied under the Contract may have their origin in any country that is not ineligible under ITT 3.9. At the Procuring Entity's request, Tenderers may be required to provide evidence of the origin of Goods, equipment and services.
- 42** 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.
- 50 Tenderer's responsibilities**
- 51** The tenderer shall bear all costs associated with the preparation and submission of his/her tender, and the Procuring Entity will in no case be responsible or liable for those costs.
- 52** 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 into a contract for construction of the Works. The costs of visiting the Site shall be the tenderer's own expense.
- 53** 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 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.

- 54 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

60 Sections of Tender Document

- 61 The tender document consists of Parts 1, 2, and 3, which includes all the sections specified below, and which should be read in conjunction with any Addenda issued in accordance with ITT 10.

PART 1: Tendering Procedures

Section I – Instructions to Tenderers

Section II – Tender Data Sheet (TDS)

Section III- Evaluation and Qualification

Criteria Section IV – Tendering Forms

PART 2: Works' Requirements

Section V - Bills of Quantities

Section VI - Specifications

Section VII - Drawings

PART 3: Conditions of Contract and Contract Forms

Section VIII - General Conditions (GCC)

Section IX - Special Conditions of Contract

Section X- Contract Forms

- 62 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 the Tender document in accordance with ITT 10. In case of any contradiction, documents obtained directly from the Procuring Entity shall prevail.
- 63 The Tenderer 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.
- ### **70 Clarification of Tender Document, Site Visit, Pre-tender Meeting**
- 71 A Tenderer 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 in accordance with ITT 7.4, including a description 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 in changes to the essential elements of the Tender Documents, the Procuring Entity shall amend the Tender Documents following the procedure under ITT 8 and ITT 22.2.
- 72 The Tenderer, at the Tenderer's own responsibility and risk, is encouraged to visit and examine and inspect the site(s) of the required contracts and obtain all 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 case may be. The purpose of the site visit and the pre-tender meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 73 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.
- 74 Minutes of a pre-arranged site visit and those of the pre-tender meeting, if applicable, including the text of the questions asked by Tenderers and 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 (*no names*) Minutes of the pre-arranged site visit and those of the pre-tender meeting at the web page identified in the **TDS**. Any modification to the Tender 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 pursuant to ITT 8 and not through the minutes of the pre-Tender meeting. Non-attendance at the pre-arranged site visit and the pre-tender meeting will not be a cause for disqualification of a Tenderer.

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 all who have obtained the Tender Documents from the Procuring Entity. The Procuring Entity shall also promptly publish the addendum on the Procuring Entity's website in accordance 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 dead line for the submission of Tenders, pursuant to ITT 22.2.

C. PREPARATION OF TENDERS

9. Cost of Tendering

The Tenderer 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.

10.0 Language 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 notarized translation of the relevant passages into 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 in accordance with ITT 12;
- b) Schedules including priced Bill of Quantities, completed in accordance with ITT 12 and ITT 14;
- c) Tender Security or Tender-Securing Declaration, in accordance with ITT 19.1;
- d) Alternative Tender, if permissible, in accordance with ITT 13;
- e) **Authorization:** written confirmation authorizing the signatory of the Tender to commit the Tenderer, in accordance with ITT 20.3;
- f) **Qualifications:** documentary evidence in accordance with ITT 17 establishing the Tenderer's qualifications to perform the Contract if its Tender is accepted;
- g) **Conformity:** a technical proposal in accordance 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 tenderer 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 with out 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 alternatives, 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, in accordance 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, in accordance with ITT 12.1.
- 14.5 It will be specified in the **TDS** if the rates and prices quoted by the Tenderer are or are not subject to adjustment during the performance of the Contract in accordance with the provisions of the Conditions of Contract, except incases 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 the price 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 sametime.

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 the Tender 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 the Bill 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 no 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 the 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 Tender are reasonable, in which case a detailed break down 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 Section IV, Tender Forms, 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 in accordance with ITT 4.

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 or in joint ventures, applying for eligibility for national preference shall supply all information required to satisfy the criteria for eligibility specified in accordance 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 a margin 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 a tenderer may have. There can be no circumstances in which it would be justified for a tenderer to keep information relating to its ownership and control confidential where it is tendering to undertake public sector work and receive public sector funds. Thus, confidentiality will not be accepted by the Procuring Entity as a justification for a Tenderer's failure to disclose, or failure to provide required information on its ownership and control.

176 The Tenderer 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 these 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.

- 178** If a tenderer 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 a reasonable degree the information submitted by a tenderer pursuant to these requirements, then the tender will be rejected.
- 179** If information submitted by a tenderer 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 depending the outcome of (iii),
 - iii) the tenderer will be referred to the relevant law enforcement authorities for investigation of whether the tenderer or any other person 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 of ITT 17.8 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 tenderer.

18.0 Period of Validity of Tenders

- 18.1.** Tenders shall remain valid for the Tender Validity period specified in the **TDS**. The Tender Validity period starts from the date fixed for the Tender submission deadline (as prescribed by the Procuring Entity in accordance with ITT 22). A tender valid for a shorter period shall be rejected by the Procuring Entity as non-responsive.
- 18.2** In exceptional circumstances, prior to the expiration of the Tender validity period, the Procuring Entity may request Tenderers to extend the period of validity of their Tenders. The request and the response shall be made in writing. If a Tender Security is requested in accordance 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. A Tenderer granting the request shall not be required or permitted to modify its Tender.

19.0 Tender Security

- 191** 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 form and, in the case of a Tender Security, in the amount and currency specified in the **TDS**. A Tender-Securing Declaration shall use the form included in Section IV, Tender Forms.
- 192** If a Tender Security is specified pursuant to ITT 19.1, the Tender Security shall be a demand guarantee in any of the following forms at the Tenderer's option:
- i) cash;
 - ii) a bank guarantee;
 - iii) a guarantee by an insurance company registered and licensed by the Insurance Regulatory Authority listed by the Authority;
 - (iv) a guarantee issued by a financial institution approved and licensed by the Central Bank of Kenya, from a reputable source, and an eligible country.
- 193** If an unconditional bank guarantee is issued by a bank located outside Kenya, the issuing bank shall have a correspondent 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.
- 194** If a Tender Security or Tender-Securing Declaration is specified pursuant to ITT 19.1, any Tender not accompanied by a substantially responsive Tender Security or Tender-Securing Declaration shall be rejected by the Procuring Entity as non-responsive.
- 195** If a Tender 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 bidder declines to extend tender validity period.

- 196** The Tender Security of the successful Tenderer shall be returned as promptly as possible once the successful Tenderer has signed the Contract and furnished the required Performance Security, and any other documents required in the TDS.
- 197** The Tender Security may be 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 provided by the Tenderer; or
 - b) if the successful Tenderer fails to: -
 - i) sign the Contract in accordance with ITT 47; or
 - ii) furnish a Performance Security and if required in the TDS, and any other documents required in the TDS.
- 198** Where tender securing declaration is executed, the Procuring Entity shall recommend to the PPRA to debar the Tenderer from participating in public procurement as provided in the law.
- 199** 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 into a legally 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 ITT 4.1 and ITT 11.2.
- 1910** A tenderer shall not issue a tender security to guarantee itself.

200 Format and Signing of Tender

- 201** 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." In addition, the Tenderer shall submit copies of the Tender, in the number specified in the TDS and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.
- 202** 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.
- 203** The original and all copies of the Tender shall be typed or written in indelible ink and shall be signed by a person 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 the Tender where entries or amendments have been made shall be signed or initialed by the person signing the Tender.
- 204** In case 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 a power of attorney signed by their legally authorized representatives.
- 205** Any inter-lineation, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Tender.

D. SUBMISSION AND OPENING OF TENDERS

210 Sealing and Marking of Tenders

- 211** 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 package or container marked "ORIGINAL", all documents comprising the Tender, as described in ITT 11; and
 - b) in a new envelope or package or container marked "COPIES", all required copies of the Tender; and
 - c) if alternative Tenders are permitted in accordance with ITT 13, and if relevant:

- i) in an envelope or package or container marked “ORIGINAL –ALTERNATIVE TENDER”, the alternative Tender; and
- ii) in the envelope or package or container marked “COPIES- ALTERNATIVE TENDER”, all required copies of the alternative Tender.

The inner envelopes or packages or containers shall:

- a) bear the name and address of the Procuring Entity,
- b) bear the name and address of the Tenderer; and
- c) bear the name and Reference number of the Tender.

212 If an envelope or package or container is not sealed and marked as required, the *Procuring Entity* will assume no responsibility for the misplacement or premature opening of the Tender. Tenders misplaced or opened prematurely will not be accepted.

220 Deadline for Submission of Tenders

221 Tenders must be received by the Procuring Entity at the address specified in the **TDS** and no later than the date and time also specified in the **TDS**. When so specified in the **TDS**, tenderers shall have the option of submitting their Tenders electronically. Tenderers submitting Tenders electronically shall follow the electronic Tender submission procedures specified in the **TDS**.

222 The Procuring Entity may, at its discretion, extend the deadline for the submission of Tenders by amending the Tender Documents in accordance with ITT 8, in which case all rights and obligations of the Procuring Entity and Tenderers previously subject to the deadline shall thereafter be subject to the deadline as extended.

23.0 Late Tenders

The Procuring Entity shall not consider any Tender that arrives after the deadline for submission of tenders, in accordance with ITT 22. Any Tender received by the Procuring Entity after the deadline for submission of Tenders shall be declared late, rejected, and returned unopened to the Tenderer.

240 Withdrawal, Substitution, and Modification of Tenders

241 A Tenderer may withdraw, substitute, or modify its Tender after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITT 20.3, (except that withdrawal notices do not require copies). The corresponding substitution or modification of the Tender must accompany the respective written notice. All notices must be:

- a) prepared and submitted in accordance with ITT 20 and ITT 21 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked “WITHDRAWAL,” “SUBSTITUTION,” “MODIFICATION;” and
- b) received by the Procuring Entity prior to the deadline prescribed for submission of Tenders, in accordance with ITT 22.

242 Tenders requested to be withdrawn in accordance with ITT 24.1 shall be returned unopened to the Tenderers.

243 No Tender may be withdrawn, substituted, or modified in the interval between the deadline for submission of Tenders and the expiration of the period of Tender validity specified by the Tenderer on the Form of Tender or any extension thereof.

25. Tender Opening

251 Except in the cases specified in ITT 23 and ITT 24.2, the Procuring Entity shall publicly open and read out all Tenders received by the deadline, at the date, time and place specified in the **TDS**, in the presence of Tenderers' designated representatives who chooses to attend. Any specific electronic Tender opening procedures required if electronic Tendering is permitted in accordance with ITT 22.1, shall be as specified in the **TDS**.

252 First, envelopes marked “WITHDRAWAL” shall be opened and read out and the envelopes with the corresponding Tender shall not be opened but returned to the Tenderer. No Tender withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Tender opening.

253 Next, envelopes marked “SUBSTITUTION” shall be opened and read out and exchanged with the corresponding Tender being substituted, and the substituted Tender shall not be opened, but returned to the

Tenderer. No Tender substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Tender opening.

- 254 Next, envelopes marked “MODIFICATION” shall be opened and read out with the corresponding Tender. No Tender modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Tender opening.
- 255 Next, all remaining envelopes shall be opened one at a time, reading out: the name of the Tenderer and whether there is a modification; the total Tender Price, per lot (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.
- 256 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 the opening.
- 257 At the Tender Opening, the Procuring Entity shall neither discuss the merits of any Tender nor reject any Tender (except for late Tenders, in accordance with ITT 23.1).
- 258 The Procuring Entity shall prepare minutes of the Tender Opening that shall include, as a minimum: -
- a) the name of the Tenderer and whether there is a withdrawal, substitution, or modification;
 - b) the Tender Price, per lot (contract) if applicable, including any discounts;
 - c) any alternative Tenders;
 - d) the presence or absence of a Tender Security, if new as required;
 - e) number of pages of each tender document submitted.
- 259 The Tenderers' representatives who are present shall be requested to sign the minutes. The omission of a Tenderer's signature on the minutes shall not invalidate the contents and effect of the minutes. A copy of the tender opening register shall be distributed to all Tenderers.

E. EVALUATION AND COMPARISON OF TENDERS

26 Confidentiality

- 261 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 in accordance with ITT 43.
- 262 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.
- 263 Notwithstanding ITT 26.2, from the time of tender opening to the time of contract award, if a tenderer wishes to contact the Procuring Entity on any matter related to the tendering process, it shall do so in writing.

27 Clarification of Tenders

- 271 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 or decrease, 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, in accordance with ITT 31.
- 272 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 Tender may be rejected.

28 Deviations, Reservations, and Omissions

- 28.1 During the evaluation of tenders, the following definitions apply: -
- a) “*Deviation*” is a departure 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.

290 Determination of Responsiveness

- 291** 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.
- 292** A substantially responsive Tender is one that meets the requirements of the Tender document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that, if accepted, would:
- a) Affect in any substantial way the scope, quality, or performance of the Works 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.
- 293** The Procuring Entity shall examine the technical aspects of the tender submitted in accordance with ITT 16, to confirm that all requirements of Section VII, Works' Requirements have been met without any material deviation, reservation or omission.
- 294** If a tender is not substantially responsive to the requirements of the tender document, it shall be rejected by the Procuring Entity and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

300 Non-material Non-conformities

- 301** Provided that a tender is substantially responsive, the Procuring Entity may waive any non-conformities in the tender.
- 302** Provided that a Tender is substantially responsive, 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.
- 303** 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 or non-conforming item or component in the manner specified in the TDS.

31.0 Arithmetical Errors

- 311** 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.
- 312** 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, subtotal and total bid prices 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 words and figures, the amount in words shall prevail
- 313** 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, the currency(ies) of the Tender shall be converted in to a single currency as specified in the TDS.

330 Margin of Preference and Reservations

- 331** 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.
- 332** A margin of preference shall not be allowed unless it is specified so in the **TDS**.
- 333** Contracts procured on basis of international competitive tendering shall not be subject to reservations exclusive to specific groups as provided in ITT 33.4.
- 334** Where it is intended to reserve a contract to as pecific group of businesses (these groups are Small 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.

340 Nominated Subcontractors

- 341** Unless otherwise stated in the **TDS**, the Procuring Entity does not intend to execute any specific elements of the Works by subcontractors selected/nominated by the Procuring Entity. Incase the ProcuringEntity nominates a subcontractor, the subcontract agreement shall be signed by the Subcontractor and the Procuring Entity. The main contract shall specify the working arrangements between the main contractor and the nominated subcontractor.
- 342** Tenderers may propose sub-contracting up to the percentage of total value of contracts or the volume of works as specified in the **TDS**. Subcontractors proposed by the Tenderer shall be fully qualified for their parts of the Works.
- 343** Domestic subcontractor'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** a scan be met by subcontractors referred to hereafter as 'Specialized Subcontractors', in which case, the qualifications of the Specialized Subcontractorsproposed by the Tenderer may be added to the qualifications of the Tenderer.

35. Evaluation of Tenders

- 35.1** TheProcuring Entity shall use the criteria and methodologies listed in this ITT and Section III, Evaluation and Qualification Criteria No other evaluation criteria or methodologies shall be permitted. By applying the criteria and methodologies the Procuring Entity shall determine theLowest Evaluated Tender in accordance with ITT 40.
- 35.2** To evaluate a Tender, the Procuring Entity shall consider the following:
- a) priceadjustment in accordance 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 in accordance with ITT 14.4;
 - c) converting the amount resulting from applying (a) and (b) above, if relevant, to a single currency in accordance with ITT 32;
 - d) pricea djustment due to quantifiable non materialnon-conformities in accordance with ITT 30.3; and
 - e) any additional evaluation factors specified in the **TDS** and Section III, Evaluation and Qualification Criteria.
- 35.3** The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be consideredin 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 based on a combination of lots (contracts), will be specified in Section III, Evaluation and Qualification Criteria. In the case of multiple lots or contracts, tenderer will be 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 in accordance with ITT 35.2 to determine the Tender that has the lowest evaluated cost.

37.0 Abnormally low tenders and abnormally high tenders

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 a potentially 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 the Tender 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 the Tender.

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 the Tender 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:
- If the tender price 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.
 - 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, before retendering.

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 frontloaded, the Procuring Entity may require the Tenderer to provide written clarifications. Clarifications may include detailed price analyses to demonstrate the consistency of the tender prices with the scope 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 the Tenderer, the Procuring Entity may as appropriate:
- accept the Tender;
 - 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 the Contract Price;
 - agree on a payment mode that eliminates the inherent risk of the Procuring Entity paying too much for undelivered works;
 - reject the Tender,

390 Qualifications of the tenderer

- 391** 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.
- 392** 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 into consideration the qualifications of other firms such as the Tenderer's subsidiaries, parent entities, affiliates, subcontractors (other than Specialized Sub-contractors if permitted in the Tender document), or any other firm(s) different from the Tenderer.
- 393** An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative 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 a similar determination of that Tenderer's qualifications to perform satisfactorily.

400 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. In case 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.

430 Notice of Intention to Enter into a Contract/Notification of Award

Upon award of the contract and Prior to the expiry of the Tender Validity Period the Procuring Entity shall issue a Notification of Intention to Enter into 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) instruction on how to request a debriefing and/ or submit a complaint during the stand still period;

440 Stand still Period

- 441** 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.
- 442** Where a Standstill Period applies, it shall commence when the Procuring Entity has transmitted to each Tenderer the Notification of Intention to Enter into a Contract with the successful Tenderer.

450 Debriefing by The Procuring Entity

- 451** 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.
- 452** Debriefings of unsuccessful Tenderers may be done in writing or verbally. The Tenderer shall bear its own costs of attending such a debriefing meeting.

46.0 Letter of Award

Prior to the expiry of the Tender Validity Period and upon expiry of the Standstill Period specified in ITT 42.1, upon addressing a complaint that has been filed with in 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, and return to the Procuring Entity.
- 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**, in accordance 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 a bank guarantee shall have a correspondent 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 readout 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 herein shall prevail over those in ITT.

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
A. General	
ITT 1.1	<p>The name of the contract is: Improvement of Water Supply Landless, Salama & Gatuanyaga (Bidco-Engen Pipeline Upgrade)</p> <p>The reference number of the Contract is: THIWASCO/070/2021-2022</p> <p>The number and identification of lots (contracts) comprising this Tender are: Not Applicable</p>
ITT 2.4	The Information made available on competing firms is as follows: Not Applicable
ITT 2.4	The firms that provided consulting services for the contract being tendered for are: Not Applicable
ITT 3.1	Maximum number of members in the Joint Venture (JV) shall be: Not Applicable
B. Contents of Tender Document	
ITT 7.1	<p>(i) The Tenderer will submit any request for clarifications in writing at the Address: Procurement@thikawater.co.ke</p> <p>to reach the Procuring Entity not later than: 10.00am Wednesday, November 17, 2021</p> <p>(ii) The Procuring Entity shall publish its response at the website: www.thikwater.co.ke</p>
ITT 7.2	<p>(A) A pre-arranged pretender site visit shall take place. Date: Wednesday, November 17, 2021 Time: 10:00am Place: Members to meet at head office, then proceed to site.</p> <p>(B) Pre-Tender meeting shall not take place.</p>
ITT 7.3	The Tenderer will submit any questions in writing, to reach the Procuring Entity not later than 6 days before the meeting.
ITT 7.5	The Procuring Entity's website where Minutes of the pre-Tender meeting and the pre-arranged pretender will be published is www.thikawater.co.ke
ITT 9.1	<p>For Clarification of Tender purposes, for obtaining further information and for purchasing tender documents, the Procuring Entity's address is:</p> <ol style="list-style-type: none"> (1) Name of Procuring Entity: Thika Water & Sewerage Company Ltd (2) Physical address for hand Courier Delivery to an office or Tender : THIWASCO Head Office, Haile Sellasie Road Near BluePost Hotel Room No.1 (3) Postal Address: P.O. Box 6103-01000 Thika (4) name, telephone number and e-mail address of the officer to be contacted: Procurement Department, 0720-418444, procurement@thikawater.co.ke
C. Preparation of Tenders	
ITT 11.1 (h)	The Tenderer shall submit the following additional documents in its Tender: No other additional documents required.
ITT 13.1	Alternative Tenders shall not be considered.

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
ITT 13.2	Alternative times for completion shall not be Considered
ITT 13.4	Alternative technical solutions shall be permitted for the following parts of the Works: Not Permitted
ITT 14.5	The prices quoted by the Tenderer shall be: fixed
ITT 15.2 (a)	Foreign currency requirements: not allowed.
ITT 18.1	The Tender validity period shall be 182 days.
ITT 18.3	<p>(a) The Number of days beyond the expiry of the initial tender validity period will be None days.</p> <p>(b) The Tender price shall be adjusted by the following percentages of the tender price:</p> <p>(i) By <u>None</u> % of the local currency portion of the Contract price adjusted to reflect local inflation during the period of extension, and</p> <p>(ii) By <u>None</u> % the foreign currency portion of the Contract price adjusted to reflect the international inflation during the period of extension.</p>
ITT 19.1	<p>Tender shall provide a Tender Security.</p> <p>The type of Tender security (original) shall be 220,000.00 in the amount of Kenya shillings from a financial institution as indicated on PPRA Website.</p>
ITT 20.1	In addition to the original of the Tender, the number of copies is: two copies (original and a copy)
ITT 20.3	The written confirmation of authorization to sign on behalf of the Tenderer shall consist of: Confidential business questionnaire duly completed detailing directors/partners/sole proprietorship, MUST disclose power of attorney of the signatory.
D. Submission and Opening of Tenders	
ITT 22.1	<p>(A) For <u>Tender submission purposes</u> only, the Procuring Entity's address is:</p> <p>(1) Name of Procuring Entity: Thika Water & Sewerage Company Ltd</p> <p>(2) Postal Address Managing Director, P.O. Box 6103-01000 Thika,</p> <p>(3) Physical address for hand Courier Delivery to an office or Tender Box: THIWASCO Main Offices, haile Sellasie Road near BluePost Hotel, Procurement Office, Room No. 1</p> <p>(4) Date and time for submission of Tenders: Wednesday, November 17, 2021 at 10.00am</p> <p>(5) Tenders shall not submit tenders electronically.</p>
ITT 25.1	<p>The Tender opening shall take place at the time and the address for Opening of Tenders provided below:</p> <p>(1) Name of Procuring Entity: Thika Water & Sewerage Company Ltd</p> <p>(2) Physical address for the location THIWASCO Main Offices, haile Sellasie Road near BluePost Hotel.</p> <p>(3) State date and time of tender opening: Wednesday, November 17, 2021 at 10.00am</p>
ITT 25.1	If Tenderers are allowed to submit Tenders electronically, they shall follow the electronic tender submission procedures specified below [insert a description of the electronic Tender opening procedures]: Not Permitted

Reference to ITC Clause	PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS
E. Evaluation, and Comparison of Tenders	
ITT 30.3	The adjustment shall be based on the average price of the item or component as quoted in other substantially responsive Tenders. If the price of the item or component cannot be derived from the price of other substantially responsive Tenders, the Procuring Entity shall use its best estimate.
TT 32.1	<p>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: Kenya Shillings.</p> <p>The source of exchange rate shall be: The Central bank of Kenya (mean rate)</p> <p>The date for the exchange rate shall be: the deadline date for Submission of the Tenders.</p>
ITT 33.2	A margin of preference shall not apply.
ITT 33.4	The invitation to tender is extended to the following group that qualify for Reservations Small and Medium Enterprises, Women Enterprises, Youth Enterprises and Enterprises of persons living with disability.
ITT 34.1	At this time, the Procuring Entity does not intend to execute certain specific parts of the Works by subcontractors selected in advance.
ITT 34.2	Contractor's may propose subcontracting: Maximum percentage of subcontracting permitted is: Not permitted
ITT 34.3	Not Applicable.
ITT 35.2 (e)	Additional requirements apply. These are detailed in the evaluation criteria in Section III, Evaluation and Qualification Criteria.
ITT 48.1	Other documents required in addition to the Performance Security are: Program of works, insurance policies. Tender Performance Security shall be;10% of the contract price from a financial institution as indicated on the PPRA website .
ITT 50.1	<p>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 Website www.ppra.go.ke or email complaints@ppra.go.ke.</p> <p>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:</p> <p>For the attention: Eng. Mburu Kiemo</p> <p>Title/position: Chief Manager Technical Services</p> <p>Procuring Entity: Thika Water & Sewerage Company Ltd</p> <p>Email address: mkiemo@thikawater.co.ke</p> <p>In summary, a Procurement-related Complaint may challenge any of the following (among others):</p> <p>(i) the terms of the Tender Documents; and</p> <p>(ii) the Procuring Entity's decision to award the contract.</p>

SECTION III - EVALUATION AND QUALIFICATION CRITERIA

1. PRELIMINARY EVALUATION CRITERIA

	Mandatory Eligibility criteria	Responsiveness	Not responsive	Indicate reference nowhere evidence is provided
1.1	Attach copies of incorporation certificate or registration certificate			
1.2	Dully filled and stamped form of tender and price schedule.			
1.3	Duly filled, signed and stamped confidential business questionnaire			
1.4	Proof of NCA4 registration and valid practicing Licence (for water works)			
1.5	Attach relevant Valid Tax Compliance			
1.6	Attach a valid business permit			
1.7	Attach CR12 /Partnership deed			
1.8	Attach Copies of IDs of Directors			
1.90	Provide proof of physical address (attach copy of rental or lease agreement)			
1.91	Duly filled, signed and stamped TenderSecuring Declaration form			
1.92	Original bid security of Kshs. 220,000.00 from reputable Commercial Bank or approved insurance company by PPRA and shall be valid for 182 days from date of tender opening.			
1.93	Provide proof of not having consistent history of court/arbitral award decisions against the tenderer since 1 st January 2020			
1.94	Bidders must serialize every page of the bid document submitted from page one to			
	Non-compliance to any of the mandatory requirements shall lead to automatic disqualification.			

B. PRELIMINARY TECHNICAL EVALUATION CRITERIA

		Met	Not met	Indicate reference no. where evidence is provided.
1.0	Proof of work of similar magnitude undertaken in the last five years. Attach prove copies of completion certificate, letters of awards, LPOs/LSOs.			
1.1	Submission of audited financial statements for the last three years to demonstrate the current soundness of the tenderers financial position and its long-term profitability- complete form FIN-3.1 with attachments			
1.2	Annual construction turnover of 10 million Liquidity ratios (minimum 1:1) Current ratio=current asset/current liabilities			

1.3	<p>(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 (5,000,000)</p> <p>(ii) The tenderers shall also demonstrate, to 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</p> <p>(iii) The audited balance sheets for the last three years shall be submitted and must demonstrate the current soundness of the tenderers position and indicate its prospective long-term profitability.</p> <p>Complete form FIN-3.1, with attachments</p>			
1.4	<p>Minimum average annual construction turn over of Ksh (10,000,000) equivalent calculated as total certified payments received for contracts in progress and/ or completed within the last three years. complete form FIN-3.2</p>			
1.5	<p>A minimum number of three similar contracts that have been satisfactorily and substantially completed. complete form EXP 4.2(a)</p>			
1.6	<p>History of non-performing contract- complete form CON-2</p>			

1.7	<p>Key Technical staff Provide detailed proposal of key technical members for the proposed project, copies and CV of the proposed team, Enclose detailed certificate.</p> <p>Project Manager (Minimum qualification is degree in related engineering field) –</p> <p>Site Agent (Minimum qualification is diploma in related engineering field)</p> <p>Supervisors (Minimum qualification is diploma in related engineering field)</p> <p>Foreman (Minimum qualification is diploma in related engineering field)</p> <p>Surveyor (minimum qualification is degree in surveying)</p> <p>Electro-Mechanical Engineer(minimum qualification is degree in mechanical or related field)</p>			
1.8	<p>Equipment (proof of valid ownership / lease agreement) Excavator (Engine power 120kw/160Hp) Backhoe (Minimum 90Hp Gross Power) Pumps (Minimum 20m³/hr) Rock breaker (Impact Energy 21kg-m minimum) Concrete mixture 200ltrs (Provide log books / valid lease agreements) - complete forms ELI-1.1 and 1.2 with attachments</p>			
1.9	<p>Submit a draft methodology and program of works in the form of a bar chart which shall form part of the contract if the bid is accepted. Any change in the program or schedule shall be subjected to the approval of the Client</p>			

2.0	Attach Copy of Valid Certificate of N.S.S.F. and N.H.I.F			
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- (i) Tenders that pass the preliminary technical examination will be further subjected to arithmetical corrections;
- (ii) A bid with an arithmetic error committed that will have some deviations with the form of tender and the detailed financial proposal will lead to disqualification.

10 GENERAL PROVISIONS

11 This section contains the criteria that the Employer shall use to evaluate tender and qualify tenderers. No other factors, methods or criteria shall be used other than specified in this tender document. The Tenderer shall provide all the information requested in the forms included in Section IV, Tendering Forms. The Procuring Entity shall use **the Standard Tender Evaluation Document for Goods and Works** for evaluating Tenders.

- 12** Wherever a Tenderer is required to state a monetary amount, Tenderers should indicate the Kenya Shilling equivalent using the rate of exchange determined as follows:
- a) For construction turnover or financial data required for each year - Exchange rate prevailing on the last day of the respective calendar year (in which the amounts for that year is to be converted) was originally established.
 - b) Value of single contract - Exchange rate prevailing on the date of the contract signature.
 - (c) Exchange rates shall be taken from the publicly available source identified in the ITT 14.3. Any error in determining the exchange rates in the Tender may be corrected by the Procuring Entity.

13 EVALUATION AND CONTRACT AWARD CRITERIA

The Procuring Entity shall use the criteria and methodologies listed in this Section to evaluate tenders and arrive at the Lowest Evaluated Tender. The tender that (i) meets the qualification criteria, (ii) has been determined to be substantially responsive to the Tender Documents, and (iii) is determined to have the Lowest Evaluated Tender price shall be selected for award of contract.

2.0 PRELIMINARY EXAMINATION FOR DETERMINATION OF

RESPONSIVENESS Preliminary examination for Determination of Responsiveness

The Procuring Entity will start by examining all tenders to ensure they meet in all respects the eligibility criteria and other mandatory requirements in the ITT, and that the tender is complete in all aspects in meeting the requirements provided for in the preliminary evaluation criteria outlined below. The Standard Tender Evaluation Report Document for Goods and Works for evaluating Tenders provides very clear guide on how to deal with review of these requirements. Tenders that do not pass the Preliminary Examination will be considered non- responsive and will not be considered further.

30 TENDER EVALUATION (ITT 35)

Price evaluation: in addition to the criteria listed in ITT 35.2 (a) – (d) the following criteria shall apply:

- (i) Alternative Completion Times, if permitted under ITT13.2, will be evaluated as follows: **Not Permitted**
- (ii) Alternative Technical Solutions for specified parts of the Works, if permitted under ITT 13.4, will be evaluated as follows: **Not Permitted**
- (iii) Other Criteria; if permitted under ITT 35.2(j): **Not Permitted**

40 MULTIPLE CONTRACTS

- 41** Multiple contracts will be permitted in accordance with ITT 35.4. Tenderers are evaluated on basis of Lots and a lowest evaluated tenderer identified for each Lot. The Procuring Entity will select one Option of the two Options listed below for award of Contracts.

OPTION 1

- (i) If a tenderer wins only one Lot, the tenderer will be awarded a contract for that Lot, provided the tenderer meets the Eligibility and Qualification Criteria for that Lot.
- (ii) If a tenderer wins more than one Lot, the tenderer will be awarded a contract for all won Lots, provided the tenderer meets the aggregate Eligibility and Qualification Criteria for all the won Lots. The tenderer will be awarded only the combinations for which the tenderer qualifies and the others will be considered for award to second lowest tenderers.

OPTION 2

The Procuring Entity will consider all possible combinations of won Lots [contract(s)] and determine the combination with the lowest evaluated price. Tenders will then be awarded to the Tenderer or Tenderers in the combination provided the tenderer meets the aggregate Eligibility and Qualification Criteria for all the won Lots.

5.0 ALTERNATIVE TENDERS (ITT 13.1)

Alternative Tenders (ITT 13.1): Not Permitted

The Procuring Entity shall consider Tenders offered for alternatives as specified in Part 2 - Works requirements. Only the technical alternatives, if any, of the Tenderer with the Best Evaluated Tender conforming to the basic technical requirements shall be considered by the Procuring Entity.

60 MARGIN OF PREFERENCE: Not Permitted

- 61** If the TDS so specifies, the Procuring Entity will grant a margin of preference of fifteen percent (15%) to be loaded on evaluated prices of the foreign tenderers, where the percentage of share holding of Kenyan citizens is less than fifty-one percent (51%).
- 62** Contractors 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 a margin of preference.
- 63** After Tenders have been received and reviewed by the Procuring Entity, responsive Tenders shall be assessed to ascertain their percentage of shareholding of Kenyan citizens. Responsive tenders shall be classified into the following groups:
- i) *Group A:* tenders offered by Kenyan Contractors and other Tenderers where Kenyan citizens hold shares of over fifty-one percent (51%).
 - ii) *Group B:* tenders offered by foreign Contractors and other Tenderers where Kenyan citizens hold shares of less than fifty-one percent (51%).
- 64** All evaluated tenders in each group shall, as a first evaluation step, be compared to determine the lowest tender, and the lowest evaluated tender in each group shall be further compared with each other. If, as a result of this comparison, a tender from Group A is the lowest, it shall be selected for the award of contract. If a tender from Group B is the lowest, an amount equal to the percentage indicated in Item 6.1 of the respective tender price, including unconditional discounts and excluding provisional sums and the cost of day works, if any, shall be added to the evaluated price offered in each tender from Group B. All tenders shall then be compared using new prices with added prices to Group B and the lowest evaluated tender from Group A. If the tender from Group A is still the lowest tender, it shall be selected for award. If not, the lowest evaluated tender from Group

B based on the first evaluation price shall be selected.

7. POST QUALIFICATION AND CONTRACT AWARD (ITT 39), MORE SPECIFICALLY,

- a) In case the tender was subject to post-qualification, the contract shall be awarded to the lowest evaluated tenderer, subject to confirmation of pre-qualification data, if so required.
- b) In case the tender was not subject to post-qualification, the tender that has been determined to be the lowest evaluated tenderer shall be considered for contract award, subject to meeting each of the following conditions.
 - 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 of Kenya Shillings: **10,000,000.00**
 - ii) Minimum average annual construction turnover of Kenya Shillings **10,000,000.00**], equivalent calculated as total certified payments received for contracts in progress and/or completed within the last **Three** years.

- iii) Atleast **Three** of contract(s) of a similar nature executed within Kenya, or the East African Community or a broad, that have been satisfactorily and substantially completed as a prime contractor, or joint venture member or sub-contractor each of minimum value Kenya shillings **10,000,000.00** equivalent.
- iv) Contractor's Representative and Key Personnel, which are specified as **Project representatives.**
- v) Contractors' key equipment listed on the table "Contractor's Equipment" below and more specifically listed as *[specify requirements for each lot as applicable]*_____
- iv) Other conditions depending on their seriousness.

a) **History of non-performing contracts:**

Tenderer and each member of JV in case the Tenderer is a JV, shall demonstrate that Non-performance of a contract did not occur because of the default of the Tenderer, or the member of a JV in the last **Three Years** The required information shall be furnished in the appropriate form.

b) **Pending Litigation**

Financial position and prospective long-term profit ability of the Single Tenderer, and in the case the Tenderer is a JV, of each member of the JV, shall remain sound according to criteria established with respect to Financial Capability under Paragraph (i) above if all pending litigation will be resolved against the Tenderer. Tenderer shall provide information on pending litigations in the appropriate form.

c) **Litigation History**

There shall be no consistent history of court/arbitral award decisions against the Tenderer, in the last **Three Years** All parties to the contract shall furnish the information in the appropriate form about any litigation or arbitration resulting from contracts completed or on going under its execution over the years specified. A consistent history of awards against the Tenderer or any member of a JV may result in rejection of the tender.

QUALIFICATION FORM*

1	2	3	4	5
Item No.	Qualification Subject	Qualification Requirement	Document To be Completed by Tenderer	For Procuring Entity's Use (Qualification met or Not Met)
1	Nationality	Nationality in accordance with ITT 3.6	Forms ELI – 1.1 and 1.2, with attachments	
2	Tax Obligations for Kenyan Tenderers	Has produced a current tax clearance certificate or tax exemption certificate issued by Kenya Revenue Authority in accordance with ITT 3.14.	Attachment	
3	Conflict of Interest	No conflicts of interest in accordance with ITT 3.3	Form of Tender	
4	PPRA Eligibility	Not having been declared ineligible by the PPRA as described in ITT 3.7	Form of Tender	
5	State- owned Enterprise	Meets conditions of ITT 3.8	Forms ELI – 1.1 and 1.2, with attachments	
6	Goods, equipment and services to be supplied under the contract	To have their origin in any country that is not determined ineligible under ITT 4.1	Forms ELI – 1.1 and 1.2, with attachments	
7	History of Non-Performing Contracts	Non-performance of a contract did not occur as a result of contractor default since 1 st January [.....].	Form CON-2	
8	Suspension Based on Execution of Tender/Proposal Securing Declaration by the Procuring Entity	Not under suspension based on-execution of a Tender/Proposal Securing Declaration pursuant to ITT 19.9	Form of Tender	
9	Pending Litigation	Tender's financial position and prospective long-term profitability still sound according to criteria established in 3.1 and assuming that all pending litigation will NOT be resolved against the Tenderer.	Form CON – 2	
10	Litigation History	No consistent history of court/arbitral award decisions against the Tenderer since 1 st January [insert year].	Form CON – 2	
11	Financial Capabilities	<p>(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 [insert amount] equivalent for the subject contract(s) net of the Tenderer's other commitments.</p> <p>(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.</p>	Form FIN – 3.1, with attachments	

1	2	3	4	5
Item No.	Qualification Subject	Qualification Requirement	Document To be Completed by Tenderer	For Procuring Entity's Use (Qualification met or Not Met)
		(iii) The audited balance sheets or, if not required by the laws of the Tenderer's country, other financial statements acceptable to the Procuring Entity, for the last <i>[insert number of years]</i> years shall be submitted and must demonstrate the current soundness of the Tenderer's financial position and indicate its prospective long-term profitability.		
12	Average Annual Construction Turnover	Minimum average annual construction turnover of Kenya Shillings <i>[insert amount]</i> , equivalent calculated as total certified payments received for contracts in progress and/or completed within the last <i>[insert of year]</i> years, divided by <i>[insert number of years]</i> years	Form FIN – 3.2	
13	General Construction Experience	Experience under construction contracts in the role of prime contractor, JV member, sub-contractor, or management contractor for at least the last <i>[insert number of years]</i> years, starting 1 st January <i>[insert year]</i> .	Form EXP – 4.1	
14	Specific Construction & Contract Management Experience	<p>A minimum number of <i>[state the number]</i> similar contracts specified below that have been satisfactorily and substantially completed as a prime contractor, joint venture member, management contractor or sub-contractor between 1st January <i>[insert year]</i> and tender submission deadline i.e. (number) contracts, each of minimum value Kenya shillings..... equivalent.</p> <p><i>[In case the Works are to be tender as individual contracts under multiple contract procedure, the minimum number of contracts required for purposes of evaluating qualification shall be selected from the options mentioned in ITT 35.4]</i></p> <p>The similarity of the contracts shall be based on the following: <i>[Based on Section VII, Scope of Works, specify the minimum key requirements in terms of physical size, complexity, construction method, technology and/or other characteristics including part of the requirements that may be met by specialized subcontractors, if permitted in accordance with ITT 34.3]</i></p>	Form EXP 4.2(a)	

SECTION IV - TENDERING FORMS

QUALIFICATION FORMS

1. FOREIGN TENDERERS 40% RULE

Pursuant to ITT 3.9, a foreign tenderer must complete this form to demonstrate that the tender fulfils this condition.

