



**THE UNITED REPUBLIC OF TANZANIA**

**MINISTRY OF FINANCE AND PLANNING**

**PUBLIC PROCUREMENT REGULATORY AUTHORITY**



Public Procurement Regulatory Authority

## **Standard Tendering Documents**

**for**

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Design and Build of Construction Works

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**National and International Competitive Tendering**

Public Procurement Regulatory Authority  
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## Preface

The General Conditions of Contract for Design and Build of Construction Works is part of the Standard Tendering Document (STD) prepared by the Public Procurement Regulatory Authority (PPRA) in collaboration with the Office of the Attorney General (OAG) and other professional bodies, primarily for use by Procuring Entities (PEs) in the procurement of Design and Build of Construction Works through International and National Competitive Tendering (ICT & NCT) and other procedures as appropriate.

The General Conditions of Contract presented in this document have been developed through broad national and international experience, and are mandatory for use in contracts for Design and Build of Construction Works that are financed in whole or in part by public funds, and whose Contractor has been obtained in accordance with the provisions of the Public Procurement Act, Cap 410 and the Public Procurement Regulations, 2013.

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# GENERAL CONDITIONS OF CONTRACT (GCC) FOR DESIGN AND BUILD OF CONSTRUCTION WORKS

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<b>1: General Provisions</b>	
<b>1.1 Definition</b>	In these Conditions of Contract, (General Conditions and Special Conditions), the following words and expressions shall have the meanings stated. Words indicating persons or parties include corporations and other legal entities, except where the context requires otherwise.
<b>1.1.1 The Contract</b>	<p><b>“Contract”</b> means the Contract entered between the Employer and the Contractor for design and construction of works.</p> <p><b>“Letter of Acceptance”</b> means the letter of formal acceptance of the bid, signed by the Employer and communicated to the Contractor.</p> <p><b>“Form of Tender”</b> means the document entitled Form of Tender, which was completed by the Contractor and includes the signed offer to the Employer for the works.</p> <p><b>“Employer’s Requirement”</b> means the document entitled Employer’s Requirement, as included in the Contract, and any additions and modifications to the Employer’s Requirement in accordance with the Contract. Such document specifies the Works.</p> <p><b>“Drawings”</b> means the drawings of the Works, as included in the Contract, and any additional and modified drawings issued by (or on behalf of) the Employer in accordance with the Contract.</p> <p><b>“Schedules”</b> means the document(s) entitled schedules, completed by the Contractor and submitted with the Form of Tender, as included in the Contract. Such document may include the Bill of Quantities, data, lists, and schedules of rates and/or prices.</p> <p><b>“Tender”</b> means the Form of Tender and all other documents which the Contractor submitted with the Form of Tender, as included in the Contract.</p> <p><b>“Bill of Quantities”</b> and <b>“Day Work Schedule”</b> and <b>“Schedule of Payment Currencies”</b> mean the documents so named (if any) which are comprised in the Schedules.</p>
<b>1.1.2 Parties and Persons</b>	<p><b>“Party”</b> means the Employer or the Contractor, as the context requires.</p> <p><b>“Employer”</b> means the person named as Employer in the <b>Special Conditions of Contract (SCC)</b> and the legal successors in title to this person.</p> <p><b>“Contractor”</b> means the person(s) named as contractor in the Form of Tender accepted by the Employer and the legal</p>

	<p>successors in title to this person(s).</p> <p><b>“Project Manager”</b> means the person appointed by the Employer to act as the Project Manager for the purposes of the Contract and named in the <b>SCC</b>, or other person appointed from time to time by the Employer and notified to the Contractor under <b>Sub-Clause 3.5</b> [Replacement of the Project Manager].</p> <p><b>“Contractor’s Representative”</b> means the person named by the Contractor in the Contract or appointed from time to time by the Contractor under <b>Sub-Clause 4.3</b> [Contractor’s Representative], who acts on behalf of the Contractor.</p> <p><b>“Employer’s Personnel”</b> means the Project Manager, the assistants referred to in <b>Sub-Clause 3.3</b> [Delegation by the Project Manager] and all other staff, labour and other employees of the Project Manager and of the Employer; and any other personnel notified to the Contractor, by the Employer or the Project Manager, as Employer’s Personnel.</p> <p><b>“Contractor’s Personnel”</b> means the Contractor’s Representative and all personnel whom the Contractor utilises on Site, who may include the staff, labour and other employees of the Contractor and of each Subcontractor; and any other personnel assisting the Contractor in the execution of the Works.</p> <p><b>“Subcontractor”</b> means any person named in the Contract as a subcontractor, or any person appointed as a subcontractor, for a part of the Works; and the legal successors in title to each of these persons.</p> <p><b>“Dispute Avoidance and Resolution Board(DARB)”</b> means the person or three persons appointed under <b>Sub-Clause 20.3</b> [Appointment of the <b>Dispute Avoidance and Resolution Board</b>] or <b>Sub-Clause 20.3</b> [Failure to Agree on the Composition of the <b>Dispute Avoidance and Resolution Board</b>]</p>
<p><b>1.1.3 Dates, Tests, Periods and Completion</b></p>	<p><b>“Base Date”</b> means the date 28 days prior to the latest date for submission of the Bid.</p> <p><b>“Commencement Date”</b> means the date notified under Sub-Clause 8.1 [Commencement of Works].</p> <p><b>“Time for Completion”</b> means the time for completing the Works or a Section (as the case may be) under Sub-Clause 8.2 [Time for Completion], as stated in the SCC (with any extension under Sub-Clause 8.4 [Extension of Time for Completion]), calculated from the Commencement Date.</p> <p><b>“Tests on Completion”</b> means the tests which are specified in the Contract or agreed by both Parties or instructed as a Variation, and which are carried out under Sub-Clause 9 [Tests on Completion] before the Works or a Section (as the</p>

	<p>case may be) are taken over by the Employer.</p> <p><b>“Taking-Over Certificate”</b> means a certificate issued under <b>Sub-Clause 10</b> [Employer’s Taking Over].</p> <p><b>“Tests after Completion”</b> means the tests (if any) which are specified in the Contract and which are carried out in accordance with the Employer’s Requirement after the Works or a Section (as the case may be) are taken over by the Employer.</p> <p><b>“Defects Liability Period”</b> means the period for notifying defects in the Works or a Section (as the case may be) under <b>Sub-Clause 11.1</b> [Completion of Outstanding Work and Remedying Defects], which extends over twelve months except if otherwise stated in the SCC (with any extension under <b>Sub-Clause 11.3</b> [Extension of Defects Liability Period]), calculated from the date on which the Works or Section is completed as certified under <b>Sub-Clause 10.1</b> [Taking Over of the Works and Sections].</p> <p><b>“Performance Certificate”</b> means the certificate issued under <b>Sub-Clause 11.9</b> [Performance Certificate].</p> <p><b>“Milestone”</b> means a part of the Works stated in the Contract Data (if any), and described in detail in the Employer’s Requirements as a Milestone, which is to be completed by the time for completion stated in Sub-Clause 4.27 [Milestones]</p> <p><b>“Milestone certificate”</b> means the certificate issued by the Project Manager under Sub-Clause 4.27 [Milestones].</p> <p><b>“day”</b> means a calendar day and <b>“year”</b> means 365 days.</p>
<p><b>1.1.4 Money and Payments</b></p>	<p><b>“Accepted Contract Amount”</b> means the amount accepted in the Letter of Acceptance for the execution and completion of the Works and the remedying of any defects.</p> <p><b>“Contract Price”</b> means the price defined in <b>Sub-Clause 14.1</b> [The Contract Price], and includes adjustments in accordance with the Contract.</p> <p><b>“Cost”</b> means all expenditure reasonably incurred (or to be incurred) by the Contractor, whether on or off the Site, including overhead and similar charges, but does not include profit.</p> <p><b>“Final Payment Certificate”</b> means the payment certificate issued under <b>Sub-Clause 14.13</b> [Issue of Final Payment Certificate].</p> <p><b>“Final Statement”</b> means the statement defined in <b>Sub-Clause 14.11</b> [Application for Final Payment Certificate].</p> <p><b>“Foreign Currency”</b> means a currency in which part (or all) of the Contract Price is payable, but not the Local Currency.</p> <p><b>“Interim Payment Certificate”</b> means a payment certificate</p>

	<p>issued under <b>Sub-Clause 14</b> [Contract Price and Payment], other than the Final Payment Certificate.</p> <p><b>Currency</b>” means the currency of the Country.</p> <p>“<b>Payment Certificate</b>” means a payment certificate issued under <b>Sub-Clause 14</b> [Contract Price and Payment].</p> <p>“<b>Provisional Sum</b>” means a sum (if any) which is specified in the Contract as a provisional sum, for the execution of any part of the Works or for the supply of Plant, Materials or services under <b>Sub-Clause 13.5</b> [Provisional Sums].</p> <p>“<b>Retention Money</b>” means the accumulated retention moneys which the Employer retains under <b>Sub-Clause 14.3</b> [Application for Interim Payment Certificates] and pays under <b>Sub-Clause 14.9</b> [Payment of Retention Money].</p> <p>“<b>Statement</b>” means a statement submitted by the Contractor as part of an application, under <b>Sub-Clause 14</b> [Contract Price and Payment], for a payment certificate.</p>
<p><b>1.1.5 Works and Goods</b></p>	<p>“<b>Contractor’s Equipment</b>” means all apparatus, machinery, vehicles and other things required for the execution and completion of the Works and the remedying of any defects. However, Contractor’s Equipment excludes Temporary Works, Employer’s Equipment (if any), Plant, Materials and any other things intended to form or forming part of the Permanent Works.</p> <p>“<b>Goods</b>” means Contractor’s Equipment, Materials, Plant and Temporary Works, or any of them as appropriate.</p> <p>“<b>Materials</b>” means things of all kinds (other than Plant) intended to form or forming part of the Permanent Works, including the supply-only materials (if any) to be supplied by the Contractor under the Contract.</p> <p>“<b>Permanent Works</b>” means the permanent works to be executed by the Contractor under the Contract.</p> <p>“<b>Plant</b>” means the apparatus, machinery and other equipment intended to form or forming part of the Permanent Works, including vehicles purchased for the Employer and relating to the construction or operation of the Works.</p> <p>“<b>Section</b>” means a part of the Works specified <b>in the SCC</b> as a Section (if any).</p> <p>“<b>Temporary Works</b>” means all temporary works of every kind (other than Contractor’s Equipment) required on Site for the execution and completion of the Permanent Works and the remedying of any defects.</p> <p>“<b>Works</b>” mean the Permanent Works and the Temporary Works, or either of them as appropriate.</p>

<p><b>1.1.6 Other Definitions</b></p>	<p><b>“Contractor’s Documents”</b> means the calculations, computer programs and other software, drawings, manuals, models and other documents of a technical nature (if any) supplied by the Contractor under the Contract.</p> <p><b>“Country”</b> means the country in which the Site (or most of it) is located, where the Permanent Works are to be executed.</p> <p><b>“Employer’s Equipment”</b> means the apparatus, machinery and vehicles (if any) made available by the Employer for the use of the Contractor in the execution of the Works, as stated in the Employer’s Requirement; but does not include Plant which has not been taken over by the Employer.</p> <p><b>“Force Majeure”</b> is defined in <b>Sub-Clause 19</b> [Force Majeure].</p> <p><b>“Laws”</b> means all national (or state) legislation, statutes, ordinances and other laws, and regulations and by-laws of any legally constituted public authority.</p> <p><b>“Performance Security”</b> means the security (or securities, if any) under <b>Sub-Clause 4.2</b> [Performance Security].</p> <p><b>“Site”</b> means the places where the Permanent Works are to be executed, including storage and working area, and to which Plant and Materials are to be delivered, and any other places specified in the Contract as forming part of the Site</p> <p><b>“Unforeseeable”</b> means not reasonably foreseeable by an experienced contractor by the Base Date.</p> <p><b>“Variation”</b> means any change to the Works, which is instructed or approved as a variation under <b>Sub-Clause 13</b> [Variations and Adjustments].</p> <p><b>ES”</b> means Environmental and Social (including Sexual Exploitation and Abuse (SEA), and Sexual Harassment (SH)).</p> <p><b>“Sexual Exploitation and Abuse” “(SEA)”</b> means the following:</p> <p style="padding-left: 40px;"><b>Sexual Exploitation</b> is defined as any actual or attempted abuse of position of vulnerability, differential power or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another;</p> <p style="padding-left: 40px;"><b>Sexual Abuse</b> is defined as the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions; and</p> <p><b>“Sexual Harassment” “(SH)”</b> is defined as unwelcome sexual advances, requests for sexual favours, and other verbal or physical conduct of a sexual nature by the Contractor’s Personnel with other Contractor’s or Employer’s Personnel.</p>
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<p><b>1.2 Interpretation</b></p>	<p>In the Contract, except where the context requires otherwise:</p> <ul style="list-style-type: none"> <li>(a) words indicating one gender include all genders;</li> <li>(b) words indicating the singular also include the plural and words indicating the plural also include the singular;</li> <li>(c) provisions including the word “agree,” “agreed” or “agreement” require the agreement to be record in writing;</li> <li>(d) “written” or “in writing” means hand-written, type-written, printed or electronically made, and resulting in a permanent record; and</li> <li>(e) the word “tender” is synonymous with “bid”, and “tenderer” with “bidder” and the words “tender documents” with “bidding documents”</li> </ul> <p>The marginal words and other headings shall not be taken into consideration in the interpretation of these Conditions.</p>
<p><b>1.3 Communications</b></p>	<p>Communications between parties that are referred to in the Conditions shall be effective <b>only</b> when in <b>writing</b>. A notice shall be effective only when it is received by the concerned party. The language for communications shall be <b>English</b></p>
<p><b>1.4 Governing Language and Law</b></p>	<p>The governing language of the Contract shall be <b>English</b>.</p> <p>The Contract shall be governed by the laws of <b>Tanzania</b>, unless otherwise stated in <b>the SCC</b>.</p>
<p><b>1.5 Priority of Documents</b></p>	<p>1.5.1 The documents forming the Contract are to be taken as mutually explanatory of one another. For the purposes of interpretation, the priority of the documents shall be in accordance with the following sequence:</p> <ul style="list-style-type: none"> <li>(a) Form of Agreement;</li> <li>(b) Letter of Acceptance;</li> <li>(c) Minutes of negotiations</li> <li>(d) Form of Tender;</li> <li>(e) Special Conditions of Contract;</li> <li>(f) General Conditions of Contract;</li> <li>(g) Employer’s Requirements and Drawings (if any);</li> <li>(h) Schedules; and</li> <li>(i) any other documents listed <b>in the SCC</b> forming part of the Contract.</li> </ul>
	<p>1.5.2 If an ambiguity or discrepancy is found in the documents, the Project Manager shall issue any necessary clarification or instruction..</p>

<p><b>1.6 Assignment</b></p>	<p>1.6.1 The Contractor shall not assign the whole or any part of the Contract or any benefit or interest in or under the Contract. However, the contractor:</p> <p>(a) may assign the whole or any part with the prior consent in writing of the Employer; and</p> <p>(b) may, as security in favour of a bank or financial institution, assign its right to any moneys due, or to become due, under the Contract.</p>
<p><b>1.7 Care and Supply of Documents</b></p>	<p>1.7.1 Each of the Contractor's Documents shall be in the custody and care of the Contractor, unless and until taken over by the Employer. Unless otherwise stated in the Contract, the Contractor shall supply to the Project Manager number of copies of Contractor's Documents stated <b>in the SCC</b>.</p>
	<p>1.7.2 The Contractor shall keep, on the Site, a copy of the Contract, publications named in the Employer's Requirements, the Contractor's Documents including Drawings and approved Variations and other communications given under the Contract. Authorized personnel of the Employer shall have the right to access to the aforementioned documents at all reasonable times.</p>
	<p>1.7.3 If a Party becomes aware of an error or defect of technical nature in a document which was prepared for use in executing the Works, the Party shall promptly give notice to the other Party of such error or defect.</p>
<p><b>1.8 Error in the Employer's Requirements</b></p>	<p>1.8.1 If the Contractor suffers delay and/or incurs Cost as a result of an error in the Employer requirements, and experienced Contractor exercising due care would not have discovered the error when scrutinizing the employer's requirements under <b>Sub-Clause 5.1</b> (General Design Obligations), the contractor shall give notice to the Project Manager and may be entitled subject to <b>Sub-Clause 20.1</b> (contractor's claims) to an extension of time and associated costs (if any) for such delay, if completion is or will be delayed, under <b>Sub-Clause 8.4</b> [Extension of Time for Completion].</p>
	<p>1.8.2 After receiving this further notice, the Project Manager shall proceed in accordance with <b>Sub-Clause 3.6</b> [Determinations] to determine these matters.</p>

<p><b>1.9 Employer's Use of Contractor's Documents</b></p>	<p>1.9.1 The Contractor shall retain the copyright and other intellectual property rights in the Contractor's Documents and other design documents made by (or on behalf of) the Contractor.</p>
	<p>1.9.2 The Contractor shall be deemed (by signing the Contract) to give to the Employer a non-terminable transferable non-exclusive royalty-free licence to copy, use and communicate the Contractor's Documents, including making and using modifications of them. This licence shall:</p> <p>(a) apply throughout the actual or intended working life (whichever is longer) of the relevant parts of the Works,</p> <p>(b) entitle any person in proper possession of the relevant part of the Works to copy, use and communicate the Contractor's Documents for the purposes of completing, operating, maintaining, altering, adjusting, repairing and demolishing the Works, and</p> <p>in the case of Contractor's Documents which are in the form of computer programs and other software, permit their use on any computer on the Site and other places as envisaged by the Contract, including replacements of any computers supplied by the Contractor.</p>
	<p>1.9.3 The Contractor's Documents and other design documents made by the Contractor shall not, without the Contractor's consent, be used, copied or communicated to a third party by (or on behalf of) the Employer for purposes other than those permitted under this <b>Sub-Clause</b>.</p>
<p><b>1.10 Contractor's Use of Employer's Documents</b></p>	<p>1.10.1 The Employer shall retain the copyright and other intellectual property rights in the Employer's requirements including Drawings and other documents made by (or on behalf of) the Employer. The Contractor may, at his cost, copy, use, and obtain communication of these documents for the purposes of the Contract. They shall not, without the Employer's consent, be copied, used or communicated to a third party by the Contractor, except as necessary for the purposes of the Contract.</p>
<p><b>1.11 Confidential Details</b></p>	<p>1.11 The Contractor shall disclose all such confidential and other information as may be reasonably required by the Employer in order to verify the Contractor's compliance with the Contract and allow its proper implementation.</p>



<p><b>1.12 Compliance with Laws</b></p>	<p>1.12.1 The Contractor shall, in performing the Contract, comply with applicable Laws. Unless otherwise stated in the SCC:</p> <ul style="list-style-type: none"> <li>(a) the Employer shall have obtained (or shall obtain) the planning, zoning, or similar permission for the Permanent Works, and any other permissions described in the Employer’s Requirement as having been (or to be) obtained by the Employer; and the Employer shall indemnify and hold the Contractor harmless against and from the consequences of any failure to do so; and</li> <li>(b) the Contractor shall give all notices, pay all taxes, duties and fees, and obtain all permits, licenses and approvals, as required by the Laws in relation to the design, execution and completion of the Works and the remedying of any defects; and the Contractor shall indemnify and hold the Employer harmless against and from the consequences of any failure to do so.</li> </ul>
<p><b>1.13 Taxes and Duties</b></p>	<p>The Contractor, Sub-contractors and Personnel shall pay such taxes, duties, fees and other impositions as may be levied under the Applicable Law unless otherwise stated <b>in the SCC.</b></p>
<p><b>1.14 Joint and Several Liability</b></p>	<p>1.14.1 If the Contractor constitutes a joint venture, consortium, association of firms or other unincorporated grouping of two or more persons:</p> <ul style="list-style-type: none"> <li>(a) these persons shall be deemed to be jointly and severally liable to the Employer for the performance of the Contract;</li> <li>(b) these persons shall notify the Employer of their leader who shall have authority to bind the Contractor and each of these persons; and</li> <li>(c) the Contractor shall not alter its composition or legal status without the prior consent of the Employer.</li> </ul>
<p><b>1.15 Instructions, Inspections and Audits</b></p>	<p>1.15.1 The Employer’s personnel shall at all reasonable times during construction of the Work be entitled to examine, inspect, measure and test the materials and workmanship, and to check the progress of the construction.</p>
	<p>1.15.2 If the Project Manager instructs the contractor to carry out a test not specified in the Employer’s Requirement to check whether any work has a defect and the test shows that it does, the</p>

		Contractor shall pay for the test and any samples. If there is no defect, the test shall be a Compensation Event.
	1.15.3	The Contractor shall permit the Funding Source named <b>in the SCC</b> to inspect the Contractor's accounts and records relating to the performance of the Contractor and to have them audited by auditors appointed by the Funding Source, if so required by the Funding Source.
<b>2. The Employer</b>		
<b>2.1 Right of Access to the Site</b>	2.1.1	The Employer shall give the Contractor right of access to, and possession of, all parts of the Site within the time (or times) <b>stated in the SCC</b> . The right and possession may not be exclusive to the Contractor. If, under the Contract, the Employer is required to give (to the Contractor) possession of any foundation, structure, plant or means of access, the Employer shall do so in the time and manner stated in the Employer's requirements. However, the Employer may withhold any such right or possession until the Performance Security has been received.
	2.1.2	If no such time is stated in the SCC, the Employer shall give the Contractor right of access to, and possession of, the Site within such times as required to enable the Contractor to proceed without disruption in accordance with the programme submitted under <b>Sub-Clause 8.3</b> [Programme].
	2.1.3	If the Contractor suffers delay and/or incurs Cost as a result of a failure by the Employer to give any such right or possession within such time, the Contractor shall give notice to the Project Manager and may be entitled subject to <b>Sub-Clause 20.1</b> [Contractor's Claims] to an extension of time and associated costs (if any) for such delay, if completion is or will be delayed, under <b>Sub-Clause 8.4</b> [Extension of Time for Completion].
	2.1.4	After receiving this notice, the Project Manager shall proceed in accordance with <b>Sub-Clause 3.6</b> [Determinations] to determine these matters.
	2.1.5	However, if and to the extent that the Employer's failure was caused by any error or delay by the Contractor, including an error in, or delay in the submission of, any of the Contractor's Documents, the Contractor shall not be entitled to such extension of time and any associated costs.

<p><b>2.2 Permits, Licenses or Approvals</b></p>	<p>2.2.1 The Employer shall provide, at the request of the Contractor, such reasonable assistance as to allow the Contractor to obtain properly:</p> <ul style="list-style-type: none"> <li>(a) copies of the Laws of the Country which are relevant to the Contract but are not readily available, and</li> <li>(b) any permits, licences or approvals required by the Laws of the Country: <ul style="list-style-type: none"> <li>(i) which the Contractor is required to obtain under <b>Sub-Clause 1.12</b> [Compliance with Laws],</li> <li>(ii) for the delivery of Goods, including clearance through customs, and</li> </ul> </li> </ul> <p>for the export of Contractor's Equipment when it is removed from the Site.</p>
<p><b>2.3 Employer's Personnel</b></p>	<p>2.3.1 The Employer shall be responsible for ensuring that the Employer's Personnel and the Employer's other contractors on the Site:</p> <ul style="list-style-type: none"> <li>(a) co-operate with the Contractor's efforts under <b>Sub-Clause 4.6</b> [Co-operation], and</li> <li>(b) take actions similar to those which the Contractor is required to take under subparagraphs (a), (b) and (c) of <b>Sub-Clause 4.8</b> [Safety Procedures] and under <b>Sub-Clause 4.18</b> [Protection of the Environment].</li> </ul>
<p><b>2.4 Suspension of Financing</b></p>	<p>2.4.1 If the Government has notified the Employer that the Government has suspended funds, which finances in whole or in part the execution of the Works, the Employer shall give notice of such suspension to the Contractor with detailed particulars, including the date of such notification, with a copy to the Project Manager, within 7 days of the Employer having received the suspension notification from the Government.</p>
	<p>2.4.2 In the event that the source of financing is suspended to the Employer, from which part of the payments to the Contractor are being made within fourteen (14) working days, the Parties shall mutually agree on the future events of the Contract.</p>
<p><b>2.5 Employer's Claims</b></p>	<p>2.5.1 If the Employer considers himself to be entitled to any payment under any Clause of these Conditions or otherwise in connection with the Contract, and/or to any extension of the Defects Liability Period, the Employer or the Project Manager shall give notice and particulars to the</p>

		Contractor. However, notice is not required for payments due under <b>Sub-Clause</b> 4.19 [Electricity, Water and Gas], under <b>Sub-Clause</b> 4.20 [Employer's Equipment and Free-Issue Material], or for other services requested by the Contractor.
	2.5.2	The notice shall be given as soon as practicable and no longer than 28 days after the Employer became aware, or should have become aware, of the event or circumstances giving rise to the claim. A notice relating to any extension of the Defects Liability Period shall be given before the expiry of such period.
	2.5.3	The particulars shall specify the Clause or other basis of the claim, and shall include substantiation of the amount and/or extension to which the Employer considers himself to be entitled in connection with the Contract. The Project Manager shall then proceed in accordance with <b>Sub-Clause</b> 3.6 [Determinations] to agree or determine (i) the amount (if any) which the Employer is entitled to be paid by the Contractor, and/or (ii) the extension (if any) of the Defects Liability Period in accordance with <b>Sub-Clause</b> 11.3 [Extension of Defects Liability Period].
	2.5.4	This amount may be included as a deduction in the Contract Price and Payment Certificates. The Employer shall only be entitled to set off against or make any deduction from an amount certified in a Payment Certificate, or to otherwise claim against the Contractor, in accordance with this <b>Sub-Clause</b> .
<b>2.6 Employer-Supplied Materials and Employer's Equipment</b>	2.6.1	<p>The Employer shall supply to the Contractor the Employer-Supplied Materials listed in the Employer's Requirements, at the time(s) stated in the Employer's Requirements (if not stated, within the times that shall be required to enable the Contractor to proceed with execution of the Works in accordance with the Programme).</p> <p>When made available by the Employer, the Contractor shall visually inspect the Employer-Supplied Materials and shall promptly give a Notice to the Project Manager of any shortage, defect or default in them. Thereafter, the Contractor shall rectify such shortage, defect or default to the extent instructed by the Project Manager. Such instruction shall be deemed to have been given under Sub-Clause 13.3.1 [Variation by Instruction].</p> <p>After this visual inspection, the Employer-Supplied Materials shall come under the care, custody and</p>

		control of the Contractor. The Contractor's obligations of inspection, care, custody, and control shall not relieve the Employer of liability of any shortage, defect or default not apparent from a visual inspection."
	2.6.2	<p>The Employer shall make the Employer's Equipment listed in the Employer's Requirements available to the Contractor at the time(s) stated in the Employer's Requirements (if not stated, within the times that shall be required to enable the Contractor to proceed with execution of the Works in accordance with the Programme).</p> <p>Unless expressly stated otherwise in the Employer's Requirements, the Employer's Equipment shall be provided for the exclusive use of the Contractor.</p> <p>When made available by the Employer, the Contractor shall visually inspect the Employer's Equipment and shall promptly give a Notice to the Project Manager of any shortage, defect or default in them. Thereafter, the Contractor shall rectify such shortage, defect or default to the extent instructed by the Project Manager. Such instruction shall be deemed to have been given under Sub-Clause 13.3.1 [Variation by Instruction].</p> <p>The Contractor shall be responsible for the Employer's Equipment while it is under the Contractor's control and/or any of the Contractor's Personnel is operating it, driving it, directing it, using it, or in control of it.</p> <p>The Contractor shall not remove from the Site any items of the Employer's Equipment without the consent of the Employer. However, consent shall not be required for vehicles transporting Goods or Contractor's personnel to or from the Site</p>
<b>3. The Project Manager</b>		
<b>3.1 Project Manager's Appointment, Duties and Authority</b>	3.1.1	The Employer shall appoint the Project Manager who shall carry out the duties assigned to him in the Contract. The Project Manager shall be an independent legal entity or firm duly registered by relevant professional bodies in Tanzania and contracted by the Employer. The Project Manager's staff shall include suitably qualified Architects/Project Managers and other professionals who are competent to carry out these duties.
	3.1.2	The Project Manager shall have no authority to amend the Contract without approval of the

	Employer.
3.1.3	The Project Manager may exercise the authority attributable to the Project Manager as specified in or necessarily to be implied from the Contract. Notwithstanding the provisions of this Contract, if the Project Manager is required to obtain the approval of the Employer before exercising a specified authority, the requirements shall be as <b>stated in the SCC</b> . The Employer shall promptly inform the Contractor of any change to the authority attributed to the Project Manager.
3.1.4	However, whenever the Project Manager exercises a specified authority for which the Employer’s approval is required, then (for the purposes of the Contract) the Project Manager shall seek and obtain a written approval of the Employer.
3.1.5	<p>Except as otherwise stated in these Conditions:</p> <ul style="list-style-type: none"> <li>(a) whenever carrying out duties or exercising authority, specified in or implied by the Contract, the Project Manager shall be deemed to act for the Employer;</li> <li>(b) the Project Manager has no authority to relieve either Party of any duties, obligations or responsibilities under the Contract; and</li> <li>(c) any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by the Project Manager (including absence of disapproval) shall not relieve the Contractor from any responsibility he has under the Contract, including responsibility for errors, omissions, discrepancies and non-compliances.</li> <li>(d) Any act by the Project Manager in response to a Contractor’s request, except otherwise expressly specified, shall be notified in writing to the Contractor within the period stated <b>in the SCC</b>. Provided that such time shall not exceed 28 days from receipt of the request.</li> </ul>
3.1.6	<p>The following provisions shall apply:</p> <p>The Project Manager shall obtain the specific approval of the Employer before taking action under the following <b>Sub-Clauses</b> of these Conditions:</p>

	<p>(a) <b>Sub-Clause 4.12</b> [Unforeseeable Physical Conditions]: Agreeing or determining an extension of time and/or additional cost.</p> <p>(b) <b>Sub-Clause 13.1</b> [Right to Vary]: Instructing a Variation, except in an emergency situation as determined by the Project Manager.</p> <p>(c) <b>Sub-Clause 13.3</b> [Variation Procedure]: Approving a proposal for Variation submitted by the Contractor in accordance with <b>Sub-Clause 13.1</b> or 13.2.</p> <p>(d) <b>Sub-Clause 13.4</b> [Payment in Applicable Currencies]: Specifying the amount payable in each of the applicable currencies.</p> <p>Notwithstanding the obligation, as set out above, to obtain approval, if, in the opinion of the Project Manager, an emergency occurs affecting the safety of life or of the Works or of adjoining property, he may, without relieving the Contractor of any of his duties and responsibility under the Contract, instruct the Contractor to execute all such work or to do all such things as may, in the opinion of the Project Manager, 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 Project Manager. The Project Manager shall determine an addition to the Contract Price, in respect of such instruction, in accordance with <b>Clause 13</b> [Variations and Adjustments] and shall notify the Contractor accordingly, with a copy to the Employer.</p>
<p><b>3.2 The Project Manager's Representative</b></p>	<p>3.2.1 The Project Manager may appoint a Project Manager's Representative and delegate to him/her in accordance with Sub-Clause 3.3 [Delegation by the Project Manager] the authority necessary to act on the Project Manager's behalf at the Site, except to replace the Project Manager's Representative.</p>
	<p>3.2.2 The Project Manager's Representative (if appointed) shall comply with sub-paragraphs (a) and (b) of Sub-Clause 3.1 [Project Manager's Appointment, Duties and Authority] and shall be based at the Site for the whole time that the Works are being executed at the Site. If the Project Manager's Representative is to be temporarily absent from the Site during the execution of the Works, an equivalently qualified, experienced and competent replacement shall be appointed by the Project Manager, and the Contractor shall be given a Notice of such</p>

		replacement
	3.2.3	The Project Manager shall obtain the consent of the Employer before appointing or replacing an Project Manager's Representative
<b>3.3 Delegation by the Project Manager</b>	3.3.1	The Project Manager may from time to time assign duties and delegate authority to assistants, and may also revoke such assignment or delegation. These assistants may include a resident Architect/Project Manager and/or independent inspectors appointed to inspect and/or test items of Plant and/or Materials. The assignment, delegation or revocation shall be in writing and shall not take effect until copies have been received by both Parties.
	3.3.2	However, unless otherwise agreed by both Parties, the Project Manager shall not delegate the authority to determine any matter in accordance with <b>Sub-Clause</b> 3.6 [Determinations].
	3.3.3	Assistants shall be suitably qualified persons, who are competent to carry out these duties and exercise this authority, and who are fluent in the language for communications defined in <b>Sub-Clause</b> 1.4 [Law and Language]. If any assistants are not fluent in this language, the Project Manager shall make competent interpreters available during all working hours, in a number sufficient for those assistants to properly perform their assigned duties and/or exercise their delegated authority."
	3.3.4	Each assistant, to whom duties have been assigned or authority has been delegated, shall only be authorised to issue instructions to the Contractor to the extent defined by the delegation. Any approval, check, certificate, consent, examination, inspection, instruction, notice, proposal, request, test, or similar act by an assistant, in accordance with the delegation, shall have the same effect as though the act had been an act of the Project Manager.
	3.3.5	However, any failure to disapprove any work, Plant or Materials shall not constitute approval, and shall therefore not prejudice the right of the Project Manager to reject the work, Plant or Materials; and if the Contractor questions any determination or instruction of an assistant, the Contractor may refer the matter to the Project Manager, who shall promptly confirm, reverse or vary the determination or instruction.



