



**DAIRY DEVELOPMENT AUTHORITY
CONSTRUCTION OF DAIRY EXHIBITION VILLAGE IN JINJA**

ADMEASUREMENT CONTRACT

Contents

- ⇒ The Contract Agreement
- ⇒ The Supplier 's Bid Quotation
- ⇒ General Conditions of the Contract (GCC)
- ⇒ Special Conditions of the Contract (SCC)

Client

Dairy Development Authority ,

P.O. Box 34006,

KAMPALA

Provider

M/S. Reberon Investment Co. Ltd

P.O. Box 36

Kapchorwa

**Contract Agreement
For**

CONSTRUCTION OF DAIRY EXHIBITION VILLAGE IN JINJA

Procurement Reference No: DDA/WRKS/2023-2024/00105

THIS AGREEMENT made this _____ day of _____ 2024, between Dairy Development Authority of P.O BOX 34006 Kampala (hereinafter "the Employer"), of the one part, and M/s Reberon Investment Co. Ltd of P.O BOX 36 Kapchorwa (hereinafter "the Contractor"), of the other part.

Whereas the Employer is desirous that the Contractor executes **construction of dairy exhibition village** in **Jinja** City (hereinafter called "the Works") and the Employer has accepted the Bid by the Contractor for the execution and completion of such Works and the remedying of any defects therein for the Contract Price of UGX. 309,477,187 (three hundred nine million, four hundred seventy seven thousand, one hundred eighty seven shillings) Inclusive of all applicable taxes.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.
 - (a) the Bid;
 - (b) the Special Conditions of Contract;
 - (c) the General Conditions of Contracts;
 - (e) the Scope of works;
 - (f) the Drawings; and
 - (g) the Completed Schedules.
3. In consideration of the payments to be made by the Employer to the Contractor as indicated in this Contract, the Contractor hereby covenants with the Employer to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract.

The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein the Contract Price of UGX. UGX 309,477,187 (three hundred nine million, four hundred seventy seven thousand, one hundred eighty seven shillings) Inclusive of all applicable taxes or such other sum as may become payable under the provisions of the Contract, at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties thereto have caused this Contract to be executed in accordance with the law specified in the Special Conditions of Contract on the day, month and year indicated above.

Reberon Investment Co. Ltd

.....
DM

DDA Initials.

.....
[Signature]

Signature: [Signature]
Name: **EXECUTIVE DIRECTOR**
Dairy Development Authority (DDA)
Name: Akankiza Samson Mpiira

(for the Employer)

Position: **Executive Director**

In the presence of:

Name: Mutungi Colin Katungi

Position: **Director Finance and Admiration.**

Signed by

Name: Mayamba Denis

(for the Contractor)

Position: **Managing Director**

In the presence of:

Name: KWERTI SAM

Position:

Advocate

[Signature]

Section 8:

Special Conditions of Contract

Procurement Reference Number: DDA/WRKS/2023-2024/00105

The clause numbers given in the first column correspond with the relevant clause number of the General Conditions of Contract.

GCC Clause Reference	Special Conditions
Contract Manager GCC 1.1(y)	The Project Manager is: The project management team
Site GCC 1.1(bb)	The Site is located in Source of the Nile Agricultural show ground, Jinja City, and as defined in the Drawings
Start Date GCC 1.1(ee)	The Start Date shall be: 05 (five) working days after site handover.
The Works GCC 1.1(ii)	The Works consist of: Construction of dairy exhibition village
Type of Contract GCC 2.3	This Contract is Admeasurement Contract.
Language and Law GCC 3.1	The language of the Contract is English and the law governing the Contract is that of the Republic of Uganda.
Project Manager's Decisions GCC 4.2	The Project Manager shall obtain specific approval from the Employer before carrying out any of his duties under the Contract which in the Project Manager's opinion will cause the amount finally due under the Contract to exceed the Contract Price or will give entitlement to extension of time. This requirement shall be waived in an emergency affecting safety of personnel or the Works or adjacent property.
Notices GCC 6.1	For <u>notices</u> , the Employer's address shall be: Attention: Executive Director Street Address: Dairy Development Authority Floor/Room number: Plot. 1, Kafu road Town/City: Kampala P. O. Box: 34006 Country: Kampala Telephone: 041 4 343901/3 Electronic mail address: info@dda.go.ug

