



**MANDERA COUNTY GOVERNMENT
KENYA ROADS BOARD
ROAD MAINTAINANCE LEVY FUND (RMLF)**

TENDER DOCUMENT

FOR

**PROPOSED PROTECTION WORKS FOR STORM WATER DRAIN (PHASE
II) IN MANDERA MUNICIPALITY**

IN

MANDERA COUNTY

**MCG/OT/KUSP/01/2019-20
IFMIS NEGOTIATION NUMBER: 783325**

PRE-TENDER SITE VISIT-5TH MARCH 2020

FEB, 2020

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INTRODUCTION

- 1.1 This standard tender document for procurement of works has been prepared for use by procuring entities in Kenya in the procurement of works (i.e. Roads, Bridges, Airports and Dams).
- 1.2 The following guidelines should be observed when using the document:-
 - (a) Specific details should be furnished in the tender notice and in the special conditions of contract (where applicable). The tender document issued to tenderers should not have blank spaces or options.
 - (b) The instructions to tenderers and the General Conditions of Contract should remain unchanged. Any necessary amendments to these parts should be made through Appendix to instructions to tenderers and special conditions of contract respectively.
- 1.3 (a) Information contained in the invitation to tender shall conform to the data and information in the tender documents to enable prospective tenderers to decide whether or not to participate in the tender and shall indicate any important tender requirements

(b) The invitation to tender shall be as an advertisement in accordance with the regulations or a letter of invitation addressed to tenderers who have been prequalified following a request for prequalification.
- 1.4 This document is based on PART 1 of the latest Edition of the International Federation of Consulting Engineers (Federation Internationale des Ingenieurs Con Seils – FIDIC) General Conditions of Contract for works of Civil Engineering.
- 1.5 The cover of the tender document should be modified to include -:
 - i. Tender number.
 - ii. Tender name.
 - iii. Name of procuring entity.
 - iv. Delete name and address of PPOA.

SECTION I INVITATION FOR TENDERS

Tender reference no. : MCG/OT/KUSP/01/2019-20

**Tender Name: PROPOSED PROTECTION WORKS FOR STORM WATER DRAIN (PHASE II)
IN MANDERA MUNICIPALITY**

1.1 The Manderan *County Government* invites sealed PROPOSED PROTECTION WORKS FOR STORM WATER DRAIN (PHASE II) IN MANDERA MUNICIPALITY. candidates may obtain further information from the office of the director supply chain management services at the county treasury during normal working hours and via email on supplychain@mandera.go.ke.

1.2 Invitation to tender containing detailed information, tenders number and negotiation numbers and the tender documents can be downloaded free of charge at the county's website www.mandera.go.ke and also at the tenders portal at tenders.go.ke which can also be accessed from supplier's portal

1.3 Completed set of tender documents shall be scanned and submitted electronically through IFMIS SUPPLIER PORTAL at supplier.treasury.go.ke using the specific IFMIS negotiation number provided in the tender documents as per the requirements contained in the tender documents so as to be received on or before **Monday 16th March 2020**.

1.4 Bidders must upload a copy of original bid security to the ifmis portal and deliver ORIGINAL bid security to the office of the director supply chain management.

NOTE: The system will automatically close at the time and date of tender closing specified on the IFMIS portal and tender documents. The system does not have provisions for late submission.

MANUAL SUBMISSIONS WILL NOT BE ACCEPTED, all tenders must be submitted through IFMIS PORTAL
All bidders are advised to regularly check the county's website during the bidding period,

Director of Supply Chain Management services
FOR: COUNTY CHIEF OFFICER ROADS TRANSPORT AND PUBLIC WORKS

SECTION II - INSTRUCTIONS TO TENDERERS

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SECTION II - INSTRUCTION TO TENDERERS

Note: The tenderer must comply with the following conditions and instructions and failure to do so is liable to result in rejection of the tender.

GENERAL

1. Definitions

- (a) “Tenderer” means any persons, partnership firm or company submitting a sum or sums in the Bills of Quantities in accordance with the Instructions to Tenderers, Conditions of Contract Parts I and II, Specifications, Drawings and Bills of Quantities for the work contemplated, acting directly or through a legally appointed representative.
- (b) “Approved tenderer” means the tenderer who is approved by the Employer
- (c) Any noun or adjective derived from the word “tender” shall be read and construed to mean the corresponding form of the noun or adjective “bid”. Any conjugation of the verb “tender” shall be read and construed to mean the corresponding form of the verb “bid.”
- (d) “Employer” means a Central Government Ministry, Local Authority, State Corporation or any other Public Institution.

2. Eligibility and Qualification Requirements

2.1 Eligibility requirements

This invitation to tender is open to all tenderers who are qualified as stated in the appendix.

2.2 Qualification Requirements

To be qualified for award of Contract, the tenderer shall provide evidence satisfactory to the Employer of their eligibility under Sub clause 2.1. above and of their capability and adequacy of resources to effectively carry out the subject Contract. To this end, the tenderer shall be required to update the following information already submitted during prequalification:-

- (a) Details of experience and past performance of the tenderer on the works of a similar nature and details of current work on hand and other contractual commitments.
- (b) The qualifications and experience of key personnel proposed for administration and execution of the contract, both on and off site.

- (c) Major items of construction plant and equipment proposed for use in carrying out the Contract. Only reliable plant in good working order and suitable for the work required of it shall be shown on this schedule. The tenderer will also indicate on this schedule when each item will be available on the Works. Included also should be a schedule of plant, equipment and material to be imported for the purpose of the Contract, giving details of make, type, origin and CIF value as appropriate.
- (d) Details of sub contractors to whom it is proposed to sublet any portion of the Contract and for whom authority will be requested for such subletting in accordance with clause 4 of the Condition of Contract.
- (e) A draft Program of Works in the form of a bar chart and Schedule of Payment which shall form part of the Contract if the tender is accepted. Any change in the Program or Schedule shall be subjected to the approval of the Engineer.
- (f) Details of any current litigation or arbitration proceedings in which the tenderer is involved as one of the parties.

2.3 Joint Ventures

Tenders submitted by a joint venture of two or more firms as partners shall comply with the following requirements:-

- (a) The tender, and in case of a successful tender, the Form of Agreement, shall be signed so as to be legally binding on all partners
- (b) One of the partners shall be nominated as being in charge, and this authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the partners
- (c) The partner in charge shall be authorized to incur liabilities and receive instructions for an on behalf of any and all partners of the joint venture and the entire execution of the Contract including payment shall be done exclusively with the partner in charge.
- (d) All partners of the joint venture shall be liable jointly and severally for the execution of the Contract in accordance with the Contract terms, and a relevant statement to this effect shall be included in the authorization mentioned under (b) above as well as in the Form of Tender and the Form of Agreement (in case of a successful tender)
- (e) A copy of the agreement entered into by the joint venture partners shall be submitted with the tender.

3. Cost of Tendering

- 3.1 The Tenderer shall bear all costs associated with the preparation and submission of his tender and the Employer will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.
- 3.2 The price to be charged for the tender document shall not exceed Kshs.5,000/=
- 3.3 The procuring entity shall allow the tenderer to view the tender document free of charge before purchase.

4. Site Visit

- 4.1. The tenderer is advised to visit and examine the Site and its surroundings and obtain for himself on his own responsibility, all information that may be necessary for preparing the tender and entering into a contract. The costs of visiting the Site shall be the tenderer's own responsibility
- 4.2. The tenderer and any of his personnel or agents will be granted permission by the Employer to enter upon premises and lands for the purpose of such inspection, but only upon the express condition that the tenderer, his personnel or agents, will release and indemnify the Employer from and against all liability in respect of, and will be responsible for personal injury (whether fatal or otherwise), loss of or damage to property and any other loss, damage, costs and expenses however caused, which but for the exercise of such permission, would not have arisen.
- 4.3. The Employer shall organize a site visit at a date to be notified. A representative of the Employer will be available to meet the intending tenderers at the Site.
Tenderers must provide their own transport. The representative will not be available at any other time for site inspection visits.

Each tenderer shall complete the Certificate of Tenderer's Visit to the Site, whether he in fact visits the Site at the time of the organized site visit or by himself at some other time.

TENDER DOCUMENTS

5 Tender Documents

- 5.1 The Tender documents comprise the documents listed here below and should be read together with any Addenda issued in accordance with Clause 7 of these instructions to tenderers.
- a. Form of Invitation for Tenders
 - b. Instructions to Tenderers
 - c. Form of Tender
 - d. Appendix to Form of Tender
 - e. Form of Tender Surety
 - f. Statement of Foreign Currency Requirements
 - g. Tender and Confidential Business Questionnaires
 - h. Details of Sub contractors
 - i. Schedules of Supplementary Information
 - j. General Conditions of Contract – Part I
 - k. Conditions of Particular Application – Part II
 - l. Specifications
 - m. Bills of Quantities
 - n. Drawings
 - o. Declaration Form
- 5.2 The tenderer is expected to examine carefully all instructions, conditions, forms, terms, specifications and drawings in the tender documents. Failure to comply with the requirements for tender submission will be at the tenderer’s own risk. Pursuant to clause 22 of Instructions to Tenderers, tenders which are not substantially responsive to the requirements of the tender documents will be rejected.
- 5.3 All recipients of the documents for the proposed Contract for the purpose of submitting a tender (whether they submit a tender or not) shall treat the details of the documents as “private and confidential”.

6 Inquiries by tenderers

- 6.1 A tenderer making an inquiry relating to the tender document may notify the Employer in writing or by telex, cable or facsimile at the Employer’s mailing address indicated in the Invitation to Tender. The Employer will respond in writing to any request for clarification which he receives earlier than 7 days prior to the deadline for the submission of tenders. Written copies of the Employer’s response (including the query but without identifying the source of the inquiry) will be sent to all prospective tenderers who have purchased the tender documents.
- 6.2 The procuring entity shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender.

7 Amendment of Tender Documents

- 7.1 At any time prior to the deadline for submission of tenders the Employer may, for any reason, whether at his own initiative or in response to a clarification requested by a prospective tenderer, modify the tender documents by issuing Addenda.
- 7.2 Any Addendum will be notified in writing or by cable, telex or facsimile to all prospective tenderers who have purchased the tender documents and will be binding upon them.
- 7.3 In order to allow prospective tenderers reasonable time in which to take the Addendum into account in preparing their tenders, the Employer may, at his discretion, extend the deadline for the submission of tenders.

PREPARATION OF TENDERS

8 Language of Tender

- 8.1 The tender and all correspondence and documents relating to the tender exchanged between the tenderer and the Employer shall be written in the English language. Supporting documents and printed literature furnished by the tenderer with the tender may be in another language provided they are accompanied by an appropriate translation of pertinent passages in the above stated language. For the purpose of interpretation of the tender, the English language shall prevail.

9 Documents Comprising the Tender

- 9.1 The tender to be prepared by the tenderer shall comprise:
- i. the Form of Tender and Appendix thereto,
 - ii. a Tender Security
 - iii. the Priced Bills of Quantities and Schedules
 - iv. the information on eligibility and qualification
 - v. any other materials required to be completed and submitted in accordance with the Instructions to Tenderers.

The Forms, Bills of Quantities and Schedules provided in the tender documents shall be used without exception (subject to extensions of the schedules in the same format and to the provisions of clause 13.2 regarding the alternative forms of Tender Surety].

10 Tender Prices

- 10.1 All the insertions made by the tenderer shall be made in INK and the tenderer shall clearly form the figures. The relevant space in the Form of Tender and Bills of Quantities shall be completed accordingly without interlineations or erasures except those necessary to correct errors made by the tenderer in which case the erasures and interlineations shall be initialed by the person or persons signing the tender.

- 102 A price or rate shall be inserted by the tenderer for every item in the Bills of Quantities whether the quantities are stated or not. Items against which no rate or price is entered by the tenderer will not be paid for by the Employer when executed and shall be deemed covered by the rates for other items and prices in the Bills of Quantities.

The prices and unit rates in the Bills of Quantities are to be the full [all-inclusive] value of the Work described under the items, including all costs and expenses which may be necessary and all general risks, liabilities and obligations set forth or implied in the documents on which the tender is based. All duties, taxes and other levies payable by the Contractor under the Contract, or for any other cause 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.

Each price or unit rate inserted in the Bills of Quantities should be a realistic estimate for completing the activity or activities described under that particular item and the tenderer is advised against inserting a price or rate against any item contrary to this instruction.

Every rate entered in the Bills of Quantities, whether or not such rate be associated with a quantity, shall form part of the Contract. The Employer shall have the right to call for any item of work contained in the Bills of Quantities, and such items of work to be paid for at the rate entered by the tenderer and it is the intention of the Employer to take full advantage of unbalanced low rates.

- 103 Unless otherwise specified the tenderer must enter the amounts representing 10% of the sub-total of the summary of the Bills of Quantities for Contingencies and Variation of Prices[V.O.P.] payments in the summary sheet and add them to the sub-total to arrive at the tender amount.
- 104 The tenderer shall furnish with his tender written confirmation from his suppliers or manufacturers of basic unit rates for the supply of items listed in the Conditions of Contract clause 70 where appropriate. The Employer may require the tenderer to justify such rates so obtained from the suppliers or manufacturers.
- 105 The rates and prices quoted by the tenderer are subject to adjustment during the performance of the Contract only in accordance with the Provisions of the Conditions of Contract. The tenderer shall complete the schedule of basic rates and shall submit with his tender such other supporting information as required under clause 70 of the Conditions of Contract Part II.
- 106 Contract price variations shall not be allowed within the first 12 months of the contract.

- 10.7 Where quantity contract variation is allowed, the variation shall not exceed 15% of the original contract quantity.
- 10.8 Price variation requests shall be processed by the procuring entity within 30 days of receiving the request.

11 Currencies of Tender and Payment

- 11.1 Tenders shall be priced in Kenya Shillings and the tender sum shall be in Kenya Shillings.
- 11.2 Tenderers are required to indicate in the Statement of Foreign Currency Requirements, which forms part of the tender, the foreign currency required by them. Such currency should generally be the currency of the country of the tenderer's main office. However, if a substantial portion of the tenderer's expenditure under the Contract is expected to be in countries other than his country of origin, then he may state a corresponding portion of the contract price in the currency of those other countries. However, the foreign currency element is to be limited to two (2) different currencies and a maximum of 30% (thirty percent) of the Contract Price.
- 11.3 The rate or the rates of exchange used for pricing the tender shall be the selling rate or rates of the Central Bank ruling on the date thirty (30) days before the final date for the submission of tenders.
- 11.4 Tenderers must enclose with their tenders, a brief justification of the foreign currency requirements stated in their tenders.

12 Tender Validity

- 12.1 The tender shall remain valid and open for acceptance for a period of sixty (60) days from the specified date of tender opening or from the extended date of tender opening (in accordance with clause 7.4 here above) whichever is the later.
- 12.2 In exceptional circumstances prior to expiry of the original tender validity period, the Employer may request the tenderer for a specified extension of the period of validity. The request and the responses thereto shall be made in writing or by cable, telex or facsimile. A tenderer may refuse the request without forfeiting his Tender Surety. A tenderer agreeing to the request will not be required nor permitted to modify his tender, but will be required to extend the validity of his Tender Surety correspondingly.

13 Tender Security

- 13.1 The tenderer shall furnish as part of his tender, a Tender Security in the amount and form stated in the Appendix to Instructions to Tenderers.
- 13.2 The tender security shall not exceed 2 percent of the tender price.
- 13.3 The Tender Security shall be valid at least thirty (30) days beyond the tender validity period.
- 13.4 Any tender not accompanied by an acceptable Tender Surety will be rejected by the Employer as non-responsive.
- 13.5 The Tender Sureties of unsuccessful tenderers will be returned as promptly as possible but not later than twenty eight (28) days after expiration of the tender validity period. The Tender Surety of the successful tenderer will be returned upon the tenderer executing the Contract and furnishing the required Performance Security.
- 13.6 The Tender Surety may be forfeited:
 - a) if a tenderer withdraws his tender during the period of tender validity: or
 - b) in the case of a successful tenderer, if he fails, within the specified time limit
 - i. to sign the Agreement, or
 - ii. to furnish the necessary Performance Security
 - c) if a tenderer does not accept the correction of his tender price pursuant to clause 23.

14 No Alternative Offers

- 14.1 The tenderer shall submit an offer which complies fully with the requirements of the tender documents unless otherwise provided for in the appendix.

Only one tender may be submitted by each tenderer either by himself or as partner in a joint venture. A tenderer who submits or participates in more than one tender will be disqualified.

- 14.2 The tenderer shall not attach any conditions of his own to his tender. The tender price must be based on the tender documents. The tenderer is not required to present alternative construction options and he shall use without exception, the Bills of Quantities as provided, with the amendments as notified in tender notices, if any, for the calculation of his tender price. Any tenderer who fails to comply with this clause will be disqualified.

15 Pre-tender Meeting

- 15.1 If a pre-tender meeting is convened, the tenderer's designated representative is invited to attend at the venue and time in the Invitation to Tender. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 15.2 The tenderer is requested as far as possible to submit any questions in writing or by cable, to reach the Employer not later than seven (7) days before the meeting. It may not be practicable at the meeting to answer questions received late, but questions and responses will be transmitted in accordance with the following:
- (a) Minutes of the meeting, including the text of the questions raised and the responses given together with any responses prepared after the meeting, will be transmitted without delay to all purchasers of the tender documents. Any modification of the tender documents listed in – Clause 9 which may become necessary as a result of the pre-tender meeting shall be made by the Employer exclusively through the issue of a tender notice pursuant to Clause 7 and not through the minutes of the pre-tender meeting.
 - (b) Non attendance at the pre-bid meeting will not be cause for disqualification of a bidder.

16 Format and Signing of Tenders

- 16.1 The tenderer shall prepare his tender as outlined in clause 9 above and mark appropriately one set "ORIGINAL" and the other "COPY".
- 16.2 The copy of the tender and Bills of Quantities shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the tenderer. All pages of the tender where amendments have been made shall be initialed by the person or persons signing the tender.
- 16.3 The complete tender shall be without alterations, interlineations or erasures, except as necessary to correct errors made by the tenderer, in which case such corrections shall be initialed by the person or persons signing the tender.

SUBMISSION OF TENDERS

17 Sealing and Marking of Tenders

- 17.1 The tenderer shall seal the original and copy of the tender in separate envelopes, duly marking the envelopes as “ORIGINAL” and “COPY”. The envelopes shall then be sealed in an outer separate envelope.
- 17.2 The inner and outer envelopes shall be addressed to the Employer at the address stated in the Appendix to Instructions to Tenderers and bear the name and identification of the Contract stated in the said Appendix with a warning not to open before the date and time for opening of tenders stated in the said Appendix.
- 17.3 The inner envelopes shall each indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declared “late”, while the outer envelope shall bear no mark indicating the identity of the tenderer.
- 17.4 If the outer envelope is not sealed and marked as instructed above, the Employer will assume no responsibility for the misplacement or premature opening of the tender. A tender opened prematurely for this cause will be rejected by the Employer and returned to the tenderer.

18 Deadline for Submission of Tenders

- 18.1 Tenders must be received by the Employer at the address specified in clause 17.2 and on the date and time specified in the Letter of Invitation, subject to the provisions of clause 7.4, 18.2 and 18.3.

Tenders delivered by hand must be placed in the “tender box” provided in the office of the Employer.

Proof of posting will not be accepted as proof of delivery and any tender delivered after the above stipulated time, from whatever cause arising will not be considered.

- 18.2 The Employer may, at his discretion, extend the deadline for the submission of tenders through the issue of an Addendum in accordance with clause 7, in which case all rights and obligations of the Employer and the tenderers previously subject to the original deadline shall thereafter be subject to the new deadline as extended.
- 18.3 Any tender received by the Employer after the prescribed deadline for submission of tender will be returned unopened to the tenderer.

19 Modification and Withdrawal of Tenders

- 19.1 The tenderer may modify or withdraw his tender after tender submission, provided that written notice of the modification or

withdrawal is received by the Employer prior to prescribed deadline for submission of tenders.

- 19.2 The tenderer's modification or withdrawal notice shall be prepared, sealed, marked and dispatched in accordance with the provisions for the submission of tenders, with the inner and outer envelopes additionally marked "MODIFICATION" or "WITHDRAWAL" as appropriate.
- 19.3 No tender may be modified subsequent to the deadline for submission of tenders.
- 19.4 No tender may be withdrawn in the interval between the deadline for submission of tenders and the period of tender validity specified on the tender form. Withdrawal of a tender during this interval will result in the forfeiture of the Tender Surety.
- 19.5 Subsequent to the expiration of the period of tender validity prescribed by the Employer, and the tenderer having not been notified by the Employer of the award of the Contract or the tenderer does not intend to conform with the request of the Employer to extend the period of tender validity, the tenderer may withdraw his tender without risk of forfeiture of the Tender Surety.

TENDER OPENING AND EVALUATION

20 Tender Opening

- 20.1 The Employer will open the tenders in the presence of the tenderers' representatives who choose to attend at the time and location indicated in the Letter of Invitation to Tender. The tenderers' representatives who are present shall sign a register evidencing their attendance.
- 20.2 Tenders for which an acceptable notice of withdrawal has been submitted, pursuant to clause 19, will not be opened. The Employer will examine the tenders to determine whether they are complete, whether the requisite Tender Sureties have been furnished, whether the documents have been properly signed and whether the tenders are generally in order.
- 20.3 At the tender opening, the Employer will announce the tenderer's names, total tender price, tender price modifications and tender withdrawals, if any, the presence of the requisite Tender Surety and such other details as the Employer, at his discretion, may consider appropriate. No tender shall be rejected at the tender opening except for late tenders.
- 20.4 The Employer shall prepare minutes of the tender opening including the information disclosed to those present.

- 20.5 Tenders not opened and read out at the tender opening shall not be considered further for evaluation, irrespective of the circumstances.

21 Process to be Confidential

- 21.1 After the public opening of tenders, information relating to the examination, clarification, evaluation and comparisons of tenders and recommendations concerning the award of Contract shall not be disclosed to tenderers or other persons not officially concerned with such process until the award of Contract is announced.
- 21.2 Any effort by a tenderer to influence the Employer in the process of examination, evaluation and comparison of tenders and decisions concerning award of Contract may result in the rejection of the tenderer's tender.

22 Clarification of Tenders

- 22.1 To assist in the examination, evaluation and comparison of tenders, the Employer may ask tenderers individually for clarification of their tenders, including breakdown of unit prices. The request for clarification and the response shall be in writing or by cable, facsimile or telex, but no change in the price or substance of the tender shall be sought, offered or permitted except as required to confirm the correction of arithmetical errors discovered by the employer during the evaluation of the tenders in accordance with clause 24.
- 22.2 No tenderer shall contact the Employer on any matter relating to his tender from the time of the tender opening to the time the Contract is awarded. If the tenderer wishes to bring additional information to the notice of the Employer, he shall do so in writing.

23 Determination of Responsiveness

- 23.1 Prior to the detailed evaluation of tenders, the Employer will determine whether each tender is substantially responsive to the requirements of the tender documents.
- 23.2 For the purpose of this clause, a substantially responsive tender is one which conforms to all the terms, conditions and specifications of the tender documents without material deviation or reservation. A material deviation or reservation is one which affects in any substantial way the scope, quality, completion timing or administration of the Works to be undertaken by the tenderer under the Contract, or which limits in any substantial way, inconsistent with the tender documents, the Employer's rights or the tenderers obligations under the Contract and the rectification of which would affect unfairly the competitive position of other tenderers who have presented substantially responsive tenders.

- 23.3 Each price or unit rate inserted in the Bills of Quantities shall be a realistic estimate of the cost of completing the works described under the particular item including allowance for overheads, profits and the like. Should a tender be seriously unbalanced in relation to the Employer's estimate of the works to be performed under any item or groups of items, the tender shall be deemed not responsive.
- 23.4 A tender determined to be not substantially responsive will be rejected by the Employer and may not subsequently be made responsive by the tenderer by correction of the non-conforming deviation or reservation.

24 Correction of Errors

Tenders determined to be substantially responsive shall be checked by the Employer for any arithmetic errors in the

computations and summations. Errors will be corrected by the Employer as follows:

- (a) Where there is a discrepancy between the amount in figures and the amount in words, the amount in words will govern.
- (b) Where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will prevail, unless in the opinion of the Employer, there is an obvious typographical error, in which case adjustment will be made to the entry containing that error.
- (c) In the event of a discrepancy between the tender amount as stated in the Form of Tender and the corrected tender figure in the main summary of the Bills of Quantities, the amount as stated in the Form of Tender shall prevail.
- (d) The Error Correction Factor shall be computed by expressing the difference between the tender amount and the corrected tender sum as a percentage of the corrected builder's work (i.e. corrected tender sum less Prime Cost and Provisional Sums).
- (e) The Error Correction Factor shall be applied to all builder's work (as a rebate or addition as the case may be) for the purposes of valuations for Interim Certificates and valuations of variations.
- (f) The amount stated in the tender will be adjusted in accordance with the above procedure for the correction of errors and, with concurrence of the tenderer, shall be considered as binding

upon the tenderer. If the tenderer does not accept the corrected amount, the tender may be rejected and the Tender Security may be forfeited in accordance with clause 13.

25 Conversion to Single Currency

- 25.1 For compensation of tenders, the tender price shall first be broken down into the respective amounts payable in various currencies by using the selling rate or rates of the Central Bank of Kenya ruling on the date twenty one (21) days before the final date for the submission of tenders.
- 25.2 The Employer will convert the amounts in various currencies in which the tender is payable (excluding provisional sums but including Dayworks where priced competitively) to Kenya Shillings at the selling rates stated in clause 25.1.

26 Evaluation and Comparison of Tenders

- 26.1 The Employer will evaluate only tenders determined to be substantially responsive to the requirements of the tender documents in accordance with clause 23.
- 26.2 In evaluating tenders, the Employer will determine for each tender the evaluated tender price by adjusting the tender price as follows:
- (a) Making any correction for errors pursuant to clause 24.
 - (b) Excluding Provisional Sums and provision, if any, for Contingencies in the Bills of Quantities, but including Day works where priced competitively.
- 26.3 The Employer reserves the right to accept any variation, deviation or alternative offer. Variations, deviations, alternative offers and other factors which are in excess of the requirements of the tender documents or otherwise result in the accrual of unsolicited benefits to the Employer, shall not be taken into account in tender evaluation.
- 26.4 Price adjustment provisions in the Conditions of Contract applied over the period of execution of the Contract shall not be taken into account in tender evaluation.
- 26.5 If the lowest evaluated tender is seriously unbalanced or front loaded in relation to the Employer's estimate of the items of work to be performed under the Contract, the Employer may require the tenderer to produce detailed price analyses for any or all items of the Bills of Quantities, to demonstrate the relationship between those prices, proposed construction methods and schedules. After evaluation of the price analyses, the Employer may require that the amount of the

Performance Security set forth in clause 29 be increased at the expense of the successful tenderer to a level sufficient to protect the Employer against financial loss in the event of subsequent default of the successful tenderer under the Contract.

- 26.6 Firms incorporated in Kenya where indigenous Kenyans own 51% or more of the share capital shall be allowed a 10% preferential bias provided that they do not sub-contract work valued at more than 50% of the Contract Price excluding provisional sums to a non-indigenous sub-contractor.
- 26.7 Preference where allowed in the evaluation of tenders shall not exceed 15%
- 26.8 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.
- 26.9 The procuring entity shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.
- 26.10 A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement.
- 26.11 Poor past performance shall not be used as an evaluation criteria unless specifically provided for in the appendix.

27 AWARD OF CONTRACT

Award Criteria

- 27.1 Subject to Sub-clause 27.2, the Employer will award the Contract to the tenderer whose tender is determined to be substantially responsive to the tender documents and who has offered the lowest evaluated tender price subject to possessing the capability and resources to effectively carry out the Contract Works as required in Sub-clause 2.1 and 2.2 hereabove.
- 27.2 The Employer reserves the right to accept or reject any tender, and to annual the tendering process and reject all tenders, at any time prior to award of Contract, without thereby incurring any liability to the affected tenderers or any obligation to inform the affected tenderers of the grounds for the Employer's action.