<p><b>3.4 Instructions of the Project Manager</b></p>	<p>3.4.1 The Project Manager may issue to the Contractor (at any time) instructions and additional or modified Drawings which may be necessary for the execution of the Works and the remedying of any defects, all in accordance with the Contract. The Contractor shall only take instructions from the Project Manager, or from an assistant to whom the appropriate authority has been delegated under this Clause. If an instruction constitutes a Variation, <b>Sub-Clause 13</b> [Variations and Adjustments] shall apply.</p>
	<p>3.4.2 The Contractor shall comply with the instructions given by the Project Manager or delegated assistant, on any matter related to the Contract. Whenever practicable, their instructions shall be given in writing. If the Project Manager or a delegated assistant:</p> <ul style="list-style-type: none"> <li>(a) gives an oral instruction,</li> <li>(b) receives a written confirmation of the instruction, from (or on behalf of) the Contractor, within two working days after giving the instruction, and</li> <li>(c) does not reply by issuing a written rejection and/or instruction within two working days after receiving the confirmation,</li> </ul> <p>then the confirmation shall constitute the written instruction of the Project Manager or delegated assistant (as the case may be).</p>
<p><b>3.5 Replacement of the Project Manager</b></p>	<p>3.5.1 Notwithstanding <b>Sub-Clause 3.1</b>, if the Employer intends to replace the Project Manager, the Employer shall, not less than 21 days before the intended date of replacement, give notice to the Contractor of the name, address and relevant experience of the intended replacement Project Manager. If the Contractor considers the intended replacement Project Manager to be unsuitable, he has the right to raise reasonable objection against him by notice to the Employer, with supporting particulars, and the Employer shall give consideration to this objection.</p>
<p><b>3.6. Determinations</b></p>	<p>3.6.1 Whenever these Conditions provide that the Project Manager shall proceed in accordance with this <b>Sub-Clause</b> to agree or determine any matter, the Project Manager shall consult with each Party in an endeavour to reach agreement. If agreement is not achieved, the Project Manager shall make a fair determination in accordance with the Contract, taking due regard of all relevant</p>

		circumstances.
	3.6.2	The Project Manager shall give notice to both Parties of each agreement or determination, with supporting particulars within 14 working days from the receipt of the corresponding claim or request except when otherwise specified. Each Party shall give effect to each agreement or determination unless and until revised under <b>Sub-Clause 20</b> [Claims, Disputes and Arbitration].
<b>4. The Contractor</b>		
<b>4.1 Contractor's General Obligations</b>	4.1.1	The Contractor shall design, execute and complete the Works in accordance with the Contract and with the Project Manager's instructions, and shall remedy any defects in the Works.
	4.1.2	The Contractor shall provide the Plant and Contractor's Documents specified in the Contract, and all Contractor's Personnel, Goods, consumables and other things and services, whether of a temporary or permanent nature, required in and for this design, execution, completion and remedying of defects.
	4.1.3	The works shall include any work which is necessary to satisfy the Employer's Requirements, contractor's Tender and Schedules, or is implied by the contract, and all works which (although not mentioned in the contract) are necessary for stability or for the completion, or safe and proper operation, of the works.
	4.1.4	The Contractor shall be responsible for the adequacy, stability and safety of all Site operations and of all methods of construction.
	4.1.5	The Contractor shall, whenever required by the Project Manager, submit details of the arrangements and methods which the Contractor proposes to adopt for the execution of the Works. No significant alteration to these arrangements and methods shall be made without this having previously been notified to the Project Manager.
	4.1.6	The Contractor shall not carry out mobilization to Site (e.g. limited clearance for haul roads, site accesses and work site establishment, geotechnical investigations or investigations to select ancillary features such as quarries and borrow pits) unless the Project Manager gives a Notice of No-objection to the Contractor, a

		Notice that shall not be unreasonably delayed, to the measures the Contractor proposes to manage the environmental and social risks and impacts, which at a minimum shall include applying the Management Strategies and Implementation Plans (MSIPs) and Code of Conduct for Contractor's Personnel submitted as part of the Tender and agreed as part of the Contract.
	4.1.7	The Contractor shall submit, to the Project Manager for Review and approval, any additional MSIPs as are necessary to manage the ES risks and impacts of ongoing Works (e.g. excavation, earth works, bridge and structure works, stream and road diversions, quarrying or extraction of materials, concrete batching and asphalt manufacture). These MSIPs collectively comprise the Contractor's Environmental and Social Management Plan (C-ESMP). The Contractor shall review the C-ESMP, periodically (but not less than every six (6) months), and update it as required to ensure that it contains measures appropriate to the Works. The updated C-ESMP shall be submitted to the Project Manager for Review
<b>4.2 Performance Security and ES Performance Security</b>	4.2.1	The Contractor shall obtain (at its cost) a Performance Security for proper performance and, if applicable, an Environmental and Social (ES) Performance Security for compliance with the Contractor's ES obligations, in the amounts stated in the SCC and denominated in the currency(ies) of the Contract or in a freely convertible currency acceptable to the Employer. If amounts are not stated in the SCC, this Sub-Clause shall not apply."
	4.2.2	The Contractor shall deliver the Performance Security and, if applicable, an ES Performance Security to the Employer within 28 days after receiving the Letter of Acceptance and shall send a copy to the Project Manager. The Performance Security shall be issued by a reputable bank or financial institution selected by the Contractor and shall be in the form annexed to <b>the SCC</b> , as stipulated by the Employer in <b>the SCC</b> , or in another form approved by the Employer. The ES Performance Security shall be issued by a reputable bank selected by the Contractor and shall be in the form annexed to <b>the SCC</b> , as stipulated by the Employer in the <b>SCC</b> , or in another form approved by the Employer
	4.2.3	The Contractor shall ensure that the Performance Security and, if applicable, an ES Performance

	<p>Security is valid and enforceable until the Contractor has executed and completed the Works and remedied any defects. If the terms of the Performance Security and, if applicable, an ES Performance Security specify its expiry date, and the Contractor has not become entitled to receive the Performance Certificate by the date 28 days prior to the expiry date, the Contractor shall extend the validity of the Performance Security and, if applicable, an ES Performance Security until the Works have been completed and any defects have been remedied.</p>
4.2.4	<p>The Employer shall not make a claim under the Performance Security, and, if applicable, an ES Performance Security, except for amounts to which the Employer is entitled under the Contract in the event of:</p> <ul style="list-style-type: none"> <li>a) failure by the Contractor to extend the validity of the performance security as described in the preceding paragraph, in which event the Employer may claim the full amount of the performance security;</li> <li>b) failure by the Contractor to pay the Employer an amount due, as either agreed by the Contractor or determined under <b>Sub-Clause 2.5</b> [Employer’s Claims] or <b>Sub-Clause 20</b> [Claims, Disputes and Arbitration], within 42 days after this agreement or determination,</li> <li>c) failure by the Contractor to remedy a default within 42 days after receiving the Employer’s notice requiring the default to be remedied, or</li> <li>d) Circumstances which entitle the Employer to termination under <b>Sub-Clause 15.2</b> [Termination by Employer], irrespective of whether notice of termination has been given.</li> </ul>
4.2.5	<p>The Employer shall indemnify and hold the Contractor harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from a claim under the Performance Security to the extent to which the Employer was not entitled to make the claim.</p>
4.2.6	<p>The Employer shall return the Performance Security to the Contractor within 21 days after receiving a copy of the Performance Certificate.</p>
4.2.7	<p>Without limitation to the provisions of the rest of this Sub-Clause, whenever the Project Manager determines an addition or a reduction to the</p>

		Contract Price as a result of a change in cost and/or legislation or as a result of cumulative Variations amounting to more than 10 percent of the portion of the Contract Price payable in a specific currency, the Contractor shall at the Project Manager's request promptly increase, or may decrease, as the case may be, the value of the Performance Security and, if applicable, an ES Performance Security in that currency by an equal percentage.
<b>4.3 Contractor's Representative</b>	4.3.1	The Contractor shall appoint the Contractor's Representative and shall give him all authority necessary to act on the Contractor's behalf under the Contract.
	4.3.2	Unless the Contractor's Representative is named in the Contract, the Contractor shall, prior to the Commencement Date, submit to the Project Manager for consent the name and particulars of the person the Contractor proposes to appoint as Contractor's Representative. If consent is withheld or subsequently revoked or if the appointed person fails to act as Contractor's Representative, the Contractor shall similarly submit the name and particulars of another suitable person for such appointment.
	4.3.3	The Contractor shall not, without the prior consent of the Project Manager, revoke the appointment of the Contractor's Representative or appoint a replacement.
	4.3.4	The whole time of the Contractor's Representative shall be given to directing the Contractor's performance of the Contract. If the Contractor's Representative is to be temporarily absent from the Site during the execution of the Works, a suitable replacement person shall be appointed, subject to the Project Manager's prior consent, and the Project Manager shall be notified accordingly
	4.3.5	The Contractor's Representative shall, on behalf of the Contractor, receive instructions under <b>Sub-Clause 3.4</b> [Instructions of the Project Manager].
	4.3.6	The Contractor's Representative may delegate any powers, functions and authority to any competent person, and may at any time revoke the delegation. Any delegation or revocation shall not take effect until the Project Manager has received prior notice signed by the Contractor's Representative, naming the person and specifying the powers, functions and authority being

		delegated or revoked.
	4.3.7	The Contractor's Representative shall be fluent in the language for communications defined in <b>Sub-Clause 1.4 [Law and Language]</b> .
<b>4.4. Subcontractors</b>	4.4.1	The Contractor shall not subcontract the whole of the Works.
	4.4.2	<p>The Contractor shall be responsible for the acts or defaults of any Subcontractor, his agents or employees, as if they were the acts or defaults of the Contractor. Unless otherwise <b>stated in the SCC</b>:</p> <p>(a) the Contractor shall not be required to obtain consent to suppliers of Materials, or to a subcontract for which the Subcontractor is named in the Contract;</p> <p>(b) the prior consent of the Project Manager shall be obtained to other proposed Subcontractors;</p> <p>the Contractor shall give the Project Manager not less than 28 days notice of the intended date of the commencement of each Subcontractor's work, and of the commencement of such work on the Site.</p>
	4.4.3	The Contractor shall require that its Subcontractors execute the Works in accordance with the Contract, including complying with the relevant ES requirements.
<b>4.5 Nominated Subcontractors</b>	4.5.1	In this <b>Sub-Clause</b> , "nominated Subcontractor" means a Subcontractor whom the <b>Project Manager</b> , under <b>Sub-Clause 13 [Variations and Adjustments]</b> , instructs the Contractor to employ as a Subcontractor. The Contractor shall not be under any obligation to employ a nominated Subcontractor against whom the Contractor raises reasonable objection by notice to the Project Manager as soon as practicable, with supporting particulars.
<b>4.6. Co-operation</b>	4.6.1	<p>The Contractor shall, as specified in the Contract or as instructed by the Project Manager, allow appropriate opportunities for carrying out work to:</p> <p>(a) the Employer's Personnel,</p> <p>(b) any other contractors employed by the Employer, and</p> <p>(c) the personnel of any legally constituted public authorities,</p>

		who may be employed in the execution on or near the Site of any work not included in the Contract.
	4.6.2	Any such instruction may constitute a Variation if and to the extent that it causes the Contractor to suffer delays and/or to incur Unforeseeable Cost. Services for these personnel and other contractors may include the use of Contractor's Equipment, Temporary Works or access arrangements which are the responsibility of the Contractor.
	4.6.3	The Contractor shall be responsible for his construction activities on the Site, and shall co-ordinate his own activities with those of other contractors to the extent (if any) specified in the Employer's Requirements.
	4.6.4	If, under the Contract, the Employer is required to give to the Contractor possession of any foundation, structure, plant or means of access in accordance with Contractor's Documents, the Contractor shall submit such documents to the Project Manager in the time and manner stated in the Employer's Requirements
	4.6.5	The Contractor shall also, as stated in the Employer's Requirements or as instructed by the Project Manager, cooperate with and allow appropriate opportunities for the Employer's Personnel to conduct any environmental and social assessment."
<b>4.7 Setting Out</b>	4.7.1	The Contractor shall set out the Works in relation to original points, lines and levels of reference specified in the Contract or notified by the Project Manager. The Contractor shall be responsible for the correct positioning of all parts of the Works, and shall rectify any error in the positions, levels, dimensions or alignment of the Works.
	4.7.2	The Employer shall be responsible for any errors in these specified or notified items of reference, but the Contractor shall use reasonable efforts to verify their accuracy before they are used.
	4.7.3	If the Contractor suffers delay and/or incurs cost from executing work which was necessitated by an error in these items of reference, and an experienced contractor could not reasonably have discovered such error and avoided this delay and/or cost, the Contractor shall give notice to the Project Manager and shall be entitled subject to <b>Sub-Clause</b> 20.1 [Contractor's Claims] to an extension of time and associated costs (if any) for

		such delay, if completion is or will be delayed, under <b>Sub-Clause</b> 8.4 [Extension of Time for Completion].
	4.7.4	After receiving this further notice, the Project Manager shall proceed in accordance with <b>Sub-Clause</b> 3.6 [Determinations] to determine these matters.
<b>4.8 Safety Procedures</b>	4.8.1	The Contractor shall: <ul style="list-style-type: none"> <li>(a) comply with all applicable safety regulations,</li> <li>(b) take care for the safety of all persons entitled to be on the Site,</li> <li>(c) use reasonable efforts to keep the Site and Works clear of unnecessary obstruction so as to avoid danger to these persons,</li> <li>(d) provide fencing, lighting, guarding and watching of the Works until completion and taking over under <b>Sub-Clause</b> 10 [Employer's Taking Over], and</li> <li>(e) provide any Temporary Works (including roadways, footways, guards and fences) which may be necessary, because of the execution of the Works, for the use and protection of the public and of owners and occupiers of adjacent land.</li> </ul>
<b>4.9 Quality Assurance</b>	4.9.1	The Contractor shall institute a quality assurance system to demonstrate compliance with the requirements of the Contract. The system shall be in accordance with the details stated in the Contract. The Project Manager shall be entitled to audit any aspect of the system.
	4.9.2	Details of all procedures and compliance documents shall be submitted to the Project Manager for information before each design and execution stage is commenced. When any document of a technical nature is issued to the Project Manager, evidence of the prior approval by the Contractor himself shall be apparent on the document itself.
	4.9.3	Compliance with the quality assurance system shall not relieve the Contractor of any of his duties, obligations or responsibilities under the Contract.
<b>4.10 Site Data</b>	4.10.1	The Employer shall have made available to the Contractor for his information, prior to the Base Date, all relevant data in the Employer's



		possession on sub-surface and hydrological conditions at the Site, including environmental aspects. The Employer shall similarly make available to the Contractor all such data which come into the Employer's possession after the Base Date. The Contractor shall be responsible for interpreting all such data.
	4.10.2	To the extent which was practicable (taking account of cost and time), the Contractor shall be deemed to have obtained all necessary information as to risks, contingencies and other circumstances which may influence or affect the Tender or Works.
	4.10.3	To the same extent, the Contractor shall be deemed to have inspected and examined the Site, its surroundings, the above data and other available information, and to have been satisfied before submitting the Tender as to all relevant matters, including (without limitation): <ul style="list-style-type: none"> <li>(a) the form and nature of the Site, including sub-surface conditions,</li> <li>(b) the hydrological and climatic conditions,</li> <li>(c) the extent and nature of the work and Goods necessary for the execution and completion of the Works and the remedying of any defects,</li> <li>(d) the Laws, procedures and labour practices of the Country, and</li> <li>(e) the Contractor's requirements for access, accommodation, facilities, personnel, power, transport, water and other services.</li> </ul>
<b>4.11 Sufficiency of the Accepted Contract Amount</b>	4.11.1	The Contractor shall be deemed to: <ul style="list-style-type: none"> <li>(a) have satisfied himself as to the correctness and sufficiency of the Accepted Contract Amount, and</li> <li>(b) have based the Accepted Contract Amount on the data, interpretations, necessary information, inspections, examinations and satisfaction as to all relevant matters referred to in <b>Sub-Clause 4.10 [Site Data]</b> and any further data relevant to the Contractor's design.</li> </ul>
	4.11.2	Unless otherwise stated in the Contract, the Accepted Contract Amount covers all the Contractor's obligations under the Contract

		(including those under Provisional Sums, if any) and all things necessary for the proper design, execution and completion of the Works and the remedying of any defects.
<b>4.12 Unforeseeable Physical Conditions</b>	4.12.1	In this <b>Sub-Clause</b> , “physical conditions” means natural physical conditions and man-made and other physical obstructions and pollutants, which the Contractor encounters at the Site when executing the Works, including sub-surface and hydrological conditions but excluding climatic conditions.
	4.12.2	If the Contractor encounters adverse physical conditions which he considers to have been Unforeseeable, the Contractor shall give notice to the Project Manager as soon as practicable.
	4.12.3	This notice shall describe the physical conditions, so that they can be inspected by the Project Manager, and shall set out the reasons why the Contractor considers them to be Unforeseeable. The Contractor shall continue executing the Works, using such proper and reasonable measures as are appropriate for the physical conditions, and shall comply with any instructions which the Project Manager may give. If an instruction constitutes a Variation, <b>Clause 13</b> [Variations and Adjustments] shall apply.
	4.12.4	If and to the extent that the Contractor encounters physical conditions which are Unforeseeable, gives such a notice, and suffers delay and/or incurs Cost due to these conditions, the Contractor may be entitled subject to notice under <b>Sub-Clause 20.1</b> [Contractor’s Claims] to an extension of time and associated costs (if any) for any such delay, if completion is or will be delayed, under <b>Sub-Clause 8.4</b> [Extension of Time for Completion].
	4.12.5	After receiving this further notice, the Project Manager shall proceed in accordance with <b>Sub-Clause 3.6</b> [Determinations] to determine these matters.
	4.12.6	However, before additional Cost is finally agreed or determined under sub-paragraph (ii), the Project Manager may also review whether other physical conditions in similar parts of the Works (if any) were more favourable than could reasonably have been foreseen when the Contractor submitted the Tender. If and to the extent that these more favourable conditions were encountered, the Project Manager may proceed in accordance with <b>Sub-Clause 3.6</b> [Determinations]

		to agree or determine the reductions in Cost which were due to these conditions, which may be included (as deductions) in the Contract Price and Payment Certificates. However, the net effect of all adjustments under sub-paragraph (b) and all these reductions, for all the physical conditions encountered in similar parts of the Works, shall not result in a net reduction in the Contract Price.
	4.12.7	The Project Manager may take account of any evidence of the physical conditions foreseen by the Contractor when submitting the Tender, which may be made available by the Contractor, but shall not be bound by any such evidence.
<b>4.13 Rights of Way and Facilities</b>	4.13.1	The Contractor shall bear all costs and charges for special and/or temporary rights-of-way which he may require, including those for access to the Site. The Contractor shall also obtain, at his risk and cost, any additional facilities outside the Site which he may require for the purposes of the Works.
<b>4.14 Avoidance of Interference</b>	4.14.1	The Contractor shall not interfere unnecessarily or improperly with: <ul style="list-style-type: none"> <li>(a) the convenience of the public, or</li> <li>(b) the access to and use and occupation of all roads and footpaths, irrespective of whether they are public or in the possession of the Employer or of others.</li> </ul>
	4.14.2	The Contractor shall indemnify and hold the Employer harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from any such unnecessary or improper interference.
<b>4.15 Access Route</b>	4.15.1	The Contractor shall be deemed to have been satisfied as to the suitability and availability of access routes to the Site at Base Date. The Contractor shall use reasonable efforts to prevent any road or bridge from being damaged by the Contractor's traffic or by the Contractor's Personnel. These efforts shall include the proper use of appropriate vehicles and routes.
	4.15.2	Except as otherwise stated in these Conditions: <ul style="list-style-type: none"> <li>(a) the Contractor shall (as between the Parties) be responsible for any maintenance which may be required for his use of access routes;</li> <li>(b) the Contractor shall provide all necessary signs or directions along access routes, and</li> </ul>

	<p>shall obtain any permission which may be required from the relevant authorities for his use of routes, signs and directions;</p> <p>(c) the Employer shall not be responsible for any claims which may arise from the use or otherwise of any access route;</p> <p>(d) the Employer does not guarantee the suitability or availability of particular access routes; and</p> <p>(e) Costs due to non-suitability or non-availability, for the use required by the Contractor, of access routes shall be borne by the Contractor.</p>
	<p>4.15.3 The Contractor shall take all necessary safety measures to avoid the occurrence of incidents and injuries to any third party associated with the use of, if any, Contractor’s Equipment on public roads or other public infrastructure.</p> <p>The Contractor shall monitor and use road safety incidents and accidents reports to identify negative safety issues and establish and implement necessary measures to resolve them.”</p>
<p><b>4.16 Transport of Goods</b></p>	<p>4.16.1 Unless otherwise stated <b>in the SCC</b>:</p> <p>(a) the Contractor shall give the Project Manager not less than 21 days notice of the date on which any Plant or a major item of other Goods will be delivered to the Site;</p> <p>(b) the Contractor shall be responsible for packing, loading, transporting, receiving, unloading, storing and protecting all Goods and other things required for the Works; and</p> <p>(c) the Contractor shall indemnify and hold the Employer harmless against and from all damages, losses and expenses (including legal fees and expenses) resulting from the transport of Goods, and shall negotiate and pay all claims arising from their transport.</p>
<p><b>4.17 Contractor’s Equipment</b></p>	<p>4.17.1 The Contractor shall be responsible for all Contractor’s Equipment. When brought on to the Site, Contractor’s Equipment shall be deemed to be exclusively intended for the execution of the Works.</p>
	<p>4.17.2 The Contractor shall not remove from the Site any major items of Contractor’s Equipment without the consent of the Project Manager. However,</p>

		consent shall not be required for vehicles transporting Goods or Contractor's Personnel off Site.
<b>4.18 Protection of the Environment</b>	4.18.1	The Contractor shall take all reasonable steps to protect the environment (both on and off the Site) and to limit damage and nuisance to people and property resulting from pollution, noise and other results of his operations.
	4.18.2	The Contractor shall ensure that emissions, surface discharges and effluent from the Contractor's activities shall not exceed the values stated in the Employer's Requirement or prescribed by applicable Laws.
	4.18.3	In the event of damage to the environment, property and/or nuisance to people, on or off Site as a result of the Contractor's operations, the Contractor shall agree with the Project Manager the appropriate actions and time scale to remedy, as practicable, the damaged environment to its former condition. The Contractor shall implement such remedies at its cost to the satisfaction of the Project Manager.
<b>4.19 Electricity, Water and Gas</b>	4.19.1	The Contractor shall, except as stated below, be responsible for the provision of all power, water and other services he may require for his construction activities and to the extent defined in the Employer's Requirements, for the tests.
	4.19.2	The Contractor shall be entitled to use for the purposes of the Works such supplies of electricity, water, gas and other services as may be available on the Site and of which details and prices are given in the Employer's Requirement. The Contractor shall, at his risk and cost, provide any apparatus necessary for his use of these services and for measuring the quantities consumed.
	4.19.3	The quantities consumed and the amounts due (at these prices) for such services shall be agreed or determined by the Project Manager in accordance with <b>Sub-Clause 2.5</b> [Employer's Claims] and <b>Sub-Clause 3.6</b> [Determinations]. The Contractor shall pay these amounts to the Employer.
<b>4.20 Employer's Equipment and Free-Issue Materials</b>	4.20.1	The Employer shall make the Employer's Equipment (if any) available for the use of the Contractor in the execution of the Works in accordance with the details, arrangements and prices stated in the Schedule of Prices.

