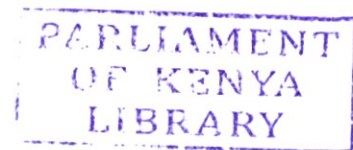




THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT (THIRD SESSION)

SELECT COMMITTEE INVESTIGATING THE PROPOSED  
REMOVAL FROM OFFICE OF HON. FRANKLIN MITHIKA  
LINTURI, AS THE CABINET SECRETARY FOR  
AGRICULTURE AND LIVESTOCK DEVELOPMENT

HON. WAMBOKA'S DOCUMENTS



# APPENDIX-2





**THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT (THIRD SESSION)**

**SELECT COMMITTEE INVESTIGATING THE PROPOSED  
REMOVAL FROM OFFICE OF HON. FRANKLIN MITHIKA  
LINTURI, AS THE CABINET SECRETARY FOR  
AGRICULTURE AND LIVESTOCK DEVELOPMENT**

**INDEX**

**APPENDIX 2**

<b>ITEM NO.</b>	<b>DESCRIPTION OF DOCUMENT</b>	<b>PAGE NO.</b>
1.	Notice to Issue Summons to Appear	1
2.	Notice of Motion	2 - 194
3.	Titus Kiprotich	195 - 202
4.	Sammy Kiptum Birgen	203 - 214
5.	Hosea Kipketer Ruto	215 - 221
6.	Benard Kuria Wanjiku	222 - 225
7.	Dennis Barasa Adundo	226 - 228
8.	Celestine Nakhumicha Wanyama	229 - 232
9.	Cornelius Wafula Wanjala	233
10.	David Maina Ndegwa - Expert Witness	234 - 261
11.	Letter dated 19 <sup>th</sup> October, 2023 (Ref. No. MOALD/LCD/9/VOL.XXXI (89))	262
12.	Letter dated 1 <sup>st</sup> December, 2023 (Ref. No. MOALD/LCD/9/41 VOLXXX)	263
13.	Letter dated 5 <sup>th</sup> December, 2023 (Ref. MOALD/LCD/9/41)	264
14.	Letter dated 22 <sup>nd</sup> January, 2024 (Ref. MOA/LCD/9/39/VOL VI) with Annex I	265 - 266

15.	Letter dated 12 <sup>th</sup> February, 2024 (Ref. MOALD/LCD/11/VOL.XXX3)	267
16.	Letter dated 20 <sup>th</sup> March 2024 (Ref. MOA/LCD/9/41)	268
17.	Electronic Evidence	269
18.	Memo dated 8 <sup>th</sup> January 2024 (Ref. NCPB/A/9/17 VOL. XX/56)	270 - 271
19.	Memo dated 9 <sup>th</sup> January 2024 (Ref. NCPB/4/1 VOL II/24)	272 - 273
20.	Letter dated 4 <sup>th</sup> January, 2024 (Ref. FEAL/MOALD/001/24)	274 - 275

**DATED at NAIROBI this 13<sup>TH</sup> day of MAY, 2024**

---

**CHAIRPERSON OF THE SELECT COMMITTEE INVESTIGATING THE PROPOSED REMOVAL FROM OFFICE OF HON. FRANKLIN MITHIKA LINTURI, AS THE CABINET SECRETARY FOR AGRICULTURE AND LIVESTOCK DEVELOPMENT**

V012



REPUBLIC OF KENYA  
PARLIAMENT

Hon. Wanami Wamboka, MP  
Bumula Constituency

NATIONAL ASSEMBLY  
RECEIVED  
★ 07 MAY 2024 ★  
CLERK'S OFFICE  
P O Box 41842, NAIROBI

1652 hrs

Main Parliament Buildings  
Tel: +254 20 2221291  
P. O. Box 41842-00100

Tel: +254 20 2221291  
Mobile: 7222 403 082  
Email: [wanamiwamboka@gmail.com](mailto:wanamiwamboka@gmail.com)  
24<sup>th</sup> April, 2024

The Rt. Hon. (Dr.) Moses M. Wetang'ula, EGH, MP,  
Speaker of the National Assembly,  
National Assembly,  
Parliament Buildings,  
P.O Box 41842-00100,  
NAIROBI.

Dear HON. SPEAKER,

RE: NOTICE OF MOTION FOR IMPEACHMENT OF HON. FRANKLIN  
MITHIKA LINTURI, EGH, CABINET SECRETARY FOR AGRICULTURE  
AND LIVESTOCK DEVELOPMENT

Pursuant to Standing Order 64 and 66, I would like to introduce notice of motion for impeachment Hon. Franklin Mithika Linturi, the Cabinet Secretary for Agriculture and Livestock Development is based on grounds of Article 152(6)(a), (b) and (c) of the Constitution whose conduct discloses:

- (a) gross violation of a provision of the Constitution or of any other law;
- (b) that there are serious reasons for believing that the Cabinet Secretary has committed a crime under national law; and
- (c) gross misconduct:

Kindly find attached the notice of motion stating the grounds and particulars in terms of Article 152(6) of the Constitution, upon which the proposed motion is made, signed by myself, and accompanied by 110 signatures of members of Parliament who support the motion, and a sworn testimony and document annexure of evidence and video evidence for your consideration and processing in accordance with Standing Orders 64 and 66.

Yours faithfully,

Hon. Wanami Wamboka, MP  
Bumula Constituency

NATIONAL ASSEMBLY  
RECEIVED  
24 APR 2024  
CLERK'S OFFICE  
P O Box 41842, NAIROBI



REPUBLIC OF KENYA  
THIRTEENTH PARLIAMENT - (THIRD SESSION)

THE NATIONAL ASSEMBLY

NOTICE OF MOTION - (HON. JACK WANAMI WAMBOKA)

IMPEACHMENT OF HON. FRANKLIN MITHIKA LINTURI, EGH, CABINET  
SECRETARY FOR AGRICULTURE AND LIVESTOCK DEVELOPMENT

Pursuant to the provisions of Standing Orders 64(1A) and 66, I wish to propose the impeachment of Hon. Franklin Mithika Linturi, the Cabinet Secretary for Agriculture and Livestock Development on the following grounds -

1. Gross violation of a provision of the Constitution or of any other law.

(a) Violation of Articles 2 and 10(1)(c) of the Constitution

- (i) THAT the conduct of one Franklin Mithika Linturi acting as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development appears to have committed a gross violation of this constitutional provision by not undertaking public participation with leaders, stakeholders or even departments within the Ministry in the implementation of a far-reaching policy decisions on the *procurement and distribution of fertilizer*. He has therefore violated the stated articles of the constitution on *national values and principles on good governance in so far as that he acted as a state officer to make and implement a public policy to approve the procurement and distribution of fake fertilizer contrary to the National Cereals and Produce Board, an agency in his ministry.*
- (ii) THAT the conduct of one Franklin Mithika Linturi acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, of approving procurement and distribution of fake fertilizer by the

National Cereals and Produce Board, *disclose a gross violation of national values and principles on good governance in so far as he acted as a state officer to make and implement a public policy to approve the procurement and distribution of fake fertilizer contrary Article 10(1)(b) of the Constitution.*

(b) **Gross violation of Article 46 of the Constitution.**

(i) **THAT** the conduct of one Franklin Mithika Linturi acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development appears to have committed a gross violation of this constitutional provision by therefore infringing on consumers' right to goods and services of reasonable quality and to the protection of their health, safety, and economic interests by approving the procurement and distribution of fake fertiliser.

(ii) **THAT** in the alternative and without prejudice to the foregoing, the sponsor submits as follows.

(iii) **THAT** the conduct of one Franklin Mithika Linturi acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, of approving the budgets for procurement and distribution of fake fertilizer by the National Cereals and Produce Board, amounts to a gross violation of consumers right to goods and services of reasonable quality and to the protection of their health, safety, and economic interests he approved the procurement and distribution of fake fertilizer contrary to Article 46 of the Constitution.

(c) **Gross violation of Article 73 of the Constitution**

(i) **THAT** the conduct of one Franklin Mithika Linturi acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development appears to have committed a gross violation of this constitutional provision in so far as the public trust was exercised in a manner that is consistent with the purposes and objects of this Constitution. He failed to demonstrate

respect for the people; failed to bring honour to the nation and dignity to the office; and failed to promote public confidence in the integrity of the office.

(ii) THAT in the alternative and without prejudice to the foregoing, the sponsor submits as follows.

(iii) THAT the conduct of one Franklin Mithika Linturi acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, of approving procurement and distribution of fake fertilizer by the National Cereals and Produce Board, *amounts to a gross violation of public trust in so far as the public trust was exercised in a manner that is consistent with the purposes and objects of this Constitution; he failed to demonstrate respect for the people; he failed to bring honour to the nation and dignity to the office; and he failed to promote public confidence in the integrity of the office when he approved the procurement and distribution of fake fertilizer contrary to Article 73(1)(a)(i), (ii)(iii) and (iv).*

**(d) Gross violation of Article 201 of the Constitution**

(i) THAT the conduct of one Franklin Mithika Linturi acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development appears to have committed a gross violation of this constitutional provision by approving the procurement and distribution of fake fertilizer by the National Cereals and Produce Board, amounts to a gross violation of principles on public finance in so far as public money is concerned and that public money was not applied in a prudent and responsible way when he approved the procurement and distribution of fake fertilizer.

(ii) THAT in the alternative and without prejudice to the foregoing, the sponsor submits as follows.

(iii) THAT the conduct of one Franklin Mithika Linturi acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, of approving procurement and distribution of fake fertilizer by the

National Cereals and Produce Board, amounts to a gross violation of principles on public finance in so far as public money was not used in a prudent and responsible way when he approved the procurement and distribution of fake fertilizer contrary Article 201(d) of the Constitution.)

(e) Gross violation of Article 152 (5) (a) & (c), (6), (7), (8), (9) and (10) of the Constitution.

(i) **THAT**, the Hon. Mithika Linturi, the Cabinet Secretary for Agriculture and Livestock Development appears to have committed a gross violation of this constitutional provision where, he outlined in his written submission as a response to the fertilizer subsidy programme to the Departmental Committee on Agriculture and Livestock Development, submitted that the National Cereals and Produce Board (NCPB) signed an Agency Agreement with 51 Capital, Africa Diatomite Industries on 31<sup>st</sup> March 2022 for supply and distribution of GPC diatomaceous for its commercial function and that the product was not sold as a chemical fertilizer but a soil conditioner. *(attached herein is copy of the written submission from the Ministry of Agriculture and Livestock Development, response on fertilizer subsidy programme by Hon Mithika Linturi, EGH, Cabinet Secretary March 2024 to the Departmental Committee on Agriculture and Livestock in regard [See paragraphs i & iii on page 9]).*

(ii) **THAT** the conduct of one Mithika Linturi acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, of overseeing the implementation of the budgets of the agencies(NCPB) under his control for the procurement and distribution of fake fertilizer by the National Cereals and Produce Board, appears to have committed a gross violation of this constitutional provision of the values and principles of public service duty to use resources efficiently, effectively and economically.