GCC Clause Reference	Special Conditions
	For notices, the Contractor's address shall be: Attention: Managing Director Reberon Investment Co. Ltd Street Address: Plot 41B Luthuli Avenue ,Bugolobi Floor/Room number: Town/City: Kampala P. O. Box: 21527 Kampala Uganda
Intended Completion Date GCC 17.1	The Intended Completion Date for the whole of the Works shall be: three (3) months after the Start Date
Possession of the Site GCC 21.1	The Site Possession Date shall be: five (5) days after site handover
Appointment of an Adjudicator GCC 25.3	Any Adjudicator appointed under the contract shall be paid at the UIPE rate and the cost shall be divided equally between the PDE and the Contractor. whatever decision is reached by the Adjudicator, either party may refer a dispute to a court of competent jurisdiction in Uganda within 28 days of the adjudicator's written decision. If neither party refers the dispute to a court of competent jurisdiction the adjudicators' decision will be final.
Procedure for Disputes GCC 25.4	Not applicable
Program GCC 27	The Contractor shall submit the Programme for the Works within 5 working days of delivery of Contract. Programme updates shall be required after every two weeks.
Defects Liability Period GCC 35.1	The Defects Liability Period is 5 months from the Substantial Completion Date
Payment certificates GCC 42.2	The value of the interim payment certificate should be the value of the certified works done.
Payments GCC 43.1	Payments shall be adjusted for deductions for advance payments and retention. The Employer shall pay the Contractor the amounts certified by the Project Manager within 30 days of the date of each certificate. 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 for commercial borrowing for each of the currencies in which payments are made.

GCC Clause Reference	Special Conditions
Price Adjustment GCC 47.1	The Contract is not subject to price adjustment.
Retention GCC 48.1	5% (five per cent) proportion of any payments shall be retained.
Liquidated Damages GCC 49.1	Liquidated Damages shall apply. The Contractor shall pay Liquidated Damages to the Employer at the rate of 0.5% for each day that the Completion Date is later than the Intended Completion Date. The total/maximum amount of liquidated damages shall be: 10% of the original contract price
Advance Payment GCC 51.1	Advance payment of 30% (Thirty per cent) shall be made on submission of an advance payment guarantee of inform of Bank guarantee.
Advance payment GCC 51.3	Advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, as follows: The repayment shall be when the certified works execution value has reached 30% of the original contract price, and complete when the works execution value has reached 85% of the original contract price.
Performance Security GCC 52.2	A Performance Security of 5% of contract value shall be required. Where performance security is required, it shall be in the form of: unconditional on-demand bank guarantee from a reputable bank regulated by Bank of Uganda.
Validity of Performance Security GCC 54.4	The validity of the performance security is 28 days from the date of contract execution
GCC 60.1	The percentage to apply to the value of the work not completed, representing the Employer's additional cost for completing the Works, is: Five per cent (5%) of contract price.

PART 3 - Contract

Section 7: General Conditions of Contract for the Procurement of Works

Table of Contents

A. General	10
1. Definitions.....	10
2. Interpretation.....	12
3. Language and Law	12
4. Project Manager's Decisions	12
5. Delegation	13
6. Notices	13
7. Subcontracting	13
8. Other Contractors	13
9. Personnel.....	13
10. Employer's and Contractor's Risks	13
11. Employer's Risks	13
12. Contractor's Risks.....	14
13. Insurance	14
14. Site Investigation Reports	15
15. Queries about the Special Conditions of Contract	15
16. Contractor to Construct the Works	15
17. Works to Be Completed by the Intended Completion Date.....	15
18. Approval by the Project Manager	15
19. Safety	15
20. Discoveries.....	15

Brn

[Signature]

21.	Possession of the Site	15
22.	Access to the Site	15
23.	Instructions, Inspection and Audits.....	16
24.	Disputes.....	16
25.	Procedure for Disputes.....	16
26.	Replacement of Adjudicator	16
B. Time Control		16
27.	Program	16
28.	Extension of the Intended Completion Date	17
29.	Acceleration	17
30.	Delays Ordered by the Project Manager	17
31.	Management Meetings	17
32.	Early Warning	18
C. Quality Control		18
33.	Identifying Defects.....	18
34.	Tests	18
35.	Correction of Defects	18
36.	Uncorrected Defects.....	18
D. Cost Control		18
37.	Bill of Quantities or Activity Schedule.....	18
	Option 1: Admeasurement Contracts - Bill of Quantities.....	18
	Option 2: Lump Sum Contracts – Activity Schedule	19
38.	Changes in the Bill of Quantities or Activity Schedule	19
	Option 1: Admeasurement Contracts – Changes in the Bill of Quantities	19
	Option 2: Lump Sum Contracts – Changes in the Activity Schedule.....	19
39.	Variations	19
	Option 1: Admeasurement Contracts – Variations	19
	Option 2: Lump Sum Contracts - Variations	19
40.	Payments for Variations.....	19
	Option 1: Admeasurement Contracts – Payment for Variations.....	19
	Option 2: Lump Sum Contracts – Payment for Variations.....	20
42.	Payment Certificates	20
43.	Payments	21
44.	Compensation Events.....	21
45.	Tax	22
46.	Currencies	22
47.	Price Adjustment.....	22
48.	Retention	23
49.	Liquidated Damages	24
50.	Bonus	24
51.	Advance Payment	24
52.	Performance Security	24
53.	Dayworks	25
54.	Cost of Repairs.....	25
E. Finishing the Contract		25
55.	Completion.....	25

56.	Taking Over	25
57.	Final Account.....	25
58.	Operating and Maintenance Manuals	26
59.	Termination	26
60.	Payment upon Termination.....	27
61.	Property	27
62.	Release from Performance	27