	4.20.2	<p>Unless otherwise stated in the Employer's Requirement:</p> <p>(a) the Employer shall be responsible for the Employer's Equipment, except that</p> <p>(b) the Contractor shall be responsible for each item of Employer's Equipment whilst any of the Contractor's Personnel is operating it, driving it, directing it or in possession or control of it.</p>
	4.20.3	<p>The appropriate quantities and the amounts due (at such stated prices) for the use of Employer's Equipment shall be agreed or determined by the Project Manager in accordance with <b>Sub-Clause 2.5</b> [Employer's Claims] and <b>Sub-Clause 3.6</b> [Determinations]. The Contractor shall pay these amounts to the Employer.</p>
	4.20.4	<p>The Employer shall supply, free of charge, the "free-issue materials" (if any) in accordance with the details stated in the Employer's Requirement. The Employer shall, at his risk and cost, provide these materials at the time and place specified in the Contract. The Contractor shall then visually inspect them, and shall promptly give notice to the Project Manager of any shortage, defect or default in these materials. Unless otherwise agreed by both Parties, the Employer shall immediately rectify the notified shortage, defect or default.</p>
	4.20.5	<p>After this visual inspection, the free-issue materials shall come under the care, custody and control of the Contractor. The Contractor's obligations of inspection, care, custody and control shall not relieve the Employer of liability for any shortage, defect or default not apparent from a visual inspection.</p>
<b>4.21 Progress Reports</b>	4.21.1	<p>Unless otherwise stated <b>in the SCC</b>, monthly progress reports shall be prepared by the Contractor and submitted to the Project Manager in six copies. The first report shall cover the period up to the end of the first calendar month following the Commencement Date. Reports shall be submitted monthly thereafter, each within 7 working days after the last day of the period to which it relates.</p>
	4.21.2	<p>Reporting shall continue until the Contractor has completed all work which is known to be outstanding at the completion date stated in the Taking-Over Certificate for the Works.</p>

	<p>4.21.3 Each report shall include:</p> <ul style="list-style-type: none"> <li>(a) charts and detailed descriptions of progress, including each stage of design (if any), Contractor’s Documents, procurement, manufacture, delivery to Site, construction, erection and testing; and including these stages for work by each nominated Subcontractor (as defined in <b>Sub-Clause 4.5</b> [Nominated Subcontractors]),</li> <li>(b) photographs showing the status of manufacture and of progress on the Site;</li> <li>(c) for the manufacture of each main item of Plant and Materials, the name of the manufacturer, manufacture location, percentage progress, and the actual or expected dates of: <ul style="list-style-type: none"> <li>(i) commencement of manufacture,</li> <li>(ii) Contractor’s inspections,</li> <li>(iii) tests, and</li> <li>(iv) shipment and arrival at the Site;</li> </ul> </li> <li>(d) the details described in <b>Sub-Clause 6.9</b> [Records of Contractor’s Personnel and Equipment];</li> <li>(e) copies of quality assurance documents, test results and certificates of Materials;</li> <li>(f) list of notices given under <b>Sub-Clause 2.5</b> [Employer’s Claims] and notices given under <b>Sub-Clause 20.1</b> [Contractor’s Claims];</li> <li>(g) the Environmental and Social (ES) metrics set out in <b>Appendix A</b>; and</li> <li>(h) comparisons of actual and planned progress, with details of any events or circumstances which may jeopardise the completion in accordance with the Contract, and the measures being (or to be) adopted to overcome delays.</li> </ul>
	<p>4.21.4 In addition to the reporting requirement of sub-paragraph (g) of Sub-Clause 4.21.3 the Contractor shall inform the Project Manager immediately of any allegation, incident or accident, which has or is likely to have a significant adverse effect on the environment, the affected communities, the public, Employer’s Personnel or Contractor’s Personnel.</p>

		<p>This includes, but is not limited to, any incident or accident causing fatality or serious injury; significant adverse effects or damage to private property; or any allegation of SEA and/or SH. In case of SEA and/or SH, while maintaining confidentiality as appropriate, the type of allegation (sexual exploitation, sexual abuse or sexual harassment), gender and age of the person who experienced the alleged incident should be included in the information.</p>
	4.21.5	<p>The Contractor, upon becoming aware of the allegation, incident or accident, shall also immediately inform the Project Manager of any such incident or accident on the Subcontractors' or suppliers' premises relating to the Works which has or is likely to have a significant adverse effect on the environment, the affected communities, the public, Employer's Personnel or Contractor's, its Subcontractors' and suppliers' personnel. The notification shall provide sufficient detail regarding such incidents or accidents. The Contractor shall provide full details of such incidents or accidents to the Project Manager within the timeframe agreed with the Project Manager.</p> <p>The Contractor shall require its Subcontractors and suppliers (other than Subcontractors) to immediately notify the Contractor of any incidents or accidents referred to in this Sub-Clause</p>
4.22 Security of the Site	4.22.1	<p>Unless otherwise stated <b>in the SCC</b>:</p> <ul style="list-style-type: none"> <li>(a) The Contractor shall be responsible for security of the site;</li> <li>(b) the Contractor shall be responsible for keeping unauthorised persons off the Site; and</li> <li>(c) authorised persons shall be limited to the Contractor's Personnel and the Employer's Personnel; and to any other personnel notified to the Contractor, by the Employer or the Project Manager, as authorised personnel of the Employer's other contractors on the Site.</li> </ul>
	4.22.2	<p>Subject to Sub-Clause 4.1, the Contractor shall submit for the Project Manager's No-objection a security management plan that sets out the security arrangements for the Site.</p>
	4.22.3	<p>The Contractor shall (i) conduct appropriate background checks on any personnel retained to provide security; (ii) train the security personnel</p>



		adequately (or determine that they are properly trained) in the use of force (and where applicable, firearms), and appropriate conduct towards Contractor's Personnel, Employer's Personnel and affected communities; and (iii) require the security personnel to act within the applicable Laws and any requirements set out in the Specification.
	4.22.4	The Contractor shall not permit any use of force by security personnel in providing security except when used for preventive and defensive purposes in proportion to the nature and extent of the threat.
	4.22.5	In making security arrangements, the Contractor shall also comply with any additional requirements stated in the Specification."
<b>4.23 Contractor's Operations on Site</b>	4.23.1	The Contractor shall confine his operations to the Site, and to any additional areas which may be obtained by the Contractor and agreed by the Project Manager as additional working areas. The Contractor shall take all necessary precautions to keep Contractor's Equipment and Contractor's Personnel within the Site and these additional areas, and to keep them off adjacent land.
	4.23.2	During the execution of the Works, the Contractor shall keep the Site free from all unnecessary obstruction, and shall store or dispose of any Contractor's Equipment or surplus materials. The Contractor shall clear away and remove from the Site any wreckage, rubbish and Temporary Works which are no longer required.
	4.23.3	Upon the issue of a Taking-Over Certificate, the Contractor shall clear away and remove, from that part of the Site and Works to which the Taking-Over Certificate refers, all Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works. The Contractor shall leave that part of the Site and the Works in a clean and safe condition. However, the Contractor may retain on Site, during the Defects Liability Period, such Goods as are required for the Contractor to fulfil obligations under the Contract.
<b>4.24 Fossils</b>	4.24.1	All fossils, coins, articles of value or antiquity, structures, groups of structures, and other remains or items of geological, archaeological, paleontological, historical, architectural or religious interest found on the Site shall be placed under the care and custody of the Employer. The Contractor shall: <p style="margin-left: 40px;">(a) take all reasonable precautions, including fencing-off the area or site of the finding, to</p>

		<p>avoid further disturbance and prevent Contractor’s Personnel or other persons from removing or damaging any of these findings;</p> <p>(b) train relevant Contractor’s Personnel on appropriate actions to be taken in the event of such findings; and</p> <p>(c) implement any other action consistent with the requirements of the Employer’s Requirements and relevant Laws.</p>
	4.24.2	<p>The Contractor shall, upon discovery of any such finding, promptly give notice to the Project Manager, who shall issue instructions for dealing with it. If the Contractor suffers delay and/or incurs Cost from complying with the instructions, the Contractor shall give a further notice to the Project Manager and shall be entitled subject to <b>Sub-Clause 20.1</b> [Contractor’s Claims] to an extension of time and any associated costs (if any) for such delay, if completion is or will be delayed, under <b>Sub-Clause 8.4</b> [Extension of Time for Completion].</p>
	4.24.3	<p>After receiving this further notice, the Project Manager shall proceed in accordance with <b>Sub-Clause 3.6</b> [Determinations] to determine these matters.</p>
4.25 Suppliers (other than Subcontractors)	4.25.1	<p><u>Forced Labour</u></p> <p>The Contractor shall take measures to require its suppliers (other than Subcontractors) not to employ or engage forced labour including trafficked persons as described in Sub-Clause 6.20 [Prohibition of Forced or Compulsory Labour]. If forced labour/trafficking cases are identified, the Contractor shall take measures to require the suppliers to take appropriate steps to remedy them. Where the supplier does not remedy the situation, the Contractor shall within a reasonable period substitute the supplier with a supplier that is able to manage such risks.</p>
	4.25.2	<p><u>Child labour</u></p> <p>The Contractor shall take measures to require its suppliers (other than Subcontractors) not to employ or engage child labour as described in Sub-Clause 6.21 [Prohibition of Harmful Child Labour]. If child labour cases are identified, the Contractor shall take measures to require the suppliers to take appropriate steps to remedy them. Where the supplier does not remedy the situation, the Contractor shall within a reasonable period substitute the supplier with a supplier that</p>

		is able to manage such risks.
	4.25.3	<p><u>Serious Safety Issues</u></p> <p>The Contractor, including its Subcontractors, shall comply with all applicable safety obligations, including as stated in Sub-Clauses 4.4, 4.8 and 6.7. The Contractor shall also take measures to require its suppliers (other than Subcontractors) to adopt procedures and mitigation measures adequate to address safety issues related to their personnel. If serious safety issues are identified, the Contractor shall take measures to require the suppliers to take appropriate steps to remedy them. Where the supplier does not remedy the situation, the Contractor shall within a reasonable period substitute the supplier with a supplier that is able to manage such risks.</p>
	4.25.4	<p><u>Obtaining natural resource materials in relation to supplier</u></p> <p>The Contractor shall obtain natural resource materials from suppliers that can demonstrate, through compliance with the applicable verification and/ or certification requirements that obtaining such materials is not contributing to the risk of significant conversion or significant degradation of natural or critical habitats such as unsustainably harvested wood products, gravel or sand extraction from river beds or beaches.</p> <p>If a supplier cannot continue to demonstrate that obtaining such materials is not contributing to the risk of significant conversion or significant degradation of natural or critical habitats, the Contractor shall within a reasonable period substitute the supplier with a supplier that is able to demonstrate that they are not significantly adversely impacting the habitats</p>
<b>4.26 Code of Conduct</b>	4.26.1	<p>The Contractor shall have a Code of Conduct for the Contractor's Personnel.</p> <p>The Contractor shall take all necessary measures to ensure that each Contractor's Personnel is made aware of the Code of Conduct including specific behaviors that are prohibited, and understands the consequences of engaging in such prohibited behaviors.</p> <p>These measures include providing instructions and documentation that can be understood by the Contractor's Personnel and seeking to obtain that person's signature acknowledging receipt of such instructions and/or documentation, as appropriate.</p>
	4.26.2	The Contractor shall also ensure that the Code of Conduct is visibly displayed in multiple locations

		on the Site and any other place where the Works will be carried out, as well as in areas outside the Site accessible to the local community and project affected people. The posted Code of Conduct shall be provided in languages comprehensible to Contractor’s Personnel, Employer’s Personnel and the local community.
		The Contractor’s Management Strategy and Implementation Plans shall include appropriate processes for the Contractor to verify compliance with these obligations.
<b>4.27 Milestones</b>	4.27.1	If no Milestones are specified in <b>the SCC</b> , this Sub-Clause shall not apply.
	4.27.2	The Contractor shall complete the works of each Milestone (including the all work which is stated in the Employer’s Requirements as being required for the Milestone to be considered complete) within the time for completion of the milestone, as stated in the Contract Data, calculated from the Commencement Date.
	4.27.3	The Contractor shall include, in the initial programme and each revised programme, under sub-paragraph (a) of Sub-Clause 8.3 [Programme], the time for completion of each Milestone. Sub-paragraph 9d) of Sub-Clause 8.4 [Advance Warning] and Sub-Clause 8.4 [Extension of the Time for Completion] shall apply to each Milestone, such that “Time for Completion” under Sub-Clause 8.5 shall be read as the time for completion of a Milestone under this Sub-Clause.
	4.27.4	<p>The Contractor may apply, by Notice to the Project Manager, for a Milestone certificate not earlier than 14 days before the works of a Milestone will, in the Contractor’s opinion, be complete. The Project Manager shall, within 28 days after receiving the Contactor’s Notice:</p> <ul style="list-style-type: none"> <li>(a) issue the Milestone Certificate to the Contractor, stating the date on which the works of a Milestone were completed in accordance with the Contract, except for any minor outstanding work and defects (as shall be listed in the Milestone Certificate); or</li> <li>(b) reject the application, giving reasons and specifying the work required to be done and defects required to be remedied by the Contractor to enable the Milestone Certificate to be issued.</li> </ul>

	4.27.5	<p>The Contractor shall then complete the work referred to in subparagraph (b) of this Sub-Clause before issuing a further Notice of application under this Sub-Clause.</p> <p>If the Project Manager fails either to issue the Milestone Certificate or to reject the Contractor's application within the above period of 28 days, and if the works of a Milestone are completed in accordance with the Contract, the Milestone Certificate shall be deemed to have been issued on the date which is 14 days after the date stated in the Contractor's Notice of application.</p>
	4.27.6	<p>If delay damages for a Milestone are stated in the Contract Data, and if the Contractor fails to complete the works of the Milestone within the time for completion of the Milestone (with any extension under this Sub-Clause):</p> <ul style="list-style-type: none"> <li>(i) the Contractor shall, subject to Sub-Clause 20.1 [<i>Claims</i>], pay delay damages to the Employer for this default;</li> <li>(ii) such delay damages shall be the amount stated in the Contract Data, for every day which shall elapse between the time for completion for the Milestone (with any extension under this Sub-Clause) and the date stated in the Milestone Certificate;</li> <li>(iii) the total amount of delay damages for all Milestones shall not exceed the maximum amount stated in the Contract Data (this shall not limit the Contractor's liability for delay damages in any case of fraud, gross negligence, deliberate default or reckless misconduct by the Contractor).</li> </ul>
<b>5. Design</b>		
<b>5.1 General Design Obligations</b>	5.1.1	<p>The Contractor shall carry out, and be responsible for, the design of the Works. Design shall be prepared by qualified designers who are Architects/engineers or other professionals who comply with the criteria (if any) stated in the Employer's Requirements. Unless otherwise stated in the Contract, the Contractor shall submit to the Project Manager for consent the name and particulars of each proposed designer and design Subcontractor.</p>
	5.1.2	<p>The Contractor warrants that he, his designers and design Subcontractors have the experience and capability necessary for the design. The Contractor undertakes that the designers shall be available to attend discussions with the Project Manager at all reasonable times, until the expiry</p>

		date of the relevant Defects Liability Period.
	5.1.3	Upon receiving notice under <b>Sub-Clause</b> 8.1 [Commencement of Works], the Contractor shall scrutinise the Employer's Requirements (including design criteria and calculations, if any) and the items of reference mentioned in <b>Sub-Clause</b> 4.7 [Setting Out]. Within the period stated in the Appendix to Tender, calculated from the Commencement Date, the Contractor shall give notice to the Project Manager of any error, fault or other defect found in the Employer's Requirements or these items of reference.
	5.1.4	After receiving this notice, the Project Manager shall determine whether <b>Sub-Clause</b> 13 [Variations and Adjustments] shall be applied, and shall give notice to the Contractor accordingly. If and to the extent that (taking account of cost and time) an experienced contractor exercising due care would have discovered the error, fault or other defect when examining the Site and the Employer's Requirements before submitting the Tender, the Time for Completion shall not be extended and the Contract Price shall not be adjusted.
<b>5.2 Contractor's Documents</b>	5.2.1	The Contractor's Documents shall comprise the technical documents specified in the Employer's Requirements, documents required to satisfy all regulatory approvals, and the documents described in <b>Sub-Clause</b> 5.6 [As-Built Documents] and <b>Sub-Clause</b> 5.7 [Operation and Maintenance Manuals]. Unless otherwise stated in the Employer's Requirements, the Contractor's Documents shall be written in the language for communications defined in <b>Sub-Clause</b> 1.4 [Law and Language].
	5.2.2	The Contractor shall prepare all Contractors' Documents, and shall also prepare any other documents necessary to instruct the Contractor's Personnel. The Employer's Personnel shall have the right to inspect the preparation of all these documents, wherever they are being prepared.
	5.2.3	If the Employer's Requirements describe the Contractor's Documents which are to be submitted to the Project Manager for review and/or for approval, they shall be submitted accordingly, together with a notice as described below. In the following provisions of this <b>Sub-Clause</b> , (i) "review period" means the period required by the Project Manager for review and (if so specified) for approval, and (ii) "Contractor's

	<p>Documents" exclude any documents which are not specified as being required to be submitted for review and/or for approval.</p>
	<p>Unless otherwise stated in the Employer's Requirements, each review period shall not exceed 21 days, calculated from the date on which the Project Manager receives a Contractor's Document and the Contractor's notice. This notice shall state that the Contractor's Document is considered ready, both for review (and approval, if so specified) in accordance with this <b>Sub-Clause</b> and for use. The notice shall also state that the Contractor's Document complies with the Contract, or the extent to which it does not comply.</p>
<p>5.2.4</p>	<p>The Project Manager may, within the review period, give notice to the Contractor that a Contractor's Document fails (to the extent stated) to comply with the Contract. If a Contractor's Document so fails to comply, it shall be rectified, resubmitted and reviewed (and, if specified, approved) in accordance with this <b>Sub-Clause</b>, at the Contractor's cost.</p>
<p>5.2.5</p>	<p>For each part of the Works, and except to the extent that the prior approval or consent of the Project Manager shall have been obtained:</p> <p>(a) in the case of a Contractor's Document which has (as specified) been submitted for the Project Manager's approval:</p> <ul style="list-style-type: none"> <li>(i) the Project Manager shall give notice to the Contractor that the Contractor's Document is approved, with or without comments, or that it fails (to the extent stated) to comply with the Contract;</li> <li>(ii) execution of such part of the Works shall not commence until the Project Manager has approved the Contractor's Document; and</li> <li>(iii) the Project Manager shall be deemed to have approved the Contractor's Document upon the expiry of the review periods for all the Contractor's Documents which are relevant to the design and execution of such part, unless the Project Manager has previously notified otherwise in</li> </ul>

		<p>accordance with sub-paragraph (i);</p> <p>(b) execution of such part of the Works shall not commence prior to the expiry of the review periods for all the Contractor's Documents which are relevant to its design and execution;</p> <p>(c) execution of such part of the Works shall be in accordance with these reviewed (and, if specified, approved) Contractor's Documents; and</p> <p>(d) if the Contractor wishes to modify any design or document which has previously been submitted for review (and, if specified, approval), the Contractor shall immediately give notice to the Project Manager. Thereafter, the Contractor shall submit revised documents to the Project Manager in accordance with the above procedure.</p>
	5.2.6	If the Project Manager instructs that further Contractor's Documents are required, the Contractor shall prepare them promptly.
	5.2.7	Any such approval or consent, or any review (under this <b>Sub-Clause</b> or otherwise), shall not relieve the Contractor from any obligation or responsibility.
<b>5.3 Contractor's Undertakings</b>	5.3.1	<p>The Contractor undertakes that the design, the Contractor's Documents, the execution and the completed Works will be in accordance with:</p> <p>(a) the Laws of Tanzania, and</p> <p>(b) the documents forming the Contract, as altered or modified by Variations.</p>
<b>5.4 Technical Standards and Regulations</b>	5.4.1	The design, the Contractor's Documents, the execution and the completed Works shall comply with the Country's technical standards, building, construction and environmental Laws, Laws applicable to the product being produced from the Works, and other standards specified in the Employer's Requirements, applicable to the Works, or defined by the applicable Laws.
	5.4.2	All these Laws shall, in respect of the Works and each Section, be those prevailing when the Works or Section are taken over by the Employer under <b>Sub-Clause</b> 10 [Employer's Taking Over]. References in the Contract to published standards shall be understood to be references to the edition



		applicable on the Base Date, unless stated otherwise.
	5.4.3	<p>If changed or new applicable standards come into force in the Country after the Base Date, the Contractor shall give notice to the Project Manager and (if appropriate) submit proposals for compliance. In the event that:</p> <p>(a) the Project Manager determines that compliance is required, and</p> <p>(b) the proposals for compliance constitute a variation, then the Project Manager may initiate a Variation in accordance with <b>Sub-Clause 13</b> [Variation s and Adjustments].</p>
	5.4.4	<p>If so stated in the Employer's Requirements, the Contractor shall:</p> <p>(a) take into account climate change considerations in the design of structural elements of the Works and new buildings if any; and</p> <p>(b) apply the concept of universal access to the design and construction of structures and new buildings if any (the concept of universal access means unimpeded access for people of all ages and abilities in different situations and under various circumstances.)"</p>
<b>5.5 Training</b>	5.5.1	<p>The Contractor shall carry out the training of Employer's Personnel in the operation and maintenance of the Works to the extent specified in the Employer's Requirements. If the Contract specifies training which is to be carried out before taking-over, the Works shall not be considered to be completed for the purposes of taking-over under <b>Sub-Clause 10.1</b> [Taking Over of the Works and Section s] until this training has been completed.</p>
<b>5.6 As-Built Documents</b>	5.6.1	<p>The Contractor shall prepare, and keep up-to-date, a complete set of "as-built" records of the execution of the Works, showing the exact as-built locations, sizes and details of the work as executed. These records shall be kept on the Site and shall be used exclusively for the purposes of this <b>Sub-Clause</b>. Two copies shall be supplied to the Project Manager prior to the commencement of the Tests on Completion.</p>
	5.6.2	<p>In addition, the Contractor shall supply to the Project Manager as-built drawings of the Works,</p>

		showing all Works as executed, and submit them to the Project Manager for review under <b>Sub-Clause</b> 5.2 [Contractor's Documents]. The Contractor shall obtain the consent of the Project Manager as to their size, the referencing system, and other relevant details.
	5.6.3	Prior to the issue of any Taking-Over Certificate, the Contractor shall supply to the Project Manager the specified numbers and types of copies of the relevant as-built drawings, in accordance with the Employer's Requirements. The Works shall not be considered to be completed for the purposes of taking-over under <b>Sub-Clause</b> 10.1 [Taking Over of the Works and Section s] until the Project Manager has received these documents.
<b>5.7 Operation and Maintenance Manuals</b>	5.7.1	Prior to commencement of the Tests on Completion, the Contractor shall supply to the Project Manager provisional operation and maintenance manuals in sufficient detail for the Employer to operate, maintain, dismantle, reassemble, adjust and repair the Plant.
	5.7.2	The Works shall not be considered to be completed for the purposes of taking-over under <b>Sub-Clause</b> 10.1 [Taking Over of the Works and Section s] until the Project Manager has received final operation and maintenance manuals in such detail, and any other manuals specified in the Employer's Requirements for these purposes.
<b>5.8 Design Error</b>	5.8.1	If errors, omissions, ambiguities, inconsistencies, inadequacies or other defects are found in the Contractor's Documents, they and the Works shall be corrected at the Contractor's cost, notwithstanding any consent or approval under this Clause
<b>6. Staff and Labour</b>		
<b>6.1 Engagement of Staff and Labour</b>	6.1.1	Except as otherwise stated in the Employer's Requirement, the Contractor shall make arrangements for the engagement of all staff and labour, local or otherwise, and for their payment, feeding, transport, and, when appropriate, housing.
	6.1.2	The Contractor shall be obliged, to the extent practicable and reasonable, to employ staff and labour in compliance with Laws of Tanzania. And the Contractor is encouraged, to the extent practicable and reasonable, to employ staff and labour with appropriate qualifications and

		experience from within Tanzania.
	6.1.3	The Contractor shall provide the Contractor's Personnel information and documentation that are clear and understandable regarding their terms and conditions of employment. The information and documentation shall set out their rights under relevant labour Laws applicable to the Contractor's Personnel (which will include any applicable collective agreements), including their rights related to hours of work, wages, overtime, compensation and benefits, as well as those arising from any requirements in the Employer's Requirements. The Contractor's Personnel shall be informed when any material changes to their terms or conditions of employment occur.
<b>6.2 Rates of Wages and Conditions of Labour</b>	6.2.1	The Contractor shall pay rates of wages, and observe conditions of labour, which are not lower than those established for the trade or industry where the work is carried out. If no established rates or conditions are applicable, the Contractor shall pay rates of wages and observe conditions which are not lower than the general level of wages and conditions observed locally by Employers whose trade or industry is similar to that of the Contractor.
	6.2.2.	<p>The Contractor shall inform the Contractor's Personnel about:</p> <ul style="list-style-type: none"> <li>(a) any deduction to their payment and the conditions of such deductions in accordance with the applicable Laws or as stated in the Employer's Requirements; and</li> <li>(b) their liability to pay personal income taxes in the Country in respect of such of their salaries, wages, allowances and any benefits as are subject to tax under the Laws of the Country for the time being in force.</li> </ul> <p>The Contractor shall perform such duties in regard to such deductions thereof as may be imposed on him by such Laws.</p>
	6.2.3	Where required by applicable Laws or as stated in the Employer's Requirements, the Contractor shall provide the Contractor's Personnel written notice of termination of employment and details of severance payments in a timely manner. The Contractor shall have paid the Contractor's Personnel (either directly or where appropriate for their benefit) all due wages and entitlements including, as applicable, social security benefits

		and pension contributions, on or before the end of their engagement/ employment.”
<b>6.3 Persons in the Service of Employer</b>	6.3.1	The Contractor shall not recruit, or attempt to recruit, staff and labour from amongst the Employer’s Personnel.
<b>6.4 Labour Laws</b>	6.4.1	The Contractor shall comply with all the relevant labour Laws applicable to the Contractor’s Personnel, including Laws relating to their employment, health, safety, welfare, immigration and emigration, and shall allow them all their legal rights.
	6.4.2	The Contractor shall require his employees to obey all applicable Laws, including those concerning safety at work.
	6.4.3	The Contractor shall provide the Contractor’s Personnel annual holiday and sick, maternity and family leave, as required by applicable Laws or as stated in the Employer’s Requirements
<b>6.5 Facilities for Staff and Labour</b>	6.5.1	Except as otherwise stated in the Employer’s Requirement, the Contractor shall provide and maintain all necessary accommodation and welfare facilities for the Contractor’s Personnel. The Contractor shall also provide facilities for the Employer’s Personnel as stated in the Employer’s Requirement.
	6.5.2	The Contractor shall not permit any of the Contractor’s Personnel to maintain any temporary or permanent living quarters within the structures forming part of the Permanent Works.
	6.5.3	“If stated in the Employer’s Requirements, the Contractor shall give access to or provide services that accommodate the physical, social and cultural needs of the Contractor’s Personnel. The Contractor shall also provide similar facilities for the Employer’s Personnel as stated in the Employer’s Requirements
<b>6.6 Health and Safety of Personnel</b>	6.6.1	The Contractor shall at all times take all reasonable precautions to maintain the health and safety of the Contractor’s Personnel. In collaboration with local health authorities, the Contractor shall ensure that medical staff, first aid facilities, sick bay and ambulance service are available at all times at the Site and at any accommodation for Contractor’s and Employer’s Personnel, and that suitable arrangements are

	<p>made for all necessary welfare and hygiene requirements and for the prevention of epidemics.</p>
<p>6.6.2</p>	<p>Subject to Sub-Clause 6.7.1, the Contractor shall submit to the Project Manager for Review a health and safety manual which has been specifically prepared for the Works, the Site and other places (if any) where the Contractor intends to execute the Works</p>
	<p>6.6.3</p> <p>The health and safety manual shall be in addition to any other similar document required under applicable health and safety regulations and Laws. The health and safety manual shall set out all the health and safety requirements under the Contract, which shall include at a minimum:</p> <ul style="list-style-type: none"> <li>a) the procedures to establish and maintain a safe working environment without risk to health at all workplaces, machinery, equipment and processes under the control of the Contractor, including control measures for chemical, physical and biological substances and agents;</li> <li>b) details of the training to be provided, records to be kept;</li> <li>c) the procedures for prevention, preparedness and response activities to be implemented in the case of an emergency event (i.e. an unanticipated incident, arising from both natural and man-made hazards, typically in the form of fire, explosions, leaks or spills, which may occur for a variety of different reasons including failure to implement operating procedures that are designed to prevent their occurrence, extreme weather or lack of early warning);</li> <li>d) the measures to be taken to avoid or minimize the potential for community exposure to water-borne, water-based, water-related, and vector-borne diseases,</li> <li>e) the measures to be implemented to avoid or minimize the spread of communicable diseases (including transfer of Sexually Transmitted Diseases or Infections (STDs), such as HIV virus) and non-communicable diseases associated with the execution of the Works, taking into consideration differentiated exposure to and higher sensitivity of vulnerable groups. This includes taking measures to avoid or</li> </ul>

	<p>minimize the transmission of communicable diseases that may be associated with the influx of temporary or permanent Contract-related labour;</p> <p>f) the policies and procedures on the management and quality of accommodation and welfare facilities if such accommodation and welfare facilities are provided by the Contractor in accordance with Sub-Clause 6.6.1; and</p> <p>g) any other requirements stated in the Specification.</p>
	<p>6.6.4 The Contractor shall appoint an accident prevention officer at the Site, responsible for maintaining safety and protection against accidents. This person shall be qualified for this responsibility, and shall have the authority to issue instructions and take protective measures to prevent accidents. Throughout the execution of the Works, the Contractor shall provide whatever is required by this person to exercise this responsibility and</p>
	<p>6.6.5 The Contractor shall send, to the Project Manager, details of any accident as soon as practicable after its occurrence. The Contractor shall maintain records and make reports concerning health, safety and welfare of persons, and damage to property, as the Project Manager may reasonably require.</p>
	<p>6.6.6 The Contractor shall conduct a COVID-19 and an HIV-AIDS awareness programme via an approved service provider, and shall undertake such other measures as are specified in this Contract to reduce the risk of the transfer of the COVID-19 and HIV virus between and among the Contractor's Personnel and the local community, to promote early diagnosis and to assist affected individuals.</p>
	<p>6.6.7 The Contractor shall throughout the contract (including the Defects Notification Period): (i) conduct Information, Education and Consultation Communication (IEC) campaigns, at least every other month, addressed to all the Site staff and labor (including all the Contractor's employees, all Sub-Contractors and Consultants' employees, and all truck drivers and crew making deliveries to Site for construction activities) and to the immediate local communities, concerning the risks, dangers and impact, and appropriate avoidance behavior with respect to, of Sexually Transmitted Diseases</p>

		(STD)—or Sexually Transmitted Infections (STI) in general and HIV/AIDS in particular; (ii) provide male or female condoms for all Site staff and labor as appropriate; and (iii) provide for STI and HIV/AIDS screening, diagnosis, counseling and referral to a dedicated national STI and HIV/AIDS program, (unless otherwise agreed) of all Site staff and labor.
	6.6.8	The Contractor shall include in the program to be submitted for the execution of the Works under Sub-Clause 8.3 an alleviation program for Site staff and labour and their families in respect of Sexually Transmitted Infections (STI) and Sexually Transmitted Diseases (STD) including HIV/AIDS. The STI, STD and HIV/AIDS alleviation program shall indicate when, how and at what cost the Contractor plans to satisfy the requirements of this Sub-Clause and the related specification. For each component, the program shall detail the resources to be provided or utilized and any related sub-contracting proposed. The program shall also include provision of a detailed cost estimate with supporting documentation. Payment to the Contractor for preparation and implementation this program shall not exceed the Provisional Sum dedicated for this purpose
<b>6.7 Contractor's Superintendence</b>	6.7.1	Throughout the execution of the Works, and as long thereafter as is necessary to fulfil the Contractor's obligations, the Contractor shall provide all necessary superintendence to plan, arrange, direct, manage, inspect and test the work.
	6.7.2	Superintendence shall be given by a sufficient number of persons having adequate knowledge of the language for communications (defined in <b>Sub-Clause 1.4 [Law and Language]</b> ) and of the operations to be carried out (including the methods and techniques required, the hazards likely to be encountered and methods of preventing accidents), for the satisfactory and safe execution of the Works.
<b>6.8 Contractor's Personnel</b>	6.8.1	The Contractor's Personnel shall be appropriately qualified, skilled and experienced in their respective trades or occupations. The Project Manager may require the Contractor to remove (or cause to be removed) any person employed on the Site or Works, including the Contractor's Representative if applicable, who:  (a) persists in any misconduct or lack of care;

	<ul style="list-style-type: none"> <li>(b) carries out duties incompetently or negligently;</li> <li>(c) fails to comply with any provision of the Contract;</li> <li>(d) persists in any conduct which is prejudicial to safety, health, or the protection of the environment;</li> <li>(e) based on reasonable evidence, is determined to have engaged in Fraud and Corruption during the execution of the Works;</li> <li>(f) has been recruited from the Employer's Personnel in breach of Sub-Clause 6.3 [Persons in the Service of Employer];</li> <li>(g) undertakes behavior which breaches the Code of Conduct for Contractor's Personnel (ES).t.</li> </ul>
	<p>6.8.2 If appropriate, the Contractor shall then promptly appoint (or cause to be appointed) a suitable replacement with equivalent skills and experience. In the case of replacement of the Contractor's Representative, Sub-Clause 4.3 [Contractor's Representative] shall apply. In the case of replacement of Key Personnel (if any), Sub-Clause 6.11 [Key Personnel] shall apply.</p>
	<p>6.8.3 Subject to the requirements in Sub-Clause 4.3 [Contractor's Representative] and 6.11 [Key Personnel], and notwithstanding any requirement from the Engineer to remove or cause to remove any person, the Contractor shall take immediate action as appropriate in response to any violation of (a) through (g) above. Such immediate action shall include removing (or causing to be removed) from the Site or other places where the Works are being carried out, any Contractor's Personnel who engages in (a), (b), (c), (d), (e) or (g) above or has been recruited as stated in (f) above."</p>
<p><b>6.9 Records of Contractor's Personnel and Equipment</b></p>	<p>6.9.1 The Contractor shall submit, to the Project Manager, details showing the number of each class of Contractor's Personnel and of each type of Contractor's Equipment on the Site. Details shall be submitted each calendar month, in a form approved by the Project Manager, until the Contractor has completed all work which is known to be outstanding at the completion date stated in the Taking-Over Certificate for the Works.</p>



<p><b>6.10 Disorderly Conduct</b></p>	<p>6.10.1 The Contractor shall at all times take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst the Contractor's Personnel, and to preserve peace and protection of persons and property on and near the Site.</p>
<p><b>6.11 Key Personnel</b></p>	<p>6.11.1 The Contractor shall, if specified in the Employer's Requirements, appoint the natural persons named in the Tender to the positions of Key Personnel, If not so named, or if an appointed person fails to act in the relevant position of Key Personnel, the Contractor shall submit to the Project Manager for consent the name and particulars of another person the Contractor proposes to appoint to such position. If consent is withheld or If the Project Manager does not respond within 14 days after receiving any such submission, by giving a Notice stating his/her objection to the appointment of such person (or replacement) with reasons, the Project Manager shall be deemed to have given his/her consent.</p>
	<p>6.11.2 The Contractor shall not, without the Project Manager's prior consent, revoke the appointment of any of the Key Personnel or appoint a replacement (unless the person is unable to act as a result of death, illness, disability or resignation, in which case the appointment shall be deemed to have been revoked with immediate effect and the appointment of a replacement shall be treated as a temporary appointment until the Project Manager gives his/her consent to this replacement, or another replacement is appointed, under this Sub-Clause).</p>
	<p>6.11.3 All Key Personnel shall be based at the Site (or, where Works are being executed off the Site, at the location of the Works) for the whole time that the Works are being executed. If any of the Key Personnel is to be temporarily absent during execution of the Works, a suitable replacement shall be temporarily appointed, subject to the Project Manager's prior consent.</p>
	<p>6.11.4 All Key Personnel shall be fluent in the language for communications defined in Sub-Clause 1.4 [Law and Language]. If any of the Key Personnel are not fluent in this language, the Contractor shall make competent interpreters available during all working hours in a number deemed sufficient by the Project Manager.</p>

<b>6.12 Foreign Personnel</b>	6.12.1 The Contractor may bring in to the country any foreign personnel who are necessary for the execution of the Works to the extent allowed by the applicable Laws. The Contractor shall ensure that these personnel are provided with the required residence visas and work permits. The Employer will, if requested by the Contractor, use his best endeavors in a timely and expeditious manner to assist the Contractor in obtaining any local, state, national, or government permission required for bringing in the Contractor's personnel.
	6.12.2 The Contractor shall be responsible for the return of these personnel to the place where they were recruited or to their domicile. In the event of the death in the Country of any of these personnel or members of their families, the Contractor shall similarly be responsible for making the appropriate arrangements for their return or burial.
<b>6.13 Supply of Foodstuffs and Water</b>	6.13.1 The Contractor shall arrange for the provision of a sufficient supply of suitable food as may be stated in the Specification at reasonable prices for the Contractor's Personnel for the purposes of or in connection with the Contract.
	6.13.2 The Contractor shall, having regard to local conditions, provide on the Site an adequate supply of drinking and other water for the use of the Contractor's Personnel.
<b>6.14 Measures against Insect and Pest Nuisance</b>	6.14.1 The Contractor shall at all times take the necessary precautions to protect the Contractor's Personnel employed on the Site from insect and pest nuisance, and to reduce their danger to health. The Contractor shall comply with all the regulations of the local health authorities, including use of appropriate insecticide.
<b>6.15 Alcoholic Liquor or Drugs</b>	6.15.1 The Contractor shall not, otherwise than in accordance with the Laws of Tanzania, import, sell, give barter or otherwise dispose of any alcoholic liquor or drugs, or permit or allow importation, sale, gift barter or disposal thereto by Contractor's Personnel.
<b>6.16 Arms and Ammunition</b>	6.16.1 The Contractor shall not give, barter, or otherwise dispose of, to any person, any arms or ammunition of any kind, or allow Contractor's Personnel to do so.