5

2. SERIOUS REASONS FOR BELIEVING THAT THE CABINET SECRETARY HAS COMMITTED A CRIME UNDER NATIONAL LAW.

(a) Serious reasons for believing that the cabinet secretary has committed a crime under sections 100 and 101 of the Penal Code Act, Cap 63 of the Laws of Kenya

THAT the conduct of one Franklin Mithika Linturi acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, contained the contents of the letter dated Friday 19th April, 2024, by Mr Ahmednassir Abdullahi, Senior Counsel addressed to Mr. Amin Mohammed Ibrahim, the Director of Criminal Investigations titled "MANUFACTURE AND DISTRIBUTION OF FERTILIZERS-KELS LIMITED", submitting that Mr. Mithika Linturi, the Cabinet Secretary of the Ministry of Agriculture & Livestock on Mobile Number 0722218000 made calls to Mr. Devesh of KELS Chemicals on 10th April at around 9.30 am directing him to attend a press conference at Jacaranda hotel and confirmed the need for him to use the statement as shared with him by Mr. Kimote of the National Cereals and Produce Board at the Press Conference, and, his subsequent issuance of the orders closing the factory and declaring it a crime scene because Mr. Devesh of KELS Chemicals refusal to participate in the staged press conference, discloses grounds that there are serious reasons for believing that the Cabinet Secretary has committed a crime under national law including but not limited to offences listed under under *Chapter X* against *ABUSE OF OFFICE* involving offences against *abuse of office and false claims by a person employed in the public service* contrary to sections 100 and 101 of the Penal Code Act, Cap 63 of the Laws of Kenya. (Attached herein is copy of the letter dated Friday 19th April, 2024, Mr Ahmednassir Abdullahi, Senior Counsel addressed a letter to Mr. Amin Mohammed Ibrahim, the Director of Criminal Investigations titled "MANUFACTURE AND DISTRIBUTION OF FERTILIZERS -KELS LIMITED").

(i) **THAT** the conduct of one Franklin Mithika Linturi acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, motion and the findings in the judgment in the case of *Hon. FML & 2 others v Director of Public Prosecutions & 3 others; Registrar of Companies & 10 others (Interested Parties) [2021] eKLR delivered on 30<sup>th</sup> November, 2021 by Justice H. I. Ong'udi*, resulting in the fact that the he is currently under investigation by the Director of Public Prosecutions and the Director of Criminal Investigations and facing *arrest, charging, prosecution and institution criminal proceedings in relation to six pending civil, commercial and family suits* disclose grounds that there are serious reasons for believing that the Cabinet Secretary has committed a crime under national law including but not limited to offences listed under CHAPTER XXXV against *forgery* involving offences against uttering false documents and procuring execution of documents by false pretences contrary to sections 353 and 355 of the Penal Code Act, Cap 63 of the Laws of Kenya.

**(b) Serious reasons for believing that the cabinet secretary has committed a crime under sections 353 and 355 of the Penal Code Act, Cap 63 of the Laws of Kenya**

**THAT** the conduct of one Franklin Mithika Linturi acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, motion and the findings in the judgment in the case of *Hon. FML & 2 others v Director of Public Prosecutions & 3 others; Registrar of Companies & 10 others (Interested Parties) [2021] eKLR delivered on 30<sup>th</sup> November, 2021 by Justice H. I. Ong'udi*, resulting in the fact that the he is currently under investigation by the Director of Public Prosecutions and the Director of Criminal Investigations and facing *arrest, charging, prosecution and institution criminal proceedings in relation to six pending civil, commercial and family suits* disclose grounds that there are serious reasons

for believing that the Cabinet Secretary has committed a crime under national law including but not limited to offences listed under CHAPTER XXXV against *forgery* involving offences against uttering false documents and procuring execution of documents by false pretences contrary to sections 353 and 355 of the Penal Code Act, Cap 63 of the Laws of Kenya.

3. Gross misconduct:

(a) Gross misconduct contrary to section 11(a) of the Leadership and Integrity Act, Cap 185C

**THAT** the conduct of one Mithika Linturi acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, as noted in Ms Faith Odhaimbo, the President of the Law Society of Kenya published a press "Statement on the Fertilizer Scandal", of **getting into a public spat with journalists who unearthed the fraudulent scam that has been made of the NFSP, in so far as being a state officer he has failed to demonstrate professionalism in carrying out duties of the office in a manner that maintains public confidence in the integrity of the office amounts to gross misconduct contrary to section 11(a) of the Leadership and Integrity Act, Cap 185C.**

(b) Gross misconduct contrary to section 8 of the Leadership and Integrity Act, Cap 185C.

**THAT** the conduct of one Mithika Linturi acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, as noted in Ms Faith Odhaimbo, the President of the Law Society of Kenya published a press "Statement on the Fertilizer Scandal", of **storming into manufacturing plants and purporting to revoke licenses, all without conducting proper investigations or providing any clear policy decisions from the Ministry on the matter, in so far as being a state officer**

*he has failed to demonstrate professionalism in carrying out duties of the office in a manner that maintains public confidence in the integrity of the office amounts to gross misconduct contrary to section 11(a) of the Leadership and Integrity Act, Cap 185C.*

- (c) **Gross misconduct contrary to section 8 of the Leadership and Integrity Act, Cap 185C**

*THAT the conduct of one Franklin Mithika Linturi acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, of approving procurement and distribution of fake fertilizer by the National Cereals and Produce Board, in so far as being a state officer he has failed to exercise public trust in the best interest of the people of Kenya amounts to gross misconduct contrary to section 8 of the Leadership and Integrity Act, Cap 185C.*

- (d) **Gross misconduct contrary to section 10(a) &(b) of the Leadership and Integrity Act, Cap 185C**

*THAT the conduct of one Franklin Mithika Linturi acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, of approving procurement and distribution of fake fertilizer by the National Cereals and Produce Board, in so far as being a state officer he has failed in the performance of his duties to the best of his ability to carry out the duties of the office efficiently and honestly, and to carry out the duties in a transparent and accountable manner, amounts to gross misconduct contrary to section 10(a) &(b) of the Leadership and Integrity Act, Cap 185C.*

- (e) **THAT** the conduct of one Franklin Mithika Linturi acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, of approving procurement and distribution of fake fertilizer by the National Cereals and Produce Board, *in so far as being a state officer he*

*has failed to demonstrate professionalism in carrying out duties of the office in a manner that maintains public confidence in the integrity of the office amounts to gross misconduct contrary to section 11(a) of the Leadership and Integrity Act, Cap 185C*

**(f) Gross misconduct contrary to section 29 of the Leadership and Integrity Act, Cap 185C**

*THAT, the conduct of one Franklin Mithika Linturi acting in his role as the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, of approving procurement and distribution of fake fertilizer by the National Cereals and Produce Board and misleading the public by submitting false information to a Departmental Committee of the National Assembly that distribution of GPC diatomaceous was distributed as a soil conditioner and not as a fertilizer amounts to gross misconduct contrary to section 29 of the Leadership and Integrity Act, Cap 185C.*

#### **Resolution**

**THAT** as such I humbly make the aforementioned submission in support of the grounds of this motion to the National Assembly for the removal of Hon. Mithika Linturi, Cabinet Secretary for Agriculture and Livestock Development pursuant to the provisions of Article 152(6)(a)(b) and (c) on the grounds of:

- (a) gross violation of a provision of the Constitution or of any other law;
- (b) that there are serious reasons for believing that the Cabinet Secretary has committed a crime under national law; and
- (c) gross misconduct.



THEREFORE, that this House resolves that pursuant to the provisions of Article 152(6) of the Constitution, the President dismisses Hon. Franklin Mithika Linturi, EGH from the position of Cabinet Secretary for Agriculture and Livestock Development for gross misconduct and gross violation of the Constitution.



THE HON. JACK WANAMI WAMBOKA, MP  
MEMBER FOR BUMULA CONSTITUENCY

Date: 24<sup>TH</sup> APRIL 2024.

## Background information

- (i) THAT on or about September 2022, the President announced that the government shall subsidize fertilizer to cushion farmers against high prices of fertilizer in order to enhance agriculture as one of the most prioritized agenda by the Kenya Kwanza Government. This was in line with the Kenya Kwanza government manifesto to reduce the cost of basic commodities and stabilize the economy by pumping more resources into production and not consumption. The subsidized fertilizer as directed by His Excellency the President, was procured and availed to farmers undertaking planting during the short rains season within the counties and later on across the country.
- (ii) THAT on or about 31<sup>st</sup> March, 2022, the Citizen Digital online news platform published an article titled “**National Cereals Board Enters Into Merger Aimed At Lowering Fertilizer Prices**” where it was reported that the National Cereals and Produce Board (NCPB) has reached new partnerships aimed at bringing down the cost of fertilizer and through one of the partnerships was between the State parastatal, 51 Capital and Africa Diatomite Limited, National Cereals and Produce Board would supply affordable fertilizer through its respective nationwide branches in a two year contract. *(attached herein is copy of the printed article available from <https://www.citizen.digital/business/national-cereals-board-n295557>.)*
- (iii) THAT on or about January 31<sup>st</sup> 2024, the Government rolled out a countrywide distribution of subsidised fertiliser, targeting to give farmers 12 million bags. This was an increase from the previous year, where the government had distributed close to 6 million bags to farmers during the planting season which saw farmers produce 80 million bags of maize due to the use of subsidized fertiliser.