DM

[Signature]

A. General

1. Definitions

- 1.1 The following words and expressions shall have the meanings hereby assigned to them:
- (a) "Activity Schedule" means the priced and completed Activity Schedule, forming part of the Bid, which provides a breakdown of the Contract Price by work elements for a Lump Sum Contract.
 - (b) The "Adjudicator" is the person appointed jointly by the Employer and the Contractor to resolve disputes in the first instance.
 - (c) "Admeasurement Contract" means a Contract under which the Works are executed on the basis of agreed rates and prices in a Bill of Quantities and payment is made for the quantity of work actually executed.
 - (d) "Bill of Quantities" means the priced and completed Bill of Quantities forming part of the Bid, which provides the agreed rates and prices for payment for an Admeasurement Contract.
 - (e) "Compensation Events" are those defined in Clause 44 hereunder.
 - (f) The "Completion Date" is the date of completion of the Works as certified by the Project Manager.
 - (g) The "Contract" is the agreement between the Employer and the Contractor to execute, complete, and maintain the Works.
 - (h) The "Contractor" is a person or corporate body whose Bid to carry out the Works has been accepted by the Employer and is named as such in the Agreement, and means Provider as defined in the Public Procurement and Disposal of Public Assets Act, 2003.
 - (i) The "Contractor's Bid" is the completed bidding document submitted by the Contractor to the Employer.
 - (j) The "Contract Price" is the price stated in the Agreement and thereafter as adjusted in accordance with the provisions of the Contract.
 - (k) "Days" are working days; "months" are calendar months.
 - (l) "Day works" are varied work inputs subject to payment on a time basis for the Contractor's employees and Equipment, in addition to payments for associated Materials and Plant.
 - (m) A "Defect" is any part of the Works not completed in accordance with the Contract.
 - (n) The "Defects Liability Certificate" is the certificate issued by the Project Manager upon correction of defects by the Contractor.
 - (o) The "Defects Liability Period" is the period calculated from the Completion Date, during which the Contractor must rectify defects.
 - (p) "Drawings" include calculations and other information provided or approved by the Project Manager for the execution of the Contract.

- (q) The "Employer" is the party named in the Agreement, who employs the Contractor to carry out the Works and means Procuring and Disposing Entity as defined in the Public Procurement and Disposal of Public Assets Act, 2003.
- (r) "Equipment" is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works.
- (s) "GCC" means the General Conditions of Contract.
- (t) The "Initial Contract Price" is the Contract Price listed in the Agreement.
- (u) The "Intended Completion Date" is the date on which it is intended that the Contractor shall complete the Works.
- (v) "Lump Sum Contract" means a Contract under which the Works are executed for an all inclusive fixed total amount, as defined in the Activity Schedule.
- (w) "Materials" are all supplies, including consumables, used by the Contractor for incorporation in the Works.
- (x) "Plant" is any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function.
- (y) The "Project Manager" is the person named in the SCC (or any other competent person appointed by the Employer and notified to the Contractor, to act as a representative of the Contract Manager) who is responsible for supervising the execution of the Works and administering the Contract. The
- (z) The "Contract Manager" is the person appointed by the Accounting Officer from the user department or another Procuring and Disposing Entity to manage the contract.
- (za) "Provisional Sum" means a sum included in the Contract and so designated in the Bill of Quantities or Activity Schedule for the provision of supplies, works or services or for contingencies to be expended for the execution of the Works in whole or part at the direction of the Project Manager.
- (aa) "SCC" means the Special Conditions of Contract.
- (bb) The "Site" is the area defined as such in the SCC.
- (cc) "Site Investigation Reports" are those that were included in the bidding documents and are factual and interpretative reports about the surface and subsurface conditions at the Site.
- (dd) "Specification" means the Specification of the Works included in the Contract and any modification or addition made or approved by the Project Manager.
- (ee) The "Start Date" is the latest date by when the Contractor shall commence execution of the Works and is specified in the SCC.
- (ff) A "Subcontractor" is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site.
- (gg) "Temporary Works" are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Works.

- (hh) A "Variation" is an instruction given by the Project Manager which varies the Works.
- (ii) The "Works" are what the Contract requires the Contractor to construct, install, and turn over to the Employer, as defined in the SCC.

2. Interpretation

- 2.1 In interpreting these Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager will provide instructions clarifying queries about these Conditions of Contract.
- 2.2 These General Conditions of Contract shall apply in their entirety, except where alternative options are specified for different types of contract. Where alternative options are specified:
 - (a) Option 1 shall apply to Admeasurement Contracts; and
 - (b) Option 2 shall apply to Lump Sum Contracts.
- 2.3 For purposes of interpreting these Conditions of Contract, the type of contract is as specified in the SCC.
- 2.4 If sectional completion is specified in the SCC, references in the Conditions of Contract to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).
- 2.5 The documents forming the Contract shall be interpreted in the following order of priority:
 - (1) Agreement,
 - (2) Contractor's Bid,
 - (3) Special Conditions of Contract,
 - (4) General Conditions of Contract,
 - (5) Scope of Works,
 - (6) Drawings,
 - (7) Bill of Quantities or Activity Schedule, as appropriate, and
 - (8) Any other document listed in the SCC as forming part of the Contract.