<b>6.17 Festivals and Religious Customs</b>	6.17.1 The Contractor shall respect Tanzania's recognized festivals, days of rest and religious or other customs.
<b>6.18 Funeral Arrangements</b>	6.18.1 The Contractor shall be responsible, to the extent required by local regulations, for making any funeral arrangements for any of his local employees who may die while engaged upon the Works.
<b>6.19 Prohibition of Forced or Compulsory Labour</b>	6.19.1 The contractor shall not employ "forced or compulsory labour" in any form. "Forced or compulsory labour" consists of all work or service, not voluntarily performed, that is extracted from an individual under threat of force or penalty.
	6.19.2 The Contractor, including its Subcontractors, shall not employ or engage forced labour. Forced labour consists of any work or service, not voluntarily performed, that is exacted from an individual under threat of force or penalty, and includes any kind of involuntary or compulsory labour, such as indentured labour, bonded labour or similar labour-contracting arrangements.
	6.19.3 No persons shall be employed or engaged who have been subject to trafficking. Trafficking in persons is defined as the recruitment, transportation, transfer, harboring or receipt of persons by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power, or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation.
<b>6.20 Prohibition of Harmful Child Labour</b>	6.20.1 The Contractor, including its Subcontractors, shall not employ or engage a child under the age of 14 unless the Laws of Tanzania specifies a higher age (the minimum age). The Contractor, including its Subcontractors, shall not employ or engage a child between the minimum age and the age of 18 in a manner that is likely to be hazardous, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development.
	6.20.2 The Contractor including its Subcontractors, shall only employ or engage children between the minimum age and the age of 18 after an appropriate risk assessment has been conducted by the Contractor with the Project Manager's consent. The Contractor shall be subject to

	regular monitoring by the Project Manager that includes monitoring of health, working conditions and hours of work.
	<p>6.20.3 Work considered hazardous for children is work that, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety, or morals of children. Such work activities prohibited for children include work:</p> <ul style="list-style-type: none"> <li>(a) with exposure to physical, psychological or sexual abuse;</li> <li>(b) underground, underwater, working at heights or in confined spaces;</li> <li>(c) with dangerous machinery, equipment or tools, or involving handling or transport of heavy loads;</li> <li>(d) in unhealthy environments exposing children to hazardous substances, agents, or processes, or to temperatures, noise or vibration damaging to health; or</li> </ul> <p>under difficult conditions such as work for long hours, during the night or in confinement on the premises of the employer.</p>
<b>6.21 Employment Records of Workers</b>	<p>6.21.1 The Contractor shall keep complete and accurate records of the employment of labour at the Site. The records shall include the names, ages, genders, hours worked and wages paid to all workers. These records shall be summarized on a monthly basis and submitted to the Project Manager, and these records shall be available for inspection by Auditors during normal working hours. These records shall be included in the details to be submitted by the Contractor under <b>Sub-Clause</b> 6.10 [Records of Contractor's Personnel and Equipment].</p>
<b>6.22 Workers' Organisations</b>	<p>6.22.1 In accordance with Tanzania's labour laws which recognise workers' rights to form and to join workers' organizations of their choosing and to bargain collectively without interference, the Contractor shall comply with such laws. In such circumstances, the role of legally established workers' organizations and legitimate workers' representatives will be respected, and they will be provided with information needed for meaningful negotiation in a timely manner.</p>
	<p>6.22.2 Where the relevant labour laws substantially restrict workers' organizations, the Contractor shall enable alternative means for the Contractor's Personnel to express their grievances and protect</p>

	<p>their rights regarding working conditions and terms of employment. The Contractor shall not seek to influence or control these alternative means. The Contractor shall not discriminate or retaliate against the Contractor's Personnel who participate, or seek to participate, in such organizations and collective bargaining or alternative mechanisms. Workers' organizations are expected to fairly represent the workers in the workforce.</p>
<b>6.23 Non-Discrimination and Equal Opportunity</b>	<p>6.23.1 The Contractor shall not make decisions relating to the employment or treatment of Contractor's Personnel on the basis of personal characteristics unrelated to inherent job requirements. The Contractor shall base the employment of Contractor's Personnel on the principle of equal opportunity and fair treatment, and shall not discriminate with respect to any aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, job assignment, promotion, termination of employment or retirement, and disciplinary practices.</p>
	<p>6.23.2 Special measures of protection or assistance to remedy past discrimination or selection for a particular job based on the inherent requirements of the job shall not be deemed discrimination. The Contractor shall provide protection and assistance as necessary to ensure nondiscrimination and equal opportunity, including for specific groups such as women, people with disabilities, migrant workers and children (of working age in accordance with GCC 6.21).</p>
<b>6.24 Contractor's Personnel Grievance Mechanism</b>	<p>6.24.1 The Contractor shall have a grievance mechanism for Contractor's Personnel, and where relevant the workers' organizations stated in GCC 6.23, to raise workplace concerns. The grievance mechanism shall be proportionate to the nature, scale, risks and impacts of the Contract. The mechanism shall address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned in a language they understand, without any retribution, and shall operate in an independent and objective manner.</p>
	<p>6.24.2 The Contractor's Personnel shall be informed of the grievance mechanism at the time of engagement for the Contract, and the measures put in place to protect them against any reprisal</p>

		for its use. Measures will be put in place to make the grievance mechanism easily accessible to all Contractor's Personnel.
	6.24.3	The grievance mechanism shall not impede access to other judicial or administrative remedies that might be available, or substitute for grievance mechanisms provided through collective agreements.
	6.24.4	The grievance mechanism may utilize existing grievance mechanisms, providing that they are properly designed and implemented, address concerns promptly, and are readily accessible to such project workers. Existing grievance mechanisms may be supplemented as needed with Contract-specific arrangements
<b>6.25 Training of Contractor's Personnel</b>	6.25.1	<p>The Contractor shall provide appropriate training to relevant Contractor's Personnel on ES aspects of the Contract, including appropriate sensitization on prohibition of SEA and SH, and health and safety training.</p> <p>As stated in the Specification or as instructed by the Project Manager, the Contractor shall also allow appropriate opportunities for the relevant Contractor's Personnel to be trained on ES aspects of the Contract by the Employer's Personnel.</p> <p>The Contractor shall provide training on SEA and SH, including its prevention, to any of its personnel who has a role to supervise other Contractor's Personnel.</p>
<b>7. Plant, Materials and Workmanship</b>		
<b>7.1 Manner of Execution</b>	7.1.1	<p>The Contractor shall carry out the manufacture of Plant, the production and manufacture of Materials, and all other execution of the Works:</p> <ul style="list-style-type: none"> <li>(a) in the manner (if any) specified in the Contract,</li> <li>(b) in a proper workmanlike and careful manner, in accordance with recognised good practice, and</li> <li>(c) with properly equipped facilities and non-hazardous Materials, except as otherwise specified in the Contract.</li> </ul>
<b>7.2 Samples</b>	7.2.1	The Contractor shall submit the following samples of Materials, and relevant information, to the Project Manager for consent prior to using the

		<p>Materials in or for the Works:</p> <p>(a) manufacturer’s standard samples of Materials and samples specified in the Contract, all at the Contractor’s cost, and</p> <p>(b) additional samples instructed by the Project Manager as a Variation.</p> <p>Each sample shall be labelled as to origin and intended use in the Works.</p>
<b>7.3</b>	<b>Inspection</b>	<p>7.3.1 The Authorized Employer’s Personnel shall at all reasonable times:</p> <p>(a) have full access to all parts of the Site and to all places from which natural Materials are being obtained, and</p> <p>(b) during production, manufacture and construction (at the Site and elsewhere), be entitled to examine, inspect, measure and test the materials and workmanship, and to check the progress of manufacture of Plant and production and manufacture of Materials.</p>
		<p>7.3.2 The Contractor shall give the Employer’s Personnel full opportunity to carry out these activities, including providing access, facilities, permissions and safety equipment. No such activity shall relieve the Contractor from any obligation or responsibility.</p>
		<p>7.3.3 The Contractor shall give notice to the Project Manager whenever any work is ready and before it is covered up, put out of sight, or packaged for storage or transport. The Project Manager shall then either carry out the examination, inspection, measurement or testing without unreasonable delay, or promptly give notice to the Contractor that the Project Manager does not require to do so.</p>
		<p>7.3.4 If the Contractor fails to give the notice, he shall, if and when required by the Project Manager, uncover the work and thereafter reinstate and make good, all at the Contractor’s cost.</p>
<b>7.4</b>	<b>Testing</b>	<p>7.4.1 This <b>Sub-Clause</b> shall apply to all tests specified in the Contract, other than the Tests after Completion (if any).</p>
		<p>7.4.2 Except as otherwise specified in the Contract, the Contractor shall provide all apparatus, assistance, documents and other information, electricity, equipment, fuel, consumables, instruments,</p>

		labour, materials, and suitably qualified and experienced staff, as are necessary to carry out the specified tests efficiently. The Contractor shall agree, with the Project Manager, the time and place for the specified testing of any Plant, Materials and other parts of the Works.
	7.4.3	The Project Manager may, under <b>Sub-Clause 13</b> [Variations and Adjustments], vary the location or details of specified tests, or instruct the Contractor to carry out additional tests. If these varied or additional tests show that the tested Plant, Materials or workmanship is not in accordance with the Contract, the cost of carrying out this Variation shall be borne by the Contractor, notwithstanding other provisions of the Contract.
	7.4.4	The Project Manager shall give the Contractor not less than 24 hours' notice of the Project Manager's intention to attend the tests. If the Project Manager does not attend at the time and place agreed, the Contractor may proceed with the tests, unless otherwise instructed by the Project Manager, and the tests shall then be deemed to have been made in the Project Manager's presence.
	7.4.5	If the Contractor suffers delay and/or incurs Cost from complying with these instructions or as a result of a delay for which the Employer is responsible, the Contractor shall give notice to the Project Manager and shall be entitled subject to <b>Sub-Clause 20.1</b> [Contractor's Claims] to an extension of time and associated costs (if any) for such delay, if completion is or will be delayed, under <b>Sub-Clause 8.4</b> [Extension of Time for Completion].
	7.4.6	After receiving this notice, the Project Manager shall proceed in accordance with <b>Sub-Clause 3.6</b> [Determinations] to determine these matters.
	7.4.7	The Contractor shall promptly forward to the Project Manager duly certified reports of the tests. When the specified tests have been passed, the Project Manager shall endorse the Contractor's test certificate, or issue a certificate to him, to that effect. If the Project Manager has not attended the tests, he shall be deemed to have accepted the readings as accurate.
<b>7.5 Rejection</b>	7.5.1	If, as a result of an examination, inspection, measurement or testing, any Plant, Materials or workmanship is found to be defective or otherwise not in accordance with the Contract, the Project



		Manager may reject the Plant, Materials or workmanship by giving notice to the Contractor, with reasons. The Contractor shall then promptly make good the defect and ensure that the rejected item complies with the Contract.
	7.5.2	If the Project Manager requires this Plant, Materials or workmanship to be retested, the tests shall be repeated under the same terms and conditions. If the rejection and retesting cause the Employer to incur additional costs, the Contractor shall subject to <b>Sub-Clause 2.5</b> [Employer's Claims] pay these costs to the Employer.
<b>7.6 Remedial Work</b>	7.6.1	Notwithstanding any previous test or certification, the Project Manager may instruct the Contractor to: <ul style="list-style-type: none"> <li>(a) remove from the Site and replace any Plant or Materials which is not in accordance with the Contract,</li> <li>(b) remove and re-execute any other work which is not in accordance with the Contract, and</li> <li>(c) execute any work which is urgently required for the safety of the Works, whether because of an accident, unforeseeable event or otherwise.</li> </ul>
	7.6.2	The Contractor shall comply with the instruction within a reasonable time, which shall be the time (if any) specified in the instruction, or immediately if urgency is specified under sub-paragraph (c).
	7.6.3	If the Contractor fails to comply with the instruction, the Employer shall be entitled to employ and pay other persons to carry out the work. Except to the extent that the Contractor would have been entitled to payment for the work, the Contractor shall subject to <b>Sub-Clause 2.5</b> [Employer's Claims] pay to the Employer all costs arising from this failure.
<b>7.7 Ownership of Plant and Materials</b>	7.7.1	Except otherwise specified in the Contract, each item of Plant and Materials shall, to the extent consistent with the Laws of the Country, become the property of the Employer at whichever is the earlier of the following times, free from liens and other encumbrances: <ul style="list-style-type: none"> <li>(a) when it is incorporated in the Works;</li> <li>(b) when the Contractor is paid the corresponding value of the Plant and</li> </ul>

		Materials under <b>Sub-Clause 8.9</b> [Payment for Plant and Materials in Event of Suspension].
<b>7.8 Royalties</b>	7.8.1	<p>Unless otherwise stated in the Employer's Requirements, the Contractor shall pay all royalties, rents and other payments for:</p> <ul style="list-style-type: none"> <li>(a) natural Materials obtained from outside the Site, and</li> <li>(b) the disposal of material from demolitions and excavations and of other surplus material (whether natural or man-made), except to the extent that disposal areas within the Site are specified in the Contract.</li> </ul>
<b>8. Commencement, Delays and Suspension</b>		
<b>8.1 Commencement of Works</b>	8.1.1	<p>Except otherwise specified in the <b>SCC</b>, the Commencement Date shall be the date at which the following precedent conditions have all been fulfilled and the Project Manager's instruction recording the agreement of both Parties on such fulfilment and instructing to commence the Works is received by the Contractor:</p> <ul style="list-style-type: none"> <li>(a) except if otherwise specified in the <b>SCC</b>, possession of the Site given to the Contractor together with such permission(s) under (a) of Sub-Clause 1.12.1 [Compliance with Laws] as required for the commencement of the Works; and</li> <li>(b) receipt by the Contractor of the Advance Payment under Sub-Clause 14.2 [Advance Payment] provided that the corresponding bank guarantee has been delivered by the Contractor.</li> </ul> <p>If the above said Project Manager's instruction is not received by the Contractor within 180 days from his receipt of the Letter of Acceptance, the Contractor shall be entitled to terminate the Contract under Sub-Clause 16.2 [Termination by Contractor].</p>
	8.1.2	<p>Subject to Sub-Clause 4.1.7 on the Management Strategies and Implementation Plans and the C-ESMP, Sub-Clause 6.7.2 on the health and safety manual and Sub-Clause 4.22.2 on the security management plan, the Contractor, shall commence the execution of the Works as soon as is reasonably practicable after the</p>

		Commencement Date, and shall then proceed with the Works with due expedition and without delay
<b>8.2 Time for Completion</b>	8.2.1	<p>The Contractor shall complete the whole of the Works, and each Section (if any), within the Time for Completion for the Works or Section (as the case may be), including:</p> <ul style="list-style-type: none"> <li>(a) achieving the passing of the Tests on Completion, and</li> <li>(b) completing all work which is stated in the Contract as being required for the Works or Section to be considered to be completed for the purposes of taking-over under <b>Sub-Clause 10.1</b> [Taking Over of the works and sections]</li> </ul>
<b>8.3 Programme</b>	8.3.1	<p>The Contractor shall submit a detailed time programme to the Project Manager within 14 working days after receiving the notice under <b>Sub-Clause 8.1</b> [Commencement of Works]. The Contractor shall also submit a revised programme whenever the previous programme is inconsistent with actual progress or with the Contractor's obligations. Each programme shall include:</p> <ul style="list-style-type: none"> <li>(a) the order in which the Contractor intends to carry out the Works, including the anticipated timing of each stage of design, Contractor's Documents, procurement, manufacture, inspection, delivery to Site, construction, erection, testing, commissioning and trial operation,</li> <li>(b) the periods for reviews under <b>Sub-Clause 5.2</b> [Contractor's Documents] and for any other submissions, approvals and consents specified in the Employer's Requirements,</li> <li>(c) the sequence and timing of inspections and tests specified in the Contract, and</li> <li>(d) a supporting report which includes: <ul style="list-style-type: none"> <li>i). a general description of the methods which the Contractor intends to adopt, and of the major stages, in the execution of the Works, and</li> <li>ii). details showing the Contractor's reasonable estimate of the number of each class of Contractor's Personnel and of each type of</li> </ul> </li> </ul>

		Contractor's Equipment, required on the Site for each major stage.
	8.3.2	Unless the Project Manager, within 14 working days after receiving a programme, gives notice to the Contractor stating the extent to which it does not comply with the Contract, the Contractor shall proceed in accordance with the programme, subject to his other obligations under the Contract. The Employer's Personnel shall be entitled to rely upon the programme when planning their activities.
	8.3.3	The Contractor shall promptly give notice to the Project Manager of specific probable future events or circumstances which may adversely affect the work, increase the Contract Price or delay the execution of the Works. The Project Manager may require the Contractor to submit an estimate of the anticipated effect of the future event or circumstances, and/or a proposal under <b>Sub-Clause</b> 13.3 [Variation Procedure].
	8.3.4	If, at any time, the Project Manager gives notice to the Contractor that a programme fails (to the extent stated) to comply with the Contract or to be consistent with actual progress and the Contractor's stated intentions, the Contractor shall submit a revised programme to the Project Manager in accordance with this <b>Sub-Clause</b> .
<b>8.4 Extension of Time for Completion</b>	8.4.1	The Employer may extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining work.
	8.4.2	The Contractor shall be entitled subject to <b>Sub-Clause</b> 20.1 [Contractor's Claims] to an extension of the Time for Completion if and to the extent that completion for the purposes of <b>Sub-Clause</b> 10.1 [Taking Over of the Works and Section s] is or will be delayed by any of the following causes: <ul style="list-style-type: none"> <li>(a) a Variation (unless an adjustment to the Time for Completion has been agreed under <b>Sub-Clause</b> 13.3 [Variation Procedure]),</li> <li>(b) a cause of delay giving an entitlement to extension of time under a <b>Sub-Clause</b> of these Conditions,</li> <li>(c) exceptionally adverse climatic conditions,</li> <li>(d) Unforeseeable shortages in the availability</li> </ul>

		<p>of personnel or Goods caused by epidemic or governmental actions, or</p> <p>(e) any delay, impediment or prevention caused by or attributable to the Employer, the Employer's Personnel, or the Employer's other contractors on the Site.</p>
	8.4.3	<p>If the Contractor considers himself to be entitled to an extension of the Time for Completion, the Contractor shall give notice to the Project Manager in accordance with <b>Sub-Clause</b> 20.1 [Contractor's Claims]. When determining each extension of time under <b>Sub-Clause</b> 20.1, the Employer shall review previous determinations and may increase, but shall not decrease, the total extension of time.</p>
	8.4.4	<p>The Employer shall, within twenty one (21) days of receipt of application for extension of the Intended Completion Date by the Contractor, decide whether or not to grant the extension. The application by the Contractor shall be granted only when supported by full information of a compensation event(s) or variation.</p>
	8.4.5	<p>In the event the Contractor has not issued an early warning notice of a delay or has failed to cooperate in dealing with a delay, such a delay or failure may be a ground for not granting the extension of the Intended Completion Date.</p>
<b>8.5 Rate of Progress</b>	8.5.1	<p>If, at any time:</p> <p>(a) actual progress is too slow to complete within the Time for Completion, and/or</p> <p>(b) progress has fallen (or will fall) behind the current programme under <b>Sub-Clause</b> 8.3 [Programme],</p> <p>other than as a result of a cause listed in <b>Sub-Clause</b> 8.4 [Extension of Time for Completion], then the Project Manager may, upon written approval of the Employer, instruct the Contractor to submit, under <b>Sub-Clause</b> 8.3 [Programme], a revised programme and supporting report describing the revised methods which the Contractor proposes to adopt in order to expedite progress and complete within the Time for Completion.</p>
	8.5.1	<p>Unless the Project Manager notifies otherwise, the Contractor shall adopt these revised methods, which may require increases in the working hours and/or in the numbers of Contractor's Personnel</p>

		and/or Goods, at the risk and cost of the Contractor. If these revised methods cause the Employer to incur additional costs, the Contractor shall subject to <b>Sub-Clause 2.5</b> [Employer's Claims] pay these costs to the Employer, in addition to delay damages (if any) under <b>Sub-Clause 8.6</b> below.
<b>8.6 Liquidated Damages</b>	8.6.1	The Contractor shall pay liquidated damages to the Employer at the rate per day <b>stated in the SCC</b> for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the maximum amount of performance security <b>stated in the SCC</b> . The Employer may deduct liquidated damages from payments due to the Contractor.
	8.6.2	Where the Project Manager, after assessment of work progress, upon satisfaction that the Contractor will not complete the works within the contract period, may issue a notice to the Contractor requiring the payment of liquidated damages.
	8.6.3	If the Intended Completion Date is extended after liquidated damages have been paid, the Project Manager shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate. The Contractor shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in <b>Sub-Clause 14.8</b> [Delayed Payment]
<b>8.7 Suspension of Work</b>	8.7.1	The Project Manager may at any time instruct the Contractor to suspend progress of part or all of the Works. During such suspension, the Contractor shall protect, store and secure such part or the Works against any deterioration, loss or damage.
	8.7.2	The Project Manager may also notify the cause for the suspension. If and to the extent that the cause is notified and is the responsibility of the Contractor, the following <b>Sub-Clauses 8.8, 8.9 and 8.10</b> shall not apply.
<b>8.8 Consequences of Suspension</b>	8.8.1	If the Contractor suffers delay and/or incurs Cost from complying with the Project Manager's instructions under <b>Sub-Clause 8.7</b> [Suspension of Work] and/or from resuming the work, the Contractor shall give notice to the Project Manager and shall be entitled subject to <b>Sub-</b>

		<b>Clause 20.1</b> [Contractor's Claims] to an extension of time and associated costs (if any) for such delay, if completion is or will be delayed, under <b>Sub-Clause 8.4</b> [Extension of Time for Completion ], and after receiving this notice, the Project Manager shall proceed in accordance with <b>Sub-Clause 3.6</b> [Determinations] to determine these matters.
	8.8.2	The Contractor shall not be entitled to an extension of time for, or to payment of the Cost incurred in, making good the consequences of the Contractor's faulty design, workmanship or materials, or of the Contractor's failure to protect, store or secure in accordance with <b>Sub-Clause 8.7</b> [Suspension of Work].
<b>8.9 Payment for Plant and Materials in Event of Suspension</b>	8.9.1	The Contractor shall be entitled to payment of the value (as at the date of suspension) of Plant and/or Materials which have not been delivered to Site if: <ul style="list-style-type: none"> <li>(a) the work on Plant or delivery of Plant and/or Materials has been suspended for more than 28 days, and</li> <li>(b) the Contractor has marked the Plant and/or Materials as the Employer's property in accordance with the Project Manager's instructions.</li> </ul>
<b>8.10 Prolonged Suspension</b>	8.10.1	If the suspension under <b>Sub-Clause 8.7</b> [Suspension of Work] has continued for more than 84 days, the Contractor may request the Project Manager's permission to proceed.
	8.10.2	If the Project Manager does not give permission within 28 days after being requested to do so, the Contractor may, by giving notice to the Project Manager, treat the suspension as an omission under <b>Sub-Clause 13</b> [Variations and Adjustments] of the affected part of the Works.
	8.10.3	If the suspension affects the whole of the Works, the Contractor may give notice of termination under <b>Sub-Clause 16.2</b> [Termination by Contractor].
<b>8.11 Resumption of Work</b>	8.11.1	After the permission or instruction to proceed is given, the Contractor and the Project Manager shall jointly examine the Works and the Plant and Materials affected by the suspension. The Contractor shall make good any deterioration or defect in or loss of the Works or Plant or Materials, which has occurred during the

		suspension.
<b>9. Tests on Completion</b>		
<b>9.1 Contractor's Obligations</b>	9.1.1	The Contractor shall carry out the Tests on Completion in accordance with this Clause and <b>Sub-Clause</b> 7.4 [Testing], after providing the documents in accordance with sub-paragraph (d) of <b>Sub-Clause</b> 4.1 [Contractor's General Obligations].
	9.1.2	The Contractor shall give to the Project Manager not less than 21 days notice of the date after which the Contractor will be ready to carry out each of the Tests on Completion. Unless otherwise agreed, Tests on Completion shall be carried out within 14 working days after this date, on such day or days as the Project Manager may instruct.
	9.1.3	Unless otherwise stated <b>in the SCC</b> , the Tests on Completion shall be carried out in the following sequence: <ul style="list-style-type: none"> <li>(a) pre-commissioning tests, which shall include the appropriate inspections and ("dry" or "cold") functional tests to demonstrate that each item of Plant can safely undertake the next stage;</li> <li>(b) commissioning tests, which shall include the specified operational tests to demonstrate that the Works or Section can be operated safely and as specified, under all available operating conditions; and</li> <li>(c) trial operation, which shall demonstrate that the Works or Section perform reliably and in accordance with the Contract.</li> </ul>
	9.1.4	During trial operation, when the Works are operating under stable conditions, the Contractor shall give notice to the Project Manager that the Works are ready for any other Tests on Completion, including performance tests to demonstrate whether the Works conform with criteria specified in the Employer's Requirements and with the Schedule of Guarantees.
	9.1.5	Trial operation shall not constitute a taking-over under <b>Sub-Clause</b> 10 [Employer's Taking Over]. Any product produced by the Works during trial operation shall be the property of the Employer.