- (iv) THAT on Monday 11<sup>th</sup> March, 2024, the Government had imported about 12.5 million bags of fertilizer. *(attached herein is copy of the printed article available from <https://nation.africa/kenya/counties/wasin-gishu/relief-as-state-ships-in-12-million-bags-of-fertiliser-4551848>)*
- (v) THAT on Saturday 6<sup>th</sup> April, 2024, the Daily Nation Newspaper (online), published an online article titled "Government confirms distribution of bad fertilizers to farmers" by Barnabas Bii and Vitalis Kimutai where it was reported that two weeks after the roll out of the subsidized fertilizer, it came to the knowledge of the public that the fertilizer which was being distributed was fake. That through the Kenya Bureau of Standards (KEBS) confirmed that fake subsidised fertiliser known as GPC Plus Organics packaged in 25kg bags was circulating the market and as such farmers were likely to have been sold fake fertilizer which was being distributed by the government through the ministry of Livestock and agriculture. *(attached herein is copy of the printed article available from <https://nation.africa/kenya/news/state-confirms-distribution-of-bad-fertiliser-4580064>)*
- (vi) THAT on 2<sup>nd</sup> April, 2024 the African Report, an online magazine published an article titled "Kenya: Government knowingly supplied fake fertilizer to farmers, Agency says" by Victor Abuso reporting an expose by African Uncensored an independent investigative journalism firm reported the Kenya Bureau of Standards that is the body responsible for standards in Kenya confirmed that the counterfeit fertiliser was being sold to farmers by the National Cereals and Produce Board (NCPB) during the busy planting season. That the Cabinet Secretary directed the procurement and distribution of fake fertilizer by the National Cereals and Produce Board via a memo dated. *(attached herein is copy of the printed article available from [Page 12 of 33](https://theafricanreport.com/342619/kenya-</a></i></p></div><div data-bbox=)*

*Government of Kenya - Finance - Budget - Kenya Bureau of Standards  
and <https://www.kebs.or.ke/fertilizer-subsidy/>*

- (vii) THAT on 19<sup>th</sup> March, 2024, the Managing Director of the Kenya Bureau of Standards (KEBS) presented a written submission to the Departmental Committee on Agriculture and Livestock in regard to the fertilizer subsidy programme and submitted that on 25<sup>th</sup> January, 2024, KEBS signed a contract for SBL – Innovate Manufacturers Limited (SBL) to manufacture and distribute an Organic Fertilizer in the Brand of BL-GPC ORIGINAL. Later, KEBS discovered that contrary to its contract with SBL was selling a product that was marked as but was not the Brand of BL-GPC ORIGINAL fertilizer. *(attached herein is copy of the written submission from the Managing Director of the Kenya Bureau of Standards to the Departmental Committee on Agriculture and Livestock in regard to fertilizer subsidy programme dated 19<sup>th</sup> March, 2024 [See paragraph 2 on page 2, paragraph 3 on page 3])*
- (viii) THAT the Hon. Mithika Linturi, the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development, through a written submission as a response to the fertilizer subsidy programme to the Departmental Committee on Agriculture and Livestock Development, submitted that the National Cereals and Produce Board (NCPB) signed and Agency Agreement with 51 Capital, Africa Diatomite Industries on 31<sup>st</sup> March 2022 for supply and distribution of GPC diatomaceous for its commercial function and that the product was not sold as a chemical fertilizer but a soil conditioner yet *(attached herein is copy of the written submission from the Ministry of Agriculture and Livestock Development, response on fertilizer subsidy programme by Hon Mithika Linturi, EGH, Cabinet Secretary March 2024 to the Departmental Committee on Agriculture and Livestock in regard [See paragraphs i & iii on page 9])*

(ix) THAT Mithika Linturi, the Cabinet Secretary responsible for the Ministry of Agriculture and Livestock Development through a written submission in writing that NCPB and 51 Capital signed for distribution of GPC diatomaceous as a soil conditioner in contradiction of the agreement signed between NCPB and 51 Capital signed for distribution of GPC diatomaceous as an affordable fertilizer. *(attached herein is copy of the written submission from the Ministry of Agriculture and Livestock Development, response on fertilizer subsidy programme by Hon Mithika Linturi, EGH, Cabinet Secretary March 2024 to the Departmental Committee on Agriculture and Livestock in regard [See paragraphs i & iii on page 9])*

(x) THAT the Cabinet Secretary is under criminal investigations concerning **forgery of bank documents** used to obtain credit facilities from the Family Bank Limited, **fraudulent removal of directors of Atticon Limited** and **fraudulent opening and operation** of a bank account at Gulf African Bank on behalf of Atticon Limited. The investigation as based on an advisory issued in a in the letter dated 13<sup>th</sup> February 2020 addressed from the Director of Public Prosecutions to the Director of Criminal Investigations. As a result, the Cabinet Secretary is facing *arrest, charge and prosecution and institution of criminal proceedings in relation to all pending civil, commercial and family suits namely*

(1) High Court of Kenya at Nairobi(Commercial Division)Civil Suit No.E138 of 2018 ;Barons Estate Ltd vs. Atticon Ltd & 6 Others;

(2) High Court of Kenya at Nairobi (Family Division) Civil Suit 17 of 2019 (OS) (Previously High Court of Kenya at Meru (Family Division) Civil Suit No.37 of 2018;MJK vs FML;

(3) High Court of Kenya at Nairobi (Commercial Division) Civil Suit E086 of 2019; Gulf African Bank Ltd. Vs. Atticon Ltd & 4 others;

- (4) High Court of Kenya at Nairobi (Commercial Division) Civil Suit E316 of 2020; Linkit Ltd vs Brenda Mithika Mwenda;
- (5) High Court of Kenya at Nairobi (Commercial Division) Civil Suit No. E029 of 2019; Noniko Holdings Ltd & 2 Others vs. Atticon Ltd & 6 others;
- (6) Milimani Commercial Chief Magistrate's Court Miscellaneous Civil Suit No.1044 of 2018; MJK vs FML; and
- (7) Milimani Commercial Chief Magistrate's Divorce Cause No.272 of 2019 (Previously ,Meru Chief Magistrate's Court Divorce Cause No.26 of 2018) MJK vs FML. *(see paragraph 2 of the judgment in the case of Hon. FML & 2 others v Director of Public Prosecutions & 3 others; Registrar of Companies & 10 others (Interested Parties) [2021] eKLR delivered on 30<sup>th</sup> November, 2021 by Justice H. I. Ong'udi and attached herein is copy of the printed case downloaded from <http://kenyalaw.org/caselaw/cases/view/224636> ).*

- (xi) **THAT** the High Court has dismissed a petition by the Cabinet Secretary seeking to prohibit the Director of Public Prosecutions and the Director of Criminal Investigations from *arresting, charging, prosecuting and instituting criminal proceedings in relation to all pending civil, commercial and family suits* listed under paragraph of this notice of motion upon making a finding that the petition had not merit. *(see paragraphs 2, 14 and 119 of the judgment in the case of Hon. FML & 2 others v Director of Public Prosecutions & 3 others; Registrar of Companies & 10 others (Interested Parties) [2021] eKLR delivered on 30<sup>th</sup> November, 2021 by Justice H. I. Ong'udi and attached herein is copy of the printed case downloaded from <http://kenyalaw.org/caselaw/cases/view/224636> ).*
- (xii) **THAT** the facts particularized under paragraphs 20, 21, and 22 of this motion and the findings in the judgment in the case of *Hon. FML & 2 others v Director of Public Prosecutions & 3 others; Registrar of Companies & 10 others (Interested Parties) [2021] eKLR delivered on 30<sup>th</sup> November, 2021 by Justice H. I. Ong'udi*, disclose grounds that there are serious reasons for believing that the Cabinet Secretary has committed a crime under national

16

law including but not limited to offences listed under CHAPTER XXXII against *FRAUDS BY TRUSTEES AND PERSONS IN A POSITION OF TRUST, AND FALSE ACCOUNTING* involving offences against *fraudulent disposal of trust property, fraudulent appropriation or accounting by directors or officers, false statements by officials of companies, fraudulent false accounting by clerk or servant, and, false accounting by public officer* contrary to sections 327 and 330 of the Penal Code Act, Cap 63 of the Laws of Kenya.

- (xiii) **THAT** the facts particularized under paragraphs 20, 21, and 22 of this motion and the findings in the judgment in the case of *Hon. FML & 2 others v Director of Public Prosecutions & 3 others; Registrar of Companies & 10 others (Interested Parties) [2021] eKLR delivered on 30<sup>th</sup> November, 2021 by Justice H. I. Ong'udi*, disclose grounds that there are serious reasons for believing that the Cabinet Secretary has committed a crime under national law including but not limited to offences listed under CHAPTER XXXV against *forgery* involving offences against uttering false documents and procuring execution of documents by false pretences contrary to sections 353 and 355 of the Penal Code Act, Cap 63 of the Laws of Kenya.
- (xiv) **THAT** on Friday 19th April, 2024, Mr Ahmednassir Abdullahi, Senior Counsel addressed a letter to Mr. Amin Mohammed Ibrahim, the Director of Criminal Investigations titled "**MANUFACTURE AND DISTRIBUTION OF FERTILIZERS-KELS LIMITED**". (*Attached herein is copy of the letter dated Friday 19th April, 2024, Mr Ahmednassir Abdullahi, Senior Counsel addressed a letter to Mr. Amin Mohammed Ibrahim, the Director of Criminal Investigations titled "MANUFACTURE AND DISTRIBUTION OF FERTILIZERS -KELS LIMITED"*)
- (xv) **THAT** in paragraph 2 of the letter, Mr Ahmednassir indicates that he writes the letter on behalf of his client-**KELS CHEMICAL LIMITED** to set out the factual circumstances surrounding the distribution of the alleged substandard fertilizers.

- (xvi) THAT in paragraph 3 of the letter, Mr Ahmednasir suggests that the Director of criminal investigations assesses individual responsibility in the light of an overall evaluation of complicity, the conduct and involvement of Mr. Franklin Mithika Linturi, the Cabinet Secretary, Ministry of Agriculture and Livestock and Mr. Joseph Kimote, the Managing Director, National Cereals and Produce Board, should be scrutinized.
- (xvii) THAT in paragraph 4 of the letter, Mr Ahmednasir submits that his clients - KELS CHEMICAL LIMITED clients informed him of the attempts by the two public officers to distort the correct account of what transpired, and to present a counter-narrative whose end was to incriminate **KELS CHEMICAL LIMITED** through intimidation and threats and, to absolve other parties that had been adversely mentioned in the scandal. This occurred on the following dates highlighted in the following paragraphs.
- (xviii) THAT in paragraph 4.a. of the letter, Mr Ahmednasir submits on behalf of his clients that on 4th April 2024, Mr. Devesh Patel, the Chief Operations Officer of our Client received a call from Mr. Joseph Kimote at around 9:45 am from Mobile number 0721696127 informing him of the need to prepare a letter to Mems following the press release issued by NCPB recalling 3,000 bags of Fertilizer manufactured on 5th March 2024 and of Batch Number 03/2024. Further, Ms. Lorraine Karani of NCPB from Mobile Number 0722310564 at around 11 :30 am asking him to report to NCPB Headquarters at 3:30pm. He later on received a call from Mr. Collins Ng'etich at around 11: 00 am on Mobile Number 0724969125 reiterating the same information received from Mr. Joseph Kimote and the importance of having the information of recall of bags of Fertilizer in writing and reporting to NCPB Headquarters with a hard copy of the letter.