28 Notification of Award

- 28.1 Prior to the expiration of the period of tender validity prescribed by the Employer, the Employer will notify the successful tenderer by cable, telefax or telex and confirmed in writing by registered letter that his tender has been accepted. This letter (hereinafter and in all Contract documents called "Letter of Acceptance") shall name the sum (hereinafter and in all Contract documents called "the Contract Price") which the Employer will pay to the Contractor in consideration of the execution and completion of the Works as prescribed by the Contract.
- 28.2 At the same time that the Employer notifies the successful tenderer that his tender has been accepted, the Employer shall notify the other tenderers that the tenders have been unsuccessful.
- 28.3 Within fourteen [14] days of receipt of the Form of Contract Agreement from the Employer, the successful tenderer shall sign the form and return it to the Employer together with the required Performance Security.
- 28.4 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.

29 Performance Guarantee

- 29.1 Within twenty eight [28] days of receipt of the notification of award from the Employer, the successful tenderer shall furnish the Employer with a Performance Security in the amount stated in the Appendix to Instructions to Tenderers and in the format stipulated in the Conditions of Contract.
- 29.2 The Performance Security to be provided by the successful tenderer shall be an unconditional Bank Guarantee issued at the tenderer's option by a reputable Bank approved by the Employer and located in the Republic of Kenya and shall be divided into two elements namely, a performance security payable in foreign currencies (based upon the exchange rates determined in accordance with clause 60(5) of the Conditions of Contract) and a performance security payable in Kenya Shillings. The value of the two securities shall be in the same proportions of foreign and local currencies as requested in the form of foreign currency requirements.
- 29.3 Failure of the successful tenderer to lodge the required Performance Security shall constitute a breach of Contract and sufficient grounds for the annulment of the award and forfeiture of the Tender Security and any other remedy under the Contract. The Employer may award the Contract to the next ranked tenderer.

30 Advance Payment

An advance payment, if approved by the Employer, shall be made under the Contract, if requested by the Contractor, in accordance with clause 60(1) of the Conditions of Contract. The Advance Payment Guarantee shall be denominated in the proportion and currencies named in the form of foreign currency requirements. For each currency, a separate guarantee shall be issued. The guarantee shall be issued by a Bank located in the Republic of Kenya, or a foreign Bank through a correspondent Bank located in the Republic of Kenya, in either case subject to the approval of the Employer.

31 Corrupt or fraudulent practices

31.1 The procuring entity requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts. A tenderer shall sign a declaration that he has not and will not be involved in corrupt or fraudulent practices.

APPENDIX TO INSTRUCTIONS TO TENDERERS

Notes on the Appendix to Instructions to Tenderers

The following appendix to instructions to tenderers shall complement or amend the provisions of the instructions to tenderers (Section II). Wherever there is a conflict between the provisions of the instructions to tenderers and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to tenderers.

| <i>INSTRUCTIONS TO TENDERERS REFERENCE</i> | <i>PARTICULARS OF APPENDIX TO INSTRUCTIONS TO TENDERS</i> |
|---|---|
| | The bidders shall submit their bid through ifmis supplier portal by the negotiations numbers attached to the tender document on or before <i>Monday, 16TH MARCH 2020 at 10.00 Am</i> |
| | The bidder shall submit a minimum bid security of 2% OF TENDER SUM from a reputable bank or recognized insurance company |
| | Bidders who do not submit their bids through ifmis portal will be not be considered for evaluation of the bids. |
| | The winning bid will be required to submit a performance guarantee of 10% of the contract sum. |

EVALUATION AND COMPARISON OF TENDERS

Evaluation and comparison of Tenders: the following evaluation criteria shall be applied notwithstanding any other requirement in the tender documents.

a) Mandatory requirements(MR)

The following requirements must be met by the tenderer

PRELIMINARY EVALUATION CRITERIA

| S/No | REQUIREMENTS | Score Mandatory | B1 | B2 | B3 | B4 | B5 | B6 |
|-------------|---|---------------------------|-----------|-----------|-----------|-----------|-----------|-----------|
| 1 | Dully filled and stamped confidential business questionnaire | Mandatory (Yes/No) | | | | | | |
| 2 | Form of tender duly filled, signed and Stamped | Mandatory (Yes/No) | | | | | | |
| 3 | The form of power of attorney shall be duly filled, signed and stamped | Mandatory (Yes/No) | | | | | | |
| 4 | Bid Security (2% of tender sum from a reputable bank or insurance firm) | Mandatory (Yes/No) | | | | | | |
| 5 | Certified Valid current year business permits. | Mandatory (Yes/No) | | | | | | |
| 6 | Certified Valid current year tax compliance certificate. | Mandatory (Yes/No) | | | | | | |

| | | | | | | | | |
|----|---|-------------------------------|--|--|--|--|--|--|
| 7 | Certified Certificate of incorporation. | Mandatory (Yes/No) | | | | | | |
| 8 | Certified PIN/VAT certificate from KRA | Mandatory (Yes/No) | | | | | | |
| 9 | Certified Certificate of Registration with NCA for Road works (NCA 6 and above) | Mandatory (Yes/No) | | | | | | |
| 10 | Certified CR 12 form | Mandatory (Yes/No) | | | | | | |
| 11 | Duly filled signed and stamped pre-tender site visit form | Mandatory (Yes/No) | | | | | | |

KEY

Bidder 1: B1

Bidder 2: B2

Bidder 3: B3

Bidder 4: B4

Bidder 5: B5

Bidder 6: B6

NB: At this stage, the tender’s submission will either be responsive or non-responsive. The non-responsive submission will be eliminated from the entire evaluation process and will not be considered further.

| No. | REQUIREMENTS | | | | | | | |
|---|---|-----------------------|-----------|-----------|-----------|-----------|-----------|-----------|
| A. Personnel (Must attach CV and copy of certificates) | | Score card 70) | B1 | B2 | B3 | B4 | B5 | B6 |
| 1. | One Site Agent / Contract manager (Registered Civil Engineer/QS) | 3 Marks | | | | | | |
| 2. | Environment officer at least bachelor degree in environmental science or Equivalent | 3 Marks | | | | | | |
| 3. | 2No inspector of roads works (must be holders of at least diploma/HND in civil engineering or equivalent) | 4 Marks | | | | | | |
| 4. | Bidders attach valid proof of at least three similar projects (road works projects) of similar magnitude. | 15Marks | | | | | | |
| 5. | Bidders shall attach audited financial reports for the last two years (2019,2018) certified | 10 Marks | | | | | | |
| 6. | Duly filled, signed and stamped complete tender document with BQ | 24 Marks | | | | | | |
| 7 | Attach proof of ownership/lease of equipment | 5Mks | | | | | | |
| 8 | Attach bank statement for the last 6 Months | 6Mks | | | | | | |
| | Total | 70 Marks | | | | | | |

a) Technical evaluations scores

This section (technical evaluation) will be marked out of 70 and will determine the technical scorers (TS). Note: at this stage any firm that failed to score above Or 49/70 shall NOT be evaluated financially.

SECTION III

CONDITIONS OF CONTRACT, PART I – GENERAL CONDITIONS

The Conditions of Contract, Part I – General Conditions, shall be those forming Part I of the “Conditions of Contract for works of Civil Engineering Construction, Fourth Edition 1987, re-printed in 1992 with further amendments, prepared by the Federation Internationale des Ingenieurs – conseils (FIDIC). The Conditions are subject to variations and additions set out in Part II hereof entitled “Conditions of Contract, Part II - Conditions of Particular Application”.

Note

- i. The standard text of the General Conditions of Contract must be retained intact to facilitate its reading and interpretation by tenderers. Any amendments and additions to the General Conditions, specific to a given Contract, should be introduced in the Conditions of Particular Application or in the Appendix to Form of Tender.
- ii. The Conditions of Particular Application take precedence over the General Conditions of Contract.
- iii. Copies of the FIDIC Conditions of Contract can be obtained from:
FIDIC Secretariat
P.O. Box 86
1000 Lausanne 12
Switzerland
Fax: 41 21 653 5432
Telephone: 41 21 653 5003

**SECTION IV
CONDITIONS OF CONTRACT PART II
(CONDITIONS OF PARTICULAR APPLICATION)**

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SECTION IV

CONDITIONS OF CONTRACT PART II – CONDITIONS OF PARTICULAR APPLICATION

GENERAL

The Conditions of Contract Part II – Conditions of Particular Application, modify and compliment like-numbered clauses in the Conditions of Contract Part I – General Conditions. Both Parts shall be read together, with the Conditions of Particular Application prevailing in case of conflict or discrepancy. Clauses of the General Conditions not specifically modified and supplemented shall remain in effect.

Clause No.

Definitions and Interpretation

1.1 (a)(i) The said “Employer” shall be _____ (Name of Employer) represented by _____ (Name of Employer’s representative)

(iv) The said “Engineer” shall be _____ (Name of the Engineer) or any other competent person appointed by the Employer, and notified to the Contractor, to act in replacement of the Engineer.

(b)(i) Insert in line 2 after “the Bills of Quantities”, the following, “the rates entered by the Contractor (whether or not such rate be employed in computation of the Contract Price)”.

Add the following sub-clause;

Engineer’s Duties and Authority

2.1 (b) The Engineer shall obtain specific approval of the Employer before taking any of the following actions specified in Part I:

- (i) Consenting to the sub-letting of any part of the Works under clause 4.
- (ii) Certifying additional cost determined under Clause 12
- (iii) Determining an extension of time under Clause 44

- (iv) Issuing a variation under Clause 51 except in an emergency situation as reasonably determined by the Engineer.
- (v) Fixing rates or prices under clause 52

4 Assignment and Subcontracting

- 4.1 Delete the second and third sentence and substitute:

No single subcontract may be for more than 10 percent of the Contract Price nor shall the sum of all subcontracts exceed 25 percent of the Contract price. No one subcontractor may be awarded subcontracts to a total value greater than 10 percent of the Contract Price. All subcontracts greater than 2 percent of the Contract Price are to have the prior consent of the Engineer. The Contractor shall however, not required such consent for purchases of materials or to place contracts for minor details or for any part of the Works of which the manufacturer of supplier is named in the Contract. Any such consent shall not relieve the Contractor from any liability or obligation under the Contract and he shall be responsible for the acts, defaults and neglects of any subcontractor, his agents, servants or workmen as fully as if they were the acts, defaults or neglects of the Contractor, his agents, servants or workmen.

5 Contract Documents

- 5.1 (a) The language governing this Contract shall be English.

The “Ruling Language” which shall be used to interpret this Contract shall be English. Communication between the Contractor and Engineer or Engineer’s representative shall be in English.

- (b) The law applicable to this Contract shall be the laws of the Republic of Kenya. Except to the extent otherwise provided by the Contract, the Kenyan courts shall have exclusive jurisdiction to hear and to determine all actions and proceedings in connection with and arising out of the Contract, and the Contractor shall submit to the jurisdiction of Kenyan courts for the purpose of any such actions and proceedings.

- 5.2 Delete the documents listed 1-6 and substitute:

- (1) The Contract Agreement;
- (2) The Notification of Award;
- (3) Tender and Appendix to Form of Tender;
- (4) The Conditions of Contract Part II;
- (5) The Conditions of Contract Part I (FIDIC);

- (6) The Special Specifications;
- (7) The Standard Specifications for Road and Bridge Construction, MOTC – 1986;
- (8) Clarifications and rectifications accepted by the Employer; and
- (9) The Drawings;
- (10) The priced Bills of Quantities; and
- (11) Schedules and other documents forming part of the Contract.

8.1 Add to sub clause 8.1 the following:

- (a) Within 28 days after receipt of the Engineer’s order to commence the Works, the Contractor shall establish an office at the Site duly equipped for the Contractor’s representative and his supervisory personnel.

The Contractor shall maintain this office throughout the Contract period. The said office shall be the legal domicile of the Contractor, and all correspondence sent to this office shall be deemed to have been sent to the Contractor’s head office.

- (b) A foreign Contractor or a Kenya-foreign joint venture, if not registered in Kenya under the applicable laws of Kenya, shall undertake registration upon receipt of the letter of acceptance and prior to signing of the Contract.

10.1 Performance Security

In lines 1,2 and 3 delete the words “If the Contract... within 28 days” and substitute “The Contractor shall obtain a Performance Security within 28 days

Add the following at the end of this Sub-Clause:-

The Performance Security shall be issued by a Bank incorporated in Kenya. The amount of guarantee shall be as stated in the Appendix to Form of Tender.

The bank guarantee, shall be issued either (a) by an established and reputable bank approved by the Employer and located in Kenya or a foreign bank through a correspondent established and reputable bank located in Kenya and approved by the Employer or (b) directly by a foreign bank acceptable to the Employer. The performance security shall normally be in the currency or currencies requested for payment by the Contractor and

in the same proportions as those requested for payment in the Contract.

The performance security may, subject to the approval of the Engineer, be adjusted at the end of each period of 12 months to reflect the residual value of the Contract Works.

10.2 The performance guarantee shall be valid until a date 28 days after the date of issue of the Taking-Over Certificate. The security shall be returned to the Contractor within 28 days of the expiration.

10.3 Delete sub-clause 10.3

11.1 Inspection of Site

Add the words “and the Contractor shall be deemed to have based his tender on all the aforementioned” after the words “affect his tender”.

Delete the last paragraph completely and replace with the following:

“The Employer in no way guarantees completeness nor accuracy of the soil, materials, subsurface and hydrological information made available to the Contractor at the time of tendering or at any other time during the period of the Contract, and the Contractor shall be responsible for ascertaining for himself all information as aforesaid for the execution of Works and his tender shall be deemed to have been priced accordingly.

14.1 Programme to be Submitted

The time within which the Programme shall be submitted shall be twenty eight (28) days . This detailed Programme shall be based upon the programme submitted by the Contractor as part of his tender and shall, in no material manner, deviate from the said programme.

The Contractor shall allow in his Programme for the following 11 public holidays per calendar year in Kenya upon which the Contractor shall not be permitted to work

New Year’s Day (1st January)
Good Friday
Easter Monday
Labour Day (1st May)
Madaraka Day (1st June)
Idd-Ul-Fitr

| | |
|---------------|-----------------------------|
| Moi Day | (10 th October) |
| Kenyatta Day | (20 th October) |
| Jamhuri Day | (12 th December) |
| Christmas Day | (25 th December) |
| Boxing Day | (26 th December) |

The Contractor should also allow per calendar year for a further 2 unspecified public holidays which may be announced by the Government of Kenya with no prior notification, and upon which he shall not be permitted to work.

14.2 Add the following at the end of this sub clause:-

The Employer shall have the right to withhold payment at any time if the Contractor fails to submit the contractual construction programmes in accordance with sub clause 14.1 above or revise construction programmes due to his negligence, failure or omission.

14.3 Cash Flow Estimate to be Submitted

The time limit within which a detailed cash flow estimate is to be submitted shall be twenty eight (28) days.

In preparing the estimates, the Contractor shall make provision for Advance payment, repayment of advance, retention, payment for services provided by the Employer and timing implications of sub clause 60 – Certificates and Payments.

15 Contractor's Superintendence

Add the following at the end of the first paragraph of sub-clause 15.1:

15.1 The Contractor shall, within seven (7) days of receipt of the Engineer's order to commence the Works, inform the Engineer in writing, the name of the Contractor's representative and the anticipated date of his arrival on Site.

Add the following sub-clause 15.2:

15.2 The Contractor's agent or representative on the Site shall be an Engineer registered by the Engineer's Registration Board of Kenya in accordance with the Laws of Kenya cap. 530 or have equivalent status approved by the Engineer and shall be able to read, write and speak English fluently.

16.2 Engineer at Liberty to object

At the end of this clause add “by a competent substitute approved by the Engineer at the Contractor’s own expense”.

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

Safety, Security and Protection of the Environment

19.1 Add at the end of sub clause 19.1 the following: -

The formulation and enforcement of an adequate safety program shall be the obligation of the Contractor with respect to all the Works under this Contract, regardless of whether performed by the Contractor or his subcontractors. The Contractor shall, within 14 days after commencement of the Works, meet the Engineer to present and discuss his plan for the establishment of such safety measures as may be necessary to provide against accidents, unsafe acts and so forth. Within 28 days after commencement of the Works, the Contractor shall submit a written safety program to the Engineer covering the overall Works and based on the laws and regulations of Kenya. In addition, he shall prepare special safety programs for blasting and handling of explosives as stipulated in the General and Special Specifications.

Notwithstanding the foregoing, the Contractor shall observe the following measures with a view to reducing or eliminating adverse environmental effects by the Site Works:

- (i) All queries and borrow pits shall be filled and landscaped to their original state after extraction of construction material
- (ii) Soil erosion due to surface runoff or water from culverts or other drainage structures should be avoided by putting in place proper erosion control measures that shall include, but not limited to grassing , planting of trees, gabions etc.
- (iii) Long traffic diversion roads shall be avoided so as to minimize the effect of dust on the surrounding environment. In any case all diversions shall be kept damp and dust free at the Contractor’s expense.
- (iv) Spillage of oils, fuels and lubricants shall be avoided and if spilt, shall be collected and disposed off in such a way as not to adversely affect the environment.

- (v) Rock blasting near settlement areas shall be properly coordinated with the relevant officers of the Government so as to minimize noise pollution and community interference.
- (vi) Dumping shall be done only at designated dumping areas and not haphazardly on surroundings.

Insurance of Works & Contractor’s Equipment

- 21.1 (a) Delete the first sentence of this clause and replace with the following:

“Prior to commencement of the Works the Contractor shall, without limiting his or the Employer’s obligations and responsibilities under Clause 20, insure to the satisfaction of the Employer.”
- (b) Add the following words at the end of sub - paragraph (a) and immediately before the last word in (b)

“it being understood the insurance shall provide for compensation to be payable in the types and proportions of the currencies required to rectify the loss or damage incurred.”

In sub clause 21.1(b), delete the words “or as may be specified in Part II of these Conditions”.

- 21.2 (a) Delete the words “from the start of Work at the Site” and substitute with the words “from the first working day after the commencement date”
- (c) Add the following sub-clause: “It shall be the responsibility of the Contractor to notify the insurance company of any change in the nature and extent of the Works and to ensure the adequacy of the insurance coverage at all times during the period of the Contract”.

23.1 Third Party Insurance

Add the following at the beginning of this sub-clause:-

“Prior to commencement of the Works.....”

23.2 Minimum Amount of Insurance

Add the following at the end of this sub-clause:-

“with no limits to the number of occurrences.”

25.1 Insert the words “as soon as practicable after the respective insurances have been taken out but in any case” before the words “Prior to the start of Work at the Site”

Add the following sub-clauses 25.5 to 25.7

25.5 Insurance Notices

Each policy of insurance effected by the Contractor for the purpose of the Contract shall include a provision to the effect that the Insurer shall have a duty to give notice in writing to the Contractor and Employer of the date when a premium becomes payable not more than thirty (30) days after the giving of such notice.

25.6 Re-insurance in Kenya

The risks against which the Contractor is obliged to insure under the Contract shall be insured through established and reputable companies approved by the Employer and located in Kenya and any cover against risks which the Contractor may enjoy shall be reinsured in Kenya by an approved Kenyan Insurance Company In respect of the Contractor’s obligations under the Contract.

25.7 It shall be the responsibility of the Contractor to notify the insurers under any of the insurances referred or event which by the terms of such insurances are required to be so notified and the Contractor shall indemnify and keep indemnified the Employer against all losses, claims, demands, proceedings, costs, charges and expenses whatsoever arising out of or in consequence of any default by the Contractor in complying with the requirements of this sub clause whether as a result of avoidance of such insurance or otherwise.

26. Compliance with Statutes, Regulations

Add the following sub-clause 26.2;-

The Employer will repay or allow to the Contractor all such sums as the Engineer shall certify to have been properly payable and paid by the Contractor in respect of such fees. Provided always that, without prejudice to sub clause, nothing contained in this clause shall be deemed to render the Employer liable to all claims which may be considered to fall within the provisions of clause 22.1.

Royalties

28.2 Add the following at the end of this sub-clause;

“The Contractor shall also be liable for all payments or compensation, if any, that are levied in connection with the dumping of part or all of any such material.”

Interference with Traffic and Adjoining Properties

29.2 Add new sub-clause 29.2;

The Contractor shall reinstate all properties whether public or private which are damaged in consequence of the construction and maintenance of the Works to a condition at least equal to that prevailing before his first entry on them.

If in the opinion of the Engineer the Contractor shall have failed to take reasonable and prompt action to discharge his obligations in the matter of reinstatement, the Engineer will inform the Contractor in writing of his opinion, in which circumstances the Employer reserves the right to employ others to do the necessary work of reinstatement and to deduct the cost thereof from any money due or to become due to the Contractor.

The Contractor shall promptly refer to the Employer all claims, which may be considered to fall within the provisions of Clause 22.1.

LABOUR

34.2 Conditions of Employment of Labour

The Contractor shall be responsible for making all arrangements for and shall bear all costs relating to recruitment, obtaining of all necessary visas, permits or other official permission for movements of staff and labour.

34.3 Fair Wages

The Contractor shall, in respect of all persons employed anywhere by him in the execution of the Contract, observe and fulfill the following conditions:

- (a) The Contractor shall pay the rates of wages, observe hours of labour and provide conditions, housing amenities and facilities not less favorable than those required by the Regulation of wages (Building and Construction Industry) Order 1998, and any subsequent amendments thereto, or in any ministry of labour or other government department in consultation with the district whose general circumstances in the trade or industry in which the Contractor is engaged are similar. The Contractor shall at all times during the continuation of the Contract display, for the information of his employees, a notice setting out the general rates of wages, hours and conditions of labour of his employees and a copy of this clause.
- (b) In the absence of any rates for wages, hours or conditions of labour so established, the Contractor shall pay rates or wages and observe

hours and conditions for labour which are not less favourable than the general circumstances in the trade or industry in which the Contractor is engaged.

- (c) Where the absence of established rates of wages, hours and conditions of labour or the dissimilarity of the general circumstances in the trade or industry in which the Contractor is engaged prevent the Contractor from observing rates of wages, hours and conditions of labour ascertained under sub-paragraph (a) or (b) above, the Contractor in fixing the rates of wages, hours and conditions of labour of his employees shall be guided by the advise of the labour department.
- (d) The Contractor shall recognize the freedom of his employees to be members of trade unions.
- (e) The Contractor shall maintain records of the times worked by, and the wages paid to his employees. The Contractor shall furnish to the Employer, if called upon so to do, particulars of the rates of wages, hours and conditions of labour as the employer may direct.
- (f) The Contractor shall be responsible for observance by his sub-Contractors of the foregoing provisions.

34.4 Breach of Fair Wages Clause

Should a claim be made to the Employer alleging the Contractor's default in payment of fair wages to any workman employed on the Contract and if proof thereof satisfactory to the Employer is furnished by the labour department, the Employer may, failing payment by the Contractor, pay the claims out of any monies due or which may become due to the Contractor under the Contract.

34.5 Recruitment of Unskilled Labour

Any additional unskilled labour which may be required by the Contractor for the Works and which is not in his employ at the time of the acceptance of the tender shall be recruited by the Contractor from the labour office nearest to the Site of the Works.

34.6 Compensation for injury

The Contractor shall, in accordance with the Workman's Compensation Act Chapter 236 of the laws of Kenya and any other regulations in force from time to time in Kenya ,pay compensation for loss or damage suffered in consequence of any accident or injury or disease resulting from his work to any workman or other person in the employment of the Contractor or any sub-contractor.

34.7 Labour Standards

- a) The Contractor shall comply with the existing local labour laws, regulations and labour standards.

- b) The Contractor shall formulate and enforce an adequate safety program with respect to all Work under this Contract, whether performed by the Contractor or his sub-contractors. The Contractor has assurance from the Employer of cooperation where the implementation of these safety measures requires joint cooperation.

- c) Upon written request of the Employer the Contractor will remove or replace any of his employees employed under this Contract.

34.8 Recruitment

The Contractor shall not induce personnel of the employer or the Engineer to leave their regular employment and shall not, without the prior consent in writing of the Employer, employ personnel who have resigned from such service within the preceding twelve months.

35 Add the following subclauses 35.2 and 35.3:-

35.2 The Contractor shall maintain such records and make such reports concerning safety, health and welfare of persons and damage to property as the Engineer may from time to time prescribe.

35.3 The Contractor shall report to the Engineer details of any accident as soon as possible after its occurrence. In the case of any fatality or serious accident, the Contractor shall, in addition, notify the Engineer immediately by the quickest available means. The Contractor shall also notify the relevant authority(s) whenever such report is required by the law.

41.1 Commencement and Delays

Insert immediately after the word Works----- “on Site within 28 days” and before the word -----after

41.2 Definition of Commencement

For the purposes of this clause, the Works shall be deemed to have commenced when all of the following conditions are satisfied;

- a) The approved competent and authorized agent or representative of the Contractor is resident in the project area and is giving his whole time to the superintendence of the Works.
- b) The provision by the Contractor of evidence that all insurances required by the Contract are in force.
- c) The Contractor has an established office in the project area with postal address for receipt of correspondence.
- d) The principal items of constructional plant have been brought to Site and put to work in the execution of the permanent Works.

42.4 Possession of Site and Access Thereto

Add the following to this clause 42.4;

The Contractor shall not enter any part of the Site until he has requested and received permission to do so from the Employer or the Engineer.

The Contractor shall not use any portion of the Site for any purpose not connected with the Works.

44.1 Add at the end of sub-clause 44.1 the following:

Neither rains falling between 1st November and 31st December (inclusive) and between 1st February and 31st May (inclusive) nor floods caused by such rains shall be deemed exceptional weather conditions such as may fairly entitle the Contractor to an extension of time for the completion of the Work.

45 Working Hours

Delete sub-clause 45.1 and substitute:

“subject to any provision to the contrary contained in the Contract, the Contractor shall have the option to work continuously by day and by night and on locally recognized days of rest.

If the Contractor requests for permission to work by day and night and if the Engineer shall grant such permission, the Contractor shall not be entitled to any additional payment for so doing. All such work at night shall be carried out without unreasonable noise or other disturbance and the Contractor shall indemnify the Employer from and against any liability for damages on account of noise or other disturbance created while or in carrying out night work and from and against all claims, demands, proceedings, costs, charges and expenses whatsoever in regard or in relation to such liability. In addition, the Contractor shall be required to provide, for any work carried out by night or recognized days of rest, adequate lighting and other facilities

so that the Work is carried out safely and properly. In the event of the Engineer granting permission to the Contractor to work double or rotary shifts or on Sundays, the Contractor shall be required to meet any additional costs to the Employer in the administration and supervision of the Contract arising from the granting of this permission.

47.2 Reduction of Liquidated Damages

There shall be no reduction in the amount of liquidated damages in the event that a part or a section of the Works within the Contract is certified as completed before the whole of the Works comprising that Contract.

No bonus for early completion of the Works shall be paid to the Contractor by the Employer.

The sum stated in the Appendix to Form of Tender as liquidated damages shall be increased by a sum equivalent to any amount payable by the Employer to the Contractor under clause 70.1 in respect of an increase in costs in such period that would not have been incurred by the Contractor if the Works had been completed by the due date for completion prescribed by clause 43.

Defects Liability

49.2 Add at the end of this sub-clause the following sentence:-

Any work ordered to be executed under this clause shall be done at a time and in a manner as directed by the Engineer so as to interfere as little as possible with the operations of the Employer or of other contractors and no extension(s) of the defects liability period will be allowed for the execution of this Work.

Add the following sub-clause 49.5 to this Clause:-

52 Variations

52.1 Add the following final sentence to this subclause:-

The agreement, fixing or determination of any rates or prices as aforesaid shall include any foreign currency and the proportion thereof.

52.4 Daywork

Add the following at the end of this sub-clause:

The Work so ordered shall immediately become part of the Works under the Contract. The Contractor shall, as soon as practicable after receiving the Daywork Order from the Engineer undertake the necessary steps for due execution of such Work. Prior to commencement of any work to be done on

a Daywork basis, the Contractor shall give a notice to the Engineer stating the exact time of such commencement.

54 Plant, Temporary Works and Materials

Delete Sub-Clauses 54.3 to 54.4 entirely.

For the purpose of these Clauses, the term “Equipment” shall be read as “Contractor’s Equipment” where the context so requires.

54.1 Line 5: - Add “written” between “the” and “consent”.

Quantities

55.1 Delete sub-clause 55.1 and substitute with the following;

The quality and quantity of the Work included in the Contract Price shall be deemed to be that which is set out in the Contract Bills. The Bills, unless otherwise expressly stated therein, shall be deemed to have been prepared in accordance with the principles of the latest edition of the Civil Engineering Standard Method of Measurement.

Any error in description or in quantity or any omission of items from the Contract Bills or Specifications shall not vitiate this Contract but shall be corrected and deemed to be a variation required by the Engineer. Subject to the foregoing, any error whether arithmetical or not in the computation of the Contract Price shall be deemed to have been accepted by the parties hereto.