	9.1.6	In considering the results of the Tests on Completion, the Project Manager shall make allowances for the effect of any use of the Works by the Employer on the performance or other characteristics of the Works. As soon as the Works, or a Section, have passed any Tests on Completion, the Contractor shall submit a certified report of the results of these Tests to the Project Manager.
<b>9.2 Delayed Tests</b>	9.2.1	If the Tests on Completion are being unduly delayed by the Employer, <b>Sub-Clause 7.4 [Testing]</b> (fifth paragraph) and/or <b>Sub-Clause 10.3 [Delay of Tests on Completion]</b> shall be applicable.
	9.2.2	If the Tests on Completion are being unduly delayed by the Contractor, the Project Manager may by notice require the Contractor to carry out the Tests within 21 days after receiving the notice. The Contractor shall carry out the Tests on such day or days within that period as the Contractor may fix and of which he shall give notice to the Project Manager.
	9.2.3	If the Contractor fails to carry out the Tests on Completion within the period of 21 days, the Employer's Personnel may proceed with the Tests at the risk and cost of the Contractor. The Tests on Completion shall then be deemed to have been carried out in the presence of the Contractor and the results of the Tests shall be accepted as accurate.
<b>9.3 Retesting</b>	9.3.1	If the Works, or a Section, fail to pass the Tests on Completion, <b>Sub-Clause 7.5 [Rejection]</b> shall apply, and the Project Manager or the Contractor may require the failed Tests, and Tests on Completion on any related work, to be repeated under the same terms and conditions.
<b>9.4 Failure to Pass Tests on Completion</b>	9.4.1	If the Works, or a Section, fail to pass the Tests on Completion repeated under <b>Sub-Clause 9.3 [Retesting]</b> , the Project Manager may: <ul style="list-style-type: none"> <li>(a) order further repetition of Tests on Completion under <b>Sub-Clause 9.3</b>;</li> <li>(b) if the failure deprives the Employer of substantially the whole benefit of the Works or Section, reject the Works or Section (as the case may be), in which event the Employer shall have the same remedies as are provided in sub-paragraph (c) of <b>Sub-Clause 11.4 [Failure to Remedy Defects]</b>; or</li> </ul>

		(c) issue a Taking-Over Certificate, if the Employer so requests.
	9.4.2	In the event of sub-paragraph (c), the Contractor shall proceed in accordance with all other obligations under the Contract, and the Contract Price shall be reduced by such amount as shall be appropriate to cover the reduced value to the Employer as a result of this failure.
	9.4.3	Unless the relevant reduction for this failure is stated (or its method of calculation is defined) in the Contract, the Employer may require the reduction to be: <ul style="list-style-type: none"> <li>(a) agreed by both Parties (in full satisfaction of this failure only) and paid before this Taking-Over Certificate is issued, or</li> <li>(b) determined and paid under <b>Sub-Clause 2.5</b> [Employer’s Claims] and <b>Sub-Clause 3.6</b> [Determinations].</li> </ul>
<b>10. Employer’s Taking Over</b>		
<b>10.1 Taking Over of the Works and Sections</b>	10.1.1	Except as stated in <b>Sub-Clause 9.4</b> [Failure to Pass Tests on Completion], the Works shall be taken over by the Employer when <ul style="list-style-type: none"> <li>(a) the Works have been completed in accordance with the Contract, including the matters described in <b>Sub-Clause 8.2</b> [Time for Completion] and except as allowed in sub-paragraph (a) below, and</li> <li>(b) Taking-Over Certificate for the Works has been issued, or is deemed to have been issued in accordance with this <b>Sub-Clause</b>.</li> </ul>
	10.1.2	The Contractor may apply by notice to the Project Manager for a Taking-Over Certificate not earlier than 14 working days before the Works will, in the Contractor’s opinion, be complete and ready for taking over. If the Works are divided into Sections, the Contractor may similarly apply for a Taking-Over Certificate for each Section.
	10.1.3	The Project Manager shall, within 28 days after receiving the Contractor’s application: <ul style="list-style-type: none"> <li>(a) issue the Taking-Over Certificate to the Contractor, stating the date on which the Works or Section were completed in accordance with the Contract, except for any minor outstanding work and defects which</li> </ul>

		<p>will not substantially affect the use of the Works or Section for their intended purpose (either until or whilst this work is completed and these defects are remedied); or</p> <p>(b) reject the application, giving reasons and specifying the work required to be done by the Contractor to enable the Taking-Over Certificate to be issued. The Contractor shall then complete this work before issuing a further notice under this <b>Sub-Clause</b>.</p>
	10.1.3	<p>If the Project Manager fails either to issue the Taking-Over Certificate or to reject the Contractor's application within the period of 28 days, and if the Works or Section (as the case may be) are substantially in accordance with the Contract, the Taking-Over Certificate shall be deemed to have been issued on the last day of that period.</p>
<b>10.2 Taking Over of Parts of the Works</b>	10.2.1	<p>The Project Manager may, at the sole discretion and written approval of the Employer, issue a Taking-Over Certificate for any part of the Permanent Works.</p>
	10.2.2	<p>The Employer shall not use any part of the Works (other than as a temporary measure which is either specified in the Contract or agreed by both Parties) unless and until the Project Manager has issued a Taking-Over Certificate for this part.</p>
	10.2.3	<p>However, unless otherwise agreed by the Parties, if the Employer does use any part of the Works before the Taking-Over Certificate is issued:</p> <p>(a) the part which is used shall be deemed to have been taken over as from the date on which it is used,</p> <p>(b) the Contractor shall cease to be liable for the care of such part as from this date, when responsibility shall pass to the Employer, and</p> <p>(c) if requested by the Contractor, the Project Manager shall issue a Taking-Over Certificate for this part.</p>
	10.2.4	<p>After the Project Manager has issued a Taking-Over Certificate for a part of the Works, the Contractor shall be given the earliest opportunity to take such steps as may be necessary to carry out any outstanding Tests on Completion. The Contractor shall carry out these Tests on Completion as soon as practicable before the</p>

		expiry date of the relevant Defects Liability Period.
	10.2.5	<p>If the Contractor incurs cost as a result of the Employer taking over and/or using a part of the Works, other than such use as is specified in the Contract or agreed by the Contractor, the Contractor shall</p> <p>(a) give notice to the Project Manager and</p> <p>(b) be entitled subject to <b>Sub-Clause</b> 20.1 [Contractor's Claims] to payment of any such Cost plus profit, which shall be included in the Contract Price. After receiving this notice, the Project Manager shall proceed in accordance with <b>Sub-Clause</b> 3.6 [Determinations] to determine the matter.</p>
	10.2.6	<p>If a Taking-Over Certificate has been issued for a part of the Works (other than a Section), the Liquidated damages thereafter for completion of the remainder of the Works shall be reduced. Similarly, the Liquidated damages for the remainder of the Section (if any) in which this part is included shall also be reduced. For any period of delay after the date stated in this Taking-Over Certificate, the proportional reduction in these delay damages shall be calculated as the proportion which the value of the part so certified bears to the value of the Works or Section (as the case may be) as a whole.</p>
	10.2.7	<p>The Project Manager shall proceed in accordance with <b>Sub-Clause</b> 3.6 [Determinations] to agree or determine these proportions. The provisions of this paragraph shall only apply to the daily rate of Liquidated damages under <b>Sub-Clause</b> 8.6 [Liquidated Damages], and shall not affect the maximum amount of these damages.</p>
<b>10.3 Delay of Tests on Completion</b>	10.3.1	<p>If the Contractor is prevented, for more than 14 days, from carrying out the Tests on Completion by a cause for which the Employer is responsible and the suffers a delay, the Contractor shall give notice to the Project Manager and may be entitled subject to <b>Sub-Clause</b> 20.1 [Contractor's Claims], to an extension of time and any associated costs (if any) for such delay, if completion is or will be delayed, under <b>Sub-Clause</b> 8.4 [Extension of Time for Completion], and after receiving this notice, the Project Manager shall proceed in accordance with <b>Sub-Clause</b> 3.6 [Determinations] to determine these matters.</p>

<b>10.4 Surfaces Requiring Reinstatement</b>	10.4.1 Except as otherwise stated in a Taking-Over Certificate, a certificate for a Section or part of the Works shall not be deemed to certify completion of any ground or other surfaces requiring reinstatement.
<b>11. Defects Liability</b>	
<b>11.1 Completion of Outstanding Work and Remedying Defects</b>	11.1.1 In order that the Works and Contractor's Documents, and each Section, shall be in the condition required by the Contract (fair wear and tear excepted) by the expiry date of the relevant Defects Liability Period or as soon as practicable thereafter, the Contractor shall: <ul style="list-style-type: none"> <li>(a) complete any work which is outstanding on the date stated in a Taking-Over Certificate, within such reasonable time as is instructed by the Project Manager, and</li> <li>(b) execute all work required to remedy defects or damage, as may be notified by (or on behalf of) the Employer on or before the expiry date of the Defects Liability Period for the Works or Section (as the case may be).</li> </ul>
	11.1.2 If a defect appears or damage occurs, the Contractor shall be notified accordingly, by (or on behalf of) the Employer.
<b>11.2 Cost of Remedying Defects</b>	11.2.1 All work referred to in sub-paragraph (b) of <b>Sub-Clause</b> 11.1 [Completion of Outstanding Work and Remedying Defects] shall be executed at the risk and cost of the Contractor, if and to the extent that the work is attributable to: <ul style="list-style-type: none"> <li>(a) any design for which the Contractor is responsible,</li> <li>(b) Plant, Materials or workmanship not being in accordance with the Contract, or</li> <li>(c) failure by the Contractor to comply with any other obligation.</li> </ul>
	11.2.2 If and to the extent that such work is attributable to any other cause, the Contractor shall be notified promptly by (or on behalf of) the Employer and <b>Sub-Clause</b> 13.3 [Variation Procedure] shall apply.
<b>11.3 Extension of Defects Liability Period</b>	11.3.1 The Employer shall be entitled subject to <b>Sub-Clause</b> 2.5 [Employer's Claims] to an extension of the Defects Liability Period for the Works or a Section if and to the extent that the Works,

		Section or a major item of Plant (as the case may be, and after taking over) cannot be used for the purposes for which they are intended by reason of a defect or by reason of a damage attributable to the Contractor. However, that extension shall not exceed two years.
	11.3.2	If delivery and/or erection of Plant and/or Materials was suspended under <b>Sub-Clause</b> 8.7 [Suspension of Work] or <b>Sub-Clause</b> 16.1 [Contractor’s Entitlement to Suspend Work], the Contractor’s obligations under this Clause shall not apply to any defects or damage occurring more than two years after the Defects Liability Period for the Plant and/or Materials would otherwise have expired.
<b>11.4 Failure to Remedy Defects</b>	11.4.1	If the Contractor fails to remedy any defect or damage within a reasonable time, a date may be fixed by (or on behalf of) the Employer, on or by which the defect or damage is to be remedied. The Contractor shall be given reasonable notice of this date.
	11.4.2	<p>If the Contractor fails to remedy the defect or damage by this notified date and this remedial work was to be executed at the cost of the Contractor under <b>Sub-Clause</b> 11.2 [Cost of Remedying Defects], the Employer may (at his option):</p> <ul style="list-style-type: none"> <li>(a) carry out the work himself or by others, in a reasonable manner and at the Contractor’s cost, but the Contractor shall have no responsibility for this work; and the Contractor shall subject to <b>Sub-Clause</b> 2.5 [Employer’s Claims] pay to the Employer the costs reasonably incurred by the Employer in remedying the defect or damage;</li> <li>(b) require the Project Manager to determine a reasonable reduction in the Contract Price in accordance with <b>Sub-Clause</b> 3.6 [Determinations]; or</li> <li>(c) if the defect or damage deprives the Employer of substantially the whole benefit of the Works or any major part of the Works, terminate the Contract as a whole, or in respect of such major part which cannot be put to the intended use. Without prejudice to any other rights, under the Contract or otherwise, the Employer shall then be entitled to recover all sums paid for the Works or for such part (as the case may be),</li> </ul>

		plus financing costs and the cost of dismantling the same, clearing the Site and returning Plant and Materials to the Contractor.
<b>11.5 Removal of Defective Work</b>	11.5.1	If the defect or damage cannot be remedied expeditiously on the Site and the Employer gives written consent, the Contractor may remove from the Site for the purposes of repair such items of Plant as are defective or damaged. This consent may require the Contractor to increase the amount of the Performance Security by the full replacement cost of these items, or to provide other appropriate security.
<b>11.6 Further Tests</b>	11.6.1	If the work of remedying of any defect or damage may affect the performance of the Works, the Project Manager may require the repetition of any of the tests described in the Contract. The requirement shall be made by notice within 14 working days after the defect or damage is remedied.
	11.6.2	These tests shall be carried out in accordance with the terms applicable to the previous tests, except that they shall be carried out at the risk and cost of the Party liable, under <b>Sub-Clause 11.2 [Cost of Remedying Defects]</b> , for the cost of the remedial work.
<b>11.7 Right of Access</b>	11.7.1	Until the Performance Certificate has been issued, the Contractor shall have the right of access to all parts of the Works and to records of the operation and performance of the Works, except as may be inconsistent with the Employer's security restrictions.
<b>11.8 Contractor to Search</b>	11.8.1	The Contractor shall, if required by the Project Manager, search for the cause of any defect, under the direction of the Project Manager. Unless the defect is to be remedied at the cost of the Contractor under <b>Sub-Clause 11.2 [Cost of Remedying Defects]</b> , the Cost of the search plus profit shall be agreed or determined by the Project Manager in accordance with <b>Sub-Clause 3.6 [Determinations]</b> and shall be included in the Contract Price.
<b>11.9 Performance Certificate</b>	11.9.1	Performance of the Contractor's obligations shall not be considered to have been completed until the Project Manager has issued the Performance Certificate to the Contractor, stating the date on which the Contractor completed his obligations under the Contract.

	11.9.2	The Project Manager shall issue the Performance Certificate within 28 days after the latest of the expiry dates of the Defects Liability Periods, or as soon thereafter as the Contractor has supplied all the Contractor's Documents and completed and tested all the Works, including remedying any defects. A copy of the Performance Certificate shall be issued to the Employer.
	11.9.3	Only the Performance Certificate shall be deemed to constitute acceptance of the Works.
<b>11.10 Unfulfilled Obligations</b>	11.10.1	After the Performance Certificate has been issued, each Party shall remain liable for the fulfilment of any obligation which remains unperformed at that time. For the purposes of determining the nature and extent of unperformed obligations, the Contract shall be deemed to remain in force.
<b>11.11 Clearance of Site</b>	11.11.1	Upon receiving the Performance Certificate, the Contractor shall remove any remaining Contractor's Equipment, surplus material, wreckage, rubbish and Temporary Works from the Site.
	11.11.2	If all these items have not been removed within 28 days after receipt by the Contractor of the Performance Certificate, the Employer may sell or otherwise dispose of any remaining items. The Employer shall be entitled to be paid the costs incurred in connection with, or attributable to, such sale or disposal and restoring the Site.
	11.11.3	Any balance of the moneys from the sale shall be paid to the Contractor. If these moneys are less than the Employer's costs, the Contractor shall pay the outstanding balance to the Employer.
<b>12. Tests after Completion</b>		
<b>12.1 Procedure for Tests after Completion</b>	12.1.1	<p>If Tests after Completion are specified <b>in the SCC</b>, this Clause shall apply. Unless otherwise stated <b>in the SCC</b>, the Employer shall:</p> <p>(a) provide all electricity, equipment, fuel, instruments, labour, materials, and suitably qualified and experienced staff, as are necessary to carry out the Tests after Completion efficiently, and</p> <p>(b) carry out the Tests after Completion in accordance with the manuals supplied by the Contractor under <b>Sub-Clause 5.7</b></p>



		[Operation and Maintenance Manuals] and such guidance as the Contractor may be required to give during the course of these Tests; and in the presence of such Contractor's Personnel as either Party may reasonably request.
	12.1.2	The Tests after Completion shall be carried out as soon as is reasonably practicable after the Works or Section have been taken over by the Employer. The Employer shall give to the Contractor 21 days' notice of the date after which the Tests after Completion will be carried out. Unless otherwise agreed, these Tests shall be carried out within 14 working days after this date, on the day or days determined by the Employer.
	12.1.3	If the Contractor does not attend at the time and place agreed, the Employer may proceed with the Tests after Completion, which shall be deemed to have been made in the Contractor's presence, and the Contractor shall accept the readings as accurate.
	12.1.4	The results of the Tests after Completion shall be compiled and evaluated by both Parties. Appropriate account shall be taken of the effect of the Employer's prior use of the Works.
<b>12.2 Delayed Test</b>	12.2.1	If the Contractor incurs Cost as a result of any unreasonable delay by the Employer to the Tests after Completion, the Contractor shall <ul style="list-style-type: none"> <li>(a) give notice to the Project Manager; and</li> <li>(b) be entitled subject to <b>Sub-Clause</b> 20.1 [Contractor's Claims] to payment of any such Cost plus reasonable profit, which shall be included in the Contract Price.</li> </ul>
	12.2.2	After receiving this notice, the Project Manager shall proceed in accordance with <b>Sub-Clause</b> 3.6 [Determinations] to determine this Cost and profit.
	12.2.3	If, for reasons not attributable to the Contractor, a Tests after Completion on the Works or any Section cannot be completed during the Defects Liability Period (or any other period agreed upon by both Parties), then the Parties to agree on the final date of completing the test.
<b>12.3 Retesting</b>	12.3.1	If the Works, or a Section, fail to pass the Tests after Completion: <ul style="list-style-type: none"> <li>(a) sub-paragraph (b) of <b>Sub-Clause</b> 11.1</li> </ul>

	<p>[Completion of Outstanding Work and Remedying Defects] shall apply; and</p> <p>(b) either Party may then require the failed Tests, and the Tests after Completion on any related work, to be repeated under the same terms and conditions.</p>
	<p>12.3.2 If and to the extent that this failure and retesting are attributable to any of the matters listed in subparagraphs (a) to (d) of <b>Sub-Clause 11.2</b> [Cost of Remedying Defects] and cause the Employer to incur additional costs, the Contractor shall subject to <b>Sub-Clause 2.5</b> [Employer's Claims] pay these costs to the Employer.</p>
<p><b>12.4 Failure to Pass Tests after Completion</b></p>	<p>12.4.1 If the following conditions apply, namely:</p> <p>(a) the Works, or a Section, fail to pass any or all of the Tests after Completion,</p> <p>(b) the relevant sum payable as non-performance damages for this failure is stated (or its method of calculation is defined) in the Contract, and</p> <p>(c) the Contractor pays this relevant sum to the Employer during the Defects Liability Period, then the Works or Section shall be deemed to have passed these Tests after Completion.</p>
	<p>12.4.2 If the Works, or a Section, fail to pass a Test after Completion and the Contractor proposes to make adjustments or modifications to the Works or such Section, the Contractor may be instructed by (or on behalf of) the Employer that right of access to the Works or Section cannot be given until a time that is convenient to the Employer. The Contractor shall then remain liable to carry out the adjustments or modifications and to satisfy this Test, within a reasonable period of receiving notice by (or on behalf of) the Employer of the time that is convenient to the Employer. However, if the Contractor does not receive this notice during the relevant Defects Liability Period, the Contractor shall be relieved of this obligation.</p>
	<p>12.4.3 If the Contractor incurs additional Cost as a result of any unreasonable delay by the Employer in permitting access to the Works or Plant by the Contractor, either to investigate the causes of a failure to pass a Tests after Completion or to carry out any adjustments or modifications, the</p>

	<p>Contractor may:</p> <ul style="list-style-type: none"> <li>(a) give notice to the Project Manager; and</li> <li>(b) be entitled subject to <b>Sub-Clause</b> 20.1 [Contractor's Claims] to payment of any such Cost plus reasonable profit, which shall be included in the Contract Price.</li> </ul>
	<p>12.4.4 After receiving this notice, the Project Manager shall proceed in accordance with <b>Sub-Clause</b> 3.6 [Determinations] to determine the matter.</p>
<p><b>13. Variations and Adjustments</b></p>	
<p><b>13.1 Right to Vary</b></p>	<p>13.1.1 Variations may be initiated by the Project Manager at any time prior to issuing the Taking-Over Certificate for the Works, either by an instruction or by a request for the Contractor to submit a proposal.</p>
	<p>13.1.2 The Contractor shall execute and be bound by each Variation, unless the Contractor promptly gives notice to the Project Manager stating (with supporting particulars) that (i) the Contractor cannot readily obtain the Goods required for the Variation, or (ii) such Variation triggers a substantial change in the sequence or progress of the Works. Upon receiving this notice, the Project Manager shall cancel, confirm or vary the instruction.</p>
	<p>13.1.3 Variation may be in the form of:</p> <ul style="list-style-type: none"> <li>(a) changes to the quantities of any item of work included in the Contract;</li> <li>(a) changes to the quality and other characteristics of any item of work;</li> <li>(b) changes to the levels, positions and/or dimensions of any part of the Works;</li> <li>(a) omission of any Work unless it is to be carried out by others;</li> <li>(b) any additional Work, Plant, Materials or services necessary for the Permanent Works, including any associated Tests on Completion, boreholes and other testing and exploratory work; or</li> <li>(c) changes to the sequence or timing of the execution of the Works.</li> </ul>

	<p>13.1.4 The Contractor shall not make any alteration and/or modification of the Permanent Works, unless and until the Project Manager, with prior written approval of the Employer, instructs a Variation.</p>
<p><b>13.2 Value Engineering</b></p>	<p>13.2.1 The Contractor may, at any time, submit to the Project Manager a written proposal which (in the Contractor’s opinion) will, if adopted, (i) accelerate completion, (ii) reduce the cost to the Employer of executing, maintaining or operating the Works, (iii) improve the efficiency or value to the Employer of the completed Works, or (iv) otherwise be of benefit to the Employer.</p>
	<p>13.2.2 The proposal shall be prepared at the cost of the Contractor and shall include the items listed in <b>Sub-Clause 13.3</b> [Variation Procedure].</p>
	<p>13.2.3 If a proposal, which is approved by the Project Manager, includes a change in the design of part of the Permanent Works, then unless otherwise agreed by both Parties:</p> <ul style="list-style-type: none"> <li>(a) the Contractor shall design this part,</li> <li>(b) sub-paragraphs (a) to (d) of <b>Sub-Clause 4.1</b> [Contractor’s General Obligations] shall apply, and</li> <li>(c) if this change results in a reduction in the contract value of this part, the Project Manager shall upon Employer’s approval proceed in accordance with <b>Sub-Clause 3.6</b> [Determinations] to determine a fee, which shall be included in the Contract Price. This fee shall be half (50%) of the difference between the following amounts: <ul style="list-style-type: none"> <li>(i) such reduction in contract value, resulting from the change, excluding adjustments under <b>Sub-Clause 13.7</b> [Adjustments for Changes in Legislation] and <b>Sub-Clause 13.8</b> [Adjustments for Changes in Cost], and</li> <li>(ii) the reduction (if any) in the value to the Employer of the varied works, taking account of any reductions in quality, anticipated life or operational efficiencies.</li> </ul> </li> </ul> <p>However, if amount (i) is less than amount (ii), there shall not be a fee.</p>

<p><b>13.3 Variation Procedure</b></p>	<p>13.3.1 If the Project Manager requests a proposal, prior to instructing a Variation, the Contractor shall respond in writing as soon as practicable, either by giving reasons why he cannot comply (if this is the case) or by submitting:</p> <ul style="list-style-type: none"> <li>(a) a description of the varied work performed or to be performed, including details of the resources and methods adopted or to be adopted by the Contractor, and sufficient ES information to enable an evaluation of ES risks and impacts;</li> <li>(b) the Contractor's proposal for any necessary modifications to the programme according to <b>Sub-Clause</b> 8.3 [Programme] and to the Time for Completion, and</li> <li>(c) the Contractor's proposal for evaluation of the Variation.</li> </ul>
	<p>13.3.2 The Project Manager shall, as soon as practicable after receiving such proposal (under <b>Sub-Clause</b> 13.2 [Value Engineering] or otherwise), respond with approval, disapproval or comments. The Contractor shall not delay any work whilst awaiting a response.</p>
	<p>13.3.3 Each instruction to execute a Variation, with any requirements for the recording of Costs, shall be issued by the Project Manager to the Contractor, who shall acknowledge receipt.</p>
	<p>13.3.4 Upon instructing or approving a Variation, the Project Manager shall proceed in accordance with <b>Sub-Clause</b> 3.6 [Determinations] to agree or determine adjustments to the Contract Price and the Schedule of Payments. These adjustments shall include reasonable profit, and shall take account of the Contractor's submissions under <b>Sub-Clause</b> 13.2 [Value Engineering] if applicable.</p>
<p><b>1.4 Payment in Applicable Currencies</b></p>	<p>13.4.1 If the Contract provides for payment of the Contract Price in more than one currency, then whenever an adjustment is agreed, approved or determined as stated above, the amount payable in each of the applicable currencies shall be specified. For this purpose, reference shall be made to the actual or expected currency proportions of the Cost of the varied work, and to the proportions of various currencies specified for payment of the Contract Price.</p>

13.5 Provisional Sums	13.5.1 Each Provisional Sum shall only be used, in whole or in part, in accordance with the Project Manager's instructions and the Contract Price shall be adjusted accordingly.
	<p>13.5.2 The total sum paid to the Contractor shall include only such amounts, for the work, supplies or services to which the Provisional Sum relates, as the Project Manager shall have instructed. For each Provisional Sum, the Project Manager may instruct:</p> <ul style="list-style-type: none"> <li>(a) work to be executed (including Plant, Materials or services to be supplied) by the Contractor and valued under <b>Sub-Clause 13.3</b> [Variation Procedure]; and/or</li> <li>(b) Plant, Materials or services to be purchased by the Contractor, for which there shall be included in the Contract Price: <ul style="list-style-type: none"> <li>(i) the actual amounts paid (or due to be paid) by the Contractor, and</li> <li>(ii) a sum for overhead charges and profit, calculated as a percentage of these actual amounts by applying the relevant percentage rate (if any) stated in the appropriate Schedule. If there is no such rate, the percentage rate stated in the Appendix to Tender shall be applied.</li> </ul> </li> </ul>
	13.5.3 The Contractor shall, when required by the Project Manager, produce quotations, invoices, vouchers and accounts or receipts in substantiation.
	13.5.4 The Provisional Sum shall be used to cover the Employer's share of the DAAB members' fees and expenses, in accordance with Clause 21. No prior instruction of the Project Manager shall be required with respect to the work of the DARB. The Contractor shall submit the DARB members' invoices and satisfactory evidence of having paid 100% of such invoices as part of the substantiation of those Statements submitted under Sub-Clause 14.3
13.6 Daywork	13.6.1 For work of a minor or incidental nature, the Project Manager may instruct that such work be executed on a daywork basis. The work shall then be valued in accordance with the Daywork Schedule included in the Contract, and the following procedure shall apply. If a Daywork Schedule is not included in the Contract, this <b>Sub-</b>

	<b>Clause shall not apply.</b>
	13.6.2 Before ordering Goods for the work, the Contractor shall submit quotations to the Project Manager. When applying for payment, the Contractor shall submit invoices, vouchers and accounts or receipts for any Goods.
	13.6.3 Except for any items for which the Daywork Schedule specifies that payment is not due, the Contractor shall deliver each day to the Project Manager accurate statements in duplicate which shall include the following details of the resources used in executing the previous day's work: <ul style="list-style-type: none"> <li>(a) the names, occupations and time of Contractor's Personnel,</li> <li>(b) the identification, type and time of Contractor's Equipment and Temporary Works, and</li> <li>(c) the quantities and types of Plant and Materials used.</li> </ul>
	13.6.4 One copy of each statement will, if correct, or when agreed, be signed by the Project Manager and returned to the Contractor. The Contractor shall then submit priced statements of these resources to the Project Manager, prior to their inclusion in the next Statement under <b>Sub-Clause 14.3</b> [Application for Interim Payment Certificates].
<b>13.7 Adjustments for Changes in Legislation</b>	13.7.1 The Contract Price shall be adjusted to take account of any increase or decrease in Cost resulting from a change in the Laws of Tanzania (including the introduction of new Laws and the repeal or modification of existing Laws) or in the judicial or official governmental interpretation of such Laws, made after the Base Date, which affect the Contractor in the performance of obligations under the Contract.
	13.7.2 If the Contractor suffers (or will suffer) delay and/or incurs (or will incur) additional Cost as a result of these changes in the Laws or in such interpretations, made after the Base Date, the Contractor shall give notice to the Project Manager and shall be entitled subject to <b>Sub-Clause 20.1</b> [Contractor's Claims] to an extension of time and associated costs (if any) for such delay, if completion is or will be delayed, under <b>Sub-Clause 8.4</b> [Extension of Time for Completion], and after receiving this notice, the Project Manager shall proceed in accordance with <b>Sub-Clause 3.6</b> [Determinations] to determine

		these matters.
	13.7.3	Notwithstanding the foregoing, the Contractor shall not be entitled to such an extension of time if the same shall already have been taken into account in determining an extension and such Cost shall not be separately paid if the same shall already have been taken into account in the indexing of any inputs to the table of adjustment data in accordance with the provisions of <b>Sub-Clause</b> 13.8.
<b>13.8 Adjustments for Changes in Cost</b>	13.8.1	In this <b>Sub-Clause</b> , “table of adjustment data” means the completed table of adjustment data for local and foreign currencies included in the Schedules. If there is no such table of adjustment data, this <b>Sub-Clause</b> shall not apply.
	13.8.2	If this <b>Sub-Clause</b> applies, the amounts payable to the Contractor shall be adjusted for rises or falls in the cost of labour, Goods and other inputs to the Works, by the addition or deduction of the amounts determined by the formulae prescribed in this <b>Sub-Clause</b> . To the extent that full compensation for any rise or fall in Costs is not covered by the provisions of this or other Clauses, the Accepted Contract Amount shall be deemed to have included amounts to cover the contingency of other rises and falls in costs.
	13.8.3	<p>The adjustment to be applied to the amount otherwise payable to the Contractor, as valued in accordance with the appropriate Schedule and certified in Payment Certificates, shall be determined from formulae for each of the currencies in which the Contract Price is payable. No adjustment is to be applied to work valued on the basis of Cost or current prices. The formulae shall be of the following general type:</p> $P_n = a + b \frac{L_n}{L_0} + c \frac{E_n}{E_0} + d \frac{M_n}{M_0} + \dots$ <p>where:</p> <p>“P<sub>n</sub>” is the adjustment multiplier to be applied to the estimated contract value in the relevant currency of the work carried out in period “n”, this period being a month unless otherwise stated <b>in the SCC</b> ;</p> <p>“a” is a fixed coefficient, stated in the relevant table of adjustment data, representing the non-adjustable portion in contractual payments;</p>