- (xix) THAT in paragraph 4.b of the letter, Mr Ahmednasir submits on behalf of his clients that on 7th April 2024 while at our client's plant in Thika for the seizure of the goods by DCI, Mr. Devesh received incessant calls of more than 30 calls within an hour from some of the above-mentioned persons (Mr. Kimote and and Mr. Ng'etich) and also from Mr. John Matiri, the General Manager of NCPB on Mobile Number 0722896645 emphasizing and insisting on the need and importance of him to attend a Press Release at Jacaranda Hotel. Mr. Kimote shared with him copies of the Statement he was required to read out at the Press release via Whatsapp and even shared an amended version. We note that the content of these Statements directed our client to assume responsibility for the 3,000 bags produced between 5th and 7th March 2024 not meeting the required quality parameters and asking the affected farmers to report to NCPB Depots for compensation. He declined to appear at Jacaranda hotel as he was at our client's plant in Thika with DCI Officers finishing up on the seizure of the bags of Fertilizer.
- (xx) THAT in paragraph 4.c of the letter, Mr Ahmednasir submits on behalf of his clients that Mr. Mithika Linturi, the Cabinet Secretary of the Ministry of Agriculture & Livestock on Mobile Number 0722218000 made calls to Mr. Devesh on 10th April at around 9.30 am directing him that our client is required to attend a press conference at Jacaranda hotel and confirmed the need for him to use the statement as shared with him by Mr. Kimote at the Press Conference. Mr. Devesh declined to appear at Jacaranda hotel which resulted in the hastily planned and convened inspection by the Cabinet Secretary on 12th April 2024 at our client's plant in Thika and, his subsequent issuance of the orders closing the factory and declaring it a crime scene.
- (xxi) THAT in paragraph 5 of the letter, Mr Ahmednasir submits on behalf of his clients and invites the Directorate of Criminal Investigations to appreciate

the extent of the inability of the two public officers to properly understand and appreciate the true account of facts and exert themselves within the confines of the law. They put a strain on the law in a manner that furthered impunity through manifest lack of fairness, impartiality, and outright manipulation.

(xxii) **THAT** in paragraph 4.a. of the letter, Mr Ahmednasir submits on behalf of his clients that he has annexed copies of the call logs generated from our client's mobile phone in support of the foregoing information in the hope that they may be critical to ongoing investigations by the Directorate of Criminal Investigations.

(xxiii) **THAT** on 22<sup>nd</sup> April, 2024, Ms Faith Odhaimbo, the President of the Law Society of Kenya published a press "Statement on the Fertilizer Scandal". In statement, she submits on behalf of the Law Society of Kenya that the Law Society of Kenya is perturbed about the growing concerns surrounding the implementation of the National Fertilizer Subsidy Program (NFSP) which has recently come under scrutiny due to reports of substantial breaches of duty, acts of incompetence, and allegations of fraud and corruption. *(Attached herein is a copy of the Statement on the Fertilizer Scandal dated 22<sup>nd</sup> April, 2024 by Ms Faith Odhaimbo, the President of the Law Society of Kenya.)*

(xxiv) **THAT** Ms Faith Odhaimbo, submits on behalf of the Law Society of Kenya that the overall consequence of these failures is that farmers have failed to break even, lost significant sums of money in buying fake fertilizer, and the agriculture sector has been spun into a crisis at a time when Kenyans contend with strained economic realities that cannot survive food insecurity. **Instead of taking decisive action to address the crisis, the Cabinet Secretary for Agriculture has turned his attention to a public spat with journalists who unearthed the fraudulent scam that has been made of the NFSP. When not attacking journalists, the CS has resorted to shock and awe tactics, storming into manufacturing plants and**

purporting to revoke licenses, all without conducting proper investigations or providing any clear policy decisions from the Ministry on the matter. Article 153 (2) imposes a burden on the CS to be individually accountable for the exercise of his powers and the performance of his functions. *(Attached herein is a copy of the Statement on the Fertilizer Scandal dated 22<sup>nd</sup> April, 2024 by Ms Faith Odhiambo, the President of the Law Society of Kenya.)*

(xxv) THAT Ms Faith Odhaimbo, submits on behalf of the Law Society of Kenya that the Law Society of Kenya will petition Parliament to call for the immediate removal of Mr. Mithika Linturl from the office of Cabinet Secretary by dint of Article 152 (6) of the Constitution on the grounds of gross misconduct, violation of the Constitution, and incompetence to hold public office. *(Attached herein is a copy of the Statement on the Fertilizer Scandal dated 22<sup>nd</sup> April, 2024 by Ms Faith Odhiambo, the President of the Law Society of Kenya.)*

NOTICE OF MOTION- (HON. JACK WANAMI WAMBOKA)

IMPEACHMENT OF THE CABINET SECRETARY FOR AGRICULTURE AND LIVESTOCK DEVELOPMENT ON GROUNDS OF GROSS VIOLATION OF THE CONSTITUTION AND ALLEGED COMMITAL OF CRIMINAL NEGLIGENCE UNDER THE PENAL CODE

S/NO.	NAME	CONSTITUENCY	SIGNATURE
1.	Hon. Joyce Kamenze	NACHANGUS COUNTY	[Signature]
2.	Hon. R.S. Wamboka	BUNDARA	[Signature]
3.	Hon. Francis Mubika	MULIOZI	[Signature]
4.	Hon. Paul M. Nzawa	MWINGI NORTH	[Signature]
5.	Hon. S. N. Nyirya	SOLOZI	[Signature]
6.	Hon. Gordon M. Mungu	Mungu Central	[Signature]
7.	J. J. M. M. M. M.	Embu	[Signature]
8.	Francis Mubika	Kericho County	[Signature]
9.	Hon. Paul M. Mungu	Samburu East	[Signature]
10.	Hon. Mungu Mungu	West West	[Signature]
11.	HON. DAVID MUNGU	LUAUVA	[Signature]
12.	Hon. Isaac Mungu	NMINATA	[Signature]
13.	Kathery O. Mungu	MUGU	[Signature]
14.	Hon. Mungu Mungu	Aldai	[Signature]
15.	HON. ADAMU MUNGU	VINDIGA COUNTY	[Signature]
16.	Adamu Mungu	Kericho North	[Signature]
17.	Samuel Mungu	Karuri	[Signature]
18.	HON. ANTHONY KIBAGENDI	KITURU	[Signature]
19.	Hon. Martin Peter Omingo	NDHIWA	[Signature]
20.	Hon. Gabriel Mungu	BUNGOMA	[Signature]
21.	Hon. Joseph Odingo	Butula	[Signature]
22.	Hon. Stephen Mungu	West Mungu	[Signature]
23.	Hon. David Mungu	Kericho East	[Signature]
24.	Hon. Beatrice Elcen	Uasin Gishu	[Signature]
25.	Hon. Shaleel Shaleel	Kakuma East	[Signature]
26.	Hon. GISHU, C.W.B	KITURU MARGA	[Signature]
27.	Hon. Mungu Mungu	ALUO	[Signature]
28.	Hon. Mungu Mungu	Kisumu	[Signature]
29.	Hon. Esie Mungu	KEGGON	[Signature]
30.	Hon. Fred Ikenya	SHINYA	[Signature]
31.	Daniel Mungu	MARA EAST	[Signature]
32.	Mohammed Adow	MARA SOUTH	[Signature]
33.	Mathias Mungu	CREMABONY	[Signature]
34.	Hon. Zam Zam Chimba	NONI BISA	[Signature]
35.	Hon. David Mungu	POKOT SOUTH	[Signature]
36.	Hon. Mungu Mungu	KEGGON WEST	[Signature]
37.	Hon. Mungu Mungu	ambesi - Githunguri	[Signature]
38.			[Signature]

NOTICE OF MOTION- (HON. JACK WANAMI WAMBOKA)

IMPEACHMENT OF THE CABINET SECRETARY FOR AGRICULTURE AND LIVESTOCK DEVELOPMENT ON GROUNDS OF GROSS VIOLATION OF THE CONSTITUTION AND ALLEGED COMMITAL OF CRIMINAL NEGLIGENCE UNDER THE PENAL CODE

39.	Hon. Mohamed Murtaza	NAUTA	
40.	Hon. Samuel Aranda	Alago Kona	
41.	Hon. Charles Ngala	Mission West	
42.	Hon. Amos Mwangi	STARBUCK	
43.	Hon. DYMIO WADAM	UENGA	
44.	HON. JUST NDIHIGO	SUNA EAST	
45.	HON. BARONKO DEADA	BOMACHWE BIRKO	
46.	Hon. CHARLES MBEA	KMFI	
47.	Hon. ESTHER NDIHIGO	NAMINGO	
48.	Hon. KHAMIS CHANE ABDI	VEL	
49.	Hon. KIVASU NDIHIGO	MUSONI	
50.	Hon. Sarah K. Koro	UP NORTH	
51.	TJ Kaywana	RUAHIGA	
52.	Hon. Mwakisi Mubi	KITHI CENTRAL	
53.	Hon. GUYO JIKESA	MOYALE	
54.	Hon Paul Kataro	KALANI	
55.	Hon Adam Owor	NDAKACH	
56.	Hon. Olu Kaunya	TEGO NORTH	
57.	Johan Mbezi	Nominated	
58.	Hon MISHI MBEA	LUKO	
59.	Hon. MBEA ABDI BURE	STARBUCK	
60.	Hon. Innocent Abini Mwangi		
61.	Hon. MBEA JIKESA	SUBAN	
62.	Hon. MBEA KASU	KIWI	
63.	Hon. MBEA OLEO	BORABU	
64.	HON. JERUSA MBEA	NYAMIRA	
65.	HON. JOSEPH ORO	KISUMU CENTRAL	
66.	ABUJAH TUIS	NAMPTON	
67.	JANUARY SUSA	BAMBO	
68.	HON. JAHN MAKI	KANDU	
69.	HON. CHARLES MBEA	MURUKU	
70.	HON. GEORGE MURUKU	NAMBALI	
71.	HON. PETERI TOSIETI	NABUNDI WEST	
72.	HON. MURUKU MBEA	KIBWA WEST	
73.	HON. GIDEON KIMAYO	Kenya south	
74.	HON. VICTOR KOSCI	CHAPARONGU	
75.	CAROLINE MBEA	UURU	
76.	Caroline MBEA	Alago Kona	