The Contract Price shall not be adjusted or altered in any way whatsoever otherwise than in accordance with the express provisions of these Conditions.

55.2 Add as a new sub-clause:

“Items of Work described in the Bills of Quantities for which no rate or price has been entered in the Contract shall be considered as included in other rates and prices in the Contract and will not be paid for separately by the Employer.

Measurement

56.1 Delete sub clause 56.1 and replace with the following:-

The Contractor shall prepare and submit to the Engineer all necessary field notes and other records taken and computations made for the purpose of quantity measurements, of which the forms shall be approved by the Engineer, for the monthly progress payment under clause 60. The

measurement of work quantities made by the Contractor shall be verified and certified by the Engineer based on the above-mentioned documents.

The Contractor shall furnish all personnel, equipment and materials to make such surveys and computations as necessary to determine the quantities of work performed. Unless otherwise prescribed in the specifications or the drawings, all measurements for payment shall be made by the dimensions, lines and grades as shown on the drawings or by direct survey of which the methods shall be approved by the Engineer.

The documents submitted for measurement and payment shall become the property of the Employer and shall be used to the extent necessary to determine the monthly progress payment to be made to the Contractor under the Contract. Direct survey, if done, shall be subject to checking and verification by the Engineer and all errors in the said survey work and related computations as found during such checking shall be immediately corrected by the Contractor.

57.1 Delete sub clause 57.1 and substitute with the following:-

The Works shall be measured net with deductions made in accordance with the principles of the latest edition of the Civil Engineering Standard Method of Measurement. All measurements shall be given in metric (SI) units.

Provisional Sums

58.4 **Prime Cost sum**

Wherever an item in the Bills of Quantities has been referred to as a “P.C. Sum” (Prime Cost Sum), that item shall be construed as a Provisional sum and the provisions of Sub-clauses 58.1 to 58.3 will apply.

59.5 Add the following paragraph at the end of sub clause 59.5:-

If the Engineer desires to secure final payment to any nominated sub-contractor before final payment is due to the Contractor and if such sub-contractor has satisfactorily indemnified the Contractor against any latent defects, the Engineer may, in an interim certificate, include an amount to cover the said final payment, and thereupon the Contractor shall pay to such nominated sub-contractor the amount so certified. Upon such final payment, the amount named in the Appendix to Form of Tender as Limit of Retention Money shall be reduced by the sum which bears the same ratio to the amount as does the subcontract and sub-contractor shall be discharged from all liability for the Work, materials or goods executed or supplied by such subcontractor under the Contract to which the payment relates.

Certificates and Payment

Delete Sub-clauses 60.1 to 60.10 entirely and substitute with the following:-

60.1 Advance Payment

In the event that an advance payment is granted, the following shall apply:-

- a) On signature of the Contract, the Contractor shall at his request, and without furnishing proof of expenditure, be entitled to an advance of 10% (ten percent) of the original amount of the Contract. The advance shall not be subject to retention money.
- b) No advance payment may be made before the Contractor has submitted proof of the establishment of deposit or of a directly liable guarantee satisfactory to the Employer in the amount of the advance payment. The guarantee shall be in the same currency as the advance.
- c) Reimbursement of the advance shall be effected by deductions from monthly interim payments.
- d) Reimbursement of the lump sum advance shall be made by deductions from the Interim payments and where applicable from the balance owing to the Contractor. Reimbursement shall begin when the amount of the sums due under the Contract reaches 20% of the original amount of the Contract. It shall have been completed by the time 80% of this amount is reached.

The amount to be repaid by way of successive deductions shall be calculated by means of the formula:

$$R = \frac{A (x^1 - x^{11})}{80 - 20}$$

Where:

- R = the amount to be reimbursed
- A = the amount of the advance which has been granted
- X¹ = the amount of proposed cumulative payments as a percentage of the original amount of the Contract. This figure will exceed 20% but not exceed 80%.
- X¹¹ = The amount of the previous cumulative payments as a percentage of the original amount of the Contract. This figure will be below 80% but not less than 20%.

- (e) with each reimbursement the counterpart of the directly liable guarantee may be reduced accordingly.

60.2 Interim Payment Certificate

The Contractor shall submit to the Engineer, in the manner required by the Engineer after the end of each month a statement showing the estimated total value of permanent Work properly executed and materials or goods for permanent works brought to Site up to the end of the previous month (if the value shall justify the issue of an interim certificate) together with any adjustments under clause 70 and any outstanding claims and sums the Contractor considers may be due to him. The Contractor shall amend or correct his estimate as directed by the Engineer and the latter shall not accept it until he is satisfied that it is fair and reasonable. With respect to the said materials and goods, no payment for them shall be made unless ;-

- (i) The materials are in accordance with the specifications for the Works;
- (ii) The materials have been delivered to Site and are properly stored and protected against loss, damage or deterioration;
- (iii) The Contractor's record of the requirements, orders, receipts and use of materials are kept in a form approved by the Engineer, and such records are available for inspection by the Engineer;
- (iv) The Contractor has submitted a statement of his cost of acquiring and delivering the materials and goods to the Site, together with such documents as may be required for the purpose of evidencing such cost;
- (v) The materials are to be used within a reasonable time.

The Contractor will be paid on the certificate of the Engineer the amount due to him on account of the estimated total value of the permanent Work executed up to the end of the previous month together with such amount (not exceeding 75% of the value) as the Engineer may consider proper on account of materials and goods for permanent Work delivered by the Contractor on Site and in addition, such amount as the Engineer may consider fair and reasonable for any Temporary Works for which separate amounts are provided in the Bill of Quantities, all of which shall be subject to a retention of the percentage named in the Appendix to Form of Tender until the amount retained (hereinafter and in all Contract documents called the "Retention Money") shall reach the "Limit of Retention Money" named in the said Appendix. Provided always that no interim certificate shall be issued for a sum [such sum always being the net amount thereof after all deductions for retention etc) less than that named in the Appendix to Form of Tender as "Minimum Amount of Interim Certificate" at one time.

Within 14 days after receiving a statement from the Contractor as aforesaid, and subject to the Contractor having made such further amendments and corrections as the Engineer may require, the Engineer shall issue a Certificate of Payment to the Employer showing the amount due, with a copy to the Contractor.

The Engineer shall not unreasonably withhold certifying an Interim Payment Certificate and where there is a dispute regarding an item for payment, the Engineer may delete this disputed item from the Interim Payment Certificate and certify the remainder for payment provided the said payment is in accordance with the preceding paragraph. In cases of difference in opinion as to the value of any item, the Engineer's view shall prevail.

60.3 Final Account and Final Payment Certificate

As soon as possible after the issue of Taking - Over Certificate or the termination of the Contract and not later than the time of issue of Defects Liability Certificate, the Contractor shall prepare and submit to the Engineer (with a copy to the Employer), a Statement of Final Account showing in detail the total value of work done in accordance with the Contract together with all sums paid in previous payments. Within thirty(30) after receipt of such further information as may be reasonably required from the Contractor for its verification, the Engineer shall check the said statement, prepare and submit a Final Payment Certificate to the Employer (with a copy to the Contractor).

The Final Payment Certificate shall state;

- (a) The (final) total value of all Work done in accordance with the Contract;
- (b) After giving credit to the Employer for all amounts previously paid to the Contractor, the balance, if any, due from the Employer to the Contractor or the Contractor to the Employer, as the case may be.

Unless the Contractor notifies the Engineer of his objection to the Final Payment Certificate within twenty eight [28] days of delivery thereof , he shall be deemed to have agreed that he accepts the total Contract Price as set out in the Final Payment Certificate as full settlement for all work done under the Contract including any claims, variations and omissions thereof.

However, a Final Certificate of Payment shall not be conclusive:

- a) to the extent that fraud or dishonesty relates to or affects any matter dealt with in the Certificate, or
- b) if any arbitration or court proceedings under the Contract have been commenced by either party before the expiry of 84 days after the issue of the Final Certificate of Payment.

60.4 Payment of Certificates

Payment upon each of the Engineer's Certificates for Interim Payments shall be made by the Employer within the time stated in the Appendix to Form of Tender from the date of issue of each Certificate of Payment.

Payment upon the Engineer's Final Payment Certificate shall be made by the Employer within the time stated in the Appendix to Form of Tender from the date of issue of the Final Certificate of Payment signed by the Engineer and countersigned by the Contractor or his authorised agent or representative.

Making of a payment by the Employer shall be considered to have been duly executed on the day that the Employer has issued a cheque.

60.5 Payment of Retention Money

One half of the retention money shall become due upon the issue of a Taking – Over Certificate and shall be paid to the Contractor when the Engineer shall certify in writing that the last section of the whole of the Works has been substantially completed and the other half shall be paid to the Contractor after the expiration of the Defects Liability Period and the issue of a Certificate under Clause 62. Provided always that if such time there shall remain to be executed by the Contractor any Works ordered during such period pursuant to Clauses 49 and 50 thereof ,the Employer

shall be entitled to withhold payment [until the completion of such Works] of so much of the second half of the Retention Money as shall in the opinion of the Engineer represent the Costs of the Works so remaining to be executed. Provided further that in the event of different Defects Liability Periods having become applicable to different parts of the Works pursuant to clause 48 hereof the expression “expiration of the Defect Liability Period” shall for the purpose of this Sub-clause be deemed to mean the expiration of the latest of such periods.

60.6 Currency of Payment

The Contract price shall be stated in Kenya Shillings. All payments to the Contractor shall be made in Kenya shillings and foreign currency(s) in the proportion indicated in the tender, or agreed prior to the execution of the Contract Agreement and indicated therein. The rate[s] of exchange for the calculation of the amount of foreign currency payment[s] shall be the rate of exchange indicated in the Tender. If the Contractor indicated foreign currencies for payment other than the currencies of the countries of origin of related goods and services, the Employer reserves the right to pay the equivalent at the time of payment in the currencies of the countries of such goods and services. The Employer and the Engineer shall be notified promptly by the Contractor of any changes in the expected foreign currency requirements of the Contractor during the execution of the Works as indicated in the Statement of Foreign Currency Requirements and the

foreign and local currency portions of the balance of the Contract Price shall then be amended by agreement between Employer and the Contractor in order to reflect appropriately such changes.

60.7 Overdue Payments

Unless otherwise stated in the appendix interest shall be paid on the overdue amounts and the interest to be paid shall be in accordance with prevailing commercial bank rates.

60.8 Correcting and With-holding

The Engineer may by any interim certificate or through the final account make any correction or modification to any previous certified sum and shall have authority, if any work or part thereof is not being carried out to his satisfaction, to omit or reduce the value of such work in any Interim Payment Certificate.

60.9 Completion by Sections.

If a Taking-Over Certificate shall be issued for any section or part of the Works separately, the payments herein provided for on or after issue of such a Certificate shall be made in respect of such section or part and references to the Contract Price shall mean such part of the Contract Price as shall in the absence of agreement be apportioned thereto by the Engineer.

60.10 Proportion of Foreign Currency

Subject to the provision of sub clause 60.5 the proportion of foreign currency in any amount due to the Contractor or Employer shall be determined in the following manner:-

- a) For all measured Work, the percentages of foreign currency for the appropriate section of the Bill of Quantities as stated in the schedule of foreign currency requirements shall be applied.
- b) Variations in the cost of imported materials shall be paid in foreign currency.
- c) Variations in the cost of locally purchased materials and those due to changes of legislation shall be paid in local currency.
- d) For Day works labour and plant, the respective percentages of foreign currency stated in the schedule shall be applied.
- e) For Day works materials and materials on site, payment in foreign currency will only be made for imported materials.

- f) The provisions for the deduction and release of Retention Money and the payment of interest shall be applied similarly to both the local and foreign portions.
- g) The advance mobilization loan, its repayment thereof and liquidated damages shall all be apportioned on the basis of the ratio between local and foreign currency indicated in the Contract Price.
- h) In the event that the payment is for an item not covered in the foregoing paragraphs, the Engineer shall determine the proportion of foreign and local currency based on the information given in the Schedule of Foreign Currency Requirements, together with any additional information he may request the Contractor to provide.

60.11 Statement at Completion

Not later than 14 days after the issue of the Taking-Over Certificate in respect of the whole of the works, the Contractor shall submit to the Engineer a statement at completion showing in detail, in a form approved by the Engineer;

- (a) The final value of all work done in accordance with the Contract up to the date stated in such Taking-Over Certificate.
- (b) Any further sums which the Contractor considers to be due; and
- (c) An estimate of amounts, which the Contractor considers, will become due to him under the Contract.

Estimate amounts shall be shown separately in the Statement at Completion. The Contractor shall amend and correct the Statement as directed by the Engineer who shall issue a Certificate at Completion to be processed in accordance with sub-clause 60.4.

60.12 Final Statement

Not later than 56 days after the issue of the Defects Liability Certificate, the Contractor shall submit to the Engineer for consideration a draft final statement with supporting documents showing in detail, in the form approved by the Engineer;

- (a) The final value of all work done in accordance with the Contract;
- (b) Any further sums which the Contractor considers to be due to him.

If the Engineer disagrees with or cannot verify any part of the draft final statement, the Contractor shall submit such further information as the

Engineer may reasonable require and shall make such changes in the draft as may be required.

60.13 Discharge

Upon submission of the Final Statement, the Contractor shall give to the Employer, with a copy to the Engineer, a written discharge confirming that the total of the Final Statement represents full and final settlement of all monies due to the Contractor arising out of or in respect of the Contract. Provided that such discharge shall become effective only after payment under the Final Payment Certificate issued pursuant to Sub-clause 60.14 has been made and the Performance Security referred to in Sub-clause 10.1 has been returned to the Contractor.

60.14 Final Payment Certificate

Upon acceptance of the Final Statement as given in Sub-clause 60.12, the Engineer shall prepare a Final Payment Certificate which shall be delivered to the Contractor’s authorized agent or representative for his signature. The Final Payment Certificate shall state:

- (a) The final value of all work done in accordance with the Contract;
- (b) After giving credit to the Employer for all amounts previously paid by the Employer, the balance, if any, due from the Employer to the Contractor or the Contractor to the Employer as the case may be

Final Certificate shall be issued for any sum due to the Contractor even if such is less than the sum said named in the Appendix to the Form of Tender.

60.15 Cessation of Employer’s Liability

Unless the Contractor notifies the Engineer of his objection to the Final Certificate within fourteen days of delivery thereof he shall be deemed to have agreed that he accepts the total Contract Price as set out in the Final Certificate as full settlement for all work done under the Contract including any variations and omissions thereof.

62.1 Defects Liability Certificate

Delete the last sentence of this Sub-Clause beginning “Provided that the issue...in Sub-Clause 60.3”.

Remedies

63.4 Assignment of Benefit of Agreement

Add the following at the end of this sub-clause:-

“But on the terms that a supplier or sub-contractor shall be entitled to make any reasonable objection to any further assignment thereof by the Employer and the Employer may pay the supplier or sub-contractor for any such materials supplied or Works executed under such agreement, whether the same be assigned as aforesaid or not, before or after the said determination, the amount due by such arrangement in so far as it has not already been paid by the Contractor”.

65 **Special Risks**

Add sub clause 65.9 as follows:

- (a) In the event of the Employer unilaterally ordering the final cessation of performance of the Contract for reasons not specified elsewhere in the Conditions of Contract the Contract shall be considered to be frustrated and the Contractor shall be indemnified as provided for under clause 65.1.
- (b) In the event of the Employer ordering the adjournment of the Contract before or after commencement of the Works for reasons not specified elsewhere in the Conditions of Contract, the Contractor shall be entitled to indemnity for any injury which he may have suffered as a consequence of such adjournment. The Engineer shall award the Contractor payment of such sum as in his opinion shall be reasonable giving regard to all material and relevant factors including the Contractor’s on costs and overheads, and the nature of the instruction to adjourn the Contract.

Settlement of Disputes

67.3 **Arbitration**

For the purposes of this Clause, the Arbitrator shall be a person to be agreed between the parties or failing agreement, the Arbitrator shall be appointed by the appointer designated in the Appendix to the Form of Tender.

Add the following paragraph after the last paragraph of sub-clause 67.3:

Arbitration shall take place in Nairobi, Kenya. The language of all arbitration proceedings shall be in English. The cost of arbitration shall be apportioned by the Arbitrator according to his findings.

Notices

68.1 Add the following at the end of this subclause:-

Notwithstanding the foregoing, the Contractor shall either maintain an address close to the Works or appoint an agent residing close to the Works for the purpose of receiving notices to be given to the Contractor under the terms of the Contract. This obligation shall be terminated upon the issue of the Certificate of Completion.

68.2 Delete the words “nominated for that purpose in Part II of these Conditions” in this sub-clause.

Default of Employer

69.1 **Default of Employer**

In paragraph (a) of this Sub-Clause, delete the words “within 28 days of expiry of the time stated in Sub-clause 60.10” and insert “within 56 days after the expiry of the time stated in Sub-Clause 60.4”.

69.4 Contractor’s Entitlement to Suspend Work

Delete the first four lines of this Sub-Clause and replace with the following:-

“Without prejudice to the Contractor’s entitlement to interest under Sub-clause 60.7 and to terminate his employment under Sub-Clause 69.1, the Contractor may, if the Employer fails to pay the Contractor the amount due under any certificate of the Engineer within 56 days after the expiry of the time stated in Sub-Clause 60.4.....”

Delete sub-clause 69.4 (b) and substitute with the following “the amount of such cost, which shall be added to the Contract Price. However, the costs due to idle time for plant, equipment and labour shall not be included in the said costs and shall be borne by the Contractor.

69.5 Resumption of Work

In line 3 of this Sub-Clause delete the Words “Sub-Clause 60.10” and replace with “Sub-Clause 60.7”

Changes in Cost and Legislation

70.1 Delete the sub-clause 70.1 in its entirety and substitute with the following:-

“The Contract Price shall be deemed to have been calculated in the matter set below and shall be subject to the adjustment in the event specified hereunder:

- (a) The rates contained in the priced Bill of Quantities are based upon the rates of wages and other emoluments and expenses applicable at the site and the date of tender pricing (as defined in sub-clause 70.4 hereinafter);
- (b) If the said rates of wages and other emoluments and expenses shall be increased or decreased by act, statue, decree, regulation and the like after the said date of tender pricing then the net amount of increase the emoluments and expenses shall, as the case may be, paid to or allowed by Contractor;
- (c) The rates contained in the price Bill of Quantities are based upon the rates of the Contractor’s compulsory contributions payable at the date of tender under or by virtue of any Act, Statue, Regulations and the like applicable at the site;
- (d) If any of the said rates of contribution becomes payable after that date then the net amount of new statutory contribution becomes payable after that date then the net amount of increase or decrease of the emoluments and expenses shall, as the case may be, be paid to or allowed by the Contractor. Difference between what the Contractor actually pays in respect of work people engaged upon or in connection with the works and what he would have paid in respect of such person had any of the said rates not been increased or decreased or had a new contribution not become payable as aforesaid, shall as the case may be, be paid to or allowed by the Contractor. Provided always that the Engineer and the Contractor may agree a sum, which shall be deemed to be the net amount of the aforesaid difference, and such sum shall be deemed for the purpose of this Contract to be, that which is to be paid to or allowed by the Contractor by the virtue of this sub-paragraph;
- (e) If the market price or any materials or goods specified as aforesaid shall be increased or decreased after the said Date of Tender Pricing, then the net amount of difference between the basic price and the market price payable by the Contractor and current when any such goods and materials are bought shall, as the case may be, be paid to or allowed by the Contractor. Orders for materials and goods listed as

aforesaid shall have been placed within a reasonable time after the date at which sufficient information is available for the placing of such orders, and the placing of orders at that time shall be a condition precedent to any payments being made to the Contractor in respect of increased market prices.”

Substitute and add the following sub-clauses:

- 702 (a) If the Contractor shall decide subject to Clause 4 thereof to sub-let any portion of the work he shall incorporate in the sub-contract provisions to the like effect as those contained in sub-clause (1) of this Clause;
- (c) If the price payable under a sub-contract as aforesaid is increased above or decreased below the price in such sub-contract by reason of the operation of the incorporated provisions of sub-clause (1) of this clause then the net amount of such increase or decrease shall as the case may be, be paid to or allowed by the Contractor under this Contract.
- 703 The expression “the date of tender pricing” as used in this Clause means the date 28 days prior to the final date for submission of Tenders as determined by the Employer in the Tender documents.
- 704 For imported materials, the supplier’s/manufacturer’s Prime costs shall be C.I.F. cost at point of entry by the same means of transport as determined by the Contractor’s Basic Rate.

For locally produced materials, the supplier’s or manufacturer’s prime costs shall be at their nearest depot or the nearest railway station relevant to the works.

For materials, which are subject to Government Price Control, payments for price variations will be determined from the difference between the control price in force at a date 28 days prior to date for submission of Tenders and the price in force on the date of purchase.

- 705 The materials to which this Variation Clause applies are:

- ◆ All bitumen material
- ◆ Fuels, oils and lubricant
- ◆ Cement
- ◆ Lime
- ◆ Flex beam guardrail
- ◆ Explosives
- ◆ Gabion mesh
- ◆ Reinforcing steel

- 70.6 The Contractor shall not change the supplier or manufacturer during the Contract without the approval of the Engineer.
- 70.7 No payments will be made for price variation related to expenses incurred by the Contractor in his Head Office in Kenya, or overseas.
- 70.8 All payments made pursuant to Clause 70 shall be in Kenya Shillings.
- 70.9 No payments will be made for the cost of preparing V.O.P. claims.
- 70.10 Add the following at the end of this clause.

“Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited as aforesaid if the same shall already have been taken into account in accordance with the provisions of sub-clause 70.1”.

ADDITIONAL CLAUSES

Clause 73 Declaration Against Waiver

The condoning by the Employer of any breach or breaches by the Contractor or any authorized sub-contractor of any of the stipulations and Conditions contained in the Contract shall in no way prejudice or affect or be construed as a waiver of the Employer’s rights, powers and remedies under the Contract in respect of any breach or breaches as aforesaid.

Clause 74 Bribery and Collusion

The Employer shall be entitled to determine the Contract and recover from the Contractor the amount of any loss resulting from such determination if the Contractor shall have offered or given or agreed to give any person any gift or consideration of any kind as an inducement of regard for doing or fore bearing to do or for having done or fore borne to do any action in relation to obtaining or the execution of the Contract or any other contract with the Employer or if any of the like acts shall have been done by any person employed by the Contractor or acting on his behalf (whether with or without the

knowledge of the Contractor) or if the Contractor shall have come to any agreement with another contractor or number of contractors whereby an agreed quotation or estimate shall be tendered to the Employer by one or more contractors.

Clause 75 Contract Confidential

The Contractor shall treat the Contract and everything in connection therewith as private and confidential. In particular, the

Contractor shall not publish any information, drawings or photographs concerning the Works in any trade or technical paper etc, and shall not use the Site for the purpose of advertising except with the written consent of the Engineer and subject to such conditions as the Engineer may prescribe.

Clause 76 Employer’s Officials etc., Not Personally Liable

No official of the Employer or the Engineer or the Engineer’s Representative or anyone of their respective staffs or their employees shall be in any way personally bound or liable for the acts or obligations of the Employer under the Contract or answerable for default or omission in the observance or performance of any of the acts, matters or things which are herein contained.

Clause 77 Taxes and Duties

- (1) The Contractor shall list in his tender the plant and vehicles which he intends to import for the execution of the Works. The Engineer will consider the list in the context of the program of the Works and will give his approval subject to any modifications that he may see fit to make. No appeal against the Engineer’s decision shall be permitted.

The Contractor will be permitted to import approved plant and vehicles required for the execution of the Works on the basis of temporary admission into Kenya and re-export thereafter upon completion of the Contract without payment of customs duties and Value Added Tax for them. If the plant and equipment shall not be re-exported, duties and taxes shall then be paid based upon their residual value at the date of completion of the Contract, or the date of withdrawal from the Works, if earlier. Plant and vehicles so imported shall not be utilized on other works not associated with the Contract unless specifically authorized by the Engineer.

- (2) The Contractor will be permitted to import approved spare parts, tires and tubes without payment of customs duty and Value Added Tax for maintenance of any imported vehicles and plant as provided in sub-clause 77.1 above, within a financial limit indicated by himself. However, this limit will not exceed 15% of the Contract Price excluding Contingencies.
- (3) All materials approved by the Engineer to be incorporated into the Works or temporary works, and whose importation into Kenya is agreed to be essential shall be free of customs duties and Value Added Tax. The Contractor shall submit a list of such materials required with the tender. The Contractor shall

be required to satisfy the Engineer that such materials have actually been incorporated into the Works.

Items produced in Kenya will not be permitted to be imported without payment of customs duty and Value Added Tax.

Items produced in Kenya shall mean commercially recognized goods or products that are either mined, grown, manufactured, processed or assembled (whether the components are imported or not) in Kenya.

Clause 78 Joint Ventures

78.1 If the Contractor is a joint venture, all partners of the joint venture shall be jointly and severally liable to the Employer for the execution of the entire Contract in accordance with its terms and Conditions.

V) SPECIFICATIONS

Notes for preparing Specifications

- 1.0 Specifications must be drafted to present a clear and precise statement of the required standards of materials and workmanship for tenderers to respond realistically and competitively to the requirements of the Employer and ensure responsiveness of tenders. The Specifications should require that all materials, plant and other supplies to be incorporated in the permanent Works be new, unused, of the most recent or current models and incorporating all recent improvements in design and materials unless provided otherwise in the Contract. Where the Contractor is responsible for the design of any part of the permanent Works, the extent of his obligations must be stated.
- 2.0 Specifications from previous similar projects are useful and it may not be necessary to re- write specifications for every works contract.
- 3.0 There are considerable advantages in standardizing **General Specifications** for repetitive Works in recognized public sectors, such as highways, urban housing, irrigation and water supply. The General Specifications should cover all classes of workmanship, materials and equipment commonly involved in construction works, although not necessarily to be used in a particular works contract. Deletions or addenda should then adapt the General Specifications to the particular Works.
- 4.0 Care must be taken in drafting Specifications to ensure they are not restrictive. In the specifications of standards for materials, plant and workmanship, existing Kenya Standards should be used as much as possible, otherwise recognized International Standards may also be used.
- 5.0 The Employer should decide whether technical solutions to specified parts of the Works are to be permitted. Alternatives are appropriate in cases where obvious (and potentially less costly) alternatives are possible to the technical solutions indicated in tender documents for certain elements of the Works, taking into consideration the comparative specialized advantage of potential tenderers.

The Employer should provide a description of the selected parts of the Works with appropriate reference to Drawings, Specifications, Bills of Quantities, and Design or Performance criteria, stating that the alternative solutions shall be at least structurally and functionally equivalent to the basic design parameters and Specifications.

Such alternative solutions shall be accompanied by all information necessary for a complete evaluation by the Employer, including drawings, design calculations, technical specifications, breakdown of prices, proposed construction methodology and other relevant details. Technical alternatives permitted in this manner shall be considered by the Employer each on its own merits and independently of whether the tenderer has priced the item as described in the Employer's design included with the tender documents

6.0 Health Care and Welfare

In addition to providing, equipping and maintaining adequate first aid stations throughout the works in accordance with the Laws of Kenya, the Contractor shall provide and maintain on Site during the duration of the Contract, a fully equipped dispensary. This shall be with a qualified Clinical Officer/Nurse who shall offer the necessary medical advice on AIDS/HIV and related diseases to the Engineer's and Contractor's Site staff. The Contractor shall allow for this in the rates and be responsible for all site welfare arrangements at his own cost.

SECTION VI

DRAWINGS

- Note
1. A list of Contract drawings should be inserted here
 2. The actual Contract drawings including Site plans should be annexed in a separate booklet.