ITEM	Description of Work Item	Describe location of Source	COST in K. shillings	Comments, if any
A	Local Labor			
1				
2				
3				
4				
5				
B	Sub contracts from Local sources			
1				
2				
3				
4				
5				
C	Local materials			
1				
2				
3				
4				
5				
D	Use of Local Plant and Equipment			
1				
2				
3				
4				
5				
E	Add any other items			
1				
2				
3				
4				
5				
6				
	TOTAL COST LOCAL CONTENT		XXXXXX	
	PERCENTAGE OF CONTRACT PRICE			

2. FORMEQU: 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 <input type="checkbox"/> Owned <input type="checkbox"/> Rented <input type="checkbox"/> Leased <input type="checkbox"/> 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. FORM PER -1

Contractor's Representative and Key Personnel Schedule

Tenderers should provide the names and details of the suitably qualified Contractor's Representative and Key Personnel to perform the Contract. The data on their experience should be supplied using the Form PER-2 below for each candidate.

Contractor' Representative and Key Personnel

1.	Title of position: Contractor's Representative	
	Name of candidate:	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment: for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart)]</i>
2.	Title of position: [_____]	
	Name of candidate:	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment: for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart)]</i>
3.	Title of position: [_____]	
	Name of candidate:	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment: for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart)]</i>
4.	Title of position: [_____]	
	Name of candidate:	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment: for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart)]</i>
5.	Title of position: <i>[insert title]</i>	
	Name of candidate	
	Duration of appointment:	<i>[insert the whole period (start and end dates) for which this position will be engaged]</i>
	Time commitment: for this position:	<i>[insert the number of days/week/months/ that has been scheduled for this position]</i>
	Expected time schedule for this position:	<i>[insert the expected time schedule for this position (e.g. attach high level Gantt chart)]</i>

4. **FORM PER - 2:**

Resume and Declaration - Contractor's Representative and Key Personnel.

Name of Tenderer

Position [#1]: <i>[title of position from Form PER-1]</i>		
Personnel information	Name:	Date of birth:
	Address:	E-mail:
	Professional qualifications:	
	Academic qualifications:	
	Language proficiency: <i>[language and levels of speaking, reading and writing skills]</i>	
Details	Address of Procuring Entity:	
	Telephone:	Contact (manager / personnel officer):
	Fax:	
	Job title:	Years with present Procuring Entity:

Summarize professional experience in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

Project	Role	Duration of involvement	Relevant experience
<i>[main project details]</i>	<i>[role and responsibilities on the project]</i>	<i>[time in role]</i>	<i>[describe the experience relevant to this position]</i>

Declaration

I, the undersigned *[insert either "Contractor's Representative" or "Key Personnel" as applicable]*, 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.

I confirm that I am available as certified in the following table and throughout the expected time schedule for this position as provided in the Tender:

Commitment	Details
Commitment to duration of contract:	<i>[insert period (start and end dates) for which this Contractor's Representative or Key Personnel is available to work on this contract]</i>
Time commitment:	<i>[insert period (start and end dates) for which this Contractor's Representative or Key Personnel is available to work on this contract]</i>

I understand that any misrepresentation or omission in this Form may:

- (a) be taken into consideration during Tender evaluation;
- (b) result in my disqualification from participating in the Tender;
- (c) result in my dismissal from the contract.

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

Signature: _____

Date: (day month year): _____

Countersignature of authorized representative of the Tenderer:

Signature: _____

Date: (day month year): _____

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.

51 FORM ELI -1.1

Tenderer Information Form

Date: _____

ITT No. and title: _____

Tenderer's name
In case of Joint Venture (JV), name of each member:
Tenderer's actual or intended country of registration: <i>[indicate country of Constitution]</i>
Tenderer's actual or intended year of incorporation:
Tenderer's legal address [in country of registration]:
Tenderer's authorized representative information Name: _____ Address: _____ Telephone/Fax numbers: _____ E-mail address: _____
1. Attached are copies of original documents of <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITT 3.6 <input type="checkbox"/> In case of JV, letter of intent to form JV or JV agreement, in accordance with ITT 3.5 <input type="checkbox"/> In case of state-owned enterprise or institution, in accordance with ITT 3.8, documents establishing: <ul style="list-style-type: none">• Legal and financial autonomy• Operation under commercial law<ol style="list-style-type: none">1. Establishing that the Tenderer is not under the supervision of the Procuring Entity2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

Tenderer's JV Information Form
(to be completed for each member of Tenderer's JV)

Date: _____

ITT No. and title: _____

Tenderer's JV name:
JV member's name:
JV member's country of registration:
JV member's year of constitution:
JV member's legal address in country of constitution:
JV member's authorized representative information Name: _____ Address: _____ Telephone/Fax numbers: _____ E-mail address: _____
1. Attached are copies of original documents of <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above, in accordance with ITT 3.6. <input type="checkbox"/> In case of a state-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with commercial law, and that they are not under the supervision of the Procuring Entity, in accordance with ITT 3.5. 2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

Historical Contract Non-Performance, Pending Litigation and Litigation History

Tenderer's Name: _____

Date: _____

JV Member's Name _____

ITT No. and title: _____

Non-Performed Contracts in accordance with Section III, Evaluation and Qualification Criteria

☐ Contract non-performance did not occur since 1st January *[insert year]* specified in Section III, Evaluation and Qualification Criteria, Sub-Factor 2.1.

☐ Contract(s) not performed since 1st January *[insert year]* specified in Section III, Evaluation and Qualification Criteria, requirement 2.1

☐ Contract(s) withdrawn since 1st January *[insert year]* specified in Section III, Evaluation and Qualification Criteria, requirement 2.1

Year	Non- performed portion of contract	Contract Identification	Total Contract Amount (current value, currency, exchange rate and Kenya Shilling equivalent)
<i>[insert year]</i>	<i>[insert amount and percentage]</i>	Contract Identification: <i>[indicate complete contract name/ number, and any other identification]</i> Name of Procuring Entity: <i>[insert full name]</i> Address of Procuring Entity: <i>[insert street/city/country]</i> Reason(s) for nonperformance: <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>

Pending Litigation, in accordance with Section III, Evaluation and Qualification Criteria

☐ No pending litigation in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.3.

☐ Pending litigation in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.3 as indicated below.

Year of dispute	Amount in dispute (currency)	Contract Identification	Total Contract Amount (currency), Kenya Shilling Equivalent (exchange rate)
		Contract Identification: _____ Name of Procuring Entity: _____ Address of Procuring Entity: _____ Matter in dispute: _____ Party who initiated the dispute: _____ Status of dispute: _____	
		Contract Identification: _____ Name of Procuring Entity: _____ Address of Procuring Entity: _____ Matter in dispute: _____ Party who initiated the dispute: _____ Status of dispute: _____	

Litigation History in accordance with Section III, Evaluation and Qualification Criteria

☐ No Litigation History in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.4.

☐ Litigation History in accordance with Section III, Evaluation and Qualification Criteria, Sub-Factor 2.4 as indicated below.

Year of dispute	Amount in dispute (currency)	Contract Identification	Total Contract Amount (currency), Kenya Shilling Equivalent (exchange rate)
<i>[insert year]</i>	<i>[insert percentage]</i>	Contract Identification: [indicate complete contract name, number, and any other identification] Name of Procuring Entity: <i>[insert full name]</i> Address of Procuring Entity: <i>[insert street/city/country]</i> Matter in dispute: <i>[indicate main issues in dispute]</i> Party who initiated the dispute: <i>[indicate "Procuring Entity" or "Contractor"]</i> Reason(s) for Litigation and award decision <i>[indicate main reason(s)]</i>	<i>[insert amount]</i>

Include details relating to potential bid-rigging practices such as previous occasions where tenders were withdrawn, joint bids with competitors, subcontracting work to unsuccessful tenderers, etc.

5.4 **FORM FIN – 3.1:**

Financial Situation and Performance

Tenderer's Name: _____

Date: _____

JV Member's Name _____

ITT No. and title: _____

5.4.1. Financial Data

Type of Financial information in (currency)	Historic information for previous _____ years, (amount in currency, currency, exchange rate*, USD equivalent)				
	Year 1	Year 2	Year 3	Year 4	Year 5
Statement of Financial Position (Information from Balance Sheet)					
Total Assets (TA)					
Total Liabilities (TL)					
Total Equity/Net Worth (NW)					
Current Assets (CA)					
Current Liabilities (CL)					
Working Capital (WC)					
Information from Income Statement					
Total Revenue (TR)					
Profits Before Taxes (PBT)					
Cash Flow Information					
Cash Flow from Operating Activities					

*Refer to ITT 15 for the exchange rate

5.4.2 Sources of Finance

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

No.	Source of finance	Amount (Kenya Shilling equivalent)
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-factor 3.1. The financial statements shall:

- (a) reflect the financial situation of the Tenderer or in case of JV member, and not an affiliated entity (such as parent company or group member).
- (b) be independently audited or certified in accordance with local legislation.
- (c) be complete, including all notes to the financial statements.
- (d) correspond to accounting periods already completed and audited.

☐ Attached are copies of financial statements¹ for the _____ years required above; and complying with the requirements

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 be justified.

5.5 **FORM FIN – 3.2:**

Average Annual Construction Turnover

Tenderer's Name: _____

Date: _____

JV Member's Name _____

ITT No. and title: _____

		Annual turnover data (construction only)	
Year	Amount Currency	Exchange rate	Kenya Shilling equivalent
<i>[indicate year]</i>	<i>[insert amount and indicate currency]</i>		
Average Annual Construction Turnover *			

* See Section III, Evaluation and Qualification Criteria, Sub-Factor 3.2.

5.6 FORM FIN – 3.3:

Financial Resources

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject contract or contracts as specified in Section III, Evaluation and Qualification Criteria

Financial Resources		
No.	Source of financing	Amount (Kenya Shilling equivalent)
1		
2		
3		

5.7 FORM FIN – 3.4:

Current Contract Commitments / Works in Progress

Tenderers and each member to a JV should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

Current Contract Commitments					
No.	Name of Contract	Procuring Entity's Contact Address, Tel,	Value of Outstanding Work [Current Kenya Shilling /month Equivalent]	Estimated Completion Date	Average Monthly Invoicing Over Last Six Months [Kenya Shilling /month]
1					
2					
3					
4					
5					

5.8 FORM EXP - 4.1

General Construction Experience

Tenderer's Name: _____

Date: _____

JV Member's Name _____

ITT No. and title: _____

Page _____ of _____ pages

Starting Year	Ending Year	Contract Identification	Role of Tenderer
		Contract name: _____ Brief Description of the Works performed by the Tenderer: _____ Amount of contract: _____ Name of Procuring Entity: _____ Address: _____	
		Contract name: _____ Brief Description of the Works performed by the Tenderer: _____ Amount of contract: _____ Name of Procuring Entity: _____ Address: _____	
		Contract name: _____ Brief Description of the Works performed by the Tenderer: _____ Amount of contract: _____ Name of Procuring Entity: _____ Address: _____	

5.9 **FORM EXP - 4.2(a)**

Specific Construction and Contract Management Experience

Tenderer's Name: _____

Date: _____

JV Member's Name _____

ITT No. and title: _____

Similar Contract No.	Information			
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor <input type="checkbox"/>	Member in JV <input type="checkbox"/>	Management Contractor <input type="checkbox"/>	Sub-contractor <input type="checkbox"/>
Total Contract Amount	Kenya Shilling			
If member in a JV or sub-contractor, specify participation in total Contract amount				
Procuring Entity's Name:				
Address:				
Telephone/fax number				
E-mail:				

5.9 **FORM EXP - 4.2(a)**

Specific Construction and Contract Management Experience

Tenderer's Name: _____

Date: _____

JV Member's Name _____

ITT No. and title: _____

Similar Contract No.	Information			
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor <input type="checkbox"/>	Member in JV <input type="checkbox"/>	Management Contractor <input type="checkbox"/>	Sub-contractor <input type="checkbox"/>
Total Contract Amount	Kenya Shilling			
If member in a JV or sub-contractor, specify participation in total Contract amount				
Procuring Entity's Name:				
Address:				
Telephone/fax number				
E-mail:				

5.9 **FORM EXP - 4.2 (a) (cont.)**

Specific Construction and Contract Management Experience (cont.)

Similar Contract No.	Information
Description of the similarity in accordance with Sub-Factor 4.2(a) of Section III:	
1. Amount	
2. Physical size of required works items	
3. Complexity	
4. Methods/Technology	
5. Construction rate for key activities	
6. Other Characteristics	

5.10 FORM EXP - 4.2(b)

Construction Experience in Key Activities

Tenderer's Name: _____

Date: _____

Tenderer's JV Member Name: _____

Sub-contractor's Name² (as per ITT 34): _____

ITT No. and title: _____

All Sub-contractors for key activities must complete the information in this form as per ITT 34 and Section III, Evaluation and Qualification Criteria, Sub-Factor 4.2.

1. Key Activity No One: _

Information				
Contract Identification				
Award date				
Completion date				
Role in Contract	Prime Contractor <input type="checkbox"/>	Member in JV <input type="checkbox"/>	Management Contractor <input type="checkbox"/>	Sub-contractor <input type="checkbox"/>
Total Contract Amount	Kenya Shilling			
Quantity (Volume, number or rate of production, as applicable) performed under the contract per year or part of the year	Total quantity in the contract (i)	Percentage participation (ii)	Actual Quantity Performed (i) x (ii)	
Year 1				
Year 2				
Year 3				
Year 4				
Procuring Entity's Name:				
Address: Telephone/fax number E-mail:				

² If applicable

	Information
Description of the key activities in accordance with Sub-Factor 4.2(b) of Section III:	

- 2. Activity No. Two
- 3.

OTHER FORMS

6. FORM OF TENDER

INSTRUCTIONS TO TENDERERS

- i) *The Tenderer must prepare this Form of Tender on stationery with its letterhead clearly showing the Tenderer's complete name and business address.*
- ii) *All italicized text is to help Tenderer 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 this Tender submission: *[insert date (as day, month and year) of Tender submission]* **Request for Tender No.:** *[insert identification]* **Name and description of Tender** *[Insert as per ITT]* **Alternative No.:** *[insert identification No if this is a Tender for an alternative]*

To: *[insert complete name of Procuring Entity]*

Dear Sirs,

1. In accordance with the Conditions of Contract, Specifications, Drawings and Bills of Quantities for the execution of the above named Works, we, the undersigned offer to construct and complete the Works and remedy any defects therein for the sum³ of Kenya Shillings *[Amount in figures]* _____ Kenya Shillings *[amount in words]* _____

The above amount includes foreign currency⁴ amount (s) of *[state figure or a percentage and currency]*
[figures] _____ *[words]* _____

2. We undertake, if our tender is accepted, to commence the Works as soon as is reasonably possible after the receipt of the Architect notice to commence, and to complete the whole of the Works comprised in the Contract within the time stated in the Special Conditions of Contract.
3. We agree to adhere by this tender until _____ *[Insert date]*, and it shall remain binding upon us and may be accepted at any time before that date.
4. We understand that you are not bound to accept the lowest or any tender you may receive.
5. We, the under signed, further declare that:
 - i) No reservations: We have examined and have no reservations to the tender document, including Addenda issued in accordance with ITT 28;
 - ii) Eligibility: We meet the eligibility requirements and have no conflict of interest in accordance with ITT 3 and 4;
 - 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

³ This sum should be carried forward from the Summary of the Bills of Quantities.

⁴ The percentage quoted above should not include provisional sums, and not more than two foreign currencies are allowed.

Country in accordance with ITT 19.8;

- iv) Conformity: We offer to execute in conformity with the tendering documents and in accordance with the implementation and completion specified in the construction schedule, the following Works: *[insert a brief description of the Works]*;
- v) Tender Price: The total price of our Tender, excluding any discounts offered in item 1 above is: *[Insert one of the options below as appropriate]*
- vi) Option 1, in case of one lot: Total price is: *[insert the total price of the Tender in words and figures, indicating the various amounts and the respective currencies]*; or
- Option 2, in case of multiple lots:
- (a) Total price of each lot *[insert the total price of each lot in words and figures, indicating the various amounts and the respective currencies]*; and
- (b) Total price of all lots (sum of all lots) *[insert the total price of all lots in words and figures, indicating the various amounts and the respective currencies]*;
- vii) Discounts: The discounts offered and the methodology for their application are:
- viii) The discounts offered are: *[Specify in detail each discount offered.]*
- ix) The exact method of calculations to determine the net price after application of discounts is shown below: *[Specify in detail the method that shall be used to apply the discounts]*;
- x) Tender Validity Period: Our Tender shall be valid for the period specified in TDS 18.1 (as amended, if applicable) from the date fixed for the Tender submission deadline specified in TDS 22.1 (as amended, if applicable), and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- xi) Performance Security: If our Tender is accepted, we commit to obtain a Performance Security in accordance with the Tendering document;
- xii) One Tender Per Tender: We are not submitting any other Tender(s) as an individual Tender, and we are not participating in any other Tender(s) as a Joint Venture member or as a sub-contractor, and meet the requirements of ITT 3.4, other than alternative Tenders submitted in accordance with ITT 13.3;
- xiii) Suspension and Debarment: We, along with any of our subcontractors, suppliers, Engineer, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by the Public Procurement Regulatory Authority or any other entity of the Government of Kenya, or any international organization.
- xiv) 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]*;
- xv) Commissions, gratuities, fees: We have paid, or will pay the following commissions, gratuities, or fees with respect to the tender process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity]*.

Name of Recipient	Address	Reason	Amount

(If none has been paid or is to be paid, indicate "none.")

- xvi) Binding Contract: We understand that this Tender, together with your written acceptance thereof included in your Letter of Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed;

- xvii) **Not Bound to Accept:** We understand that you are not bound to accept the lowest evaluated cost Tender, the Most Advantageous Tender or any other Tender that you may receive;
- xviii) **Fraud and Corruption:** We here by certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption; and
- xix) **Collusive practices:** We hereby certify and confirm that the tender is genuine, non-collusive and made with the intention of accepting the contract if awarded. To this effect we have signed the “Certificate of Independent Tender Determination” attached below.
- xx) We undertake to adhere by the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal, copy available from _____ (*specify website*) during the procurement process and the execution of any resulting contract.
- xxi) We, the Tenderer, have completed fully and signed the following Forms as part of our Tender:
- a) Tenderer's Eligibility; Confidential Business Questionnaire - to establish we are not in any conflict of interest.
 - (b) Certificate of Independent Tender Determination - to declare that we completed the tender without colluding with other tenderers.
 - (a) Self-Declaration of the Tenderer - to declare that we will, if awarded a contract, not engage in any form of fraud and corruption.
 - (d) Declaration and commitment to the Code of Ethics for Persons Participating in Public Procurement and Asset Disposal.

Further, we confirm that we have read and understood the full content and scope of fraud and corruption as informed in “**Appendix 1 - Fraud and Corruption**” attached to the Form of Tender.

Name of the Tenderer: *[insert complete name of person signing the Tender]

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

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

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

Date signed [insert date of signing] day of [insert month], [insert year]

Dated signed _____ day of _____, _____

Notes

* In the case of the Tender submitted by joint venture specify the name of the Joint Venture as Tenderer.

**Person signing the Tender shall have the power of attorney given by the Tenderer to be attached with the Tender.

(a) **TENDERER'S ELIGIBILITY-CONFIDENTIAL BUSINESS QUESTIONNAIRE**

Instruction to Tenderer

Tender is instructed to complete the particulars required in this Form, *one form for each entity if Tender is a JV*. Tenderer is further reminded that it is an offence to give false information on this Form.

(a) **Tenderer's details**

	ITEM	DESCRIPTION
1	Name of the Procuring Entity	
2	Reference Number of the Tender	
3	Date and Time of Tender Opening	
4	Name of the Tenderer	
5	Full Address and Contact Details of the Tenderer.	1. Country 2. City 3. Location 4. Building 5. Floor 6. Postal Address 7. Name and email of contact person.
6	Current Trade License Registration Number and Expiring date	
7	Name, country and full address (<i>postal and physical addresses, email, and telephone number</i>) of Registering Body/Agency	
8	Description of Nature of Business	
9	Maximum value of business which the Tenderer handles.	
10	State if Tenders Company is listed in stock exchange, give name and full address (<i>postal and physical addresses, email, and telephone number</i>) of state which stock exchange	

General and Specific Details

(b) **Sole Proprietor**, provide the following details.

Name in full _____ Age _____
Nationality _____ Country of Origin _____
Citizenship _____

(c) **Partnership**, provide the following details.

	Names of Partners	Nationality	Citizenship	% Shares owned
1				
2				
3				

(d) **Registered Company**, provide the following details.

I) Private or public Company _____

ii) State the nominal and issued capital of the Company_____

Nominal Kenya Shillings (Equivalent).....

Issued Kenya Shillings (Equivalent).....

iii) Give details of Directors as follows.

	Names of Director	Nationality	Citizenship	% Shares owned
1				
2				
3				

(e) DISCLOSURE OF INTEREST - Interest of the Firm in the Procuring Entity.

- i) Are there any person/persons in..... (*Name of Procuring Entity*) who has/have an interest or relationship in this firm? Yes/No.....

If yes, provide details as follows.

	Names of Person	Designation in the Procuring Entity	Interest or Relationship with Tenderer
1			
2			
3			

(iii) Conflict of interest disclosure

	Type of Conflict	Disclosure YES OR NO	If YES provide details of the relationship with Tenderer
1	Tenderer is directly or indirectly controls, is controlled by or is under common control with another tenderer.		
2	Tenderer receives or has received any direct or indirect subsidy from another tenderer.		
3	Tenderer has the same legal representative as another tenderer		
4	Tender has a relationship with another tenderer, directly or through common third parties, that puts it in a position to influence the tender of another tenderer, or influence the decisions of the Procuring Entity regarding this tendering process.		
5	Any of the Tenderer's affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the tender.		
6	Tenderer would be providing goods, works, non-consulting services or consulting services during implementation of the contract specified in this Tender Document.		
7	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who are directly or indirectly involved in the preparation of the		

	Type of Conflict	Disclosure YES OR NO	If YES provide details of the relationship with Tenderer
	Tender document or specifications of the Contract, and/or the Tender evaluation process of such contract.		
8	Tenderer has a close business or family relationship with a professional staff of the Procuring Entity who would be involved in the implementation or supervision of the such Contract.		
9	Has the conflict stemming from such relationship stated in item 7 and 8 above been resolved in a manner acceptable to the Procuring Entity throughout the tendering process and execution of the Contract.		

Certification

On behalf of the Tenderer, I certify that the information given above is complete, current and accurate as at the date of submission.

Full Name _____

Title or Designation _____

(Signature)

(Date)

b) CERTIFICATE OF INDEPENDENT TENDER DETERMINATION

I, the undersigned, in submitting the accompanying Letter of Tender to the _____
_____ [Name of Procuring Entity] for:
_____ [Name and number of 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, on behalf of _____ [Name of Tenderer] that:

1. I have read and I understand the contents of this Certificate;
2. I understand that the Tender will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am the authorized representative of the Tenderer with authority to sign this Certificate, and to submit the Tender on behalf 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 in response to this request for tenders;
 - b) could potentially submit a tender in response to this request for tenders, based on their qualifications, abilities or experience;
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, any competitor;
 - b) the Tenderer has entered into consultations, communications, agreements or arrangements with one or more competitors regarding this request for tenders, and the Tenderer discloses, in the attached 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, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - a) prices;
 - b) methods, factors or formulas used to calculate prices;
 - c) the intention or decision to submit, or not to submit, a tender; or
 - d) the submission of a tender which does not meet the specifications of the request for Tenders; except as specifically disclosed pursuant to paragraph (5)(b) above;
7. In addition, there has been no consultation, communication, agreement or arrangement with any competitor regarding the quality, quantity, specifications or delivery particulars of the works or services to which this request for tenders relates, except as specifically authorized by the procuring authority or as specifically disclosed pursuant to paragraph (5)(b) above;
8. The terms of the Tender have not been, and will not be, knowingly disclosed by the Tenderer, directly or indirectly, to any competitor, prior to the date and time of the official tender opening, or of the awarding of the Contract, whichever comes first, unless otherwise required by law or as specifically disclosed pursuant to paragraph (5)(b) above.

Name _____
Title _____
Date _____

[Name, title and signature of authorized agent of Tenderer and Date]

(c) **SELF- DECLARATION FORMS**

FORM SD1

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 I am the Company Secretary/ Chief Executive/Managing Director/Principal Officer/Direct or of (*insert name of the Company*) who is a Bidder in respect of **Tender No.** for (*insert tender title/description*) for (*insert name of the Procuring entity*) 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. THAT what is deponed to here in above is true to the best of my knowledge, information and belief.

.....
(Title)

.....
(Signature)

.....
(Date)

Bidder Official Stamp

FORM SD2

SELF DECLARATION THAT THE PERSON/TENDERER WILL NOT ENGAGE IN ANY CORRUPT OR FRAUDULENT PRACTICE.

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

1. THAT I am the Chief Executive/Managing Director/Principal Officer/Director of
(insert name of the Company) who is a Bidder in respect of **Tender No.**..... for
..... (*insert tender title/description*) for (*insert name of the Procuring entity*) and
duly authorized and competent to make this statement.
2. THAT theafore said Bidder, its servants and/oragents/subcontractorswillnotengageinanycorruptorfraudulent
practice and has not been requested to pay any inducement to any member of the Board, Management, Staff
and/or employees and/or agents of (*insert name of the Procuring entity*) which is the
procuring entity.
3. THAT the aforesaid Bidder, its servants and/or agents /subcontractors have not offered any inducement to any
member of the Board, Management, Staff and/or employees and/or agents of (*name of the
procuring entity*).
4. THAT the aforesaid Bidder will not engage /has not engaged in any corrosive practice with other bidders
participating in the subject tender
5. THAT what is deponed to here in above is true to the best of my knowledge information and belief.

.....
(Title)

.....
(Signature)

.....
(Date)

Bidder's Official Stamp

DECLARATION AND COMMITMENT TO THE CODE OF ETHICS

I (person) on behalf of (*Name of the Business/ Company/Firm*)
..... declare that I have read and fully understood the contents of the
Public Procurement & Asset Disposal Act, 2015, Regulations and the Code of Ethics for persons participating in
Public Procurement and Asset Disposal and my responsibilities under the Code.

I do here by commit to abide by the provisions of the Code of Ethics for persons participating in Public Procurement
and Asset Disposal.

Name of Authorized signatory.....

Sign.....

Position.....

Office address..... Telephone.....

E-mail.....

Name of the Firm/Company.....

Date.....

(Company Seal/ Rubber Stamp where applicable)

Witness

Name.....

Sign.....

Date.....

(d) APPENDIX 1 - FRAUD AND CORRUPTION

(Appendix 1 shall not be modified)

1. Purpose

- 1.1 The Government of Kenya's Anti-Corruption and Economic Crime laws and their sanction's policies and procedures, Public Procurement and Asset Disposal Act (*no. 33 of 2015*) and its Regulation, and any other Kenya's Acts or Regulations related to Fraud and Corruption, and similar offences, shall apply with respect to Public Procurement Processes and Contracts that are governed by the laws of Kenya.

2. Requirements

- 21 The Government of Kenya requires that all parties including Procuring Entities, Tenderers, (applicants/proposers), Consultants, Contractors and Suppliers; any Sub-contractors, Sub-consultants, Service providers or Suppliers; any Agents (whether declared or not); and any of their Personnel, involved and engaged in procurement under Kenya's Laws and Regulation, observe the highest standard of ethics during the procurement process, selection and contract execution of all contracts, and refrain from Fraud and Corruption and fully comply with Kenya's laws and Regulations as per paragraphs 1.1 above.

- 22 Kenya's public procurement and asset disposal act (*no. 33 of 2015*) under Section 66 describes rules to be followed and actions to be taken in dealing with Corrupt, Coercive, Obstructive, Collusive or Fraudulent practices, and Conflicts of Interest in procurement including consequences for offences committed. A few of the provisions noted below highlight Kenya's policy of no tolerance for such practices and behavior:

- 1) A person to whom this Act applies shall not be involved in any corrupt, coercive, obstructive, collusive or fraudulent practice; or conflicts of interest in any procurement or as set disposal proceeding;
- 2) A person referred to under subsection (1) who contravenes the provisions of that sub-section commits an offence;
- 3) Without limiting the generality of the subsection (1) and (2), the person shall be: -
 - a) disqualified from entering into a contract for a procurement or asset disposal proceeding; or
 - b) if a contract has already been entered into with the person, the contract shall be voidable;
- 4) The voiding of a contract by the procuring entity under subsection (7) does not limit any legal remedy the procuring entity may have;
- 5) An employee or agent of the procuring entity or a member of the Board or committee of the procuring entity who has a conflict of interest with respect to a procurement: -
 - a) Shall not take part in the procurement proceedings;
 - b) shall not, after a procurement contract has been entered in to, take part in any decision relating to the procurement or contract; and
 - c) shall not be a subcontractor or for the tender to whom was awarded contract, or a member of the group of tenderers to whom the contract was awarded, but the subcontractor appointed shall meet all the requirements of this Act.
- 6) An employee, agent or member described in subsection (1) who refrains from doing anything prohibited under that subsection, but for that subsection, would have been within his or her duties shall disclose the conflict of interest to the procuring entity;
- 7) If a person contravenes subsection (1) with respect to a conflict of interest described in subsection (5)(a) and the contract is awarded to the person or his relative or to another person in whom one of them had a direct or indirect pecuniary interest, the contract shall be terminated and all costs incurred by the public entity shall be made good by the awarding officer. Etc.

3. In compliance with Kenya's laws, regulations and policies mentioned above, the Procuring Entity:

- a) Defines broadly, for the purposes of the above provisions, the terms set forth below as follows:
- i) “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
 - ii) “fraudulent practice” is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
 - iii) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party; “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - iv) “obstructive practice” is:
 - Deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede investigation by Public Procurement Regulatory Authority (PPRA) or any other appropriate authority appointed by Government of Kenya into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
 - acts intended to materially impede the exercise of the PPRA's or the appointed authority's inspection and audit rights provided for under paragraph 2.3 e. below.
- b) Defines more specifically, in accordance with the above procurement Act provisions set forth for fraudulent and collusive practices as follows:
- "fraudulent practice" includes a misrepresentation of fact in order to influence a procurement or disposal process or the exercise of a contract to the detriment of the procuring entity or the tenderer or the contractor, and includes collusive practices amongst tenderers prior to or after tender submission designed to establish tender prices at artificial non-competitive levels and to deprive the procuring entity of the benefits of free and open competition.
- c) Rejects a proposal for award¹ of a contract if PPRA determines that the firm or individual recommended for award, any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/ or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
 - d) Pursuant to the Kenya's above stated Acts and Regulations, may recommend to appropriate authority(ies) for sanctioning and debarment of a firm or individual, as applicable under the Acts and Regulations;
 - e) Requires that a clause be included in Tender documents and Request for Proposal documents requiring (i) Tenderers (applicants/proposers), Consultants, Contractors, and Suppliers, and their Sub-contractors, Sub-consultants, Service providers, Suppliers, Agents personnel, permit the PPRA or any other appropriate authority appointed by Government of Kenya to inspect² all accounts, records and other documents relating to the procurement process, selection and/or contract execution, and to have them audited by auditors appointed by the PPRA or any other appropriate authority appointed by Government of Kenya; and
 - f) Pursuant to Section 62 of the above Act, requires Applicants/Tenderers to submit along with their Applications/Tenders/Proposals a “Self-Declaration Form” as included in the procurement document declaring that they and all parties involved in the procurement process and contract execution have not engaged/will not engage in any corrupt or fraudulent practices.

¹For the avoidance of doubt, a party's in eligibility to be awarded a contract shall include, without limitation, (i) applying for pre-qualification, expressing interest in a consultancy, and tendering, either directly or as a nominated sub-contractor, nominated consultant, nominated manufacturer or supplier, or nominated service provider, in respect of such contract, and (ii) entering into an addendum or amendment introducing a material modification to any existing contract.

²Inspections in this context usually are investigative (i.e., forensic) in nature. They involve fact-finding activities undertaken by the Investigating Authority or persons appointed by the Procuring Entity to address specific matters related to investigations/audits, such as evaluating the veracity of an allegation of possible Fraud and Corruption, through the appropriate mechanisms. Such activity includes but is not limited to: accessing and examining a firm's or individual's financial records and information, and making copies thereof as relevant; accessing and examining any other documents, data and information (whether in hard copy or electronic format) deemed relevant for the investigation/audit, and making copies thereof as relevant; interviewing staff and other relevant individuals; performing physical inspections and site visits; and obtaining third party verification of information.

FORM OF TENDER SECURITY-[Option 1–Demand Bank Guarantee]

Beneficiary: _____

Request for Tenders No:

Date: _____

TENDER GUARANTEE No.: _____

Guarantor: _____

1. We have been informed that _____ (here inafter called "the Applicant") has submitted or will submit to the Beneficiary its Tender (here inafter called" the Tender") for the execution of _____ under Request for Tenders No. _____ ("the ITT").
2. Furthermore, we understand that, according to the Beneficiary's conditions, Tenders must be supported by a Tender guarantee.
3. At the request of the Applicant, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____ (_____) upon receipt by us of the Beneficiary's complying demand, supported by the Beneficiary's statement, whether in the demand itself or a separate signed document accompanying or identifying the demand, stating that either the Applicant:
 - (a) has withdrawn its Tender during the period of Tender validity set forth in the Applicant's Letter of Tender ("the Tender Validity Period"), or any extension thereto provided by the Applicant; or
 - b) having been notified of the acceptance of its Tender by the Beneficiary during the Tender Validity Period or any extension there to provided by the Applicant, (i) has failed to execute the contract agreement, or (ii) has failed to furnish the Performance.
4. This guarantee will expire: (a) if the Applicant is the successful Tenderer, upon our receipt of copies of the contract agreement signed by the Applicant and the Performance Security and, or (b) if the Applicant is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of the Beneficiary's notification to the Applicant of the results of the Tendering process; or (ii) thirty days after the end of the Tender Validity Period.
5. Consequently, any demand for payment under this guarantee must be received by us at the office indicated above on or before that date.

[signature(s)]

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

FORMAT OF TENDER SECURITY [Option 2–Insurance Guarantee]

TENDER GUARANTEE No.: _____

1. Whereas [Name of the tenderer] (hereinafter called “the tenderer”) has submitted its tender dated [Date of submission of tender] for the [Name and/or description of the tender] (hereinafter called “the Tender”) for the execution of _____ under Request for Tenders No. _____ (“the ITT”).
2. KNOW ALL PEOPLE by these presents that WE of [Name of Insurance Company] having our registered office at (hereinafter called “the Guarantor”), are bound unto [Name of Procuring Entity] (hereinafter called “the Procuring Entity”) in the sum of (Currency and guarantee amount) for which payment well and truly to be made to the said Procuring Entity, the Guarantor binds itself, its successors and assigns, jointly and severally, firmly by these presents.

Sealed with the Common Seal of the said Guarantor this ____ day of _____ 20 ____.

3. NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Applicant:
 - a) has withdrawn its Tender during the period of Tender validity set forth in the Principal's Letter of Tender (“the Tender Validity Period”), or any extension thereto provided by the Principal; or
 - b) having been notified of the acceptance of its Tender by the Procuring Entity during the Tender Validity Period or any extension thereto provided by the Principal; (i) failed to execute the Contract agreement; or (ii) has failed to furnish the Performance Security, in accordance with the Instructions to tenderers (“ITT”) of the Procuring Entity's Tendering document.

then the guarantee undertakes to immediately pay to the Procuring Entity up to the above amount upon receipt of the Procuring Entity's first written demand, without the Procuring Entity having to substantiate its demand, provided that in its demand the Procuring Entity shall state that the demand arises from the occurrence of any of the above events, specifying which event(s) has occurred.

4. This guarantee will expire: (a) if the Applicant is the successful Tenderer, upon our receipt of copies of the contract agreement signed by the Applicant and the Performance Security and, or (b) if the Applicant is not the successful Tenderer, upon the earlier of (i) our receipt of a copy of the Beneficiary's notification to the Applicant of the results of the Tendering process; or (ii) twenty-eight days after the end of the Tender Validity Period.
5. Consequently, any demand for payment under this guarantee must be received by us at the office indicated above on or before that date.

[Date]

[Witness]

[Signature of the Guarantor]

[Seal]

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

FORM OF TENDER - SECURING DECLARATION

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

Date: *[insert date (as day, month and year) of Tender Submission]*

Tender No.: *[insert number of tendering process]*

To: *[insert complete name of Purchaser]* I/We, the undersigned, declare that:

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

Signed: Capacity/title (director or partner or sole proprietor, etc.)