NOTICE OF MOTION- (HON. JACK WANAMI WAMBOKA)

IMPEACHMENT OF THE CABINET SECRETARY FOR AGRICULTURE AND LIVESTOCK DEVELOPMENT ON GROUNDS OF GROSS VIOLATION OF THE CONSTITUTION AND ALLEGED COMMITAL OF CRIMINAL NEGLIGENCE UNDER THE PENAL CODE

77.	STEPHEN MULE	MATUNGULU	
78.	LOAL SANKARE	Karibado	
79.	PETER NABULINDO	MATUNGULU	
80.	MURRAY KONYO	19100	
81.	David Mboni	Kibwa Rural	
82.	Johns Kokojo	Muhoroni	
83.	FRANCIS E. WAG	KASAPU	
84.	HON. KOSMO	WATERBURY	
85.	Hon. Bashir Abdullah	Manjeri North	
86.	Hon. M. A. A.	W. G. A.	
87.	Hon. Tugate Kazungu	Wup - Gauru	
88.	Hon. G. G. G.	W. G. A.	
89.	Hon. David Kombe	Mazaria	
90.	Hon. Tim Kibitok	WATERBURY	
91.	Hon. James Mwangi	Kaya Tea	
92.	Hon. J. J. J.	W. G. A.	
93.	Hon. K. K. K.	K. J. J.	
94.	Hon. A. A. A.	W. G. A.	
95.	Hon. INNOCENT MURONGI	2 KIWANI	
96.	Hon. Ch. She. Dimbaki	Siaya	
97.	Hon. KITILIA OZODI	Narok South	
98.	Hon. JOSUA MURONGI	MASINGA	
99.	Hon. J. J. J.	CABINET	
100.	Max Mwangi	Cikaka West	
101.	Geoffrey R. R.	Mbari North	
102.	Hon. M. M. M.	East South	
103.	HON. S. S. S.	M. M. M.	
104.	Otiende Anzilo	Rovenda	
105.	ORERO PETER	KIARA	
106.	Hon. D. D. D.	S. S. S.	
107.	Hon. J. J. J.	M. M. M.	
108.	Hon. K. K. K.	M. M. M.	
109.	Hon. L. L. L.	M. M. M.	
110.	Hon. M. M. M.	M. M. M.	
111.			
112.			
113.			
114.			



REPUBLIC OF KENYA  
THIRTEENTH PARLIAMENT – (THIRD SESSION)

THE NATIONAL ASSEMBLY

IN THE MATTER OF THE OATHS AND STATUTORY DECLARATIONS ACT  
(CAP.15)

AND

IN THE MATTER OF: A NOTICE OF MOTION BY HON. JACK WANAMI  
WAMBOKA

AND

IN THE MATTER OF: ARTICLE 152(5)(A), (C), (6), (7), (8), (9) AND (10) OF  
THE CONSTITUTION

IN THE MATTER OF: STANDING ORDERS 64 AND 66 OF THE NATIONAL  
ASSEMBLY STANDING ORDERS

AND

IN THE MATTER OF THE IMPEACHMENT OF HON. FRANKLIN MITHIKA  
LINTURI, EGH, CABINET SECRETARY RESPONSIBLE FOR AGRICULTURE  
AND LIVESTOCK DEVELOPMENT

AND

IN THE MATTER OF A SWORN STATEMENT UNDER STANSING ORDER  
64(1A)(C) OF THE NATIONAL ASSEMBLY STANDING ORDERS

AFFIDAVIT

I, HONOURABLE JACK WANAMI WAMBOKA, MP, BUMULA  
CONSTITUENCY, a resident of Nairobi within the Republic of Kenya do hereby swear  
and make oath as follows—

25

1. THAT I am the sponsor of the Notice of Motion for impeachment of Hon. Franklin Mithika Linturi, EGH, Cabinet Secretary responsible for Agriculture and Livestock Development herein and therefore competent to swear this Affidavit.
2. THAT I have read and have no reason not to believe that the article published on 31<sup>st</sup> March , 2022 by the Citizen Digital online news platform published an article titled "National Cereals Board Enters Into Merger Aimed At Lowering Fertilizer Prices" where it was reported that the National Cereals and Produce Board (NCPB) has reached new partnerships aimed at bringing down the cost of fertilizer and through one of the partnerships was between the State parastatal, 51 Capital and Africa Diatomite Limited, National Cereals and Produce Board would supply affordable fertilizer through its respective nationwide branches in a two year contract. *(attached herein is copy of the printed article available from <https://www.citizen.digital/business/national-cereals-board-n295557>.)*
3. THAT I have read and have no reason not to believe that the article published on on Monday 11<sup>th</sup> March, 2024 by the Daily Nation Newspaper (online) titled "Government confirms distribution of bad fertilizers to farmers" by Barnabas Bii and Vitalis Kimutai where it was reported that the Government had imported about 12.5 million bags of fertilizer. *(attached herein is copy of the printed article available from <https://nation.africa/kenya/counties/uasin-gishu/relief-as-state-ships-in-12-million-bags-of-fertiliser-4551848>.)*
4. THAT I have read and have no reason not to believe that the article published on Saturday 6<sup>th</sup> April, 2024 by the Daily Nation Newspaper (online) titled "Government confirms distribution of bad fertilizers to farmers" by Barnabas Bii and Vitalis Kimutai where it was reported that two weeks after the roll out of the subsidized fertilizer, it came to the knowledge of the public that the fertilizer which was being distributed was fake. That through the Kenya Bureau of Standards (KEBS) confirmed that fake subsidised fertiliser known as GPC Plus Organics packaged in 25kg bags was circulating the market and as such farmers were likely to have been sold fake fertilizer which was being distributed by the government through the ministry of Livestock and agriculture. *(attached herein is copy of the*

*printed article available from <https://africa.uncensoredonline.com/news/distribution-of-fake-fertiliser-4280066>.*

5. **THAT** I have read and have no reason not to believe that the article published on 2<sup>nd</sup> April, 2024 by the African Report, an online magazine, titled "Kenya: Government knowingly supplied fake fertilizer to farmers, Agency says" by Victor Abuso reporting an expose by African Uncensored an independent investigative journalism firm reported the Kenya Bureau of Standards that is the body responsible for standards in Kenya confirmed that the counterfeit fertiliser was being sold to farmers by the National Cereals and Produce Board (NCPB) during the busy planting season. That the Cabinet Secretary directed the procurement and distribution of fake fertilizer by the National Cereals and Produce Board via a memo dated. *(attached herein is copy of the printed article available from <https://theafricareport.com/342619/kenya-government-knowingly-supplied-fake-fertiliser-to-farmers-agency-says/> and <https://africauncensoredonline.com/news/distribution-of-fake-fertiliser-4280066>).*
6. **THAT** I do confirm that all the averments contained in the Notice of Motion herein are all true and correct.
7. **THAT** all I have deponed to herein is true and within my knowledge, information and belief save where otherwise stated.

SWORN at Nairobi by the said  
JACK WAMANI WAMBUKA  
This 10th day of July 2024

Deponent

BEFORE ME:

COMMISSIONER OF POLICE

DRAWN BY:-

Ms Bryan Khaemba, Kamau Kariuki & Company Advocates,  
Suite 1202, 12<sup>th</sup> Floor,  
Apple Woods Adams,  
Ngong Road,  
P.O. Box 1300-00200,  
NAIROBI,  
TEL: 0794692207  
Email: info@kklaw.co.ke  
Bryankhaemba.kamauadvocates@gmail.com



Livington, opp Valley Arcade, Githungo Road  
P.O. Box 72219-00200 Nairobi, Kenya  
Tel: +254 11 045 300  
Website: www.lsk.or.ke  
Email: lsk@lsk.or.ke

PRESS STATEMENT

Our Ref: S/24

Your Ref: TBA

Date: 22nd April, 2024

STATEMENT ON THE FERTILIZER SCANDAL

The Law Society of Kenya is perturbed about the growing concerns surrounding the implementation of the National Fertilizer Subsidy Program (NFSP) which has recently come under scrutiny due to reports of substantial breaches of duty, acts of incompetence, and allegations of fraud and corruption.

The NFSP was rolled out in September 2022 to offer subsidized fertilizer at half the price of commercial fertilizer to support agricultural productivity and stabilize food prices in Kenya. However, in recent weeks, several complaints have been raised over substantial breaches of duty, acts of incompetence, and run-away fraud and corruption in the implementation of the NFSP. In particular, the following outstanding issues have been raised, indicating systemic severe issues within the Ministry of Agriculture and National Cereals and Produce Board (NCPB) and highlighting an elaborate scheme to defraud farmers through the very Program intended to bring them relief:

1. As it stands, the purpose of the NFSP is ostensibly moot. Wherein the Program was initiated to increase efficiency and productivity while reducing cost and delay, it is presently proving to be counterproductive in every regard. Farmers have raised concerns over bureaucratic inefficiencies, corruption, and unprecedented delays in their attempts to access fertilizer. Despite these facts, NFSP appears to have followed the trend of previous subsidy programs and policy interventions, succumbing to implementation challenges that ought to have been foreseen and averted.
2. Worse still, there are confirmed instances of fake fertilizer being sold to unsuspecting farmers, greatly jeopardizing farmers' outputs and incomes. The NFSP, which was rolled out as a source of relief for farmers, has now been reduced to a conduit for fraud to obtain money from unsuspecting farmers who suffer the brunt of unyielding investment in fake fertilizer. Clearly, the NCPB and the Kenya Bureau of Standards (KEBS) have grossly abrogated their duty to enforce stringent quality control measures stipulated in the Standards Act; and have taken no steps to conduct inspections, investigations or administrative action to curb the insufferable trend.
3. Further frustration has resulted from severe delays in the delivery and distribution of fertilizer by the NCPB. On the one part, there are reports of late tendering and slow

Faith Odhiambo (President), Abigail Kabata (Vice-President)  
Tom Mupere, Teresa Wawinya, Hoses Mwangi (General Membership Representatives)  
Clara Kizeni, Irene Omon, Stephen Mbugua (Rural Representatives)  
Vincent Githiga, Linda Kiame, Hazelina Asaro, Zula Robic (Upcountry Representatives)

29


manufacturing processes by contracted suppliers. On the other hand, farmers have decried the transition from a voucher-based system to the distribution of fertilizers through the NCPB, which has led to inefficiencies in the distribution process. This retrogressive change has resulted in high transaction costs, longer queues for farmers, and created an enabling environment for corruption.