SECTION VII – BILLS OF QUANTITIES**Notes for preparing Bills of Quantities****1.0 Preamble To Bill of Quantities**

- a) The Bill of Quantities shall form part of the Contract Documents and is to be read in conjunction with the Instructions to Tenderers, Conditions of Contract Parts I and II, Specifications and Drawings.
- b) The brief description of the items in the Bill of Quantities is purely for the purpose of identification, and in no way modifies or supersedes the detailed descriptions given in the conditions of Contract and Specifications for the full direction and description of work and materials.
- c) The Quantities set forth in the Bill of Quantities are estimated and provisional, representing substantially the work to be carried out, and are given to provide a common basis for tendering and comparing of Tenders. There is no guarantee to the Contractor that he will be required to carry out all the quantities of work indicated under any one particular item or group of items in the Bill of Quantities. The basis of payment shall be the Contractor's rates and the quantities of work actually done in fulfillment of his obligation under the Contract.
- d) The prices and rates inserted in the Bills of Quantities will be used for valuing work executed, and the Engineer will measure the whole of the works executed in accordance with this Contract.
- e) A price or rate shall be entered in ink against every item in the Bill of Quantities with the exception of items, which already have provisional sums, affixed thereto. The Tenderers are reminded that no "nil" or "included" rates or "lump-sum" discounts will be accepted. The rates for various items should include discounts if any. Tenderers who fail to comply will be disqualified.
- f) Provisional sums (including Day works) in the Bill of Quantities shall be expended in whole or in part at the discretion of the Engineer in accordance with Sub-clause 52.4 and Clause 58 of part of the Conditions of Contract.
- g) The price and rates entered in the Bill of Quantities shall, except insofar as it is otherwise provided under the Contract, include all Constructional plant to be used, labour, insurance, supervision, compliance, testing, materials, erection, maintenance or works, overheads and profits, taxes and duties together with all general risks, liabilities and obligations set out or implied in the Contract, transport,

electricity and telephones, water, use and replenishment of all consumables, including those required under the Contract by the Engineer and his staff.

- h) Errors will be corrected by the Employer for any arithmetic errors in computation or summation as follows:
 - (a) Where there is a discrepancy between amount in words and figures, the amount in words will govern; and
 - (b) Where there is a discrepancy between the unit rate and the total amount derived from the multiplication of the unit price and the quantity, the unit rate as quoted will govern, unless in the opinion of the Employer, there is an obviously gross misplacement of the decimal point in the unit price, in which event the total amount as quoted will govern and the unit rate will be corrected.
 - (c) If a Tenderer does not accept the correction of errors as outlined above, his Tender will be rejected.
- i) The Bills of Quantities, unless otherwise expressly stated therein, shall be deemed to have been prepared in accordance with the principles of the latest edition of the Civil Engineering Standard Method of Measurement (CESMM).
- j) “Authorised” “Directed” or “Approved” shall mean the authority, direction or approval of the Engineer.
- k) Unless otherwise stated, all measurements shall be net taken on the finished work carried out in accordance with the details shown on the drawings or instructed, with no allowance for extra cuts or fills, waste or additional thickness necessary to obtain the minimum finished thickness or dimensions required in this Contract. Any work performed in excess or the requirements of the plans and specifications will not be paid for, unless ordered in writing by the Engineer.
- l)
 - (a) Hard material, in this Contract, shall be defined as the material which, in the opinion of the Engineer, require blasting, or the use of metal wedges and sledgehammers, or the use of compressed air drilling for their removal, and which cannot be extracted by ripping with a dozer tractor of at least 150 brake horse power (112 kilowatt) with a single, rear-mounted, hydraulic ripper. Boulders of more than 0.2m³ occurring in soft material shall be classified as hard material.
 - (b) Soft material shall be all material other than hard material.

2.0 The objectives of the Bills of Quantities are;

- (a) to provide sufficient information on the quantities of Works to be

performed to enable tenders to be prepared efficiently and accurately;
and

- (b) when a Contract has been entered into, to provide a priced Bills of Quantities for use in the periodic valuation of Works executed.

In order to attain these objectives, Works should be itemized in the Bills of Quantities in sufficient detail to distinguish between the different classes of Works, or between Works of the same nature carried out in different locations or in other circumstances which may give rise to different considerations of cost. Consistent with these requirements, the layout and content of the Bills of Quantities should be as simple and brief as possible.

3.0 The Bills of Quantities should be divided generally into the following sections:

(a) Preliminaries.

The preliminaries should indicate the inclusiveness of the unit prices, and should state the methods of measurement which have been adopted in the preparation of the Bills of Quantities and which are to be used for the measurement of any part of the Works.

The number of preliminary items to be priced by the tenderer should be limited to tangible items such as site office and other temporary works, otherwise items such as security for the Works which are primarily part of the Contractor's obligations should be included in the Contractor's rates.

(b) Work Items

- (i) The items in the Bills of Quantities should be grouped into sections to distinguish between those parts of the Works which by nature, location, access, timing or any other special characteristics may give rise to different methods of construction or phasing of the Works or considerations of cost. General items common to all parts of the Works may be grouped as a separate section in the Bills of Quantities.
- (ii) The brief description of the items in the Bill of Quantities should in no way modify or supersede the detailed descriptions given in the Contract drawings, Conditions of Contract and Specifications.
- (iii) Quantities should be computed net from the Drawings, unless directed otherwise in the Contract, and no

allowance should be made for bulking, shrinkage or waste. Quantities should be rounded up or down where appropriate.

- (iv) The following units of measurement and abbreviations are recommended for use.

| <i>Unit</i> | <i>Abbreviation</i> | <i>Unit</i> | <i>Abbreviation</i> |
|--------------------------|------------------------|-------------------|--------------------------|
| cubic meter | m ³ or cu m | millimeter | mm |
| hectare | ha | month | mon |
| hour | h | number | nr |
| kilogram | kg | square meter | m ² or sq m |
| lump sum | sum | square millimeter | mm ² or sq mm |
| meter | m | week | wk |
| metric ton (1,000 kg) | t | | |

- (v) The commencing surface should be identified in the description of each item for Work involving excavation, boring or drilling, for which the commencing surface is not also the original surface. The excavated surface should be identified in the description of each item for Work involving excavation for which the excavated surface is not also the final surface. The depths of Work should be measured from the commencing surface to the excavated surface, as defined.

(c) Daywork Schedule

A Daywork Schedule should be included if the probability of unforeseen work, outside the items included in the Bills of Quantities is relatively high. To facilitate checking by the Employer of the realism of rates quoted by the tenderers, the Daywork Schedule should normally comprise:

- (i) a list of the various classes of labour, and materials for which basic Daywork rates or prices are to be inserted by the tenderer, together with a statement of the conditions under which the Contractor will be paid for Work executed on a Daywork basis; and
- (ii) a percentage to be entered by the tenderer against each basic Daywork Subtotal amount for labour, materials and plant representing the Contractor’s profit, overheads, supervision and other charges.

(d) Provisional Quantities and Provisional Sums

- (i) Provision for quantity contingencies in any particular item or class of Work with a high expectation of quantity overrun should be made by entering specific “Provisional Quantities” or “Provisional Items” in the Bills of Quantities, and *not* by increasing the quantities for that item or class of Work beyond those of the Work normally expected to be required. To the extent not covered above, a general provision for physical contingencies (quantity overruns) should be made by including a “Provisional Sum” in the Summary of the Bills of Quantities. Similarly, a contingency allowance for possible price increases should be provided as a “Provisional Sum” in the Summary of the Bills of Quantities. The inclusion of such provisional sums often facilitates budgetary approval by avoiding the need to request periodic supplementary approvals as the future need arises.
- (ii) Provisional Sums to cover specialized works normally carried out by Nominated Sub Contractors should be avoided and instead Bills of Quantities of the specialised Works should be included as a section of the main Bill of Quantities to be priced by the Main Contractor. The Main Contractor should be required to indicate the name (s) of the specialised firms he proposes to engage to carry out the specialized Works as his approved domestic sub-contractors. Only Provisional Sums to cover specialized Works by statutory authorities should be included in the Bills of Quantities.
- (iii) Unless otherwise provided in the Contract, the Provisional Sums included in the Bills of Quantities should always be expended in whole or in part at the discretion of the Engineer after full consultation with the Employer.

(e) Summary

The Summary should contain a tabulation of the separate parts of the Bills of Quantities carried forward, with Provisional Sums for Dayworks, physical (quantity) contingencies, and price contingencies (upward price adjustment) where applicable.

SECTION VIII – STANDARD FORMS

*LIST OF
STANDARD FORMS*

- (i) Form of Invitation for Tenders
- (ii) Form of Tender
- (iii) Appendix to Form of Tender
- (iv) Letter of Acceptance
- (v) Form of Agreement
- (vi) Form of Tender Security
- (vii) Performance Bank
Guarantee(unconditional)
- (viii) Bank Guarantee for Advance Payment
- (ix) Tender Questionnaire
- (xi) Confidential Business Questionnaire
- (x) Statement of Foreign Currency
Requirement
- (xi) Schedule of Materials;- Basic Prices
- (xii) Schedule of Labour;- Basic Prices
- (xiii) Schedule of Plant and Equipment
- (xv) Details of Sub-Contractors
- (xvi) Certificate of Tenderer’s Site visit
- (xvii) Form of Written Power of Attorney
- (xviii) Key Personnel
- (xix) Completed Civil Works
- (xx) Schedule of Ongoing Projects
- (xxi) Other Supplementary Information
- (xxii) Declaration Form
- (xxiii) Request for Review

FORM OF INVITATION FOR TENDERS

_____ [date]

To: _____ [name of Contractor]
_____ [address]

Dear Sirs:

Reference: _____ [Contract Name]

You have been prequalified to tender for the above project.

We hereby invite you and other prequalified tenderers to submit a tender for the execution and completion of the above Contract.

A complete set of tender documents may be purchased by you from _____
_____ [mailing address, cable/telex/facsimile numbers].

Upon payment of a non-refundable fee of Kshs _____

All tenders must be accompanied by _____ number of copies of the same and a security in the form and amount specified in the tendering documents, and must be delivered to

_____ [address and location]

at or before _____ (time and date). Tenders will be opened immediately thereafter, in the presence of tenderers' representatives who choose to attend.

Please confirm receipt of this letter immediately in writing by cable/facsimile or telex.

Yours faithfully,

_____ Authorised Signature

_____ Name and Title

FORM OF TENDER

TO: MANDERA COUNTY GOVERNMENT _____[Date]
P.O BOX 13-70300
MANDERA

**PROPOSED PROTECTION WORKS FOR STORM WATER DRAIN (PHASE II)
IN MANDERA MUNICIPALITY
MCG/OT/KUSP/01/2019-20**

Dear Sir,

- In accordance with the Conditions of Contract, Specifications, Drawings and Bills of Quantities for the execution of the above named Works, we, the undersigned offer to construct, install and complete such Works and remedy any defects therein for the sum of Kshs. _____ [Amount in figures] Kenya Shillings _____ [Amount in words]
- We undertake, if our tender is accepted, to commence the Works as soon as is reasonably possible after the receipt of the Project Manager’s notice to commence, and to complete the whole of the Works comprised in the Contract within the time stated in the Appendix to Conditions of Contract.
- We agree to abide by this tender until _____ [Insert date], and it shall remain binding upon us and may be accepted at any time before that date.
- Unless and until a formal Agreement is prepared and executed this tender together with your written acceptance thereof, shall constitute a binding Contract between us.
- We understand that you are not bound to accept the lowest or any tender you may receive.

Dated this _____ day of _____ 20 _____

Signature _____ in the capacity of _____

duly authorized to sign tenders for and on behalf of
_____ [Name of Employer]
of _____ [Address of Employer]

Witness; Name _____

Address _____

Signature _____

Date _____

LETTER OF ACCEPTANCE
[letterhead paper of the Employer]

_____ [date]

To: _____
[name of the Contractor]

[address of the Contractor]

Dear Sir,

This is to notify you that your Tender dated _____
for the execution of _____
[name of the Contract and identification number, as given in the Tender documents]
for the Contract Price of Kshs. _____ [amount in
figures][Kenya Shillings _____ (amount in words)] in
accordance with the Instructions to Tenderers is hereby accepted.

You are hereby instructed to proceed with the execution of the said Works in
accordance with the Contract documents.

Authorized Signature

Name and Title of Signatory

Attachment : Agreement

FORM OF AGREEMENT

THIS AGREEMENT, made the _____ day of _____ 20 _____ between _____ of [or whose registered office is situated at] _____ (hereinafter called “the Employer”) of the one part AND _____ of [or whose registered office is situated at] _____ (hereinafter called “the Contractor”) of the other part.

WHEREAS THE Employer is desirous that the Contractor executes

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

NOW THIS AGREEMENT WITNESSETH as follows:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to.
2. The following documents shall be deemed to form and shall be read and construed as part of this Agreement i.e.
 - (i) Letter of Acceptance
 - (ii) Form of Tender
 - (iii) Conditions of Contract Part I
 - (iv) Conditions of Contract Part II and Appendix to Conditions of Contract
 - (v) Specifications
 - (vi) Drawings
 - (vii) Priced Bills of Quantities
3. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract.

4. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

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

The common Seal of _____

Was hereunto affixed in the presence of _____

Signed Sealed, and Delivered by the said _____

Binding Signature of Employer _____

Binding Signature of Contractor _____

In the presence of (i) Name _____

Address _____

Signature _____

[ii] Name _____

Address _____

Signature _____

FORM OF TENDER SECURITY

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

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

THE CONDITIONS of this obligation are:

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

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

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

[date]

[signature of the Bank]

[witness]

[seal]

(Amend accordingly if provided by the Insurance Company)

PERFORMANCE BANK GUARANTEE (UNCONDITIONAL)

To: _____ (Name of Employer) _____ (Date)
_____ (Address of Employer)

Dear Sir,

WHEREAS _____ (hereinafter called "the Contractor") has undertaken, in pursuance of Contract No. MCG/OT/KUSP/01/2019-20 dated _____ to execute PROPOSED PROTECTION WORKS FOR STORM WATER DRAIN (PHASE II) IN MANDERA MUNICIPALITY (hereinafter called "the Works");

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

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

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

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

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

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

SIGNATURE AND SEAL OF THE GUARANTOR _____

Name of Bank _____

Address _____

Date _____
(Amend accordingly if provided by Insurance Company)

BANK GUARANTEE FOR ADVANCE PAYMENT

To: _____ [name of Employer] _____ (Date)
_____ [address of Employer]

Gentlemen,

Ref: _____ [name of Contract]

In accordance with the provisions of the Conditions of Contract of the above-mentioned Contract, We, _____ [name and Address of Contractor] (hereinafter called "the Contractor") shall deposit with _____ [name of Employer] a bank guarantee to guarantee his proper and faithful performance under the said Contract in an amount of Kshs. _____ [amount of Guarantee in figures] Kenya Shillings _____ [amount of Guarantee in words].

We, _____ [bank or financial institution], as instructed by the Contractor, agree unconditionally and irrevocably to guarantee as primary obligator and not as Surety merely, the payment to _____ [name of Employer] on his first demand without whatsoever right of objection on our part and without his first claim to the Contractor, in the amount not exceeding Kshs _____ [amount of Guarantee in figures] Kenya Shillings _____ [amount of Guarantee in words], such amount to be reduced periodically by the amounts recovered by you from the proceeds of the Contract.

We further agree that no change or addition to or other modification of the terms of the Contract or of the Works to be performed there under or of any of the Contract documents which may be made between _____ [name of Employer] and the Contractor, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

No drawing may be made by you under this guarantee until we have received notice in writing from you that an advance payment of the amount listed above has been paid to the Contractor pursuant to the Contract.

This guarantee shall remain valid and in full effect from the date of the advance payment under the Contract until _____ (name of Employer) receives full payment of the same amount from the Contract.

Yours faithfully,

Signature and Seal _____

Name of the Bank or financial institution _____

Address _____

Date _____

Witness: Name: _____

Address: _____

Signature: _____

Date: _____

31. TENDER QUESTIONNAIRE

Please fill in block letters.

1. Full names of tenderer

.....

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

.....

3. Telephone number (s) of tenderer

.....

4. Telex address of tenderer

.....

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

.....

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

.....

Signature of Tenderer

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

CONFIDENTIAL BUSINESS QUESTIONNAIRE

You are requested to give the particulars indicated in Part 1 and either Part 2 (a), 2 (b) or 2 (c) and 2 (d) whichever applies to your type of business.

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

Part 1 – General

Business Name

Location of business premises; Country/Town.....

Plot No..... Street/Road

Postal Address..... Tel No.....

Nature of Business.....

Current Trade Licence No..... Expiring date.....

Maximum value of business which you can handle at any time: K. pound.....

Name of your bankers.....

Branch.....

Part 2 (a) – Sole Proprietor

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

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

*Citizenship details

Part 2 (b) – Partnership

Give details of partners as follows:

| | <i>Name in full</i> | <i>Nationality</i> | <i>Citizenship Details</i> | <i>Shares</i> |
|----|---------------------|--------------------|----------------------------|---------------|
| 1. | | | | |
| 2. | | | | |
| 3. | | | | |

Part 2(c) – Registered Company:

Private or public.....

State the nominal and issued capital of the Company-

Nominal Kshs.....

Issued Kshs.....

Give details of all directors as follows:

Name in full. Nationality. Citizenship Details*. Shares.

1.
.....

2.
.....

3.
.....

4.
.....

Part 2(d) – Interest in the Firm:

Is there any person / persons in(Name of Employer) who has interest in this firm? Yes/No... (Delete as necessary)

I certify that the information given above is correct.

.....
(Title)

.....
(Signature)

.....
(Date)

* Attach proof of citizenship

STATEMENT OF FOREIGN CURRENCY REQUIREMENTS

(See Clause 60[5] of the Conditions of Contract)

In the event of our Tender for the execution
of _____

_____ (*name of Contract*) being accepted, we
would require in accordance with Clause 21 of the Conditions of
Contract, which is attached hereto, the following percentage:

(Figures)..... (Words).....

of the Contract Sum, (Less Fluctuations) to be paid in foreign
currency.

Currency in which foreign exchange element is required:

.....
.....

Date: The Day of 20.....

Enter 0% (zero percent) if no payment will be made in foreign
currency.

Maximum foreign currency requirement shall be
_____ (percent) of the Contract Sum, less Fluctuations.

(Signature of Tenderer)

SCHEDULE OF MATERIALS;-BASIC PRICES
(Ref: Clause 70 of Conditions of Contract)

| MATERIAL | UNIT | ORIGIN AND PRICE | | | TRANSPORTATION COST FROM SOURCE OF ORIGIN | |
|-------------------------------|------|-------------------|----------|-------|---|--------------|
| | | COUNTRY OF ORIGIN | SUPPLIER | PRICE | MODE | PRICE (KSHS) |
| Cement | Mg | | | | | |
| Lime | Mg | | | | | |
| Sand | Mg | | | | | |
| Aggregate | Mg | | | | | |
| Diesel | L | | | | | |
| Regular Petrol | L | | | | | |
| Super Petrol | L | | | | | |
| Kerosene | L | | | | | |
| Structural steel | Mg | | | | | |
| Gabion Mesh | M2 | | | | | |
| Reinforcement Steel | Mg | | | | | |
| Explosives | Kg | | | | | |
| Oil and Lubricants | L | | | | | |
| Bitumen Emulsion A3 | L | | | | | |
| Bitumen Emulsion A4 | L | | | | | |
| Bitumen Emulsion K1 | L | | | | | |
| Bitumen Emulsion K3 | L | | | | | |
| Bitumen 80/100 | Kg | | | | | |
| Bitumen MC 30 | ML | | | | | |
| Bitumen MC 70 | L | | | | | |
| Bitumen MC 3000 | L | | | | | |
| Ammonium nitrate for blasting | Kg | | | | | |

I certify that the above information is correct.

.....
 (Title)

.....
 (Signature)

.....
 (Date)

The prices inserted above shall be those prevailing 30 days before the submission of Tenders and shall be quoted in Kenya Shillings using the exchange rates specified in the Appendix to Form of Tender.

Prices of imported materials to be quoted CIF Mombasa or Nairobi as appropriate depending on whether materials are imported by the tenderer directly or through a local agent.

Transportation costs for imported materials to be quoted from Mombasa or Nairobi as appropriate to _____(Contract Site) depending on whether materials are imported directly by the tenderer or through a local agent.

SCHEDULE OF LABOUR:- BASIC RATES
(Reference: Clause 70 of Conditions of Contract)

| LABOUR CATEGORY | UNIT (MONTH/SHIFT/HOUR) | RATES |
|--------------------|----------------------------|-------|
| | | |

Categories to be generally in accordance with those used by the Kenya Building Construction and Engineering and Allied Trades Workers' Union.

DETAILS OF SUB-CONTRACTORS

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

Failure to comply with this requirement may invalidate the tender.

(1) Portion of Works to be sublet:

.....

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

.....

.....

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

.....

.....

.....

(2) Portion of Works to sublet:

.....

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

.....

.....

.....

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

.....

.....

[Signature of Tenderer)

Date

CERTIFICATE OF TENDERER’S VISIT TO SITE

This is to certify that

[Name/s].....

.....

Being the authorized representative/Agent of [Name of Tenderer]

.....

.....

participated in the organized inspection visit of the site of the works for the **(Name of Contract:**)

..... day of.....20.....

Signed.....

(Employer’s Representative)

.....

NOTE: This form is to be completed whether the site visit is made at the time of the organized site or privately organized.

FORM OF POWER OF ATTORNEY

(All bidders shall complete this form otherwise, their bids shall be considered non-responsive)

We _____ (Name of Bidder)

having our offices located in _____ (Name of Town and Building)
duly authorise

_____ (Name of person appointed to act for and on behalf of the bidder) to act for and on our behalf on all matters pertaining to the execution of works as stipulated und

Duly signed and delivered:

Name of appointed attorney: _____

Signature of appointed attorney: _____

Witnessed by:

1. Name of First Company Director: _____

Signature: _____

2. Name of Second Company Director: _____

Signature: _____

Company Seal:

KEY PERSONNEL

| DESIGNATION | NAME | NATIONALITY | SUMMARY OF QUALIFICATIONS AND EXPERIENCE |
|--|------|-------------|--|
| Headquarters: 1. Director 2. 3. 4. 5. etc. | | | |
| Site Office: 1. Site Superintendent 2. 3. 4. 5. etc. | | | |

I certify that the above information is correct.

.....
(Title)

.....
(Signature)

.....
(Date)

SCHEDULE OF COMPLETED CIVIL WORKS CARRIED OUT BY THE TENDERER IN THE LAST EIGHT YEARS

| DESCRIPTION OF WORKS AND CLIENT | TOTAL VALUE OF WORKS (KSHS) | CONTRACT PERIOD (YEARS) | YEAR COMPLETED |
|---------------------------------|-----------------------------|-------------------------|----------------|
| | | | |

I certify that the above Civil Works were successfully carried out and completed by ourselves.

.....
(Title)

.....
(Signature)

.....
(Date)

*Value in Kshs using Central Bank of Kenya mean exchange rate at a reference date 30 days before date of tender opening.

SCHEDULE OF ONGOING PROJECTS

| DESCRIPTION OF WORK AND CLIENT | CONTRACT PERIOD | DATE OF COMMENCEMENT | DATE OF COMPLETION | TOTAL VALUE OF WORKS (KSHS.) | PERCENTAGE COMPLETED TO DATE |
|--------------------------------|-----------------|----------------------|--------------------|------------------------------|------------------------------|
| | | | | | |

I certify that the above Civil Works are being carried out by ourselves and that the above information is correct.

.....
(Title)

.....
(Signature)

.....
(Date)

DECLARATION FORM

Date _____

To _____

The tenderer i.e. (name and address) _____
_____ declare the following:

- a) Has not been debarred from participating in public procurement.
- b) Has not been involved in and will not be involved in corrupt and fraudulent practices regarding public procurement.

Title

Signature

Date

(To be signed by authorized representative and officially stamped)

LETTER OF NOTIFICATION OF AWARD

Address of Procuring Entity

To: _____

RE: Tender No. _____

Tender Name _____

This is to notify that the contract/s stated below under the above mentioned tender have been awarded to you.

1. Please acknowledge receipt of this letter of notification signifying your acceptance.
2. The contract/contracts shall be signed by the parties within 30 days of the date of this letter but not earlier than 14 days from the date of the letter.
3. You may contact the officer(s) whose particulars appear below on the subject matter of this letter of notification of award.

(FULL PARTICULARS) _____

SIGNED FOR ACCOUNTING OFFICER

FORM RB 1

REPUBLIC OF KENYA
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*) of
.....dated the...day of20.....in the matter of Tender Noof
.....20...

REQUEST FOR REVIEW

I/We.....,the above named Applicant(s), of address: Physical
address.....Fax 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.
- etc.

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

- 1.
- 2.
- etc

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

SECTION 6: CONDITIONS OF CONTRACT

SECTION 6A - CONDITIONS OF CONTRACT PART I: GENERAL CONDITIONS OF CONTRACT

The Conditions of Contract, Part I: General Conditions shall be those forming Part I of the “Conditions of Contract for Works of Civil Engineering Construction,” fourth edition 1987, reprinted in 1992 with further amendments, prepared by the *Fédération Internationale des Ingénieurs-Conseils* (FIDIC). These Conditions are subject to the variations and additions set out in Part II hereof entitled “Conditions of Particular Application.”.

Copies of the FIDIC Conditions of Contract can be obtained from:

FIDIC Secretariat
P.O. Box 86
1000 Lausanne 12
Switzerland
Facsimile: 41 21 653 5432
Telephone: 41 21 653 5003

SECTION 6B - CONDITIONS OF CONTRACT PART II: (CONDITIONS OF PARTICULAR APPLICATION)

The following Conditions of Particular Application shall supplement the General Conditions of Contract. Whenever there is a conflict, the provisions herein shall prevail over those in the General Conditions of Contract. The Particular Condition is preceded by the corresponding clause number of the General Conditions to which it relates.

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CONDITIONS OF CONTRACT PART II (CONDITIONS OF PARTICULAR APPLICATION)

NOTES:

The Conditions of Particular Application (Conditions of Contract, Part II) modify and compliment like-numbered clauses in the General Conditions of Contract (Conditions of Contract, Part I). Both parts shall be read together, with the Conditions of Particular Application prevailing in case of conflict or discrepancy. Clauses of the General Conditions of Contract not specifically modified and supplemented shall remain in effect.

DEFINITIONS AND INTERPRETATION

1.1 Definitions

- (a) (i) The “Employer” shall be The County Government of Mandera.
- (iv) The “Engineer” shall be The County Executive Committee member (Roads and Transport), County Government of Mandera or any other competent person appointed by the Employer, and notified to the Contractor, to act in replacement of the Engineer.
- (b) (i) Insert in line 2 after “the Bill of Quantities”, the following, ”the rates entered by the Contractor (whether or not such rate be employed in computation of the Contract Price)”.
- (v) The word “Tender” and its derivatives are synonymous with the word „Bid,” and its derivatives, and the words „Tender Documents’ with „Bidding Documents’ . The words “Appendix to Tender” and the words “Appendix to Bid” shall have the same meaning as the words „Appendix to the Form of Bid” .”

Add the following paragraph at the end of Subclause 1.1 (f) (vii):

The aforesaid includes lands waters, river beds and other places on, under, in through which the Works are to be carried out including all offices, workshops or places where materials are to be stored or used for the purposes of the Contract. It also includes quarries; borrow pits, stock pile areas and spoil areas”

Add Subclause 1.1 (g) (v):

Dates shall be construed in accordance with the Gregorian Calendar.

Add the following Subclause 1.6:

1.6 Gender Specific Words

Wherever in the Contract Documents the word „man’ or „men” is used directly or as a suffix it means „woman’ or „women” also. The Word „he” includes „she” also.

ENGINEER AND ENGINEER” S REPRESENTATIVE

2.1 Engineer” s Duties and Authority

With reference to Sub-Clause 2.1(b): Add the following

The Engineer shall obtain specific approval of the Employer before taking any of the following actions specified in the General Conditions of Contract:

- (a) Consenting to the sub-letting of any part of the Works under Clause 4.
- (b) Certifying additional cost determined under Clause 12
- (c) Determining an extension of time under Clause 44
- (d) Issuing a variation under Clause 52
- (e) Certifying payment if the Contract Price will be exceeded
- (f) Authorising the use of provisional sums in excess of the monetary limit for variations
- (g) Issuing any Taking-over Certificate
- (h) Certifying additional payment/costs under Clause 65;
- (i) Issuing a Defects Liability Certificate under Clause 62
- (j) Fixing rates or prices under Clause 52.

Notwithstanding the provisions set out above, to obtain approval of the employer, 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 responsibilities 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 forthwith comply, despite the absence of approval of the Employer, with any such instruction of the Engineer. The Engineer shall determine an addition to the Contract Price, in respect of such instruction, in accordance with Clause 52 and shall notify the Contractor accordingly, with a copy to the Employer.”