	<p>“b”, “c”, “d”, ... are coefficients representing the estimated proportion of each cost element related to the execution of the Works, as stated in the relevant table of adjustment data; such tabulated cost elements may be indicative of resources such as labour, equipment and materials;</p> <p>“Ln”, “En”, “Mn”, ... are the current cost indices or reference prices for period “n”, expressed in the relevant currency of payment, each of which is applicable to the relevant tabulated cost element on the date 49 days prior to the last day of the period (to which the particular Payment Certificate relates); and</p> <p>“Lo”, “Eo”, “Mo”, ... are the base cost indices or reference prices, expressed in the relevant currency of payment, each of which is applicable to the relevant tabulated cost element on the Base Date.</p>
	<p>13.8.4 The cost indices or reference prices stated in the table of adjustment data shall be used. If their source is in doubt, it shall be determined by the Project Manager. For this purpose, reference shall be made to the values of the indices at stated dates (quoted in the fourth and fifth columns respectively of the table) for the purposes of clarification of the source; although these dates (and thus these values) may not correspond to the base cost indices.</p>
	<p>13.8.5 In cases where the “currency of index” (stated in the table) is not the relevant currency of payment, each index shall be converted into the relevant currency of payment at the selling rate, established by the central bank of the Country, of this relevant currency on the above date for which the index is required to be applicable.</p>
	<p>13.8.6 Until such time as each current cost index is available, the Project Manager shall determine a provisional index for the issue of Interim Payment Certificates. When a current cost index is available, the adjustment shall be recalculated accordingly.</p>
	<p>13.8.7 If the Contractor fails to complete the Works within the Time for Completion, adjustment of prices thereafter shall be made using either (i) each index or price applicable on the date 49 days prior to the expiry of the Time for Completion of the Works, or (ii) the current index or price: whichever is more favourable to the Employer.</p>

	<p>13.8.8 The weightings (coefficients) for each of the factors of cost stated in the table(s) of adjustment data shall only be adjusted if they have been rendered unreasonable, unbalanced or inapplicable, as a result of Variations.</p>
<p><b>14. Contract Price and Payment</b></p>	
<p><b>14.1 The Contract Price</b></p>	<p>14.1.1 Unless otherwise stated <b>in the SCC</b>:</p> <ul style="list-style-type: none"> <li>(a) the Contract Price shall be the lumpsum accepted contract amount and subject to adjustments in accordance with the Contract;</li> <li>(b) the Contractor shall pay all taxes, duties and fees required to be paid by him under the Contract, and the Contract Price shall not be adjusted for any of these costs except as stated in <b>Sub-Clause</b> 13.7 [Adjustments for Changes in Legislation];</li> <li>(c) any quantities which may be set out in the Bill of Quantities or other Schedule are estimated quantities and are not to be taken as the actual and correct quantities:             <ul style="list-style-type: none"> <li>(i) of the Works which the Contractor is required to execute, or</li> <li>(ii) for the purposes of valuation of the works; and</li> </ul> </li> </ul> <p>the Contractor shall submit to the Project Manager, within 28 days after the Commencement Date, a proposed breakdown of each lump sum price in the Schedules. The Project Manager may take account of the breakdown when preparing Payment Certificates, but shall not be bound by it.</p>
<p><b>14.2 Advance Payment</b></p>	<p>14.2.1 If stated in the SCC the Employer shall make advance payment to the Contractor of the amounts stated <b>in the SCC</b> by the manner stated <b>in the SCC</b>, against provision by the Contractor of an Unconditional Bank Guarantee in a form and by a bank acceptable to the Employer in amounts and currencies equal to the advance payment. The Guarantee shall remain effective until the advance payment has been repaid, but the amount of the Guarantee shall be progressively reduced by the amounts repaid by the Contractor. Interest will not be charged on the advance payment.</p>

	14.2.2	The Contractor shall use the advance payment to pay for mobilization and design expenses required specifically for design and execution of the Contract. The Contractor shall demonstrate that advance payment has been used in this way by supplying copies of invoices or other documents to the Project Manager.
	14.2.3	Unless and until the Employer receives this guarantee, or if the total advance payment is not stated in the <b>SCC</b> , this <b>Sub-Clause</b> shall not apply.
	14.2.4	The Project Manager shall deliver to the Employer and to the Contractor an Interim Payment Certificate for the advance payment or its first instalment after receiving a Statement (under <b>Sub-Clause</b> 14.3 [Application for Interim Payment Certificates]) and after the Employer receives <ul style="list-style-type: none"> <li>(a) the Performance Security in accordance with <b>Sub-Clause</b> 4.2 [Performance Security]; and</li> <li>(b) a guarantee in amounts and currencies equal to the advance payment. This guarantee shall be issued by an entity and from within a country (or other jurisdiction) approved by the Employer, and shall be in the form annexed to the SCC or in another form approved by the Employer.</li> </ul>
	14.2.5	The Contractor shall ensure that the guarantee is valid and enforceable until the advance payment has been repaid, but its amount shall be progressively reduced by the amount repaid by the Contractor as indicated in the Payment Certificates. If the terms of the guarantee specify its expiry date, and the advance payment has not been repaid by the date 28 days prior to the expiry date, the Contractor shall extend the validity of the guarantee until the advance payment has been repaid.
	14.2.6	Unless otherwise stated <b>in the SCC</b> , the advance payment shall be repaid through percentage deductions from the interim payments determined by the Project Manager in accordance with <b>Sub-Clause</b> 14.6 [Issue of Interim Payment Certificates], as follows: <ul style="list-style-type: none"> <li>(a) deductions shall commence in the next interim Payment Certificate following that in which the total of all certified interim payments (excluding the advance payment and deductions and repayments of retention)</li> </ul>

	<p>exceeds 30 percent of the Accepted Contract Amount less Provisional Sums; and</p> <p>(b) deductions shall be made at the amortisation rate stated <b>in the SCC</b> of the amount of each Interim Payment Certificate (excluding the advance payment and deductions for its repayments as well as deductions for retention money) in the currencies and proportions of the advance payment until such time as the advance payment has been repaid; provided that the advance payment shall be completely repaid prior to the time when eighty per cent (80%) of the Accepted Contract Amount less Provisional Sums has been certified for payment.</p>
	<p>14.2.7 If the advance payment has not been repaid prior to the issue of the Taking-Over Certificate for the Works or prior to termination under <b>Sub-Clause 15</b> [Termination by Employer], <b>Sub-Clause 16</b> [Suspension and Termination by Contractor] or <b>Sub-Clause 19</b> [Force Majeure] (as the case may be), the whole of the balance then outstanding shall immediately become due and in case of termination under <b>Sub-Clause 15</b> [Termination by Employer] and <b>Sub-Clause 19.6</b> [Optional Termination, Payment and Release], payable by the Contractor to the Employer.</p>
<p><b>14.3 Application for Interim Payment Certificates</b></p>	<p>14.3.1 The Contractor shall submit a Statement in six copies to the Project Manager after the end of each month, in a form approved by the Project Manager, showing in detail the amounts to which the Contractor considers himself to be entitled, together with supporting documents which shall include the report on the progress during this month in accordance with <b>Sub-Clause 4.21</b> [Progress Reports].</p>
	<p>14.3.2 The Statement shall include the following items, as applicable, which shall be expressed in the various currencies in which the Contract Price is payable, in the sequence listed:</p> <p>(a) the estimated contract value of the Works executed and the Contractor's Documents produced up to the end of the month (including Variations but excluding items described in sub-paragraphs (b) to (g) below);</p> <p>(b) any amounts to be added and deducted for changes in legislation and changes in cost, in accordance with <b>Sub-Clause 13.7</b></p>

	<p>[Adjustments for Changes in Legislation] and <b>Sub-Clause 13.8</b> [Adjustments for Changes in Cost];</p> <ul style="list-style-type: none"> <li>(c) any amount to be deducted for retention, calculated by applying the percentage of retention stated <b>in the SCC</b> to the total of the above amounts, until the amount so retained by the Employer reaches the limit of Retention Money (if any) stated <b>in the SCC</b>;</li> <li>(d) any amounts to be added for the advance payment and (if more than one instalment) and to be deducted for its repayments in accordance with <b>Sub-Clause 14.2</b> [Advance Payment];</li> <li>(e) any amounts to be added and deducted for Plant and Materials in accordance with <b>Sub-Clause 14.5</b> [Plant and Materials intended for the Works];</li> <li>(f) any other additions or deductions which may have become due under the Contract or otherwise, including those under <b>Sub-Clause 20</b> [Claims, Disputes and Arbitration]; and</li> <li>(g) the deduction of amounts certified in all previous Payment Certificates.</li> </ul>
<p><b>14.4 Schedule of Payments</b></p>	<p>14.4.1 If the Contract includes a schedule of payments specifying the instalments in which the Contract Price will be paid, then unless otherwise stated in this schedule:</p> <ul style="list-style-type: none"> <li>(a) the instalments quoted in this schedule of payments shall be the estimated contract values for the purposes of sub-paragraph (a) of <b>Sub-Clause 14.3</b> [Application for Interim Payment Certificates];</li> <li>(b) <b>Sub-Clause 14.5</b> [Plant and Materials intended for the Works] shall not apply; and</li> <li>(c) if these instalments are not defined by reference to the actual progress achieved in executing the Works, and if actual progress is found to be less or more than that on which this schedule of payments was based, then the Project Manager may proceed in accordance with <b>Sub-Clause 3.6</b> [Determinations] to agree or determine revised instalments, which shall take account of the extent to which progress is less than that on which the instalments were</li> </ul>

	previously based.
	<p>14.4.2 If the Contract does not include a schedule of payments, the Contractor shall submit non-binding estimates of the payments which he expects to become due during each quarterly period. The first estimate shall be submitted within 42 days after the Commencement Date. Revised estimates shall be submitted at quarterly intervals, until the Taking-Over Certificate has been issued for the Works.</p>
	<p>14.4.3 “If the Schedule of Payments specifies payments to be made to the Contractor based on Milestones, payments shall be made upon completion of such Milestones.”</p>
<p><b>14.5 Plant and Materials intended for the Works</b></p>	<p>14.5.1 If this <b>Sub-Clause</b> applies, Interim Payment Certificates shall include, under sub-paragraph (e) of <b>Sub-Clause</b> 14.3,</p> <ul style="list-style-type: none"> <li>(a) an amount for Plant and Materials which have been sent to the Site for incorporation in the Permanent Works, and</li> <li>(b) a reduction when the contract value of such Plant and Materials is included as part of the Permanent Works under sub-paragraph (a) of <b>Sub-Clause</b> 14.3 [Application for Interim Payment Certificates].</li> </ul> <p>If the lists referred to in sub-paragraphs (b) (i) or (c) (i) below are not included <b>in the SCC</b>, this <b>Sub-Clause</b> shall not apply.</p>
	<p>14.5.2 The Project Manager shall determine and certify each addition if the following conditions are satisfied:</p> <ul style="list-style-type: none"> <li>(a) the Contractor has: <ul style="list-style-type: none"> <li>(i) kept satisfactory records (including the orders, receipts, Costs and use of Plant and Materials) which are available for inspection, and</li> <li>(ii) submitted a statement of the Cost of acquiring and delivering the Plant and Materials to the Site, supported by satisfactory evidence;</li> </ul> </li> </ul> <p>and either:</p> <ul style="list-style-type: none"> <li>(b) the relevant Plant and Materials: <ul style="list-style-type: none"> <li>(i) are those listed in the Schedules for payment when shipped,</li> <li>(ii) have been shipped to the Country, en route to the Site, in accordance with the</li> </ul> </li> </ul>

	<p>Contract; and</p> <p>(iii) are described in a clean shipped bill of lading or other evidence of shipment, which has been submitted to the Project Manager together with evidence of payment of freight and insurance, any other documents reasonably required, and a bank guarantee in a form and issued by an entity approved by the Employer in amounts and currencies equal to the amount due under this <b>Sub-Clause</b>: this guarantee may be in a similar form to the form referred to in <b>Sub-Clause</b> 14.2 [Advance Payment] and shall be valid until the Plant and Materials are properly stored on Site and protected against loss, damage or deterioration;</p> <p>or</p> <p>(c) the relevant Plant and Materials:</p> <p>(i) are those listed in the Schedules for payment when delivered to the Site, and</p> <p>(ii) have been delivered to and are properly stored on the Site, are protected against loss, damage or deterioration, and appear to be in accordance with the Contract.</p>
	<p>14.5.3 The additional amount to be certified shall be the equivalent of eighty percent of the Project Manager's determination of the cost of the Plant and Materials (including delivery to Site), taking account of the documents mentioned in this <b>Sub-Clause</b> and of the contract value of the Plant and Materials.</p>
	<p>14.5.4 The currencies for this additional amount shall be the same as those in which payment will become due when the contract value is included under sub-paragraph (a) of <b>Sub-Clause</b> 14.3 [Application for Interim Payment Certificates]. At that time, the Payment Certificate shall include the applicable reduction which shall be equivalent to, and in the same currencies and proportions as, this additional amount for the relevant Plant and Materials.</p>
<p><b>14.6 Issue of Interim Payment Certificates</b></p>	<p>14.6.1 No amount will be certified or paid until the Employer has received and approved the Performance Security. Thereafter, the Project Manager shall, within 28 days after receiving a Statement and supporting documents, deliver to</p>

	<p>the Employer and to the Contractor an Interim Payment Certificate which shall state the amount which the Project Manager fairly determines to be due, with all supporting particulars for any reduction or withholding made by the Project Manager on the Statement.</p>
	<p>14.6.2 However, prior to issuing the Taking-Over Certificate for the Works, the Project Manager shall not be bound to issue an Interim Payment Certificate in an amount which would (after retention and other deductions) be less than the minimum amount of Interim Payment Certificates (if any) <b>pursuant to Sub-Clause 14.3</b>. In this event, the Project Manager shall give notice to the Contractor accordingly.</p>
	<p>14.6.3 An Interim Payment Certificate shall not be withheld for any other reason, although:</p> <ul style="list-style-type: none"> <li>(a) if anything supplied or work done by the Contractor is not in accordance with the Contract, the cost of rectification or replacement may be withheld until rectification or replacement has been completed; and/or</li> <li>(b) if the Contractor was or is failing to perform any work or obligation in accordance with the Contract, and had been so notified by the Project Manager, the value of this work or obligation may be withheld until the work or obligation has been performed.</li> <li>(c) if the Contractor was, or is, failing to perform any ES obligations or work under the Contract, the value of this work or obligation, as determined by the Engineer, may be withheld until the work or obligation has been performed, and/or the cost of rectification or replacement, as determined by the Project Manager, may be withheld until rectification or replacement has been completed. Failure to perform includes, but is not limited to the following: <ul style="list-style-type: none"> <li>(i) failure to comply with any ES obligations or work described in the Works' Requirements which may include: working outside site boundaries, excessive dust, damage to offsite vegetation, pollution of water courses from oils or sedimentation, contamination of land e.g. from oils, human waste, damage to archaeology</li> </ul> </li> </ul>



	<p>or cultural heritage features, air pollution as a result of unauthorized and/or inefficient combustion;</p> <ul style="list-style-type: none"> <li>(ii) failure to regularly review C-ESMP and/or update it in a timely manner to address emerging ES issues, or anticipated risks or impacts;</li> <li>(iii) failure to implement the C-ESMP e.g. failure to provide required training or sensitization;</li> <li>(iv) failing to have appropriate consents/permits prior to undertaking Works or related activities;</li> <li>(v) failure to submit ES report/s, or failure to submit such reports in a timely manner;</li> </ul> <p>(d) failure to implement remediation as instructed by the Project Manager within the specified timeframe (e.g. remediation addressing non-compliance/s).”</p>
	<p>14.6.4 The Project Manager may in any Payment Certificate make any correction or modification that should properly be made to any previous Payment Certificate. A Payment Certificate shall not be deemed to indicate the Project Manager’s acceptance, approval, consent or satisfaction.</p>
<p><b>14.7 Payment and Currency</b></p>	<p>14.7.1 The Employer shall pay to the Contractor:</p> <ul style="list-style-type: none"> <li>(a) the amount certified in each Interim Payment Certificate within 56 days after the Project Manager receives the Statement and supporting documents or, at a time when the funds or credit (from which part of the payments to the Contractor is being made) is suspended, the amount shown on any statement submitted by the Contractor, within 14 days after such statement is submitted. Any discrepancy shall be rectified in the next payment to the Contractor; and</li> <li>(b) the amount certified in the Final Payment Certificate within 56 days after the Employer receives this Payment Certificate or, at a time when the Government’s fund (from which part of the payments to the Contractor is being made) is suspended, the undisputed amount shown in the Final Statement, within 56 days after the date of notification of the suspension in accordance with <b>Sub-Clause 16.2</b>.</li> </ul>

	14.7.2	Payment of the amount due in each currency shall be made into the bank account, nominated by the Contractor, in the payment country (for this currency) specified in the Contract.
	14.7.3	The currency of payment shall be stated <b>in the SCC</b> . Where payments are to be made in currencies other than the Tanzania Shillings, the exchange rates to be used for calculating such amounts shall be the Bank of Tanzania exchange rate prevailing on the date of signing the Contract.
<b>14.8 Delayed Payment</b>	14.8.1	If the Employer makes a late payment the Contractor shall be paid interest on the late payment in the next payment. Interest shall be calculated from the date by which the payment should have been made up to the date when the late payment is made at the prevailing rate of interest issued by the Bank of Tanzania on the date of signing the Contract for each of the currencies in which payments are made.
<b>14.9 Payment of Retention Money</b>	14.9.1	When the Taking-Over Certificate has been issued for the Works, the first half of the Retention Money shall be certified by the Project Manager for payment to the Contractor.
	14.9.2	If a Taking-Over Certificate is issued for a Section or part of the Works, a proportion of the Retention Money shall be certified and paid. This proportion shall be half (50%) of the proportion calculated by dividing the estimated contract value of the Section or part, by the estimated final Contract Price.
	14.9.3	Promptly after the latest of the expiry dates of the Defects Liability Periods, the outstanding balance of the Retention Money shall be certified by the Project Manager for payment to the Contractor. If a Taking-Over Certificate was issued for a Section, a proportion of the second half of the Retention Money shall be certified and paid promptly after the expiry date of the Defects Liability Period for the Section. This proportion shall be half (50%) of the proportion calculated by dividing the estimated contract value of the Section by the estimated final Contract Price.
	14.9.4	However, if any work remains to be executed under <b>Sub-Clause 11</b> [Defects Liability], the Project Manager shall be entitled to withhold certification of the estimated cost of this work until it has been executed.

	14.9.5	When calculating these proportions, no account shall be taken of any adjustments under <b>Sub-Clause</b> 13.7 [Adjustments for Changes in Legislation] and <b>Sub-Clause</b> 13.8 [Adjustments for Changes in Cost].
	14.9.6	Unless otherwise stated in the <b>SCC</b> , when the Taking-Over Certificate has been issued for the Works and the first half of the Retention Money has been certified for payment by the Engineer, the Contractor shall be entitled to substitute a guarantee, in the form annexed to the Particular Conditions or in another form approved by the Employer and issued by a reputable bank or financial institution selected by the Contractor, for the second half of the Retention Money. The Contractor shall ensure that the guarantee is in the amounts and currencies of the second half of the Retention Money and is valid and enforceable until the Contractor has executed and completed the Works and remedied any defects, as specified for the Performance Security and, if applicable, an ES Performance Security in Sub-Clause 4.2. On receipt by the Employer of the required guarantee, the Engineer shall certify and the Employer shall pay the second half of the Retention Money. The release of the second half of the Retention Money against a guarantee shall then be in lieu of the release after the latest of the expiry dates of the Defects Notification Periods. The Employer shall return the guarantee to the Contractor within 21 days after receiving a copy of the Performance Certificate.
	14.9.7	If the Performance Security and, if applicable, an ES Performance Security required under Sub-Clause 4.2 is in the form of a demand guarantee, and the amount guaranteed under them when the Taking-Over Certificate is issued is more than half of the Retention Money, then the Retention Money guarantee will not be required. If the amount guaranteed under the Performance Security and, if applicable, an ES Performance Security, when the Taking-Over Certificate is issued is less than half of the Retention Money, the Retention Money guarantee will only be required for the difference between half of the Retention Money and the amount guaranteed under the Performance Security and, if applicable, an ES Performance Security
<b>14.10 Statement at Completion</b>	14.10.1	Within 84 days after receiving the Taking-Over Certificate for the Works, unless otherwise stated <b>in the SCC</b> , the Contractor shall submit to the Project Manager six copies of a Statement at

	<p>completion with supporting documents, in accordance with <b>Sub-Clause</b> 14.3 [Application for Interim Payment Certificates], showing:</p> <ul style="list-style-type: none"> <li>(a) the value of all work done in accordance with the Contract up to the date stated in the Taking-Over Certificate for the Works,</li> <li>(b) any further sums which the Contractor considers to be due, and</li> <li>(c) an estimate of any other amounts which the Contractor considers will become due to him under the Contract. Estimated amounts shall be shown separately in this Statement at completion.</li> </ul>
	<p>14.10.2 The Project Manager shall then certify in accordance with <b>Sub-Clause</b> 14.6 [Issue of Interim Payment Certificates].</p>
<p><b>14.11 Application for Final Payment Certificate</b></p>	<p>14.11.1 Within 56 days after receiving the Performance Certificate, unless otherwise stated <b>in the SCC</b>, the Contractor shall submit to the Project Manager, six copies of a final statement with supporting documents showing in detail in a form approved by the Project Manager:</p> <ul style="list-style-type: none"> <li>(a) the value of all work done in accordance with the Contract, and</li> <li>(b) any further sums which the Contractor considers to be due to him under the Contract or otherwise.</li> </ul>
	<p>14.11.2 If the Project Manager disagrees with or cannot verify any part of the final statement, the Contractor shall submit such further information as the Project Manager may reasonably require within 28 days from receipt of the said draft and shall make such changes in the draft as may be agreed between them. The Contractor shall then prepare and submit to the Project Manager the final statement as agreed. This agreed statement is referred to in these Conditions as the “Final Statement”.</p>
	<p>14.11.3 However if, following discussions between the Project Manager and the Contractor and any changes to the final statement which are agreed, it becomes evident that a dispute exists, the Project Manager shall deliver to the Employer (with a copy to the Contractor) an Interim Payment Certificate for the agreed parts of the draft final statement. Thereafter, if the dispute is finally resolved under <b>Sub-Clause</b> 20.4 [Obtaining <b>Dispute Avoidance</b></p>

		<b>and Resolution Board's Decision]</b> or <b>Sub-Clause 20.5 [Amicable Settlement]</b> , the Contractor shall then prepare and submit to the Employer (with a copy to the Project Manager) a Final Statement.
<b>14.12 Discharge</b>	14.12.1	When submitting the Final Statement, the Contractor shall submit a discharge which confirms that the total of the Final Statement represents full and final settlement of all moneys due to the Contractor under or in connection with the Contract. This discharge may state that it becomes effective when the Contractor has received the Performance Security and the outstanding balance of this total, in which event the discharge shall be effective on such date.
<b>14.13 Issue of Final Payment Certificate</b>	14.13.1	<p>Within 28 days after receiving the Final Statement and a written discharge in accordance with <b>Sub-Clause 14.11 [Application for Final Payment Certificate]</b> and <b>Sub-Clause 14.12 [Discharge]</b>, the Project Manager shall deliver to the Employer and to the Contractor, the Final Payment Certificate which shall state:</p> <ul style="list-style-type: none"> <li>(a) the amount which he fairly determines is finally due, and</li> <li>(b) after giving credit to the Employer for all amounts previously paid by the Employer and for all sums to which the Employer is entitled, the balance (if any) due from the Employer to the Contractor or from the Contractor to the Employer, as the case may be.</li> </ul>
	14.13.2	If the Contractor has not applied for a Final Payment Certificate in accordance with <b>Sub-Clause 14.11 [Application for Final Payment Certificate]</b> and <b>Sub-Clause 14.12 [Discharge]</b> , the Project Manager shall request the Contractor to do so. If the Contractor fails to submit an application within a period of 28 days, the Project Manager shall issue the Final Payment Certificate for such amount based on his determination of final Statement submitted by the Contractor.
<b>14.14 Cessation of Employer's Liability</b>	14.14.1	<p>The Employer shall not be liable to the Contractor for any matter or thing under or in connection with the Contract or execution of the Works, except to the extent that the Contractor shall have included an amount expressly for it:</p> <ul style="list-style-type: none"> <li>(a) in the Final Statement and also</li> <li>(b) (except for matters or things arising after the issue of the Taking-Over Certificate for the</li> </ul>

	Works) in the Statement at completion described in <b>Sub-Clause</b> 14.10 [Statement at Completion].
	14.14.2 However, this <b>Sub-Clause</b> shall not limit the Employer's liability under his indemnification obligations, or the Employer's liability in any case of fraud, deliberate default or reckless misconduct by the Employer.
<b>15. Termination by Employer</b>	
<b>15.1 Notice to Correct</b>	15.1.1 If the Contractor fails to carry out any obligation under the Contract, the Project Manager may by notice require the Contractor to make good the failure and to remedy it within a specified reasonable time.
<b>15.2 Termination by Employer</b>	<p>15.2.1 The Employer may terminate the Contract if the Contractor:</p> <ul style="list-style-type: none"> <li>(a) fails to comply with <b>Sub-Clause</b> 4.2 [Performance Security] or with a notice under <b>Sub-Clause</b> 15.1 [Notice to Correct],</li> <li>(b) abandons the Works or otherwise plainly demonstrates the intention not to continue performance of his obligations under the Contract,</li> <li>(c) without reasonable excuse fails: <ul style="list-style-type: none"> <li>(i) to proceed with the Works in accordance with <b>Sub-Clause</b> 8 [Commencement, Delays and Suspension], or</li> <li>(ii) to comply with a notice issued under <b>Sub-Clause</b> 7.5 [Rejection] or <b>Sub-Clause</b> 7.6 [Remedial Work], within 28 days after receiving it,</li> </ul> </li> <li>(d) subcontracts the whole of the Works or assigns the Contract without the required agreement,</li> <li>(e) becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made against him, compounds with his creditors, or carries on business under a receiver, trustee or manager for the benefit of his creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events, or</li> </ul>

	<p>(f) gives or offers to give (directly or indirectly) to any person any bribe, gift, gratuity, commission or other thing of value, as an inducement or reward:</p> <p>(i) for doing or forbearing to do any action in relation to the Contract, or</p> <p>(ii) for showing or for bearing to show favour or disfavour to any person in relation to the Contract,</p> <p>or if any of the Contractor's Personnel, agents or Subcontractors gives or offers to give (directly or indirectly) to any person any such inducement or reward as is described in this sub-paragraph (f). However, lawful inducements and rewards to Contractor's Personnel shall not entitle termination.</p>
	<p>15.2.2 In any of these events or circumstances, the Employer may, upon giving 14 working days' notice to the Contractor, terminate the Contract and expel the Contractor from the Site. However, in the case of sub-paragraph (e) or (f), the Employer may by notice terminate the Contract immediately.</p>
	<p>15.2.3 The Employer's choice to terminate the Contract shall not prejudice any other rights of the Employer, under the Contract or otherwise.</p>
	<p>15.2.4 The Contractor shall then leave the Site and deliver any required Goods, all Contractors' Documents, and other design documents made by or for him, to the Project Manager. However, the Contractor shall use his best efforts to comply immediately with any reasonable instructions included in the notice</p> <p>(a) for the assignment of any subcontract, and</p> <p>(b) for the protection of life or property or for the safety of the Works.</p>
	<p>15.2.5 After termination, the Employer may complete the Works and/or arrange for any other entities to do so. The Employer and these entities may then use any Goods, Contractor's Documents and other design documents made by or on behalf of the Contractor.</p>
	<p>15.2.6 The Employer shall then give notice that the Contractor's Equipment and Temporary Works will be released to the Contractor at or near the Site. The Contractor shall promptly arrange their removal, at the risk and cost of the Contractor.</p>

		However, if by this time the Contractor has failed to make a payment due to the Employer, these items may be sold by the Employer in order to recover this payment. Any balance of the proceeds shall then be paid to the Contractor.
<b>15.3 Valuation at Date of Termination</b>	15.3.1	As soon as practicable after a notice of termination under <b>Sub-Clause</b> 15.2 [Termination by Employer] has taken effect, the Project Manager shall proceed in accordance with <b>Sub-Clause</b> 3.6 [Determinations] to determine the value of the Works, Goods and Contractor's Documents, and any other sums due to the Contractor for work executed in accordance with the Contract.
<b>15.4 Payment after Termination</b>	15.4.1	After a notice of termination under <b>Sub-Clause</b> 15.2 [Termination by Employer] has taken effect, the Employer may: <ul style="list-style-type: none"> <li>(a) proceed in accordance with <b>Sub-Clause</b> 2.5 [Employer's Claims],</li> <li>(b) withhold further payments to the Contractor until the costs of execution, completion and remedying of any defects, damages for delay in completion (if any), and all other costs incurred by the Employer, have been established, and/or</li> <li>(c) recover from the Contractor any losses and damages incurred by the Employer and any extra costs of completing the Works, after allowing for any sum due to the Contractor under <b>Sub-Clause</b> 15.3 [Valuation at Date of Termination]. After recovering any such losses, damages and extra costs, the Employer shall pay any balance to the Contractor.</li> </ul>
<b>15.5 Employer's Entitlement to Termination for Convenience</b>	15.5.1	The Employer shall be entitled to terminate the Contract, at any time for the Employer's convenience, by giving notice of such termination to the Contractor. The termination shall take effect 28 days after the later of the dates on which the Contractor receives this notice or the Employer returns the Performance Security. The Employer shall not terminate the Contract under this <b>Sub-Clause</b> in order to execute the Works himself or to arrange for the Works to be executed by another contractor or to avoid a termination of the Contract by the Contractor under <b>Sub-Clause</b> 16.4 [Payment on Termination].
	15.5.2	After this termination, the Contractor shall proceed in accordance with <b>Sub-Clause</b> 16.3 [Cessation of