The overall consequence of these failures is that farmers have failed to break even, lost significant sums of money in buying fake fertilizer, and the agriculture sector has been spun into a crisis at a time when Kenyans contend with strained economic realities that cannot survive food insecurity. Instead of taking decisive action to address the crisis, the Cabinet Secretary for Agriculture has turned his attention to a public spat with journalists who unearched the fraudulent scam that has been made of the NFSP. Without attributing blame, the CS has resorted to shock and awe tactics, storming into manufacturing plants and purporting to revoke licenses, all without conducting proper investigations or providing any clear policy decisions from the Ministry on the matter. Article 153 (2) imposes a burden on the CS to be individually accountable for the exercise of his powers and the performance of his functions.

We, therefore, call out the Cabinet Secretary and demand that he takes action to address the unprecedented horror show guise as the National Fertilizer Subsidy Program and offer reparations to affected farmers. The Law Society of Kenya has written to the Cabinet Secretary demanding that he consider and implement several recommendations that we believe will be more effective in addressing the real issue rather than the antics that Kenyans have been served to in recent days. Should the Ministry fail to put in place the recommended and other necessary measures by the lapse of our demand period, we will take necessary action against all parties involved and bestowed with authority in the matter.

1. We will petition Parliament to call for the immediate removal of Mr. Nithika Inturi from the office of Cabinet Secretary by dint of Article 152 (6) of the Constitution on the grounds of gross misconduct, violation of the Constitution, and incompetence to hold public office. We will equally pursue legal action against the Ministry, Mr. Inturi in his personal capacity, NCPB, KEBS, and all other responsible officials for damages incurred by farmers and for their involvement in the NFSP Scam either as perpetrators or as accomplices.
2. We will pursue a class action on behalf of the farmers to seek compensation against the Cabinet Secretary in charge of the Ministry, NCPB, KEBS and the responsible officials.

Thank you.

  
Faith Odhiambo  
President Law Society of Kenya

Faith Odhiambo (President), Mwangi Kabata (Vice-President)  
Tom Kipore, Teresa Wainyo, Hosea Manwa (General Membership Representatives)  
Glodia Kimani, Irene Orio, Stephen Njuguna (Nairobi Representatives)  
Vincent Gitau, Lindah Kiame, Hazeliah Asmo, Ziki Robie (Upcountry Representatives)



14th Floor, FCB Alhambra Building  
Off Lenana Road, Nairobi-Kenya  
T: +254 729 123333  
C: +254 729 999333  
E: info@mmsadvocates.co.ke

OUR REF: MMA/DBM/KCL/014/2024 & AA/6717/2024  
YOUR REF: TBA

FRIDAY, 19<sup>TH</sup> APRIL 2024

DIRECTORATE OF CRIMINAL INVESTIGATIONS  
MAZINGIRA COMPLEX, KIAMBU ROAD  
P.O BOX 30036-00100  
NAIROBI

ATTENTION: MR. AMIN MOHAMED IBRAHIM

Dear Sir,

RE: MANUFACTURE AND DISTRIBUTION OF FERTILIZERS-KEL CHEMICALS LIMITED

1. We refer to the above matter and to our letter dated 15<sup>th</sup> April 2024.
2. We write further to our letter of 15<sup>th</sup> April 2024 in which we set out our account of the factual circumstances surrounding the distribution of the alleged substandard fertilizers.
3. Further to the foregoing, we feel inclined to suggest that as you assess individual responsibility in the light of an overall evaluation of complicity, the conduct and involvement of Mr. Franklin Mithika Linturi, the Cabinet Secretary, Ministry of Agriculture and Livestock and Mr. Joseph Kimote, the Managing Director, National Cereals and Produce Board, should be scrutinized.
4. Our clients informed us of the attempts by the two public officers to distort the correct account of what transpired, and to present a counter-narrative whose end was to incriminate our client through intimidation and threats and, to absolve other parties that had been adversely mentioned in the scandal. This occurred on the following dates highlighted below:
  - a. On 4<sup>th</sup> April 2024, Mr. Devesh Patel, the Chief Operations Officer of our Client received a call from Mr. Joseph Kimote at around 9:45 am from Mobile number 0721696127 informing him of the need to prepare a letter to Mems following the press release issued by NCPB recalling 3,000 bags of Fertilizer manufactured on 5<sup>th</sup> March 2024 and of Batch Number 03/2024. Further, Ms. Lorraine Karani of NCPB from Mobile Number 0722310564 at around 11:30 am asking him to report to NCPB Headquarters at 3:30pm. He later on received a call from Mr. Collins Ng'etich at around 11:00 am on Mobile Number 0724969125 reiterating the same information received

DBM Masota  
M. Kithenya  
M. Aturinda  
J. Kisigwa  
C. Abeta  
F. Kabora  
F. Cherop

50

from Mr. Joseph Kimote and the importance of having the information of

recall of bags of Fertilizer in writing and reporting to NCPB Headquarters with a hard copy of the letter.

b. On 7<sup>th</sup> April 2024 while at our client's plant in Thika for the seizure of the goods by DCI, Mr. Devesh received incessant calls of more than 30 calls within an hour from some of the above-mentioned persons (Mr. Kimote and Mr. Ng'etich) and also from Mr. John Matiri, the General Manager of NCPB on Mobile Number 0722896645 emphasizing and insisting on the need and importance of him to attend a Press Release at Jacaranda Hotel. Mr. Kimote shared with him copies of the Statement he was required to read out at the Press release via Whatsapp and even shared an amended version. We note that the content of these Statements directed our client to assume responsibility for the 3,000 bags produced between 5<sup>th</sup> and 7<sup>th</sup> March 2024 not meeting the required quality parameters and asking the affected farmers to report to NCPB Depots for compensation. He declined to appear at Jacaranda hotel as he was at our client's plant in Thika with DCI Officers finishing up on the seizure of the bags of Fertilizer.

c. Mr. Mithika Linturi, the Cabinet Secretary of the Ministry of Agriculture & Livestock on Mobile Number 0722218000 made calls to Mr. Devesh on 10<sup>th</sup> April at around 9.30 am directing him that our client is required to attend a press conference at Jacaranda hotel and confirmed the need for him to use the statement as shared with him by Mr. Kimote at the Press Conference. Mr. Devesh declined to appear at Jacaranda hotel which resulted in the hastily planned and convened inspection by the Cabinet Secretary on 12<sup>th</sup> April 2024 at our client's plant in Thika and, his subsequent issuance of the orders closing the factory and declaring it a crime scene.

5. You will appreciate the extent of the inability of the two public officers to properly understand and appreciate the true account of facts and exert themselves within the confines of the law. They put a strain on the law in a manner that furthered impunity through manifest lack of fairness, impartiality, and outright manipulation.
6. We have annexed copies of the call logs generated from our client's mobile phone in support of the foregoing information in the hope that they may be critical to your ongoing investigations.

14th Floor, FCB Mihrab Building  
Off Lenana Road, Nairobi-Kenya  
T: +254 729 123 333  
C: +254 729 999 333  
E: info@mmaadvocates.co.ke

Yours faithfully  
MMA ADVOCATES LLP

AHMEDNASIR ABDULLAHI, SC-LEAD COUNSEL

ENCLS.

COPY TO:

THE MANAGING DIRECTOR,  
KEL CHEMICALS LIMITED, "For Information"  
P.O BOX 1444-00100  
THIKA.

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS,  
ODPP HOUSE, RAGATI ROAD, UPPERHILL,  
P.O BOX 30701-00100  
NAIROBI.

DBM Mosota  
M. Kithenya  
M. Aturinda  
J. Kisigwa  
C. Abeta  
F. Kabora  
F. Cherop

32

< kimot

X :

Joe Kimoteh NCPB,  
MD

7:23

Joe Kimoteh NCPB,  
MD

7:23

Joe Kimoteh NCPB,  
MD



Mobile 0721 696127

Outgoing call 7:23

7 Apr



Joe Kimoteh NCPB, MD (4)

7:23

Joe Kimoteh NCPB, MD (6)

7:23



62

17:14 @

50% 48%

< kimot

X :

Joe Kimoteh  
NCPB, MD

(2)



Mobile 0721 696127

Kimoteh

Kimoteh



Joe Kimoteh NCPB, MD (6)

Joe Kimoteh NCPB,  
MD

Joe Kimoteh NCPB,  
MD

Joe Kimoteh NCPB,  
MD

34

KEL CHEMICAL  
AND MEMS STAT...

FINAL KEL  
CHEMICAL AND ...

PRESS RELEASE ON KEL CHEMICAL/ MEMS LIMITED SUBSIDIZED FERTILIZER DISTRIBUTION

1. KEL Chemicals and MEMS Limited were contracted by the Government to supply various fertilizer types for the National Subsidy Programme for the 2024 Long rains
2. We embarked on the production and distribution of the contracted subsidized fertilizers in line with the standards and protocols as outlined by the Kenya Bureau of Standards.
3. However, about 3000 bags that were produced between 5<sup>th</sup> and 7<sup>th</sup> of March 2024 did not meet the required quality parameters as per the standard. The product: **KEL Green NPK 10: 26: 10** were found to be deficient and recalled.
4. We would like to apologize to farmers and the general public and take full responsibility for what happened. We undertake to compensate farmers who bought the product manufactured within the mentioned dates.
5. Once again, we sincerely apologize to the country and reassure Kenyans on our commitment to continually manufacture fertilizer that meet and strictly adhere to the set quality standards by the regulatory body.