Name: Duly authorized to sign the bid for and on behalf of: *[insert complete name of Tenderer]*

Dated on day of, *[Insert date of signing]* Seal or stamp

Appendix to Tender

Schedule of Currency requirements

Summary of currencies of the Tender for _____ *[insert name of Section of the Works]*

<i>Name of currency</i>	<i>Amounts payable</i>
Local currency: _____	
Foreign currency #1: _____	
Foreign currency #2: _____	
Foreign currency #3: _____	
Provisional sums expressed in local currency _____	<i>[To be entered by the Procuring Entity]</i>


PART II - WORKS REQUIREMENTS


SECTION V - BILLS OF QUANTITIES


THIWASCO

Bill of Quantities

Bidco to Engen Direct Supply Line

 BIDCO TO ENGEN DIRECT SUPPLY LINE					Bill No. 3a
ITEM No.	DESCRIPTION	UNIT	QUANTITY	RATE	AMOUNT (KES)
	METHOD OF MEASUREMENT TYPE B BY NUMBER:				
	Fittings				
3a.16	11, 25°, 22, 5°, 45°, 90° Long radius Plain Ended bends Bend n.b: n.e. 100 mm trenches depth n.e. 1 m.	nr	10		
	Junctions and Branches				
3a.17	Tee n.b: exc. 100 but not exc 200 mm trenches depth: 1 - 1.5 m.	nr	3		
	Adaptors & Couplings				
3a.18	Pipe n.b: exc. 100 but not exc 200 mm trenches depth: 1 - 1.5 m.	nr	18		
	Air valves				
3a.19	Pipe n.b: n.exc. 100 mm Not in trenches/ In chambers	nr	3		
	Meters				
3a.20	Pipe n.b: exc. 100 but not exc 200 mm Not in trenches/ In chambers	nr	1		
	PIPEWORK - MANHOLE & PIPEWORK ANCILLARIES				
	MANHOLES AND OTHER CHAMBERS				
	In-situ concrete Valve & Meter chamber				
3a.21	Pipe n.b: exc. 100 but not exc. 200 mm depth 1.5 - 2m.	nr	3		
	Precast concrete Air Valve chamber				
3a.22	Pipe n.b: exc. 100 but not exc. 200 mm depth 1.5 - 2m.	nr	3		
	CONCRETE MANHOLE COVERS				
	Precast concrete cover				
3a.23	Area: 0.5 - 1 m ² as per General Drawing	nr	6		
	CROSSINGS				
	Drain Crossings (Under Crossings).				
3a.24	Pipe n.b. n.e. 200 mm. Drain width 3 - 10 m	nr	1		
	Road Crossings (Macro Tunneling).				
3a.25	Pipe n.b. n.e. 200 mm. Road width 10 - 15 m	nr	2		
	Railway Crossings (Micro Tunneling).				
3a.26	Pipe n.b. n.e. 200 mm. Road width 10 - 15 m	nr	1		
	REINSTATEMENT				
3a.27	Temporary breaking up and permanent reinstatement of surfaced roads & footpaths, pipe n.b n.exc. 250 mm.	m	100		
	OTHER PIPEWORK ANCILLARIES				
3a.28	Marker Posts for valves	nr	2		
3a.29	Marker Posts for Air Valves	nr	3		
3a.30	Marker Posts for Pipelines	nr	85		
	CONCRETE STOOLS AND THRUST BLOCKS CONCRETE CLASS 25				
	To bends. Volume: 0.5 - 2 m³, nom.				
3a.31	Pipe n.b. 100 - 200 mm	nr	10		
	To junctions/tees. Volume: 0.5 - 2 m³, nom.				
3a.32	Pipe n.b. 100 - 200 mm	nr	3		
PAGE TOTAL CARRIED FORWARD TO SECTION COLLECTION SHEET					-


	BIDCO TO ENGEN DIRECT SUPPLY LINE				Bill No. 3a
ITEM No.	DESCRIPTION	UNIT	QUANTITY	RATE	AMOUNT (KES)
3a.33	MISCELLANEOUS The contractor is to describe hereunder and price any other works which he consider necessary and have been omitted from the Bill of Quantities, and for which he desires to enter a separate charge. If no separate charge is entered here-under, then the contract price in the Bill of Quantities include all expenses and obligations for supply, carryout tie in works, install, test and commission these works.				
	PAGE TOTAL CARRIED FORWARD TO SECTION COLLECTION SHEET				


	BIDCO TO ENGEN DIRECT SUPPLY LINE				Bill No. 3a
ITEM No.	DESCRIPTION	UNIT	QUANTITY	RATE	AMOUNT (KES)
<div>COLLECTION SHEET</div> <div>PAGE NO.</div> <div>1</div> <div>2</div> <div>3</div> <div>TOTAL CARRIED TO GRAND SUMMARY</div>					




GRAND SUMMARY


[illegible]


	PRELIMINARY AND GENERAL WORKS				1
ITEM No.	DESCRIPTION	UNIT	QUANTITY	RATE KES	AMOUNT KES
A	GENERAL ITEMS				
1-A1	PRELIMINARY REQUIREMENTS				
1-A122	Performance Security	Sum	1		
1-A132	Insurance of Works	Sum	1		
1-A151	Third Party Insurance	Sum	1		
1-A161	Insurance of Workmen	Sum	1		
1-A171	Establishment and maintenance of Contractors Camp, incl. Training Levy.	Sum	1		
1-A2	GENERAL REQUIREMENTS				
	<u>Signboards</u>				
1-A234.3	Provide project signboard as detailed in the drawings	nr	2		
1-A24	Equipment for use by the Engineer's staff				
1-A25	Attendance upon the Engineer's staff				
1-A252.1	Chainmen Provide (4 No.)	mth	6		
1-A26	Testing of Materials				
	<u>By Third Party Inspection (natural materials)</u>				
1-A262.2	Sand	nr	5		
1-A262.4	Aggregate	nr	5		
1-A262.6	Stone fill	nr	5		
	<u>By Third Party Inspection (man-made other than pipes)</u>				
1-A264.2	Concrete cubes	nr	5		
1-A264.3	Steel Reinforcement	nr	1		
	<u>By Third Party Inspection (man-made pipes)</u>				
1-A266.5	Steel Pipes & Fittings DN 50 - 200 mm	nr	1		
1-A266.6	HDPE Pipes & Fittings DN 63 - 315 mm	nr	1		
1-A267	<u>Testing of Works</u>				
	Test Run of Works 2 weeks prior & 2 weeks after substantial completion	Sum	1		
1-A282	Traffic regulation	Sum	1		
1-A28	Temporary Works				
1-A282	Traffic regulation	Sum	1		
1-A287	De-watering	Sum	1		
1-A289	Other				
1-A289.1	All temporary works associated with the establishment and removal of equipment	Sum	1		

	PRELIMINARY AND GENERAL WORKS				1
ITEM No.	DESCRIPTION	UNIT	QUANTITY	RATE KES	AMOUNT KES
1-A5	PRIME COST ITEMS				
1-A511	Location of existing services & payments to utility companies for relocation of buried or overhead services	Sum	1		
1-A52	Percentage adjustment to Item 1A511	%			
1-A535	Compensation fees for Road crossings	Sum	1		
1-A538	Provide "As Built drawings" in AutoCAD and 5nr A3 hard copies and Operation and maintenance manuals for all plant, and equipment installed or constructed and rehabilitated. Include general layouts, pipeline profiles, chamber plans, sections & reinforcement detailing	Sum	1		
1-A57	Percentage adjustment to Items 1A531 to 1A538	%			
TOTAL CARRIED FORWARD TO BILL COLLECTION SHEET					

[illegible]

	DAYWORKS				2
ITEM No.	DESCRIPTION	UNIT	QUANTITY	RATE KES	AMOUNT KES
A	LABOUR				
A.1	Unskilled Labour	hr	100		
A.2	Working Gangers	hr	100		
A.3	Artisans	hr	100		
A.4	Technicians	hr	100		
TOTAL CARRIED FORWARD TO BILL COLLECTION SHEET					-
B	MATERIALS				
B.1	Building sand	m ³	100		
B.2	Aggregates	m ³	100		
B.3	Ordinary Portland Cement in 50 Kg. bags	Nos	50		
B.4	Steel Reinforcement	ton	1		
B.5	Grade 25/20 concrete	m ³	25		
B.6	Grade 15/20 concrete	m ³	25		
TOTAL CARRIED FORWARD TO BILL COLLECTION SHEET					-
C	PLANT				
C.1	Vibrating steel drum roller 3 Ton	hr	25		
C.2	Pedestrian roller	hr	25		
C.3	Plate compactor	hr	25		
C.4	Poker vibrator 12 to 25 mm dia	hr	50		
C.5	Pipe testing equipment	hr	50		
C.6	Hydraulic Excavator 125 HP 0.5 m ³ bucket	hr	50		
C.7	Concrete Mixer 1 m ³	hr	50		
C.8	Mobile Electricity Generator Set 20 KVA	hr	50		
C.9	Electric Arc welding & cutting equipment (concrete/steel)	hr	50		
C.10	Bar bending machine, hand operated	hr	50		
TOTAL CARRIED FORWARD TO BILL COLLECTION SHEET					-

	DAYWORKS				2
ITEM No.	DESCRIPTION	UNIT	QUANTITY	RATE KES	AMOUNT KES
<div style="border: 1px solid black; border-radius: 10px; padding: 10px; display: inline-block; background-color: #4f81bd; color: white; margin: 10px auto; width: 60%;">COLLECTION SHEET</div>					
PAGE NO.					
	1				-
	2				-
	3				-
TOTAL CARRIED TO SUMMARY SHEET					-

	BIDCO TO ENGEN DIRECT SUPPLY LINE				Bill No. 3a
ITEM No.	DESCRIPTION	UNIT	QUANTITY	RATE	AMOUNT (KES)
	Allow for Payments demanded by the Authorities permits and Road crossings, etc., including any statutory levies to relevant Authorities.	Sum	1		
3a.1	CLEARANCE OF PIPELINE WAYLEAVES, DISPOSAL AS DIRECTED Pipeline and access track Nominal bore: 100 - 300 mm,	m	1,700		
3a.2	PIPEWORK - PIPES, SEWERS & FITTINGS - SUPPLY PIPES AND SEWERS Supply of HDPE pipes <u>Plain ended electrofusion joints, standard pipe lengths</u> OD 225, Nominal Diameter 200, PN 10.	m	1,700		
3a.3	FITTINGS TO BUTT FUSED HDPE PIPES Bends Plain Ended, butt welded joints <u>11.25°, 22.5°, 45°, and 90° Long radius bends</u> OD 225, Nominal Diameter 200, PN 10.	nr	10		
3a.4	<u>Tees, branch down 6 dia.</u> DN 200/100, PN 10.	nr	4		
3a.4a	DN 400/200, PN 10.	nr	3		
3a.5	<u>Tapers double flanged.</u> <u>Concentric, down 1 dia.</u> DN 400/200, PN 10.	nr	3		
3a.6	FITTINGS IN STEEL TO HDPE PIPES <u>Flexible, Stepped coupling, in steel to HDPE</u> DN 200, PN 10.	nr	12		
3a.7	Adaptors, detachable collars couplings and saddles <u>Flange adaptor, flexible</u> DN 200, PN 10.	nr	6		
3a.8	VALVES, PENSTOCKS, HYDRANTS & METERS <u>Gate valves to SSRN 226</u> DN 50, PN 10.	nr	3		
3a.9	<u>Sluice valves to SSRN 226</u> DN 200, PN 10.	nr	2		
3a.11	<u>Tripple function Anti-Surge Air Valves, flanged.</u> DN 50, PN 10.	nr	3		
3a.12	<u>Water meters, electromagnetic.</u> DN 200, PN 10.	nr	1		
3a.13	PIPEWORK - PIPES, SEWERS & FITTINGS - INSTALL HDPE Pipes Pipe n.b: exc. 100 but not exc 200 mm trenches depth: 1 - 1.5 m.	m	1,700		
3a.14	TESTING <u>Test pressure exc. 12 bar but not exc. 25 bar.</u> Pipe n.b: exc. 100 but not exc 200 mm	m	1,700		
3a.15	STERILISATION AND FLUSHING Pipe n.b.: 100 - 200 mm.	m	1,700		
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SECTION VI - SPECIFICATIONS

SPECIFICATIONS - CHAPTER 1

PIPEWORK

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CHAPTER 5 – PIPEWORK**PART I – ALL PIPES, VALVES & FITTINGS DURING DESIGN, MANUFACTURE, WORKS TESTING AND SUPPLY****501 PREFACE**

This specification applies in particular to water supply pipework. Pipes, valves and fittings shall comply with the relevant Standard Specifications as stated hereinafter.

The pipe materials and installation methods specified are aimed at balancing capital investment cost, the operation and maintenance cost, the social implications and the environmental health implications in the supply and installation of water pipelines.

The specifications have been prepared with the intention of ensuring that adherence to the specifications meet the following criteria:

- *Unless specifically prohibited, or constrained by socio-environmental consequences as hereinafter indicated, manufacturers and contractors are free to bid for any of the four pipe material against all pipeline diameters and the market price at the time of bidding shall be allowed to determine what material is used;*
- *The specifications should be performance based with guidance given to design requirements, acceptable grade, trenching conditions, etc. for each material likely to be bid;*
- *There should be one general approach to specifying pipeline materials and this should only be varied for specific design situations such as a major transmission main, unusually high working pressures, etc.;*
- *Specifications should not unduly prejudice local manufacturers but neither should they ignore international best practice in regards to the standards of design and construction*
- *Unless specifically indicated or allowed otherwise, e.g. hot dipped zinc (galvanised) steel pipes of diameter less than DN 80, the minimum design working life shall be 40 years and pipe manufacturers shall provide a written guarantee to this effect which shall nevertheless be conditional upon the installation requirements of this specification being complied with.*

As far as it has been possible, these specifications balance the rigorous requirements across the board for all pipe materials in conformance to their international standard and best practice. This also takes account of the issue of equivalent pressure rating for High Density Polyethylene pipes to meet both hydraulic and area specific conditions such as temperature, loading, impact fatigue and the like and the issue of durable and long lasting coating and lining for ferrous pipes. In case of any doubts, respective international standards shall apply, strengthened where indicated by National Standards.

The specifications on pipe materials presented in this section shall therefore have precedence over other clauses that discuss the same issues elsewhere in this Specification Volume. The preferred standard specification is clearly indicated in every case. However, possible alternatives known to be available in certified English translation are acceptable. For these Standard Specification Reference Numbers, (SSRN), please refer to chapter 11. Whilst every effort has been made to quote the latest available version of the Standard Specifications mentioned herein as at the date of this edition (January 2013), due to continuous research and development on enhancing asset useful life, these standards are frequently being updated, revised or replaced, and in all cases, the editions current at the time of bidding shall be applicable.

Design, whether it be prior to bidding or for variations or additions during construction shall meet the requirements of the design standards as indicated herein.

The recommendations contained in SSRN 651 with regards to pipework and its installation shall be followed, in so far as they are relevant to the prevailing soil and climatic conditions.

502 GENERAL

In general the recommendations contained in SSRN 679 with regards to pipe design), and SSRN 269, SSRN 219 and SSRN 253, or their equal (with regards to general pipe work and its installation) shall be followed in so far as they are relevant to the prevailing conditions. For design recommendations not covered by SSRN 679, reference should be made to SSRN 24 and SSRN 201 for steel pipes; and SSRN 307 for HDPE (PE100) pipes. Other related standards listed in Chapter 11 of these specifications are also relevant and pipe materials and their installation shall conform to them as well. At all times latest editions and updated standards and procedures for design and installation shall be used and adopted. This will ensure that the employer benefits from superior materials with enhanced useful life. In the same context the Contractor may provide, with the approval of the Engineer, superior materials using other standards not listed here provided they can demonstrate this to be the case through tests, examples and guarantee certifications.

Except where otherwise specifically indicated, all ferrous pipes of DN 80 and above shall be barrier coated.

The Contractor shall be wary of the worst case scenarios making their pipes unsuitable and these can be caused by such things as unsuitable soils, shallow depths, bedding types and extraordinary traffic loads among other things and the Contractor shall inform the Engineer when they occur. Such incidences shall be remedied by using a higher class of pipe (wall thickness and/or yield stress) and / or bedding as shall be directed.

As a general guidance, the pipes proposed for the Contract shall conform to the following international and national standards unless a superior quality is demonstrated.

Standards for Pipes and Pipelines

Pipeline general	SSRN 267 – Structural Design of Buried Pipelines, saving that where the Specification is silent on any pertinent matter, then the alternative relevant part of the SSRN indicated shall be complied with SSRN 268 British Standard Code of Practice for Pipelines SSRN 268 Pipeline on land: Design, construction and installation
Steel pipes & fittings	Pipes SSRN 213 Standard steel grades, SSRN 228 (c) (higher grades may be specified or allowed only with the written authorisation of the Engineer. Wall thickness SSRN 228 (c) as a minimum, unless otherwise indicated or specifically authorised following a design certified by the manufacturer Flanges SSRN 207 (a) Coating and Lining SSRN 271 for Type III soils (unless detailed field tests have proven Type I and II soils to be exclusively present).
HDPE pipes & fittings	SSRN 307 Fittings shall in general be steel or ductile iron whilst electro-fusion jointed bends and tees shall be allowed providing these are not formed by bending straight pipe below the minimum radius specified.

These and other specific standard specifications are listed in Chapter 10 – SSRN

Design Criteria for All Pipelines

Ductile iron pipes are classified as semi-rigid pipes whilst steel and High Density Polyethylene pipes are classified as flexible and any design must take the different requirements between the two into account.

Materials data for all pipes is required to enable structural design to proceed. Common to all is the internal diameter, excluding lining (if any) and where applicable including lining as well as the wall thickness being considered. All flexible pipes also require the stiffness, $[S=E \times I/D^3]$ to be taken into account.

In all cases, hydraulic design shall be based on the actual internal diameter and NOT the Nominal Diameter (DN) as well as the appropriate roughness (k) in mm.

Except where otherwise indicated, pipes have been designed to allow for the conditions listed in the Table below (these shall be changed to suit the actual situation). Where in the opinion of the Engineer, actual site conditions result in loads and stresses greater than allowed for, the Engineer may require the pipe design to be modified to account for such changes in design assumptions. Unless authorised otherwise in writing by the Engineer, these criteria shall also be used for any design undertaken during the construction stage.

Criteria	Units	Value	Specific Design Necessary
Minimum Pipe Cover HDPE pipes Ferrous Pipes Transmission Mains (all)	mm mm mm	900 600 900	May be increased for road crossings
Minimum Trench Width DN < 125 DN 125 to < 300 DN 300 to < 600 Diameter > 600	mm mm mm mm	600	General minimum trench widths OD + 450 OD + 600 OD + 900 OD + 1200
Soil Type Expected Native Soil Modulus E' ₃	MPa	2.5	Clayey silty sand, loose condition

Cont'd

Criteria	Units	Value	Specific Design Necessary
Trench Type for Pipe Material HDPE Thermoplastic Steel cement mortar lined Steel other linings Ductile Iron	Class Class Class Class	S1/S2 S3/S4 S3/S4 S3/S4	With Project Engineer's approval or direction S2 S3 S4 S3
Minimum Surround Compaction	% MPD	90	MPD
Operating Temperature Secondary and Tertiary Primary Transmission	°C °C °C		27 29 29
Operating Pressures Secondary & Tertiary Distribution Primary Distribution Transmission Mains	Bars Bars Bars	7 7 10, 12, 16 or 25	So as to suit operating pressure
Traffic Loading Vehicle Axle Load Vehicle Overload Risk Factor Vehicle Impact Factor	kPa %	73 25 1.5	May be increased for field & major road conditions and designs adjusted at the Engineer's discretion.

Partial Vacuum in Pipes		No	No
Secondary & Tertiary		Yes	Yes
Primary Distribution		Yes	Yes
Transmission Mains		Yes	Yes

Specific design (supported by properly documented calculations) and Engineer's written approval will be required for the following situations: -

- HDPE Thermoplastic pipes with nominal diameter greater than 250 mm for which, apart from soil and surcharge loads, loads due to partial vacuum and cyclic fatigue shall be taken into account.
- Road crossings for which, apart from soil and surcharge loads, loads due to cyclic fatigue shall be taken into account.
- Transmission mains for which specific conditions may apply.

HDPE Thermoplastic pipes less than OD 110 may be affected if the native soil modulus is less than the MPa value indicated above and the Engineer may require the pipe grade to be increased. Trench widths for pipes greater than DN 300 may be varied with the approval of the Engineer to suit actual site conditions and approved working methods provided that the Contractor has proven that the minimum compaction specified is being continually bettered.

For ferrous pipes of diameter less than DN 80 and where a non-barrier, (that is a metallic type coating) such as zinc has been specified or approved as part of the protection system, additional on-site protection as indicated herein for buried screwed joints and joints incorporating bolts must be strictly complied with and no exceptions whatsoever will be allowed.

503 CERTIFICATE AND SAMPLES FROM PIPE MANUFACTURERS

Where specifically required by the Bidding Document, samples shall have been provided by the Contractor at the time of Bidding and these, if accepted, shall be used for the purpose of comparison with all components of a similar nature delivered subsequently. Any subsequent goods supplied that do not meet the standards of the sample shall be liable to rejection with all consequences to the cost of the Contractor.

The Contractor shall within 42 days of award, supply to the Engineer a signed certificate from the pipe manufacturer(s) stating that the pipes and fittings comply in all respects with the provisions of these Specification and the indicated National or International Standards, and that the material(s) from which they are to be manufactured conform to the required standards for all raw materials, processes, quality control, manufacturing, while for fully manufactured products this includes where appropriate, the handling to shipment. The pipe and fittings manufacturer's key personnel shall have at least three (3) years relevant manufacturing experience especially in regards to plant management, quality control / quality assurance, application of the coating and lining systems offered in the bid, and selection / batching / mixing of raw materials, and in the case of HDPE thermoplastic pipes, the manufacturer (or licensor in the case of local manufacture under license) shall certify that the requirements of SSRN 319 have been complied with. The Contractor shall have submitted reasonable documentary evidence with its bid to support statements made in the bid documents in this regard. The manufacturer shall also state that they have the ability to carry out the necessary tests during the manufacturing process and tests on the finished products as required by the respective standards.

If the manufacturer of any pipe, valve or fitting supplied under this Contract has a Quality Assurance (QA) System complying with ISO 9000/9001/9002, he shall submit a notarised copy of a fully independent 3rd Party certification to that effect together with sufficient information from his Quality Assurance Plan (in English) to enable the Engineer and the Employer to understand the levels of performance he has undertaken to honour. Where a manufacturer is not ISO QA certified, then a full copy of his Quality Assurance Plan (in English), shall be submitted.

The Contractor shall furnish the Engineer with a manufacturer's certificate in respect of every consignment of the pipeline materials, confirming that all the items of the consignment comply in all respects with the requirement of the specified standards and of this specification. The original and one copy of such manufacturer's certificate shall be delivered to the Engineer prior to shipment in the case of imported pipes and prior to despatch from the factory in the case of local manufacture.

504 INSPECTION AND TESTING DURING MANUFACTURE, SUPERVISION BY ENGINEER'S AND EMPLOYER'S REPRESENTATIVES

In addition to Clause 503 during manufacture and before despatch of pipes and fittings from the place of manufacture the Contractor shall allow for inspection by the Engineer or his representative and the Employer of all the manufacturing processes and tests on raw materials and finished products. The inspection may include attendance at all pressure and material tests, execution of dimensional checks and inspection of the workmanship and standard of manufacture with scrutiny of evidence of the materials used in the fabrication of the Pipeline Materials.

The Engineer and the Employer's representative shall be allowed full access to all areas at the place of manufacture or elsewhere where testing, furnishing or preparation of materials for the performance and testing of work under this Specification is taking place.

The Contractor shall furnish the Engineer with reasonable facilities and space (without charge) for the inspection, testing and obtaining of such information as he desires respecting the character of material in use and the progress and manner of the work.

The Contractor shall arrange for such testing at his cost as may be required to be carried out at the place of manufacture according to this Specification. If there are no facilities at the place of manufacture for making the prescribed tests the Contractor shall bear the cost of carrying out the tests elsewhere or avail an acceptable third party institution to carry out such tests.

The Contractor shall supply test certificates and shall furnish and prepare the necessary test pieces and samples and shall supply and provide all test rigs, equipment appliances, labour and any other facility required for inspection and testing.

During the duration of the Contract, the Contractor shall propose a schedule and meet all costs for two inspection visits to the yard of each manufacturer by a total of three representatives of the Employer and the Engineer during the manufacturing and pre-shipment stages.

505 THIRD PARTY INSPECTION DURING MANUFACTURE OF FIRMS WITH OR WITHOUT ISO QUALITY ASSURANCE ACCREDITATION

As quality assurance is considered to be of the utmost importance to ensure the required asset lives, all manufacturers of pipes and fittings shall have facilities that conform to international standards and also carry out tests related to manufacturing process, finished products and handling to shipment.

Where Third Party inspection is specified or in the Engineer or Employer's view becomes necessary, this shall be provided by an independent, non-governmental body acceptable to the Employer. Failure of a manufacturer to avail this in its home country shall require that the manufacturer provide the necessary samples as required by the Engineer for such Third Party inspection in a country where this can be carried out and at its own cost.

In the event, during inspections and tests carried out in the presence of the Employer and Engineer's representatives as stated in Clause 504 if any inadequacies in the manufacturing process are shown resulting in non-conformance in finished products to a level considered unacceptable to the Employer, solely at his own discretion, the Employer will deploy his agent or third party inspector to carry out independent third party inspection. Where such inspections or tests show that there is conformance, the costs shall then be borne by the Employer, but otherwise by the Contractor. In the event of non-conformance, the supply

and incorporation of materials from such a source shall be stopped immediately until further notice and the Contractor shall instead provide materials from another approved source. The Contractor shall be required to replace at his cost all the rejected non-conforming materials including the cost of this inspection in the event such third party inspection reveal non-conformance in manufacturing and quality standards. The inspectors from the independent inspectorate shall be provided with full access to carry out third party inspection including the use of the in-house testing processes, failing which all manufacturing at the specific manufacturers premises will be rejected forthwith and all costs of whatsoever a nature, both direct and indirect shall be borne by the contractor.

Contractors are advised to take out the necessary insurances to cover such a possible eventuality, or to have covered these risks in the contract with their manufacturer(s).

506 ACCEPTANCE OF PIPES, VALVES AND FITTINGS

Only pipes, valves and fittings that are manufactured using acceptable materials, tested and delivered by firms which had been proven at the time of tender to be listed under the ISO standards hereinabove provided for, or alternatively, pipes, valves and fittings, which have been certified as acceptable subsequent to Third Party Inspection as herein provided for, shall be accepted as conforming to the Contract. Any other pipes, valves and fittings, shall be liable for rejection at the Contractor's risk, cost and responsibility.

Compliance with the provision of this Clause shall be separate and additional to the Contractor's compliance with the requirements of local customs authorities for pre- or post-shipment inspection of imports into the country. The costs for such inspection shall also be fully borne by the Contractor.

507 MANUFACTURER'S WARRANTY AND MANUALS

The Manufacturer shall specify the warranty period for the various supply items.

Valves and meters shall be guaranteed against faulty design, materials and workmanship for a period of at least 2 years from the date of acceptance subject to their being used only under normal conditions of flow, pressure and temperature specified in this tender for the type and size of meters and also as recommended by the manufacturer. In the event of failure within the guaranteed period, replacement component parts shall be supplied free of charge, including specialised fitment, or the item shall be replaced free of charge.

The Supplier shall state the manufacturer's warranty for replacement of meters due to poor material or bad workmanship or failure to meet the accuracy levels as specified for the class of meter specified.

The Manufacturer shall at his own expenses replace or adjust all meters and valves rejected which can be shown to fail to comply with the specifications or with technical characteristics claimed by the manufacturer.

The Supplier being the Manufacturer's agent shall be held responsible to initiate the necessary claims with the Manufacturer for any meters and valves found defective by the Employer.

Three complete sets of maintenance manuals, spare parts lists, drawings wall charts etc. (in English) required in carrying out tests are to be provided with the valves and meters.

PART II – HDPE PIPES DURING MANUFACTURE, SUPPLY, INSTALLATION, COMMISSIONING & TESTING

508 MATERIALS & STANDARDS, HIGH DENSITY POLYETHYLENE PIPES AND FITTINGS

HDPE (PE100 and PE100 layer) pipes and fittings shall meet the requirements of SSRN 307 and SSRN 317 All manufacturing materials used shall be in conformance with SSRN 320.

HDPE pipes shall be transported, laid, jointed and backfilled in accordance with the manufacturers written instructions except where this specification is more rigorous in which case this shall be followed.

At all time, latest and updated confirmed standards and procedures for design and installation shall be used and adopted. This will help ensure that the Employer benefits from superior materials with enhanced useful life. In the same context the Contractor may provide with the approval of the Engineer superior materials using other standards not listed here provided they can demonstrate so through tests and guarantee certifications.

The polyethylene used shall be of a high molecular type with average to high density. For the manufacture of the pipes, not less than Third Generation polyethylene, known as PE 100 shall be used. Second Generation polyethylene (PE 80) shall not be offered. The polyethylene shall be stabilised against the effects of ultraviolet radiation by the addition of carbon black.

The Contractor shall provide pipeline materials to the pressure classes and SDR ratios referred to on the Drawings and in the Bills of Quantities. Unless otherwise indicated on Tender Drawings or in the Bills of Quantities, the pressure ratings shall not be lower than PN 10.

In all cases minimum cover shall be 900 mm and the bedding shall be restricted to S1 or S2 if specified by the Engineer. Where S2 material is permitted, it may comprise or include screened 'as-dug' materials that meet this requirement.

Where specific design is carried out, the pressure rating shall be calculated taking into consideration: the operating and test pressures, surges if applicable, external pressures, HDPE pipe strength characteristics, temperature, soil condition, trench width and depth, appropriate traffic loads and impact fatigue.

Maximum Allowable Deflection of HDPE (PE100) Thermoplastic Pipes

PE pipes with electrofusion joints	5%
PE pipes with mechanical joints	2%

Minimum pressure ratings and cover for HDPE pipes shall be as follows:

Nom. Diameter (mm)	Pipe thickness and SDR to suit following minimum Pressure Rating (bars)	Minimum Cover (m)	Pipe Bedding
0–125	10	0.9	S1, S2 if approved by the Engineer
150 – 275	12.5	0.9	
> 300	To suit specific design calculations, agreed design criteria, using SSRN 267 design code of practice, and with the approval of the Engineer		
Transmission Mains And off-takes			
All pumping mains			

For diameters up to and including 110 mm, PE pipes can be supplied in coils of up to 100 m long. For coils of diameters greater than 63 mm each layer shall be bound separately to facilitate safe unwinding. For diameters from 125 mm upwards they shall be supplied in lengths not exceeding 12 m. Installation – including fusion jointing work on HDPE pipelines

– must be directed and supervised by suitably qualified and experienced persons and the Contractor shall have demonstrated his ability to provide this in his Tender, if necessary from his intended manufacturer.

a) Inspection and Testing during Production

The manufacturer shall be carrying out the necessary inspections and tests during production in accordance to the relevant standards and such tests shall include all tests relevant for HDPE pipes and fittings as required by SSRN 306(f). Steel fittings shall meet the requirements of SSRN 213, SSRN 228 and SSRN 229.

The number of pipes to be tested and the testing frequency shall be in accordance with SSRN 319.

b) Electro-fusion Fittings

All HDPE fittings shall be injection moulded from recognised top quality PE 100 resin and will conform to SSRN 307. Where jointing or connection is not done by electro-fusion, joints shall be of the compression type, or alternatively ferrous fittings connected by flange assemblies shall be used. Jointing with adhesives, cement glue or threaded joints is not acceptable.

Fittings shall be suitable to be used in conjunction with pressure pipes from polyethylene manufactured to the appropriate international standards, and all fittings must be packed in such a way as to allow their use on site without additional cleaning.

The heating coils contained in each individual fitting and saddle should be so designed that only one complete process cycle is necessary to fully electro-fuse the fitting to the adjoining pipe or pipeline component as applicable. No heating element may be exposed and all coils are to be fully imbedded into the body of the fitting for protection purposes.

The pipe fixation device shall be an integral part of the body for all fittings in the sizes up to and including nominal diameter 63 mm and on saddles up to 250mm.

An individual data carrier card in compliance with SSRN 321 and SSRN 322 containing a magnetic strip and an appropriate barcode or codes as well as manual setting information for data transfer purposes must be supplied with each fitting.

All fittings must have moulded-in identification and appropriate product information. Fittings without such identification will be rejected.

Process voltage of all fittings must not exceed a maximum of 39.5 volts.

Insulated contact heads for the terminal pins are to be provided, and terminal pin size shall be 4 mm in diameter.

A limited path style fusion indicator acting for each fusion zone as visual recognition of completed fusion cycle should be incorporated into the body of the fitting or saddle near or adjacent to the terminal.

The design of the fusion indicators must prevent the escape of fusion melt.

All couplers in the sizes up to and including nominal diameter 160 mm must have an easily removable centre stop not requiring tools for removal.

All internal or externally threaded transition adaptors in the nominal sizes up to and including 63 mm diameter must be designed with an integrated polyethylene collar from PE 100 for jointing purposes not relying on rubber or synthetic seals for leak prevention.

Threaded adapter bodies may be from brass or stainless steel and should be of the modular principle, not being supplied moulded into an electrofusion fitting socket.

c) Product training and Technical Information

The manufacturer or the material supplier shall provide a specialised theoretical and active practical product training given by qualified instructors to enable installers of the above mentioned products to be able to understand and use the products correctly and efficiently under site conditions. The courses are to be held on the purchaser's own premises upon demand.

The manufacturer is to provide accurate and easy-to-understand assembly instructions in English which can be used at any subsequent time for reference purposes.

d) Manufacturing, Testing, Handling, Transport and Storage

The quality control procedure in manufacturing, transporting, handling and storage of HDPE pipes and fittings shall be in accordance Clause 529 (a) to (o) where appropriate and in conformance to their respective standards if not covered in this section.

e) In-country Storage, Handling and Transportation of HDPE Pipes

- (i) Before transporting HDPE pressure pipes, the loading surface of the vehicle must be cleaned and free from projecting nails, screws or other sharp objects. The bottom layer of all pipes must as far as possible be in contact with the loading surface throughout their entire length and not project beyond it. The pipes must be secured from slipping and shall not be pulled over sharp edges when loading and offloading. Pipes shall not be dragged along the ground.
- (ii) Pipes, fittings and coils of HDPE pipes shall be stored in such a way that they are completely protected from direct sunlight. When covered they must be well ventilated to avoid accumulation of heat and resultant deformation. Transparent coverings shall not be used. The storage location shall be flat and shall, for pipes, support the pipes throughout their length. Stones and sharp objects shall not be present. Pipes shall not be stacked to a height exceeding 1 m. The pipes must be secured at the sides to prevent them from rolling. Contact with harmful materials shall be avoided. As far as possible, coils shall be stored in a horizontal position. The area shall be free of stones and sharp objects. If stored upright they must be secured to avoid tilting.
- (iii) HDPE Pipes supplied in coils of up to 63 mm diameter may be unrolled with the coil in the vertical position. For larger diameters an unwinding device shall be used. A turnstile can be used with the coil laid in a horizontal position on it or with the coil mounted vertically on a slow moving lorry. The pipe shall never be removed from a coil in a spiral manner as this may cause kinking. Should kinking

nevertheless occur the Contractor shall cut the pipe on either side of the kink, prepare the ends, and then use an approved joint after laying. All costs of dealing with kinking shall be to the Contractors expense. A minimum bending radii of 35 x the diameter shall be observed.

f) **Distribution of Materials from Storage**

The Contractor shall make his own arrangement for storage including for temporary occupation of the necessary land, provision of suitable fencing, preparation of site and security, and the selected storage areas shall be suitably close to the final pipeline alignment to allow for speedy transfer to the installation location.

HDPE pipes shall be distributed to the trench side and laid without being out in the sun for more than the day of installation unless they are to be protected from the suns rays in which case this period may be extended at the discretion of the Engineer's Representative up to an absolute maximum of 5 days. Pipes not in coils shall then be supported at not less than three approximately equally spaced intervals so as to be fully clear of the ground.

When pipes are being loaded into vehicles care shall be taken to avoid their coming into contact with any sharp corners such as cope irons, loose nail heads, etc. Whilst in transit, pipes shall be well secured over their entire length and not allowed to project unsecured over the tailboard of the lorry.

Pipes may not be offloaded from lorries by rolling them. Pipes shall not be rolled or dragged along the ground.

509 TRENCH EXCAVATION AND EARTHWORKS FOR HDPE PIPES

This clause for excavation shall apply except for thrust boring as specified in Clause 549 below.

- (i) All trench excavation will as a minimum precaution be taped off to alert members of the public to its existence.
- (ii) The excavation shall be made in open cutting unless tunnelling or heading is specified by the Engineer's Representative or it is specified in the Bills of Quantities.
- (iii) Trenches for pipes shall be excavated to the lines and depths shown on the Drawings, or as directed by the Engineer's Representative, and shall be of sufficient width to give an equal clearance on both sides of the barrel of the pipe or pipes such that in general the total trench width is $3/2$ 'D' where 'D' is the outside diameter of the pipe or the average outside diameter of the group of pipes or will be equal to the outside diameter or the pipe plus 300 mm whichever is greater. For pipes bedded in concrete sections, the breadth of concrete bedding for the pipes will be equal to the width of the trench. Excavation for fire hydrants, valve chambers or any other water works structures shall be carried out to the levels and outlines of such structures, and the rates shall include for any additional excavation or other temporary Works required.
- (iv) If in the opinion of the Engineer's Representative due to delays in laying which are the fault of the Contractor the ground becomes weathered prior to the laying of the pipes, the Contractor shall remove the weathered soil and replace it with suitable compacted material to the original formation level at his own expense.
- (v) Where pipes are not laid on concrete, the bottoms of the trenches as excavated shall be smooth and shall be free from stones or other projections. Holes cut out for joints in the lower bedding shall be of as small a size as possible throughout their entire length. The trench shall be dug to within 150 mm of its formation and proper grade pegs shall then be set in the bottom of the trench by the Contractor for the accurate taking out of the rest of the excavation. Grooves about 50 mm deep shall be cut across the trench in the lower bedding at the required positions to enable the easy removal of pipe slings.

- (vi) The materials excavated from trenches shall be laid completely and neatly on the sides of the trench except where in the opinion of the Engineer's Representative's Representative this would so obstruct a road or footpath as to prevent the passage of traffic or pedestrians. In such cases the Contractor must dig out the pipe trench in such lengths as directed and keep his excavated material at such a distance as may seem advisable, and the rates shall be deemed to cover for this.
- (vii) During excavation, the Contractor shall ensure that all material suitable for re-use and which he intends for re-use are kept separate and set aside and protected as necessary to prevent loss or deterioration. Materials forming the surface and foundations of roads shall when excavated and if required for further use, be carefully separated. Paving slabs, bricks and similar surfaces shall be carefully removed and stacked for re-use, or as otherwise instructed by the Engineer's Representative.
- (viii) No pipes shall be laid nor lower bedding introduced and no excavation filled in or covered with concrete until the formation has been inspected and written permission to proceed with the Work obtained. The Contractor shall provide to the Engineer, a weekly schedule in advance indicating the dates and approximate times he expects to request such inspections.
- (ix) Where pipes are to be laid under a road formation or in open country, or in cutting, trenches shall generally be excavated after the earthwork is completed. The Engineer's Representative may permit these pipe trenches to be excavated before the earthwork is complete, but payment for the excavation of the trench will only be made upon the volume excavated below the road formation.
- (x) The unit of measurement for the excavation of trenches shall be per linear metre or per cubic metre of void calculated from the deemed width of the trench, and the average depth of excavation as mentioned in the Bills of Quantities. Unless otherwise indicated, for valve chambers and other water works structures, the unit of excavation will be per number or per cubic metre of excavated material calculated to the exact outer dimensions and depths of the Permanent Works. In neither case will allowance will be made for bulking.
- (xi) The rates for excavation of trenches in "normal" material shall include removal of all material except "rock", selecting and segregating material to be backfilled in special layers, supporting or sheeting, shoring and strutting, any additional working space or room for timbering or sheeting required, dealing with water, maintenance of the trench, and all labour, tools, materials, plants, supervision, overheads and profit.
- (xii) The provisions of the above Clause shall also apply to the rates of excavation in "rock" and in addition the Contractor shall allow in his rates for back-filling the invert with Class 15 concrete or other materials as directed by the Engineer's Representative and removing to a spoil dump all "rock" excavated.
- (xiii) Where rock is encountered and should the Contractor wish to excavate the rock in advance and temporarily to refill the excavated trench with the excavated material until he is ready to proceed with the laying of the pipe, he shall be permitted to do so, which permission must be given in writing by the Engineer. Such work shall normally be included in the Contractors rates unless he can show that the amount of rock is in excess of the amount billed to an extent that his work programme will be unduly delayed if he does not do so in which case he may seek to be paid both the E.O. item rate for the rock and twice the rate quoted for excavation in class III material.

510 PIPE LAYING FOR HDPE PIPES

Individual Pipes not supplied in Coils

- (a) Pipes shall only be laid in the presence of the Engineer's Representative unless written authority from the Engineer has been granted.
- (b) Pipes generally shall be laid and jointed in accordance with the manufacturer's or his licensor's instructions. Extra excavation must not be carried out so as to avoid backfill,

excessive deviation in joints and other irregularities. Otherwise, the pipe grade will follow the Drawings, with a continuous (but not necessarily uniform) fall towards washout-valves and rise towards air-valves.