3. Language and Law

- 3.1 The language of the Contract is English and the law governing the Contract is that of the Republic of Uganda, unless otherwise specified in the SCC.

4. Project Manager's Decisions

- 4.1 Except where otherwise specifically stated, the Project Manager will decide contractual matters between the Employer and the Contractor in the role representing the Employer.

- 4.2 The Project Manager will obtain the Employer's approval for any of the decisions specified in the SCC.
- 5. Delegation**
- 5.1 The Project Manager may delegate any of his duties and responsibilities to other people, except to the Adjudicator, after notifying the Contractor in writing, and may cancel any delegation after notifying the Contractor.
- 6. Notices**
- 6.1 Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the SCC. The term "in writing" means communicated in written form with proof of receipt.
- 6.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.
- 7. Subcontracting**
- 7.1 Unless otherwise specified in the SCC, the Contractor may subcontract with the approval of the Project Manager, but may not assign the Contract without the approval of the Employer in writing. Subcontracting shall not alter the Contractor's obligations.
- 7.2 Any further conditions relating to subcontracting shall be as specified in the SCC.
- 8. Other Contractors**
- 8.1 The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Employer between the dates given in the Schedule of Other Contractors, if such Schedule is specified in the SCC. The Contractor shall also provide facilities and services for them as described in the Schedule. The Employer may modify the Schedule of Other Contractors, and shall notify the Contractor of any such modification.
- 9. Personnel**
- 9.1 If the Schedule of Key Personnel is specified in the SCC, the Contractor shall employ the key personnel named in the Schedule, or other personnel approved by the Project Manager, to carry out the functions stated in the Schedule. The Project Manager will approve any proposed replacement of key personnel only if their relevant qualifications and abilities are substantially equal to or better than those of the personnel listed in the Schedule.
- 9.2 If the Project Manager asks the Contractor to remove a person who is a member of the Contractor's staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the work in the Contract.
- 10. Employer's and Contractor's Risks**
- 10.1 The Employer carries the risks which the Contract states are Employer's risks, and the Contractor carries the risks which the Contract states are Contractor's risks.
- 11. Employer's Risks**
- 11.1 From the Start Date until the Defects Correction Certificate has been issued, the following are Employer's risks:

- (a) The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to:
- (i) use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works; or
 - (ii) negligence, breach of statutory duty, or interference with any legal right by the Employer or by any person employed by or contracted to him except the Contractor.
- (b) The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Employer or in the Employer's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.
- 11.2 From the Completion Date until the Defects Correction Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is an Employer's risk except loss or damage due to:
- (a) a Defect which existed on the Completion Date;
 - (b) an event occurring before the Completion Date, which was not itself an Employer's risk; or
 - (c) The activities of the Contractor on the Site after the Completion Date.
- 12. Contractor's Risks**
- 12.1 From the Starting Date until the Defects Correction Certificate has been issued, the risks of personal injury, death, and loss of or damage to property (including, without limitation, the Works, Plant, Materials, and Equipment) which are not the Employer's risks are the Contractor's risks.
- 13. Insurance**
- 13.1 The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles stated in the SCC for the following events which are due to the Contractor's risks:
- (a) loss of or damage to the Works, Plant, and Materials;
 - (b) loss of or damage to Equipment;
 - (c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and
 - (d) Personal injury or death.
- 13.2 Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.
- 13.3 If the Contractor does not provide any of the policies and certificates required, the Employer may effect the insurance which the Contractor should have provided and recover the premiums the Employer has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.

- 13.4 Alterations to the terms of an insurance shall not be made without the approval of the Project Manager.
- 13.5 Both parties shall comply with any conditions of the insurance policies.
- 14. Site Investigation Reports**
- 14.1 The Contractor, in preparing the Bid, shall rely on any Site Investigation Reports referred to in the SCC, supplemented by any information available to the Bidder.
- 15. Queries About the Special Conditions of Contract**
- 15.1 The Project Manager will clarify queries on the SCC.
- 16. Contractor to Construct the Works**
- 16.1 The Contractor shall construct and install the Works in accordance with the Specifications and Drawings.
- 17. Works to be Completed by the Intended Completion Date**
- 17.1 The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Program submitted by the Contractor, as updated with the approval of the Project Manager, and complete them by the Intended Completion Date specified in the SCC.
- 18. Approval by the Project Manager**
- 18.5 All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, are subject to prior approval by the Project Manager before use.
- 18.1 The Contractor shall be responsible for design of Temporary Works and shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager. The Project Manager shall approve such Specification and Drawing if they comply with the Specifications and Drawings in the Statement of Requirements.
- 18.3 The Project Manager's approval shall not alter the Contractor's responsibility for design of the Temporary Works.
- 18.4 The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.
- 19. Safety**
- 19.1 The Contractor shall be responsible for the safety of all activities on the Site.
- 20. Discoveries**
- 20.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site shall be the property of the Employer. The Contractor shall notify the Project Manager of such discoveries and carry out the Project Manager's instructions for dealing with them.
- 21. Possession of the Site**
- 21.1 The Employer shall give possession of all parts of the Site to the Contractor. If possession of a part is not given by the date stated in the SCC, the Employer will be deemed to have delayed the start of the relevant activities, and this will be a Compensation Event.
- 22. Access to the Site**

- 22.1 The Contractor shall allow the Project Manager and any person authorised by the Project Manager access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.