ASSIGNMENT AND SUBCONTRACTING

4.1 Subcontracting

Delete the second and third sentence and substitute:

No single subcontract may be for more than 10 percent of the Contract Price nor shall the sum of all subcontracts exceed 25 percent of the Contract price. No one subcontractor may be awarded subcontracts to a total value greater than 10 percent of the Contract Price. All subcontracts greater than 2 percent of the Contract Price are to have the prior consent of the Engineer. The Contractor shall however, not require such consent for purchases of materials or to place contracts for minor details or for any part of the Works of which the manufacturer or supplier is named in the Contract. Any such consent shall not relieve the Contractor from any liability or obligation under the Contract and he shall be responsible for the acts, defaults and neglects of any subcontractor, his agents, servants or workmen as fully as if they were the acts, defaults or neglects of the Contractor, his agents, servants or workmen.

Add the following:

The Engineer should satisfy whether:

- (a) The circumstances brought out warrant such subcontracting; and
- (b) The subcontractors so proposed for the Work possess the necessary experience, qualifications and equipment for the job proposed to be entrusted to them in proportion to the quantum of work to be subcontracted.

If the contractor proposes payments to be made directly to that subcontractor, this should be subject to specific authorization by the Contractor so that such consent does not relieve him from any liability or obligations under the contract.

CONTRACT DOCUMENTS

5.1 Language and Law

- (a) The language governing this Contract shall be English.

The “Ruling Language” which shall be used to interpret this Contract shall be English. Communication between the Contractor and Engineer or Engineer” s representative shall be in English.

- (b) The laws applicable to this Contract shall be the laws of the Republic of Kenya. Except to the extent otherwise provided by the Contract, the Kenyan courts shall have exclusive jurisdiction to hear and to determine all actions and proceedings in connection with and arising out of the Contract and the Contractor shall submit to the jurisdiction of Kenyan courts for the purpose of any such actions and proceedings.

5.2 Priority of Contract Documents

Delete the documents listed as (1) to (6) and substitute with the following:

- (3) The Contract Agreement (if completed)
- (4) The Letter of Acceptance
- (5) Minutes of Pre-Contract Award Discussion
- (12) Bid and Appendix to Form of Bid
- (13) The Conditions of Contract, Part II; Conditions of Particular Application
- (14) The Conditions of Contract, Part I; General Conditions of Contract
- (15) The Special Specifications
- (16) The Standard Specifications for Road and Bridge Construction, Ministry of Transport and Communications, 1986
- (17) Clarifications and Rectifications accepted by the Employer
- (18) The Drawings
- (19) The priced Bill of Quantities
- (20) Schedules and other documents forming part of the Contract.

Add to Clause 6 the following Subclauses 6.6 to 6.10:

6.6 Metric Units

All units used in the Contract shall be metric and for measurement of angles the 360 degrees circles systems shall be used

6.7 Intent of Drawings and Specifications

The intent of Drawings and Specifications is to describe the details for the complete construction and maintenance of the Works which the Contractor undertakes to perform in accordance with the terms of the Contract.

Where the Drawings or Specifications describe portions of the Works in general terms, but not in complete detail, it is understood that only materials and workmanship of the first quality are to be used. First quality refers to the quality as approved by the Engineer.

Unless otherwise specified, the Contractor shall furnish all labour, material, tools, equipment and incidentals, and do all the work involved in executing the Contract in a satisfactory and workman-like manner.

6.8 Design, Drawings and Specifications Prepared by the Contractor

No payment will be made to the Contractor for undertaking any kind of design work, preparation of drawings and specification, other than that specifically required by the terms of the Contract. Payment for design work, preparation of drawings and specifications, specifically required by the terms of the Contract shall be deemed to be included in the Rates and Lump Sums entered in the Bill of Quantities.

6.9 Submissions of Designs and Drawings

All detailed working drawings/shop drawings, design calculations and fabrication drawings for Temporary Works (such as formwork, staging, centring, scaffolding, specialized constructional, handling and launching equipment and the like) as well as bar bending and cutting schedules for reinforcement, material lists for structural fabrication including detailed drawings for templates, end anchorage and temporary support details for pre-stressing cables shall be prepared by the Contractor at his own cost and forwarded in triplicate to the Engineer at least six weeks in advance of actual constructional requirements. The Engineer will check and return one copy of the same for the Contractor's use with amendments, if any, noted in red ink. Such approval shall not relieve the Contractor of any of his responsibilities in connection with temporary works.

The Contractor will supply four copies of the approved drawings for the Engineer's use. The cost of preparing all such items of work shall be deemed to have been included in the respective rates/prices quoted by the Contractor in the Bill of Quantities.

6.10 As-Built Drawings

On completion of the Works, the Contractor shall arrange to furnish to the Employer two (2) bound sets of all "As Built" drawings for every component of the Works at his own cost, all such copies being on Polyester film of quality to be approved by the Engineer or his Representative and digitized copy (2 No.) in a Compact Discs (CDs) of quality approved by the Engineer or his Representative. The Taking-over Certificate of the Works, as per the provisions of Clause 48.1 herein, shall not be issued by the Engineer in the event of the Contractor's failure to furnish the aforesaid "As Built" drawings for the entire works."

Add to Clause 7 the following Sub-clauses 7.4 to 7.6:

7.4 Drawings for Temporary Works

Drawings for Temporary works to be carried out by the Contractor shall be submitted to the Engineer for approval.

Working drawings of concrete structures consisting of such details as may be reasonably required for the successful execution of the work and which are not included in the plans furnished by the Employer, shall be prepared by the Contractor. Three sets of working drawings shall be submitted to the Engineer for approval.

7.5 Size of Drawings

All drawings submitted by the Contractor shall for convenience in filing be as far as possible of a uniform size, and not more than 1010 mm x 680 mm. The drawings shall be numbered and dated, and shall include the title of the Contract at the bottom of the drawing followed by the title of the drawing. All drawings shall have the appropriate scales drawn on them and notes shall be in English. All amendments to such drawings shall be noted and dated on the drawing.

7.6 Submission to the Engineer

Whenever the Contractor is required to submit to the Engineer proposals, details, drawings, calculations information, literature, materials, test report and certificates, the Engineer will consider each submission and, if appropriate, will reply to the Contractor in accordance with the relevant provision of the Conditions of Contract. Unless a defined period of time is stated in the contract, each submission shall be made by dates to be agreed with the Engineer having regard to the approved programme and the need to give the Engineer adequate time to consider each submission.

The approval of the Engineer of any submission shall not relieve the Contractor of his responsibilities under the Contract.

GENERAL OBLIGATIONS

Add to Subclause 8.1 the following:

8.1 Contractors General Responsibilities

Add to Subclause 8.1 the following:

- ⓪ Within 28 days after receipt of the Engineer" s Order to Commence the Works, the Contractor shall establish an office at the Site duly equipped for the Contractor" s representative and his superintending personnel.

The Contractor shall maintain this office throughout the Contract period. The said office shall be the legal domicile of the Contractor, and all correspondence sent to this office shall be deemed to have been sent to the Contractor" s head office.

- ⓫ A foreign Contractor or a Kenya-foreign joint venture, if not registered in Kenya under the applicable laws of Kenya, shall undertake registration upon receipt of the Letter of Acceptance and prior to signing of the Contract.

Add to Clause 8 the following Subclause 8.3:

8.3 General Requirements

- (a) Materials delivered to the site by Contractor or materials made available or supplied by the Employer shall be used solely for the execution of the Works.
- (b) The Contractor shall minimise the pollution of and disturbance of lands, roads and other places on and around the Site. No trees or other vegetation shall be removed except to the extent necessary for the works.
- (c) The Contractor shall comply with the current Government regulations with regard to the transport, storage and use of explosives and radio-active materials and use of radio communication equipment.
- (d) The Contractor shall take all reasonable precautions:
 - (i) In connection with any rivers, streams, waterways, drains, water courses, lakes and the like to prevent as a consequence of the works, silting, erosion of beds and banks and pollution of the water that may adversely affect the quality or appearance thereof or cause injury or death to human, animal or plant life.

- (ii) In connection with underground water resources, including percolating water, to prevent any interference as a consequence of the work with the supply to or abstraction from such sources and to prevent pollution of water that may adversely affect the quality thereof.
- (e) The Contractor shall provide, maintain and remove on completion of the Works, settling lagoons and other facilities to minimise pollution due to the Contractor's operations including but not limited to quarrying, aggregate washing, concrete mixing and grouting.
- (f) The Contractor shall provide, maintain and remove on completion of the Works, fencing around the site installations including housing, camps, offices and laboratories, providing free access to the Employer, the engineer, other Contractors and any other persons entitled to such access and provide appropriate security measures on such access roads.
- (g) All buildings erected by the Contractor upon the site and camp sites, and the layout of the buildings and the sites, shall comply with the Laws of the country and all local By-laws in so far as they are applicable.
- (h) The Contractor shall be absolutely and solely responsible for the safety and security of Temporary Works including, but not limited to, all work yards, pilings, staging, dams, coffer dams, trenches, fencing or other works and for the Plant and Contractor's Equipment in connection therewith which may be erected or provided for the execution of the Contract Works.

This provision shall be applicable to all temporary Works, Plant and Contractor's Equipment whenever provided and erected by the Contractor or his Subcontractor(s) for the purpose of or in connection with the Contract Works.

- (i) The contractor shall keep in close contact with the police, Labour officers and all other officials as appropriate regarding their requirements for the control of workmen, restricted area permits or other matters and shall provide all assistance and facilities which may be required by such officials in the execution of their duties.

10.1 Performance Security

Replace the text of Subclause 10.1 with the following:

The Contractor shall provide security for his proper performance of the Contract to the Employer within 28 days after the receipt of the Letter of Acceptance. The Performance Security shall be as stipulated in the Appendix to the Form of Bid. The Performance Security shall normally be in the currency or currencies requested for payment by the Contractor and in the same proportions as those requested for payment in the Contract. The Contractor shall notify the Engineer when providing the Performance Security to the Employer.

The Performance Security shall be a bank guarantee which shall be issued either:

- (a) By a bank located in Kenya or a foreign bank through a correspondent established and reputable bank located in Kenya or;

Without limitation to the provisions of the preceding paragraph, whenever the Engineer determines an addition 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, at the Engineer" s written request, shall promptly increase the value of the Performance Security in that currency by an equal percentage.

The performance security of a joint venture shall be in the name of the joint venture.

10.2 Period of Validity of Performance Security

The performance security shall be valid until a date 28 days from the date of issue of the Taking-Over Certificate for the last section in case of partial handover. The security shall be returned to the Contractor within 28 days of expiration.

10.3 Claims under Performance Security

Delete sub-clause 10.3

Add the following Subclause 10.4:

10.4 Cost of Performance Security

The cost of complying with the requirements of this clause shall be borne by the Contractor.

11.1 Inspection of Site

Add the words “and the Contractor shall be deemed to have based his tender on all the aforementioned” after the words “affect his tender”.

Delete the last paragraph completely and replace with the following:

The Employer in no way guarantees completeness nor accuracy of the soil, materials, subsurface and hydrological information made available to the Contractor at the time of bidding or at any other time during the period of the Contract, and the Contractor shall be responsible for ascertaining for himself all information as aforesaid for the execution of Works and his bid shall be deemed to have been priced accordingly.

Add a new Subclause 11.2:

11.2 Access to Data

Data made available by the Employer in accordance with Subclause 11.1 shall be deemed to include data listed elsewhere in the Contract as open for inspection at the address stipulated in Appendix to the Form of Bid.

14.1 Programme to be Submitted

Delete Subclause 14.1 and replace with the following:

The time within which the Programme shall be submitted shall be twenty eight (28) days .This detailed Programme shall be based upon the programme submitted by the Contractor as part of his bid and shall, in no material manner, deviate from the said programme.

The Contractor shall allow in his Programme for the following 11 public holidays per calendar year in Kenya upon which the Contractor shall not be permitted to work:

- New Year” s Day (1st January)
- Good Friday
- Easter Monday
- Labour Day (1st May)
- Madaraka Day (1st June)
- Idd-Ul-Fitr
- Mashujaa Day (20th October)
- Jamhuri Day (12th December)
- Christmas Day (25th December)
- Boxing Day (26th December)

The Contractor should also allow per calendar year for a further two (2) unspecified public holidays which may be announced by the Government of Kenya with no prior notification, and upon which he shall not be permitted to work.

The Programme shall be submitted in two copies in the form of a Critical Path Method Network (CPM Network) showing the order of procedure and description of the construction methods and arrangements by which he proposes to carry out the Works. In addition, the aforesaid critical path programme should be supplemented by:

- ⓐ A Gantt/time-bar chart detailing each construction activity, showing for each construction activity; the periods of construction activity planned; the percentage completion anticipated per month; the total estimated quantity of work; the average monthly production planned, and
- ⓑ A detailed work method statement in respect of each construction activity. It should also be supplemented by a time-bar chart of the same programme. The programme shall be coordinated with climatic, groundwater and other conditions to provide for the completion of the works in the order and by the time specified. The Programme shall be revised at quarterly intervals and should include a chart of the principal quantities of the forecast for execution monthly.

The detailed work method statement of each particular construction activity shall list by category/type and quantity the labour, skilled labour, supervisors, plant, equipment and materials to be employed on the particular construction activity; together with: the estimated average daily production anticipated, the estimated equipment availability and utilisation factor anticipated and a detailed step description of the way in which resources are to be utilised to achieve the required rate of construction/production.

The Contractor's attention is particularly drawn to the need to familiarise himself with customs procedures in connection with importation and to allow sufficient time in its programme for these to be completed.

During the execution of Works, the Contractor shall submit to the Engineer detailed particulars of any proposed amendments to the arrangements and methods submitted in accordance to the foregoing.

If details of the Contractor's proposals for Temporary Works are required by the Engineer for his own information the Contractor shall submit such detail within fourteen days of being requested to do so.

The various operations pertaining to the Works shall be carried out in such a progressive sequence so as to achieve a continuous and consecutive output of fully completed road works inclusive of bridge works and culverts within the time limits specified in the Contract.

The Contractor shall, wherever required by the Engineer, also provided in writing for information a detailed description of the arrangements and methods which the Contractor proposes to adopt for the execution of any particular part of the Works as directed by the Engineer.

Progress reporting by the Contractor should be supported on a monthly basis with an up-to-date analysis of the progress including a statement on items which are or are about to become critical to the Progress of Works, along with proposals on how the Contractor intends to address the situation.

The consent by the Engineer on any programme shall have no contractual significance other than that the Engineer would be satisfied if the work is carried out according to such programme, and that the Contractor undertakes to carry out the work in accordance with the programme, nor shall it limit the right of the Engineer to instruct the Contractor to vary the programme should circumstances make this necessary. The above shall not be taken to limit the right of the Contractor to claim for damage or extension of time to which he may be fairly entitled to in terms of the General Conditions of the Contract for delay or disruption of his activities.

Notwithstanding the General Conditions of Contract Clause 14.1, the programme to be submitted for the execution of the Works shall, in addition to the programme of pure construction activities, include an alleviation programme for Site staff and labour in respect of Sexually Transmitted Disease (STD) including HIV/AIDS. The STD and HIV/AIDS alleviation programme shall indicate when, how and what cost the Contractor plans to satisfy the requirements of Subclause 19.1 herein and the related Technical Specifications. For each component, the programme shall detail the resources to be provided or utilized and any related sub-contracting proposed. The programme shall also include provision of a detailed cost estimate with supporting documentation.

14.2 Revised Programme

Add the following at the end of this subclause:

The Contractor shall, when instructed by the Engineer, amend, correct or modify the Programme of the Works so as to take into account any delays and/or advances and modifications designs or for other reasons considered necessary by the Engineer.

If, during the progress of the work, the quantities of work performed per month fall below those shown in the Programme, or if the sequence of operations is altered, or if the Programme is deviated from in any other way, the Contractor shall, within two weeks after being notified by the Engineer, submit a revised Programme necessary to ensure completion of the Works or any part thereof within the Time for Completion, or any extended time granted pursuant to Clause 43 and Clause 44 of the General Conditions of Contract or so as to take into account any delays or advances or for other reasons considered necessary by the Engineer without prejudice to the Employer" s right under Clause 63 of the General Conditions of Contract.

Any proposal to increase the tempo of work must be accompanied by positive steps to increase production by providing more labour and plant on Site, or by using the available labour and plant in a more efficient manner.

Should the Employer request and the Contractor undertake to finish the whole or part of the Works ahead of the time originally required by the Contract, payment for accelerating the work shall only be made if agreed to beforehand in writing and according to the terms of such agreement.

If the Programme is to be revised by reason of the Contractor falling behind his Programme, he shall produce a revised Programme showing the modifications to the original Programme to complete the Works within the time as defined in Clause 43 of the General Conditions of Contract.

The Employer shall have the right to withhold payment at any time if the Contractor fails to submit the contractual construction programmes in accordance with Subclause 14.1 above or revise construction programmes due to his negligence, failure or omission.

14.3 Cash Flow Estimate to be Submitted

The time limit within which a detailed cash flow estimate is to be submitted shall be twenty eight (28) days.

In preparing the estimates, the Contractor shall make provision for Advance payment, repayment of advance, retention, payment for services provided by the Employer and timing implications of Clause 60 Certificates and Payments.

A schedule of Payments for both local and foreign currency expected to be made to the Contractor by the Employer, shall be provided.

The cash flow estimate submitted with the bid shall be revised each time the construction Programme is submitted, and revised, under Subclauses 14.1 and 14.2 above.

15.1 Contractor" s Superintendence

Add the following at the end of the first paragraph of Subclause 15.1:

The Contractor shall, within seven (7) days of receipt of the Engineer" s Order to Commence the Works, inform the Engineer in writing, the name of the Contractor" s representative and the anticipated date of his arrival on Site.

15.2 Contractor" s Agent or Representative

Add the following Subclause 15.2:

The Contractor" s agent or representative on the Site shall be an Engineer registered by the Engineer" s Registration Board of Kenya in accordance with the Laws of Kenya cap. 530 or have equivalent status approved by the Engineer and shall be able to read, write and speak English fluently.

16.2 Engineer at Liberty to Object

At the end of this clause add "by a competent substitute approved by the Engineer at the Contractor" s own expense".

Add the following Subclauses 16.3 and 16.4:

16.3 Language Ability of Superintending Staff

A reasonable proportion of the Contractor" s superintending staff shall have a working knowledge of the language specified in the Appendix to Form of Bid pursuant to Subclause 5.1(a), or the Contractor shall have available on site at all times a number of competent interpreters, as required by the Engineer, to ensure proper transmission of instructions and information.

16.4 Employment of Local Personnel

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

17.1 Setting Out

The following additional paragraph shall apply to the provisions of the Subclause 17.1:

- (d) The checking of all the setting-out of the proposed works relative to existing ground features, to be undertaken prior to the commencement of fabrication of structural

steelworks for superstructures. This preparation is to include providing the facility for the Engineer to undertake a timely check on this setting-out and alerting the Engineer to any likely problems foreseen.

The contractor shall give to the Engineer not less than 48 hours of notice of his intention to set out or give layout for any part of the works so that timely assignment can be made for checking the same.

Add the following new Subclause 17.2:

17.2 Notice to Engineer

The Contractor shall give to the Engineer not less than 48 (Forty eight) hours notice of his intention to set out or give levels for any part of the works so that timely arrangement may be made for checking or issuing instructions. He shall indicate therein by which date the information, if any, is required by him.”

19.1 Safety, Security and Protection of the Environment

Add Subclauses 19.1 (d), (e), (f), (g), (h), (i), (j), (k), (l) and (m) and the subsequent text as follows:

- (d) Notwithstanding the Contractor's obligation under Subclauses 19.1 (a), (b) and (c) of the Conditions of Contract, the Contractor shall carry out, without limitation, the following measures with a view to reducing or eliminating adverse environmental effects by the site Works:
 - (i) All quarries, borrow pits, diversions and detours shall be filled and landscaped, as far as practical, to their original condition after extraction of construction material.
 - (ii) Soil erosion and sedimentation due to the surface runoff or water from culverts or other drainage structures should be avoided by putting in place proper erosion control measures.
 - (iii) Long traffic diversion roads shall be avoided so as to minimise the effect of dust on the surrounding environment. In any case, all diversions shall be kept damp to reduce dust.
 - (iv) Haulage routes shall be kept as short as possible and watered as necessary.
 - (v) Spillage of oil, fuel, and lubricants shall be avoided. If spilt, they shall be collected and disposed of in such a way that there do not adversely affect the natural environment.
 - (vi) Rock blasting near settlement areas shall be properly coordinated with the relevant officers of the Kenya government in an attempt to minimise levels of noise pollution and community interference.
- (e) The formulation and enforcement of an adequate safety programme shall be the obligation of the Contractor with respect to all the works under this Contract, regardless of whether performed by the Contractor or his Subcontractors. The Contractor shall, within 14 days after commencement of the Works, meet the Engineer to present and discuss his plan for the establishment of such safety measures as may be necessary to provide against accidents, unsafe acts, and so forth.

Within 28 days after commencement of the Works, the Contractor shall submit a written safety, security and environmental protection programme to the Engineer covering the overall works and based on the laws and regulations of Kenya. In addition, he shall prepare special safety programmes for blasting and handling of explosives as may be stipulated in the Specifications.

- (f) The Contractor shall take all due precautions to avoid soil and water contamination by spillage of oil, grease, fuel and paint in the equipment yard, workshop or the site of works. Lubricants should be recycled.
- (g) The Contractor shall install pollution control device in his asphalt plant.
- (h) The Contractor shall implement re-plantation and grading of steep slopes in quarries and borrow pits to prevent disfiguration of landscape.
- (i) The Contractor shall implement compensatory afforestation plan to counteract destruction of vegetation when required to do so by the Engineer. The Contractor shall pay proper attention to the aspect of borrow pit drainage to prevent formation of stagnant pools of water and incidence of mosquito vectors. All borrow pits will be provided with efficient drains which shall be connected to the natural outfalls.
- (j) Notwithstanding implementation of any other provision contained in the Conditions of Contract, the failure on the part of the Contractor or his staff in the cases listed bellow will be considered default on the part of the Contractor and will attract the terms of Subclause 63.1 for remedies.
 - Poor sanitation and solid waste in the workers camp
 - Possible transmission of communicable diseases, including HIV/AIDS, between local people and the Contractor" s workers
 - Poaching by the Contractor" s workers
 - Illegal invasion of indigenous people by the Contractor" s labour.
- (k) All lights provided by the Contractor shall be screened so as not to interfere with any signal light on the railways or with any traffic or signal lights of any local or other authority.
- (l) The Contractor shall be deemed to be in possession of, and ensure that the Contractor" s personnel are fully aware of, relevant safety regulations.
- (m) The Contractor shall ensure that all equipment, tools and other items used in accomplishing the Works, whether purchased, rented or otherwise provided by the Contractor are in safe, sound and good condition for performing the intending function.

Notwithstanding the terms of Clause 19.1 of the General Conditions of Contract, the Contractor shall throughout the contract (including the Defects Liability Period):

- | Conduct Information, Education and Consultation (IEC) campaign, at least every other month, addressed to all the Site staff and labour (including all Contractor" s Employees, all Subcontractors and Consultant" s employees, and all truck drivers and

crew marketing deliveries to Site) and to the immediate local communities, concerning the dangers and impact of Sexually Transmitted Diseases (STD) in general and HIV/AIDS in particular;

- | Provide male or female condoms for all Site staff and labour as appropriate; and
- | Provide for STD and HIV/AIDS professional screening, diagnosis, counselling and full treatment (except that in the case of HIV/AIDS cases treatment shall be limited to referral to a dedicated national or regional HIV/AIDS programme) of all Site staff and labour.

Amend Subclause 20.4 to read as follows:

20.4 Employer's Risks

The Employer's risks are:

- (a) Insofar as they directly affect the execution of the Works in Kenya where the Permanent Works are to be executed:
 - (i) War and hostilities (whether war be declared or not), invasion, act of foreign enemies
 - (ii) Rebellion, revolution, insurrection, or military or usurped power, or civil war
 - (iii) Ionising radiations, or contamination by radioactivity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
 - (iv) Pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds
 - (v) Riot, commotion or disorder, unless solely restricted to the employees of the Contractor or of his Subcontractors and arising from the conduct of the Works.
- (b) Loss or damage due to the use or occupation by the Employer of any section or part of the Permanent Works, except as may be provided for in the Contract
- (c) Loss or damage to the extent that it is due to the design of the Works, other than any part of the design provided by the Contractor or for which the Contractor is responsible, and
- (d) Any operation of the forces of nature (insofar as it occurs on the Site) which an experienced contractor:
 - (i) Could not have reasonably foreseen, or
 - (ii) Could reasonably have foreseen, but against which he could not reasonably have taken at least one of the following measures:
 - i. Prevent loss or damage to physical property from occurring by taking appropriate measures, or
 - ii. Insure against such loss or damage.”

21.1 Insurance of Works and Contractor" s Equipment

Delete the first sentence of this clause and replace with the following:

“Prior to commencement of the Works the Contractor shall, without limiting his or the Employer" s obligations and responsibilities under Clause 20, insure to the satisfaction of the Employer.”

Add the following words at the end of subparagraph (a) and immediately before the last word of subparagraph (b):

“it being understood the insurance shall provide for compensation to be payable in the types and proportions of the currencies required to rectify the loss or damage incurred.”

In Subclause 21.1(b), delete the words “or as may be specified in Part II of these Conditions”.

21.2 Scope of Cover

(a) Delete the words “from the start of Work at the Site” and substitute with the words “from the first working day after the commencement date”

Add the following Subclause 21.2 (c):

(c) It shall be the responsibility of the Contractor to notify the insurance company of any change in the nature and extent of the Works and to ensure the adequacy of the insurance coverage at all times during the period of the Contract.

Amend Subclause 21.4 to read as follows:

21.4 Exclusions

There shall be no obligation for the insurances in Subclause 21.1 to include loss or damage caused by the risks listed under Subclause 20.4 subparagraphs (a) (i) to (v) above.

Add the following Subclause 21.5:

21.5 Insurance of Goods

The Contractor shall insure or cause to be insured all imported goods financed out of the proceeds of the Contract against marine and other hazards incidental to the acquisition, transportation and delivery thereof to the place of use or installation and where appropriate against all usual risks pertaining to the construction of the Works.

23.1 Third Party Insurance (Including Employer" s Property)

Add the following at the beginning of this Subclause:

Prior to commencement of the Works ...

23.2 Minimum Amount of Insurance

Add the following at the end of this subclause:

... with no limits to the number of occurrences

25.1 Evidence of Terms of Insurance

Insert the words “as soon as practicable after the respective insurances have been taken out but in any case” before the words “prior to the start of Work at the Site”

Add the following Subclauses 25.5 to 25.8:

25.5 Source of Insurance

The Contractor shall be entitled to place all insurance relating to the Contract (including, but not limited to, the insurance referred to in Clauses 21, 23, and 24) with insurers from any eligible source country which has been determined to be acceptable to the Employer.

25.6 Insurance Notices

Each policy of insurance effected by the Contractor for the purpose of the Contract shall include a provision to the effect that the Insurer shall have a duty to give notice in writing to the Contractor and Employer of the date when a premium becomes payable not more than thirty (30) days after the giving of such notice.

25.7 Insurance in Kenya

The risks against which the Contractor is obliged to insure under the Contract shall be insured through established and reputable companies approved by the Employer and located in Kenya and any cover against risks which the Contractor may enjoy shall be insured in Kenya by an approved Kenyan Insurance Company in respect of the Contractor” s obligations under the Contract.

25.8 Notification to Insurers

It shall be the responsibility of the Contractor to notify the insurers under any of the insurances referred or event which by the terms of such insurances are required to be so notified and the Contractor shall indemnify and keep indemnified the Employer against all losses, claims, demands, proceedings, costs, charges and expenses whatsoever arising out of or in consequence of any default by the Contractor in complying with the requirements of this subclause whether as a result of avoidance of such insurance or otherwise.

26.2 Add the following Subclauses 26.2 and 26.3
Compliance with Statutes, Regulations

The Employer will repay or allow to the Contractor all such sums as the Engineer shall certify to have been properly payable and paid by the Contractor in respect of such fees, provided always that, without prejudice to Subclause 26.1, nothing contained in this sub clause shall be deemed to render the Employer liable to all claims which may be considered to fall within the provisions of Subclause 22.1.

26.3 Inspection and Audit by the Funding Agency

The Contractor shall permit the funding agency to inspect the Contractor” s accounts and records relating to the performance of the Contract and to have them audited by auditors appointed by the agency, if so required by the agency.

28.2 Royalties

Add the following at the end of Subclause 28.2:

The Contractor shall also be liable for all payments or compensation, if any, that are levied in connection with the dumping of part or all of any such material.”