- (c) Every pipe shall be laid separately and shall bear evenly upon the lower bedding or concrete for its full length, holes to receive sockets, couplings or flanges being cut in the bottom of the trench of such size and depth as to allow the joints to be properly made. The pipes shall be laid to true inverts, straight lines and falls, each pipe being separately boned between sight rails. The pipes shall be thoroughly brushed inside insofar as is practicable and outside prior to laying, and no foreign matter shall be allowed to enter the pipe during or after laying. At the end of each working day the exposed pipe end shall be stoppered up with a stopper plug of appropriate diameter and not merely covered in polythene sheet tied around the end.
- (d) Trenches shall be bottomed up only immediately in advance of pipe laying, although at least 15 metres shall be prepared in advance of any given pipe. Trenches and joint holes shall be kept free from water, until the pipes are laid and the joints completed and no ground water shall be allowed to enter the new pipes.
- (e) Prior to laying in trench the lower bedding in the trench must provide support throughout the entire length of the pipe. The pipe shall never be laid directly on cohesive, rocky or stony material. Where the natural trench bottom meets the bedding class required, this shall initially be loosened to a depth of 100 mm and then re-compacted to at least 90% MPD and then the surface loosened on the day of and prior to laying
- (f) In rock excavation, the pipes shall be bedded on concrete or selected granular fill, e.g. gravel, to a minimum thickness of 150 mm and the exclusion of rocks and other hard material to at least 300 mm around the pipe, leaving proper joint holes and subsequently making good with selected materials to the Engineer's Representative's approval.
- (g) All flanged joints shall be made with jointing rings, which shall be carefully inserted concentric to the bore of the pipe, so that undue stresses shall not be caused in any of the bolts or on the flanges when bolting up. The joint ring shall be compressed gradually and evenly by taking a few turns on each diagonal bolt in succession. Manufacturers' recommendations on the maximum tightening torque shall be followed, and over-tightening shall be avoided. Where one or both of the flanges is itself of plastic, torque-wrenches shall always be used, and the bolts shall first be hand tightened and then diagonally tightened progressively to achieve 5%, 20%, 50%, 75% and finally 100% torque. For metal to metal flanges and if the Engineer is dissatisfied with the degree of care being taken, the Contractor shall provide and use torque-wrenches for this purpose at no extra cost.
- (h) Mechanical joints shall be made in accordance with the manufacturer's instructions. After successful testing of pipelines, the joints will receive external protection as specified or to the Engineer's Representative's approval.
- (i) The threads of any screw connections shall be coated with red lead before the joint is made.
- (j) Concrete anchor blocks shall be provided at bends, tees, stopped ends, etc as shown on the drawings or as directed by the Engineer's Representative.
- (k) Where a pipeline crosses under roads or railway lines, the pipe shall be sleeved or surrounded with concrete or protected by reinforced concrete slabs as instructed by the Engineer's Representative, and Tenderers shall have been deemed to have made allowance in their rates for compliance with the requirements of the relevant authority. Where roadside verges are liable to receive traffic, this protection shall be extended under the areas concerned and Tenderers shall have been deemed to have made allowance in their rates for compliance with this requirement.

- (l) For the insertion of valves and other fittings into existing pipelines, pipes may need to be cut. Approved tools and machines specially made for the purpose, shall be provided and used by the Contractor.
- (m) The Contractor shall provide and fix wooden drumheads to the open ends of the mains, and similar drumheads shall be used to close the ends of any pipes to exclude dirt and stones, etc. when the pipe laying is not actually in progress. Wooden markers properly inscribed, shall be left projecting out of the ground to indicate the ends of all pipes, where these are buried in the ground in open country. In public highways, a danger sign or other suitable means as approved by the Engineer's Representative shall be adopted.
- (n) At every point of loading or unloading, pipes must be handled by approved lifting tackle. (Unloading by rolling them down planks of any form or including ramp will not be allowed except with the special consent of the Engineer's Representative).
- (o) The stacking of pipes shall be used such as to prevent damage during storage. Timber runners shall be laid to keep the upper row separated from the lower and the bottom row shall be staked to prevent any rolling. The whole arrangement shall be subject to the approval of the Engineer's Representative.
- (p) Care should be taken to minimise the risk of bush fires damaging any pipes laid out along the line of the mains.
- (q) Refilling of pipe trenches shall conform to the specifications provided in Clause 530.
- (r) The requirements for making good subsidence after refilling are provided for in Clause 531.
- (s) Reinstatement of surfaces shall conform to the specifications provided for in Clause 532.
- (t) For HDPE Thermoplastic Pipes Laid in Trenches:
 - (i) The soil cover shall be a minimum of 900 mm. and the embedment material shall be S1 or S2 (single size or graded gravel). For details of the trench specifications, and backfill material sizes and grading refer to Clause 530 Tenderers shall allow for the price of such trenching and importation of necessary backfill material and compaction as part of the pipe installation price.
 - (ii) For all bedding classes, compaction shall be 90% MPD minimum.
 - (iii) Marker tapes made of a pigmented low density polyethylene and aluminium foil in a bright colour or other approved material not less than 100 mm wide and 0.15 mm thick shall be placed in the ground above the HDPE pipelines laid underground as a measure to detect the pipe and at the same time to reduce the risk of accidental damage which may be caused by future excavations. The tape shall be laid about 300 mm above the crown of the pipe. The tape shall be continuously labelled with black printing "DANGER-PLASTIC PIPE. The price tape shall be deemed included in the price for the supply and installation of the pipe.

Pipes supplied in Coils

- a. All sub-clauses of Clause 525 that are appropriate to pipe coils shall also apply and in case of any dispute, the Engineers ruling shall be final.
- b. Pipe coils generally shall be laid and jointed in accordance with the manufacturer's written instructions. A re-rounding and straightening tool shall be used prior to making each joint. Extra excavation must not be carried out so as to avoid backfill, excessive deviation in joints and other irregularities. Otherwise, the pipe grade will follow the Drawings, with a continuous (but not necessarily uniform) fall towards washout-valves and rise towards air-valves. Horizontal alignment shall be as straight and central to the trench as is practicable, and if necessary, wooden pegs shall be used initially to

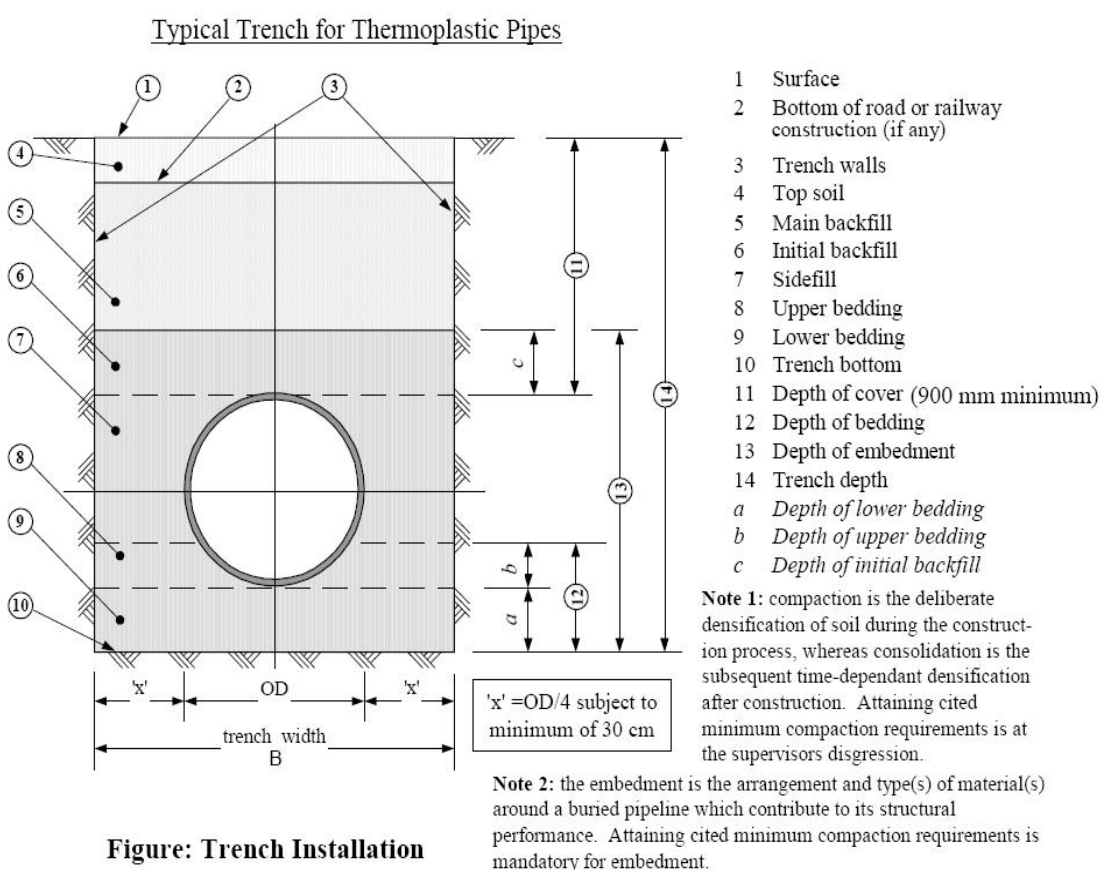
ensure this until the upper bedding has been compacted at which juncture they shall be carefully withdrawn.

c. Electrofusion Control Units for HDPE Pipes

The Contractor shall provide electrofusion control units as recommended by the HDPE pipe manufacturer and confirming to EN 60335, EN 5008, EN 55014 and EN 61000. The workmanship shall be in accordance to the manufacturer's recommended procedure and quality.

511 BACKFILLING OF PIPE TRENCHES FOR HDPE PIPES

All excavation of pipe trenches shall be of such form and to dimension as shown on the drawings or as the Engineer's Representative may direct, and in all respects provide with embedment configurations and minimum covers as detailed here below. As a general rule trench width shall be not less than 1½ times the OD of the pipe but subject to the following figure and tables.



Lesser trench widths may only be authorised if the Contractor can prove to the satisfaction of the Engineer that he can consistently achieve the required compaction for a lesser width in which case an absolute minimum of OD + 450 mm may be permitted.

Minimum Trench Width

Pipe Size	Trench Width
General	OD + minimum 600 mm
≤ 125 mm	OD + 450
150 – 300	OD + 600
> 300	To suit site condition and to the approval of the Engineer

If called for in the Bills of Quantities or if in the Engineer opinion, the risk of vandalism in a particular area is higher than anticipated at the time of design, cover shall be increased to

a minimum of 1.2 m and the Contractor shall be paid for the removal and replacement of the additional materials at the same rates as quoted in the Bills of Quantities for the depth range indicated.

S1 and S2 Embedment Material for HDPE Thermoplastic Pipes

Nominal Pipe Diameter (mm)	Grading [to ASTM Sieve Sizes]	
	S1 Embedment	S2 Embedment
80	10 single-size gravel	10 single-size gravel
100	10 single-size gravel	10 single-size gravel
150	10 or 14 single-size gravel	14 to 5 graded
200 to 500	10, 14 or 20 single-size gravel	14 to 5 graded or 20 to 5 graded
> 500	10, 14, 20 single-size crushed rock, or gravel	14 to 5 graded or 20 to 5 graded

- (i) The placing and compaction of pipe embedment shall only be undertaken in the presence of the Engineer's representative unless written authority from the Engineer has been granted.
- (ii) No pipes shall be laid nor lower bedding introduced and no excavation filled in or covered with concrete until the formation has been inspected and the permission to proceed with the Work obtained.
- (iii) In every instance, embedment material (consisting of bedding, side fill and initial backfill) filled around the pipe and for 300 mm over the top of the pipes shall be totally free from stones, rock fragments, tree roots or similar objects which through impact or by concentrating imposed loads might damage the pipes and shall not include black cotton type soil. The filling shall be carried out with utmost care, special attention being paid to tamping of material around the pipes and to joint holes so as to obtain the greatest possible compactness and solidity. The material shall if necessary, be screened to exclude material which would damage the pipes. The embedment material shall be in accordance with the relevant pipe embedment drawing but shall be no less stringent than a class S2 material for HDPE thermoplastic pipes and the source and any material brought to the site from elsewhere shall be approved in writing by the Engineer's Representative before excavation commences. Any delays as a result of not seeking this approval in good time shall be entirely to the Contractor's account.
- (iv) Where the 'as-dug' trench material contains material which meets the bedding class requirements as specified and providing that this is carefully screened to the sizes indicated above, and segregated from material that does not, the Contractor may, at his discretion, use it as such or incorporate such material into the imported embedment material being used.
- (v) The lower bedding for the pipes shall have a minimum thickness of 100 mm in normal trenches, and 150 mm where rock/stones are present and at designated road crossings. In trenches where there is a continuous accumulation of groundwater, the trench shall after obtaining the approval of the Engineer's Representative, be over-excavated by 150 mm and shall be backfilled using compacted granular material. Bedding material shall be compacted in layers not exceeding 50 mm thickness. Compaction of fill around the pipe shall be in layer thickness not exceeding half the pipe diameter or 75 mm whichever is the lesser. Layer thickness is however subject to consistently achieving 90% MPD (Modified Proctor Density) or better, failing which layers shall be reduced in depth as necessary to achieve the % compaction.

- (vi) The upper bedding shall be introduced as carefully and thoroughly as practicable to the underside or haunch of the pipe such that no large spaces remain before it is compacted.
- (vii) The sidefill and backfill material within the embedment shall be placed in layers of not more than 150 mm thickness when compacted and where hand ramming is employed the number of men filling shall not be more than half the number of men ramming. Sidefill shall be placed simultaneously on both sides of the pipe. Where mechanical-ramming of the remaining backfill is employed, the machines shall be to the approval of the Engineer's Representative and soil shall be replaced and well rammed down by hand for a depth of not less than 600 mm to give sufficient cover to the pipes and obviate risk of damage to them before the mechanical rammer is brought into operation. The rammer shall not cease to be used on any length of trench until thorough compaction has been obtained. All backfill soil shall be free from clay lumps, boulders stones and rock fragments greater than 20 mm and 90% MPD shall be attained in all instances. All backfill soil above the embedment shall be free from clay lumps, boulders and rock fragments greater than 50 mm and as far as practicable 90% MPD shall be attained, but this may be relaxed (e.g. in fields and open areas) by the Engineer's Representative.
- (viii) The Contractor in excavating the trench from which he wishes to use 'as-dug' material for bedding shall ensure that materials from strata containing no stones or rock-fragments and suitable for filling around the pipes as described above, shall be kept separately and used for this purpose. The Contractor shall not be entitled to claim for any extra costs (as provided for below) for screening if this requirement is not complied with. If no such strata occur in the excavation, the excavated material shall either be screened or suitable material transported to the Site from other excavations as the Engineer's Representative shall direct. The cost of such work shall be paid for according to the rates in the Bills of Quantities.
- (ix) Before commencing the placing of embedment in the trenches, the Contractor shall obtain approval from the Engineer's Representative as to the methods he proposes to use and he shall demonstrate by means of tests that the specified compaction can be achieved (according to SSRN 601 using the "sand replacement" method). The method of compaction and the testing thereof shall be at all times to the approval of the Engineer's Representative and in general at a frequency of once every 30 metres unless this is specifically relaxed based on continuously good in-situ test results.
- (x) The pipe trench shall be backfilled entirely without leaving out areas around and at pipe joints uncovered, for subsequent filling. To facilitate the subsequent location of any suspected leaking joints during pipe testing, should this become necessary, the Contractor shall provide marker pegs at regular intervals and/or use a handheld GPS to be able to relocate joint positions.
- (xi) Where for pipes other than those used for service connections a minimum cover of 900 mm cannot be maintained, including highways and trafficked areas then the pipe must either be laid in a protective ferrous sleeve or be protected by a 150 mm thick reinforced concrete slab above the pipe. A minimum of a 150 mm layer of appropriate grade granular bedding material must first be placed and lightly compacted as a cushion above the crown of the pipe before the slab is laid, and the slab must extend at least 150 mm out beyond either side of the trench.

512 MAKING GOOD SUBSIDENCE AFTER REFILLING

Should any but very localised subsidence occur of the pipe trench after refilling and before the expiry of the maintenance period, the Contractor shall first demonstrate that such subsidence is only to the backfilling above the pipe and not to the pipe, embedment, bedding or sub-soil itself.

Should this not be so demonstrated then the Contractor at his own expense shall, excavate and remove the pipe or pipes affected and return the bottom of the trench to grade through

a process of over-excavation, re-compaction or use of a lean concrete mix as determined by the Engineer's Representative, who shall also determine whether or not the affected pipes may be re-used or replaced.

The affected section or sections will in any event be liable for a further twelve months maintenance period.

All subsequent refilling shall be thoroughly compacted by ramming as with a newly completed trench. Any subsidence due to consolidation shall be made up by the Contractor at his own expense with extra compacted material. Should subsidence occur after any topsoil has been replaced, the topsoil shall first be removed before any hollows in the backfilling are made up before being replaced.

513 REINSTATEMENT OF SURFACES

- (i) All surfaces of roads, fields, paths, gardens, verges, etc. whether public or private which are affected by the operations of the Contractor shall be temporarily restored by him in the first instance and permanently reinstated in the second instance when the ground has consolidated fully. Separate payment for reinstatement shall be made only for surfaced roads (e.g. tarmac, concrete, paving bricks or similar material), and for officially designated dirt roads of at least 6m width, grassland, cultivated lands and sports fields. All other reinstatements both temporary and permanent are deemed to be covered by the pipe installation rates.
- (ii) The Contractor shall be responsible for the temporary reinstatement and permanent reinstatement of all surfaces whether or not the area requiring restoration is within the limits of his excavations if the necessity for the restoration arises from causes due to the operations of the Contractor. The Contractor's prices shall include for restoring all surfaces so damaged to their original condition, as no extra payment will be made for any such work. The Contractor shall take all necessary measures to ensure that no toxic materials that may cause damage to vegetation or livestock or pollute streams or water-courses are used in any temporary restoration or permanent reinstatement and shall indemnify the Employer against any claims arising out of the use of such materials.
- (iii) Temporary restoration shall be carried out immediately after the excavations have been refilled by returning the excavated material to the position from which it was removed and adding such suitable materials as may be required and consolidating the various materials as the Work proceeds in order to provide a surface that is adequate for the purpose that the original surface fulfilled. Temporary surfaces shall be maintained in a condition satisfactory to the Engineer's Representative and/or responsible Authority until the permanent reinstatement is made. In the case of roads and streets the surface shall be necessary to consolidate the filling and keep the surface fit for traffic, suitable material being added to all placed which have sunk or become rough.
- (iv) Permanent reinstatement shall not be made until the ground has consolidated permanently and until sanction to do so is received from the Engineer's Representative. It shall be carried out with materials similar to those that were used in the original Work to the entire satisfaction of the Engineer's Representative and/or responsible Authority.
- (v) In all verges and other, grassed surfaces, the topsoil shall be removed, stored and replaced after consolidation of the filling and planted or seeded with approved grass. Should subsidence occur, it shall be made good with additional topsoil and be replanted with grass or re-seeded. New grass shall be planted if for any reason the grass fails to grow or is destroyed.
- (vi) The trenches, channels, gutters and kerbs shall be reinstated to the condition in which they were before excavation was commenced. The final surface of the trench shall be flush with the surrounding ground.

- (vii) If the work of restoration or reinstatement as carried out by the Contractor is not to the satisfaction of the Engineer's Representative and/or the responsible Authority and should the Contractor not remedy the defect forthwith, any remedial work considered necessary may be undertaken by the Engineer's Representative and/or the responsible Authority and the cost thereof shall be borne by the Contractor.
- (viii) If at any time any trench becomes dangerous, the Engineer's Representative shall be at liberty to call upon the Contractor to restore it to a proper condition at three hours' notice and should the Contractor fail to carry out the work, have it done at the Contractor's expense.

PART IV - PIPELINES DURING DELIVERY, INSTALLATION, TESTING AND COMMISSIONING

514 ON-SITE INSPECTION

All pipes, valves and fittings shall be inspected upon arrival at the pipe storage areas for damage to:

- the pipe or fitting itself
- external coatings (if any)
- internal linings (if any)
- jointing surfaces (incl. sockets if any)

The Contractor shall be responsible for and shall undertake any work required by the Third Party Inspector or by the Engineer's or his Representative as appropriate or where deemed necessary, replace defective pipes and fittings. All expenses in connection with such remedial works or replacements shall be deemed covered by the Tender.

515 HANDLING FROM STORAGE TO TRENCH

All pipes shall be handled from storage to trench in accordance with the manufacturer's recommendations.

The Contractor shall obtain and keep on Site copies of all the manufacturer's literature relating to the proper handling, storage, laying, installation and testing of their products and shall make them or copies thereof available to the Engineer's Representative on Site.

516 MEASUREMENT FOR PIPE LAYING

Pipe laying and jointing where in trench is included in the Bill of Quantities with excavation, backfilling, and temporary reinstatement, all as described in the Bills of Quantities. Measurement of the work done will be along the centre-line of junctions in the pipe network, and branches, unless otherwise indicated in the Bills of Quantities

517 WORKING WIDTH

Where pipelines are within 20 metres of a motorable track, or through light bush or thicket a wayleave clearance of 2 metres plus nominal bore of pipe will be allowed. Where pipelines are through dense bush, thicket or forest a wayleave clearance of five metres plus nominal bore of pipe will be allowed. Payment for Site Clearance will be based upon this width except that the Engineer reserves the right to restrict this width due to the presence of obstructions, roads, houses and the like. Payments will then be according to the actual area cleared. No claims for additional space nor for inconvenience and the like caused by obstructions, will be allowed.

518 LOCATION OF UNDERGROUND SERVICES ETC.

It shall be the Contractor's obligation when trenching, to locate and avoid the damaging of any existing services, be they water, drainage, sewage, electricity or telecom.

Notwithstanding this obligation and should damage occur, it will be the Contractor's further obligation at his own cost to urgently liaise with the utility organisation concerned and to bear the cost of the repair or replacement of the damaged article to the entire satisfaction of the utility concerned.

519 CONCRETE PROTECTION

Unless otherwise provided in the Special Specification or Bills of Quantities or directed by the Engineer, a concrete surround of not less than 0.15 m shall be provided to water mains in the following circumstances:-

- (a) Water mains with less than 0.6 m or more than 6.0 m of soil cover over the pipes.
- (b) Water mains under carriageways if depth of soil cover is less than 1.30 m
- (c) In the places where shown on the Drawings or directed by the Engineer.

All concrete for beds and surrounds shall be class 15 concrete.

Alternatively under carriageways and where indicated on the drawings, the pipeline shall be laid in a stepped trench with the immediate surround backfilled with approved granular material and then across the step shall be laid precast reinforced concrete slabs of class 25 concrete.

The unit of measurement shall be cubic metre or linear metre as indicated in the Bills of Quantities.

The rate shall include for the provision, transporting and placing of concrete, all strutting and formwork, protection and curing and all labour, tools, plant, supervision overheads and profit.

520 ANCHOR BLOCKS

Pipelines with mechanical (or flexible) joints shall be adequately anchored at bends, tees, sluice or butterfly valves, tapers, blank ends, etc. Anchor blocks shall be constructed from Class 20 concrete to the dimensions indicated on Drawings unless otherwise directed by the Engineer. Support blocks shall be constructed from Class 15 concrete and allowed to cure for 7 days. Soil around anchor blocks shall then be compacted thoroughly before the hydraulic testing of the pipeline. Payment for anchor blocks will be per unit volume of concrete in the blocks and shall include for all the earthwork, formwork and other operations required for their construction. No separable payment shall be made for any temporary or permanent anchor blocks constructed by the Contractor specifically for the testing of the pipeline.

Anchor and Thrust blocks at proposed tie-in points between old and new pipework will be cast at least 7 days prior to the proposed tie-in works and post tie-in pipeline testing for the affected section. Where this is impracticable then a thrust wall shall be constructed similarly in advance first instead and the final connecting fitting propped initially from this thrust wall by means of a horizontal steel joist with the contact face with the fitting curved to the outside diameter of the fitting and fitted with a protective rubber insert. Immediately after re-commissioning, the space between the thrust wall and the propped fitting shall be filled with class 20 concrete, thereby permanently encapsulating the steel joist. The proposed tie-in works described in Clause 550 will therefore be preceded by the required anchor/thrust block casting.

521 INDICATOR PLATES AND MARKER POSTS

Precast concrete indicator plates to the dimensions indicated on the Drawing shall be installed at all sluice valves, single-air valves, double air valves, fire hydrants and washouts, with letters SV, AV, FH, WO, respectively, indented in them. The plates shall be painted with at least two coats of all-weather plastic emulsion paint of approved colour.

Marker posts to the dimensions indicated on Drawings shall be installed at 100 m spacing along the pipelines installed in open country or as directed by the Engineer. Marker posts shall be painted with at least two coats of all weather plastic emulsion paint of approved colour.

522 ADDITIONAL PROTECTION TO FLEXIBLE COUPLINGS AND FLANGE ADAPTORS IN CHAMBERS AND/OR ABOVE GROUND

Such mechanical joints e.g. flexible couplings, flange adaptors, etc. in chambers and/or above ground shall have been factory epoxy coated and where indicated on drawings or in the Bill of Quantities shall after installation be cleansed by brushing away soil and then shall have an approved mastic blanket moulded around them so as to provide a contour suitable for wrapping the component with an approved petrolatum anti-corrosion tape suitable for tropical climates which shall then be done so as to achieve a clean and neat good tape finish..

523 PROTECTION TO FLEXIBLE COUPLINGS AND FLANGED ADAPTORS FITTED TO EPOXY COATED PIPE SPIGOTS.

Where factory coated flexible couplings have been used on pipes whose exposed surfaces beyond other protection materials have been factory protected using epoxy, then such joints shall be site protected by a polythene outer wrap sheathing of minimum thickness 200 microns that shall extend beyond the pipe epoxy coating by at least 500 mm. This outer wrap shall be double strapped using a non-metallic strap to each pipe end beyond and not to the epoxy coating.

524 BURSTING DISCS AND BURSTING DISCS DEVICES

Bursting discs and bursting disc devices shall be in general accordance with SSRN 233. A minimum pack of 5 such bursting discs shall be provided with each bursting disc device.

525 IN-SITU WELDING OF STEEL FITTINGS AND FLANGES

Wherever it is necessary to undertake in-situ welding of steel fittings and flanges the work shall be undertaken under cover, temporary or otherwise. Outside of buildings, the cost of providing such cover shall be deemed included in the Contractors rates. Only suitably qualified welders shall be employed.

Welding procedures used shall comply with SSRN 670.

Prior to deployment of any welder he shall within the preceding 3 months have satisfactorily undergone an 'approved testing' in accordance with SSRN 671 and certification thereof shall be provided to the satisfaction of the Engineer. Each welder deployed shall at intervals of not more than 6 months undergo similar approved retesting and only those who pass such retesting will be allowed to continue to undertake the in-situ welding works.

All testing and retesting will be deemed to be covered in the Contractors rates.

526 PIPE SUPPORTS

Pipe supports shall meet the requirements of SSRN 406.

527 SERVICE PIPE CONNECTIONS

All tapping shall be carried out using tapping saddle clamps (sleeves or collars type – surrounding the pipe). Self tapping directly on pipes shall not be permitted. Ferrules alone shall not be permitted

The form of the customer connection tapping clamp shall be two equal halves held together by threaded ends, washers and bolts. The tapping clamp for flexible pipes shall be double band with a minimum thickness of 1.5 mm if made from stainless steel. The body part of the tapping clamp shall be of robust ductile iron or stainless steel with a fusion bonded epoxy coating of not less than 300 microns dry film thickness. The seal shall be of elastomer or nitrile rubber material and shall surround the pipe circumference completely and shall be suitable for use with potable water. The tapping clamp shall be supplied complete with removable and lockable ferrule (if indicated on drawing). They shall be of approved manufacture which shall not be unreasonably withheld.

The customer connection tapping clamp shall have following features:

- They shall be impressed with the logo of the Employer.

- All stainless steel parts shall conform to high corrosion protection grade (AISI 316 L).
- The rubber lining shall eliminate metal to metal contact or metal to plastic contact and insulate against galvanic corrosion between two different types of metals.
- They should be able to fit range of pipe diameters and also be able to adapt to pipe irregularities and ovality
- Double band or wide bodies to allow large surface area contact with the pipe body for supporting the pipe.

Any Tenderer who in his Tender offers service pipe connections that are not fully in compliance with these requirements will be required to confirm in writing that he will meet the requirements of this clause in full without any price adjustment to his offer if his Tender is to be considered for possible award.

528 HYDROSTATIC TESTING OF PIPELINES

After laying, new pipelines shall be tested under pressure and where in trench, such tests shall be made before it is completely back-filled. During the test, all joints shall be clear of earth, timber, etc. to allow visual inspection. Testing shall commence when not more than 20% of all pipework has been laid and at no time may there be more than that remaining untested.

Where old pipelines that are yet to be taken into service are involved they shall be similarly tested, except that the Engineer may specify at what stage testing is required.

The pipeline shall be tested in lengths between valve locations or in such shorter lengths as the Engineer may approve on the understanding that no extra cost will be incurred to the Employer but the maximum length of main to be tested, shall not normally exceed 1 km.

The Contractor shall supply all necessary materials to carry out the test in accordance with the requirements including force pumps, water pressure gauges, including tools for the use of the Engineer, interconnecting pipework, feeding tank, blank flanges, temporary stop-ends, struts and water for the test. The test section shall be capped or flanged off at each end and all branches. Testing shall not take place against closed valves.

For a pipeline incorporating flexible joints, testing shall not commence until after all the permanent anchor blocks along the pipeline have been constructed and soil around them backfilled and compacted. Capped or flanged ends along the pipeline shall also be anchored adequately to withstand the force due to test pressure. The Contractor shall submit his proposals for temporary anchoring to the Engineer for approval.

After the main has been clear of debris, and all necessary stop-ends and gauges fitted to the Engineer's approval, the Contractor shall fill up the pipe with water free from silt, and sand and grit and bring up the pressure steadily to the nominal pressure of the pipe or incorporated fittings, whichever is the lesser, (except for old pipelines where a lower value may be specified by the Engineer), and maintain it with a force pump for 24 hours.

The pressure shall then be increased steadily in increments of 1.0 kg/cm^2 with a pause of one minute between each increment to the specified test pressure for the section. Unless otherwise specifically mentioned, the applied test pressure shall be measured at the lowest point along the section being tested.

Where test pressure has not been specified, it shall be assumed to be 1.5 times the rated nominal pressure (PN or NP) of the pipe.

After a period of half an hour, the fall in test pressure shall be recorded and sufficient water again pumped into the line under test to bring the pressure back to the test pressure. The procedure shall be repeated every half-an-hour for a total period of 3 hours, or longer, if the Engineer so directs, and the amount of water pumped in recorded.

The rate of leakage shall be calculated from the amount of water pumped in during testing and if it is less than 1 litre of water per 10 mm diameter of pipe per km of length of pipeline,

for each 24 hours and for every 30 m head, the pipeline will be considered to have passed the test.

Leaks exceeding permissible amounts shall be made good. And faulty pipes, fittings, and specials, shall be replaced by the Contractor at his own expense and the section tested again before approval is given for backfilling. Payment for the section will not be certified, until the test has been passed and backfilling completed.

529 FLUSHING AND STERILISATION

This shall be done in accordance with the recommendations set out in SSRN 651.

All tested pipework shall be flushed and cleaned and all treated water pipework shall additionally be sterilised. The rates inserted are to be for the flushing and sterilising, and where appropriate for cleaning shall be inclusive for, sampling, testing and inclusive of the reports on the bacteriological quality of water.

530 HORIZONTAL DIRECTIONAL DRILLING (HDD) FOR ROAD AND RAIL CROSSINGS

The Contractor shall install pipes using horizontal directional drillings at the locations specified in the drawings and the bills of quantities. The locations are normally across heavily trafficked roads and railway crossings where bypass or diversions cannot be readily made. The Contractor shall be responsible for all the design, permit acquisition from the relevant authority responsible for roads or rail and for implementation and restoration. The following procedure shall be applicable for HDD:

A. Design Guidelines

Prior to submitting an application for a Right-of-Way Permit to the relevant authority responsible for roads or rail that will involve horizontal directional drilling (HDD), the Contractor shall ensure that the following decision process and tasks are completed and approved by the Engineer:

- (i) Prepare or obtain scaled mapping for the planned installation
 - including all existing surface facilities and improvements.
 - and including any indication of underground facilities or improvements.
- (ii) Collect existing underground utility information
 - including the horizontal location of all known substructures (expected).
 - and including the depth of all known substructures (whenever possible).
- (iii) Obtain Right-of-Way information from the relevant authority responsible for roads or rail.
- (iv) Obtain general and/or specific geotechnical information as required or deemed necessary
 - including soil data for the project area.
 - and possibly including site-specific geotechnical sampling and analysis to confirm the soil data.
- (v) Prepare Design Drawings using the information noted above
 - including the location of all planned improvements,
 - including existing underground utility information, and
 - including right-of-way limits and property ownership information (as required).

In addition to the design requirements listed above, the Contractor shall take into consideration the following:

- (vi) the minimum horizontal and vertical clearance requirements when determining the HDD alignment

- including road setbacks and existing surface features,
- and including exiting underground utilities and other underground facilities;
- (vii) pipe sizes to be installed and their corresponding reamer diameter requirements;

Pipe Diameter	Reamer Diameter
< 200 mm	Diameter + 100 mm
200 – 600 mm	Diameter + 150 mm
> 600 mm	Diameter + 300 mm
- (viii) the bore geometry for the given ground profile
 - including bore length(s) and depth requirements, and
 - including bending radii for the final product pipe (Typically 13 m radius per 10 mm pipe diameter, with 200 m to 330 m radius minimums depending on subsurface materials and equipment requirements);
- (ix) drilling equipment requirements for the given geotechnical conditions, geometry and final product diameter
 - including thrust and pullback ratings
 - including mud motors vs jetting heads and
 - including wire line vs walkover tracking systems;
- (x) equipment and material handling requirements
 - including drilling fluid and drilling fluid containment
 - and including drill operation and final product staging.
- (xi) material strengths, capacities, and coupling methods.

B. Right-of-Way Permit Application Requirements

The Contractor shall submit the following information with the application:

- (i) Provide proposed HDD Location Information
 - Pipe diameters, type, pressures etc.,
 - Locations, length and depths, covers, clearances.
- (ii) Provide Design Drawings on scalable mapping and shall include:
 - the proposed alignment (dimensioned),
 - existing utility information (within 10m of the proposed crossing), and
 - the road right-of-way information
- (iii) Provide specific installation requirements or typical installation parameters indicating the design bending radii and diameter(s).
- (iv) Provide assumed subsurface geotechnical conditions based on local knowledge or based on specific site soil tests.
- (v) Provide a Traffic Control Plan
- (vi) Provide a Storm Water Pollution Prevention Plan
- (vii) Provide a Construction Schedule indicating the proposed start date(s), completion date(s), and restoration schedule.

C. Construction Safety Guidelines

Prior to performing work involving HDD under a Right-of-Way Permit, the Contractor shall consider the following safety guidelines and shall obtain approval of the Engineer:

- a) Perform all operations in compliance with safety guidelines and ensure that all personnel are properly trained and equipped to work in the public right-of-way;
- b) Ensure that the approved traffic control plan (required with the permit application) is implemented and followed at all times;
- c) Ensure that all storm water pollution prevention measures (required with the permit application) are implemented and followed at all times;
- d) Ensure all setbacks, offsets, and clearances are maintained;
- e) Ensure that **the relevant authority responsible for roads or rail** or other utility coordination requirements have been met;
- f) Positively identify from records or by potholing all crossed utilities that are expected to be
 - above and within 2 m of the proposed vertical alignment,
 - below and within 1 m of the proposed vertical alignment,
 - and additionally as requested by the relevant responsible authorities;
- g) Positively identify from record or by potholing all parallel utilities at the beginning and ending of all bores and
 - every 70 m if it is within 2 m of the proposed alignment,
 - every 15 m if it is within 1 m of the proposed alignment,
 - and additionally as requested by the Engineer.
- h) The HDD Contractor shall have a planned response in the event of a utility strike including utility owner notification and
 - avoiding electrocution in the event of an electric strike,
 - avoiding combustion in the event of a gas line strike,
 - avoiding contamination in the case of a sewer strike.

D. Drilling Fluid Containment and Disposal Requirements

The HDD Contractor shall contain, handle, and dispose of drilling fluids in accordance with the following requirements:

- a) The use and composition of all drilling fluid and fluid additives shall be disclosed to the Engineer in advance.
- b) Excess drilling fluid shall be confined in a containment pit at the entry and exit locations until recycled or removed from the site.
- c) Precautions shall be taken to ensure that drilling fluid does not enter roadways, streams, municipal storm or sanitary sewer lines, and/or any other drainage system or body of water.
- d) Unintended surfacing of drilling fluid shall be contained at the point of discharge and recycled or removed from the site.
- e) Drilling fluids that are not recycled and reused shall be removed from the site and disposed at an approved disposal site.
- f) Drilling fluids shall be completely removed from the construction site prior to back filling or restoring the site.
- g) Collection, transportation, and disposal of drilling fluids shall be environmentally safe and comply with local ordinances and government regulations.

E. Construction Requirements

All construction work shall be performed in accordance to the following unless stated otherwise by **the relevant authority responsible for roads or rail**, and as outlined below. For all work involving horizontal directional drilling under a Right-of-Way Permit, the Contractor shall perform the following:

Prior to Construction:

- a) The HDD Contractor shall familiarize itself with the work area and the technical requirements of the plans;
- b) The Contractor shall establish construction marking/staking, prior to construction, to indicate
 - HDD entry and exit locations, and
 - proposed HDD alignment at 10m (max) intervals;
- c) Provide the Engineer with a contact list of all crew foremen.

During Construction:

- a) The HDD Contractor shall calibrate its tracking and locating equipment at the beginning of each work day;
- b) The HDD Contractor shall monitor and record the alignment and depth readings provided by the tracking system
 - every 10 m for normal conditions,
 - every 2 m where precise alignment control is necessary;
- c) The HDD Contractor shall complete the HDD installation as designed and permitted both horizontally and vertically unless otherwise authorized by the Engineer;
- d) The HDD Contractor shall attempt to maintain drilling fluid circulation throughout the HDD process;
 - during the initial pilot hole installation, and
 - during the reaming and back pull process(es)
- e) The HDD Contractor shall not expand the bore hole by more than 150mm using only compaction reamer(s);
- f) The HDD Contractor shall plan its reaming and back pulling operations carefully to insure that, once started, all reaming and back pulling operations can be completed without stopping and within the permitted work hours;
- g) The HDD Contractor shall at all times and for the entire length of the HDD alignment be able to demonstrate
 - the horizontal and vertical position of the alignment,
 - the fluid volume used, return rates, and pressures;
- h) The HDD Contractor shall inspect the work and surrounding area to insure that no construction-related damage has occurred
 - including heaving or humping of paved surfaces, and
 - including drilling fluid fractures or releases.
- i) At all times the Contractor shall provide access to the Engineer's representative for inspection of the HDD operations;

Following Construction:

- a) The Contractor shall notify the Engineer as appropriate upon completion of the authorized work;

- b) Prior to the start of backfilling excavations under paved surfaces, the Contractor shall notify the Engineer to schedule an inspection. Upon completion of all right-of-way restoration activities, the Contractor will schedule a closeout inspection;
- c) The Contractor shall insure that all cleanup and restoration is in compliance with the requirements for restoration, reinstatement and cleaning up;
- d) The Contractor's 1 year maintenance period will not begin until any corrective actions required have been completed and inspected to the Engineer's satisfaction.