23. Instructions, Inspection and Audits

- 23.1 The Contractor shall carry out all instructions of the Project Manager which comply with the applicable laws where the Site is located.
- 23.2 The Contractor shall permit the Government of Uganda to inspect the Contractor's accounts and records relating to the performance of the Contract and to have them audited by auditors appointed by the Government, if so required by the Government.

24. Disputes

- 24.1 If the Contractor believes that a decision taken by the Project Manager was either outside the authority given to the Project Manager by the Contract or that the decision was wrongly taken, the decision shall be referred to any Adjudicator appointed under the contract within 14 days of the notification of the Project Manager's decision.

25. Procedure for Disputes

- 25.1 Unless otherwise specified in the SCC, the procedure for disputes shall be as specified in GCC 25.2 to 25.4.
- 25.2 Any Adjudicator appointed under the contract shall give a decision in writing within 28 days of receipt of a notification of a dispute, providing that he is in receipt of all the information required to give a decision.
- 25.3 Any Adjudicator appointed under the contract shall be paid at the UIPE rate and the cost shall be divided equally between the PDE and the Contractor. whatever decision is reached by the Adjudicator, either party may refer a dispute to a court of competent jurisdiction in Uganda within 28 days of the adjudicator's written decision. If neither party refers the dispute to a court of competent jurisdiction the adjudicators' decision will be final.
- 25.4 Any arbitration shall be conducted in accordance with the Arbitration and Conciliation Act 2000 or such other formal mechanism specified in the SCC, and in the place shown in the SCC.

26. Replacement of Adjudicator

- 26.1 Should the Adjudicator resign or die, or should the Employer and the Contractor agree that the Adjudicator is not functioning in accordance with the provisions of the Contract, a new Adjudicator will be jointly appointed by the Employer and the Contractor. In case of disagreement between the Employer and the Contractor, within 30 days, the Adjudicator shall be designated by the Appointing Authority designated in the SCC at the request of either party, within 14 days of receipt of such request.

B. Time Control

27. Program

- 27.1 Within the time stated in the SCC, the Contractor shall submit to the Project Manager for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works.

- 27.2 An update of the Program shall be a program showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.
- 27.3 The Contractor shall submit to the Project Manager for approval an updated Program at intervals no longer than the period stated in the SCC. If the Contractor does not submit an updated Program within this period, the Project Manager may withhold the amount stated in the SCC from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted.
- 27.4 The Project Manager's approval of the Program shall not alter the Contractor's obligations. The Contractor may revise the Program and submit it to the Project Manager again at any time. A revised Program shall show the effect of Variations and Compensation Events.

28. Extension of the Intended Completion Date

- 28.1 The Project Manager shall 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, which would cause the Contractor to incur additional cost.
- 28.2 The Project Manager shall decide whether and by how much to extend the Intended Completion Date within 21 days of the Contractor asking the Project Manager for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.

29. Acceleration

- 29.1 When the Employer wants the Contractor to finish before the Intended Completion Date, the Project Manager will obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Employer accepts these proposals, the Intended Completion Date will be adjusted accordingly and confirmed by both the Employer and the Contractor.
- 29.2 If the Contractor's priced proposals for acceleration are accepted by the Employer, they are incorporated in the Contract Price and treated as a Variation.

30. Delays Ordered by the Project Manager

- 30.1 The Project Manager may instruct the Contractor to delay the start or progress of any activity within the Works.

31. Management Meetings

- 31.1 Either the Project Manager or the Contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining work and to deal with matters raised in accordance with the early warning procedure detailed in GCC 32.
- 31.2 The Project Manager shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Employer. The responsibility of the parties for actions to be taken shall be decided by the Project

Manager either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.

32. Early Warning

- 32.1 The Contractor shall warn the Project Manager at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the Contract Price or delay the execution of the Works. The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible.
- 32.2 The Contractor shall cooperate with the Project Manager in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Project Manager.

C. Quality Control

33. Identifying Defects

- 33.1 The Project Manager shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Project Manager may instruct the Contractor to search for a Defect and to uncover and test any work that the Project Manager considers may have a Defect.

34. Tests

- 34.1 If the Project Manager instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test shall be a Compensation Event.

35. Correction of Defects

- 35.1 The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, specified in the SCC. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.
- 35.2 Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Project Manager's notice.

36. Uncorrected Defects

- 36.1 If the Contractor has not corrected a Defect within the time specified in the Project Manager's notice, the Project Manager will assess the cost of having the Defect corrected, and the Contractor will pay this amount.