Add the following Subclauses 29.2 to 29.5:

29.2 Passage and Control of Traffic

The Contractor's attention is drawn to Specifications covering the Passage and Control of Traffic and in particular to the requirement for the submission of a detailed Programme for Passage of Traffic as required following the award of the Contract.

In case any operation connected with traffic which necessitates diversion, obstruction or closure of any road, railway or any other right of way, the approval of the Engineer or the Engineer" s Representative and the concerned authorities shall be obtained well in advance by the Contractor.

29.3 Reinstatement and Compensation for Damage to Persons or Property

The Contractor shall reinstate all properties whether public or private which are damaged in consequence of the construction and maintenance of the Works to a condition at least equal to that prevailing before his first entry on them.

If in the opinion of the Engineer the Contractor shall have failed to take reasonable and prompt action to discharge his obligations in the matter of reinstatement, the Engineer will inform the Contractor in writing of his opinion, in which circumstances, the Employer reserves the right to employ others to do the necessary work of reinstatement and to deduct the cost thereof from any money due or to become due to the Contractor.

The Contractor shall promptly refer to the Employer all claims, which may be considered to fall within the provisions of Clause 22.1.

29.4 Protection of Existing Works and Services

The Contractor shall acquaint himself with the position of all existing services, such as sewers, surface water drains, cables for electricity, data and telephone, telephone and lighting poles, water mains, and the like before commencing any excavation or other works likely to affect the existing services.

The Contractor will be held liable for all damage to roads, irrigation ditches, mains pipes, electric cables, lines or services of any kind caused by him or his subcontractors in the execution of the Works. The Contractor must make good any damage without delay and, if necessary, carry out any further work ordered by the Engineer or Engineer" s Representative, all at the Contractor" s cost. Where work is to be carried out in the vicinity of overhead power lines, the Contractor shall ensure that all persons working in such areas are aware of the relatively large distance that high voltage electricity can "short" to earth when crane, or other large masses of steel, are in the vicinity of power lines. The Contractor" s attention is drawn to appropriate standards which gives safe clearances for the various voltages.

The Contractor shall be held responsible for damage to existing works or services, and shall indemnify the Employer against any claims in this respect (including consequential damages). The Contractor shall be responsible for the reinstatement of the services, so affected, to the satisfaction of the Engineer.

In all cases where such works or services are exposed, they shall be properly shored, hung up or otherwise protected. Special care must be exercised in filling and compaction of the grounds under mains and cable. The exposed water meters, stopcock boxes and similar items shall be left uncovered.

As soon as any such existing works or services or structures are encountered on, over, under, in or through the Site during the performance of the Contract, the Contractor

shall make a record of the location and description of such service or structure and shall send the same forthwith to the Engineer.

Installations adjacent to the Works shall be kept securely in place until the work is completed and shall then be made as safe and permanent as before.

Notwithstanding the foregoing requirements, and without reducing the Contractor's responsibility, the Contractor shall inform the Engineer immediately if any existing works or services are located, exposed or damaged.

29.5 Protection of Survey Beacons

The Contractor shall not remove, damage, alter or destroy in any way plot beacons. Should the Contractor consider that any beacons will be interfered with by the Work he shall notify the Engineer who, if he considers it necessary, will make arrangements for the removal and replacement of the beacons.

30.2 Transport of Contractor's Equipment or Temporary Works

Add the following at the end of this subclause.

If it is found necessary for the Contractor to move one or more loads of heavy constructional plant and equipment, materials or pre-constructed units of work over roads, highways, bridges on which such oversized and overweight items are not normally allowed to be moved, the Contractor shall obtain prior permission from the concerned authorities. Payments for complying with the requirements, if any, for protection of or strengthening of the roads, highways or bridges shall be made by the Contractor and such expenses shall be deemed to be included in his Contract Price.

Add the following Subclauses 30.5 and 30.6.

30.5 Complying with State Laws and Regulations

Nothing contained above shall excuse the Contractor or any of his Subcontractor(s) from complying with state laws regulating traffic on highways and bridges.

30.6 Effects of other Concurrent Construction Projects

The Contractor shall be deemed to have fully familiarised himself with planned construction operations or any other concurrent construction projects in Kenya which may have any material effect on the Contractor's own operations. In particular, the Contractor shall be deemed to have allowed for the effects of other concurrent construction contract(s) on any necessary transportation operations in connection with the Contract(s).

LABOUR

Add the following Subclauses 34.2 to 34.23

34.2 Labour Regulations

The Contractor and his Subcontractors shall, at all times, during the Contract period abide fully by the governing local laws and regulations.

The Contractor shall be responsible for making all arrangements for and shall bear all costs relating to recruitment, obtaining of all necessary visas, permits or other official permission for movements of staff and labour.

34.3 Engagement of Local Labour

The Contractor is encouraged to the extent practicable and reasonable to employ staff and labour with the required qualifications and experience from sources within Kenya, particularly in the vicinity of the Site.

34.4 Rates of Wages and Conditions of Labour

The Contractor shall pay rates of wages and observe conditions of labour not less favourable than those established for the trade or industry where the work is carried out. In the absence of any rates of wages or conditions of labour so established, the Contractor shall pay rates of wages and observe conditions of labour which are not less favourable than the general level of wages and conditions observed by other employers whose general circumstances in the trade or industry in which the Contractor is engaged are similar.

34.5 Repatriation of Labour

The Contractor shall be responsible for the return to the place where they were recruited or to their domicile of all such persons as he recruited and employed for the purposes of or in connection with the Contract, and shall maintain such persons as are to be so returned in a suitable manner until they shall have left the site or, in the case of persons who are not nationals of and have been recruited outside the Republic of Kenya shall have left Kenya or the site, as appropriate.

34.6 Housing for Labour

Save insofar as the Contract otherwise provides, the Contractor shall provide and maintain such accommodation and amenities as he may consider necessary for all his staff and labour, employed for the purposes of or in connection with the Contract, including all fencing, water supply (both for drinking and other purposes), electricity supply, sanitation, cookhouses, fire prevention and fire-fighting equipment, cookers, refrigerators, furniture, and other requirements in connection with such accommodation or amenities. On completion of the Contract, unless otherwise agreed with the Employer, the temporary camps or housing provided by the Contractor shall be removed and the site reinstated to its original condition, all to the approval of the Engineer.

34.7 Accident Prevention Officer

The Contractor shall have on his staff on Site an officer dealing only with questions regarding the safety and protection against accidents of all staff and labour. This officer shall be qualified for this work and shall have the authority to issue instructions and shall take protective measures to prevent accidents.

34.8 Health and Safety

Due precautions shall be taken by the Contractor, and at his own cost, to ensure the safety of his staff and labour and, in collaboration with and to the requirements of the local health authorities, to ensure that medical staff, first aid equipment and stores, sick bay and suitable ambulance services are available at the camps, housing, and on the Site at all times throughout the period of the Contract and that suitable arrangements are made for the prevention of epidemics and for all necessary welfare and hygiene requirements. Workers shall always be transported using vehicles that meet the current transport regulations.

34.9 Life Saving Appliances and First Aid Equipment

The Contractor shall provide and maintain upon the Works sufficient, proper and efficient life-saving appliances and first-aid equipment to the approval of the Engineer. The appliances and equipment shall be available for use at all times.

34.10 Measures against Insect and Pest Nuisance

The Contractor shall at all times take the necessary precautions to protect all staff and labour employed on the Site from insect nuisance, rats, and other pests and reduce the dangers to health and the general nuisance caused by the same. The Contractor shall provide his staff and labour with suitable prophylactics for the prevention of malaria, and shall take steps to prevent the formation of stagnant pools of water. He shall comply with all the regulations of the local health authorities in these respects and shall in particular arrange to spray thoroughly with approved insecticide all buildings erected on the Site. Such treatment shall be carried out at least once a year or as instructed by the Engineer. The Contractor shall warn his staff and labour of the dangers of bilharzias and wild animals.

34.11 Epidemics

In the event of any outbreak of illness of an epidemic nature, the Contractor shall comply with and carry out such regulations, orders, and requirements as may be made by the Government or the local medical or sanitary authorities for the purpose of dealing with and overcoming the same.

34.12 Burial of the Dead

The Contractor shall make any necessary arrangements for the transport, to any place as required for burial, of any of his expatriate employees or members of their families who may die in Kenya. The Contractor shall also be responsible, to the extent required by the local regulations, for making any arrangements with regard to burial of any of his local employees who may die while engaged upon the Works.

34.13 Supply of Foodstuffs

The Contractor shall arrange for the provision of a sufficient supply of suitable food at reasonable prices for all his staff, labour, and subcontractors for the purposes of or in connection with the Contract.

34.14 Supply of Water

The Contractor shall, so far as is reasonably practicable, having regard to local conditions, provide on the Site an adequate supply of drinking and other water for the use of the Engineer and his staff, the Contractor's staff and labour.

34.15 Alcoholic Liquor or Drugs

The Contractor shall not, otherwise than in accordance with the Statutes, Ordinances, and Government Regulations or Orders for the time being in force, import, sell, give, barter, or otherwise dispose of any alcoholic liquor or drugs, or permit or suffer any such importation, sale, gift, barter, or disposal by his subcontractors, agents, staff, or labour.

34.16 Arms and Ammunition

The Contractor shall not give, barter, or otherwise dispose of, to any person or persons, any arms or ammunition of any kind or permit or suffer the same as aforesaid.

34.17 Festivals and Religious Customs

The Contractor shall, in all dealings with his staff and labour, have due regard to all recognised festivals, days of rest, and religious and other customs.

34.18 Disorderly Conduct

The Contractor shall at all times take all reasonable precautions to prevent any unlawful, riotous, or disorderly conduct by or among his staff and labour and take all reasonable precautions for the preservation of peace and protection of persons and property in the neighbourhood of the Works against the same.

34.19 Records of Labour

The Contractor shall keep proper wages books, in the language stipulated in the Appendix to the Form Bid, pursuant to Sub-Clause 5.1 (a) showing the time worked and wages paid to all employees in and about the execution of the Works, together with such other records as are required by any Statute, Ordinance, Law, Regulation or Bye-Law in force in Kenya governing the employment of labour. He shall be bound, whenever required, to produce such wages books and other records for the inspection of any persons authorized by the Engineer.

34.20 Trade Unions

The Contractor shall recognize the freedom of his employees to be members of trade unions.

34.21 Default in payment of Wages

In the event of default in payment of wages of any workmen employed on the Contract, and if a claim thereafter is filed in the office of the Engineer and satisfactory proof thereof is furnished, the Employer shall be notified forthwith and may, failing payment of such claim by the Contractor, arrange the payment out of monies at any time payable under the Contract and the amount so paid shall be deemed payment to the Contractor under the Contract.

34.22 Breach and Removal from List

Should the Contractor or any subcontractor be found to be in breach of any of the provisions of Clause 34, the Employer may recommend to the Government for his removal from the list of approved Contractors.

34.23 Observance by Subcontractors

The Contractor shall be responsible for the observance by his subcontractor of the foregoing provisions.

Add the following Subclauses 35.2 and 35.3:

35.2 Maintenance of Records

The Contractor shall maintain such records and make such reports concerning safety, health and welfare of persons and damage to property as the Engineer may prescribe from time to time.

35.3 Reporting of Accidents

The Contractor shall report to the Engineer details of any accident as soon as possible after its occurrence. In the case of any fatality or serious accident, the Contractor shall, in

addition, notify the Engineer immediately by the quickest available means. The Contractor shall also notify the relevant authority (ies) whenever such report is required by the law of Kenya.

MATERIALS, PLANT AND WORKMANSHIP

Rename Subclause 36.1 as below.

36.1 Quality of Materials, Equipment, Supplies, Plant, and Workmanship

Add the following paragraph at the end of this subclause.

The Contractor is encouraged, to the extent practicable and reasonable, to use materials, Contractor" s Equipment, Plant, and supplies from sources within Kenya.

COMMENCEMENT AND DELAYS

41.1 Commencement of Works

Replace the words "as soon as reasonably possible" with the words "on Site within 28 days".

Add the following subclause:

41.2 Definition of Commencement

For the purposes of this subclause, the Works shall be deemed to have commenced when all of the following conditions are satisfied:

- (a) The approved competent and authorized agent or representative of the Contractor is resident in the project area and is giving his whole time to the superintendence of the Works.
- (b) The provision by the Contractor of evidence that all insurances required by the Contract are in force.
- (c) The Contractor has an established an office in the project area with postal address for receipt of correspondence.
- (d) The principal items of constructional plant have been brought to Site and put to work in the execution of the permanent Works.

42.1 Possession of Site and Access Thereto

At the end of Subclause 42.1, add the following:

The Contractor shall bear all costs and charges for such lands as the Contractor may reasonably require for camps, offices, workshops, diversion roads, borrow pits, and quarries and any additional facilities outside the site required by him for the purpose of works.

Add the following subclause:

42.4 Possession of Site and Access thereto

The Contractor shall not enter any part of the Site until he has requested and received permission to do so from the Employer or the Engineer.

The Contractor shall not use any portion of the Site for any purpose not connected with the Works.

45.1 Restriction on Working Hours

Delete Subclause 45.1 and substitute with the following:

If the Contractor requests for permission to work by day and night and if the Engineer shall grant such permission, the Contractor shall not be entitled to any additional payment for so doing.

All such work at night shall be carried out without unreasonable noise or other disturbance and the Contractor shall indemnify the Employer from and against any liability for damages on account of noise or other disturbance created while carrying out night work and from against all claims, demands, proceeding, costs, charges and expenses whatsoever in regard or in relation to such liability. In addition, the Contractor shall be required to provide, for any work carried out by night or recognised days of rest, adequate lighting and other facilities, so that the work is carried out safely and properly.

45.2 Overtime Hours

Working hours shall be observed by the Contractor as stipulated in the Labour Laws of Kenya. However when deemed necessary to expedite the Works, overtime, night time or holiday working may be allowed by the Engineer in accordance with the provisions of Subclause 46.1. The Contractor, in these cases, shall pay all costs of the Engineer and his staff for such overtime, night time or holiday working at site as stipulated under Subclause 46.1 of the General Conditions of Contract.

47.2 Reduction of Liquidated Damages

The following supplements this subclause.

There shall be no reduction in the amount of liquidated damages in the event that a part or a section of the Works within the Contract is certified as completed before the whole of the Works comprising that Contract.

No bonus for early completion of the Works shall be paid to the Contractor by the Employer.

The sum stated in the Appendix to Form of Bid as liquidated damages shall be increased by a sum equivalent to any amount payable by the Employer to the Contractor under clause 70.1 in respect of an increase in costs in such period that would not have been incurred by the Contractor if the Works had been completed by the due date for completion prescribed by Clause 43.

Add the following Subclause 47.3:

47.3 Currency of Liquidated Damages

Liquidated damages shall be paid by the Contractor to the Employer in the types and proportions of currencies as shall be payable to the Contractor under the Contract.

DEFECTS LIABILITY

49.2 Completion of Outstanding Work and Remedying Defects

Add at the end of this subclause the following sentence:

Any work ordered to be executed under this subclause shall be carried out at a time and in a manner as directed by the Engineer so as to interfere as little as possible with the

operations of the Employer or of other contractors and no extension(s) of the defects liability period will be allowed for the execution of this work.

Add Subclause 49.5 as follows:

49.5 Defects Liability Period Replacements

The provisions of this clause shall apply to all replacements or renewals of Plant and equipment to be provided with respect to the utilities under the Contract, carried out by the Contractor to remedy defects and damages as if the replacements and renewals had been taken over on the date they were completed. The Defects Liability Period for the Works shall be extended by a period equal to the period during which the Works cannot be used by reason of the defect or damage. If only part of the Works is affected the Defects Liability Period shall be extended only for that part.

ALTERATIONS, ADDITIONS AND OMISSIONS

52.1 Valuation of Variation

Add the following final sentences to this subclause:

The agreement, fixing or determination of any rates or prices as aforesaid shall include any foreign currency and the proportion thereof.

Where the Contract provides for the payment of the Contract Price in more than one currency, and varied work is valued at, or on the basis of, the rates and prices set out in the Contract, payment for such varied work shall be made in the proportions of various currencies specified in the Appendix to Form of Bid for payment of the Contract Price. Where the Contract provides for payment of the Contract Price in more than one currency, and new rates or prices are agreed, fixed, or determined as stated above, the amount or proportion payable in each of the applicable currencies shall be specified when the rates or prices are agreed, fixed, or determined, it being understood that in specifying these amounts or proportions the Contractor and the Engineer (or, failing agreement, the Engineer) shall take into account the actual or expected currencies of cost (and the proportions thereof) of the inputs of the varied work without regard to the proportions of various currencies specified in the Appendix to Form of Bid for payment of the Contract Price.

52.2 Power of Engineer to Fix rates

Add a final sentence to the first paragraph as follows:

Where the Contract provides for the payment of the Contract Price in more than one currency, the amount or proportion payable in each of the applicable currencies shall be specified when the rates or prices are agreed, fixed, or determined as stated above, it being understood that in specifying these amounts or proportions the Contractor and the Engineer (or, failing agreement, the Engineer) shall take into account the actual or expected currencies of cost (and the proportions thereof) of the inputs of the varied work without regard to the proportions of various currencies specified in the Appendix to Form of Bid for payment of the Contract Price.

52.3 Daywork

Add the following at the end of this subclause:

The Work so ordered shall immediately become part of the Works under the Contract. The Contractor shall, as soon as practicable after receiving the Daywork Order from the

Engineer undertake the necessary steps for due execution of such Work. Prior to commencement of any work to be done on a Daywork basis, the Contractor shall give a notice to the Engineer stating the exact time of such commencement.

PROCEDURE FOR CLAIMS

53.1 Notice of Claims

Add the following at the end of this subclause:

The Contractor shall also state the references of the Contract Clauses and Subclauses on which he has based his claims.

CONTRACTOR" S EQUIPMENT, TEMPORARY WORKS AND MATERIALS

For the purpose of these subclauses, the term "Equipment" shall be read as "Contractor" s Equipment" where the context so requires.

54.1 Contractor" s Equipment, Temporary Works and Materials

Amend Subclause 54.1 as follows:

Line 5; add "written" between "the" and "consent".

Add a final sentence to this subclause as follows:

The Contractor shall every month give to the Engineer a statement showing the amount of plant and Contractor" s equipment, which has been brought to the Site.

54.2 Employer not Liable for Damage

Delete this subclause entirely.

54.5 Conditions of Hire of Contractor" s Equipment

Delete this subclause entirely.

Add Subclauses 54.9 and 54.10 as follows:

54.9 Contractor" s Responsibilities for Licenses

The Contractor shall obtain his own information with regard to the granting of import and export licenses for materials, equipment and plant. The Contractor shall bear all expenses for Plant, Materials, Equipment and Maintenance required for the completion and maintenance of the works and shall be deemed to have satisfied himself with regard to all his liabilities under the laws and regulations governing the granting of these licenses. The Contractor shall ensure that requests for import and export licenses are submitted in sufficient time to clear all formalities before the said licenses are required.

54.10 Equipment and Plant

The Contractor shall identify each piece of his equipment, other than hand tools, by means of an identification number plainly stencilled or stamped on the equipment at a conspicuous location, and shall furnish to the Engineer a list giving the description of each piece of equipment and its identification number. In addition, the make, model number and empty gross weight of each unit of compaction equipment shall be plainly stamped or stencilled in a conspicuous place on the unit. The gross weight shall be either the manufacturer" s rated weight or the scale weight. The make, model, serial number and manufacturer" s rated capacity of each scale shall be clearly stamped on the load-

receiving element and its indicator or indicators. All meters shall be similarly identified, rated and marked.

MEASUREMENT

55.1 Quantities

Add the following to this subclause:

The quality and quantity of the Work included in the Contract Price shall be deemed to be that which is set out in the Contract Bill of Quantities. The Bill of Quantities, unless otherwise expressly stated therein, shall be deemed to have been prepared in accordance with the principles of the latest edition of the Civil Engineering Standard Method of Measurement.

Any error in description or in quantity or any omission of items from the Contract Bill of Quantities or Specifications shall not vitiate this Contract but shall be corrected and deemed to be a variation required by the Engineer. Subject to the foregoing, any error whether arithmetical or not in the computation of the Contract Price shall be deemed to have been accepted by the parties hereto.

The Contract Price shall not be adjusted or altered in any way whatsoever otherwise than in accordance with the express provisions of these conditions.

Add the following new sub clause:

55.2 Bill of Quantities with no Rates

Any item of Work described in the Bill of Quantities for which no rate or price has been entered in the Contract shall be considered as included in other rates and prices in the Contract and will not be paid for separately by the Employer.

56.1 Works to be Measured

Delete Subclause 56.1 and replace with the following:

The Contractor shall prepare and submit to the Engineer all necessary field notes and other records taken and computations made for the purpose of quantity measurements, of which the forms shall be approved by the Engineer, for the monthly progress payment under Clause 60. The measurement of work quantities made by the Contractor shall be verified and certified by the Engineer based on the above mentioned documents.

The Contractor shall furnish all personnel, equipment and materials to make such surveys and computations as necessary to determine the quantities of work performed. Unless otherwise prescribed in the specifications or the drawings, all measurements for payment shall be made by the dimensions, lines and grades as shown on the drawings or by direct survey of which the methods shall be approved by the Engineer.

The documents submitted for measurement and payment shall become the property of the Employer and shall be used to the extent necessary to determine the monthly progress payment to be made to the Contractor under the Contract. Direct survey, if conducted, shall be subject to checking and verification by the Engineer and all errors in the said survey work and related computations as found during such checking shall be immediately corrected by the Contractor.

In case of any disagreement on an item of measurement, the Engineer" s opinion will prevail during the assessment of the statement for monthly interim payments. Should the

Contractor consider himself entitled to any form of claim with respect to the disagreement in measurement, the procedure for such is detailed under Clause 53 of the Conditions of Contract.

57.1 Method of Measurement

Delete this subclause and substitute with the following:

The Works shall be measured net with deductions made in accordance with the principles of the latest edition of the Civil Engineering Standard Method of Measurement. All measurements shall be given in metric (SI) units.

PROVISIONAL SUMS

Add the following Subclause 58.4:

58.4 Prime Cost Sum

Wherever an item in the Bill of Quantities has been referred to as a "P.C. Sum" (Prime Cost Sum), that item shall be construed as a Provisional sum and the provisions of Subclauses 58.1 to 58.3 will apply.

NOMINATED SUBCONTRACTORS

59.5 Certification of Payment to Nominated Subcontractors

Add the following paragraph at the end of Subclause 59.5:

If the Engineer desires to secure final payment to any nominated subcontractor before final payment is due to the Contractor and if such subcontractor has satisfactorily indemnified the Contractor against any latent defects, the Engineer may, in an interim certificate, include an amount to cover the said final payment, and thereupon the Contractor shall pay to such nominated subcontractor the amount so certified. Upon such final payment, the amount named in the Appendix to Form of Bid as Limit of Retention Money shall be reduced by the sum which bears the same ratio to the amount as does the subcontract and subcontractor shall be discharged from all liability for the Work, materials or goods executed or supplied by such subcontractor under the Contract to which the payment relates.

CERTIFICATES AND PAYMENTS

Delete Subclauses 60.1 to 60.10 entirely and substitute with the following:

60.1 Advance Payment

In the event that an Advance Payment is granted, the following shall apply:

- (a) On signature of the Contract, the Contractor shall at his request, and without furnishing proof of expenditure, be entitled to an advance of upto maximum of 10% (ten percent) of the original amount of the Contract Sum. The advance shall not be subject to retention money.
- (b) No advance payment may be made before the Contractor has submitted proof of the establishment of deposit or of a directly liable guarantee satisfactory to the Employer in the amount of the advance payment. The guarantee shall be in the same currency as the advance.
- (c) Amortization of the advance shall be effected by deductions from monthly interim payments.
- (d) Amortization of the lump sum advance shall be made by deductions from the Interim payments and where applicable from the balance owing to the Contractor.

The amortization shall begin when the amount of the sums due under the Contract reaches 20% of the original amount of the Contract. It shall have been completed by the time 80% of this amount is reached.

The amount to be amortized by way of successive deductions shall be calculated by means of the formula:

$$R = A \frac{(X^1 - X^{11})}{80 - 20}$$

Where:

R = Amount to be amortized

A = Amount of the advance which has been granted

X¹ = Amount of proposed cumulative payments as a percentage of the original amount of the Contract. This figure will exceed 20% but not exceed 80%.

X¹¹ = Amount of the previous cumulative payments as a percentage of the original amount of the Contract. This figure will be below 80% but not less than 20%.

With each amortization, the counterpart of the directly liable guarantee may be reduced accordingly.

60.2 Interim Payment Certificate

The Contractor shall submit to the Engineer, in the manner required by the Engineer after the end of each month a statement showing the estimated total value of permanent Work properly executed and materials or goods for permanent works brought to Site up to the end of the previous month (if the value shall justify the issue of an interim certificate) together with any adjustments under Clause 70 and any outstanding claims and sums the Contractor considers may be due to him. The Contractor shall amend or correct his estimate as directed by the Engineer and the latter shall not accept it until he is satisfied that it is fair and reasonable. With respect to the said materials and goods, no payment for them shall be made unless:

- (vi) The materials are in accordance with the specifications for the Works.
- (vii) The materials have been delivered to Site and are properly stored and protected against loss, damage or deterioration.
- (viii) The Contractor's record of the requirements, orders, receipts and use of materials are kept in a form approved by the Engineer, and such records are available for inspection by the Engineer.
- (ix) The Contractor has submitted a statement of his cost of acquiring and delivering the materials and goods to the Site, together with such documents as may be required for the purpose of evidencing such cost.
- (x) The materials are to be used within a reasonable time.

The Contractor will be paid on the certificate of the Engineer the amount due to him on account of the estimated total value of the permanent Work executed up to the end of the previous month together with such amount (not exceeding 75% of the value) as the Engineer may consider proper on account of materials and goods for permanent Work delivered by the Contractor on Site and in addition, such amount as the Engineer may consider fair and reasonable for any Temporary Works for which separate amounts are provided in the Bill of Quantities, all of which shall be subject to a retention of the percentage named in the Appendix to Form of Bid until the amount retained (hereinafter

and in all Contract documents called the “Retention Money”) shall reach the “Limit of Retention Money” named in the said Appendix to the Form of Bid. Provided always that no interim certificate shall be issued for a sum [such sum always being the net amount thereof after all deductions for retention etc) less than that named in the Appendix to Form of Bid as “Minimum Amount of Interim Certificate” at one time.

Within 14 days after receiving a statement from the Contractor as aforesaid, and subject to the Contractor having made such further amendments and corrections as the Engineer may require, the Engineer shall issue a Certificate of Payment to the Employer showing the amount due, with a copy to the Contractor.

The Engineer shall not unreasonably withhold certifying an Interim Payment Certificate and where there is a dispute regarding an item for payment, the Engineer may delete this disputed item from the Interim Payment Certificate and certify the remainder for payment provided the said payment is in accordance with the preceding paragraph. In cases of difference in opinion as to the value of any item, the Engineer's view shall prevail.

60.3 Final Account and Final Payment Certificate

As soon as possible after the issue of Taking - Over Certificate or the termination of the Contract and not later than the time of issue of Defects Liability Certificate, the Contractor shall prepare and submit to the Engineer (with a copy to the Employer), a Statement of Final Account showing in detail the total value of work done in accordance with the Contract together with all sums paid in previous payments. Within thirty (30) after receipt of such further information as may be reasonably required from the Contractor for its verification, the Engineer shall check the said statement, prepare and submit a Final Payment Certificate to the Employer (with a copy to the Contractor).

The Final Payment Certificate shall state:

- (a) The (final) total value of all Work executed in accordance with the Contract
- (b) After giving credit to the Employer for all amounts previously paid to the Contractor, the balance, if any, due from the Employer to the Contractor or the Contractor to the Employer, as the case may be.

Unless the Contractor notifies the Engineer of his objection to the Final Payment Certificate within twenty eight [28] days of delivery thereof, he shall be deemed to have agreed that he accepts the total Contract Price as set out in the Final Payment Certificate as full settlement for all work executed under the Contract including any claims, variations and omissions thereof.

However, a Final Certificate of Payment shall not be conclusive:

- (i) To the extent that fraud or dishonesty relates to or affects any matter dealt with in the Certificate, or
- (ii) If any arbitration or court proceedings under the Contract have been commenced by either party before the expiry of 90 days after the issue of the Final Certificate of Payment.