F. Storm Water Pollution Prevention

All construction activities shall be performed in accordance with the acceptable international standards and Best Management Practice, to ensure that storm water runoff is not contaminated by sediment caused by land disturbances associated with construction activities. The following seven main objectives shall be applied for all Storm Water Pollution Prevention planning:

- a) ensure that sediment controls are in place prior to disturbance.
- b) Maintain sediment controls throughout the construction and restoration processes.
- c) Minimize the overall disturbance whenever possible.
- d) Protect disturbed areas throughout the construction process.
- e) Prevent storm water runoff from entering disturbed areas.
- f) Never intentionally discharge construction contaminants directly into creeks, rivers, ditches, or storm systems.

- g) Complete permanent restoration as soon as possible.

In addition to those overall goals stated previously, the contractor shall, at a minimum, implement the following specific Best Management Practices:

- h) Provide temporary erosion protection whenever possible:
 - Mulch, seed, or gravel may be applied even if a disturbed area may and/or will be disturbed again or other permanent measures of stabilization are to follow;
 - Cover spoil piles with a tarp or contain with a sediment barrier.
- i) Contain disturbed sediment on site:
 - Use sediment barriers such as silt fence, sand bags, straw bails, rock checks and/or sediment traps to contain sediment on the construction site;
 - Existing vegetation may be used as a sediment filter where minimal grades and sheet flow runoff will occur;
 - Ensure that all sediment barriers are installed and functioning properly.
- j) Avoid causing flooding in roadways and adjacent right-of-way:
 - Do not block existing culverts and storm inlets except as a last resort;
 - Ensure that sediment is removed from sediment traps and filters after storm events.

G. Construction Records and As Built Plan Requirements

The HDD Contractor shall keep detailed and accurate records of all activities associated with the HDD process. Upon completion of HDD installations, the Contractor shall provide the Engineer with As Built plans and any supporting documents within 60 days of project completion. As Built plans are preferred in

AutoCAD format but may be submitted in paper form. HDD construction records and As Built plans shall include the following:

- a) HDD tracking data and operator logs shall be maintained daily and shall be made available upon request from the **relevant authority responsible for roads or rail**. These field records and operator notes shall specify:
 - the type of tracking equipment used,
 - the length and depth of the HDD installation,
 - additional information that may include steering adjustments and other equipment performance parameters;
- b) As Built plans shall be derived from the tracking data and operator logs. At a minimum, the drawings shall indicate:
 - horizontal and vertical HDD alignment,
 - existing utility horizontal locations and depths at all exposed locations,
 - existing utility horizontal locations where indicated with field locates.

531 TIE-IN WORKS BETWEEN EXISTING AND NEW PIPELINES

a) General

This specification clause shall apply to any tie in works between existing operational and new pipelines which involve closing down of any main which is in service supplying water, either Raw or Treated, within the existing supply system. It shall further apply to any new fitting that has to be inserted into an existing operational pipeline.

The Contractor shall be responsible for the execution of the works except under circumstances where the execution of the tie in operation is assumed by Engineer as mentioned under (f) below, from the date of the Engineer's instruction to perform described under (g) below. The Engineer's instruction to perform the tie in will be given at least 14 days before the date on which the tie in is to be executed.

b) Fittings

The Contractor's tender shall include supply and installation of all fittings necessary for tie in works. Delivery of any fittings required at the Works shall be delivered to site not less than 96 hours before the commencement of the tie in operations. He shall provide all the necessary guarding to ensure that such fittings do not get misplaced or stolen. The Contractor shall, check the suitability of such fittings including checking of all dimensions, particularly the external diameter of the pipe into which the connection is being made and the internal diameter(s) of couplings which are to be used for such connection. This shall be done by measuring diameter at 4 positions to a tolerance of 0.25 mm. The Contractor shall certify the suitability of such materials to Engineer not less than 48 hours before the commencement of tie-in operations.

The Contractor shall prepare a schedule of fittings including those on existing pipes that are to be used for such tie-in or redeployed elsewhere as instructed on the drawings and shall obtain approval of the Engineer not less than 48 hours before the commencement of tie in operations of such schedule.

The Contractor shall ensure that all materials are at the site of the works not less than 24 hours before the commencement of the tie-in operation and shall inform the Engineer who shall check the materials against the schedule as approved where he deems this necessary

Any non-standard fittings which are required for the execution of the tie-in works shall be fabricated under the Engineer's supervision and shall be hydro statically tested to at least one and a half times the maximum working pressure.

c) Personnel

The Contractor shall ensure that at least one senior member of his field supervisory staff who has proven experience of such operations and fluent in English and the language of his labourers is on site throughout the whole duration of the tie in operation.

The Contractor shall also ensure that all necessary skilled artisans for the operation of all his plant are on site for the whole duration of the tie-in operation.

The Contractor shall furnish the Engineer's Representative a list of the key personnel to be involved in the tie in exercise at least 48 hours before the commencement of the exercise and shall get the Engineer's approval at least 24 hours before the commencement in respect of such personnel. To gain this approval the Engineer may require that operative is tested in the performance of his duties in the operation of the plant for which he is in attendance. In particular this requirement shall apply to all welders, pipe cutters using either mechanical or flame cutting equipment and lifting plant operators.

The Contractor shall ensure that an adequate number of labourers are in attendance upon the site during the period of the tie in operation.

d) Pre Tie-in Works

The Contractor shall execute all works possible before the commencement of the operations which shall include:-

- Excavation and supports to the excavation.
- Blinding with concrete the bottom of the excavation and (where instructed by the Engineer) immediate working areas.
- Provision of any required drains a sump of adequate size from which any accumulating water is to be pumped out.
- Casting of the floor of any chamber which is to be constructed around such tie-in works.
- Casting of any thrust blocks or thrust walls or any other works necessary for effective execution of the tie-in works as may be required by the Engineer.

The Contractor shall complete these works at least 96 hours before the commencement of the tie-in operation or within a period that may be otherwise set by the Engineer upon issue of the Engineer's instruction to perform the tie-in works, and obtain the Engineer's approval not less than 24 hours before commencement of the tie-in operations.

e) Plant

The Contractor shall prepare a schedule of the plant which he proposes to have on site either to use, or on standby, or for emergency use and shall obtain the approval of the Engineer not less than 48 hours before the commencement of the tie-in operations.

Such Plant shall include:

- Excavation plant
- Cutting equipment
- Lifting equipment
- Pumping equipment (unless a drain is provided)
- Concrete Mixer
- All tools necessary for the erection and assembly of the plant.

The Contractor shall also ensure that all plant is on site not less than 24 hours before the commencement of the tie-in operation and shall inform the Engineer who shall check the plant against the schedule as approved where he deems this necessary.

f) Actual Tie-in Works

The Contractor shall prepare a programme giving details of the proposed scheduling and sequencing of tie-in works necessary for minimising the interruption to the existing water supply. Approval of such programme by the Engineer shall be obtained not less than 72 hours before commencement of the tie-in operation.

The Contractor, unless relieved of the responsibility by the Client or the Engineer, shall first empty the section of the main on which the tie-in is to be made and shall ensure that the nearest air valves and washouts immediately upstream and downstream are all open and the washout dry.

Where the Contractor is relieved of this operation, which shall be notified to him by the Engineer not less than 96 hours before the tie-in operation is due to commence, he shall check that air-valves and washouts mentioned above are in the state described.

When the Engineer is also satisfied that the main is empty of water he shall verbally give the order to commence the works from which time the Contractor shall be solely responsible for the execution and completion of the tie-in works unless relieved of such responsibility by the Engineer.

In event that the Engineer directs that the required tie-in works be carried out during the night for purposes of minimising the effect of such tie-in on the respective consumers/authority, the Contractor shall make all required preparation for provision of lighting (including standby and emergency) and any other measures as the Engineer may direct.

The Contractor shall provide all the insurance normally required by the Engineer and the operating FIDIC Condition of Contract and shall obtain an endorsement if necessary to ensure that the insurances remain valid in the event that the Engineer takes over the direction of the works.

When the Engineer is satisfied that the tie-in works are completed he shall give notice for the main to be re-commissioned, when this has been satisfactorily accomplished the Contractor shall re-deploy his staff on the Engineer's verbal instructions of completion of the tie-in.

g) Post tie-in Works

Within 48 hours of the completion of the tie-in works the Contractor shall have completed all permanent works required to support the plant installed during the tie in operation, and shall remove all temporary supports within a further 48 hours after the permanent support works have been approved by the Engineer. The temporary supports shall not be removed before such approval has been given.

Within 14 days from the date of the completion of the tie-in the Contractor shall have completed all the other permanent works required to allow operation of the plant installed during the tie-in operation, or other plant for which the tie-in executed, and shall obtain the approval of the Engineer on the completion of such works.

The Engineer shall issue the Contractor with a notice stating the operations for which the plant installed during the tie-in operation may be used, which shall remain in force for a period extending for 28 days from the date of approval of the completion of the Post tie-in works as described above.

Before the expiry of the 28 day period described above the Contractor shall obtain the approval of the Engineer for the completed works when the Engineer shall issue a notice allowing full operation of the plant on the expiry of the above mentioned period

upon which the Contractors responsibility for the works, unless requested otherwise shall cease.

h) Form to be Used

A copy of the Form to be used for each tie-in work is given below.

SCHEDULE OF INSTRUCTION, SUBMISSIONS AND APPROVALS FOR THE TIE-IN WORKS		
1) Engineers Instructions to Perform Tie-in	.....	14 Days
2) Materials: Acceptance by Contractor	.....	96 hours
Certificate of Suitability by Contractor	.....	48 hours
Schedule of those needed submission	.....
approval	.....	48 hours
Arrival on Site	.....	24 hours
Checked on Site by the Engineer	.....
3) Works Programme of Execution	submission	.....
	approval	..... 72 hours
Schedule of plant	submission	.....
	approval	..... 48 hours
Plant	arrival on site	..... 24 hours
	checked on site by engineer	.....
Artisans	approved by engineer	..... 24 hours
	testing of by engineer	.....
4) Notice of Responsibility for Drawing Mains	.....	96 hours
5) Pre-tie in Works	completion of	..... 96 hours
	inspection by engineer	..... 24 hours
6) Engineer's Verbal Instruction to Commence when Main is Dry	.....
7) Engineer's Verbal Instruction to Re-commission Main	.....
8) Engineer's Verbal Approval of the Tie-in Completion	.....
9) Engineer's Notice of Plant Operations Allowed	.....
10) Support Works:	completion	..... 48 hours
	approval by engineer	.....
	removal of temporary	.....
11) Post tie-in Works	completion	..... 14 days
	approval by the engineer	.....
12) Final Approval by the Engineer of Whole Works	.....	42 days
NOTE: A) Times given are the latest		
B) Where items are not given the Contractor shall ensure execution of that item so as not to cause any other item to be delayed.		

PART V – VALVES, METERS, FITTINGS AND OTHER RELATED ITEMS

532 VALVES - GENERAL

Isolating Valves up to and including DN 300 shall be gate valves, and valves larger than DN 300 shall be butterfly valves, except where otherwise specified on drawings or in Bills of Quantities.

All valves shall bear an identification mark on the upper body that shall include:

-the name of the manufacturer and/or his trade mark

- the nominal diameter (DN)
- the nominal pressure (PN)

The manufacturer's full technical leaflets shall be supplied to the Engineer in triplicate by the Contractor for approval prior to confirmation of any order for valves.

The valve body shall be cleaned and shot blasted to SSRN 937 before being internally and externally protected.

All isolating valves shall be protected by fusion bonded powder epoxy or equivalent, internally suitable for potable water and to a minimum thickness of 150 microns, or in aggressive soils of 300 microns thickness indicated as such on drawings and in the Bills of Quantities.

All valves shall be designed for a maximum permissible pressure of 16 bar except where otherwise specified on drawings or in bills of quantities. All valves shall close when the stem rotation is in a clockwise direction unless otherwise specified.

533 GATE VALVES

Unless otherwise specified gate valves of nominal diameters up to and including DN 300 shall be made of epoxy coated cast ductile iron in accordance with SSRN 501. The epoxy coating shall be not less than 150 microns thickness. The gate shall be completely rubber encapsulated, the gate valve being of pocketless type with a straight through port. Gate valves shall be capable of sustaining a maximum permissible working pressure of 16 bar except where otherwise indicated on drawings or in bills of quantities. Gate valves shall be provided with integral flanged ends unless otherwise indicated on drawings or in bills of quantities.

Unless otherwise specified the face to face dimensions of gate valves with integral flanged ends shall be in accordance with SSRN 518 basic series 14 (short) or basic series 15 (long) as indicated on the drawings or in the bills of quantities.

Where specified, valves for replacement washouts shall have valve bodies of epoxy coated ductile iron and the flanges shall be undrilled. Face to face dimensions for these valves shall be to EN 558 and EN 12627 basic series 14 (short).

Gate valves shall be of the non-rising stem type except where specifically indicated otherwise. The stem seal shall be of toroidal sealing rings (O-rings) with at least two such seals. Seals shall be capable of being replaced with the valve under pressure and in the fully open position.

The gate shall be of ductile iron fully rubber encapsulated, the gate sealing in the body being ensured by compressing of the rubber. Wedge/gate guides of wear resistant plastic with high gliding features shall be provided in the body, optimally placed to guarantee low wear and tear of the gate and low closing torques.

The bonnet gasket shall be of elastomer (suitable for potable water). The bonnet studs or allen screws shall be corrosion-protected. In addition the studs/allen screws shall be placed in countersunk holes in the bonnet and completely sealed with wax or a suitable material, which can be removed by low-temperature melting in case they have to be disassembled.

The gate valves bodies shall be works cleaned and shot-blasted in accordance with SSRN 937 before being coated internally and externally. The body, the bonnet and the gate of the valve shall be made of ductile iron to SSRN 240, the gate being encapsulated with elastomer EPDM, nitrile or equivalent.

The operating stem shall be made of stainless steel at least equivalent to SSRN 936/A, except in areas of aggressive soils where this shall be to SSRN 936/B, indicated as such on drawings and in bills of quantities.

The stem nut shall normally be made of high tensile brass to SSRN 941, except in areas of aggressive soils where this shall be aluminium bronze to SSRN 942, indicated as such on drawings and in bills of quantities.

Furthermore and in aggressive soils indicated are such on drawings and in bills of quantities, outside bolts and nuts shall be made of stainless steel to SSRN 936/C or as detailed on drawings.

534 BUTTERFLY VALVES

Butterfly valves for manual operation shall comply with SSRN 506 and shall be double flanged, resilient and metal seated tight shut-off design and of the eccentric disc type supported from two shafts placed in self lubricating bearing bushes.

Butterfly valves shall be capable of sustaining a maximum permissible differential working pressure of 16 bar except where otherwise indicated on drawings or in bills of quantities.

They shall operate with a clockwise closing direction. The valve disk shall rotate through an angle between 0 degrees and 90 degrees inclusive. The sealing ring shall be made of EPDM rubber and shall be attached at the disk edge circumference by a retaining ring without adjustment to form a resilient and durable seal.

The valve disc seal shall be replaceable without dismantling the operating mechanism, disk or shafts, and without removing the valve from the pipeline.

The Butterfly valve shall be equipped with an invariable and proportional worm gear operator. This shall be either with or without an additional primary reduction gear placed within a waterproof housing dependant upon nominal valve diameter and maximum working conditions as stated in the bills of quantities.

The operating mechanism shall be permanently lubricated, not in contact with the water and tilted with an OPENED/CLOSED proportional position indicator in order to indicate the disk angular position. The mechanism shall be sized in order to minimise torque for ease of manual operation under maximum differential pressure and shall be with high-class enclosure IP67 to SSRN 038. Valve body, disk and disk retaining ring shall be in ductile "SG" iron casting to SSRN 240. Disk shafts shall be in stainless steel to SSRN 936/A.

The valve body shall be cleaned and shot blasted to SSRN 937 and internally and externally protected with paint suitable for potable water.

Each butterfly valve shall be works pressure tested in accordance with SSRN 517

- body test at a minimum pressure of 1.5 times the maximum permissible pressure
- seal test at a minimum pressure of 1.1. times the maximum permissible pressure.

535 HANDWHEELS AND VALVE CAPS AND VALVES

Handwheels are to be provided for all valves in chambers. They shall have cast into them the words 'open' or 'closed', together with an arrow indicating the direction for such opening or closing.

Valves for tee-key operation shall be provided with valve caps conforming to the appropriate tender/contract drawing.

536 VALVE KEYS

These shall be of mild steel with ends to suit either valves to SSRN 501, valves to SSRN 506 or valves to SSRN 511 fitted with valve caps, dimensioned to the appropriate Tender Drawing.

537 NON-RETURN VALVES

These shall have bodies made from bronze for DN not greater than 40 mm and they shall be of the swing pattern and shall be rated for at least PN 10 or greater as specified. The ends shall be either screwed to SSRN 223 or flanged to SSRN 207, PN 10 or as the installation demands.

For DN greater than 40 mm they shall be of a profiled poppet type with non-slam characteristics (surge suppressing type) and be of approved manufacture. The proposed valve shall be of low pressure loss and maintenance free with PN 16 rating (unless

otherwise specified) and shall achieve a movement from fully open to fully closed on pump stoppage in 0.1 to 0.3 seconds. The valve housing shall be of epoxy-coated cast iron and flanged with the closing system of stainless steel.

With his tender, a Tenderer shall have supplied full technical details of the valves he proposes to supply and install. If the Engineer deems the valve proposed to be appropriate he will accept the offer. If however the Engineer considers the offer to be inappropriate he will reject the offer from the Tenderer and instruct him instead as to the

acceptable manufacturer(s) of these items. Should a financial offer from a Tenderer in this regard be obviously under-priced then the cost of supplying an appropriate valve shall be fully to the account of the Contractor.

538 AIR RELEASE AND VACUUM BREAK VALVES

Automatic air relief and vacuum break valves (air valves) shall be of the anti-shock anti-surge type (Ventomat RBX or approved equivalent) design.

Bids which apparently contain non-compliant offers will be required to confirm that they will meet these specifications in their totality at the rates quoted in their offer.

Such valves shall meet the following requirements:

The required valves shall provide all of the functions described below.

i. Pipeline filling

Uninterrupted high volume air discharge through the large orifice.

ii. Pipeline draining or Column Separation

Uninterrupted high volume air intake through the large orifice.

iii. Pipeline full and operating

Discharge of disentrained pressurised air through the small orifice.

iv. Rapid Filling / Column Separation

The valve must incorporate an integral surge alleviation mechanism that will automatically dampen surge pressures due to rapid air discharge or the subsequent rejoining of separated water columns.

The air release and vacuum break valve shall be of a compact single chamber design with solid cylindrical High Density Polyethylene control floats. These shall be housed in a tubular stainless steel or corrosion protected body with epoxy powder coated cast iron, or s/steel ends secured by means of stainless steel tie rods.

The valve shall have an integral surge alleviation mechanism which shall operate automatically to limit transient pressure rise or shock induced by closure due to high velocity air discharge or the subsequent rejoining of separated water columns. The limitation of pressure rise must be achieved by deceleration of approaching water prior to valve closure. Relief mechanisms that act subsequent to valve closure cannot react in the low millisecond time span required and are therefore unacceptable.

Large orifice sealing shall be effect by the flat face of the control float seating against a nitrile rubber 'O' Ring housed in a dovetail groove circumferentially surrounding the large orifice. Discharge of pressurised air shall be controlled by the seating and unseating of a small orifice on a natural rubber seal affixed to the control float.

The intake/discharge area shall be equal to the nominal size of the valve i.e. a 150 mm valve shall have a 150 mm intake/discharge orifice.

The valve construction shall be proportioned with regard to material strength characteristics, so that deformation, leaking or damage of any kind does not occur by submission to twice the designed working pressure.

The valve design shall incorporate an over pressure safety feature that will fail without an explosive effect, such as is normally the case when highly compressed air is released

suddenly. This feature shall consist of easily replaceable components such as gaskets, seals or the like.

The air valve shall be provided with a separate isolating gate valve or if so specified with a separate isolating butterfly valve.

Unless otherwise specified all air valves shall be provided with an integral flanged inlet with studs appropriate to SSRN 207 NP 10 or as the installation demands and complying with the appropriate nominal pressure.

All air valves at new installations shall be fitted to an air accumulator tee with the branch of a diameter not less than 0,6 times the diameter of the main. Where necessary, a concentric taper either integral with or as a separate fitting shall be inserted between the branch and the isolating valve immediately beneath the air valve and an abrupt diameter change between branch and isolating valve shall be avoided.

539 SURFACE BOXES

These shall be of cast iron, (hinged and locked) and from an approved manufacturer to SSRN 513. They shall be sized to suit the purpose required and as otherwise shown on the relevant drawings.

The number of keys required (if any) is indicated in the Bills of Quantities.

540 VALVE CHAMBERS

New chambers shall be constructed in accordance with the drawings, and where indicated shall incorporate thrust walls.

Rehabilitated chambers shall be constructed or rebuilt or repaired in accordance with the original drawings or as directed by the Engineer's Representative using materials approved by the Engineer's Representative.

Notwithstanding the size and shape of the valve to be supplied the Contractor shall ensure that the minimum clearance as indicated on the drawings are provided within the chamber and that where chambers have pre-cast roofs, the manhole cover provided shall be of a size sufficient to allow for the removal and replacement of the valve without disassembly.

541 VALVES CHAMBER COVERS

Unless otherwise indicated in the Bills of Quantities, valve chamber covers shall be reinforced concrete with a weight of minimum 50 kg per piece and provided with embedded steel device for lifting at each end. They shall be supplied complete with lifting keys. Except where a chamber is provided with pre-cast roof slabs to facilitate placing and removal of the valve or valves within the chamber, the clear opening in the chamber cover shall in all cases allow for this. It will be the Contractor's responsibility to ensure that the covers he provides are of an appropriate clear opening size.

542 BULK METERS ELECTRO-MAGNETIC

TYPE General

Electromagnetic flow meters shall be of new technology microprocessor based electronic water flow meter and be capable of monitoring flow totals and flow rate in both forward and reverse flow direction. The flow meter shall have no moving parts to ensure that there is no damage from particulate matter, e.g. stones, weed, etc.

The meter shall be suitable for 85 to 265 Volt AC, 40 to 400 Hz supply without the need for link setting or voltage selection and shall be supplied with an uninterrupted power supply (UPS) inclusive of voltage protector. In addition, automatic battery backup must be included to ensure no loss of metering during AC power loss periods.

Alternatively, the meter shall be suitable for operation from two internal 3.6V lithium batteries which provide an operating life of three years. It shall be possible to change the batteries in the field.

Performance

The accuracy of + 0.25% for AC meters and + 0.5% for battery meters shall be achieved. The meters shall be suitable for a maximum working temperature to 70°C at pressure up to at least 16 bars.

Spare Parts

The manufacturer shall also supply a full and complete list of all parts of the meters offered duly named (In English) and numbered together with the prices for each separate part. The normal usage and cost of the spares will be considered when assessing the cost of each meter which will be a factor in the selection of the Tenderer.

543 BULK WATER (WOLTMAN) METER (HELICAL VANE TYPE)

Meter Characteristics

Bulk water meters for either major consumers or for monitoring district flow measurements shall comply with SSRN 510 and SSRN 520.

The meters shall be approved as Class B water meters for horizontal, vertical or inclined installation. The meter shall be of the Woltmann type with the axis of the turbine parallel to the flow direction. The mechanism shall be removable and shall be of an approved standard. The bulk meters shall be supplied as follows:

- Meter calibrated in cubic metres
- Volt-free pulser for interface with datalogger
- Suitable In-line strainer with Stainless Steel screen

Performance

The maximum flowrate (Q_{max}) is the highest flowrate at which the meter can function over limited periods without damage, and without exceeding the maximum permissible error (+/- 2%) and the maximum permissible value for loss of pressure.

The nominal flowrate (Q_n) is equal to about half the maximum flowrate, Q_{max} . It is expressed in cubic metres per hour and is issued to designate the meter.

At the nominal flowrate, Q_n , the meter should be able to function in normal use, i.e. in continuous and intermittent operating conditions, without exceeding the maximum permissible error (+/- 2%).

The minimum flowrate (Q_{min}) is the flowrate above which the meter must not exceed the maximum permissible error (+/- 5%), and is fixed as a function of Q_n .

The transitional flowrate (Q_t) is the flowrate which divides the upper and lower regions of the flow range and the rate of the maximum permissible error is +/- 2%.

The flowrate values shall (as a minimum) meet the following (for diameters up to and including DN 300 mm this shall be in both forward and reverse flow for network management):

The minimum and maximum flows must be stated by the Tenderers and supported by test certificates from the National Standards Institute of the country of manufacture. Tenderers should state the equivalent International Standards Institute e.g. ISO, BS, DIN, AWWA. The class of meter must also be stated. The minimum flows to be registered for the following meter sizes are specified below but the Tenderers are to state the minimum flow for other sizes:

Nominal Diameter mm	50	80	100	150	200	250	300
Maximum flowrate Q_{max} , m ³ /h	30	80	120	300	500	800	1200
Nominal flowrate Q_n , m ³ /h	15	40	60	150	250	400	600

Minimum flowrate Q_{min} ,m ³ /h	0.45	1.2	1.8	4.5	7.5	12	18
Transitional flowrate Q_t , m ³ /h	3	8	12	30	50	80	120
Head Loss at max. flowrate, bar	0.05	0.04	0.10	0.10	0.10	0.09	0.21

Sizes

The length of water meters should be standard and not exceed the following:

Nominal Diameter mm	50	80	100	150	200	250	300
Overall length, mm	300	350	350	300	350	450	500

Tightness, Pressure and Temperature Resistance

The water meter shall permanently sustain (without leakage, malfunctioning or permanent deformation) a working pressure of 16 bar and a maximum water temperature of 50 degree Celsius, unless otherwise specified in the BOQ.

Headloss

The head loss shall not exceed 0.2 bar at Q_{max} for all nominal diameters.

Materials

The water meter shall be made with materials appropriate to each specific use. The body shall be made of high quality cast iron with an internal and external epoxy powder coating.

Inner plastic parts shall be non-toxic and non-tainting.

The Counter

The transmission between the turbine and the totalizer shall be of the magnetic type properly shielded against any magnetic external influence. The helical vane shall revolve in direct proportion to the flow of the water.

Totalizer and transmission gears shall be hermetically capsuled in a brass box and a scratch resistant mineral glass sealed to IP 68. The dial and the cover shall rotate through 360° without using of any tools and without breaking the meteorology seal.

The indicator shall, as minimum requirement, record the following values:

Size of Meter (ND)	Minimum Registration (m ³)	Maximum Registration Before Self Re-Set (m ³)
50 – 100mm	0.01	1,000,000
150 - 300mm	0.1	1,000,000,000

The meter shall be fitted with an uni-directional pulsar suitable to interface with datalogger products (4-20mA). The pulsar shall be of the reed switch type and shall deliver different pulse values depending on their position in the totalizer. The following pulse values shall be available:

Pulse Values	DN 50 to 100	DN 150 to 300
Reed pulse unit	1 m ³ and 10 litres	10 m ³ and 100 litres

Accuracy

Characteristic curves of accuracy with parallel tables up to the maximum operation capacity are to be provided by the Tenderer. These characteristic curves must be supported by test

certificates from the National Standards Institute of the country of manufacture or an equivalent International Standard. The accuracy curves must be comparable with the standard and shall be equal to or better.

The maximum error permitted must be indicated. The maximum error at maximum and recommended continuous flow shall not be more than +2% and +5% at minimum flow.

Head Loss

Characteristic curves of heads plotted against the rate of flow up to the safe maximum operating capacity shall be provided by the Tenderer. The head losses must be plotted against the whole range of flows.

Flanges

All bulk meters shall be flanged. Flanges shall be drilled to NP 16 according to SSRN 207 (unless otherwise indicated in the BOQ) and shall be supplied complete with flange gaskets, bolts, nuts and washers.

Weight

The weight of the meter should not exceed the following:

DN (mm)	50	80	100	150	200	250	300
Weight (kg)	13.5	18	24	45	55	90	110

Marking

On the body an arrow on both sides shall show the direction of flow. In addition, an individual serial number, the manufacturer's sign or name, initial inspection date to conform to the obligatory marking standard.

Strainer

The bulk meters shall be supplied with suitable in-line strainers. The strainers shall be able to withstand a working pressure of 16 bar and a temperature of 50 degree Celsius.

The sieve element shall be of stainless steel grade 316 with a hole size of 3 mm to prevent large particles from damaging the measuring mechanism. The sieve element shall be removable without disturbing the flange joints.

Materials and Design

The materials uses in the construction shall be designed to withstand raw and treated water and normally operate for 5 years without normal need for maintenance or repair and the maximum error shall not exceed the specified limits. The Tenderers shall specify the optimum pH and the aggressive water quality for which the meter has been designed. The tenderers are also required to give details of any water quality parameter that may adversely affect the normal operation of the meters to be supplied.

Meter Bodies

The meter shall have a durable outer case protecting the inside of the meter through which the vane operates. The casting shall not be repaired in any manner. The outer body casing shall be of the split case type with the upper part fitted to the lower part by means of the cap bolts and nuts. Alternatively for the smaller meters the outer casing may consist of two parts which are screwed together. The meter body casing must be made from materials with a life expectancy under normal use in excess of over 20 years.

On all the meter sizes, model and direction of flow shall appear in indelible marking cast in raised characters on the outer case of the meter. The letters of the water company followed by the serial number shall also appear in raised characters in an easily visible position on the outer case of the meter but not on the lid.

External Case Bolts

Where external case bolts screw cap bolts, nut and bolts form part of the meter design these shall be arranged for easy removal after a long service. They shall be of the same composition as the meter casing as appropriate or of stainless steel.

Registers

Internal mechanisms of the register shall not be in fluid contact with the water being measured. Registers may be of the fully sealed pattern with the external parts running in a mixture of glycerine and water of similar mixtures appropriate to the design of the counter. The viewing window shall be of a transparent material which will not shutter, discolour become opaque or distort in normal use. A lid shall over-lap the viewing window when in closed position. They should comply with the local standard or equivalent or better international standards.

Intermediate Gears

Intermediate gear trains shall be made of materials which can be shown by the manufacturer to have satisfactory characteristics and designed for performance expectancy of at least 5 years. Gear trains exposed to the water being measured shall be constructed from materials designed to be lubricated by water.

Helical Vanes

These shall be made of vulcanised hard rubber or other materials having satisfactory characteristics including sufficient rigidity and strength to operate at the rated capacity of the meter. They should have sufficient dimensional stability to retain operating clearance at working temperature of up to 50° C. Designed life expectancy in excess of 5 years is expected of all moving parts of the working chambers.

Seal Wire Holes

Meter casing, register box screws inlet and outlet coupling nuts shall have holes drilled for seal wire. The meter shall be sealed at the factory before dispatch. The holes shall be 2.5mm in diameter.

Spare Parts

The manufacturer shall also supply a full and complete list of all parts of the meters offered duly named (In English) and numbered together with the prices for each separate part. The normal usage and cost of the spares will be considered when assessing the cost of each meter which will be a factor in the selection of the Tenderer.

SPECIFICATIONS - CHAPTER 2

EARTHWORKS

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CHAPTER 2 - EARTHWORKS

201 CLEARING OF THE SITE

Trees, hedges and undergrowth shall be taken down and grubbed up, together with all other obstructions on the Sites of the landfill, roads, sewers, ponds, drains, water mains and structures and disposed of as directed.

The limits of clearing on this project shall extend a distance of three metres from the centre line of pipelines and for a distance of three metres in plan from any foundations. Roots are to be destroyed or removed within this width. All timber removed remains the property of the Employer and the Contractor shall dispose of timber in a manner as instructed by the Engineer.

Brushwood, roots and refuse and other combustible material cleared shall be disposed of by strictly controlled burning which shall be approved in each instance by the Engineer provided care is taken to prevent contamination of trench bottoms or backfill material with charcoal or other products of combustion. Alternatively, the waste matter could be removed from the site of the works to a tip to be provided by the Contractor.

Trees, bushes and hedges at the Site shall not be cut down, damaged or destroyed without approval of the Engineer. Trees shall be defined as having a girth exceeding 500 mm measured 600 mm above ground level except where a tree has buttresses when measurement shall be taken immediately above the buttresses.

The Contractor shall carefully strip top soil over the width of pipe trenches, set it aside for bringing back after backfilling of trenches and replacing over the top of trenches to restore the ground to its near as possible original condition.

If, owing to excessive cross-falls, the Contractor requires to carry out general levelling to facilitate use of Contractor's Equipment, such levelling may only be carried out after stripping and setting aside of top soil over the full width of the area to be levelled

Where trees are felled, the roots shall be grubbed up and all removed from the Site by the Contractor. The holes shall be backfilled with approved materials and rammed in 30 cm layers.

202 TRIAL HOLES

The Contractor shall excavate, refill and restore in advance of his programme all such trial holes as he may require for the location of existing services (sewers, water supply pipes and cables, etc). The cost of these trial holes shall be included in his excavation rates.

203 FORMATION LEVEL

Formation level on embankments and in cutting shall be the surface level of the ground obtained after completion of the earthworks. Any excess depth unnecessarily excavated below formation level shall be backfilled with material acceptable for Construction and compacted as directed by the Engineer and no payment shall be made for the excess excavation or for its filling and compacting.

204 SURFACE SOIL

Unless otherwise directed by the Engineer all surface soil shall be removed from the area to be used for roads, structures, cuttings and embankments and stockpiled for re-use for any purposes such as the soiling of slopes of cuttings and embankments and the preparation of beds for the cultivation of trees and shrubs.

Surface soil shall be regarded as soil which on visual examination can be seen to have been broken down by natural processes, agricultural cultivation and/or is seen to be capable of supporting vegetation growth.

Surface soil shall be removed to an average depth as shown on the Drawings or as specified in the Bills of Quantities.

The Contractor shall make his own arrangements for temporary storage sites for heaps of surface soil either inside or outside the site of the Works to suit his convenience. The cost of all operations needed in excavation, loading, carting, depositing and stacking together with arranging for the storage Sites, the hire or purchase of land therefore and all necessary access roads for this purpose is to be included in the item in the Bills of Quantities for stripping surface soil and is to be quoted whatever the nature of the underlying sub-soil.

All unsuitable soil comprising of underlying surface soil shall be excavated and run to spoil in accordance with the appropriate Clause.

205 SOILING OF SIDE SLOPES AND VERGES

Soiling and compacting of side slopes to cuttings and embankments shall be carried out to an even surface with a thickness within the range of 10 cm - 20 cm, or in the case of verges as stated in the Bill of Quantities with surface soil as previously stockpiled or from an approved source.

206 CLASSIFICATION OF EXCAVATION

Excavation shall be paid for separately for the following three Classes of material:

Class I:

"Rock" or "Hard Material" shall include all material which, in the opinion of the Engineer, requires blasting or the use of metal wedges and sledge hammers or the use of compressed air drilling for its removal or cannot be extracted by ripping with a tractor of at least 180 h.p. and rear-mounted heavy-duty ripper. Individual boulders greater than 0.2 m³ in volume shall be included in this class when their nature and size are such that they cannot be removed without recourse to one of these methods.

Where a portion of excavation contains 50% or more by volume of boulders of this order, such portion shall be considered as Class 1 material throughout.

Class II:

"Compacted Gravel", "Slightly Decomposed" or "Altered Rock" shall include all material such as hard ferricrete and altered or stratified rock, stones, or boulders less than 0.2 m³ in volume, which are harder than "normal" or "soft" material in that they may be extracted by ripping, as defined in Class 1, or in confined spaces, by hand excavation by using compressor tools, providing all reasonable steps to the satisfaction of the Engineer, have been taken to facilitate the removal of the material by other methods.

Class III:

"Normal" or "Soft Material" shall include weathered or decomposed rock (incl. murrum) and all material which, in the opinion of the Engineer, does not require blasting or metal wedges and sledge hammers or compressed air drilling, ripping or rooting.

A detailed summary to aid this classification is given in Table 2 - 1.

No additional allowances will be made for any material being wet or dry.

The Engineer or his representative and the Contractor or his representative shall be present during classification of material in question for excavation.

All necessary precautions shall be taken to preserve the excavation material below and beyond the lines of all excavation in the soundest possible condition.

All damages to the Works due to the Contractors operations shall be repaired by and at the expense of the Contractor except when over excavation is ordered in writing by the Engineer.

In excavation of Class 1 (hard) material isolated edges of undisturbed material may extend up to 15 cm within the prescribed lines.

Excavation of Class 1 - Material beyond the established lines shall be re-filled with concrete (Class 10) at the expense of the Contractor.

All excavation shall be classified either as unsuitable material or as suitable material. Unsuitable material shall comprise:-

- (i) Material from swamps or marshes, silt, perishable material, slurry or mud, or
- (ii) Any Material:
 - (a) which is a highly organic clay or silt,
 - (b) which is clay having a liquid limit exceeding 80 and or a plasticity index exceeding 55;
 - (c) which is outside the limits of moisture content specified in the earthworks series of Clauses either when excavated or thereafter;
 - (d) which is susceptible to spontaneous combustion;
 - (e) consisting of such domestic refuse which by virtue of its physical or chemical composition or moisture content will not compact to form a stable fill.

Suitable material shall comprise all that are acceptable in accordance with the requirements of the Specification for use in the Works, whether obtained from within or without the Site. Any reference in this Specification to suitable material and unsuitable material shall have the meanings defined above.

For the purpose of selection for use in earthworks all common excavation shall be classified as either plastic or non-plastic. Non-plastic materials shall be those on which it is impossible to carry out a plasticity index test and shall include "coarse grained non-cohesive material" shown in Table 2 - 2, and in accordance with SSRN 650 and such shales, silts and other materials which in the opinion of the Engineer are readily self-draining.

Plastic materials shall be all other materials included in the above-mentioned Table as "fine grained cohesive materials", as defined in SSRN 650.