D. Cost Control

37. Bill of Quantities or Activity Schedule

Option 1: Admeasurement Contracts - Bill of Quantities

- 37.1 The Bill of Quantities shall contain items for the construction, installation, testing, and commissioning work to be done by the Contractor.

- 37.2 The Bill of Quantities is used to calculate the Contract Price. The Contractor is paid for the quantity of the work done at the rate in the Bill of Quantities for each item.

Option 2: Lump Sum Contracts – Activity Schedule

- 37.1 The Contractor shall provide updated Activity Schedules within 14 days of being instructed to by the Project Manager. The activities on the Activity Schedule shall be coordinated with the activities on the Program.
- 37.2 The Contractor shall show delivery of Materials to the Site separately on the Activity Schedule if payment for Materials on Site shall be made separately.

38. Changes in the Bill of Quantities or Activity Schedule

Option 1: Admeasurement Contracts – Changes in the Bill of Quantities

- 38.1 If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than 25 percent, provided the change exceeds one percent (1%) of the Initial Contract Price, the Project Manager shall adjust the rate to allow for the change.
- 38.2 The Project Manager shall not adjust rates from changes in quantities if thereby the Initial Contract Price is exceeded by more than 15 percent, except with the prior approval of the Employer.
- 38.3 If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost breakdown of any rate in the Bill of Quantities.

Option 2: Lump Sum Contracts – Changes in the Activity Schedule

- 38.1 The Activity Schedule shall be amended by the Contractor to accommodate changes of Program or method of working made at the Contractor's own discretion. Prices in the Activity Schedule shall not be altered when the Contractor makes such changes to the Activity Schedule.

39. Variations

Option 1: Admeasurement Contracts – Variations

- 39.1 All Variations shall be included in updated Programs produced by the Contractor.

Option 2: Lump Sum Contracts - Variations

- 39.1 All Variations shall be included in updated Programs and Activity Schedules produced by the Contractor.

40. Payments for Variations

Option 1: Admeasurement Contracts – Payment for Variations

- 40.1 The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the quotation, which shall be given within seven days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.
- 40.2 If the work in the Variation corresponds with an item description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work above the limit stated in Sub-Clause 38.1 or the timing of its execution do not cause the cost

per unit of quantity to change, the rate in the Bill of Quantities shall be used to calculate the value of the Variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the Variation does not correspond with items in the Bill of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of work.

- 40.3 If the Contractor's quotation is unreasonable, the Project Manager may order the Variation and make a change to the Contract Price, which shall be based on the Project Manager's own forecast of the effects of the Variation on the Contractor's costs.
- 40.4 If the Project Manager decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event.
- 40.5 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning.

Option 2: Lump Sum Contracts – Payment for Variations

- 40.1 The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the quotation, which shall be given within seven days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.
- 40.2 If the Contractor's quotation is unreasonable, the Project Manager may order the Variation and make a change to the Contract Price, which shall be based on the Project Manager's own forecast of the effects of the Variation on the Contractor's costs.
- 40.3 If the Project Manager decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event.
- 40.4 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning.

42. Payment Certificates

- 42.1 The Contractor shall submit to the Project Manager statements of the estimated value of the work executed less the cumulative amount certified previously. Unless otherwise specified in the SCC, such statements shall be submitted monthly.
- 42.2 The value of the interim payment certificate should be the value of the certified works done, and certify the amount to be paid to the Contractor.
- 42.3 The value of work executed shall be determined by the Project Manager.
- 42.4 The value of work executed shall comprise the value of:
 - (a) the quantities of the items in the Bill of Quantities completed for Admeasurement Contracts; or
 - (b) completed (fully or partially) activities in the Activity Schedule for Lump Sum contract activities.
- 42.5 The value of work executed shall include the valuation of Variations and Compensation Events.

- 42.6 The Project Manager may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.

43. Payments

- 43.1 Payments shall be adjusted for deductions for advance payments and retention. The Employer shall pay the Contractor the amounts certified by the Project Manager within 30 days of the date of each certificate. 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 for commercial borrowing for each of the currencies in which payments are made.
- 43.2 If an amount certified is increased in a later certificate or as a result of an award by the Adjudicator or an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.
- 43.3 Unless otherwise stated, all payments and deductions will be paid or charged in the proportions of currencies comprising the Contract Price.
- 43.4 Items of the Works for which no rate or price has been entered in will not be paid for by the Employer and shall be deemed covered by other rates and prices in the Contract.

44. Compensation Events

- 44.1 The following shall be Compensation Events:

- (a) The Employer does not give access to a part of the Site by the Site Possession Date stated in the SCC.
- (b) The Employer modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under the Contract.
- (c) The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time.
- (d) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects.
- (e) The Project Manager unreasonably does not approve a subcontract to be let.
- (f) Ground conditions are substantially more adverse than could reasonably have been assumed before signing of the Agreement from the information issued to bidders (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.
- (g) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Employer, or additional work required for safety or other reasons.
- (h) Other contractors, public authorities, utilities, or the Employer does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.
- (i) The advance payment is delayed.