60.4 Payment of Certificates

Payment upon each of the Engineer" s Certificates for Interim Payments shall be made by the Employer within the time stated in the Appendix to Form of Bid from the date of the Engineer" s signature and issue of each Certificate of Payment to the Employer.

Payment upon the Engineer" s Final Payment Certificate shall be made by the Employer within the time stated in the Appendix to Form of Bid from the date of issue of the Final Certificate of Payment signed by the Engineer and countersigned by the Contractor or his authorised agent or representative.

Payments to the Contractor by the Employer shall be made in the currencies in which the Contract Price is payable into a bank account or accounts nominated by the Contractor.

Making of a payment by the Employer shall be considered to have been duly executed on the day that the Employer has issued a cheque.

60.5 Retention Money

One half of the retention money shall become due upon the issue of a Taking – Over Certificate and shall be paid to the Contractor when the Engineer shall certify in writing that the last section of the whole of the Works has been substantially completed and the other half shall be paid to the Contractor after the expiration of the Defects Liability Period and the issue of a Certificate under Clause 62. Provided always that if such time there shall remain to be executed by the Contractor any Works ordered during such period pursuant to Clauses 49 and 50 thereof, the Employer shall be entitled to withhold payment [until the completion of such Works] of so much of the second half of the Retention Money as shall in the opinion of the Engineer represent the Costs of the Works so remaining to be executed. Provided further that in the event of different Defects Liability Periods having become applicable to different parts of the Works pursuant to clause 48 hereof the expression “expiration of the Defect Liability Period” shall for the purpose of this subclause be deemed to mean the expiration of the latest of such periods.

60.6 Currency of Payment

The Contract price shall be stated in Kenya Shillings. All payments to the Contractor shall be made in Kenya shillings.

60.7 Overdue Payments

Unless otherwise stated in the Appendix to the Form of Bid interest shall be paid on the overdue amounts and the interest to be paid shall be based on the rates of the Central Bank of Kenya 28 days prior to the opening of the bids.

60.8 Correcting and Withholding

The Engineer may by any interim certificate or through the final account make any correction or modification to any previous certified sum and shall have authority, if any work or part thereof is not being carried out to his satisfaction, to omit or reduce the value of such work in any Interim Payment Certificate.

60.9 Completion by Sections

If a Taking-Over Certificate shall be issued for any section or part of the Works separately, the payments herein provided for on or after issue of such a Certificate shall be made in respect of such section or part and references to the Contract Price shall mean such part of the Contract Price as shall in the absence of agreement be apportioned thereto by the Engineer.

60.10 Statement at Completion

Not later than 14 days after the issue of the Taking-Over Certificate in respect of the whole of the works, the Contractor shall submit to the Engineer a statement at completion showing in detail and in a form approved by the Engineer:

- (a) The final value of all work executed in accordance with the Contract up to the date stated in such Taking-Over Certificate.
- (b) Any further sums which the Contractor considers to be due; and
- (c) An estimate of amounts, which the Contractor considers, will become due to him under the Contract.

Estimated amounts at Completion shall be shown separately in the Statement. The Contractor shall amend and correct the Statement as directed by the Engineer who shall issue a Certificate at Completion to be processed in accordance with Subclause 60.4.

60.11 Final Statement

Not later than 56 days after the issue of the Defects Liability Certificate, the Contractor shall submit to the Engineer for consideration a draft final statement with supporting documents showing in detail and in the form approved by the Engineer:

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

If the Engineer disagrees with or cannot verify any part of the draft final statement, the Contractor shall submit such further information as the Engineer may reasonable require and shall make such changes in the draft as may be required.

60.12 Discharge

Upon submission of the Final Statement, the Contractor shall give to the Employer, with a copy to the Engineer, a written discharge confirming that the total of the Final Statement represents full and final settlement of all monies due to the Contractor arising out of or in respect of the Contract. Provided that such discharge shall become effective only after payment under the Final Payment Certificate issued pursuant to Subclause 60.14 has been made and the Performance Security referred to in Subclause 10.1 has been returned to the Contractor.

60.13 Final Payment Certificate

Upon acceptance of the Final Statement as given in Subclause 60.12, the Engineer shall prepare a Final Payment Certificate which shall be delivered to the Contractor" s authorized agent or representative for his signature. The Final Payment Certificate shall state:

- (a) The final value of all work executed in accordance with the Contract
- (b) After giving credit to the Employer for all amounts previously paid by the Employer, the balance, if any, due from the Employer to the Contractor or the Contractor to the Employer as the case may be

Final Certificate shall be issued for any sum due to the Contractor even if such is less than the sum named in the Appendix to the Form of Bid.

60.14 Cessation of Employer's Liability

Unless the Contractor notifies the Engineer of his objection to the Final Certificate within 14 (fourteen) days of delivery thereof he shall be deemed to have agreed that he accepts the total Contract Price as set out in the Final Certificate as full settlement for all work executed under the Contract including any variations and omissions thereof.

62.1 Defects Liability Certificate

Delete the last sentence of this subclause beginning "Provided that the issue.....in Sub-Clause 60.3".

REMEDIES

63.1 Default of Contractor

Delete the last paragraph of this subclause and substitute with the following:

then the Employer may, after giving 14 days' notice to the Contractor, enter upon the Site and expel the Contractor there from without thereby avoiding the Contract, or releasing the Contractor from any of his obligations or liabilities under the Contract, or affecting the rights and powers conferred on the Employer or the Engineer by the Contract, and may himself complete the Works or may himself complete the work or may employ any other contractor to complete the Works. The Employer or such other contractor may use for such completion so much of the Contractor's Equipment, Plant, Temporary Works and materials, which have been deemed to be reserved exclusively for the execution of the Works, under the provisions of the Contract, as he or they may think proper, and the Employer may, at any time, sell any of the said Contractor's Equipment, Temporary Works and unused Plant and materials and apply the proceeds of sale in or towards the satisfaction of any sums due or that may become due to him from the Contractor under the Contract."

63.2 Valuation of Date of Expulsion

Modify the heading of Subclause 63.2 by substituting "Valuation at Date of Termination" for "Valuation at Date of Expulsion." In Subclause 63.2, delete the word "termination" on the second and fifth lines and substitute "expulsion".

63. Valuation of Date of Expulsion

Modify the heading of Subclause 63.3 by substituting "Payment after Expulsion" for "Payment after Termination." In Subclause 63.3, delete the words "terminates the Contractor's employment" on the first line and substitute "shall enter and expel the Contractor".

63.4 Assignment of Benefit of Agreement

In Subclause 63.4, delete the word "termination" on the second line, and substitute "expulsion".

Add the following at the end of this subclause:

But on the terms that a supplier or subcontractor shall be entitled to make any reasonable objection to any further assignment thereof by the Employer and the Employer may pay the supplier or subcontractor for any such materials supplied or Works executed under such agreement, whether the same be assigned as aforesaid or not, before or after the said determination, the amount due by such arrangement in so far as it has not already been paid by the Contractor.

Add the following subclause 63.5:

63.5 Corrupt or Fraudulent Practices

If in the judgment of the Employer the Contractor has engaged in corrupt or fraudulent practices, in competing for or in executing the Contract, then the Employer may, after having given 14 days notice to the Contractor, terminate the Contractor's employment under the Contract and expel him from the Site, and the provisions of Clause 63 shall apply as if such expulsion had been made under Subclause 63.1.

For the purpose of this Subclause:

"corrupt practice" means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.

"fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Borrower, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition.

SPECIAL RISKS

Subclause 65.2 is amended to read as follows:

65.2 Special Risks

The Special Risks are the risks defined under paragraph (a), subparagraphs. (i) to (v) of Subclause 20.4 of the Conditions of Contract".

65.4 Projectile, Missile

Delete "whenever and wherever occurring" under line 2 and add "on or near the site" after "explosive of war" under line 3.

Add Subclause 65.9 as follows:

65.9 Special Risks

(a) In the event of the Employer unilaterally ordering the final cessation of performance of the Contract for reasons not specified elsewhere in the Conditions of Contract the Contract shall be considered to be frustrated and the Contractor shall be indemnified as provided for under Clause 65.1.

(b) In the event of the Employer ordering the adjournment of the Contract before or after commencement of the Works for reasons not specified elsewhere in the Conditions of Contract, the Contractor shall be entitled to indemnity for any injury which he may have suffered as a consequence of such adjournment.

The Engineer shall award the Contractor payment of such sum as in his opinion shall be reasonable giving regard to all material and relevant factors including the Contractor's on costs and overheads, and the nature of the instruction to adjourn the Contract.

SETTLEMENT OF DISPUTES

67.1 Engineers Decision

"If a dispute of any kind whatsoever arises between the Employer and the Contractor in any connection with, or arising out of, the Contract or the execution of the works,

whether during the execution of the works or after their completion and whether before or after repudiation or other termination of the Contract including any dispute as to any opinion, instruction, determination, certificate or valuation of the Engineer, the matter in dispute shall, in the first place, be referred in writing to the Engineer, with a copy to the other party. Such reference shall state it is made pursuant to this clause. No later than 28 (twenty eight) day after the day on which he received such reference the Engineer shall give notice of his decision to the Employer and the Contractor. Such decision shall state it is made pursuant to this clause.

Unless the Contract has already been repudiated or terminated, the Contractor shall, in every case, continue to proceed with the works with all due diligence and the Contractor and the Employer shall give effect forthwith to every such decision of the Engineer unless and until the same shall be revised, as hereinafter provided, in an Amicable Settlement, Adjudicator" s or Arbitrator" s award.

If either the Employer or the Contractor be dissatisfied with the any decision of the Engineer, or if the Engineer fails to give notice of his decision on or before the 28th (twenty eighth) after the day on which he received the reference, then either the Employer or the Contractor may, on or before the 28th (twenty eighth) day after the day on which he received notice of such decision, or on or before the 28th (twenty eighth) day after the day on which the said period of 28 days expired, as the case may be, give notice to the other party, with a copy for information to the Engineer, of his intention to commence Adjudication, as hereinafter provided, as to the matter in dispute. Such notice shall establish the entitlement of the party giving the same to commence Adjudication, as hereinafter provided, as to such dispute; no adjudication in respect thereof may be commenced unless such notice is given.

If the Engineer has given notice of his decision as to a matter in dispute to the Employer and the Contractor and no notice of intention to commence adjudication as to such dispute has been given by either the Employer or the Contractor on or before the twenty eighth day after the day on which the parties received notice as to such decision from the Engineer, the said decision shall become final and binding upon the Employer and the Contractor. “.

67.2 Amicable Settlement

Where notice to of intention to commence adjudication as to a dispute has been given in accordance with sub clause 67.1, the parties shall attempt to settle such dispute amicably before the commencement of Adjudication; provided that, unless the parties otherwise agree, Adjudication may be commenced on or after the 14th (fourteenth) day after the day on which notice of intention to commence adjudication of such dispute was given, even if an attempt at amicable settlement thereto has been made

Subclause 67.3 is deleted and substituted with the following subclause:

67.3 Arbitration

by an arbitrator to be agreed upon between the parties or failing agreement to be nominated on the application of either party by the appointee designated in the Appendix to Form of Bid for the purpose and any such referee shall be deemed to be a submission to arbitration within the meaning of the Arbitration Laws of the Republic of Kenya.

NOTICES

68.1 Notices to Contractor

Add the following at the end of this subclause:

Notwithstanding the foregoing, the Contractor shall either maintain an address close to the Works or appoint an agent residing close to the Works for the purpose of receiving notices to be given to the Contractor under the terms of the Contract. This obligation shall be terminated upon the issue of the Certificate of Completion.

68.2 Notices to Employer and Engineer

Delete the words “nominated for that purpose in Part II of these Conditions” in this subclause and substitute with “given in the Appendix to Form of Bid”.

DEFAULT OF EMPLOYER

Under Subclause 69.1, 69.4 and 69.5, substitute “Subclause 60.4 for “Subclause 60.10”.

69.1 Default of Employer

In Subclause 69.1 (a), delete the words “28 days” in the second sentence and substitute with the words “60 days”.

Delete Subclause 69.1 (d).

69.3 Payment on Termination

Delete from “, but in addition to the payments specified...” to the end of the Subclause.

69.4 Contractor” s Entitlement to Suspend Work

Delete the words " 28 days' and substitute with " 60 days”.

Delete sub-clause 69.4 (b) and substitute with the following:

The amount of such cost, which shall be added to the Contract Price. However, the costs due to idle time for plant, equipment and labour shall not be included in the said costs and shall be borne by the Contractor.

Add to Subclause 69.4 as follows:

Without prejudice to the Contractor” s entitlement to interest under Subclause 60.7 (of these Conditions of Particular application) and to terminate under Subclause 69.1, the Contractor may suspend work or reduce the rate of work within 56 days after notification by the Foreign Funding Agency to the Kenya Government that the Financier has suspended disbursements from its loan, which finances in whole or in part the execution of the Works.

Add Subclause 69.6 as follows:

69.6 Suspension of Funding Agency Loan

In the event that the Foreign Funding Agency suspends the loan or credit to the Employer from which part of the payments to the Contractor are being made:

(a) The Employer shall notify the Contractor, with a copy to the Engineer, of such suspension within 7 days of having received the suspension notice from the Funding Agency, provided that:

⦿ The Employer shall state in such notification whether sufficient funds in the appropriate currencies are expected to be available to the Employer to continue making payments to the Contractor beyond a date 60 days after the date of the Funding Agency” s notification of the suspension, and

- Ⓜ If such funds are not expected to be available, the Employer shall immediately inform the Engineer to instruct the Contractor to suspend progress of the Works pursuant to Subclause 40.1 of the General Conditions of Contract.
- (b) If the Contractor has not received sums due to him upon the expiration of the 14 days from the time when the Foreign Funding Agency" s loan or credit, from which part of the payments to the contractor is being made under Interim Certificates, is suspended, the Contractor may, without prejudice to the Contractor" s entitlement to interest under Subclause 60.7, immediately take one or both of the following actions:
 - Ⓜ Suspend work or reduce the rate of work, and/or
 - Ⓜ Terminate his employment under the Contract by giving notice to the Engineer. Such termination shall take effect 14 days after giving of the notice.

70 CHANGES IN COST AND LEGISLATION

Delete Clause 70 in its entirety, and substitute by 70.1 – 70.8 (inclusive):

70.1 Price Adjustment

“The amounts payable to the Contractor, in various currencies pursuant to Sub-Clause 60.1, shall be adjusted in respect of the rise or fall in the cost of labour, Contractor’s Equipment, Plant, materials, and other inputs to the Works, by comparing the Basic Rates at tendering stage and the current prevailing market prices.

70.2 Other Changes in Cost

To the extent that full compensation for any rise or fall in costs to the Contractor is not covered by the provisions of this or other Clauses in the Contract, the unit rates and prices included in the Contract shall be deemed to include amounts to cover the contingency of such other rise or fall of costs.

70.8 Subsequent Legislation

If, after the date 28 days prior to the latest date for submission of bids for the Contract, there occur in the country in which the Works are being or are to be executed changes to any National or State Statute, Ordinance, Decree, or other Law or any regulation or by-law of any local or other duly constituted authority, or the introduction of any such State Statute, Ordinance, Decree, Law, regulation or by-law which causes additional or reduced cost to the Contractor, other than under the preceding sub-clauses of this clause, in the execution of the Contract, such additional or reduced cost shall, after due consultation with the Employer and the Contractor, be determined by the Engineer and shall be added

to or deducted from the Contract Price and the Engineer shall notify the Contractor accordingly, with a copy to the Employer. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same shall already have been taken into account in any inputs to the Price Adjustment in accordance with the provisions of Sub-Clauses 70.1.

CURRENCY AND RATES OF EXCHANGE

72 Currency Proportions

Delete clause 72 in its entirety and substitute the following:

“The currency of BID and payment is Kenya Shillings and rates of exchange requirements are not applicable.”

73.4 Duties on Contractor’s Equipment

Notwithstanding the provisions of Subclause 73.2, the Contractor’s Equipment, including essential spare parts therefore, imported by the Contractor for the sole purpose of executing the Contract shall not be exempt from the payment of import duties and any other taxes upon initial importation.

ADDITIONAL CLAUSES

74.1 Illegal Payments

If the Contractor, or any of his Sub-Contractors, agents or servants gives or offers to give to any person any payment, gift, gratuity or commission as an inducement or reward for doing or forbearing to do any action in relation to the Contract or any other contract with the Employer, or for showing or forbearing to show favour or disfavour to any person in relation to the Contract or to any other contract with the Employer, then the Employer may enter upon the Site and the Works and expel the Contractor and the provisions of Clause 63 hereof shall apply as if such entry and expulsion had been made pursuant to that Clause.

75.1 Termination of Contract for Employer’s Convenience

The Employer shall be entitled to terminate this Contract at any time for the Employer’s convenience after giving 56 days prior notice to the Contractor, with a copy to the Engineer. In the event of such termination, the Contractor:

- (a) Shall proceed as provided in Subclause 65.7, and
- (b) Shall be paid by the Employer as provided in Subclause 65.8.

76.1 Restriction on Eligibility

- (a) Any Plant, materials, or services which will be incorporated in or required for the Works, as well as the Contractor’s Equipment and other supplies, shall have their

origin in any of the countries and territories eligible under the Foreign Financier" s Rules for Procurement.

- (b) For the purposes of this clause, „origin' means the place where the materials and equipment were mined, grown, produced, or manufactured or from which the services are provided.
- (c) The origin of goods and services is distinct from the nationality of the supplier.

77.1 Joint and Several Liability

If the Contractor is a joint venture of two or more persons, all such persons shall be joint and severally bound to the Employer for the fulfilment of the terms of the Contract and shall designate one of such persons to act as a leader with authority to bind the joint venture. The composition or the constitution of the joint venture shall not be altered without the prior consent of the Employer.

78.1 Details to be Confidential

The Contractor shall treat the details of the Contract as private and confidential, save insofar as may be necessary for the purposes thereof, and shall not publish or disclose the same or any particulars thereof in any trade or technical paper or elsewhere without the previous consent in writing of the Employer or the Engineer. If any dispute arises as to the necessity of any publication or disclosure for the purpose of the Contract the same shall be referred to the Employer whose determination shall be final.

78.2 Drawings and Photographs of the Works

The Contractor shall not disclose details of drawings furnished to him and works on which he is engaged without the prior approval of the Engineer in writing. No photograph of the work or any part thereof or equipment employed thereon shall be taken or permitted by the Contractor to be taken by any of his employees or any employees of his Subcontractors without the prior approval of the Engineer in writing and no such photographs shall be published or otherwise circulated without the approval of the Engineer in writing.

79.1 Official Visitors

The Contractor shall at all times when authorized by the Engineer give free and undisputed access of all facilities to any authorized employee of the Kenya Government or other authorized person wishing to view or inspect any part of the Site or Works or the materials therein.

80.1 Substantial Completion of the Works

The Contractor shall note that the Engineer reserves the right to certify the Works to be “substantially completed” in accordance with the provisions of Clause 48 of the General Conditions of Contract, unless the following portions of the Works are completed according to the Specifications:

- (a) Works up to and including the bituminous wearing courses,
- (b) All drains and drainage structures including bridges,
- (c) Construction of the shoulders,
- (d) Finishing of medians and slopes of cuts and fills and
- (e) Reinstatement and environmental treatment of quarries and borrow pits.

81.1 Monthly Site Meetings

The Contractor or his authorised representative shall attend monthly meetings on the site with representatives of the Employer and the Engineer at dates and times to be determined by the Engineer. Such meetings will be held for evaluating the progress of the Contract and for discussion of matters pertaining to the Contract which any of the parties

represented may wish to raise. Such meetings are not intended for discussing matters concerning the normal day-to-day running of the Contract.

The Contractor shall prepare and submit to the Resident Engineer one week before the meeting a monthly report in the format approved by the Engineer giving all the information and details regarding its accomplishment against the prevailing approved programme.

81.2 Minutes of Site Meetings

Agreements recorded in the Minutes of the Site Meetings are binding to all parties, if objections to the minutes have not been given in due time.

The Minutes of the Site Meetings shall be issued within 7 days and shall be numbered consecutively. Minutes shall be deemed to have been received by the Contractor unless the Contractor gives notice at the following meeting that the Minutes were not received.

Any objections to the Minutes of the Site Meetings shall at the latest be raised at the succeeding Site Meeting or presented to the Engineer in writing not later than 2 weeks after the meeting. If the Contractor at this time has not received the Minutes of the Site Meeting, the objection must be given in writing to the Engineer not later than 2 working days after the subsequent receipt of the said Minutes.

82.1 Legal Provisions

The Contractor shall keep himself fully conversant with the latest enactment" s, provisions and regulations of all legislative and statutory bodies, and, in all respects and at all times, shall comply with such enactment" s, provisions and regulations in regard to executing the Contract.

83.1 Noise and Disturbance

All works shall be carried out without unreasonable noise and disturbance. The Contractor shall indemnify and keep indemnified the Employer from and against any liability for damages on account of noise or other disturbances created while or in carrying out the work and from and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in regard to or in relation to such liability.

83.2 Pollution

Subject, and without prejudice, to any other provision of the Contract and the law of the land and its obligations as applicable, the Contractor shall take all reasonable precautions in connection with:

- (a) The rivers, streams, waterways, drains, water-course, lakes, reservoirs and the like to prevent:
 - (i) Silting
 - (ii) Erosion of their beds and banks, and
 - (iii) Pollution of the water so as to affect adversely the quality or appearance thereof or cause injury or death to animal and plant life.
- (b) The underground water resources including percolating water to prevent:
 - (i) Any interference with the supply to or obstruction from such sources, and
 - (ii) Pollution of the water which may adversely affect the quality thereof.

The Contractor shall further comply with any and all laws, rules and regulations of governmental agencies having jurisdiction which now exist or which may be promulgated during the course of the works contracted for herein, relating to the control,

regulation and prevention of pollution. Not by way of limitation of the foregoing, but in furthermore thereof, the Contractor shall use the highest prevailing and approved standards of care and diligence to prevent and to take care of all waste, oil, water and other waste materials that may accumulate and be caused by the Contractor" soperations and performance of this Contract so as to prevent pollution of any nature or kind resulting from the Works performed under this Contract.

SECTION 7: STANDARD SPECIFICATIONS

SECTION 7: STANDARD SPECIFICATIONS

Standard Specifications refers to the Standard Specifications for Road and Bridge Construction, 1986 Edition

BILLS OF QUANTITIES

PREAMBLE TO BILL OF QUANTITIES

1. The Bill of Quantities shall form part of the Contract documents and is to be read in conjunction with Instructions to Bid, Conditions of Contract, Specifications and Drawings.
2. The brief description of the items in the Bill of Quantities is purely for the purpose of identification, and in no way modifies or supersedes the detailed description given in the Conditions of Contract and specification for the full direction and description of work and materials.
3. The Quantities set forth in the Bill of Quantities are estimated and provisional representing substantially the work to be carried out and given to provide a common basic for bidding and comparing the bids. There is no guarantee to the Contractor that he will be required to carry out all the quantities of work indicated under any one particular item or group of items in the Bill of Quantities. The basic of payment shall be the Contractor's rates and the quantities of work actually done in fulfilment of his obligation under the Contract.
4. The prices and rates inserted in the Bill of Quantities will be used for valuation of the work executed and the Engineer will measure the whole of the works executed in accordance with this Contract.
A price or rate shall be entered in link against every item in the Bill of Quantities with the exception of items which already have provisional sums affixed thereto. The bidders are reminded that no "nil" or "included" rates or "lump-sum" discounts will be accepted. The rates for various items should include discount if any. Bidders who fail to comply with this will be disqualified.
5. Provisional Sums (including Dayworks) in the Bill of Quantities shall be expended in whole or part at the discretion of the Engineer in accordance with Subclause 52.4 and Clause 58 of the Conditions of Contract.
6. The price and rates entered in the Bill of Quantities shall, except insofar as it is otherwise provided in the Contract, include all constructional plants to be used, labour, insurance, supervision, compliance, testing, materials, erection, maintenance of works overhead and profit, taxes and duties together with the general risks, liabilities and obligations set out or implied in the Contract, transport, electricity and telephone, water, use and replenishment of all consumables, including those required under the Contract by the Engineer and his staff.
7. Errors will be corrected by the Employer for any arithmetic error in computation or summation as stipulated under Clause 28 of the Instructions to Bidders.
8. The Bill of Quantities, unless otherwise expressly stated therein, shall be deemed to have been prepared in accordance with the principle of the latest edition of the Civil Engineering Standard Method of Measurement (CESMM)
9. "Authorised" "Directed" or "Approved" shall mean the authority, direction or approval of the

Engineer.

10. Unless otherwise stated, all measurement shall be net on the finished work carried out in accordance with the details shown on the drawings or instructed, with no allowance for extra cuts or fills, waste or additional thickness necessary to obtain the minimum finished thickness or dimensions required in this Contract. Any work performed in excess of the requirements of the plans and specifications will not be paid for, unless ordered in writing by the Engineer.
11. Hard/rock materials in this Contract, shall be defined as the material which, in the opinion of the Engineer, require blasting, or the use of metal wedges and sledge hammers, or the use of compressed air drilling for their removal, and which cannot be extracted by ripping with a dozer tractor of at least 150 brake horse power (112 kilowatt) with a single rear-mounted hydraulic ripper
Boulders of more than 0.2 m³ occurring in soft materials shall be classified as hard material

(m) Soft materials shall be all material other than hard material as defined under Item (l) above.