		Work and Removal of Contractor's Equipment] and shall be paid in accordance with <b>Sub-Clause 19.6</b> [Optional Termination, Payment and Release].
<b>15.6 Corrupt or Fraudulent Practices</b>	15.6.1	If the Contractor is determined by Competent Authority that he has engaged in corrupt, fraudulent or coercive practices, in competing for or in executing the Contract, then the Employer may, after giving 14 days notice to the Contractor, terminate the Contractor's employment under the Contract and expel him from the Site, and the provisions of <b>Sub-Clause 15</b> shall apply as if such expulsion had been made under <b>Sub-Clause 6.8.3</b> [Contractor's Personnel].
	15.6.2	For the purposes of this <b>Sub-Clause</b> :  (i) "corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the procurement process or in contract execution;  (ii) "fraudulent practice" means a misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract;  (iii) "coercive practices" means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract.
<b>16. Suspension and Termination by the Contractor</b>		
<b>16.1 Contractor's Entitlement to Suspend Work</b>	16.1.1	If the Project Manager fails to certify in accordance with <b>Sub-Clause 14.6</b> [Issue of Interim Payment Certificates] or the Employer fails to comply with <b>Sub-Clause 2.4</b> [Suspension of Financing] or <b>Sub-Clause 14.7</b> [Payment], the Contractor may, after giving not less than 28 days' notice to the Employer, suspend work (or reduce the rate of work) unless and until the Contractor has received the Payment Certificate, reasonable evidence or payment, as the case may be and as described in the notice.
	16.1.2	Notwithstanding the above, if the Government has suspended disbursements, which finances in whole or in part the execution of the Works, and no agreement has been reached by the parties pursuant to <b>Sub-Clause 2.4.2</b> [Suspension of Financing], the Contractor may by notice suspend work or reduce the rate of work at any time, but

		not less than 14 working days after the Employer having received the suspension notification from the Government.
	16.1.3	The Contractor's action shall not prejudice his entitlements to interest under <b>Sub-Clause</b> 14.8 [Delayed Payment] and to termination under <b>Sub-Clause</b> 16.2 [Termination by Contractor].
	16.1.4	If the Contractor subsequently receives such Payment Certificate, evidence or payment (as described in the relevant <b>Sub-Clause</b> and in the above notice) before giving a notice of termination, the Contractor shall resume normal working as soon as is reasonably practicable.
	16.1.5	If the Contractor suffers delay and/or incurs Cost as a result of suspending work (or reducing the rate of work) in accordance with this <b>Sub-Clause</b> , the Contractor shall give notice to the Project Manager and shall be entitled subject to <b>Sub-Clause</b> 20.1 [Contractor's Claims] to an extension of time and associated costs (if any) for such delay, if completion is or will be delayed, under <b>Sub-Clause</b> 8.4 [Extension of Time for Completion], and after receiving this notice, the Project Manager shall proceed in accordance with <b>Sub-Clause</b> 3.6 [Determinations] to determine these matters.
<b>16.2 Termination by Contractor</b>	16.2.1	<p>The Contractor may terminate the Contract if:</p> <ul style="list-style-type: none"> <li>(a) the Contractor does not receive the reasonable evidence within 42 days after giving notice under <b>Sub-Clause</b> 16.1 [Contractor's Entitlement to Suspend Work] in respect of a failure to comply with <b>Sub-Clause</b> 2.4 [failure to reach agreement upon Government suspension of financing]</li> <li>(b) the Employer substantially fails to perform his obligations under the Contract in such manner as to materially and adversely affect the execution of the Contract;</li> <li>(c) the Employer fails to comply with <b>Sub-Clause</b> 1.6 [Contract];</li> <li>(d) a prolonged suspension affects the whole of the Works as described in <b>Sub-Clause</b> 8.10 [Prolonged Suspension], or</li> <li>(e) the Employer becomes bankrupt or insolvent, goes into liquidation, has a receiving or administration order made</li> </ul>

	<p>against him, compounds with his creditors, or carries on business under a receiver, trustee or manager for the benefit of his creditors, or if any act is done or event occurs which (under applicable Laws) has a similar effect to any of these acts or events.</p> <p>(f) In the event the Government suspends the funds from which part of the payments to the Contractor are being made and the time agreed for future event pursuant to <b>Sub-Clause</b> 2.4 has expired.</p> <p>(g) the Contractor does not receive the Project Manager’s instruction recording the agreement of both Parties on the fulfilment of the conditions for the Commencement of Works under <b>Sub-Clause</b> 8.1 [Commencement of Works].</p>
	<p>16.2.2 In any of these events or circumstances, the Contractor may, upon giving 14 working days notice to the Employer, terminate the Contract. However, in the case of sub-paragraph (g), the Contractor may by notice terminate the Contract immediately.</p>
	<p>16.2.3 The Contractor’s election to terminate the Contract shall not prejudice any other rights of the Contractor, under the Contract or otherwise.</p>
<p><b>16.3 Cessation of Work and Removal of Contractor’s Equipment</b></p>	<p>16.3.1 After a notice of termination under <b>Sub-Clause</b> 15.5 [Employer’s Entitlement to Termination for Convenience], <b>Sub-Clause</b> 16.2 [Termination by Contractor] or <b>Sub-Clause</b> 19.6 [Optional Termination, Payment and Release] has taken effect, the Contractor shall promptly:</p> <p>(a) cease all further work, except for such work as may have been instructed by the Project Manager for the protection of life or property or for the safety of the Works,</p> <p>(b) hand over Contractor’s Documents, Plant, Materials and other work; and</p> <p>remove all other Goods which are property of the Contractor from the Site, except as necessary for safety, and leave the Site. After a notice of termination under <b>Sub-Clause</b> 15.5 [Employer’s Entitlement to Termination for Convenience], <b>Sub-Clause</b> 16.2 [Termination by Contractor] or <b>Sub-Clause</b> 19.6 [Optional Termination, Payment and Release] has taken effect, the Contractor shall</p>

	<p>promptly:</p> <ul style="list-style-type: none"> <li>(c) cease all further work, except for such work as may have been instructed by the Project Manager for the protection of life or property or for the safety of the Works,</li> <li>(d) hand over Contractor's Documents, Plant, Materials and other work; and</li> <li>(e) remove all other Goods which are property of the Contractor from the Site, except as necessary for safety, and leave the Site.</li> </ul>
<p><b>16.4 Payment on Termination</b></p>	<p>16.4.1 After a notice of termination under <b>Sub-Clause 16.2</b> [Termination by Contractor] has taken effect, the Employer shall promptly:</p> <ul style="list-style-type: none"> <li>(a) pay the Contractor in accordance with <b>Sub-Clause 19.6</b> [Optional Termination, Payment and Release], and</li> <li>(b) return the Performance Security to the Contractor provided that all performance obligation of the Contractor have been fulfilled.</li> </ul>
<p><b>17. Risk and Responsibility</b></p>	
<p><b>17.1 Indemnities</b></p>	<p>17.1.1 The Contractor shall indemnify and hold harmless the Employer, the Employer's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of:</p> <ul style="list-style-type: none"> <li>(a) bodily injury, sickness, disease or death, of any person whatsoever arising out of or in the course of or by reason of the Contractor's design (if any), the execution and completion of the Works and the remedying of any defects, unless attributable to any negligence, wilful act or breach of the Contract by the Employer, the Employer's Personnel, or any of their respective agents, and</li> <li>(b) damage to or loss of any property, real or personal (including works), to the extent that such damage or loss arises out of or in the course of or by reason of the Contractor's design, the execution and completion of the Works and the remedying of any defects, unless and to the extent that any such damage or loss is attributable to any negligence, Fraud, wilful act or omissions by</li> </ul>

		the Employer, the Employer's Personnel, their respective agents.
	17.1.2	The Employer shall indemnify and hold harmless the Contractor, the Contractor's Personnel, and their respective agents, against and from all claims, damages, losses and expenses (including legal fees and expenses) in respect of (1) bodily injury, sickness, disease or death, which is attributable to any negligence, fraud, wilful act or omission by the Employer, the Employer's Personnel, or any of their respective agents, and (2) the matters for which liability may be excluded from insurance cover, as described in subparagraphs (d)(i), (ii) and (iii) of <b>Sub-Clause</b> 18.3 [Insurance Against Injury to Persons and Damage to Property].
<b>17.2 Contractor's Care of the Works</b>	17.2.1	Notwithstanding <b>Sub-Clause</b> 11 [Defects Liability], the Contractor shall take full responsibility for the care of the Works and Goods from the Commencement Date until the Taking-Over Certificate is issued (or is deemed to be issued under <b>Sub-Clause</b> 10.1 [Taking Over of the Works and Sections]) for the Works, when responsibility for the care of the Works shall pass to the Employer. If a Taking-Over Certificate is issued (or is so deemed to be issued) for any Section or part of the Works, responsibility for the care of the Section or part shall then pass to the Employer.
	17.2.2	After responsibility has accordingly passed to the Employer, the Contractor shall take responsibility for the care of any work which is outstanding on the date stated in a Taking-Over Certificate, until this outstanding work has been completed.
	17.2.3	If any loss or damage happens to the Works, Goods or Contractor's Documents during the period when the Contractor is responsible for their care, from any cause not listed in <b>Sub-Clause</b> 17.3 [Employer's Risks], the Contractor shall rectify the loss or damage at the Contractor's risk and cost, so that the Works, Goods and Contractor's Documents conform with the Contract.
	17.2.4	The Contractor shall be liable for any loss or damage caused by any actions performed by the Contractor after a Taking-Over Certificate has been issued. The Contractor shall also be liable for any loss or damage which occurs after a Taking-Over Certificate has been issued and

		which arose from a previous event for which the Contractor was liable.
<b>17.3 Employer's Risks</b>	17.3.1	<p>The risks referred to in Sub-Clause 17.4 below, insofar as they directly affect the execution of the Works in the Country, are:</p> <ul style="list-style-type: none"> <li>(a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,</li> <li>(b) rebellion, terrorism, sabotage by persons other than the Contractor's Personnel, revolution, insurrection, military or usurped power, or civil war, within the Country,</li> <li>(c) riot, commotion or disorder within the Country by persons other than the Contractor's Personnel,</li> <li>(d) munitions of war, explosive materials, ionising radiation or contamination by radio-activity, within the Country, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity,</li> <li>(e) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds,</li> <li>(f) use or occupation by the Employer of any part of the Permanent Works, except as may be specified in the Contract,</li> <li>(g) design of any part of the Works by the Employer's Personnel or by others for whom the Employer is responsible, and</li> <li>(h) any operation of the forces of nature which is Unforeseeable or against which an experienced contractor could not reasonably have been expected to have taken adequate preventative precautions.</li> </ul>
<b>17.4 Consequences of Employer's Risks</b>	17.4.1	If and to the extent that any of the risks listed in <b>Sub-Clause</b> 17.3 above results in loss or damage to the Works, Goods or Contractor's Documents, the Contractor shall promptly give notice to the Project Manager and shall rectify this loss or damage to the extent required by the Project Manager.
	17.4.2	If the Contractor suffers delay and/or incurs Cost from rectifying this loss or damage, the Contractor shall give a further notice to the Project Manager and shall be entitled subject to Sub-Clause 20.1 [Contractor's Claims] to:

	<p>(a) an extension of time for any such delay, if completion is or will be delayed, under Sub-Clause 8.4 [Extension of Time for Completion], and</p> <p>(b) payment of any such Cost, which shall be included in the Contract Price. In the case of sub-paragraphs (f) and (g) of Sub-Clause 17.3 [Employer's Risks], Cost plus profit shall be payable.</p>
	<p>17.4.3 After receiving this further notice, the Project Manager shall proceed in accordance with <b>Sub-Clause 3.6</b> [Determinations] to determine these matters.</p>
<p><b>17.5 Intellectual and Industrial Property Rights</b></p>	<p>17.5.1 In this <b>Sub-Clause</b>, “infringement” means an infringement (or alleged infringement) of any patent, registered design, copyright, trade mark, trade name, trade secret or other intellectual or industrial property right relating to the Works; and “claim” means a claim (or proceedings pursuing a claim) alleging an infringement.</p>
	<p>17.5.2 Whenever a Party does not give notice to the other Party of any claim within 90 days of receiving the claim, the first Party shall be deemed to have waived any right to indemnity under this <b>Sub-Clause</b>.</p>
	<p>17.5.3 The Employer shall indemnify and hold the Contractor harmless against and from any claim alleging an infringement which is or was:</p> <p>(a) an unavoidable result of the Contractor's compliance with the Contract, or</p> <p>(b) a result of any Works being used by the Employer:</p> <p>(i) for a purpose other than that indicated by, or reasonably to be inferred from, the Contract, or</p> <p>(ii) in conjunction with anything not supplied by the Contractor, unless such use was disclosed to the Contractor prior to the Base Date or is stated in the Contract.</p>
	<p>17.5.4 The Contractor shall indemnify and hold the Employer harmless against and from any other claim which arises out of or in relation to (i) the manufacture, use, sale or import of any Goods, or (ii) any design for which the Contractor is responsible.</p>

	17.5.5	If a Party is entitled to be indemnified under this <b>Sub-Clause</b> , the indemnifying Party may (at its cost) conduct negotiations for the settlement of the claim, and any litigation or arbitration which may arise from it. The other Party shall, at the request and cost of the indemnifying Party, assist in contesting the claim.
<b>17.6 Limitation of Liability</b>	17.6.1	Neither Party shall be liable to the other Party for loss of use of any Works, loss of profit, loss of any contract or for any indirect or consequential loss or damage which may be suffered by the other Party in connection with the Contract, other than as specifically provided in Sub-Clause 8. [Liquidated Damages]; Sub-Clause 11.2 [Cost of Remedying Defects]; Sub-Clause 15.4 [Payment after Termination]; Sub-Clause 16.4 [Payment on Termination]; Sub-Clause 17.1 [Indemnities]; Sub-Clause 17.4 (b) [Consequences of Employer's Risks] and Sub-Clause 17.5 [Intellectual and Industrial Property Rights].
	17.6.2	The total liability of the Contractor to the Employer, under or in connection with the Contract other than under <b>Sub-Clause</b> 4.19 [Electricity, Water and Gas], <b>Sub-Clause</b> 4.20 [Employer's Equipment and Free-Issue Material], <b>Sub-Clause</b> 17.1 [Indemnities] and <b>Sub-Clause</b> 17.5 [Intellectual and Industrial Property Rights], shall not exceed the sum resulting from the application of a multiplier (greater than one) to the Accepted Contract Amount, as stated in the <b>SCC</b> , or (if such multiplier or other sum is not so stated), the Contract Price.
	17.6.3	This Clause shall not limit liability in any case of fraud, deliberate default or reckless misconduct by the defaulting Party.
<b>17.7 Use of Employer's Accommodation/ Facilities</b>	17.7.1	The Contractor shall take full responsibility for the care of the Employer provided accommodation and facilities, if any, as detailed in the Employer's Requirement, from the respective dates of hand-over to the Contractor until cessation of occupation (where hand-over or cessation of occupation may take place after the date stated in the Taking-Over Certificate for the Works).
	17.7.2	If any loss or damage happens to any of the above items while the Contractor is responsible for their care arising from any cause whatsoever other than those for which the Employer is liable, the Contractor shall, at his own cost, rectify the loss or damage to the satisfaction of the Employer.



<b>18. Insurance</b>		
<b>18.1 General Requirements for Insurances</b>	18.1.1	In this Clause, “insuring Party” means, for each type of insurance, the Party responsible for effecting and maintaining the insurance specified in the relevant <b>Sub-Clause</b> .
	18.1.2	Wherever the Contractor is the insuring Party, each insurance shall be effected with insurers and in terms approved by the Employer. These terms shall be consistent with any terms agreed by both Parties before the date of the Letter of Acceptance. This agreement of terms shall take precedence over the provisions of this Clause.
	18.1.3	Wherever the Employer is the insuring Party, each insurance shall be effected with insurers and in terms acceptable to the Contractor. These terms shall be consistent with any terms provided in the tendering documents except as otherwise agreed by both Parties as stipulated in the <b>SCC</b> . This agreement of terms shall take precedence over the provisions of this Clause.
	18.1.4	If a policy is required to indemnify joint insured, the cover shall apply separately to each insured as though a separate policy had been issued for each of the joint insured.
	18.1.5	Each policy insuring against loss or damage shall provide for payments to be made in the currencies required to rectify the loss or damage. Payments received from insurers shall be used for the rectification of the loss or damage.
	18.1.6	The relevant insuring Party shall, within the respective periods stated <b>in the SCC</b> (calculated from the Commencement Date), submit to the other Party: <ul style="list-style-type: none"> <li>(a) evidence that the insurances described in this Clause have been effected, and</li> <li>(b) copies of the policies for the insurances described in <b>Sub-Clause 18.2</b> [Insurance for Works and Contractor’s Equipment] and <b>Sub-Clause 18.3</b> [Insurance against Injury to Persons and Damage to Property].</li> </ul>
	18.1.7	When each premium is paid, the insuring Party shall submit evidence of payment to the other Party. Whenever evidence or policies are submitted, the insuring Party shall also give notice

		to the Project Manager.
	18.1.8	Each Party shall comply with the conditions stipulated in its respective insurance policy. The insuring Party shall keep the insurers informed of any relevant changes to the execution of the Works and ensure that insurance is maintained in accordance with this Clause.
	18.1.9	Neither Party shall make any material alteration to the terms of any insurance without the prior approval of the other Party.
	18.1.10	If the insuring Party fails to effect and keep in force any of the insurances it is required to effect and maintain under the Contract, or fails to provide satisfactory evidence and copies of policies in accordance with this <b>Sub-Clause</b> , the other Party may (at its option and without prejudice to any other right or remedy) effect insurance for the relevant coverage and pay the premiums due. The insuring Party shall pay the amount of these premiums to the other Party, and the Contract Price shall be adjusted accordingly.
	18.1.11	Nothing in this Clause limits the obligations, liabilities or responsibilities of the Contractor or the Employer, under the other terms of the Contract or otherwise. Any amounts not insured or not recovered from the insurers shall be borne by the Contractor and/or the Employer in accordance with these obligations, liabilities or responsibilities. However, if the insuring Party fails to effect and keep in force an insurance which is available and which it is required to effect and maintain under the Contract, and the other Party neither approves the omission nor effects insurance for the coverage relevant to this default, any moneys which should have been recoverable under this insurance shall be paid by the insuring Party.
	18.1.12	Payments by one Party to the other Party shall be subject to <b>Sub-Clause</b> 2.5 [Employer's Claims] or <b>Sub-Clause</b> 20.1 [Contractor's Claims], as applicable.
	18.1.13	The Contractor shall be entitled to place all insurance relating to the Contract (including, but not limited to the insurance referred to <b>Sub-Clause</b> 18) with insurers from any eligible source country specified in the <b>SCC</b> .
<b>18.2 Insurance for Works and Contractor's</b>	18.2.1	The Contractor shall insure the Works, Plant, Materials and Contractor's Documents for not less than the full reinstatement cost including the costs

<b>Equipment</b>	of demolition, removal of debris and professional fees and profit. The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Commencement Date to the end of the Defects Liability Period.
	18.2.2 The Contractor shall maintain this insurance to provide cover until the date of issue of the Performance Certificate, for loss or damage for which the Contractor is liable arising from a cause occurring prior to the issue of the Taking-Over Certificate, and for loss or damage caused by the Contractor in the course of any other operations (including those under <b>Sub-Clause</b> 11 [Defects Liability]).
	18.2.3 The Contractor shall insure the Contractor's Equipment for not less than the full replacement value, including delivery to Site. For each item of Contractor's Equipment, the insurance shall be effective while it is being transported to the Site and until it is no longer required as Contractor's Equipment.
	<p>18.2.4 Unless otherwise stated <b>in the SCC</b>, insurances under this <b>Sub-Clause</b>:</p> <ul style="list-style-type: none"> <li>(a) shall be effected and maintained by the Contractor as insuring Party,</li> <li>(b) shall be in the joint names of the Parties, who shall be jointly entitled to receive payments from the insurers, payments being held or allocated to the Party actually bearing the costs of rectifying the loss or damage;</li> <li>(c) shall cover all loss and damage from any cause not specifically stated under the contract to be Employer's Risks;</li> <li>(d) shall also cover, to the extent specifically specified in <b>the SCC</b>, loss or damage to a part of the Works which is attributable to the use or occupation by the Employer of another part of the Works, and loss or damage from the risks listed in <b>Sub-Clause</b> 19 [Force Majeure], excluding (in each case) risks which are not insurable at commercially reasonable terms; and</li> <li>(e) may however exclude loss of, damage to, and reinstatement of: <ul style="list-style-type: none"> <li>(i) a part of the Works which is in a defective condition due to a defect in its</li> </ul> </li> </ul>

	<p>design, materials or workmanship (but cover shall include any other parts which are lost or damaged as a direct result of this defective condition and not as described in sub-paragraph (ii) below),</p> <p>(ii) a part of the Works which is lost or damaged in order to reinstate any other part of the Works if this other part is in a defective condition due to a defect in its design, materials or workmanship</p>
<p><b>18.3 Insurance against Injury to Persons and Damage to Property</b></p>	<p>18.3.1 The insuring Party shall insure against each Party's liability for any loss, damage, death or bodily injury which may occur to any physical property (except things insured under <b>Sub-Clause</b> 18.2 [Insurance for Works and Contractor's Equipment]) or to any person (except persons insured under <b>Sub-Clause</b> 18.4 [Insurance for Contractor's Personnel]), which may arise out of the Contractor's performance of the Contract and occurring before the issue of the Performance Certificate.</p>
	<p>18.3.2 Unless otherwise stated <b>in the SCC</b>, the insurances specified in this <b>Sub-Clause</b>:</p> <p>(a) shall be effected and maintained by the Contractor as insuring Party,</p> <p>(b) shall be in the joint names of the Parties,</p> <p>(c) shall be extended to cover liability for all loss and damage to the Employer's property (except things insured under <b>Sub-Clause</b> 18.2) arising out of the Contractor's performance of the Contract, and</p> <p>(d) may however exclude liability to the extent that it arises from:</p> <p>(i) the Employer's right to have the Permanent Works executed on, over, under, in or through any land, and to occupy this land for the Permanent Works,</p> <p>(ii) damage which is an unavoidable result of the Contractor's obligations to execute the Works and remedy any defects, and</p> <p>(iii) a cause listed in <b>Sub-Clause</b> 19 [Force Majeure], except to the extent that cover is available at commercially reasonable terms.</p>

<b>18.4 Insurance for Contractor's Personnel</b>	18.4.1 The Contractor shall effect and maintain insurance against liability for claims, damages, losses and expenses (including legal fees and expenses) arising from injury, sickness, disease or death of any person employed by the Contractor or any other of the Contractor's Personnel.
	18.4.2 The insurance shall cover the Employer and the Project Manager against liability for claims, damages, losses and expenses (including legal fees and expenses) arising from injury, sickness, disease or death of any person employed by the Contractor or any other of the Contractor's Personnel, except that this insurance may exclude losses and claims to the extent that they arise from wilful acts and omissions, neglect of the Employer or of the Employer's Personnel.
	18.4.3 The insurance shall be maintained and be in effect during the whole time that these personnel are assisting in the execution of the Works. For a Subcontractor's employees, the insurance may be effected by the Subcontractor, but the Contractor shall be responsible for compliance with this Clause.
<b>19. Force Majeure</b>	
<b>19.1 Definition of Force Majeure</b>	19.1.1 In this Clause, "Force Majeure" means an exceptional event or circumstance: <ul style="list-style-type: none"> <li>(a) which is beyond a Party's control;</li> <li>(b) which such Party could not reasonably have provided against before entering into the Contract;</li> <li>(c) which, having arisen, such Party could not reasonably have avoided or overcome, and</li> <li>(d) which is not substantially attributable to the other Party.</li> </ul>
	19.1.2 Force Majeure may include, but is not limited to, exceptional events or circumstances of the kind listed below, so long as conditions (a) to (d) above are satisfied: <ul style="list-style-type: none"> <li>(a) war, hostilities (whether war be declared or not), invasion, act of foreign enemies,</li> <li>(b) rebellion, by persons other than the Contractor's Personnel, revolution, insurrection, military or usurped power, or civil war,</li> </ul>

		<p>(c) riot, commotion, disorder, strike or lockout by persons other than the Contractor's Personnel,</p> <p>(d) munitions of war, explosive materials, ionising radiation or contamination by radio-activity, except as may be attributable to the Contractor's use of such munitions, explosives, radiation or radio-activity, and</p> <p>(e) natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity.</p>
<b>19.2 Notice of Force Majeure</b>	19.2.1	If a Party is or will be prevented from performing its substantial obligations under the Contract by Force Majeure, then it shall give notice to the other Party of the event or circumstances constituting the Force Majeure and shall specify the obligations, the performance of which is or will be prevented. The notice shall be given within 14 working days after the Party became aware, or should have become aware, of the relevant event or circumstance constituting Force Majeure.
	19.2.2	The Party shall, having given notice, be excused from performance of its obligations for so long as such Force Majeure prevents it from performing them.
	19.2.3	Notwithstanding any other provision of this Clause, Force Majeure shall not apply to obligations of either Party to make payments to the other Party under the Contract.
<b>19.3 Duty to Minimize Delay</b>	19.3.1	Each Party shall at all times use all reasonable endeavours to minimise any delay in the performance of the Contract as a result of Force Majeure.
	19.3.2	A Party shall give notice to the other Party when it ceases to be affected by the Force Majeure.
<b>19.4 Consequences of Force Majeure</b>	19.4.1	<p>If the Contractor is prevented from performing its substantial obligations under the Contract by Force Majeure of which notice has been given under <b>Sub-Clause</b> 19.2 [Notice of Force Majeure], and suffers delay and/or incurs Cost by reason of such Force Majeure, the Contractor may be entitled subject to <b>Sub-Clause</b> 20.1 [Contractor's Claims] to:</p> <p>(a) an extension of time for any such delay, if completion is or will be delayed, under <b>Sub-Clause</b> 8.4 [Extension of Time for Completion], and</p>

	(b) if the event or circumstance is of the kind described in sub-paragraphs (i) to (iv) of <b>Sub-Clause</b> 19.1 [Definition of Force Majeure] and, in the case of sub-paragraphs (ii) to (iv), occurs in the Country, payment of any such Cost, including the costs of rectifying or replacing the Works and/or Goods damaged or destroyed by Force Majeure, to the extent they are not indemnified through the insurance policy referred to in <b>Sub-Clause</b> 18.2 [Insurance for Works and Contractor's Equipment].
	19.4.2 After receiving this notice, the Project Manager shall proceed in accordance with <b>Sub-Clause</b> 3.6 [Determinations] to determine these matters.
<b>19.5 Force Majeure Affecting Subcontractor</b>	19.5.1 If any Subcontractor is entitled under any contract or agreement relating to the Works to relief from force majeure on terms additional to or broader than those specified in this Clause, such additional or broader force majeure events or circumstances shall not excuse the Contractor's non-performance or entitle him to relief under this Clause.
<b>19.6 Optional Termination, Payment and Release</b>	19.6.1 If the execution of substantially all the Works in progress is prevented for a continuous period of 84 days by reason of Force Majeure of which notice has been given under <b>Sub-Clause</b> 19.2 [Notice of Force Majeure], or for multiple periods which total more than 140 days due to the same notified Force Majeure, then either Party may give to the other Party a notice of termination of the Contract. In this event, the termination shall take effect 14 working days after the notice is given, and the Contractor shall proceed in accordance with <b>Sub-Clause</b> 16.3 [Cessation of Work and Removal of Contractor's Equipment].
	19.6.2 Upon such termination, the Project Manager upon written approval of the Employer shall, determine the value of the work done and issue a Payment Certificate which shall include: <ul style="list-style-type: none"> <li>(a) the amounts payable for any work carried out for which a price is stated in the Contract;</li> <li>(b) the Cost of Plant and Materials ordered for the Works which have been delivered to the Contractor, or of which the Contractor is liable to accept delivery: this Plant and Materials shall become the property of (and be at the risk of) the Employer when paid for</li> </ul>

	<p>by the Employer, and the Contractor shall place the same at the Employer’s disposal;</p> <ul style="list-style-type: none"> <li>(c) other Costs or liabilities which in the circumstances were reasonably and necessarily incurred by the Contractor in the expectation of completing the Works;</li> <li>(d) the Cost of removal of Temporary Works; and</li> <li>(e) the Cost of repatriation of the Contractor’s staff and labour employed wholly in connection with the Works at the date of termination.</li> </ul>
<p><b>19.7 Release from Performance</b></p>	<p>19.7.1 Notwithstanding any other provision of this Clause, if any event or circumstance outside the control of the Parties (including, but not limited to, Force Majeure) arises which makes it impossible or unlawful for either or both Parties to fulfil its or their contractual obligations or which, under the law governing the Contract, entitles the Parties to be released from further performance of the Contract, then upon notice by either Party to the other Party of such event or circumstance:</p> <ul style="list-style-type: none"> <li>(a) the Parties shall be discharged from further performance, without prejudice to the rights of either Party in respect of any previous breach of the Contract, and</li> <li>(b) the sum payable by the Employer to the Contractor shall be the same as would have been payable under <b>Sub-Clause</b> 19.6 [Optional Termination, Payment and Release] if the Contract had been terminated under <b>Sub-Clause</b> 19.6.</li> </ul>
<p><b>20. Claims, Disputes and Arbitration</b></p>	
<p><b>20.1 Contractor’s Claims</b></p>	<p>20.1.1 If the Contractor considers himself to be entitled to any extension of the Time for Completion and/or any additional payment, under any Clause of these Conditions or otherwise in connection with the Contract, the Contractor shall give notice to the Project Manager, describing the event or circumstance giving rise to the claim. The notice shall be given as soon as practicable, and not later than 28 days after the Contractor became aware, or should have become aware, of the event or circumstance.</p>