- (j) The effects on the Contractor of any of the Employer's Risks.
 - (k) The Project Manager unreasonably delays issuing a Certificate of Completion.
 - (l) Other Compensation Events described in the SCC or determined by the Project Manager shall apply.
- 44.2 If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date shall be extended. The Project Manager shall decide whether and by how much the Contract Price shall be increased and whether and by how much the Intended Completion Date shall be extended.
- 44.3 As soon as information demonstrating the effect of each Compensation Event upon the Contractor's forecast cost has been provided by the Contractor, it shall be assessed by the Project Manager, and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Project Manager shall adjust the Contract Price based on the Project Manager's own forecast. The Project Manager will assume that the Contractor will react competently and promptly to the event.
- 44.4 The Contractor shall not be entitled to compensation to the extent that the Employer's interests are adversely affected by the Contractor's not having given early warning or not having cooperated with the Project Manager.
- 45. Tax**
- 45.1 The Project Manager shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 28 days before the submission of bids for the Contract and the date of the last Completion certificate. The adjustment shall be the change in the amount of tax payable by the Contractor, provided such changes are not already reflected in the Contract Price or are a result of Clause 47.
- 46. Currencies**
- 46.1 Where payments are made in currencies other than Uganda Shillings, the exchange rates used for calculating the amounts to be paid shall be the exchange rates stated in the Contractor's Bid.
- 47. Price Adjustment**
- 47.1 Prices payable to the Provider, as stated in the Contract, shall be subject to adjustment during performance of the Contract to reflect changes in the cost of labour and material components in accordance with the formula:

$$\Delta P = P_0 \left(a + b \frac{L_1}{L_0} + c \frac{M_1}{M_0} \right) - P_0$$

in which:

- ΔP = adjustment amount payable to the Provider.
- P_0 = Contract Price (base price).
- a = fixed element representing profits and overheads included in the Contract Price and generally in the range of five (5) to fifteen (15) percent.
- b = estimated percentage of labour component in the Contract Price.
- c = estimated percentage of material component in the Contract Price.

- L_0, L_1 = labour indices applicable to the appropriate industry in the country of origin on the base date and date for adjustment, respectively.
 M_0, M_1 = material indices for the major raw material on the base date and date for adjustment, respectively, in the country of origin.

The coefficients a, b, and c shall be specified by the procuring and disposing entity in the bidding documents. The sum of the three coefficients should be one (1) in every application of the formula.

The Bidder shall indicate the source of the indices and the base date indices in his bid.

Base date = thirty (30) days prior to the deadline for submission of the bids.

Date of adjustment = _____ weeks prior to date of shipment (representing the mid-point of the period of manufacture).

The above price adjustment formula shall be invoked by either party subject to the following further conditions:

- (a) Price adjustment will be applied only if the resulting increase or decrease is more than _____ percent of the Contract Price.

[Two (2) percent would be an acceptable percentage.]

- (b) No price adjustment shall be allowed beyond the original delivery dates unless specifically stated in the extension letter. As a rule, no price adjustment shall be allowed for periods of delay for which the Provider is entirely responsible. The procuring and disposing entity will however be entitled to any decrease in the prices of the supplies and services subject to adjustment.

- (c) The total adjustment under this clause shall be subject to a ceiling of plus or minus _____ percent of the Contract Price.

[Ten (10) percent would be an acceptable percentage.]

- (d) If the currency in which the Contract Price P_0 is expressed is different from the currency of origin of the labour and material indices, a correction factor will be applied to avoid incorrect adjustments of the Contract Price. The correction factor shall correspond to the ratio of exchange rates between the two currencies on the base date and the date for adjustment as defined above.

47.2 No price adjustment shall be payable on the portion of the Contract Price paid to the Provider as advance payment.

47.3 If the value of the index is changed after it has been used in a calculation, the calculation shall be corrected and an adjustment made in the next payment certificate. The index value shall be deemed to take account of all changes in cost due to fluctuations in costs.

48. Retention

48.1 If so stated in the SCC, the Employer shall retain from each payment due to the Contractor the proportion stated in the SCC until Completion of the whole of the Works.

48.2 On completion of the whole of the Works, half the total amount retained shall be repaid to the Contractor and half when the Defects Liability Period has passed and

the Project Manager has certified that all Defects notified by the Project Manager to the Contractor before the end of this period have been corrected.

- 48.3 On completion of the whole Works, the Contractor may substitute retention money with an "on demand" Bank guarantee.

49. Liquidated Damages

- 49.1 If so stated in the SCC, the Contractor shall pay liquidated damages to the Employer at the rate per day stated in the SCC for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount defined in the SCC. The Employer may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's liabilities.
- 49.2 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 Sub-Clause 43.1.

50. Bonus

- 50.1 If so stated in the SCC, the Contractor shall be paid a Bonus calculated at the rate per working day stated in the SCC for each day (less any days for which the Contractor is paid for acceleration) that the Completion is earlier than the Intended Completion Date. The Completion Date shall be certified in accordance with GCC 55.1.