(n) The units of measurement and abbreviations tabulated below are used herein

| Unit | Abbreviation |
|---------------------|-------------------------|
| Number | No |
| Millimetre | mm |
| Square millimetre | mm ² / sq mm |
| Metre | m |
| Square metre | m ² / sq m |
| Cubic metre | m ³ / cu m |
| Hectare | ha |
| Kilogramme | kg |
| Lump sum | LS |
| Prime Cost | PC |
| Tonne | Tonne |
| Metric ton (100 kg) | t / tonne |
| Degrees centigrade | °C |
| Hour | h / hr |
| Week | wk |
| Month | month |
| Horsepower | HP |
| Kilowatt | KW |

PHASE II

PROPOSED PROTECTION WORKS FOR STORM WATER DRAIN IN MANDERA MUNICIPALITY
TENDER No.: MCG/OT/KUSP/01/2019-20

BILLS OF QUANTITIES

| BILL No 1: Preliminary and General Items | | | | | |
|---|---|-------------|-----------------|--------------------|----------------------|
| ITEM | DESCRIPTION | UNIT | QUANTITY | RATE (KShs) | AMOUNT (KShs) |
| 1.01 | Provide for the Engineer's miscellaneous account to be spent in whole or part as instructed by the Engineer as specified in the special specifications. | Lump sum | 1 | 800,000.00 | 800,000.00 |
| 1.02 | Provide for off-site materials testing. | Lump sum | | | 300,000.00 |
| 1.03 | Provide, erect and maintain publicity signs as shown in the drawings or as instructed by the Engineer. | No | 2 | | - |
| 1.04 | Allow for attendance upon the Engineer by the following staff in accordance with Clause 137 of Special Specification. | | | | |
| | (a) 1 No. Assistant Engineer | M. month | 8 | | - |
| | (b) 1 No. Inspector of Works | M. month | 8 | | - |
| | (c) Laboratory technician | M. month | 8 | | - |
| | (e) General Clerk | M. month | 8 | | |

| | | | | | |
|---|---|----------|---|--|---|
| | | | | | - |
| | (f) Survey assistant | M. month | 8 | | - |
| | (g) Secretary / Admin | M. month | 8 | | - |
| | (h) Chainmen | M. month | 8 | | - |
| | (i) General Attendants | M. month | 8 | | - |
| 1.05 | Extra over item 1.04 (a) - (i) for Contractor's overheads and profits | % | | | - |
| BILL 1 SUB-TOTAL CARRIED TO SUMMARY PAGE | | | | | |

PHASE II

PROPOSED PROTECTION WORKS FOR STORM WATER DRAIN IN MANDERA MUNICIPALITY
TENDER No.: MCG/OT/KUSP/01/2019-20

| BILL No 1: Preliminary and General Items | | | | | |
|---|--|-------------|-----------------|--------------------|----------------------|
| ITEM | DESCRIPTION | UNIT | QUANTITY | RATE (KShs) | AMOUNT (KShs) |
| | Bill 1 Sub-total Brought from Previous Page | | | | - |
| 1.06 | Provide with driver and maintain two (2), minimum 2.8 litre turbocharged 4-wheel drive, twin-cab pick up vehicle or similar approved by the Engineer, fitted with air bags, mobile telephone hand free headset and a two way radio for the exclusive use of the Engineer inclusive of the first 4,000 km per vehicle | V. month | 16 | | - |

| | | | | | |
|---|--|----------|--|--|--------------|
| | month. | | | | |
| 1.07 | Provide for payment of wages and allowances for Engineer's staff including overtime. | Lump sum | | | 2,500,000.00 |
| 1.08 | Allow for design | lump Sum | | | 2,000,000.00 |
| BILL 1 TOTAL CARRIED TO SUMMARY PAGE | | | | | |

PHASE II

PROPOSED PROTECTION WORKS FOR STORM WATER DRAIN IN MANDERA MUNICIPALITY
TENDER No.: MCG/OT/KUSP/01/2019-20

BILLS OF QUANTITIES

| BILL No 4: Site Clearance and Topsoil Stripping | | | | | |
|--|--|-------------|-----------------|--------------------|----------------------|
| ITEM | DESCRIPTION | UNIT | QUANTITY | RATE (KShs) | AMOUNT (KShs) |
| 4.01 | Clear site including removal of trees (girth less than equal to or less than 400 mm), hedges, bushes and other vegetation and other deleterious materials, grub up roots and backfill to 100% MDD (AASHTO T.99) with approved material in accordance with the Specifications and as instructed | ha | 2.0 | | - |

| | | | | | |
|---|---|----------|---|--|------------|
| | by Engineer. | | | | |
| 4.02 | Provide for removal and reinstatement of services including electric power poles, water & sewers etc and demolition of structures and buildings on the project reserve. | lump Sum | | | 300,000.00 |
| 4.03 | Provided for for ESIA and other environmental mitigation measures. | lump Sum | 1 | | 300,000.00 |
| BILL 4 TOTAL CARRIED TO SUMMARY PAGE | | | | | |

PHASE II

PROPOSED PROTECTION WORKS FOR STORM WATER DRAIN IN MANDERA MUNICIPALITY
TENDER No.: MCG/OT/KUSP/01/2019-20

BILLS OF QUANTITIES

| BILL No 5: Earthworks | | | | | |
|------------------------------|---|-------------|-----------------|--------------------|----------------------|
| ITEM | DESCRIPTION | UNIT | QUANTITY | RATE (KShs) | AMOUNT (KShs) |
| | <i>No separate payments shall be made for the overhaul of the material and the cost of such haulage shall be included in the rates and or prices.</i> | | | | |

| | | | | | |
|---|---|----------------|-------|--|---|
| 5.01 | Cut to fill in soft material to 95% MDD (AASHTO) as directed by the Engineer. | m ³ | 300 | | - |
| 5.02 | Cut to spoil in soft material | m ³ | 900 | | - |
| 5.03 | Fill suitable granular material | m ³ | 2,400 | | - |
| 5.04 | Provide rock fill to formation level or as directed by the Engineer | m ³ | 1,040 | | - |
| BILL 5 TOTAL CARRIED TO SUMMARY PAGE | | | | | - |

PHASE II

PROPOSED PROTECTION WORKS FOR STORM WATER DRAIN IN MANDERA MUNICIPALITY
TENDER No.: MCG/OT/KUSP/01/2019-20

BILLS OF QUANTITIES

| BILL No 7:Excavation and Filling for Structure and Gabions protection | | | | | |
|--|---|----------------|-----------------|--------------------|----------------------|
| ITEM | DESCRIPTION | UNIT | QUANTITY | RATE (KShs) | AMOUNT (KShs) |
| | <i>No separate payments shall be made for the overhaul of the material and the cost of such haulage shall be included in the rates and or prices.</i> | | | | |
| 7.01 | a) Excavation for structure in soft material, depth 0-1.0m | m ³ | 1,200 | | - |
| | b) As for item 701 (a) but in hard material | m ³ | 600 | | - |
| 7.02 | River training in soft material | m ³ | 800 | | - |
| 7.03 | (a) Provide and place Macafferi | No | 6,500 | | - |

| | | | | | |
|---|---|----------------|--------|--|----------|
| | Gabion Boxes (2m x 1m x 1m) | | | | |
| | (b) Provide and place macafferi Gabion Mattresses (6m x 2m x 0.3) | No | 250 | | - |
| 7.04 | Provide and place Rockfill to gabions | m ³ | 13,500 | | - |
| BILL 5 TOTAL CARRIED TO SUMMARY PAGE | | | | | - |

PHASE II

PROPOSED PROTECTION WORKS FOR STORM WATER DRAIN IN MANDERA MUNICIPALITY
TENDER No.: MCG/OT/KUSP/01/2019-20

BILLS OF QUANTITIES

| BILL No 8: Culvert and Drainage Works | | | | | |
|--|--|----------------|-----------------|------------------------|--------------------------|
| ITEM | DESCRIPTION | UNIT | QUANTITY | RATE (KShs) | AMOUNT (KShs) |
| | <i>No separate payment shall be made for the haulage of surplus or unsuitable excavated material and the cost of such haulage shall be included in the rates and/or prices</i> | | | | |
| 8.01 | Excavate in soft material for pipe culverts, headwalls, wingwalls, aprons, toe walls, drop inlets, minor drainage structures and compact excavated surface as specified by the Engineer. | m ³ | 700 | | - |

| | | | | | |
|---|--|----------------|------|--|---|
| 8.02 | Provide and lay stone pitching including grouting as directed by the Engineer | m ² | 1000 | | - |
| 8.03 | Dump rip rap | m ³ | 600 | | - |
| 8.04 | Provide and place Class 20(20) concrete to headwalls, wing walls and aprons, to pipe culverts including formwork and provision and placing of reinforcement as shown on the drawings | m ³ | 100 | | - |
| 8.04 | Provide, place and compact Class 15(20) concrete to beds, surrounds and haunches including all formwork and provision and placing of reinforcement as shown in the drawings. | m ³ | 800 | | - |
| 8.05 | Provide and place Rockfill for Culvert | m ³ | 300 | | - |
| 8.06 | Provide, place and join PVC pipes 50mm diameter or less as weep holes | m | 200 | | - |
| BILL 8 TOTAL CARRIED TO SUMMARY PAGE | | | | | - |

BILLS OF QUANTITIES

| BILL № 9: Passage of Traffic | | | | | |
|--|--|-------------|-----------------|--------------------|----------------------|
| ITEM | DESCRIPTION | UNIT | QUANTITY | RATE (KShs) | AMOUNT (KShs) |
| 9.01 | Allow for the passage of traffic through the works | LS | | | 300,000 |
| BILL 9 TOTAL CARRIED TO SUMMARY PAG | | | | | |

PROPOSED PROTECTION WORKS FOR STORM WATER DRAIN IN MANDERA MUNICIPALITY
TENDER No.: MCG/OT/KUSP/01/2019-20

BILLS OF QUANTITIES

| BILL № 17: Concrete Works | | | | | |
|----------------------------------|---|----------------|-----------------|--------------------|----------------------|
| ITEM | DESCRIPTION | UNIT | QUANTITY | RATE (KShs) | AMOUNT (KShs) |
| | Concrete | | | | |
| 17.01 | Concrete Class 25/20 | m ³ | 20 | | - |
| | Formwork | | | | |
| 17.05 | Provide, erect and dismantle formwork to provide Class F1 finish | m ² | 120 | | - |
| | Reinforcement | | | | |
| | Provide, cut, bend and fix as per Specifications or as instructed by the Engineer the following items of reinforcement. | | | | |
| 17.06 | BRC Mesh A252 | m ² | 140 | | - |
| 17.08 | High yield steel reinforcement of diameter equal to or less than 12mm | Tonne | 1.0 | | - |

| | |
|--|---|
| BILL 17 TOTAL CARRIED TO SUMMARY PAGE | - |
|--|---|

PROPOSED PROTECTION WORKS FOR STORM WATER DRAIN IN MANDERA MUNICIPALITY
TENDER No.: MCG/OT/KUSP/01/2019-20

BILLS OF QUANTITIES

| BILL No 20: Road Furniture | | | | | |
|---|---|-----|----|--|---|
| 20.01 | Place and provide gauge 16 steel pipe Bollards of diameter 150mm and 1.0 m above the ground, embedded to a depth of 0.5m at place painted and fitted and refrectozed as shown on the drawing and as directed by the Engineer. Rate to include filling with concrete minimum class 15/20 | No. | 6 | | - |
| 20.02 | Provide and erect concrete posts for guardrails complete with spacers at 38/10mm intervals or as directed by the Engineer | No. | 12 | | - |
| 20.03 | Provide and erect flexi-beam guardrails complete with spacers, nuts, bolts and fittings as directed by the Engineer | m | 80 | | - |
| BILL 20 SUB-TOTAL CARRIED TO NEXT PAGE | | | | | - |

PROPOSED PROTECTION WORKS FOR STORM WATER DRAIN IN MANDERA
MUNICIPALITYTENDER No.: MCG/OT/KUSP/01/2019-20

BILLS OF QUANTITIES

| BILL No 25: HIV/AIDS Awareness | | | | | |
|--|--|-------------|-----------------|--------------------|----------------------|
| ITEM | DESCRIPTION | UNIT | QUANTITY | RATE (KShs) | AMOUNT (KShs) |
| 25.01 | Implement HIV/AIDS awareness campaign amongst the workers for the duration of the Contract | month | 8 | | - |
| 25.02 | Allow for the availability of condoms to workers and staff for the duration of Contract | month | 8 | | - |
| 25.03 | Allow for the preparation and submission of monthly report for HIV/AIDS awareness and prevention activities report to be tabled at site meetings | month | 8 | | - |
| BILL 25 TOTAL CARRIED TO SUMMARY PAGE | | | | | - |

SUMMARY BILLS OF QUANTITIES

| ITEM | DESCRIPTION | AMOUNT (Kshs) |
|-------------|---|----------------------|
| 1 | Preliminary and General Items | - |
| 4 | Site Clearance and Topsoil Stripping | - |
| 5 | Earthworks | - |
| 7 | Excavation and Filling for Structure and Gabions protection | - |

| | | |
|----|--|---|
| 8 | Culverts and Drainage Works | - |
| 9 | Passage of Traffic | |
| 17 | Concrete Works | - |
| 20 | Road Furniture | - |
| 25 | HIV/AIDS Awareness | - |
| | Sub-total 1 | - |
| | Add 5% of Sub-total 1 for Contingencies to be expended in whole or in part or deleted as directed by the Engineer. | - |
| | Sub-total 2 | - |
| | Add 16% of Sub-total 2 for Value Added Tax (VAT) | - |
| | TOTAL CARRIED FORWARD TO FORM OF BID | |

Kenya Shillings.....

Contractor:

VAT Registration No:

Pin No:

Address:

Signature: Date:

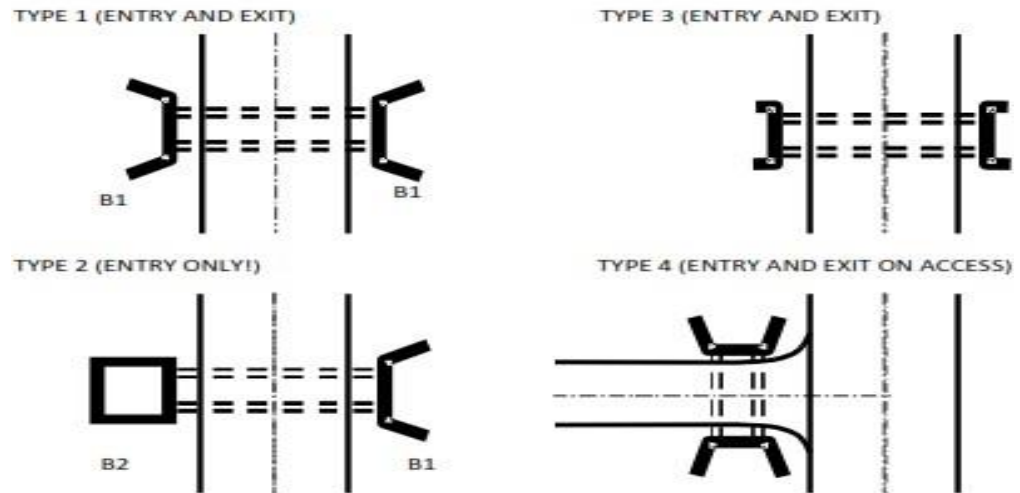
Witness:

Address:

Signature: Date:

SECTION 10: DRAWINGS

FIGURE C.1 - CULVERT ENTRY / EXIT STRUCTURE TYPES



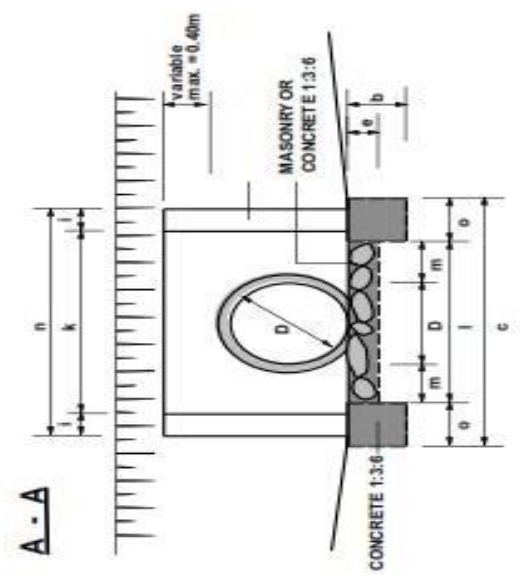
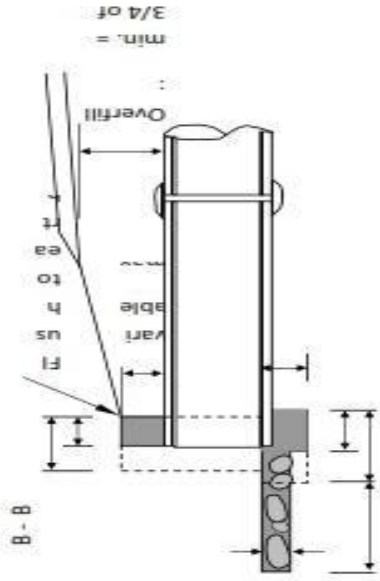
NOTE:

Coding system has been used in describing the standardised designs of the various culvert entry and exit structures. The code names consist of a number to specify shape and function as elaborated in above while the used construction materials are identified through an alphabetic symbol as follows:

- A = Concrete block
- B = Stone masonry
- C = Dressed stones

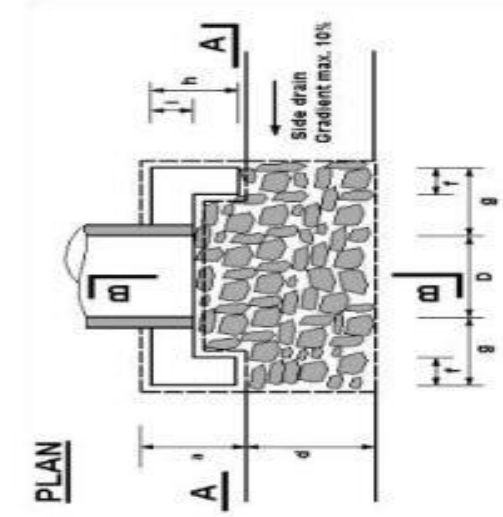
An example code of "B2" would therefore stand for a drop inlet type structure to be built in stone masonry.

FIGURE C.4 - HEADWALL TYPE 3A (CONCRETE BLOCK HEADWALLS)



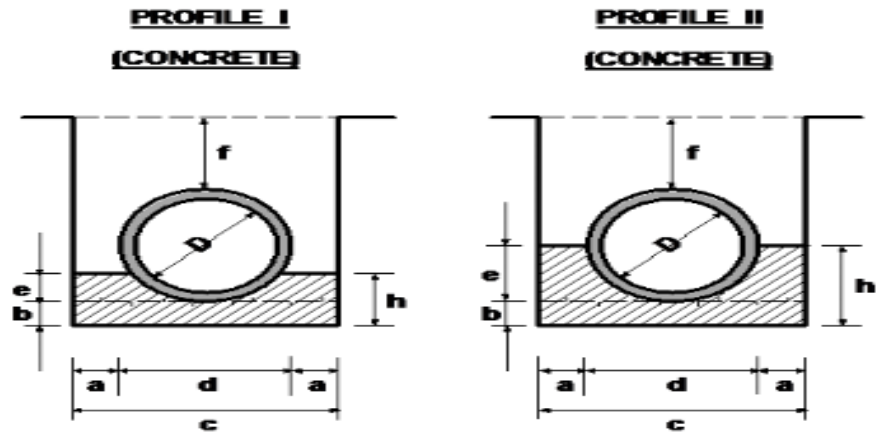
| DIMENSION | UNIT | TYPE A | |
|------------|------|--------|------|
| | | 450 | 600 |
| FOUNDATION | m | 0.80 | 0.90 |
| FOUNDATION | m | 0.20 | 0.20 |
| FOUNDATION | m | 1.05 | 1.10 |
| APRON | m | 0.60 | 0.65 |
| APRON | m | 0.20 | 0.20 |
| HEADWALL | m | 0.20 | 0.20 |
| HEADWALL | m | 0.60 | 0.50 |
| HEADWALL | m | 0.40 | 0.40 |
| HEADWALL | m | 0.30 | 0.30 |
| HEADWALL | m | 1.05 | 1.10 |
| FOUNDATION | m | 0.20 | 0.20 |
| HEADWALL | m | 1.45 | 1.60 |
| FOUNDATION | m | 0.20 | 0.30 |

| MATERIAL REQUIREMENT | |
|----------------------|---------------------|
| FOUNDATION | |
| Concrete | m ³ 0.23 |
| HEADWALLS | |
| Concrete | m ³ 0.31 |
| APRON | |
| Concrete | m ³ 0.95 |



PLAN

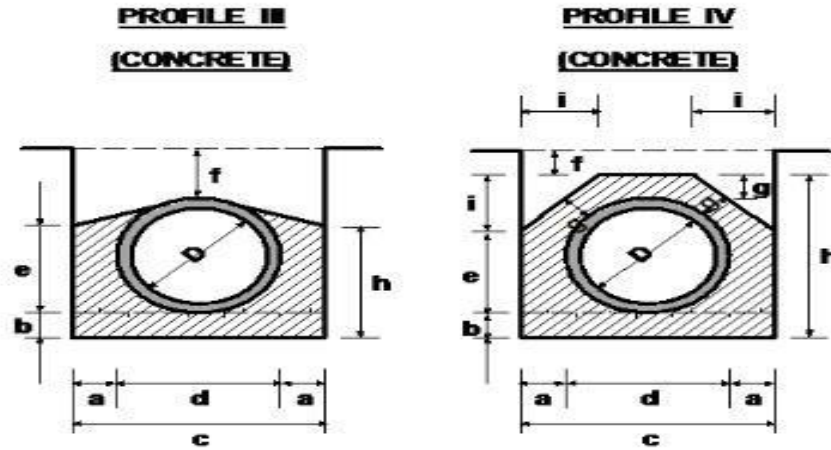
FIGURE C.7- BEDDING AND HAUNCH PROFILES TYPES I & II



| Diameter (D) | 450 (mm) | 600 (mm) | 900 (mm) |
|-------------------|--|----------|----------|
| Dimensions in (m) | | | |
| a | 0.15 | 0.2 | 0.2 |
| b | 0.1 | 0.15 | 0.15 |
| c | 0.86 | 1.12 | 1.48 |
| d | 0.56 | 0.72 | 1.08 |
| e | 0.14 | 0.18 | 0.27 |
| f (min.) | 0.34 | 0.45 | 0.68 |
| g | - | - | - |
| h | 0.24 | 0.33 | 0.42 |
| i | - | - | - |
| Concrete | Volume in (m ³ /m) | | |
| | 0.16 | 0.3 | 0.48 |
| Application | - Fair subgrade condition; - Overfill > ¼ Diameter; - Seasonal waterflow only. | | |
| Remarks | - Use gravel material for back/overfill. | | |

| 450 (mm) | 600 (mm) | 900 (mm) |
|--|----------|----------|
| Dimensions in (m) | | |
| 0.15 | 0.2 | 0.2 |
| 0.1 | 0.15 | 0.15 |
| 0.86 | 1.12 | 1.48 |
| 0.56 | 0.72 | 1.08 |
| 0.28 | 0.36 | 0.54 |
| 0.34 | 0.45 | 0.68 |
| - | - | - |
| 0.38 | 0.51 | 0.69 |
| - | - | - |
| Volume in (m ³ /m) | | |
| 0.2 | 0.37 | 0.56 |
| - Fair to poor subgrade Condition; - Overfill > ¼ Diameter; - Seasonal waterflow only. | | |
| - Use gravel material for back/overfill. | | |

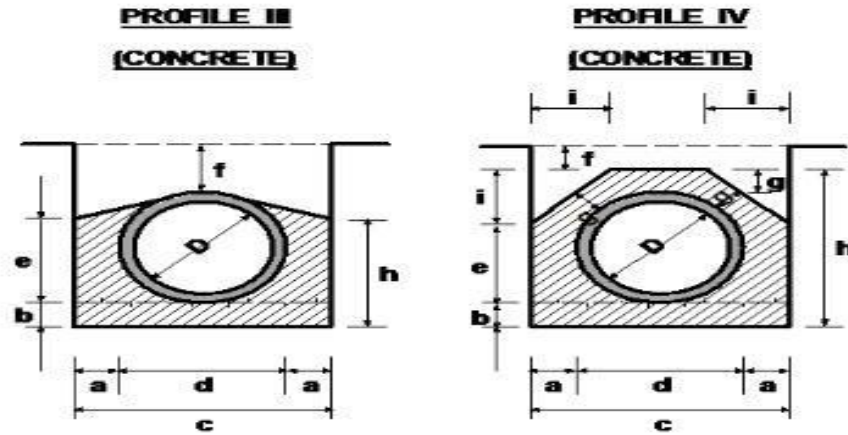
FIGURE C.8 - BEDDING AND HAUNCH PROFILES TYPES III & IV



| Diameter (D) | 450 (mm) | 600 (mm) | 900 (mm) |
|-------------------|--|----------|----------|
| Dimensions in (m) | | | |
| a | 0.15 | 0.2 | 0.2 |
| b | 0.1 | 0.15 | 0.15 |
| c | 0.86 | 1.12 | 1.48 |
| d | 0.56 | 0.72 | 1.08 |
| e | 0.42 | 0.54 | 0.81 |
| f (min.) | 0.23 | 0.3 | 0.45 |
| g | - | - | - |
| h | 0.52 | 0.69 | 0.96 |
| i | - | - | - |
| Concrete | Volume in (m ³ /m) | | |
| | 0.26 | 0.47 | 0.71 |
| Application | - Fair subgrade condition; - Overfill > ¼ Diameter; - Seasonal waterflow only. | | |
| Remarks | - Use gravel material for back/ overfill. | | |

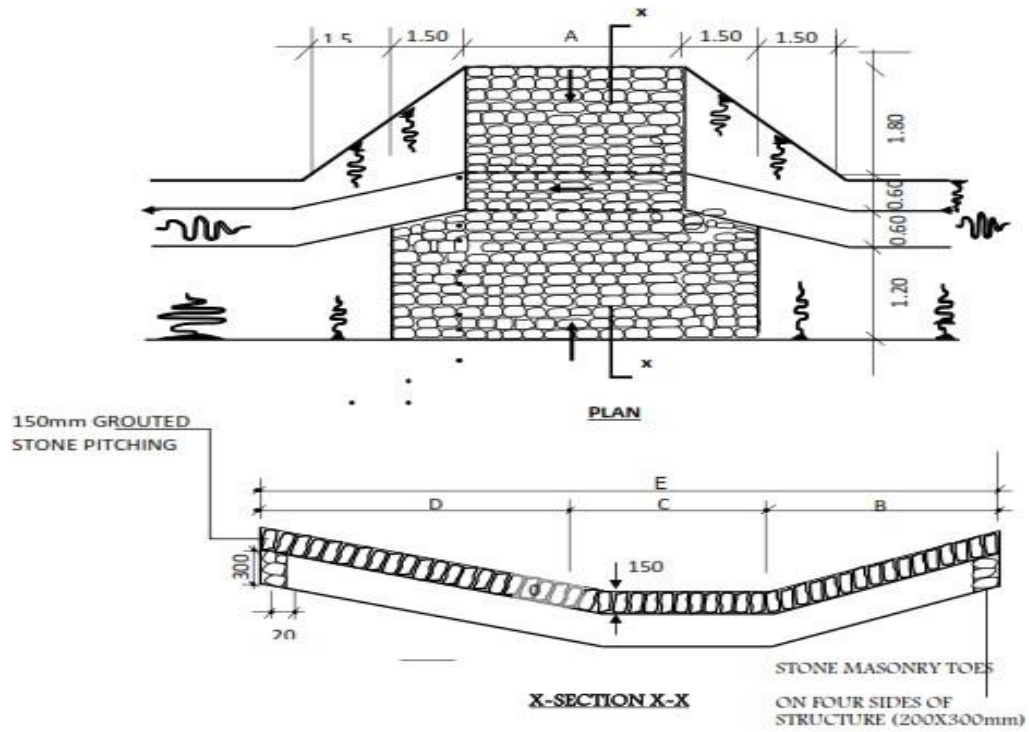
| 450 (mm) | 600 (mm) | 900 (mm) |
|--|----------|----------|
| Dimensions in (m) | | |
| 0.15 | 0.2 | 0.2 |
| 0.1 | 0.15 | 0.15 |
| 0.86 | 1.12 | 1.48 |
| 0.56 | 0.72 | 1.08 |
| 0.46 | 0.52 | 0.78 |
| 0.15 | 0.15 | 0.15 |
| 0.15 | 0.15 | 0.15 |
| 0.81 | 1.02 | 1.38 |
| 0.28 | 0.35 | 0.45 |
| Volume in (m ³ /m) | | |
| 0.37 | 0.61 | 0.92 |
| - Fair to poor subgrade Condition; - Overfill > ¼ Diameter; - Seasonal waterflow only. | | |
| - Use gravel material for back/ overfill. | | |

FIGURE C.8 - BEDDING AND HAUNCH PROFILES TYPES III & IV



| Diameter (D) | 450 (mm) | 600 (mm) | 900 (mm) |
|--------------|--|----------|----------|
| | Dimensions in (m) | | |
| a | 0.15 | 0.2 | 0.2 |
| b | 0.1 | 0.15 | 0.15 |
| c | 0.86 | 1.12 | 1.48 |
| d | 0.56 | 0.72 | 1.08 |
| e | 0.42 | 0.54 | 0.81 |
| f (min.) | 0.23 | 0.3 | 0.45 |
| g | - | - | - |
| h | 0.52 | 0.69 | 0.96 |
| i | - | - | - |
| Concrete | Volume in (m ³ /m) | | |
| | 0.26 | 0.47 | 0.71 |
| Application | - Fair subgrade condition; - Overfill > ¼ Diameter; - Seasonal waterflow only. | | |
| Remarks | - Use gravel material for back/overfill. | | |

| 450 (mm) | 600 (mm) | 900 (mm) |
|--|----------|----------|
| Dimensions in (m) | | |
| 0.15 | 0.2 | 0.2 |
| 0.1 | 0.15 | 0.15 |
| 0.86 | 1.12 | 1.48 |
| 0.56 | 0.72 | 1.08 |
| 0.46 | 0.52 | 0.78 |
| 0.15 | 0.15 | 0.15 |
| 0.15 | 0.15 | 0.15 |
| 0.81 | 1.02 | 1.38 |
| 0.28 | 0.35 | 0.45 |
| Volume in (m ³ /m) | | |
| 0.37 | 0.61 | 0.92 |
| - Fair to poor subgrade Condition; - Overfill > ¼ Diameter; - Seasonal waterflow only. | | |
| - Use gravel material for back/overfill. | | |



| QUANTITIES TABLE | | | | | | | | |
|------------------|------------|------|-----|------|------|------------------------------|---------------------------------|--|
| Cross section | DIMENSIONS | | | | | Excavation (m ³) | Stone masonry (m ³) | 150mm Grouted stone pitching (m ³) |
| | A | B | C | D | E | | | |
| A | 4000 | 1800 | 600 | 1800 | 4200 | 7.50 | 1.30 | 21.75 |
| | 6000 | 1800 | 600 | 1800 | 4200 | 10.00 | 1.60 | 30.15 |
| B | 4000 | 1400 | 400 | 1800 | 3600 | 7.00 | 1.20 | 18.30 |
| | 6000 | 1400 | 400 | 1800 | 3600 | 9.00 | 1.50 | 25.50 |