TABLE 2 - 1 : MATERIAL CLASSIFICATION

	Class I	Class II	Class III
Typical Material	Black Volcanic Rocks Trachyte, Phonolyte and Igmnibrite	Altered Rocks Agglo- merate and Tuff	Weathered Rock and Soils (incl. murrum)
Hammer Blow	Solid note from Ringing to a Dully sound	Drummy Noise or crushes pieces	Dents Sample
Pliers Crushing	Not possible for Grani Fracture	Fractures or Crushes small piece	
50 mm dia. Core in Hand	Cannot break 500 mm long piece	Can break 300 mm piece	Can be crushed into pieces
Soaked in water for One hour	No change	Some change on weaker pieces	Disintegrates in the hand after soaking
Expected Crushing Strength	Above 40N/mm ²	1.5 to 40N/mm ²	Below 1.5 N/mm ³

TABLE 2 - 2: IDENTIFICATION OF SOIL TYPES

	Basic Soil Type	Particle size (mm)	Visual Identification	Nature and Plasticity	Composite Soil Types (mixture of basic soil types)		
soil coarse Very	BOULDERS	200	Only seen complete in pits or exposure		Scale of Secondary Constituents with coarse soils		
	COBBLES					Term	% of clay or silt
Coarse Soils <small>Over 60% sand and gravel (silt)</small>	GRAVELS	60		Particle shape:			
		coarse	Easily visible to naked eye; particle shape can be described; grading can be described	Angular	slightly clayey	GRAVEL	under 5%
				Subangular		or	
				Subrounded	slightly silty	SAND	
				Rounded			
	20		Flat				
	6		Elongate				
	medium	Well graded: wide range of grain sizes, well distributed. Poorly graded: not well graded. (May be uniform: size of most particles lies between narrow limits; or gap graded; an intermediate size of particle is markedly under represented)			- clayey	GRAVEL	5 to 15%
				- silty	SAND		
	fine				very clayey	GRAVEL	15 to 35%
					very silty	SAND	
SANDS	2						
	coarse	Visible to the naked eye; very little or no cohesion when dry; grading can be described	Rough	Sandy GRAVEL	Sand or Gravel and Important second constituent of the coarse fraction		
	0.6		Smooth	Gravelly SAND			
	0.2		Polished				
medium	Well graded: wide range of grain sizes, well distributed. Poorly graded: not well graded. (May be uniform: size of most particles lies between narrow limits; or gap graded; an intermediate size of particle is markedly under represented)						
fine							
Fine Soils <small>Over 35% standard clay sizes</small>	SILTS	0.06					
		coarse	Only coarse silt barely visible to naked eye; exhibits little plasticity and marked dilatancy; slightly granular or silky to the touch. Disintegrates in water; lumps dry quickly; loses cohesion but can be powdered easily between fingers.	Non plastic or low plasticity	Scale of secondary constituents with fine soils		
		0.02			Term	% of sand or gravel	
		medium					
	0.006			sandy	CLAY	35 to 65%	
	fine			or			
	0.002			gravelly	SILT		
	CLAYS		Dry lumps can be broken but not powdered between the fingers; they can also disintegrate under water but more slowly than silt; smooth to the touch; exhibits plasticity but no dilatancy; sticks to the fingers and dries slowly; shrinks appreciably on drying usually shows cracks. Intermediate and high plasticity clays show these properties to a moderate to high degree respectively.	Intermediate plasticity (Lean clay)	- CLAY SILT		under 35%
					Examples of composite types		
						Loose, brown, subangular very sandy, fine to coarse GRAVEL with small pockets of soft clay.	
					Medium dense, light brown, clayey, fine and medium sand.		
Organic Soils	ORGANIC CLAY-SILT or SAND	Varies	Contains substantial amounts of organic vegetable matter.		Stiff, orange brown, fissured sandy CLAY.		
	PEATS	Varies	Predominantly plant remains usually dark brown or black in colour, often with distinctive smell; low bulk density.		Firm, brown, thinly laminated SILT and CLAY		
					Plastic, brown, amorphous PEAT		

207 EXCAVATION - GENERAL

The excavation shall be taken out as nearly as possible to exact dimensions and shape so that the minimum of filling in will afterwards be necessary. The Contractor shall keep the sides of excavation true by struts, walings, poling-boards, sheeting, bracing or otherwise and the supporting timbering shall be of sound construction and be sufficiently watertight to permit the excavation, concreting, etc. being carried out satisfactorily. Water shall be removed by pumping and all temporary expedients required for dealing with water shall be the Contractor's liability. The Contractor shall be responsible for the stability of all excavations and trenches.

Excavated material shall be deposited in spoil heaps confined to areas approved by the Engineer, and shall be neatly finished off to the approval of the Engineer and other relevant authorities.

Top soil shall be stored separately from the main excavated material and on no account disposed of without the approval of the Engineer.

The Contractor shall at his own expense maintain the flow in all drains and water courses which may be encountered during the construction of works. Sewage shall not be allowed to flow onto open ground or into any watercourses, trench or sewers constructed under this contract except by permission of the Engineer's representative.

208 MECHANICAL EXCAVATION

- (i) A mechanical excavator shall be employed by the Contractor only if the sub-soil is suitable and will allow the timbering of the trenches or other excavations to be kept sufficiently closed up to ensure that no slips fall or disturbance of the ground takes place or there are no pipes, cables, mains or other services or property which may be disturbed or damaged by its use.
- (ii) When mechanical excavators are used, a sufficient depth of materials shall be left over the bottom of the excavations to ensure that the ground at finished excavation level is not damaged or disturbed in any way. The excavations shall then be completed by hand to the finished levels required.

209 BLASTING

The Contractor shall keep in his office at the Site copies of Laws applying to the transport, storage and use of explosives and shall supply one copy of each Law to the Engineer. The Contractor shall also submit to the Engineer a copy of any instructions or notices that the Contractor may issue to his staff or workmen or post about the Site in compliance with such Laws.

The Contractor shall submit to the Engineer details of the explosives that he proposes to use and of his proposals for the storage and transport of explosives to the Sites. Explosives shall be used in accordance with the recommendations of SSRN 680.

The Contractor shall use explosives for blasting in connection with the work only at such times and places and in such a manner as the Engineer may approve, but such approval shall not relieve the Contractor from his responsibility for injury, loss, inconvenience and annoyance to persons, damage to the work and adjoining structures, consequent to the use of such explosives. The Contractor shall be entirely liable for any accident which may occur and shall hold the Employer harmless and indemnified from all claims arising from such. Where loss, inconvenience, injury or accident is likely to be caused to persons, animals, works, property, places or objects the Engineer shall have power to regulate or prohibit the blasting and in the event of such regulation or prohibition the Contractor shall have no claim against the Employer.

The Contractor shall give warning each time of his intention to blast and shall station men on the roads and elsewhere with flags, horns and whistles and prevent persons, animals and traffic going into or remaining within the danger zone. He shall arrange for control of

traffic on the main roads by the police during all blasting operations within 400 m of such main roads.

The Contractor's Personnel in charge of blasting operations shall have valid licences for all types of blasting required including restricted blasting, copies of which shall be made available to the Engineer.

The Contractor shall provide proper buildings in suitable positions for the storage of explosives to the satisfaction of the Engineer and the relevant Authority. The Contractor shall take all possible precautions and comply with all Laws or other regulations governing the handling and use of explosives including the display on the site of warning notices explaining the procedure to be used in blasting operations, such notices are to be displayed in all languages normally spoken by the personnel working on the Site.

In carrying out blasting the Contractor shall drill holes to the extent approved and in such number, position and direction and to such lengths and with loading of explosives of such quantity and power and means of detonating as will ensure that the excavation is taken out as neatly as possible to the required profile without shattering the rock remaining or causing injury to concrete or fill already deposited in the vicinity.

In certain areas it is necessary to restrict blasting in order to protect installations of major significance.

The Contractor shall, whenever he wishes to blast within 400 m of any public road, railway line, overhead power line or telephone line, draw this to the attention of the relevant authority concerned and ensure that all conditions imposed by them including attendance by the representatives of such authority are met. In all such cases, he will be required to provide cover to the area to be blasted, to the approval of the Engineer, to prevent damage to these services by flying debris.

The Contractor shall ensure, by limiting the amount of charge/delay or by the use of controlled detonations used at any blasting site, that the peak particle velocity at any existing building, structure or service, does not exceed 50 mm/s. The Contractor shall provide a suitable seismometer and whenever called upon to do so by the Engineer, demonstrate by the use of the seismometer that the charges he proposes to use comply with these Specifications.

Compliance with the restrictions will not, however, limit the Contractor's liability in the event of any damage to any existing building, structure or services.

Notwithstanding any of the above, the Contractor shall cease blasting and continue to excavate in rock by barring, wedging or other approved methods, whenever called upon to do so by the Engineer.

If firing is done electrically, all precautions shall be taken to prevent premature explosions. All men other than the responsible foreman and one skilled man shall be withdrawn to a safe distance before firing wires are connected to the firing cable. The connection of the firing cable to the firing battery shall be the last operation. No charging or firing will be permitted when there are electrical storms or thunder conditions at or near the Site, when the time delay between the flash of lightning and the thunder clap is less than 10s.

After blasting, no personnel shall approach the area until it has been examined by the foreman or other responsible person and in the case of misfires the proper precautions shall be taken.

The Contractor shall be deemed to have included in his rates for items covering excavation for the supply of all explosives, transport, storage, supervision and compliance with the conditions and restrictions set out above.

Prior to the initiation of blasting operations, the Contractor shall comply with the following:

- The Contractor will obtain all required state and local permits relating to the transportation, storage, handling, loading, and detonation of explosives

- Before performing any work on, or accessing the right-of-way, the Contractor shall verify to the Employer and Engineer that all property owners have been notified of the impending construction and blasting activities
- The Contractor shall submit to the Engineer's Representative his site-specific Blasting Plan for approval prior to execution of any blasting activity

For each area determined to require blasting, a site-specific blasting plan will be submitted. The Contractor's site-specific blasting plan shall include at a minimum the following information:

- Blaster's name, company, copy of license, and statement of qualifications; seismograph equipment and sensor location
- Site location, applicable drawing numbers, and associated rock type and geological structure (solid, layered, or fractured)
- Copies of all required permits
- Methods and materials including explosive type, product name and size, weight per unit, and density; stemming material; tamping method; blasting sequence; use of non-electrical initiation systems for all blasting operations; magazine type and locations and security for storage of explosives and detonating caps
- Site dimensions including explosive depth, distribution, and maximum charge and weight per delay; hole depth, diameter, pattern, and number of holes per delay
- Dates and hours of conducting blasting, distance and orientation to nearest aboveground and underground structures; schedule identifying when blasting would occur within each water body greater than 3 m wide
- Blasting procedures for:
 - Storing, handling, transporting, loading, and firing explosives
 - Prevention of misfires, flyrock, fire prevention, noise, and stray current accidental-detonation
 - Signs, flagmen, and warning signals prior to each blast
 - Those locations where the pipeline route parallels or crosses an electrical transmission corridor, cable or pipeline; parallels or crosses a highway or road; is within or adjacent to forested areas; approaches within 300 m of any residence, building or occupied structure
 - Local notification
 - Inspections after each blast
 - Disposal of waste blasting material

210 EXCAVATION OF CUTTINGS

The Contractor shall carry out the excavation of cuttings in accordance with the Drawings and shall adhere to the slopes, levels, depths and heights shown thereon.

The sloping sides of all cuttings shall be cleared off all rock fragments which move when pressed with a crowbar and are therefore, liable to cause injury or damage through falling.

Where excavation reveals a combination of suitable and unsuitable materials, the Contractor shall, wherever the Engineer Considers it practicable, carry out the excavation in such a manner that the suitable materials are excavated separately for use in the Works without contamination by the unsuitable materials.

If any suitable material excavated from within the Site is, with the agreement of the Engineer, taken by the Contractor for his use (i.e. as material for pavement courses) and

not in consequence for the forming of embankment, or soiling of slopes of cuttings and embankments or verges, sufficient suitable filling material to occupy, after full compaction, a volume corresponding to that which the excavated material occupied, shall, unless otherwise directed by the Engineer, be provided by the Contractor from his own resources.

No excavated material shall be dumped or run to spoil except on the direction or with the permission of the Engineer, who may require material which is unsuitable to be retained on Site. Materials used for haul roads shall not be re-used in embankment, or elsewhere without the permission of the Engineer.

The completion of cuttings shall, unless otherwise permitted by the Engineer, be undertaken in two stages. First the area including verges shall be excavated to a level 30 cm above formation level whereupon constructional traffic may continue to be allowed to use the surface so formed.

Secondly, when it is necessary to complete to formation level, this excess of material shall be trimmed off as a single operation and disposed off either elsewhere in the Works if regarded by the Engineer as suitable material or if not run to spoil. When the height above formation level has been reduced below 30 cm, the movement and use of Constructional Plant other than that used to complete this operation shall be in accordance with the requirements of the Engineer. This trimming operation shall be regarded (for access roads) as the commencement of Construction of the pavement.

211 EXCAVATION FOR PIPE LAYING

- (i) The excavation shall be made in open cutting unless tunnelling or heading is specified or approved by the Engineer.
- (ii) Trenches for pipes shall be excavated to the lines and depths shown on the Drawings, or as directed by the Engineer, and shall be of sufficient width to give an equal clearance on both sides of the barrel of the pipe or pipes such that the total trench width is $\frac{3}{2}$ 'D' where 'D' is the outside diameter of the pipe or the average outside diameter of the group of pipes or will be equal to the outside diameter or the pipe plus 30 cm on each side. For pipes bedded in concrete sections, the breadth of concrete bedding for the pipes will be equal to the width of the trench. Excavation for fire hydrants, valve chambers or any other water works structure shall be carried out to the levels and outlines of such structures, and the rates shall include for any additional excavation or other temporary Works required.
- (iii) If in the opinion of the Engineer due to the fault of the Contractor the ground becomes weathered prior to the laying of the pipes, the Contractor shall remove the weathered soil and replace it with suitable compacted material to the original formation level at his own expense.
- (iv) Where pipes are not laid on concrete the bottoms of the trenches as excavated, shall be smooth and shall be free from stones or other projections. Holes cut out at the joints shall be of as small a size as possible throughout their entire length. The trench shall be dug to within 15 cm of its formation and proper grade pegs shall then be set in the bottom of the trench by the Contractor for the accurate taking out of the rest of the excavation. Grooves about two inches deep shall be cut across the trench at the required positions to enable the easy removal of pipe slings.
- (v) If instructed to do so by the Engineer, the pipe trench shall be excavated to a depth of 10 cm below the invert of the pipe and be refilled with suitable material free from stones and well rammed in order to provide a smooth bed for the pipes.
- (vi) The materials excavated from trenches shall be laid completely and neatly on the sides of the trench except where in the opinion of the Engineer this would so obstruct a road or footpath as to prevent the passage of traffic or pedestrians. In such cases the Contractor must dig out the pipe trench in such lengths as directed and keep his

excavated material at such a distance as may seem advisable, and the rates shall be deemed to cover for this.

- (vii) During excavation, the Contractor shall ensure that all material suitable for re-use and which he intends for re-use are kept separate and set aside and protected as necessary to prevent loss or deterioration. Materials forming the surface and foundations of roads shall when excavated and if required for further use, be carefully separated. Paving slabs, bricks and similar surfaces shall be carefully removed and stacked for re-use, or as otherwise instructed by the Engineer.
- (viii) No pipes shall be laid and no excavation filled in or covered with concrete until the formation has been inspected and the permission to proceed with the Work obtained.
- (ix) Where pipes are to be laid under a road formation or in open country, or in cutting, trenches shall generally be excavated after the earthwork is completed. The Engineer may permit these pipe trenches to be excavated before the earthwork is complete, but payment for the excavation of the trench will only be made upon the volume excavated below the road formation.
- (x) The unit of measurement for the excavation of trenches shall be per linear metre or per m³ of void calculated from the deemed width of the trench, and the average depth of excavation as mentioned in the Bills of Quantities. No allowance will be made for bulking. Unless otherwise indicated, for valve chambers and other water works structures, the unit of excavation will be per number or per m³ of excavated material calculated to the exact outer dimensions and depths of the Permanent Works. No allowance will be made for bulking.
- (xi) The rates for excavation of trenches in "normal" material shall include removal of all material except "rock", selecting and segregating material to be backfilled in special layers, supporting or sheeting, shoring and strutting, any additional working space or room for timbering or sheeting required, dealing with water, maintenance of the trench, and all labour, tools, materials, plants, supervision, overheads and profit.
- (xii) The provisions of above Clause shall apply to the rates of excavation in "rock" and in addition the Contractor shall also allow in his rates for backfilling the invert with Class 15 concrete or other materials as directed by the Engineer and removing to a spoil dump all "rock" excavated.

212 EXCAVATION FOR FOUNDATIONS

- (i) Foundations shall be excavated to such depths as the Engineer may direct and no concrete or other material shall be placed until the foundations have been examined and approved. Due notice shall be given to the Engineer to enable him to examine foundations well in advance.
- (ii) The Engineer may direct that a layer of excavation of not less than 75 mm thickness shall be left undisturbed and subsequently taken out by hand immediately before the concrete or other work is placed.
- (iii) If in the opinion of the Engineer due to the fault of the Contractor the ground becomes weathered prior to the placing of concrete or other material the Contractor shall remove the weathered soil and replace it with concrete (Class 15) to the original formation level at his own expense.
- (iv) The Contractor shall draw the attention of the Engineer to any patches of soft ground in the excavations and he shall excavate to such extra depth as the Engineer may direct and fill up with concrete Class 15. Payment for this Work will be made at the rates tendered.

213 EXCAVATION IN EXCESS

If any part of a trench or foundation is by Contractor's error excavated deeper and/or wider than is required, the extra depth and/or width shall be made good at the Contractor's expense with Class 15 concrete or otherwise as the Engineer may require.

214 SITE CONCRETE

Areas of excavation which are to receive a layer of Site concrete as a screeding under the structural concrete or which are to form foundations to thrust and anchor blocks shall be covered with the screeding immediately the excavation has been completed.

215 FORMING OF EMBANKMENTS

The Contractor shall carry out the forming of embankments in accordance with the Drawings and shall adhere to the slopes, level, depths and heights shown thereon.

Unless otherwise directed or permitted by the Engineer, all suitable excavated materials shall be used to form embankments. All such excavated material which is surplus to this requirement, shall be disposed off in tips to be provided in accordance with appropriate Clause. Any material which according to the Specification requirements is unsuitable for forming embankments shall be similarly disposed off.

All filling material other than rock in embankments or below formation level in cuttings shall be deposited in layers not exceeding 25 cm loose depth unless as a result of compaction trials the Engineer approves spreading to a greater depth up to a maximum of 35 cm loose depth. Each layer shall extend over the full width of the embankment and shall be completed in accordance with the requirements of this Specification.

Rock used in rock-fill embankment shall be of such size that it can be deposited in horizontal layers each not exceeding 45 cm loose depth and extending over the full width of the embankment except for any specified external cover to slopes or new formation level. The materials shall be spread and levelled by a crawler tractor weighing not less than 15 tons. Each layer shall consist of reasonably well graded rock and all large voids shall be filled with broken fragments before the next layer is placed. The top surface and side slopes of embankments formed shall be thoroughly blinded with approved fine graded material to seal the surface. Such material may be surface soil on side slopes. Isolated boulders each within the range 0.05 cu. metres to 0.3 cu. metres in size may be incorporated more than 60 cm below formation level in embankments not of rock-fill at the discretion of the Engineer, provided that the specified compaction requirements are met. No stone exceeding 0.05 m³ should be placed less than 60 cm below formation level.

During the construction of embankments the Contractor shall control and direct constructional traffic uniformly over their full width. Fill material shall not be stockpiled on embankments, unless this is permitted by the Engineer. Should the quantity of excavation from the Works, including that from any widened cuttings, be insufficient to make up the embankments, the deficiency shall be made good by approved imported suitable material and the Contractor shall be responsible for locating and obtaining such material. Where materials of different characteristics are readily available those of relatively high-bearing capacity shall be placed in the top-most (60 cm) below formation level.

The completion of embankments shall unless otherwise permitted by the Engineer, be undertaken in two stages. First the area shall be brought up to a level of 15 cm above formation level whereupon constructional traffic may continue to be allowed to use the surface so formed. Secondly, when it is necessary to complete to formation level, this excess of material shall be trimmed off as a single operation and disposed off either elsewhere in the Works if regarded by the Engineer as suitable material or if not, run to spoil. When the height above formation level has been reduced below 15 cm the movement and use of construction Plant other than that used to complete this operation, shall be in accordance with the requirements of the Engineer. This trimming operation shall be regarded for access roads as the commencement of construction of the pavement.

216 SIDE SLOPES

Should the slopes of any cutting be excavated beyond the widths shown on the Drawings or directed by the Engineer, the Contractor shall make good each affected area in a manner satisfactory to the Engineer.

217 COMPACTION OF EARTHWORKS

All filling material used in earthworks shall be compacted to specification by Plant approved by the Engineer for that purpose.

The Contractor shall submit to the Engineer for approval his proposals for the compaction of each main type of material to be used in the embankments, including those in relation to the types of Plant, the number of passes and the loose depth of layer. The Contractor shall carry out compaction trials, supplemented by any necessary laboratory investigations as required by the Engineer, using the procedure proposed by the Contractor for the earthworks, and shall satisfy the Engineer that all the specified requirements regarding compaction can be achieved. Compaction trial with the main types of material likely to be encountered shall be completed before the Works with the corresponding materials will be allowed to commence.

Work on the compaction of plastic materials in embankments shall proceed as soon as practicable after excavation and shall be carried out only when the moisture content is not greater than 2 per cent above the plastic limit for that material. Where the moisture content of plastic material as excavated is higher than this value the material shall, unless otherwise directed by the Engineer, be run to spoil. If the Contractor allows the moisture content of suitable plastic materials to increase to a value which is unacceptable for compaction he shall, unless he prefers at his own expense to wait until the material has dried sufficiently for acceptance again as suitable material, run such material to spoil and provide an equal volume of material suitable for filling, both without extra charge.

Work on the compaction of non-plastic materials in embankments shall be carried out only when the material has such a moisture content as is within the range from 1 per cent, wetter to 2 per cent drier than the moisture content of the material in cuttings or borrow pits when measured on samples obtained from at least 30 cm above the level of the water table as indicated by the presence of free water in the excavation. Nevertheless, if with any material the Engineer doubts whether satisfaction will be obtained within the above moisture limits, he may require compaction to proceed only when the limits of moisture content for the compaction of non-plastic materials are within the range of the optimum moisture content as determined by the laboratory compaction test method described in SSRN 601. Method of Test for Soil Classification and Compaction.

If any such non-plastic material on excavation is too wet for satisfactory compaction and the Engineer orders the moisture content to be lowered or raised, such Work shall be treated as included in the rates. All adjustments of moisture content shall be carried out in such a way that the specified moisture content remains uniform throughout compaction.

If the Contractor allows the moisture content of suitable non-plastic materials to change after excavation to a value unsuitable for compaction, he shall raise or lower the moisture content as required above, or the Contractor shall, if so directed by the Engineer, run the material to spoil and replace it with an equal quantity of material suitable for compaction.

Work shall be continued until a state of compaction is reached throughout the embankments, including especially the slopes of embankments (and the immediate approaches to bridge abutments) such that at least 9 out of every 10 consecutive samples taken of the compacted material have a relative compaction determined according to SSRN 601 of at least the following percentage of the maximum density of optimum moisture content:

- (a) For the topmost 15 cm below formation level a maximum density of 100 per cent.
- (b) For the remainder below formation a density of at least 95 as mentioned in the Bills of Quantities and as directed by the Engineer.

If with non-plastic material, the compacted material has become dry in the interval between the completion of compaction and the measurement of the state of compaction, then the moisture content to be used for the calculation of the air content shall be the mean moisture content for the compaction of such materials as specified above.

Each layer of rock used as rock-fill in embankments shall be systematically compacted by at least 8 passes of towed vibrating roller weighing not less than 3 tons or a grid roller weighing not less than 13 tons dead weight or other approved plant. Where however, it is established that rock can be compacted to the requirements for common excavation, the rock shall be compacted to such latter requirements.

218 EXCAVATION BELOW EMBANKMENT IN MATERIALS UNSUITABLE FOR CONSTRUCTION

Before forming the embankment any unsuitable material naturally occurring on the Site shall be removed to such depths and over such area as may be directed by the Engineer and shall be run to spoil. The resultant excavation shall be backfilled with suitable material deposited and compacted as specified for the forming of embankments. Nevertheless, where in these circumstances such backfill has to be deposited below standing water, compaction may be omitted provided that the material used is completely free draining.

If ordered by the Engineer as an alternative method of construction, approved rock-fill material shall be placed directly on the naturally occurring unsuitable material to such total depth that on completion of compaction negligible deflection of the surface occurs due to the passage of vehicles hauling in the rock. The rock-fill material shall be deposited, and compacted so as to comply with the requirements of this Specification for the compaction of rock. Such work will be dealt with as a Variation of the Works.

219 BENCHING

Where an embankment is to be placed on appreciably sloping ground, the surface of the ground shall be benched in steps or trenches, as shown on the Drawings or directed by the Engineer including, if necessary, any under-draining of the Site.

220 EXCAVATION BELOW FORMATION IN CUTTINGS IN MATERIALS UNSUITABLE FOR CONSTRUCTION

Where unsuitable material is encountered in the sub-grade it shall be excavated to such depths and over such area as the Engineer shall direct and be run to spoil. The resultant excavation shall be backfilled with suitable material deposited in layers each not exceeding 25 cm loose depth and compacted in the manner specified for the forming of embankments. Nevertheless, where in these circumstances such backfill has to be deposited below standing water, compaction may be carried out if the material used is completely free draining.

If ordered by the Engineer as an alternative method of construction, approved rock-fill material shall be placed directly on the naturally occurring unsuitable material to such total depth that on completion of compaction negligible deflection of the surface occurs due to the passage of vehicles hauling in the rock. The rock-fill material shall be deposited and compacted so as to comply with the requirements of this Specification for the compaction of rock. Such work will be dealt with as a Variation of the Works.

221 EXCAVATIONS FOR FOUNDATION PITS AND TRENCHES

Pits and trenches for foundations shall be taken out to the levels and dimensions shown on the Drawings or to such other levels and dimensions as the Engineer may direct. The bottoms of all excavations shall be carefully levelled and if necessary stepped or benched horizontally. Any pockets of soft material or loose rock and fissures in the bottoms of pits and trenches shall be removed and the cavities so formed, filled with concrete of the appropriate Class. When any excavation has been taken out and trimmed to the levels and dimensions shown on the Drawings or directed by the Engineer, the Engineer shall be informed accordingly so that he may inspect the completed pit or trench and no excavation

shall be filled in or covered with concrete until it has been authorised to proceed with the work. All surplus excavated materials from such excavations not required for refilling shall be deposited in embankments, or otherwise disposed off, as directed. All excavations shall be kept dry, and all bailing and pumping, timbering, shoring and supporting of sides that may be required, and any refilling, ramming and disposal of surplus materials necessary in carrying out the excavations for foundation pits and trenches shall be included in the prices for excavation.

222 EXCAVATION FOR FOUNDATION BELOW OPEN WATER

The rates for excavation for foundations below the agreed water level shall include for the cost of all temporary loose timbering and shoring, sheet piling, cofferdams, caissons, pumps and other special appliances required.

223 FOUNDATION PITS AND TRENCHES OF GREATER WIDTH AND DEPTH THAN NECESSARY

The Contractor shall not be entitled to payment in respect of excavation to any greater extent, whether horizontally or vertically, than is necessary to receive any structure for which the excavation is intended, except where a separate item is provided for additional excavation for Working Space, timbering or other temporary work. Excavation to a greater depth or width than is directed shall be made good with concrete of the appropriate Class as determined by the Engineer who may allow excavation to a greater width than is necessary to be filled and tightly packed with suitable material.

224 COMPLETION OF EARTHWORKS

The formation shall be properly shaped and regulated and compacted. When completed the formation shall be at the required level and generally parallel to the required finished surface.

225 OPEN DITCHES

Open ditches for drainage purposes shall be cut where and of such cross section as the Engineer shall direct and where so required by him they shall be constructed before the cuttings are opened or the embankments begun. The sides shall be dressed fair throughout and the bottoms accurately graded so as to carry off the water to the outlet to be provided. The material excavated from the ditches shall be disposed off as directed by the Engineer.

226 DISPOSAL AND STORING OF EXCAVATED MATERIAL

All surplus material arising from excavation shall be disposed off to a tip or tips to be provided by the Contractor unless otherwise stated. The disposal tip and manner of disposal shall be to the approval of the Engineer.

Where spoil from excavation is required for re-use as refill or for the formation of embankments, the various types of material shall be kept separately and stored in convenient and approved places.

227 BORROW CUTTINGS AND PITS

Where for any reason, it becomes necessary to form borrow cuttings or borrow pits, these shall be located by the Contractor and approved by the Engineer and the Work executed in all respects to the instructions of the Engineer. They shall be properly graded and drained and finished with neatly trimmed slopes.

228 ROAD APPROACHES AND ACCESS ROADS

The excavations and embankments in road approaches, junctions, access roads and fringe lands, shall be of such form and dimensions as the Engineer may direct, and in all respects finished as specified for those of the main carriageway. The materials arising from such excavation shall be disposed off as directed by the Engineer.

229 REFILLING OF PIPE TRENCHES

Pipe bedding and surround material comprises backfill placed and compacted in trench bottoms up to a level above the pipe crown such that pipes are uniformly supported, centred on the pipe centreline, for their full length.

Placing and compaction of the pipe bedding shall be regarded as the most critical phase of the backfilling operation. Backfilling beyond this point shall only proceed after inspection and approval of the completed bedding and surround by the Engineer.

The soil filled around and for 300 mm over the top of the pipes shall be free from stones, tree roots or similar objects which through impact or by concentrating imposed loads might damage the pipes, and not of black cotton soil type. The filling shall be carried out with utmost care, special attention being paid to tamping or material around the pipes and to joint holes so as to obtain the greatest possible compactness and solidity. The soil shall if necessary, be screened to exclude material which would damage the pipes. The soil shall be in accordance with the relevant pipe bedding drawing and shall be approved by the Engineer before backfilling commences.

The bedding for the pipes shall have a minimum thickness of 100 mm in normal trenches, and 150 mm where rock/stones are present and at designated road crossings. In trenches where there is a continuous accumulation of groundwater, the trench shall after obtaining the approval of the Engineer, be over-excavated by 150 mm and shall be backfilled using compacted granular material. Bedding material shall be compacted in layers not exceeding 50 mm thickness. Compaction of fill around the pipe shall be in layer thickness not exceeding half the pipe diameter or 75 mm whichever is the lesser. Layer thickness is however subject to achieving 90% MPD (Modified Proctor Density), failing which layers shall be reduced in depth as necessary to achieve the % compaction. The Contractor shall control the field compaction densities with a fully registered nuclear surface moisture-density gauge that is in a proper working order. This density gauge with operator shall be made available to the Engineer for his use as and when required.

The backfill soil shall be placed in layers of not more than 150 mm thickness when compacted and where hand ramming is employed the number of men filling shall not be more than half the number of men ramming. Where mechanical-ramming of the fill is employed, the machines shall be to the approval of the Engineer and soil shall be replaced and well rammed down by hand for a depth of not less than 60 cm to give sufficient cover to the pipes and obviate risk of damage to them before the mechanical rammer is brought into operation. The rammer shall not cease to be used on any length of trench until thorough compaction has been obtained. The backfill soil shall be free from clay lumps, boulders and rock fragments greater than 150 mm and as far as practicable 90 % MPD shall be attained, but this may be relaxed (e.g. in fields and open areas) by the Engineer.

The Contractor in excavating shall ensure that materials from strata containing no stones and suitable for filling around the pipes as described above, shall be kept separately and used for this purpose. The Contractor shall not be entitled to claim for any extra costs (as provided for below) for screening if this requirement is not complied with. If no such strata occurs in the excavation, the excavated material shall either be screened or suitable material transported to the Site from other excavations as the Engineer shall direct. The cost of such work shall be paid for according to the rates in the Bills of Quantities.

Before backfilling trenches, the Contractor shall obtain approval from the Engineer of the methods he proposes to use and he shall demonstrate by means of tests that the specified compaction can be achieved (according to SSRN 601 using the "sand replacement" method). The method of compaction and the testing thereof shall be at all times to the approval of the Engineer.

Trenches shall be backfilled as soon as possible after pipe laying to curtail thermal movements of the pipeline, damage to coatings and flotation of the pipeline should the trench fill with water. At no time shall backfilling lag more than 500 m behind the last pipe

laid. All specified tests on pipe barrels and joints shall therefore be carried out as soon as possible

The Contractor may use his discretion as to whether to backfill around joints before the pipeline is hydrostatically tested. The Contractor shall be responsible for the location and repair of any leaks on the pipeline under hydrostatic test and no extra payment will be made for any re-excavation and subsequent reinstatement which may be necessary to locate and remedy leaks or for the installation of cathodic protection equipment. Should the Contractor elect to leave joint holes open until after the hydrostatic test, he shall provide at his own expense effective and approved barricades and fences around each hole for the protection of persons and animals. In built-up areas, barricades shall be clearly marked at night with red warning lights.

230 MAKING GOOD SUBSIDENCES AFTER REFILLING

All refilling whether over foundations or in pipe trenches shall be thoroughly compacted by ramming and any subsidence due to consolidation shall be made up by the Contractor at his own expense with extra compacted material. Should subsidence occur after any topsoil has been replaced, the topsoil shall first be removed before any hollows are made up before being re-laid.

231 REINSTATEMENT OF SURFACES

- (i) All surfaces of roads, fields, paths, gardens, verges, etc. whether public or private which are affected by the operations of the Contractor shall be temporarily restored by him in the first instance and permanently reinstated in the second instance when the ground has consolidated fully. Separate payment for reinstatement shall be made only for surfaced roads (e.g. tarmac, concrete, paving bricks or similar material), for official designated dirt roads of at least 6m width, grassland, cultivated lands and sports fields. Any other reinstatements are deemed to be covered by the pipe installation rates.
- (ii) The Contractor shall be responsible for the temporary reinstatement and permanent reinstatement of all surfaces whether or not the area requiring restoration is within the limits of his excavations if the necessity for the restoration arises from causes due to the operations of the Contractor. The Contractor's prices shall include for restoring all surfaces so damaged to their original condition as no extra payment will be made for any such work. The Contractor shall take all necessary measures to ensure that no toxic materials which may cause damage to vegetation or livestock or pollute streams or watercourses are used in any temporary restoration or permanent reinstatement and shall indemnify the Employer against any claims arising out of the use of such materials.
- (iii) Temporary restoration shall be carried out immediately after the excavations have been refilled by returning the excavated material to the position from which it was removed and adding such suitable materials as may be required and consolidating the various materials as the Work proceeds in order to provide a surface that is adequate for the purpose that the original surface fulfilled. Temporary surfaces shall be maintained in a condition satisfactory to the Engineer and/or responsible Authority until the permanent reinstatement is made. In the case of roads and streets the surface shall be necessary to consolidate the filling and keep the surface fit for traffic, suitable material being added to all placed which have sunk or become rough.
- (iv) Permanent reinstatement shall not be made until the ground has consolidated permanently and until sanction to do so is received from the Engineer. It shall be carried out with materials similar to those which were used in the original Work to the entire satisfaction of the Engineer and/or responsible Authority.
- (v) In verges and other grass surfaces the topsoil shall be removed, stored and replaced after consolidation of the filling and planted or seeded with approved

grass. Should subsidence occur, it shall be made good with additional topsoil and be replanted with grass or re-seeded. New grass shall be planted if for any reason the grass fails to grow or is destroyed.

- (vi) The trenches, channels, gutters and kerbs shall be reinstated to the condition in which they were before excavation was commenced. The final surface of the trench shall be flush with the surrounding ground.
- (vii) If the work of restoration or reinstatement as carried out by the Contractor is not to the satisfaction of the Engineer and/or the responsible Authority and should the Contractor not remedy the defect forthwith, any remedial work considered necessary may be undertaken by the Engineer and/or the responsible Authority and the cost thereof shall be borne by the Contractor.
- (viii) If at any time any trench becomes dangerous, the Engineer shall be at liberty to call upon the Contractor to restore it to a proper condition at three hours' notice and should the Contractor fail to carry out the work, have it done at the Contractor's expense.
- (ix) The Contractor shall include in his price for all materials and labour which he may have to employ in reinstating the trenches and surfaces to their original condition to the satisfaction of the responsible Authority.

232 FORMING BANKS AND FILLED AREAS

- (i) Banks and filled areas shall be made and built up to the levels, dimensions and shapes shown on the Drawings or as may be subsequently directed by the Engineer.
- (ii) Before any filling is started, the ground on which embankments are to be sited, shall be stripped of all grass and topsoil and all roots, vegetable matters and other unsuitable substances removed.
- (iii) The soil to be used in the banks and fill areas as shown on drawings shall be approved material either borrowed or arising surplus from the excavations, the material being placed according to its nature as shall be directed. Usually, coarse hard material shall be placed at the bottom of the pile with the fine material and/or soil at the top or at the surface. Should there be insufficiency of such material arising from the Works, the Contractor shall supply other approved material for this purpose and shall be deemed to have included for such supply in his prices for filling. Any subsidence shall be the Contractor's liability and he shall forthwith make them good to the satisfaction of the Engineer.
- (iv) The filling shall be placed in layers not more than 15 cm thick, each layer being thoroughly compacted to the satisfaction of the Engineer.

233 EARTHWORKS TO BE KEPT FREE OF WATER

The Contractor shall arrange for the rapid dispersal of water shed onto or entering the earthworks from any source at any time during Construction, or of water which is shed onto the completed subgrade. He shall provide within the Site where necessary, temporary watercourses, ditches, drains, pumping or other means of maintaining the earthworks free from standing water. Water discharged from the Site, shall not be run into a road but be carried direct to an approved sewer, ditch or river through troughs, chutes or pipes.

Such provision shall include carrying out the work of forming the cuttings and embankments in such a manner that their surfaces have at all times a sufficient minimum crossfall and where practicable, a sufficient longitudinal gradient to enable them to shed water and prevent ponding. In pumping out of water from excavations and in any lowering of the water tables, the Contractor shall pay due regard to the stability of all structures.

The cost of compliance with the requirements of this Clause shall be covered in the rates for earthworks. If the Engineer is dissatisfied with the measures taken by the Contractor to

keep the Works free of water, the Engineer shall be free to instruct the Contractor to adopt what measures the Engineer may require. The cost of this Work shall be deemed to have been included in the rates in the Bills of Quantities.

234 SUPPORTS FOR FOUNDATION PITS AND TRENCHES

The sides of pits and trenches shall where necessary, be adequately supported to the satisfaction of the Engineer by timber or other approved means. The costs of this work shall be included in the rates inserted in the Bills of Quantities.

235 REFILLING OF FOUNDATION PITS AND TRENCHES AND REMOVAL OF EXCAVATION SUPPORTS

Refilling of foundation pits and trenches shall be carried out only after the foundation and structural works within the excavation have been inspected and approved by the Engineer. Unless otherwise directed by the Engineer, all filling shall consist of approved excavated materials which shall be deposited and compacted, using approved Plant, in layers not exceeding 25 cm loose depth, to a dry density not less than that of the adjoining soil. Timber sheeting and other excavation supports, shall be carefully removed as the filling proceeds except as otherwise specified, but the removal of such supports will not relieve the Contractor of his responsibility for the stability of the Works. The number of separate layers deposited and compacted at any one time shall be subject to the approval of the Engineer.

236 USE OF VIBRATORY COMPACTION PLANT

Where vibratory rollers or other vibratory compaction Plant are used, the mechanism and vibration shall be kept working continuously during compaction operations, except during period when the Engineer permits or directs discontinuance of vibration.

Unless otherwise permitted by the Engineer, the frequency of vibration shall be maintained within the range of amplitude and frequency recommended by the manufacturers of the Plant for the material to be compacted. The frequency shall be recorded by a tachometer indicating speed of rotation of any shaft producing vibration.

237 PROVISION OF SPOIL HEAPS

The Contractor shall provide spoil heaps at his own expense for the disposal of surplus materials and all rubbish collected when clearing the site and during the Construction of the Works. The Sites for these shall be approved by the Engineer.

238 TOPSOILING

Topsoil for planting grass shall be selected topsoil from approved stockpiles or materials from excavation for embankment foundations or from stripping from borrow areas or other approved sources. The material shall contain the most fertile loam available and shall be free from excessive quantities of grass, roots, weeds, sticks, stones or other objectionable materials.

Areas to receive the topsoil shall be brought to within 100 mm of the prescribed final cross-section at all points and finished smooth and uniform before topsoil is applied. Topsoil shall be evenly placed and spread over the graded area in one layer and shall be placed at locations shown on the Drawings or designated by the Engineer.