51. Advance Payment

- 51.1 If so stated in the SCC, the Employer shall make advance payment to the Contractor of the amounts stated in the SCC within the period stated in the SCC, against provision by the Contractor of an on demand Bank Security 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.
- 51.2 The Contractor is to use the advance payment only to pay for Equipment, Plant, Materials, and mobilisation expenses required specifically for 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.
- 51.3 The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, as specified in the SCC, following the schedule of completed percentages of the Works on a payment basis. No account shall be taken of the advance payment or its repayment in assessing valuations of work done, Variations, price adjustments, Compensation Events, Bonuses, or Liquidated Damages.

52. Performance Security

- 52.1 If so stated in the SCC, the Contractor shall, within twenty-one (21) days of signing the contract, provide a Performance Security for the due performance of the Contract. The Performance Security shall be in the amount specified in the SCC and shall be

denominated in the types and proportions of the currencies in which the Contract Price is payable.

- 52.2 The proceeds of the Performance Security shall be payable to the Employer as compensation for any loss resulting from the Contractor's failure to complete its obligations under the Contract.
- 52.3 The Performance Security shall be in one of the forms stipulated by the Employer in the SCC, or in another form acceptable to the Employer and shall be issued by a bank or surety acceptable to the Employer.
- 52.4 The Performance Security shall be valid until a date 28 days from the date of issue of the Certificate of Completion in the case of a Bank Guarantee.

53. Dayworks

- 53.1 If applicable, the Dayworks rates in the Contractor's Bid shall be used for small additional amounts of work only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.
- 53.2 All work to be paid for as Dayworks shall be recorded by the Contractor on forms approved by the Project Manager. Each completed form shall be verified and signed by the Project Manager within two days of the work being done.
- 53.3 The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.

54. Cost of Repairs

- 54.1 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Correction periods shall be remedied by the Contractor at the Contractor's cost if the loss or damage arises from the Contractor's acts or omissions.

E. Finishing the Contract

55. Completion

- 55.1 The Contractor shall request the Project Manager to issue a certificate of Completion of the Works, and the Project Manager will do so upon deciding that the work is completed.

56. Taking Over

- 56.1 The Employer shall take over the Site and the Works within seven days of the Project Manager's issuing a certificate of Completion.

57. Final Account

- 57.1 The Contractor shall supply the Project Manager with a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Project Manager shall issue a Defects Liability Certificate and certify any final payment that is due to the Contractor within 56 days of receiving the Contractor's account if it is correct and complete. If it is not, the Project Manager shall issue within 56 days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Project Manager shall decide on the amount payable to the Contractor and issue a payment certificate.

58. Operating and Maintenance Manuals

- 58.1 If "as built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the SCC.
- 58.2 If the Contractor does not supply the Drawings and/or manuals by the dates stated in the SCC, or they do not receive the Project Manager's approval, the Project Manager shall withhold the amount stated in the SCC from payments due to the Contractor.

59. Termination

- 59.1 The Employer or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.
- 59.2 Fundamental breaches of Contract shall include, but shall not be limited to, the following:
- (a) the Contractor stops work for 28 days when no stoppage of work is shown on the current Program and the stoppage has not been authorised by the Project Manager;
 - (b) the Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 28 days;
 - (c) the Employer or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
 - (d) a payment certified by the Project Manager is not paid by the Employer to the Contractor within 84 days of the date of the Project Manager's certificate;
 - (e) the Project Manager gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Project Manager;
 - (f) the Contractor does not maintain a Security, which is required; and
 - (g) the rate of progress of the Works at any time during the period of the Contract is such that the completion of the Works will, as measured against the current Program, be delayed by the number of days for which the maximum amount of liquidated damages can be imposed.
 - (h) if the Contractor in the judgement of the Employer has engaged in corrupt, fraudulent, collusive or coercive practices in competing for or in the executing the contract.

For the purposes of this paragraph:

- (a) "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; and
- (b) "fraudulent practice" is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- (c) "collusive practice" is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;

- (d) "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;

- 59.3 When either party to the Contract gives notice of a breach of Contract to the Project Manager for a cause other than those listed under Sub-Clause 59.2 above, the Project Manager shall decide whether the breach is fundamental or not.
- 59.4 Notwithstanding the above, the Employer may terminate the Contract for convenience.
- 59.5 If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as reasonably possible.

60. Payment upon Termination

- 60.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Project Manager shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as indicated in the SCC. Additional Liquidated Damages shall not apply. If the total amount due to the Employer exceeds any payment due to the Contractor, the difference shall be a debt payable to the Employer.
- 60.2 If the Contract is terminated for the Employer's convenience or because of a fundamental breach of Contract by the Employer, the Project Manager shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting and securing the Works, and less advance payments received up to the date of the certificate.

61. Property

- 61.1 All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the Employer if the Contract is terminated due to the Contractor's default.

62. Release from Performance

- 62.1 If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Employer or the Contractor, the Project Manager shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which a commitment was made.