**PRESS RELEASE ON KEL CHEMICAL/MEMS LIMITED  
SUBSIDIZED FERTILIZER DISTRIBUTION**

1. We, KEL Chemicals and MEMS Limited were contracted by the Government after participating in a competitive tendering process, to supply various fertilizer types for the National Subsidy Programme for the 2024 Long rains. The contracted fertilizer types were:
  - i. Kel Green: 550,000,
  - ii. Kelphos Plus: 190,000
  - iii. Kel Gold: 200,000 bags.
2. We embarked on the production and distribution of the contracted subsidized fertilizers in line with the standards and protocols as approved by the Kenya Bureau of Standards and certificates were issued.
3. However, some batches of the fertilizer that were produced between 5<sup>th</sup> and 10<sup>th</sup> of March 2024 did not meet the required quality parameters as per the standard approved by KEBS. They were found to be deficient and recalled.
4. We would like to apologize to farmers and the general public and take full responsibility for what happened. We undertake to compensate farmers who bought the product manufactured within the above-mentioned dates, and which failed to meet the set KEBS standards.
5. As earlier directed by the Government, we are asking all affected farmers to report to NCPB depots where they picked their fertilizers so that they can be compensated
6. Once again, we sincerely apologize to the country and reassure Kenyans on our commitment to continually manufacture fertilizer that meet and strictly adhere to the set quality standards by the regulatory body.

15:10

45%

Incoming call

Joe Kimoteh NCPB, MD

Kenya



Most recent call  
14:57

BP

14:24

Signal 50%

Incoming call

Joe Kimoteh NCPB, MD

Kenya



Most recent call  
14:10



< John Matiri X

John Matiri GM NCPB

John Matiri GM NCPB (3)

7:47

John Matiri GM NCPB (5)

7:47

John Matiri GM NCPB

Mobile 0722 896645

Incident report, 11/11/2017

Page 1



John Matiri GM NCPB

John Matiri GM NCPB (3)

7:47



40

< mithik

X ⋮

Mithika Linturi CS (4) 18:00

Mithika Linturi CS 18:00

Mithika Linturi CS (2) 18:00

### Mithika Linturi CS



Mobile 0722 218000

Accounting Dept. 1st Floor

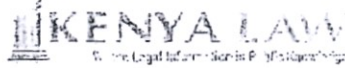
10000



Mithika Linturi CS (2) 18:00

Mithika Linturi CS (2) 18:00

Mithika Linturi CS (3) 18:00



18THE REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA AT NAIROBI  
CONSTITUTIONAL AND HUMAN RIGHTS DIVISION  
PETITION NO. E068 OF 2021

BETWEEN

HON.FML.....1<sup>ST</sup> PETITIONER  
EMILY NKIROTE BUANTAI.....2<sup>ND</sup> PETITIONER  
ATTICON LIMITED.....3<sup>RD</sup> PETITIONER

VERSUS

DIRECTOR OF PUBLIC PROSECUTIONS.....1<sup>ST</sup> RESPONDENT  
DIRECTOR OF CRIMINAL INVESTIGATIONS.....2<sup>ND</sup> RESPONDENT  
THE ATTORNEY GENERAL.....3<sup>RD</sup> RESPONDENT  
MJK.....4<sup>TH</sup> RESPONDENT

AND

REGISTRAR OF COMPANIES..... 1<sup>ST</sup> INTERESTED PARTY  
BARONS ESTATES LIMITED..... 2<sup>ND</sup> INTERESTED PARTY  
NONIKO HOLDINGS LIMITED..... 3<sup>RD</sup> INTERESTED PARTY  
COLLINS KIPCHUMBA NGETICH.....4<sup>TH</sup> INTERESTED PARTY  
DOROTHY CHEPKURUI.....5<sup>TH</sup> INTERESTED PARTY  
BILLY ODERO ONYANGO..... 6<sup>TH</sup> INTERESTED PARTY  
JOSEPH GITONGA M'LIMBINE.....7<sup>TH</sup> INTERESTED PARTY  
DOUGLAS KAILANYA.....8<sup>TH</sup> INTERESTED PARTY  
FAMILY BANK LIMITED..... 9<sup>TH</sup> INTERESTED PARTY  
EXPORT PROCESSING ZONES AUTHORITY.....10<sup>TH</sup> INTERESTED PARTY  
REGISTRAR OF LANDS..... 11<sup>TH</sup> INTERESTED PARTY

JUDGMENT

672

The Petition

1. The petitioners filed a petition dated 4<sup>th</sup> March 2021. The petition was later on amended and filed on 9<sup>th</sup> March 2021. The amended petition is filed under Articles 22(1), 23(1) & (3), 159(2)(a)(e), 165(3)(b)(d), (6) & (7) and 258 of the Constitution for the alleged contravention of Articles 3, 10(1) & (2), 19, 20, 21(1), 25(c), 27(1) & (2), 29, 35, 40, 47(1), 50(1), 50(2)(a, b, c, j, k), 79, 157(11) and 249 of the Constitution.

2. The amended petition seeks the following orders: -

*i. A declaration do issue to the effect that any intended arrest, charge and prosecution of the petitioners and/or institution of criminal proceedings against the petitioners in relation to all pending civil, commercial and family suits namely;*

*a) High Court of Kenya at Nairobi (Commercial Division) Civil Suit No.E138 of 2018; Barons Estate Ltd vs. Atticon Ltd & 6 Others;*

*b) High Court of Kenya at Nairobi (Family Division) Civil Suit 17 of 2019 (OS) (Previously High Court of Kenya at Meru (Family Division) Civil Suit No.37 of 2018; MJK vs FML;*

*c) High Court of Kenya at Nairobi (Commercial Division) Civil Suit E086 of 2019; Gulf African Bank Ltd. Vs. Atticon Ltd & 4 others;*

*d) High Court of Kenya at Nairobi ( Commercial Division) Civil Suit E316 of 2020; Linkit Ltd vs Brenda Mithika Mwenda;*

*e) High Court of Kenya at Nairobi (Commercial Division) Civil Suit No.E029 of 2019; Noniko Holdings Ltd & 2 Others vs. Atticon Ltd & 6 others;*

*f) Milimani Commercial Chief Magistrate's Court Miscellaneous Civil Suit No.1044 of 2018; MJK vs FML;*

*g) Milimani Commercial Chief Magistrate's Divorce Cause No.272 of 2019 (Previously ,Meru Chief Magistrate's Court Divorce Cause No.26 of 2018) MJK vs FML; and*

*h) All other civil, commercial and/or family disputes that are currently pending before various courts and tribunals between the petitioners and 4<sup>th</sup> Respondent and interested parties (and their proxies).*

*is an infringement and an affront to the Constitution of Kenya, 2010 and infringement of the petitioner's rights under Articles 10(2), 27, 28, 29, 38, 47, 48 and 50 of the Constitution.*

*ii. An order of prohibition be issued prohibiting the 1<sup>st</sup> and 2<sup>nd</sup> respondents together with their agents from investigating or recommending the prosecution of the petitioners based on matters revolving around the credit facilities, bank securities and changes on*

*the ownership and control of Atticon Limited pending the outcome and further orders in the following ongoing litigation;*

*a) High Court of Kenya at Nairobi(Commercial Division) Civil Suit No.E138 of 2018 ;Barons Estate Ltd vs. Atticon Ltd & 6 Others;*

*b) High Court of Kenya at Nairobi(Family Division) Civil Suit 17 of 2019 (OS) (Previously High Court of Kenya at a Meru (Family Division) Civil Suit No.37 of 2018; MJK vs FML;*

*c) High Court of Kenya at Nairobi (Commercial Division) Civil Suit E036 of 2019;Gulf African Bank Ltd. Vs. Atticon Ltd & 4 others;*

*d) High Court of Kenya at Nairobi ( Commercial Division) Civil Suit E316 of 2020;Linkit Ltd vs Brenda Mithika Mwenda;*

*e) High Court of Kenya at Nairobi (Commercial Division) Civil Suit No.E029 of 2019;Noniko Holdings Ltd & 2 Others vs. Atticon Ltd & 6 others;*

*f) Milimani Commercial Chief Magistrate's Court Miscellaneous Civil Suit No.1044 of 2018; MJK vs FML;*

*g) Milimani Commercial Chief Magistrate's Divorce Cause No.272 of 2019 (Previously ,Meru Chief Magistrate's Court Divorce Cause No.26 of 2018) MJK vs FML; and*

*h) All other civil, commercial and/or family disputes that are currently pending before various courts and tribunals between the petitioners and 4<sup>th</sup> Respondent and interested parties (and their proxies.*

*iii. An order of compensation of the petitioners do issue for the infringement of the petitioner's rights under Articles 10(2), 27,28, 38, 47, 48 and 50 of the Constitution of Kenya, 2010.*

*iv. An order of compensation to the petitioners for general damages for the distress, mental anguish and contravention of their various fundamental rights and freedoms caused by the actions of the respondents.*

*v. An order of exemplary and punitive damages do issue against the respondents.*

*vi. The costs of this petition to be awarded to the petitioners.*

*vii. Any other or further orders, writs and directions this honourable court considers appropriate and just to grant for the purposes of enforcement of the petitioners fundamental rights and freedoms.*

#### Background of the case

3. This case revolves around the assertion that the petitioners in the month of October 2018 discovered fraudulent changes in the 3<sup>rd</sup> petitioner's directorship, shareholding

AKB

and share capital. The petitioners proceeded to notify the Registrar of Companies. The Registrar informed the relevant parties of this issue and sought their response before making a determination in the matter. The 7<sup>th</sup> and 8<sup>th</sup> interested parties in a letter dated 19<sup>th</sup> October 2018 and 22 October 2018 to the Registrar made know that they had not been part of the meeting that passed the resolution to effect these changes. With no response from the 5<sup>th</sup> and 6<sup>th</sup> interested parties the Registrar ensued to inform the parties that the illegal documentation would be expunged. Soon after, the petitioners lodged their complaint with the 2<sup>nd</sup> respondent calling for investigation into the matter.

4. The petitioners state that the complaint lodged with the 2<sup>nd</sup> respondent has not been investigated this far. Instead the 2<sup>nd</sup> respondent summoned the petitioners as reported by the 2<sup>nd</sup> interested party in its suit. According to the petitioners the 1<sup>st</sup> and 2<sup>nd</sup> respondents are intent on arresting, charging and prosecuting them. The petitioners state that the 2<sup>nd</sup> interested party's criminal claim is without legal foundation as this court's commercial division has since dismissed the 2<sup>nd</sup> interested party's issues concerning the validity of the credit facilities and alleged fraudulent securities as will soon be seen in the petitioners affidavit in support. In addition, the petitioners say that the 2<sup>nd</sup> interested party's suit amongst the others is properly before competent courts awaiting determination.