239 GRASSING

It is expected that it will be necessary to water the areas with newly planted grass to ensure germination and establishment of plants. The Contractor shall provide for a temporary sprinkler irrigation system to the approval of the Engineer and shall irrigate the newly planted grass at such times as the Engineer instructs. The Contractor shall repair at his own expense any damage to the slopes or any part of the work caused by excessive or irregular application of irrigation water.

Planting shall consist of ground preparation, furnishing approved grass, planting and covering the planted grass and shall be completed on areas shown on the Drawings or as designated by the Engineer.

When the topsoil has been placed on the areas to be planted with grass, levelled and compacted to finished grade, it shall be brought to a friable condition by harrowing or otherwise loosening to a depth of maximum 100 mm. All lumps and clods shall be thoroughly broken by approved means.

240 MEASUREMENT OF TOPSOILING AND GRASSING

Measurement for topsoiling and grassing shall be made according to the amount of square metres of topsoiled areas measured in place to the lines and grades on the Drawings or as established by the Engineer, and paid for at the rates per m² tendered in the Bills of Quantities, which rate shall include for all as specified, including supplying the grass seeds or sprigs.

241 FORMATION OF FOOTPATHS

The ground under footpaths shall be trimmed to formation level and 5 cm thick precast concrete paving slabs shall be bedded on 5 cm thick layer of fine sand unless the Engineer directs otherwise.

242 HARDCORE

Hardcore, shall be sound hard stone, rock or broken concrete not less than 10 cm in size unless otherwise directed. Sufficient but not excessive blinding material of smaller sizes may be permitted at the discretion of the Engineer.

243 RUBBLE

Rubble for use in drains and backing to walls shall be of durable natural stone or large sized gravel. It shall be of a size that will pass a 5 cm mesh-sieve and retained on a 2.5 cm mesh-sieve and it shall be free from earth clay vegetation or other organic matter and shall contain no rubbish.

244 GEOTEXTILE

Geotextile shall be placed where indicated on the drawings or as instructed by the Engineer in order to prevent sand from migrating outside their confined area, whilst allowing water to drain. The geotextile shall be a non-woven needle punched and thermally bonded polymer and be manufactured in accordance with SSRN 874.

The minimum tensile strength and maximum elongation at maximum tensile strength in accordance with SSRN 874 (a) shall be 9 kN/m and 40% respectively. Puncture resistance in accordance with SSRN 874 (b) shall be 1500 N, whilst the effective opening size and permeability shall be 125 micrometer and 190 l/m².sec respectively. Installation shall be in accordance with the manufacturer's guidelines and the contractor's proposal in this regard shall be submitted for the Engineer's approval before installation commences.

245 GEOGRID

The reinforcing element in the reinforced earthworks shall be a geogrid manufactured in accordance with a quality management system which complies to SSRN 875 and shall be from high-density polyethylene sheet, oriented in one direction so that the resulting ribs shall have a high degree of molecular orientation which is continued through the transverse bar.

The quality control strength in accordance with SSRN 875 shall not be below 52 kN/m at the 95% confidence limit, whilst the creep limited tensile strength for a design life of 120 years shall not be below 20 kN/m at 20 deg Celsius. The tensile strength at 2% and 5% strains in accordance with SSRN 875 shall be at least 12.5 kN/m and 24.5 kN/m respectively. The strength of the junctions between the longitudinal ribs and transverse bars

shall be not less than the quality control strength, whilst site joints shall be capable of carrying 90% of the quality control strength in accordance with SSRN 875 (c).

The geogrid shall be inert to all chemicals found in soils and shall have no solvents at ambient temperature. It shall not be susceptible to hydrolysis, shall be resistant to aqueous solutions of salts, acids and alkalis (pH = 2 to 12.5), shall be non-biodegradable and shall have a minimum of 2% finely divided carbon black well dispersed in the polymer matrix to inhibit attack by ultraviolet light.

The geogrid shall have an appropriate partial factor for site installation and construction damage, determined by the particle size distribution of the reinforced fill and in accordance with the values used in the design. This factor shall be based on full-scale tests carried out in accordance with SSRN 875 (d). Installation shall be in accordance with the manufacturer's guidelines and the contractor's proposal in this regard shall be submitted for the Engineer's approval before installation commences.

246 POLYETHYLENE PAVING

The paving on top of the earthwork protection structure shall be able to withstand water flows of at least 5 m/s and shall be manufactured from polyethylene and be able to carry a load of 200 tonnes per m². The paving elements shall be flexible for laying on undulating surfaces and gradients and be interconnected by lugs and slots to form one continuous paving area. The cellular structure shall be filled with topsoil and grass and provide unrestricted root growth.

247 BAG WORK

Bag work protective construction shall be carried out in accordance with the drawings or as otherwise directed by the Engineer. The foundation shall be prepared to the satisfaction of the Engineer. Approved hessian sand bags shall be filled with a 1:6 cement : sand dry mix, properly sealed with placed dimensions of 660 mm long, 330 mm wide and 150 mm high.

The next course of bags shall be laid and secured to the previous layer with high-density polyethylene pegs (Tensar or similar approved) of a length of 280 mm and at intervals of 330 mm (i.e. 2 No. per bag). The pegs shall be stabilised with carbon black for UV resistance, shall have two sprung shafts at the head of the peg to hold down the top bag and have a cruciform barbed shaft for maximum adhesion. The pegs shall be manufactured in accordance with a quality management system which complies with the requirements of ISO 9001. The next layer of bags shall be placed so as to cover the pegs of the previous layer.

Approved fill material shall be placed behind the bags and compacted to 95% Modified Proctor Density. A geotextile shall be placed between the bags and the fill as indicated on the drawings.

The bag work face shall be wetted down at the end of each working day or as directed by the Engineer.

SPECIFICATIONS - CHAPTER 3

STANDARD SPECIFICATION REFERENCE NUMBERS (SSRN)

STANDARD SPECIFICATION REFERENCE NUMBERS
(SSRN)

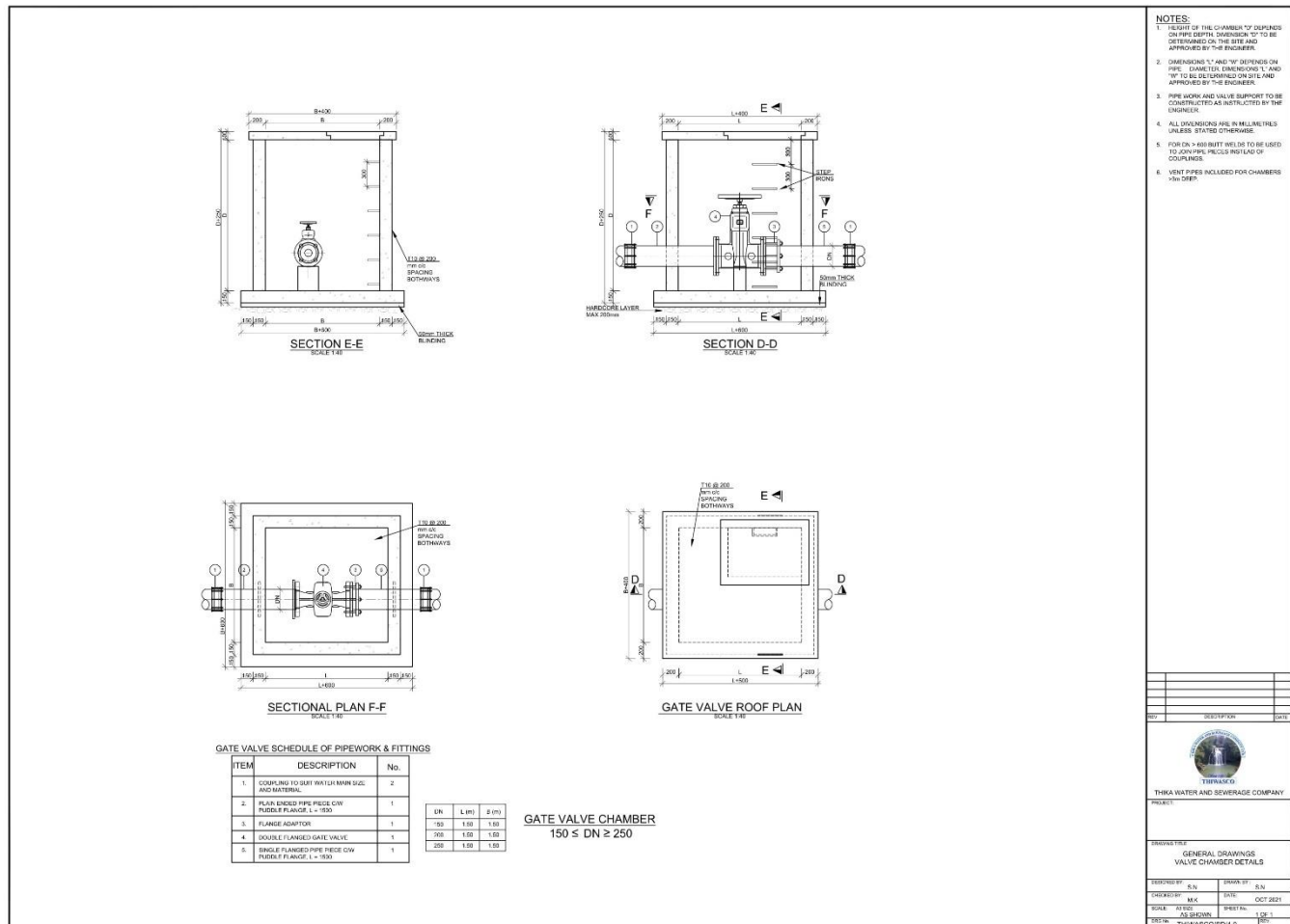
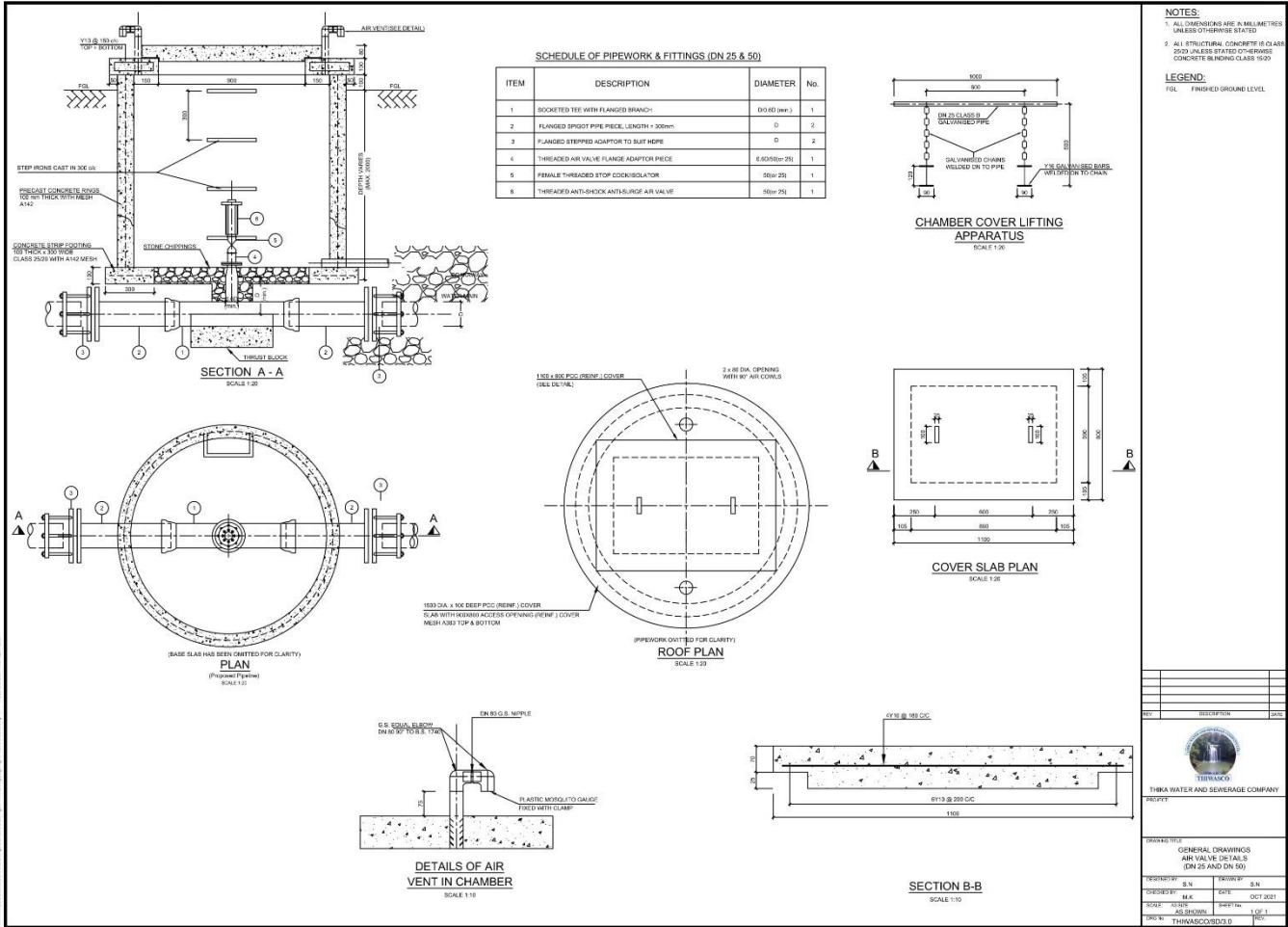
INDEX

<u>NUMBERS</u>	<u>SUBJECT</u>	<u>PAGE</u>
100- 156	Concrete	4 - 5
300- 323	Plastic Pipes	11-12
501- 524	Valves, Surface Boxes & Meters	15
600- 680	Engineering General	16-17

SECTION VII - DRAWINGS

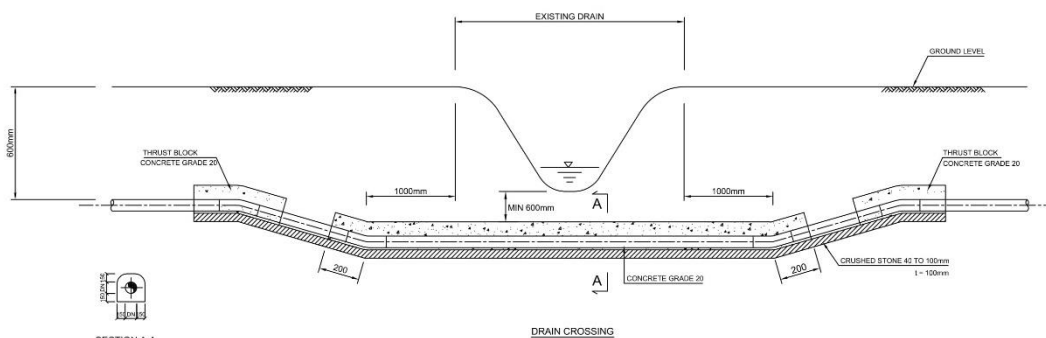
BIDCO TO ENGEN DIRECT SUPPLY LINE
BOOK OF DRAWINGS
DRAWING INDEX

No.	Drawing No.	Drawing Title
General Location		
1	THIWASCO/1.0	Overview Map Showing Proposed Measures (1 Sheet)
Standard Drawings		
1	THIWASCO/SD/1.0	Signboard Details (1 Sheet)
2	THIWASCO/SD/2.0	Pipe Bedding Details (1 Sheet)
3	THIWASCO/SD/3.0	Air Valve Details (1 Sheet)
4	THIWASCO/SD/4.0	Valve Chamber Details (1 Sheet)
5	THIWASCO/SD/5.0	Drain Crossing Details (1 Sheet)
6	THIWASCO/SD/6.0	Thrust Block Details (2 Sheet)
7	THIWASCO/SD/7.0	Road & Railway Crossing Details (1 Sheet)
8	THIWASCO/SD/8.0	Precast Paving Block Road Reinstatement (1 Sheet)
9	THIWASCO/SD/9.0	Indicator & Marker Post Details (1 Sheet)

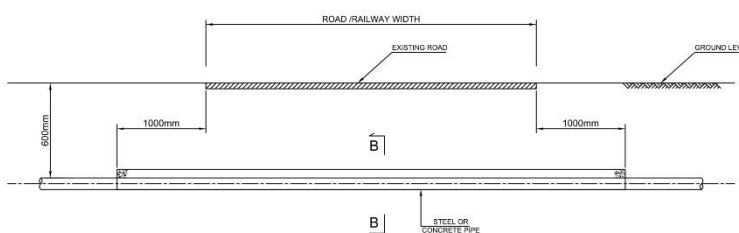


NOTES

1. ALL DIMENSIONS ARE IN MILLIMETRES UNLESS STATED OTHERWISE.
2. THIS DRAWING IS TO BE READ IN CONJUNCTION WITH OTHER LAYOUT DRAWINGS.
3. CONCRETE CLASS: BASES AND BEAMS = 25/20 LEAN CONCRETE = 15/20
4. CONCRETE COVER = 40mm



SECTION A-A



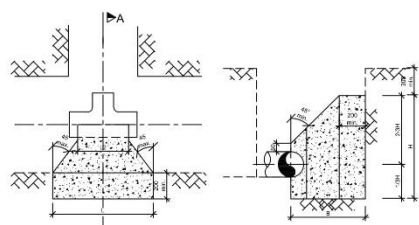
SECTION B-B

ROAD AND RAILWAY CROSSING

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GENERAL DRAWINGS
DRAIN CROSSING DETAILS

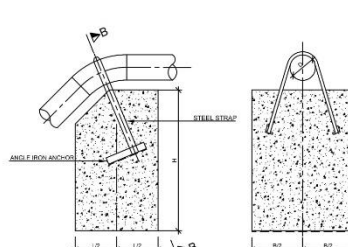
DESIGNED BY	S.N.	CHECKED BY	S.N.
DRAWN BY	S.N.	DATE	OCT 2021
SCALE	AS SHOWN	SHEET	OF 1
PROJECT	THIRAKO	DATE	



SECTION A-A
TEES

ANCHOR BLOCKS AT TEES AND ENDS

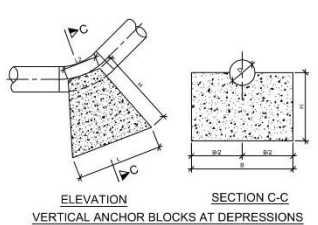
Branch Diameter (mm)	Test Pressure (MPa)	Tee				
		H (mm)	L (mm)	B (mm)	L2 (mm)	Vol (mm³)
100	2.40	0.40	0.44	0.70	0.10	0.38
150	2.40	0.67	0.67	0.75	0.20	0.34
200	2.40	1.30	1.31	0.80	0.30	0.76
250	2.40	1.10	1.18	0.85	0.40	1.26
300	2.40	1.80	2.13	0.85	0.40	1.85
350	2.40	2.00	4.63	1.92	0.75	6.93
400	2.40	3.00	5.10	2.35	0.80	13.79



SECTION B-B
TEES

ANCHOR BLOCKS AT VERTICAL CRESTS

Pipe Diameter (mm)	Test Pressure (MPa)	45 deg					90 deg				
		H (mm)	L (mm)	B (mm)	L2 (mm)	Vol (mm³)	H (mm)	L (mm)	B (mm)	L2 (mm)	Vol (mm³)
100	2.40	0.40	0.44	0.70	0.10	0.38	0.40	0.44	0.70	0.10	0.38
150	2.40	0.67	0.67	0.75	0.20	0.34	0.67	0.67	0.75	0.20	0.34
200	2.40	1.30	1.31	0.80	0.30	0.76	1.30	1.31	0.80	0.30	0.76
250	2.40	1.10	1.18	0.85	0.40	1.26	1.10	1.18	0.85	0.40	1.26
300	2.40	1.80	2.13	0.85	0.40	1.85	1.80	2.13	0.85	0.40	1.85
350	2.40	2.00	4.63	1.92	0.75	6.93	2.00	4.63	1.92	0.75	6.93
400	2.40	3.00	5.10	2.35	0.80	13.79	3.00	5.10	2.35	0.80	13.79



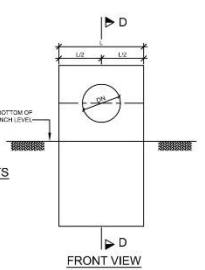
SECTION C-C
VERTICAL ANCHOR BLOCKS AT DEPRESSIONS

ANCHOR BLOCKS AT VERTICAL DEPRESSIONS																					
Pipe Diameter (mm)	Test Pressure (MPa)	45 deg					22.5 deg					11.25 deg									
		H (mm)	L (mm)	B (mm)	L2 (mm)	Vol (mm³)	H (mm)	L (mm)	B (mm)	L2 (mm)	Vol (mm³)	H (mm)	L (mm)	B (mm)	L2 (mm)	Vol (mm³)					
100	2.40	0.3	0.5	0.3	0.03	0.03	0.3	0.3	0.1	0.02	0.3	0.3	0.1	0.02	0.3	0.2	0.3	0.1	0.01		
150	2.40	0.3	1.2	0.5	0.1	0.13	0.8	0.5	0.1	0.09	0.3	0.4	0.5	0.1	0.05	0.3	0.4	0.5	0.1	0.05	
200	2.40	0.5	2.0	0.5	0.3	0.4	0.5	1.3	0.8	0.2	0.3	0.5	0.7	0.8	0.2	0.2	0.5	0.7	0.8	0.2	0.2
250	2.40	0.9	4.2	2.0	0.8	4.1	0.9	2.8	2.0	0.3	2.8	0.9	1.6	2.0	0.3	1.6	0.9	1.6	2.0	0.3	1.6
300	2.40	1.1	5.5	2.5	0.8	1.7	1.1	3.5	2.5	0.3	4.1	1.1	3.5	2.5	0.3	4.1	1.1	3.5	2.5	0.3	4.1

ANCHOR BLOCKS AT VERTICAL DEPRESSIONS

ANCHOR BLOCKS
SPACING ON GRADIENTS

GRADIENT	SPACING OF ANCHOR BLOCKS (m)
1 IN 2	5.5
1 IN 3	11.0
1 IN 4	11.0
1 IN 5	16.5
1 IN 6	22.0
1 IN 7 - 10	27.5



SECTION D-D
ANCHOR BLOCKS ON GRADIENTS

PIPE DIAMETER (mm)	DIMENSIONS (mm)				
	A	L	H	B	B2
100	1.1	1.2	1.0	0.5	0.5
150	1.2	1.2	1.1	0.55	0.55
200	1.3	1.3	1.4	0.65	0.65

NOTE
ANCHOR BLOCK TO BE POSITIONED BEHIND COLLAR AS SHOWN

1. ALL DIMENSIONS ARE IN MILLIMETRES UNLESS STATED OTHERWISE.
2. ANCHOR BLOCKS TO BE CONSTRUCTED FROM UNREINFORCED CONCRETE CLASS 20/20.
3. CONCRETE TO BE CAST AGAINST UNDISTURBED GROUND, WHERE DISTURBED THE SOIL AROUND THE ANCHOR BLOCK TO BE REMOVED AND FILLED WITH CONCRETE BEFORE THE PIPE IS PRESSURE TESTED OR COMPACTED TO NOT LESS THAN 95% MAX DRY DENSITY BEFORE THE MAIN IS PRESSURE TESTED.
4. BENDS LESS THAN 6° TO BE TAKEN UP BY THE FLEXIBLE PIPE JOINTS WHERE PRACTICABLE.
5. 11½° BENDS TO BE USED FOR BENDS GREATER THAN OR EQUAL TO 6° AND LESS THAN OR EQUAL TO 11½°.
6. ALL ANCHOR BLOCKS TO BE CAST LEAVING ALL PIPE JOINTS FREE.
7. DIAMETERS GIVEN ON THE TABLES ARE PIPE NOMINAL BORE SIZES.
8. ALL BENDS, TAPERS AND TEES TO BE WRAPPED WITH POLYTHENE SHEET GAUGE 500.

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GENERAL DRAWINGS
THRUST BLOCK DETAILS

DESIGNED BY	S.N.	CHECKED BY	S.N.
DRAWN BY	S.N.	DATE	OCT 2021
SCALE	AS SHOWN	SHEET	OF 1
PROJECT	THIRAKO	DATE	

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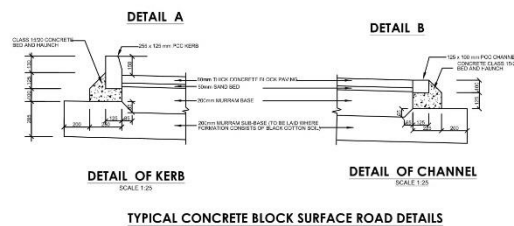
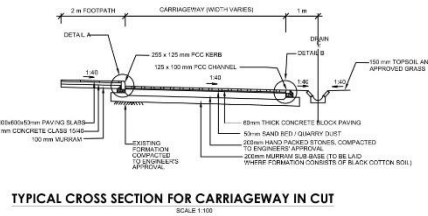
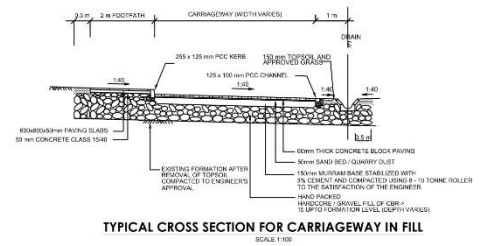
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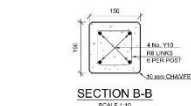
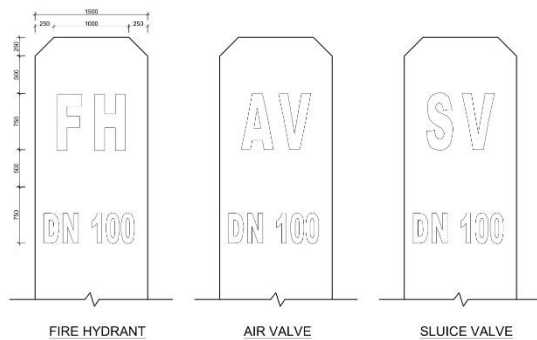
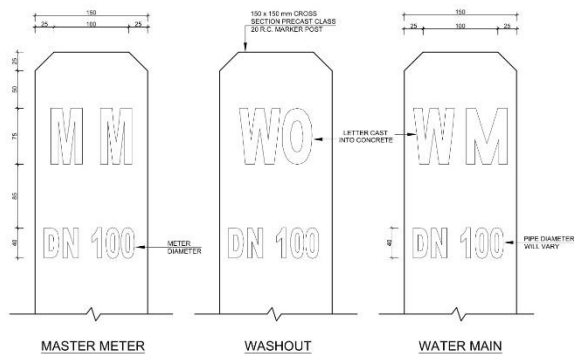
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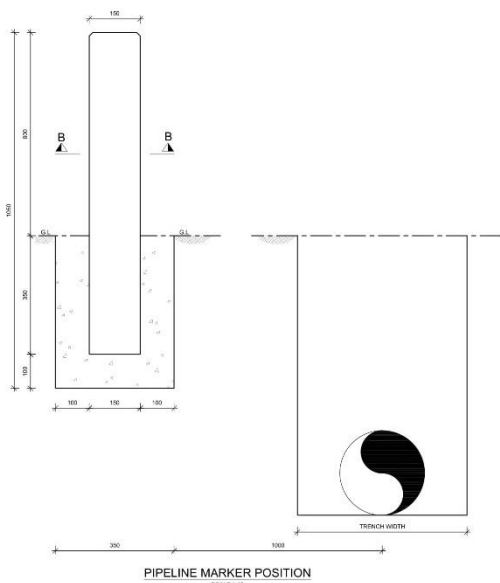
NOTES:
1. ALL DIMENSIONS ARE IN MILLIMETERS
UNLESS STATED OTHERWISE

LEGEND:
P.C.C PRE CAST CONCRETE

REV	DESCRIPTION	DATE
		
THIKWA WATER AND SEWERAGE COMPANY		
PROJECT:		
DRAWING FILE		
<p align="center">GENERAL DRAWINGS PRECAST PAVING BLOCKS ROAD REINSTATEMENT</p>		
DRAWN BY	S.N	CHECK BY
CHKD BY	M.K	DATE
		OCT 2021
SCALE	AS SHOWN	SHEET No.
18376	THIKWA Q	1 OF 1



BAR BENDING SCHEDULE			
BAR	No. OFF	TYPE	LENGTH
Y10	4	STRAIGHT	1000
R8	6		500
			



NOTES:

1. ALL DIMENSIONS ARE IN MILLIMETRES UNLESS STATED OTHERWISE
 2. THE INSPECTIVE INSCRIPTION TO BE MADE ONLY ON THE INSPECTOR POST FACING THE ACCESS ROAD
 3. ALL STRUCTURAL CONCRETE TO BE CLASS 20 ALL OTHER CONCRETE TO BE CLASS 15
 4. INSPECTOR POST TO BE PLACED AT ALL APPURTENANCE LOCATIONS, AND AT INTERVALS OF 200 M ALONG WATER MAINS
 5. LETTERS TO BE INSCRIBED ON INDICES TO POLLS SHOULD FACE ACCESS ROAD AND READ AS FOLLOWS:
- | | |
|----|-------------------|
| AV | FOR AIR VALVE |
| SV | FOR SECTION VALVE |
| WO | FOR WASHOUT |
| FH | FOR FIRE HYDRANT |
| MV | FOR MASTER METER |
| WM | FOR WATER MAIN |

LEGEND:
GL GROUND LEVEL

REV	DESCRIPTION	DATE
 <p>THIWASCO</p> <p>THIWA WATER AND SEWERAGE COMPANY</p>		
PROJECT		
DRAWING TITLE		
GENERAL DRAWINGS		
INDICATOR & MARKER POST DETAILS		
DESIGNED BY	S/N	DRAWN BY
CHECKED BY	M.R	DATE
SCALE	A1/2E	SHEET NO.
DATE	THIRAMAT/2008/03/08	OF 1

PART III - THE CONDITIONS OF CONTRACT AND CONTRACT

SECTION VIII - GENERAL CONDITIONS OF CONTRACT (GCC)

Thika Water & Sewerage Company Ltd

Improvement of water Supply Landless, Salama & Gatwanyaga (Bidco-Engen Pipeline Upgrade)

Eng. Mburu Kiemo
Chief Manager Technical Services
P.O. Box 6103-01000 Thika
mkiemo@thikawater.co.ke

General Conditions of Contract

1 GENERAL PROVISIONS

1.1 Definitions

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

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

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

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

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

“Contract Price” means the price defined in the contract and 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 the Agreement Form and signed by the parties including all attachments and appendices thereto and all documents incorporated by reference therein to execute, complete, and maintain the Works.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Local Currency” means the currency of Kenya.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1.2 Interpretation

In the Contract, except where the context requires otherwise:

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

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

1.3 Communications

- 1.3.1 Wherever these Conditions provide for the giving or issuing of approvals, certificates, consents, determinations, notices, requests and discharges, these communications shall be:
- a) In writing and delivered by hand (against receipt), sent by mail or courier, or transmitted using any of the agreed systems of electronic transmission as stated in the Special Conditions of Contract; and
 - b) delivered, sent or transmitted to the address of the recipient's communications as stated in the Special Conditions of Contract. However:
 - i) if the recipient gives notice of another address, communications shall thereafter be delivered accordingly; and
 - ii) if the recipient has not stated otherwise when requesting an approval or consent, it may be sent to the address from which the request was issued.
- 1.3.2 Approvals, certificates, consents and determinations shall not be unreasonably withheld or delayed. When a certificate is issued to a Party, the certifier shall send a copy to the other Party. When a notice is issued to a Party, by the other Party or the Engineer, a copy shall be sent to the Architect or the other Party, as the case may be.

1.4 Law and Language

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

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

1.5 Priority of Documents

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

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

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

1.6 Contract Agreement

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

1.7 Assignment

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

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

1.8 Care and Supply of Documents

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

1.9 Timely provision of Drawings or Instructions

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

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

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

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

1.10 Procuring Entity's Use of Contractor's Documents

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

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

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

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

1.11 Contractor's Use of Procuring Entity's Documents

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

1.12 Confidential Details

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

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

1.13 Compliance with Laws

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

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

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

1.14 Joint and Several Liability

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

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

1.15 Inspections and Audit by the Procuring Entity

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

2 THE PROCURING ENTITY

2.1 Right of Access to the Site

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

22 Permits, Licenses or Approvals

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

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

23 Procuring Entity's Personnel

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

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

24 Procuring Entity's Financial Arrangements

The Procuring Entity shall make and maintain all necessary financial arrangements which will enable the Procuring Entity to pay the Contract Price punctually (as estimated at that time) in accordance with Clause14 [Contract Price and Payment].

3 THE ENGINEER

3.1 Architect Duties and Authority

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

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

3.1.3 The Architect May exercise the authority attributable to the Architect as specified in or necessarily to be implied from the Contract. If the Architectis 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 approvalis required, then (for the purposes of the Contract) the contractor shall require the Architect toprovideevidence 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 shallbedeemedtoactfortheProcuring 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) anyact by the Architect in response to a Contractor's request shall be notified in writing to the Contractor within 14 days of receipt.

3.1.6 The following provisions shall apply:

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

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

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

32 Delegation by the Engineer

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

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

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

33 Instructions of the Engineer

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

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

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

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

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

34 Replacement of the Engineer

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

35 Determinations

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

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

4 THE CONTRACTOR

4.1 Contractor's General Obligations

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

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

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

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

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

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

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

42 Performance Security

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

43 Contractor's Representative

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

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

44 Sub-contractors

- 44.1 The Contractor shall not subcontract the whole of the Works. The contractor may however subcontract the works as provided in Clause 34.2.
- 44.2 The Contractor shall be responsible for the acts or defaults of any Subcontractor, his agents or employees, as if theyweret heacts or defaults of the Contractor. Unless otherwise stated in the Special Conditions:
- a) The Contractor shall not be required to obtain consent to suppliers solely of Materials, or to a subcontract for which the Subcontractor is named in the Contract;
 - b) The prior consent of the Procuring Entity shall be obtained to other proposed Subcontractors;
 - c) the Contractor shall give the Procuring Entity not less than 14 days' notice of the intended date of the commencement of each Subcontractor's work, and of the commencement of such work on the Site; and
 - d) each subcontract shall include provisions which would entitle the Procuring Entity to require the subcontract to be assigned to the Procuring Entity under Sub-Clause 4.5 [Assignment of Benefit of Subcontract] (if or when applicable) or in the event of termination under Sub-Clause 15.2 [Termination by Procuring Entity].
- 44.3 The Contractor shall ensure that the requirements imposed on the Contractor by Sub-Clause 1.12 [Confidential Details] apply equally to each Subcontractor.
- 44.4 Wher epracticable, the Contractor shall give fair and reasonable opportunity for contractors from Kenya to be appointed as Subcontractors.

45 Assignment of Benefit of Subcontract

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

46 Co-operation

- 46.1 The Contractor shall, as specified in the Contract or as instructed by the Engineer, allow appropriate opportunities for carrying out work to:
- a) The Procuring Entity's Personnel,
 - b) Any other contractors employed by the Procuring Entity, and
 - c) The personnel of any legally constituted public authorities, who may be employed in the execution on or near the Site of any work not included in the Contract.
- 46.2 Any such instruction shall constitute a Variation if and to the extent that it cause sthe Contractor to suffer delays and/or to incur Unforeseeable Cost. Services for these personnel and other contractors may include the use of Contractor's Equipment, Temporary Works or access arrangements which are the responsibility of the Contractor.
- 46.3 If, under the Contract, the Procuring Entity is required to give to the Contractor possession of any foundation, structure, plant or means of access in accordance with Contractor's Documents, the Contractor shall submit such documents to the Architect in the time and manner stated in the Specification.

47 Setting Out of the Works

- 47.1 The Contractor shall set out the Works in relation to original points, lines and levels of reference specified in the Contractor notified by the Engineer. The Contractor shall be responsible for the correct positioning of all parts of the Works, and shall rectify any error in the positions, levels, dimensions or alignment of the Works.
- 47.2 The Procuring Entity shall be responsible for any errors in these specified or notified items of reference, but the Contractor shall use reasonable efforts to verify their accuracy before they are used.

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

48 Safety Procedures

The Contractor shall:

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

49 Quality Assurance

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

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

4.10 Site Data

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

4.11 Sufficiency of the Accepted Contract Amount

4.11.1 The Contractor shall be deemed to:

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

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

4.12 Unforeseeable Physical Conditions

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

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

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

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

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

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

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

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

4.13 Rights of Way and Facilities

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

which he may require for the purposes of the Works.

4.14 Avoidance of Interference

4.14.1 The Contractor shall not interfere unnecessarily or improperly with:

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

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

4.15 Access Route

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

4.15.2 Except as otherwise stated in these Conditions:

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

4.16 Transport of Goods

Unless otherwise stated in the Special Conditions:

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

4.17 Contractor's Equipment

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

4.18 Protection of the Environment

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

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

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

4.19 Electricity, Water and Gas

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

4.20 Procuring Entity's Equipment and Free-Issue Materials

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

4.21 Progress Reports

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

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

4.22 Security of the Site

Unless otherwise stated in the Special Conditions:

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

4.23 Contractor's Operations on Site

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

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

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

4.24 Fossils

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

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

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

5 NOMINATED SUBCONTRACTORS

5.1 Definition of "nominated Subcontractor"

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

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

52 Objection to Nomination

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

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

53 Payments to nominated Subcontractors

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

54 Evidence of Payments

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

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

6 STAFF AND LABOR

6.1 Engagement of Staff and Labor

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

6.2 Rates of Wages and Conditions of Labor

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

to that of the Contractor.

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

63 Persons in the Service of Procuring Entity

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

64 Lab or Laws

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

65 Working Hours

Nowork shall be carried out on the Site on locally recognized days of rest, or outside the normal working hours stated in the **Special Conditions of Contract**, unless:

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

66 Facilities for Staff and Labor

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

67 Health and Safety

- 67.1 The Contractor shall at all times take all reasonable precautions to maintain the health and safety of the Contractor's Personnel. In collaboration with loca lhealth authorities, the Contractor shall ensure that medical staff, first aid facilities, sick bay and ambulance service are available at all times at the Site and at any accommodation for Contractor's and Procuring Entity's Personnel, and that suitable arrangements are made for all necessary welfare and hygiene requirements and for the prevention of epidemics.
- 67.2 The Contractor shall appoint an accident prevention officer at the Site, responsible for maintaining safety and protection against accidents. This person shall be qualified for this responsibility and shall have the authority to issue instructions and take protective measures to prevent accidents. Throughout the execution of the Works, the Contractor shall provide what ever is required by this person to exercise this responsibility and authority.
- 67.3 The Contractor shall send, to the Engineer, details of any accident as soon as practicable after its occurrence. The Contractor shall maintain records and make reports concerning health, safety and welfare of persons, and damage to property, as the Architect may reasonably require.
- 67.4 The Contractor shall conduct an awareness programme on HIV and other sexually transmitted diseases via an approved service provider and shall undertake such other measures taken to reduce the risk of the transfer of these diseases between and among the Contractor's Personnel and the local community, to promote early diagnosis and to assist affected individuals.