	20.1.2	If the Contractor fails to give notice of a claim within such period of 28 days, the Time for Completion shall not be extended, the Contractor shall not be entitled to additional payment, and the Employer shall be discharged from all liability in connection with the claim. Otherwise, the following provisions of this Sub-Clause shall apply.
	20.1.3	The Contractor shall also submit any other notices which are required by the Contract, and supporting particulars for the claim, all as relevant to such event or circumstance.
	20.1.4	The Contractor shall keep such contemporary records as may be necessary to substantiate any claim, either on the Site or at another location acceptable to the Project Manager. Without admitting the Employer's liability, the Project Manager may, after receiving any notice under this Sub-Clause, monitor the record-keeping and/or instruct the Contractor to keep further contemporary records. The Contractor shall permit the Project Manager to inspect all these records, and shall (if instructed) submit copies to the Project Manager.
	20.1.5	<p>Within 42 days after the Contractor became aware (or should have become aware) of the event or circumstance giving rise to the claim, or within such other period as may be proposed by the Contractor and approved by the Project Manager, the Contractor shall send to the Project Manager a fully detailed claim which includes full supporting particulars of the basis of the claim and of the extension of time and/or additional payment claimed. If the event or circumstance giving rise to the claim has a continuing effect:</p> <ul style="list-style-type: none"> <li>(a) this fully detailed claim shall be considered as interim;</li> <li>(b) the Contractor shall send further interim claims at monthly intervals, giving the accumulated delay and/or amount claimed, and such further particulars as the Project Manager may reasonably require; and</li> </ul> <p>the Contractor shall send a final claim within 28 days after the end of the effects resulting from the event or circumstance, or within such other period as may be proposed by the Contractor and approved by the Project Manager.</p>
	20.1.6	Within 42 days after receiving a claim or any further particulars supporting a previous claim, or within such other period as may be proposed by

		the Project Manager and approved by the Contractor, the Project Manager shall respond with approval, or with disapproval and detailed comments. He may also request any necessary further particulars, but shall nevertheless give his response on the principles of the claim within the above defined time period.
	20.1.7	Within the above defined period of 42 days, the Project Manager shall proceed in accordance with Sub-Clause 3.6 [Determinations] to agree or determine (i) the extension (if any) of the Time for Completion (before or after its expiry) in accordance with Sub-Clause 8.4 [Extension of Time for Completion], and/or (ii) the additional payment (if any) to which the Contractor is entitled under the Contract.
	20.1.8	Each Payment Certificate shall include such additional payment for any claim as have been reasonably substantiated as due under the relevant provision of the Contract. Unless and until the particulars supplied are sufficient to substantiate the whole of the claim, the Contractor shall only be entitled to payment for such part of the claim as he has been able to substantiate.
	20.1.9	If the Project Manager does not respond within the timeframe defined in this Clause, either Party may consider that the claim is rejected by the Project Manager and any of the Parties may refer it to the Dispute Avoidance and Resolution Board in accordance with Sub-Clause 20.4 [Obtaining Dispute Avoidance and Resolution Board's Decision].
	20.1.10	The requirements of this Sub-Clause are in addition to those of any other Sub-Clause which may apply to a claim. If the Contractor fails to comply with this or another Sub-Clause in relation to any claim, any extension of time and/or additional payment shall take account of the extent (if any) to which the failure has prevented or prejudiced proper investigation of the claim, unless the claim is excluded under the second paragraph of this Sub-Clause.
<b>20.2 Appointment of the Dispute Avoidance and Resolution Board</b>	20.2.1	Disputes shall be referred to a DARB for decision in accordance with Sub-Clause 20.4 [Obtaining Dispute Avoidance and Resolution Board's Decision]. The Parties shall appoint a DARB by the date stated in the <b>SCC</b> .
	20.2.2	The DARB shall comprise, as stated in the <b>SCC</b> , either one or three suitably qualified persons ("the

	<p>members”), each of whom shall be fluent in the language for communication defined in the Contract and shall be a professional experienced in the type of construction involved in the Works and with the interpretation of contractual documents. If the number is not so stated and the Parties do not agree otherwise, the DARB shall comprise three persons, one of whom shall serve as chairman.</p>
	<p>20.2.3 If the Parties have not jointly appointed the DARB 21 days before the date stated in the <b>SCC</b> and the DARB is to comprise three persons, each Party shall nominate one member for the approval of the other Party. The first two members shall recommend and the Parties shall agree upon the third member, who shall act as chairman.</p>
	<p>20.2.4 The agreement between the Parties and either the sole member or each of the three members shall incorporate by reference the General Conditions of Dispute Avoidance and Resolution Board Agreement contained in the <b>Appendix B</b> to these General Conditions, with such amendments as are agreed between them.</p>
	<p>20.2.5 The terms of the remuneration of either the sole member or each of the three members, including the remuneration of any expert whom the DARB consults, shall be mutually agreed upon by the Parties when agreeing the terms of appointment of the member or such expert (as the case may be). Each Party shall be responsible for paying one-half of this remuneration.</p>
	<p>20.2.6 If a member declines to act or is unable to act as a result of death, disability, resignation or termination of appointment, a replacement shall be appointed in the same manner as the replaced person was required to have been nominated or agreed upon, as described in this Sub-Clause.</p>
	<p>20.2.7 The appointment of any member may be terminated by mutual agreement of both Parties, but not by the Employer or the Contractor acting alone. Unless otherwise agreed by both Parties, the appointment of the DARB (including each member) shall expire when the discharge referred to in Sub-Clause 14.12 [Discharge] shall have become effective.</p>
<p><b>20.3 Failure to Agree on the Composition of the Dispute Avoidance and Resolution Board</b></p>	<p>20.3.1 If any of the following conditions apply, namely:</p> <p>(a) the Parties fail to agree upon the appointment of the sole member of the DARB by the date stated in the first paragraph of Sub-Clause 20.2, [Appointment of the Dispute Avoidance and</p>

	<p>Resolution Board],</p> <ul style="list-style-type: none"> <li>(b) either Party fails to nominate a member (for approval by the other Party) or fails to approve a member nominated by the other Party, of a DARB of three persons by such date,</li> <li>(c) the Parties fail to agree upon the appointment of the third member (to act as chairman) of the DARB by such date, or</li> <li>(d) the Parties fail to agree upon the appointment of a replacement person within 42 days after the date on which the sole member or one of the three members declines to act or is unable to act as a result of death, disability, resignation or termination of appointment,</li> </ul> <p>then the Appointing Entity or official named in the <b>SCC</b> shall, upon the request of either or both of the Parties and after due consultation with both Parties, appoint this member of the DARB. This appointment shall be final and conclusive. Each Party shall be responsible for paying one-half of the remuneration of the appointing entity or official.</p>
<p><b>20.4 Obtaining Dispute Avoidance and Resolution Board's Decision</b></p>	<p>20.4.1 If a dispute (of any kind whatsoever) arises between the Parties in connection with, or arising out of, the Contract or the execution of the Works, including any dispute as to any certificate, determination, instruction, opinion or valuation of the Project Manager, either Party may refer the dispute in writing to the DARB for its decision, with copies to the other Party and the Project Manager. Such reference shall state that it is given under this Sub-Clause.</p>
	<p>20.4.2 For a DARB of three persons, the DARB shall be deemed to have received such reference on the date when it is received by the chairman of the DARB.</p>
	<p>20.4.3 Both Parties shall promptly make available to the DARB all such additional information, further access to the Site, and appropriate facilities, as the DARB may require for the purposes of making a decision on such dispute. The DARB shall be deemed to be not acting as arbitrator(s).</p>
	<p>20.4.4 Within 84 days after receiving such reference, or within such other period as may be proposed by the DARB and approved by both Parties, the DARB shall give its decision, which shall be reasoned and shall state that it is given under this</p>

		Sub-Clause. The decision shall be binding on both Parties, who shall promptly give effect to it unless and until it shall be revised in an amicable settlement or an arbitral award as described below. Unless the Contract has already been abandoned, repudiated or terminated, the Contractor shall continue to proceed with the Works in accordance with the Contract.
	20.4.5	If either Party is dissatisfied with the DARB's decision, then either Party may, within 28 days after receiving the decision, give notice to the other Party of its dissatisfaction and intention to commence arbitration. If the DARB fails to give its decision within the period of 84 days (or as otherwise approved) after receiving such reference, then either Party may, within 28 days after this period has expired, give notice to the other Party of its dissatisfaction and intention to commence arbitration.
	20.4.6	In either event, this notice of dissatisfaction shall state that it is given under this Sub-Clause, and shall set out the matter in dispute and the reason(s) for dissatisfaction. Except as stated in Sub-Clause 20.7 [Failure to Comply with Dispute Avoidance and Resolution Board's Decision] and Sub-Clause 20.8 [Expiry of Dispute Avoidance and Resolution Board's Appointment], neither Party shall be entitled to commence arbitration of a dispute unless a notice of dissatisfaction has been given in accordance with this Sub-Clause.
	20.4.7	If the DARB has given its decision as to a matter in dispute to both Parties, and no notice of dissatisfaction has been given by either Party within 28 days after it received the DARB's decision, then the decision shall become final and binding upon both Parties.
<b>20.5 Amicable Settlement</b>	20.5.1	Where notice of dissatisfaction has been given under Sub-Clause 20.4 above, both Parties shall attempt to settle the dispute amicably before the commencement of arbitration. However, unless both Parties agree otherwise, arbitration may be commenced on or after the fifty-sixth day after the day on which a notice of dissatisfaction and intention to commence arbitration was given, even if no attempt at amicable settlement has been made.
<b>20.6 Arbitration</b>	20.6.1	Unless indicated otherwise in the <b>SCC</b> , any dispute not settled amicably and in respect of which the DARB's decision (if any) has not become final and binding shall be finally settled by

		arbitration with proceedings conducted in accordance with the laws of the Employer's country.
	20.6.2	The arbitrators shall have full power to open up, review and revise any certificate, determination, instruction, opinion or valuation of the Project Manager, and any decision of the DARB, relevant to the dispute. Nothing shall disqualify representatives of the Parties and the Project Manager from being called as a witness and giving evidence before the arbitrators on any matter whatsoever relevant to the dispute.
	20.6.3	Neither Party shall be limited in the proceedings before the arbitrators to the evidence or arguments previously put before the DARB to obtain its decision, or to the reasons for dissatisfaction given in its notice of dissatisfaction. Any decision of the DARB shall be admissible in evidence in the arbitration.
	20.6.4	Arbitration may be commenced prior to or after completion of the Works. The obligations of the Parties, the Project Manager and the DARB shall not be altered by reason of any arbitration being conducted during the progress of the Works.
<b>20.7 Failure to Comply with Dispute Avoidance and Resolution Board's Decision</b>	20.7.1	In the event that a Party fails to comply with a DARB decision which has become final and binding, then the other Party may, without prejudice to any other rights it may have, refer the failure itself to arbitration under Sub-Clause 20.6 [Arbitration]. Sub-Clause 20.4 [Obtaining Dispute Avoidance and Resolution Board's Decision] and Sub-Clause 20.5 [Amicable Settlement] shall not apply to this reference.
<b>20.8 Expiry of Dispute Avoidance and Resolution Board's Appointment</b>	20.8.1	<p>If a dispute arises between the Parties in connection with, or arising out of, the Contract or the execution of the Works and there is no DARB in place, whether by reason of the expiry of the DARB's appointment or otherwise:</p> <p>(a) Sub-Clause 20.4 [Obtaining Dispute Avoidance and Resolution Board's Decision] and Sub-Clause 20.5 [Amicable Settlement] shall not apply, and</p> <p>(b) the dispute may be referred directly to arbitration under Sub-Clause 20.6 [Arbitration].</p>

## APPENDIX A

### Environmental, Social, Health and Safety (ESHS)

#### Metrics for Progress Reports

*[Note to Employer: the following metrics may be amended to reflect the specifics of the Contract. The Employer shall ensure that the metrics provided are appropriate for the Works and impacts/key issues identified in the environmental and social assessment]*

*Metrics for regular reporting:*

- a) environmental incidents or non-compliances with contract requirements, including contamination, pollution or damage to ground or water supplies;
- b) health and safety incidents, accidents, injuries that require treatment and all fatalities;
- c) interactions with regulators: identify agency, dates, subjects, outcomes (report the negative if none);
- d) status of all permits and agreements:
  - i). work permits: number required, number received, actions taken for those not received;
  - ii). status of permits and consents:
    - *list areas/facilities with permits required (quarries, asphalt & batch plants), dates of application, dates issued (actions to follow up if not issued), dates submitted to resident engineer (or equivalent), status of area (waiting for permits, working, abandoned without reclamation, decommissioning plan being implemented, etc.);*
    - *list areas with landowner agreements required (borrow and spoil areas, camp sites), dates of agreements, dates submitted to resident engineer (or equivalent);*
    - *identify major activities undertaken in each area in the reporting period and highlights of environmental and social protection (land clearing, boundary marking, topsoil salvage, traffic management, decommissioning planning, decommissioning implementation);*
    - *for quarries: status of relocation and compensation (completed, or details of activities and current status in the reporting period).*
- e) health and safety supervision:
  - i). safety officer: number days worked, number of full inspections & partial inspections, reports to construction/project management;
  - ii). number of workers, work hours, metric of PPE use (percentage of workers with full personal protection equipment (PPE), partial, etc.), worker violations observed (by type of violation, PPE or otherwise), warnings given, repeat warnings given, follow-up actions taken (if any);
- f) worker accommodations:
  - i). number of expats housed in accommodations, number of locals;
  - ii). date of last inspection, and highlights of inspection including status of accommodations' compliance with national and local law and good practice, including sanitation, space, etc.;

- iii). actions taken to recommend/require improved conditions, or to improve conditions.
- g) Health services: provider of health services, information and/or training, location of clinic, number of non-safety disease or illness treatments and diagnoses (no names to be provided);
- h) gender (for expats and locals separately): number of female workers, percentage of workforce, gender issues raised and dealt with (cross-reference grievances or other sections as needed);
- i) training:
  - i). number of new workers, number receiving induction training, dates of induction training;
  - ii). number and dates of toolbox talks, number of workers receiving Occupational Health and Safety (OHS), environmental and social training;
  - iii). number and dates of communicable diseases (including STDs) sensitization and/or training, no. workers receiving training (in the reporting period and in the past); same questions for gender sensitization, flag person training.
  - iv). number and date of SEA and SH prevention sensitization and/or training events, including number of workers receiving training on Code of Conduct for Contractor's Personnel (in the reporting period and in the past), etc.
- j) environmental and social supervision:
  - i) environmentalist: days worked, areas inspected and numbers of inspections of each (road section, work camp, accommodations, quarries, borrow areas, spoil areas, swamps, forest crossings, etc.), highlights of activities/findings (including violations of environmental and/or social best practices, actions taken), reports to environmental and/or social specialist/construction/site management;
  - ii) sociologist: days worked, number of partial and full site inspections (by area: road section, work camp, accommodations, quarries, borrow areas, spoil areas, clinic, HIV/AIDS center, community centers, etc.), highlights of activities (including violations of environmental and/or social requirements observed, actions taken), reports to environmental and/or social specialist/construction/site management; and
  - iii) community liaison person(s): days worked (hours community center open), number of people met, highlights of activities (issues raised, etc.), reports to environmental and/or social specialist /construction/site management.
- k) *Grievances*: list new grievances (e.g. number of allegations of SEA and SH) received in the reporting period and number of unresolved past grievances by date received, complainant's age and sex, how received, to whom referred to for action, resolution and date (if completed), data resolution reported to complainant, any required follow-up (Cross-reference other sections as needed).
  - i. Worker grievances;
  - ii. Community grievances
- l) Traffic, road safety and vehicles/equipment:
  - i) traffic and road safety incidents and accidents involving project vehicles & equipment: provide date, location, damage, cause, follow-up;



- ii) traffic and road safety incidents and accidents involving non-project vehicles or property (also reported under immediate metrics): provide date, location, damage, cause, follow-up;
  - iii) overall condition of vehicles/equipment (subjective judgment by environmentalist); non-routine repairs and maintenance needed to improve safety and/or environmental performance (to control smoke, etc.).
- m) Environmental mitigations and issues (what has been done):
- i) dust: number of working bowsers, number of waterings/day, number of complaints, warnings given by environmentalist, actions taken to resolve; highlights of quarry dust control (covers, sprays, operational status); % of rock/spoil lorries with covers, actions taken for uncovered vehicles;
  - ii) erosion control: controls implemented by location, status of water crossings, environmentalist inspections and results, actions taken to resolve issues, emergency repairs needed to control erosion/sedimentation;
  - iii) quarries, borrow areas, spoil areas, asphalt plants, batch plants: identify major activities undertaken in the reporting period at each, and highlights of environmental and social protection: land clearing, boundary marking, topsoil salvage, traffic management, decommissioning planning, decommissioning implementation;
  - iv) blasting: number of blasts (and locations), status of implementation of blasting plan (including notices, evacuations, etc.), incidents of off-site damage or complaints (cross-reference other sections as needed);
  - v) spill cleanups, if any: material spilled, location, amount, actions taken, material disposal (report all spills that result in water or soil contamination);
  - vi) waste management: types and quantities generated and managed, including amount taken offsite (and by whom) or reused/recycled/disposed on-site;
  - vii) details of tree plantings and other mitigations required undertaken in the reporting period;
  - viii) details of water and swamp protection mitigations required undertaken in the reporting period.
- n) compliance:
- i) compliance status for conditions of all relevant consents/permits, for the Work, including quarries, etc.): statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance;
  - ii) compliance status of C-ESMP/ESIP requirements: statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance
  - iii) compliance status of SEA and SH prevention and response action plan: statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance
  - iv) compliance status of Health and Safety Management Plan re: statement of compliance or listing of issues and actions taken (or to be taken) to reach compliance
  - v) other unresolved issues from previous reporting periods related to environmental and social: continued violations, continued failure of equipment, continued lack of vehicle covers, spills not dealt with, continued compensation or blasting issues, etc. Cross-reference other sections as needed.

## APPENDIX B

### A General Conditions of Dispute Avoidance and Resolution Board Agreement

- 1. Definitions** Each “Dispute Avoidance and Resolution Board Agreement” is a tripartite agreement by and between:
- (a) the “Employer”;
  - (b) the “Contractor”; and
  - (c) the “Member” who is defined in the Dispute Avoidance and Resolution Board Agreement as being
    - i). the sole member of “Dispute Avoidance and Resolution Board” and, where this is the case, all references to the “Other Members” do not apply, or
    - ii). one of the three persons who are jointly called the “DARB” (or “Dispute Avoidance and Resolution Board”) and, where this is the case, the other two persons are called the “Other Members.”

The Employer and the Contractor have entered (or intend to enter) into a contract, which is called the "Contract" and is defined in the Dispute Avoidance and Resolution Board Agreement, which incorporates this Appendix. In the DARB Agreement, words and expressions which are not otherwise defined shall have the meanings assigned to them in the Contract.

- 2. General Provisions** Unless otherwise stated in the DARB Agreement, it shall take effect on the latest of the following dates:
- (a) the Commencement Date defined in the Contract,
  - (b) when the Employer, the Contractor and the Member have each signed the DARB Agreement, or
  - (c) when the Employer, the Contractor and each of the Other Members (if any) have respectively each signed a Dispute Avoidance and Resolution Board agreement.

This employment of the Member is a personal appointment. At any time, the Member may give not less than 70 days’ notice of resignation to the Employer and to the Contractor, and the Dispute Agreement shall terminate upon the expiry of this period.

- 3. Warranties** The Member warrants and agrees that he/she is and shall be impartial and independent of the Employer, the Contractor and the Project Manager. The Member shall promptly disclose, to each of them and to the Other Members (if any), any fact or circumstance which might appear inconsistent with his/her warranty and agreement of impartiality and independence.

When appointing the Member, the Employer and the Contractor

relied upon the Member's representations that he/she is:

- (a) experienced in the work which the Contractor is to carry out under the Contract,
- (b) experienced in the interpretation of contract documentation, and
- (c) fluent in the language for communications defined in the Contract.

**4. General Obligations of the Member**

The Member shall:

- (a) have no interest financial or otherwise in the Employer, the Contractor or Project Manager, nor any financial interest in the Contract except for payment under the DARB Agreement;
- (b) not previously have been employed as a consultant or otherwise by the Employer, the Contractor or the Project Manager, except in such circumstances as were disclosed in writing to the Employer and the Contractor before they signed the DARB Agreement;
- (c) have disclosed in writing to the Employer, the Contractor and the Other Members (if any), before entering into the DARB Agreement and to his/her best knowledge and recollection, any professional or personal relationships with any director, officer or employee of the Employer, the Contractor or the Project Manager, and any previous involvement in the overall project of which the Contract forms part;
- (d) not, for the duration of the DARB Agreement, be employed as a consultant or otherwise by the Employer, the Contractor or the Project Manager, except as may be agreed in writing by the Employer, the Contractor and the Other Members (if any);
- (e) comply with the annexed procedural rules and with Sub-Clause 20.4 of the Conditions of Contract;
- (f) not give advice to the Employer, the Contractor, the Employer's Personnel or the Contractor's Personnel concerning the conduct of the Contract, other than in accordance with the annexed procedural rules;
- (g) not while a Member enter into discussions or make any agreement with the Employer, the Contractor or the Project Manager regarding employment by any of them, whether as a consultant or otherwise, after ceasing to act under the DARB Agreement;
- (h) ensure his/her availability for all site visits and hearings as are necessary;
- (i) become conversant with the Contract and with the progress of the Works (and of any other parts of the project of which the Contract forms part) by studying all documents received which shall be maintained in a current working file;

- (j) treat the details of the Contract and all the DARB's activities and hearings as private and confidential, and not publish or disclose them without the prior written consent of the Employer, the Contractor and the Other Members (if any); and
- (k) be available to give advice and opinions, on any matter relevant to the Contract when requested by both the Employer and the Contractor, subject to the agreement of the Other Members (if any).

**5. General Obligations of the Employer and the Contractor**

The Employer, the Contractor, the Employer's Personnel and the Contractor's Personnel shall not request advice from or consultation with the Member regarding the Contract, otherwise than in the normal course of the DARB's activities under the Contract and the DARB Agreement. The Employer and the Contractor shall be responsible for compliance with this provision, by the Employer's Personnel and the Contractor's Personnel respectively.

The Employer and the Contractor undertake to each other and to the Member that the Member shall not, except as otherwise agreed in writing by the Employer, the Contractor, the Member and the Other Members (if any):

- (a) be appointed as an arbitrator in any arbitration under the Contract;
- (b) be called as a witness to give evidence concerning any dispute before arbitrator(s) appointed for any arbitration under the Contract; or
- (c) be liable for any claims for anything done or omitted in the discharge or purported discharge of the Member's functions, unless the act or omission is shown to have been in bad faith.

The Employer and the Contractor hereby jointly and severally indemnify and hold the Member harmless against and from claims from which he is relieved from liability under the preceding paragraph.

Whenever the Employer or the Contractor refers a dispute to the DARB under Sub-Clause 20.4 of the Conditions of Contract, which will require the Member to make a site visit and attend a hearing, the Employer or the Contractor shall provide appropriate security for a sum equivalent to the reasonable expenses to be incurred by the Member. No account shall be taken of any other payments due or paid to the Member.

**6. Payment**

The Member shall be paid as follows, in the currency named in the DARB Agreement:

- (a) a retainer fee per calendar month, which shall be considered as payment in full for:
  - (i) being available on 28 days' notice for all site visits and hearings;

- (ii) becoming and remaining conversant with all project developments and maintaining relevant files;
- (iii) all office and overhead expenses including secretarial services, photocopying and office supplies incurred in connection with his duties; and
- (iv) all services performed hereunder except those referred to in sub-paragraphs (b) and (c) of this Clause.

The retainer fee shall be paid with effect from the last day of the calendar month in which the Adjudication Panel Board Agreement becomes effective; until the last day of the calendar month in which the Taking-Over Certificate is issued for the whole of the Works.

With effect from the first day of the calendar month following the month in which the Taking-Over Certificate is issued for the whole of the Works, the retainer fee shall be reduced by one third. This reduced fee shall be paid until the first day of the calendar month in which the Member resigns or the DARB Agreement is otherwise terminated.

- (b) a daily fee which shall be considered as payment in full for:
  - (i) each day or part of a day up to a maximum of two days' travel time in each direction for the journey between the Member's home and the site, or another location of a meeting with the Other Members (if any);
  - (ii) each working day on Site visits, hearings or preparing decisions; and
  - (iii) each day spent reading submissions in preparation for a hearing.
- (c) all reasonable expenses including necessary travel expenses (air fare in less than first class, hotel and subsistence and other direct travel expenses) incurred in connection with the Member's duties, as well as the cost of telephone calls, courier charges, faxes and telexes: a receipt shall be required for each item in excess of five percent of the daily fee referred to in sub-paragraph (b) of this Clause;
- (d) any taxes properly levied in the Country on payments made to the Member (unless a national or permanent resident of the Country) under this Clause 6.

The retainer and daily fees shall be as specified in the DARB Agreement. Unless it specifies otherwise, these fees shall remain fixed for the first 24 calendar months, and shall thereafter be adjusted by agreement between the Employer, the Contractor and the Member, at each anniversary of the date on which the DARB Agreement became effective.

If the parties fail to agree on the retainer fee or the daily fee, the appointing entity or official named in the **SCC** shall determine the

amount of the fees to be used.

The Member shall submit invoices for payment of the monthly retainer and air fares quarterly in advance. Invoices for other expenses and for daily fees shall be submitted following the conclusion of a site visit or hearing. All invoices shall be accompanied by a brief description of activities performed during the relevant period and shall be addressed to the Contractor.

The Contractor shall pay each of the Member's invoices in full within 56 calendar days after receiving each invoice and shall apply to the Employer (in the Statements under the Contract) for reimbursement of one-half of the amounts of these invoices. The Employer shall then pay the Contractor in accordance with the Contract.

If the Contractor fails to pay to the Member the amount to which he/she is entitled under the DARB Agreement, the Employer shall pay the amount due to the Member and any other amount which may be required to maintain the operation of the DARB; and without prejudice to the Employer's rights or remedies. In addition to all other rights arising from this default, the Employer shall be entitled to reimbursement of all sums paid in excess of one-half of these payments, plus all costs of recovering these sums and financing charges calculated at the rate specified in Sub-Clause 14.8 of the Conditions of Contract.

If the Member does not receive payment of the amount due within 70 days after submitting a valid invoice, the Member may (i) suspend his/her services (without notice) until the payment is received, and/or (ii) resign his/her appointment by giving notice under Clause 7.

## **7. Termination**

At any time: (i) the Employer and the Contractor may jointly terminate the DARB Agreement by giving 42 days' notice to the Member; or (ii) the Member may resign as provided for in Clause 2.

If the Member fails to comply with the DARB Agreement, the Employer and the Contractor may, without prejudice to their other rights, terminate it by notice to the Member. The notice shall take effect when received by the Member.

If the Employer or the Contractor fails to comply with the DARB Agreement, the Member may, without prejudice to his other rights, terminate it by notice to the Employer and the Contractor. The notice shall take effect when received by them both.

Any such notice, resignation and termination shall be final and binding on the Employer, the Contractor and the Member. However, a notice by the Employer or the Contractor, but not by both, shall be of no effect.

## **8. Default of the Member**

If the Member fails to comply with any of his obligations under Clause 4 (a) - (d) above, he shall not be entitled to any fees or expenses hereunder and shall, without prejudice to their other

rights, reimburse each of the Employer and the Contractor for any fees and expenses received by the Member and the Other Members (if any), for proceedings or decisions (if any) of the DARB which are rendered void or ineffective by the said failure to comply.

If the Member fails to comply with any of his obligations under Clause 4 (e) - (k) above, he shall not be entitled to any fees or expenses hereunder from the date and to the extent of the non-compliance and shall, without prejudice to their other rights, reimburse each of the Employer and the Contractor for any fees and expenses already received by the Member, for proceedings or decisions (if any) of the DARB which are rendered void or ineffective by the said failure to comply.

**9. Disputes**

Any dispute or claim arising out of or in connection with this DARB Agreement, or the breach, termination or invalidity thereof, shall be finally settled by Arbitration.

## PROCEDURAL RULES

Unless otherwise agreed by the Employer and the Contractor, the DARB shall visit the site at intervals of not more than 140 days, including times of critical construction events, at the request of either the Employer or the Contractor. Unless otherwise agreed by the Employer, the Contractor and the DARB, the period between consecutive visits shall not be less than 70 days, except as required to convene a hearing as described below.

The timing of and agenda for each site visit shall be as agreed jointly by the DARB, the Employer and the Contractor, or in the absence of agreement, shall be decided by the DARB. The purpose of site visits is to enable the DARB to become and remain acquainted with the progress of the Works and of any actual or potential problems or claims, and, as far as reasonable, to endeavour to prevent potential problems or claims from becoming disputes.

Site visits shall be attended by the Employer, the Contractor and the Project Manager and shall be co-ordinated by the Employer in co-operation with the Contractor. The Employer shall ensure the provision of appropriate conference facilities and secretarial and copying services. At the conclusion of each site visit and before leaving the site, the DARB shall prepare a report on its activities during the visit and shall send copies to the Employer and the Contractor.

The Employer and the Contractor shall furnish to the DARB one copy of all documents which the DARB may request, including Contract documents, progress reports, variation instructions, certificates and other documents pertinent to the performance of the Contract. All communications between the DARB and the Employer or the Contractor shall be copied to the other Party. If the DARB comprises three persons, the Employer and the Contractor shall send copies of these requested documents and these communications to each of these persons.

If any dispute is referred to the DARB in accordance with Sub-Clause 20.4 of the Conditions of Contract, the DARB shall proceed in accordance with Sub-Clause 20.4 and these Rules. Subject to the time allowed to give notice of a decision and other relevant factors, the DARB shall:

- (a) act fairly and impartially as between the Employer and the Contractor, giving each of them a reasonable opportunity of putting his case and responding to the other's case, and
- (b) adopt procedures suitable to the dispute, avoiding unnecessary delay or expense.

The DARB may conduct a hearing on the dispute, in which event it will decide on the date and place for the hearing and may request that written documentation and arguments from the Employer and the Contractor be presented to it prior to or at the hearing.

Except as otherwise agreed in writing by the Employer and the Contractor, the DARB shall have power to adopt an inquisitorial procedure, to refuse admission to hearings or audience at hearings to any persons other than representatives of the Employer, the Contractor and the Project Manager, and to proceed in the absence of any party who the DARB is satisfied received notice of the hearing; but shall have discretion to decide whether and to what extent this power may be exercised.

The Employer and the Contractor empower the DARB, among other things, to:

- (a) establish the procedure to be applied in deciding a dispute,



- (b) decide upon the DARB's own jurisdiction, and as to the scope of any dispute referred to it,
- (c) conduct any hearing as it thinks fit, not being bound by any rules or procedures other than those contained in the Contract and these Rules,
- (d) take the initiative in ascertaining the facts and matters required for a decision,
- (e) make use of its own specialist knowledge, if any,
- (f) decide upon the payment of financing charges in accordance with the Contract,
- (g) decide upon any provisional relief such as interim or conservatory measures, and
- (h) open up, review and revise any certificate, decision, determination, instruction, opinion or valuation of the Project Manager, relevant to the dispute.

The DARB shall not express any opinions during any hearing concerning the merits of any arguments advanced by the Parties. Thereafter, the DARB shall make and give its decision in accordance with Sub-Clause 20.4, or as otherwise agreed by the Employer and the Contractor in writing. If the DARB comprises three persons:

- (a) it shall convene in private after a hearing, in order to have discussions and prepare its decision;
- (b) it shall endeavour to reach a unanimous decision: if this proves impossible the applicable decision shall be made by a majority of the Members, who may require the minority Member to prepare a written report for submission to the Employer and the Contractor; and
- (c) if a Member fails to attend a meeting or hearing, or to fulfil any required function, the other two Members may nevertheless proceed to make a decision, unless:
  - (i) either the Employer or the Contractor does not agree that they do so, or
  - (ii) the absent Member is the chairman and he/she instructs the other Members not to make a decision.