68 Contractor's Superintendence

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

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

6.9 Contractor's Personnel

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

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

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

6.10 Records of Contractor's Personnel and Equipment

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

6.11 Disorderly Conduct

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

6.12 Foreign Personnel

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

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

6.13 Supply of Water

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

6.14 Measures against Insect and Pest Nuisance

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

6.15 Alcoholic Liquor or Drugs

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

6.16 Prohibition of Forced or Compulsory Labour

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

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

6.17 Prohibition of Harmful Child Labor

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

6.18 Employment Records of Workers

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

6.19 Workers' Organizations

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

6.20 Non-Discrimination and Equal Opportunity

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

7. PLANT, MATERIALS AND WORKMANSHIP

7.1 Manner of Execution

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

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

7.2 Samples

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

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

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

7.3 Inspection

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

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

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

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

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

7.4 Testing

- 7.4.1 This Sub-Clause shall apply to all tests specified in the Contract.
- 7.4.2 Except as otherwise specified in the Contract, the Contractor shall provide all apparatus, assistance, documents and other information, electricity, equipment, fuel, consumables, instruments, labor, materials, and suitably qualified and experienced staff, as are necessary to carry out the specified tests efficiently. The Contractor shall agree, with the Engineer, the time and place for the specified testing of any Plant, Materials and other parts of the Works.
- 7.4.3 The Architect may, under Clause 13 [Variations and Adjustments], vary the location or details of specified tests, or instruct the Contractor to carry out additional tests. If these varied or additional tests show that the tested Plant, Materials or workmanship is not in accordance with the Contract, the cost of carrying out this Variation shall be borne by the Contractor, notwithstanding other provisions of the Contract.
- 7.4.4 The Architect shall give the Contractor not less than 24 hours' notice of the Architect's 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's presence.
- 7.4.5 If the Contractor suffers delay and/or incurs Cost from complying with these instructions or as a result of a delay for which the Procuring Entity is responsible, the Contractor shall give notice to the Architect and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:
- a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
 - b) payment of any such Cost-plus profit, which shall be included in the Contract Price.
- 7.4.6 After receiving this notice, the Architect shall proceed in accordance with 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 completed, the Architect shall endorse the Contractor's test certificate, or issue a certificate to him, to that effect. If the Architect has not attended the tests, he shall be deemed to have accepted the readings as accurate.

7.5 Rejection

- 7.5.1 If, as a result of an examination, inspection, measurement or testing, any Plant, Materials or workmanship is found to be defective or otherwise not in accordance with the Contract, the Architect may reject the Plant, Materials or workmanship by giving notice to the Contractor, with reasons. The Contractor shall then promptly make good the defect and ensure that the rejected item complies with the Contract.
- 7.5.2 If the Architect requires this Plant, Materials or workmanship to be retested, the tests shall be repeated under the same terms and conditions. If the rejection and retesting cause the Procuring Entity to incur additional costs, the Contractor shall subject to Sub-Clause 2.5 [Procuring Entity's Claims] pay these costs to the Procuring Entity.

7.6 Remedial Work

- 7.6.1 Notwithstanding any previous test or certification, the Architect may instruct the Contractor to:
- a) Remove from the Site and replace any Plant or Materials which is not in accordance with the Contract,
 - b) remove and re-execute any other work which is not in accordance with the Contract, and
 - c) execute any work which is urgently required for the safety of the Works, whether because of an accident, unforeseen event or otherwise.

- 7.62 The Contractor shall comply with the instruction within a reasonable time, which shall be the time (if any) specified in the instruction, or immediately if urgency is specified under sub-paragraph (c).
- 7.63 If the Contractor fails to comply with the instruction, the Procuring Entity shall be entitled to employ and pay other persons to carry out the work. Except to the extent that the Contractor would have been entitled to payment for the work, the Contractor shall subject to Sub-Clause 2.5 [Procuring Entity's Claims] pay to the Procuring Entity all costs arising from this failure.
- 7.64 If the contractor repeatedly delivers defective work, the Procuring Entity may consider termination in accordance with Clause 15.

7.7 Ownership of Plant and Materials

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

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

7.8 Royalties

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

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

8 COMMENCEMENT, DELAYS AND SUSPENSION

8.1 Commencement of Works

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

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

- 8.1.2 If the said Architect instruction is not received by the Contractor within 180 days from his receipt of the Letter of Acceptance, the Contractor shall be entitled to terminate the Contract under Sub-Clause 6.2 [Termination by Contractor].

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

8.2 Time for Completion

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

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

8.3 Programme

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

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

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

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

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

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

8.4 Extension of Time for Completion

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

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

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

8.5 Delays Caused by Authorities

If the following conditions apply, namely:

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

8.6 Rate of Progress

861 If, at anytime:

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

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

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

8.7 Delay Damages

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

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

8.8 Suspension of Work

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

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

8.9 Consequences of Suspension

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

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

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

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

8.10 Payment for Plant and Materials in Event of Suspension

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

Materials which have not been delivered to Site, if:

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

8.11 Prolonged Suspension

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

8.12 Resumption of Work

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

9 TESTS ON COMPLETION

9.1 Contractor's Obligations

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

9.2 Delayed Tests

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

9.3 Retesting of related works

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

9.4 Failure to Pass Tests on Completion

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

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

10. PROCURING ENTITY'S TAKING OVER

10.1 Taking Over of the Works and Sections

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

10.2 Taking Over of Parts of the Works

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

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

103 Interference with Tests on Completion

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

104 Surfaces Requiring Reinstatement

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

11. DEFECTS LIABILITY

11.1 Completion of Outstanding Work and Remedying Defects

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

11.2 Cost of Remedying Defects

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

11.3 Extension of Defects Notification Period

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

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

- 11.3.2 If delivery and/ or erection of Plant and/ or Materials was suspended under Sub-Clause 8.8 [Suspension of Work] or Sub-Clause 16.1 [Contractor's Entitlement to Suspend Work], the Contractor's obligations under this Clause shall not apply to any 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 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 or parts of the works that have already accepted, under the direction of the Engineer. Unless the defect is to be remedied at the cost of the Contractor under Sub-Clause 11.2 [Cost of Remedying Defects], the Cost of the search plus profit shall be agreed or determined by the Architect in accordance with Sub-Clause 3.5 [Determinations] and shall be included in the Contract Price.

11.9 Completion Certificate

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

his obligations under the Contract.

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

11.93 Only the Completion Certificate shall be deemed to constitute acceptance of the Works.

11.10 Unfulfilled Obligations

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

11.11 Clearance of Site

11.11.1 Upon receiving the Completion Certificate, the Contractor shall remove any remaining Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works from the Site.

11.11.2 If all these items have not been removed within 30 days after receipt by the Contractor of the Completion Certificate, the Procuring Entity may sell or otherwise dispose of any remaining items. The Procuring Entity shall be entitled to be paid the costs incurred in connection with, or attributable to, such sale or disposal and restoring the Site.

11.11.3 Any balance of the moneys from the sale shall be paid to the Contractor. If these moneys are less than the Procuring Entity's costs, the Contractor shall pay the outstanding balance to the Procuring Entity.

12 MEASUREMENT AND DEVALUATION

12.1 Works to be Measured

12.1.1 The Works shall be measured, and valued for payment, in accordance with this Clause. The Contractor shall show in each application under Sub-Clauses 14.3 [Application for Interim Payment Certificates], 14.10 [Statement on Completion] and 14.11 [Application for Final Payment Certificate] the quantities and other particulars detailing the amounts which he considers to be entitled under the Contract.

12.1.2 Whenever the Architect requires any part of the Works to be measured, reasonable notice shall be given to the Contractor's Representative, who shall:

- a) promptly either attend or send another qualified representative to assist the Architect in making the measurement, and
- b) supply any particulars requested by the Engineer.

12.1.3 If the Contractor fails to attend or send a representative, the measurement made by the Architect shall be accepted as accurate.

12.1.4 Except as otherwise stated in the Contract, wherever any Permanent Works are to be measured from records, these shall be prepared by the Engineer. The Contractor shall, as and when requested, attend to examine and agree the records with the Engineer, and shall sign the same when agreed. If the Contractor does not attend, the records shall be accepted as accurate.

12.1.5 If the Contractor examines and disagrees the records, and/ or does not sign them as agreed, then the Contractor shall give notice to the Architect of the respects in which the records are asserted to be inaccurate. After receiving this notice, the Architect shall review the records and either confirm or vary them and certify the payment of the undisputed part. If the Contractor does not so give notice to the Architect within 14 days after being requested to examine the records, they shall be accepted as accurate.

12.2 Method of Measurement

Except as otherwise stated in the Contract:

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

123 Evaluation

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

124 Omissions

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

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

13 VARIATIONS AND ADJUSTMENTS

13.1 Right to Vary

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

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

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

132 Variation Order Procedure

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

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

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

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

13.2.2 Disagreement on Adjustment of the Contract Price

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

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

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

13.2.3 Contractor to Proceed

On receipt of a Variation Order, the Contractor shall forthwith proceed to carry out the variation and be bound to these Conditions in so doing as if such variation was stated in the Contract. The work shall not be delayed pending the granting of an extension of the Time for Completion or an adjustment to the Contract Price under Sub-Clause 13.3.

133 Value Engineering

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

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

- 1323 If a proposal, which is approved by the Engineer, includes a change in the design of part of the Permanent Works, then unless otherwise agreed by both Parties:
- a) The Contractor shall design this part,
 - b) sub-paragraphs (a) to (d) of Sub-Clause 4.1 [Contractor's General Obligations] shall apply, and
 - c) if this change results in a reduction in the contract value of this part, the Architect shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine a fee, which shall be included in the Contract Price. This fee shall be half (50%) of the difference between the following amounts:
 - i) such reduction in contract value, resulting from the change, excluding adjustments under Sub-Clause 13.8 [Adjustments for Changes in Legislation] and Sub-Clause 13.8 [Adjustments for Changes in Cost], and
 - ii) the reduction (if any) in the value to the Procuring Entity of the varied works, taking account of any improvement in quality, anticipated life or operational efficiencies.

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

134 Variation Procedure for Value Engineering proposal

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

135 Payment in Applicable Currencies

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

136 Provisional Sums

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

137 Dayworks

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

138 Adjustments for Changes in Legislation

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

139 Adjustments for Changes in Cost

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

Price Adjustment Formula

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

$$P = A + B \text{ Im/Io}$$

where:

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

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

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

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

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

14 CONTRACT PRICE AND PAYMENT

14.1 The Contract Price

14.1.1 Unless otherwise stated in the Special Conditions:

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

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

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

14.2 Advance Payment

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

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

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

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

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

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

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

14.3 Application for Interim Payment Certificates

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

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

- 1432 The Statement shall include the following items, as applicable, which shall be expressed in the various currencies in which the Contract Price is payable, in the sequence listed:
- a) the estimated contract value of the Works executed and the Contractor's Documents produced up to the end of the month (including Variations but excluding items described in sub-paragraphs (b) to (g) below);
 - b) any amounts to be added and deducted for changes in legislation and changes in cost, in accordance with Sub-Clause 13.7 [Adjustments for Changes in Legislation] and Sub-Clause 13.8 [Adjustments for Changes in Cost];
 - c) any amount to be deducted for retention, calculated by applying the percentage of retention stated in **the Special Conditions of Contract** to the total of the above amounts, until the amount so retained by the Procuring Entity reaches the limit of Retention Money (if any) stated in **the Special Conditions of Contract**;
 - d) any amounts to be added for the advance payment and (if more than one instalment) and to be deducted for its repayments in accordance with Sub-Clause 14.2 [Advance Payment];
 - e) any amounts to be added and deducted for Plant and Materials in accordance with Sub-Clause 14.5 [Plant and Materials intended for the Works];
 - f) any other additions or deductions which may have become due under the Contractor otherwise, including those under Clause 20 [Claims, Disputes and Arbitration]; and
 - g) the deduction of amounts certified in all previous Payment Certificates.

144 Schedule of Payments

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

145 Plant and Materials intended for the Works

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

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

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

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

146 Issue of Interim Payment Certificates

1461 No amount will be certified or paid until the Procuring Entity has received and approved the Performance Security. Thereafter, the Architect shall, within 30 days after receiving a Statement and supporting documents, deliver to the Procuring Entity and to the Contractor an Interim Payment Certificate which shall state the amount which the Architect fairly determines to be due, with all supporting particulars for any reduction or withholding made by the Architect on the Statement if any.

1462 However, prior to issuing the Taking-Over Certificate for the Works, the Architect shall not be bound to issue an Interim Payment Certificate in an amount which would (after retention and other deductions) be less than the minimum amount of Interim Payment Certificates (if any) stated **in the Special Conditions of Contract**. In this event, the Architect shall give notice to the Contractor accordingly.

1463 An Interim Payment Certificate shall not be withheld for any other reason, although:

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

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

14.7 Payment

147.1 The Procuring Entity shall pay to the Contractor:

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

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

14.8 Delayed Payment

- 14.8.1 If the Contractor does not receive payment in accordance with Sub-Clause 14.7 [Payment], the Contractor shall be entitled to receive financing charges (simple interest) monthly on the amount unpaid during the period of delay. This period shall be deemed to commence on the date for payment specified in Sub-Clause 14.7 [Payment], irrespective (in the case of its sub-paragraph (b) of the date on which any Interim Payment Certificate is issued.
- 14.8.2 These financing charges shall be calculated at the annual rate of three percentage points above the mean rate of the Central Bank in Kenya of the currency of payment, or if not available, the inter bank offered rate, and shall be paid in such currency.
- 14.8.3 The Contractor shall be entitled to this payment without formal notice and certification, and without prejudice to any other right or remedy.

14.9 Payment of Retention Money

- 14.9.1 When the Taking-Over Certificate has been issued for the Works, the first half of the Retention Money shall be certified by the Architect for payment to the Contractor. If a Taking-Over Certificate is issued for a Section or part of the Works, a proportion of the Retention Money shall be certified and paid. This proportion shall be half (50%) of the proportion calculated by dividing the estimated contract value of the Section or part, by the estimated final Contract Price.
- 14.9.2 Promptly after the latest of the expiry dates of the Defects Liability Periods, the outstanding balance of the Retention Money shall be certified by the Architect for payment to the Contractor. If a Taking-Over Certificate was issued for a Section, a proportion of the second half of the Retention Money shall be certified and paid promptly after the expiry date of the Defects Notification Period for the Section. This proportion shall be half (50%) of the proportion calculated by dividing the estimated contract value of the Section by the estimated final Contract Price.
- 14.9.3 However, if any work remains to be executed under Clause 11 [Defects Liability], the Architects shall be entitled to withhold certification of the estimated cost of this work until it has been executed.
- 14.9.4 When calculating these proportions, no account shall be taken of any adjustments under Sub-Clause 13.7 [Adjustments for Changes in Legislation] and Sub-Clause 13.8 [Adjustments for Changes in Cost].
- 14.9.5 Unless otherwise stated in the Special Conditions, when the Taking-Over Certificate has been issued for the Works and the first half of the Retention Money has been certified for payment by the Engineer, the Contractor shall be entitled to substitute a Retention Money Security guarantee, in the form annexed to the Special Conditions or in another form approved by the Procuring Entity and issued by a reputable bank or financial institution selected by the Contractor, for the second half of the Retention Money.
- 14.9.6 The Procuring Entity shall return the Retention Money Security guarantee to the Contractor within 14 days after receiving a copy of the Completion Certificate.

14.10 Statement at Completion

- 14.10.1 Within 84 days after receiving the Taking-Over Certificate for the Works, the Contractor shall submit to the Architect three copies of a Statement at completion with supporting documents, in accordance with Sub-Clause 14.3 [Application for Interim Payment Certificates], showing:
- a) the value of all work done in accordance with the Contract up to the date stated in the Taking-Over Certificate for the Works,
 - b) any further sums which the Contractor considers to be due, and
 - c) an estimate of any other amounts which the Contractor considers will become due to him under the Contract. Estimated amounts shall be shown separately in this Statement at completion.

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

14.11 Application for Final Payment Certificate

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

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

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

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

14.12 Discharge

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

14.13 Issue of Final Payment Certificate

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

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

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

14.14 Cessation of Procuring Entity's Liability

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

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

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

14.15 Currencies of Payment

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

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

15 TERMINATION BY PROCURING ENTITY

15.1 Notice to correct any defects or failures

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

15.2 Termination by Procuring Entity

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

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

- 1522 In any of these events or circumstances, the Procuring Entity may, upon giving 14 days' notice to the Contractor, terminate the Contract and expel the Contractor from the Site. However, in the case of subparagraph (e) or (f) or (g) or (h), the Procuring Entity may by notice terminate the Contract immediately.
- 1523 The Procuring Entity's election to terminate the Contract shall not prejudice any other rights of the Procuring Entity, under the Contract otherwise.
- 1524 The Contractor shall then leave the Site and deliver any required Goods, all Contractor's Documents, and other design documents made by or for him, to the Engineer. However, the Contractor shall use his best efforts to comply immediately with any reasonable instructions included in the notice (i) for the assignment of any subcontract, and (ii) for the protection of life or property or for the safety of the Works.
- 1525 After termination, the Procuring Entity may complete the Works and/ or arrange for any other entities to do so. The Procuring Entity and these entities may then use any Goods, Contractor's Documents and other design documents made by or on behalf of the Contractor.
- 1526 The Procuring Entity shall then give notice that the Contractor's Equipment and Temporary Works will be released to the Contractor at or near the Site. The Contractor shall promptly arrange their removal, at the risk and cost of the Contractor. However, if by this time the Contractor has failed to make a payment due to the Procuring Entity, these items may be sold by the Procuring Entity in order to recover this payment. Any balance of the proceeds shall then be paid to the Contractor.

153 Valuation at Date of Termination

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

154 Payment after Termination

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

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

155 Procuring Entity's Entitlement to Termination for Convenience

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

156 Fraud and Corruption

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

15.7 Corrupt gifts and payments of commission

15.7.1 The Contractor shall not;

- a) Offer or give or agree to give to any person in the service of the Procuring Entity any gift or consideration of any kind as an inducement or reward for doing or for bearing to door for having done or for borne to do any act in relation to the obtaining or execution of this or any other Contract for the Procuring Entity or for showing or for bearing to show favor or disfavor to any person in relation to this or any other contract for the Procuring Entity.
- b) Enter into this or any other contract with the Procuring Entity in connection with which commission has been paid or agreed to be paid by him or on his behalf or to his knowledge, unless before the Contract is made particulars of any such commission and of the terms and conditions of any agreement for the payment there of have been disclosed in writing to the Procuring Entity.

15.7.2 Any breach of this Condition by the Contractor or by anyone employed by him or acting on his behalf (whether with or without the knowledge of the Contractor) shall be an offence under the provisions of the Public Procurement and Asset Disposal Act (2015) and the Anti-Corruption and Economic Crimes Act (2003) of the Laws of Kenya.

16 SUSPENSION AND TERMINATION BY CONTRACTOR

16.1 Contractor's Entitlement to Suspend Work

16.1.1 If the Architect fails to certify in accordance with Sub-Clause 14.6 [Issue of Interim Payment Certificates] or Sub-Clause 14.7 [Payment], or not receiving instructions that would enable the contractor to proceed with the works in accordance with the program, the Contractor may, after giving not less than 30 days' notice to the Procuring Entity, suspend work (or reduce the rate of work) unless and until the Contractor has received the Payment Certificate, reasonable evidence or payment, as the case may be and as described in the notice.

16.1.2 The Contractor's action shall not prejudice his entitlements to financing charges under Sub-Clause 14.8 [Delayed Payment] and to termination under Sub-Clause 16.2 [Termination by Contractor].

16.1.3 If the Contractor subsequently receives such Payment Certificate, evidence or payment (as described in the relevant Sub-Clause and in the above notice) before giving a notice of termination, the Contractor shall resume normal working as soon as is reasonably practicable.

16.1.4 If the Contractor suffers delay and/or incurs Cost as a result of suspending work (or reducing the rate of work) in accordance with this Sub-Clause, the Contractor shall give notice to the Architect and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

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

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

16.3 Termination by Contractor

16.3.1 The Contractor shall be entitled to terminate the Contract if:

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

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

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

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

164 Cessation of Work and Removal of Contractor's Equipment

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

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

165 Payment on Termination

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

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

17. RISK AND RESPONSIBILITY

17.1 Indemnities

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

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

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

17.2 Contractor's Care of the Works

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

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

1722 After responsibility has accordingly passed to the Procuring Entity, the Contractor shall take responsibility for the care of any work which is outstanding on the date stated in a Taking-Over Certificate, until this outstanding work has been completed.

1723 If any loss or damage happens to the Works, Goods or Contractor's Documents during the period when the Contractor is responsible for their care, from any cause not listed in Sub-Clause 17.3 [Procuring Entity's Risks], the Contractor shall rectify the loss or damage at the Contractor's risk and cost, so that the Works, Goods and Contractor's Documents conform with the Contract.

1724 The Contractor shall be liable for any loss or damage caused by any actions performed by the Contractor after a Taking-Over Certificate has been issued. The Contractor shall also be liable for any loss or damage which occurs after a Taking-Over Certificate has been issued and which arose from a previous event for which the Contractor was liable.

173 Procuring Entity's Risks

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

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

174 Consequences of Procuring Entity's Risks

174.1 If and to the extent that any of the risks listed in Sub-Clause 17.3 above results in loss or damage to the Works, Goods or Contractor's Documents, the Contractor shall promptly give notice to the Architect and shall rectify this loss or damage to the extent required by the Engineer.

174.2 If the Contractor suffers delay and/ or incurs Cost from rectifying this loss or damage, the Contractor shall give a further notice to the Architect and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

- (a) An extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
- (b) payment of any such Cost, which shall be included in the Contract Price. In the case of sub-paragraphs (e) and (g) of Sub-Clause 17.3 [Procuring Entity's Risks], Accrued Costs shall be payable.

1743 After receiving this further notice, the Architect shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

175 Intellectual and Industrial Property Rights

175.1 In this Sub-Clause, "infringement" shall refer to an infringement (or alleged infringement) of any patent, registered design, copyright, trade mark, trade name, trade secret or other intellectual or industrial property right relating to the Works; and "claim" shall refer to a claim (or proceedings pursuing a claim) alleging an infringement.

1752 Whenever a Party does not give notice to the other Party of any claim within 30 days of receiving the claim, the first Party shall be deemed to have waived any right to indemnity under this Sub-Clause.

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

17.6 Limitation of Liability

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

17.7 Use of Procuring Entity's Accommodation/Facilities

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

18 INSURANCE

18.1 General Requirements for Insurances

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

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

182 Insurance for Works and Contractor's Equipment

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

183 Insurance against Injury to Persons and Damage to Property

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

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

184 Insurance for Contractor's Personnel

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

19 FORCE MAJEURE

19.1 Definition of Force Majeure

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

19.2 Notice of Force Majeure

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

19.3 Duty to Minimize Delay

Each Party shall at all times use all reasonable endeavors to minimize any delay in the performance of the Contract as a result of Force Majeure. A Party shall give notice to the other Party when it ceases to be affected

by the Force Majeure.

194 Consequences of Force Majeure

- 194.1 If the Contractor is prevented from performing his substantial obligations under the Contract by Force Majeure of which notice has been given under Sub-Clause 19.2 [Notice of Force Majeure], and suffers delay and/ or incurs Cost by reason of such Force Majeure, the Contractor shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:
- a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and
 - b) if the event or circumstance is of the kind described in sub-paragraphs (i) to (iv) of Sub-Clause 19.1 [Definition of Force Majeure] and, in sub-paragraphs (ii) to (iv), occurs in Kenya, payment of any such Cost, including the costs of rectifying or replacing the Works and/or Goods damaged or destroyed by Force Majeure, to the extent they are not indemnified through the insurance policy referred to in Sub-Clause 18.2 [Insurance for Works and Contractor's Equipment].
- 194.2 After receiving this notice, the Architect shall proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine these matters.

195 Force Majeure Affecting Subcontractor

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

196 Optional Termination, Payment and Release

- 196.1 If the execution of substantially all the Works in progress is prevented for a continuous period of 84 days by reason of Force Majeure of which notice has been given under Sub-Clause 19.2 [Notice of Force Majeure], or for multiple periods which total more than 140 days due to the same notified Force Majeure, then either Party may give to the other Party a notice of termination of the Contract. In this event, the termination shall take effect 7 days after the notice is given, and the Contractor shall proceed in accordance with Sub-Clause 16.3 [Cessation of Work and Removal of Contractor's Equipment].
- 196.2 Upon such termination, the Architect shall determine the value of the work done and issue a Payment Certificate which shall include:
- a) the amount payable for any work carried out for which a price is stated in the Contract;
 - b) the Cost of Plant and Materials ordered for the Works which have been delivered to the Contractor, or of which the Contractor is liable to accept delivery: this Plant and Materials shall become the property of (and be at the risk of) the Procuring Entity when paid for by the Procuring Entity, and the Contractor shall place the same at the Procuring Entity's disposal;
 - c) other Cost or liabilities which in the circumstances were reasonably and necessarily incurred by the Contractor in the expectation of completing the Works;
 - d) the Cost of removal of Temporary Works and Contractor's Equipment from the Site and the return of these items to the Contractor's works in his country (or to any other destination at no greater cost); and
 - e) the Cost of repatriation of the Contractor's staff and lab or employed wholly in connection with the Works at the date of termination.

197 Release from Performance

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

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

20 SETTLEMENT OF CLAIMS AND DISPUTES

20.1 Contractor's Claims

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

202 Procuring Entity's Claims

- 202.1 If the Procuring Entity considers itself to be entitled to any payment under any Clause of these Conditions or otherwise in connection with the Contract, and/or to any extension of the Defects Notification Period, the Procuring Entity or the Architect shall give notice and particulars to the Contractor. However, notice is not required for payments due under Sub-Clause 4.19 [Electricity, Water and Gas], under Sub-Clause 4.20 [Procuring Entity's Equipment and Free-Issue Materials], or for other services requested by the Contractor.
- 202.2 The notice shall be given as soon as practicable and no longer than 30 days after the Procuring Entity became aware, or should have become aware, of the event or circumstances giving rise to the claim. A notice relating to any extension of the Defects Notification Period shall be given before the expiry of such period.
- 202.3 The particulars shall specify the Clause or other basis of the claim and shall include substantiation of the amount and/or extension to which the Procuring Entity considers itself to be entitled in connection with the Contract. The Architect shall then proceed in accordance with Sub-Clause 3.5 [Determinations] to agree or determine (i) the amount (if any) which the Procuring Entity is entitled to be paid by the Contractor, and/or (ii) the extension (if any) of the Defects Notification Period in accordance with Sub-Clause 11.3 [Extension of Defects Notification Period].
- 202.4 This amount may be included as a deduction in the Contract Price and Payment Certificates. The Procuring Entity shall only be entitled to set off against or make any deduction from an amount certified in a Payment Certificate, or to otherwise claim against the Contractor, in accordance with this Sub-Clause.

203 Amicable Settlement

Where a notice of a claim has been given, both Parties shall attempt to settle the dispute amicably before the commencement of arbitration. However, unless both Parties agree otherwise, the Party giving a notice of a claim in accordance with Sub-Clause 20.1 above should move to commence arbitration after 60 days from the day on which a notice of a claim was given, even if no attempt at an amicable settlement has been made.

204 Matters that may be referred to arbitration

Notwithstanding anything stated herein the following matters may be referred to arbitration before the practical completion of the Works or abandonment of the Works or termination of the Contract by either party:

- a) Whether or not the issue of an instruction by the Architect is empowered by these Conditions.
- b) Whether or not a certificate has been improperly withheld or is not in accordance with these Conditions.
- c) Any dispute arising in respect of risks arising from matters referred to in Clause 17.3 and Clause 19.
- e) All other matters shall only be referred to arbitration after the completion or alleged completion of the Works or termination or alleged termination of the Contract, unless the Procuring Entity and the Contractor agree otherwise in writing.

205 Arbitration

- 205.1 Any claim or dispute between the Parties arising out of or in connection with the Contract not settled amicably in accordance with Sub-Clause 20.3 shall be finally settled by arbitration.
- 205.2 No arbitration proceedings shall be commenced on any claim or dispute where notice of a claim or dispute has not been given by the applying party within ninety days of the occurrence or discovery of the matter or issue giving rise to the dispute.
- 205.3 Notwithstanding the issue of a notice as stated above, the arbitration of such a claim or dispute shall not commence unless an attempt has in the first instance been made by the parties to settle such claim or dispute amicably with or without the assistance of third parties. Proof of such attempt shall be required.
- 205.4 The Arbitrator shall, without prejudice to the generality of his powers, have powers to direct such measurements, computations, tests or valuations as may in his opinion be desirable in order to determine the rights of the parties and assess and award any sums which ought to have been the subject of or included in any certificate.

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

20.6 Arbitration with National Contractors

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

20.7 Arbitration with Foreign Contractors

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

20.8 Alternative Arbitration Proceedings

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

20.9 Failure to Comply with Arbitrator's Decision

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

20.10 Contract operations to continue

Notwithstanding any reference to arbitration herein,

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

Section IX - Special Conditions of Contract

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

Conditions	Sub-Clause	Data
Part A - Contract Data		
Procuring Entity's name and address	Heading	Thika Water & Sewerage Company Ltd
Name and Reference No. of the Contract	Heading and 1.1	THIWASCO/070/2021-2022-Improvement of Water Supply Landless, Salama & Gatuanyaga (Bidco-Engen Pipeline Upgrade)
Engineers Name and address	Heading and 3.1.1	Eng. Mburu Kiemo Chief Manager Technical Services P.O. Box 6103-01000, Thika mkiemo@thikawater.co.ke
Contractor's Representative's name	4.3.1	<i>[insert the name of the Contractor's Representative agreed by the Procuring Entity prior to Contract signature]</i>
Key Personnel names	16.9.1	<i>[insert the name of each Key Personnel agreed by the Procuring Entity prior to Contract signature]</i>
Time for Completion	1.1.	120 days <i>If Sections are to be used, refer to Table: Summary of Sections below</i>
Defects Notification Period	1.1	180 days
Sections	1.1	<i>If Sections are to be used, refer to Table: Summary of Sections below</i>
Electronic transmission systems	1.3	Not allowed
Time for the Parties entering into a Contract Agreement	1.6	Within 30days
Commencement Date	8.1.1	7 days after contract signing
Time for access to the Site	2.1.1	No later than the Commencement Date, and not later than 14 days after Commencement Date
Project Manager/ Engineer's Duties and Authority	3.1.6 (b) (ii)	Variations resulting in an increase of the Accepted Contract Amount in excess of <u>15</u> % shall require approval of the Procuring Entity._
Performance Security	4.2.1	The performance security will be in the form of a performance bond in the amount(s) of 10% percent of the Accepted Contract Amount and in the same currency(ies) of the Accepted Contract Amount.
Normal working hours	6.5	Specify
Delay damages for the Works	8.7 & 14.15(b)	0.1 % of the Contract Price per day. <i>If Sections are to be used, refer to Table: Summary of Sections below</i>
Maximum amount of delay damages	8.7.1	10 % of the final Contract Price.
Provisional Sums	13.6. (b)(ii)	5 %
Adjustments for Changes in Cost	13.9	Not Applicable
Total advance payment	14.2.1	Not Applicable
Repayment amortization rate of advance payment	14.2.5 (b)	Not Applicable
Percentage of Retention	14.3.2 (c)	10 % of every IPC raised
Limit of Retention Money	14.3.2 (c)	10% of the Accepted Contract Amount
Plant and Materials	14.5.3(b)(i)	Does not apply
	14.5.3(c)(i)	Does not apply

Conditions	Sub-Clause	Data
Minimum Amount of Interim Payment Certificates	14.6.2	20% of the Accepted Contract Amount.
Periods for submission of insurance: a. evidence of insurance. b. relevant policies	18.1.6	30days
The place of arbitration	20.7.2	The Chartered Institute of Arbitrators (Kenya)

SECTION X - CONTRACT FORMS

FORM No. 1 - NOTIFICATION OF INTENTION TO AWARD

FORM NO. 2 – REQUEST FOR REVIEW

FORM No. 3-LETTEROF AWARD

FORM No. 4 - CONTRACT AGREEMENT

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

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

FORM No. 7 - ADVANCE PAYMENT SECURITY

FORM No. 8 - RETENTION MONEY SECURITY

FORM No 1: NOTIFICATION OF INTENTION TO AWARD OF CONTRACT

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

FORMAT

1. For the attention of Tenderer's Authorized Representative

- i) Name: *[insert Authorized Representative's name]*
- ii) Address: *[insert Authorized Representative's Address]*
- iii) Telephone: *[insert Authorized Representative's telephone/fax numbers]*
- iv) Email Address: *[insert Authorized Representative's email address]*

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

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

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

3. Notification of Award

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

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

4. Request a debriefing in relation to the evaluation of your tender by submitting a Procurement-related Complaint in relation to the decision to award the contracts.

a) The successful tenderers

i) Name of successful Tender _____

ii) Address of the successful Tender _____

iii) Contract price of the successful Tender Kenya Shillings _____
(in words _____)

b) The reasons for your tender being unsuccessful are as follows:

c) Other Tenderers

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

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

(Note a) State NE if not evaluated

5. How to request a debriefing

- a) DEADLINE: The dead line to request a debriefing expires at midnight on *[insert date]* (local time).
- b) You may request a debriefing in relation to the results of the evaluation of your Tender. If you decide to request a debriefing your written request must be made within three (5) Business Days of receipt of this Notification of Intention to Award.
- c) Provide the contract name, reference number, name of the Tenderer, contact details; and address the request for debriefing as follows:
 - i) Attention: *[insert full name of person, if applicable]*
 - ii) Title/position: *[insert title/position]*
 - iii) Agency: *[insert name of Procuring Entity]*
 - iv) Email address: *[insert email address]*
- d) If your request for a debriefing is received within the 3 Days deadline, we will provide the debriefing within five (3) Business Days of receipt of your request. If we are unable to provide the debriefing within this period, the Standstill Period shall be extended by five (3) Days after the date that the debriefing is provided. If this happens, we will notify you and confirm the date that the extended Standstill Period will end.
- e) The debriefing may be in writing, by phone, video conference call or in person. We shall promptly advise you in writing how the debriefing will take place and confirm the date and time.
- f) If the deadline to request a debriefing has expired, you may still request a debriefing. In this case, we will provide the debriefing as soon as practicable, and normally no later than fifteen (15) Days from the date of publication of the Contract Award Notice.

6. How to make a complaint

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

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

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

7. **Standstill Period**

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

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

Signature: _____

Name: _____

Title/position: _____

Telephone: _____

FORM NO. 2- REQUEST FOR REVIEW

FORM FOR REVIEW (r.203(1))

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

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

BETWEEN

.....APPLICANT

AND

.....RESPONDENT (Procuring Entity)

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

REQUEST FOR REVIEW

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

- 1.
- 2.

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

- 1.
- 2.

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

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

SIGNED

Board Secretary

FORM NO. 3: LETTER OF AWARD

letterhead paper of the Procuring Entity]

[date]

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

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

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

Authorized Signature:

Name and Title of Signatory:

Name of Procuring Entity:

Attachment: *Contract Agreement*:

FORM NO 4: CONTRACT AGREEMENT

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

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

The Procuring Entity and the Contractor agree as follows:

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

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

Signed and sealed by..... (for the Procuring Entity)

Signed and sealed by..... (for the Contractor).

FORM NO. 5 - PERFORMANCE SECURITY

[Option 1 - Unconditional Demand Bank Guarantee]

[Guarantor letterhead]

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

Date: _____ *[Insert date of issue]*

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

1. We have been informed that _____ (hereinafter called "the Contractor") has entered into Contract No. _____ dated _____ with (name of Procuring Entity) _____ (the Procuring Entity as the Beneficiary), for the execution of _____ (hereinafter called "the Contract").
2. Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.
3. At the request of the Contractor, we as Guarantor, here by irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of _____ (in words),¹ such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.
4. This guarantee shall expire, no later than the Day of², and any demand for payment under it must be received by us at the office indicated above on or before that date.
5. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months]* *[one year]*, in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

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

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

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

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

FORM No. 6- PERFORMANCE SECURITY

[Option 2– Performance Bond]

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

[Guarantor letterhead or SWIFT identifier code]

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

Date: _____ *[Insert date of issue]*

PERFORMANCE BOND No.: _____

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

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

SIGNED ON _____ on behalf of _____

By _____ in the capacity of _____

In the presence of _____

SIGNED ON _____ on behalf of _____

By _____ in the capacity of _____

In the presence of _____

FORM NO. 7 - ADVANCE PAYMENT SECURITY

[Demand Bank Guarantee]

[Guarantor letterhead]

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

Date: _____ [Insert date of issue]

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

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

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

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

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

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

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

FORM NO. 8 – RETENTION MONEY SECURITY

[Demand Bank Guarantee]

[Guarantor letterhead]

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

Date: _____ *[Insert date of issue]*

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

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

1. We have been informed that _____ *[insert name of Contractor, which in the case of a joint venture shall be the name of the joint venture]* (hereinafter called "the Contractor") has entered into Contract No. _____ *[insert reference number of the contract]* dated _____ with the Beneficiary, for the execution of _____ *[insert name of contract and brief description of Works]* (hereinafter called "the Contract").
2. Furthermore, we understand that, according to the conditions of the Contract, the Beneficiary retains moneys upto the limit set forth in the Contract ("the Retention Money"), and that when the Taking-Over Certificate has been issued under the Contract and the first half of the Retention Money has been certified for payment, and payment of *[insert the second half of the Retention Money]* is to be made against a Retention Money guarantee.
3. At the request of the Contractor, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of *[insert amount in figures]* _____ (*[insert amount in words]* _____) ¹ upon receipt by us of the Beneficiary's complying demands supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or show grounds for your demand or the sum specified there in.
4. A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the second half of the Retention Money as referred to above has been credited to the Contractor on its account number _____ at _____ *[insert name and address of Applicant's bank]*.
5. This guarantee shall expire no later than the Day of 20.....², and any demand for payment under it must be received by us at the office indicated above on or before that date.
6. The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed *[six months]* *[one year]*, in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.

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

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

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

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

FORM NO. 9 BENEFICIAL OWNERSHIP DISCLOSURE FORM

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

This Beneficial Ownership Disclosure Form ("Form") is to be completed by the successful tenderer. In case of joint venture, the tenderer must submit a separate Form for each member. The beneficial ownership information to be submitted in this Form shall be current as of the date of its submission.

For the purposes of this Form, a Beneficial Owner of a Tenderer is any natural person who ultimately owns or controls the Tenderer by meeting one or more of the following conditions:

- *Directly or indirectly holding 25% or more of the shares.*
- *Directly or indirectly holding 25% or more of the voting rights.*
- *Directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Tenderer.*

Tender Reference No.: _____ [insert identification no]

Name of the Assignment: _____ [insert name of the assignment] to:
 _____ [insert complete name of Procuring Entity]

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

I) We hereby provide the following beneficial ownership information.

Details of beneficial ownership

Identity of Beneficial Owner	Directly or indirectly holding 25% or more of the shares (Yes / No)	Directly or indirectly holding 25 % or more of the Voting Rights (Yes / No)	Directly or indirectly having the right to appoint a majority of the board of the directors or an equivalent governing body of the Tenderer (Yes / No)
[include full name (last, middle, first), nationality, country of residence]			

OR

ii) We declare that there is no Beneficial Owner meeting one or more of the following conditions: directly or indirectly holding 25% or more of the shares. Directly or indirectly holding 25% or more of the voting rights. Directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Tenderer.

OR

We declare that we are unable to identify any Beneficial Owner meeting one or more of the following conditions. [If this option is selected, the Tenderer shall provide explanation on why it is unable to identify any Beneficial Owner]

Directly or indirectly holding 25% or more of the shares. Directly or indirectly holding 25% or more of the voting rights.

Directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Tenderer]”

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

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

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

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

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