5. The petition is founded on the grounds that the 1<sup>st</sup> and 2<sup>nd</sup> respondents intent to arrest, charge and prosecute the petitioners is negated by the following facts:

*i. Their apparent ulterior motive due to their avoidance of the High Court's ruling on the issues, the biased treatment against them in favour of the 4<sup>th</sup> respondent and the 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> interested parties suit, harassing and intimidating the 1<sup>st</sup> petitioner to change his stand and double standards displayed;*

*ii. The 2<sup>nd</sup> respondent's failure or omission to conduct objective investigations of the petitioner's complaints against the 4<sup>th</sup> respondent and the 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> interested party and instead preferring to investigate this parties complaints;*

*iii. The 2<sup>nd</sup> respondent's refusal to objectively consider the petitioner's complaints against the 4<sup>th</sup> respondent and the 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> interested party;*

*iv. The 4<sup>th</sup> respondent and the 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> interested party's improper influence in the matter; and*

*v. Their failure to consider relevant matters including, the alleged marital and family relationship between the 1<sup>st</sup> petitioner and the 4<sup>th</sup> respondent; the pendency of the ongoing suits before various courts; the findings of the court in the suits and failure to wait for the final determination in this suits; the petitioner's complaints against the 4<sup>th</sup> respondent and the 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> interested party and the abuse of power by the 1<sup>st</sup> and 2<sup>nd</sup> respondents in light of the nature of the suits which fall outside the criminal law jurisdiction.*

HS

6. The amended petition is supported by the averments in the sworn affidavits of the 1<sup>st</sup> petitioner and 2<sup>nd</sup> petitioner both dated 9<sup>th</sup> March 2021. The 2<sup>nd</sup> petitioner in her affidavit in support reiterated and emphasized the 1<sup>st</sup> petitioner's averments in support of the petition.

7. The 1<sup>st</sup> petitioner while reiterating their grounds as stated in the petition says that in March 2021, he was notified of two documents submitted in his office by a whistleblower. The contents revolved around the 2<sup>nd</sup> respondent's inquiry vide a letter to the 1<sup>st</sup> respondent whether he would make a decision to charge based on a draft charge sheet with 38 counts which was the second document. He reveals that the charges were based on the validity of the credit facilities and securities as well as the fraudulent change of the 3<sup>rd</sup> Petitioner's ownership and control.

8. On 8<sup>th</sup> March 2021, the 1<sup>st</sup> petitioner was summoned by the 2<sup>nd</sup> Respondent but he was not able to comply due to official duties and illness. He says that he was made aware of his imminent arrest through the local dailies that published the story on 8<sup>th</sup> March 2021. The petitioner while reiterating the grounds in the petition opines that the respondents actions violate his right against discrimination by virtue of the numerous suits and not in line with Article 157 of the Constitution. In addition he says that their actions have violated their legitimate expectation.

9. Borrowing from the 2<sup>nd</sup> interested party's application *in Nairobi HCCC No.E138 of 2018: Barons Estate Limited vs. Atticon Limited & 5 others* the petitioner avers that one of the reliefs sought was a temporary injunction. This was to first restrain the respondents from selling or reconstructing Atticon Limited. Secondly to release to the court all the title documents to assets allegedly held illegally by the 3<sup>rd</sup> petitioner as security. He states that this prayer was declined by the court but the 2<sup>nd</sup> interested party still made another application on 29<sup>th</sup> September 2020 on the issue of release of the securities which she had given the 3<sup>rd</sup> petitioner to secure credit facilities. This too was dismissed by the court. The petitioners on this premise argue that regardless of this fact the respondents still pursued them, which to them is discriminatory.

10. Sometime in October 2018, the petitioners discovered fraudulent changes in the 3<sup>rd</sup> petitioner's directorship, shareholding and share capital. This was exposed by the Board's resolutions dated 28<sup>th</sup> April 2017. As indicated in the background of this case the petitioners reported this discovery to the Registrar of Companies on 18<sup>th</sup> October 2018.

11. Soon after they learnt of Account Number 0900xxxx under the Gulf African Bank Limited that was opened in the 3<sup>rd</sup> petitioner's name following a Board resolution passed on 16<sup>th</sup> March 2018. This information was brought to light following the filing of *Nairobi HCC No.E086 of 2019; Gulf African Bank Limited v Attion Limited and 4 others*. The alleged directors took out a loan facility of Ksh.20, 000,000 which was secured by a tender, the transaction having been authorized by a letter dated 11<sup>th</sup> April 2018. According to the petitioners this amount and other monies from various businesses totaling Ksh.22, 000,000 was then channeled to the Gulf Bank Limited Account.

12. The 7<sup>th</sup> interested party who is purported to have signed the letter dated 11<sup>th</sup> April 2018 distanced himself from the signature through a letter addressed to the Gulf Bank

Hon.FML & 2 others v Director of Public Prosecutions & 3 others; Registrar of Companies & 10 others (Interested Parties) [2021] eKLR

Limited party dated 25<sup>th</sup> October 2018. Following this unearthing the 2<sup>nd</sup> petitioner reported the matter to the 2<sup>nd</sup> Respondent's Banking Fraud Investigations Department. This was done vide a letter dated 23<sup>rd</sup> May 2019.

13. On 23<sup>rd</sup> October 2019, the 2<sup>nd</sup> respondent's Director of Banking Fraud Investigations Department inquired about the petitioners complaint from the firm of Musyoki Mogaka & Company Advocates. They appear for the 4<sup>th</sup> respondent, 2<sup>nd</sup> 3<sup>rd</sup> and 4<sup>th</sup> interested parties in this matter. The petitioners state vide a letter dated 14<sup>th</sup> October 2019 that the firm informed the department that the matter had been investigated by its sister department. The department found that the issue was the fraudulent use of the titles of the land belonging to its clients. These had been used as security for credit facilities advanced by the 9<sup>th</sup> interested party to the 3<sup>rd</sup> petitioner. In addition the advocates noted that the matter also dealt with the facility that was advanced to the 3<sup>rd</sup> petitioner by Gulf African Bank Limited.

14. The 1<sup>st</sup> respondent who had been copied in the communication clarified that the 2<sup>nd</sup> respondent's inquiry file with reference to matters raised by the firm related to investigations concerning forgery of bank documents used to obtain credit facilities from the 9<sup>th</sup> interested party. Further the fraudulent removal of directors of the 3<sup>rd</sup> petitioner while the Banking Fraud Investigations File touched on opening and operation of the 3<sup>rd</sup> petitioner's account at Gulf African Bank was suspicious. In essence he noted that the two matters could not be consolidated as misunderstood by the firm.

15. Against this backdrop the petitioners complain that the 1<sup>st</sup> respondent did not cancel its advisory to the 2<sup>nd</sup> respondent in the letter dated 13<sup>th</sup> February 2020. Based on this advisory the 2<sup>nd</sup> respondent Serious Crimes Department went on to take over the matter from the Bank Fraud Department. The petitioners state that the matter has not been actioned this far. Further they note that the draft charge sheet merged the issues and as a result they are the subject of arrest and prosecution.

16. The petitioners state that despite the 2<sup>nd</sup> respondent being made aware of the long-standing wrangles as between the 1<sup>st</sup> petitioner and the 4<sup>th</sup> respondent and by extension the 3<sup>rd</sup> petitioner and 5<sup>th</sup> interested party in various suits, he proceeded to convert the same into criminal matters with an intention of embarrassing him. This is because the 2<sup>nd</sup> respondent was notified that the 2<sup>nd</sup> interested party's advocates had confirmed that their clients had willingly given their titles to act as securities for facilities advanced to the 3<sup>rd</sup> petitioner and around July 2020 wrote to the bank requesting, they lift the encumbrances registered against the titles. The petitioners state that this discloses that there was no fraud on their part.

17. The petitioners vide a letter dated 25<sup>th</sup> February 2021 by their advocates wrote to the 2<sup>nd</sup> Respondent complaining of his biased conduct towards them by acting at the beckoning call of the 4<sup>th</sup> respondent and ignoring and concealing their documents.

18. The petitioners further note that the 4<sup>th</sup> respondent in her sworn affidavit in High Court Originating Summons No.37 of 2018: MJ v ML(In matter of Matrimonial Properties Act) alluded that the 2<sup>nd</sup> Interested party as willingly gave its securities to the 3<sup>rd</sup> petitioner for consideration. It is their contention that there is nothing to indicate the commission of a criminal offence regarding utilization of the securities belonging to the 2<sup>nd</sup> interested party. The petitioners also inform that their specimen signatures have

HTD

been obtained from them as regards the alleged forgery of the documentation as indicated in the charge sheet. In addition, that the 2<sup>nd</sup> interested party's letter dated 2<sup>nd</sup> October 2018 to the 9<sup>th</sup> interested party clearly indicates that the issue was commercial in nature.

19. The 1<sup>st</sup> petitioner states that he is also being victimized due to his political affiliations. That he is perceived as a member of the 'tangatanga' wing of the Jubilee Party, whose members are deemed to be allied to the deputy president and as a result face the government's rage. He states that the 4<sup>th</sup> respondent being aware of all this has sought to take advantage of the present case adding that it is for this reason that the Kenya Revenue Authority has started its investigations into the 3<sup>rd</sup> petitioner's operations.

20. The petitioners believe that the 1<sup>st</sup> petitioner's arrest, charge, and prosecution is based on misuse of the 1<sup>st</sup> and 2<sup>nd</sup> respondent's powers and incorrect underpinnings, which threatens to violate the 1<sup>st</sup> petitioner's fundamental rights.

21. The 1<sup>st</sup> and 2<sup>nd</sup> respondents filed grounds of opposition dated 3<sup>rd</sup> May 2021 in response to the petitioner's petition dated 9<sup>th</sup> March 2021. The grounds are as follows:

*i. The prayers sought are unconstitutional as they seek to curtail their constitutional mandate which is against public interest and the administration of criminal justice.*

*ii. The petitioners have not adduced evidence to show that the criminal proceedings were commenced with an ulterior motive and how they acted in excess of the powers conferred to them.*

*iii. The petitioners have failed to demonstrate how substantial injustice will be occasioned if the criminal proceedings continue.*

*iv. The veracity of the facts raised by the petitioners can only be ascertained at the trial court which tests the facts and evidence. Accordingly the trial court is best suited to make a determination on the matter.*

*v. By virtue of Article 157 of the Constitution, the 2<sup>nd</sup> respondent can only institute criminal proceedings once an offence is committed. Moreover that a fundamental right can only be limited under Article 24(1) of the Constitution for reasonable and justifiable reasons in an open society.*

*vi. The 1<sup>st</sup> petitioner has failed to satisfy the threshold set out in the case of Anarita Karimi Njeru v Republic (1979) as he has merely stated his rights failing to demonstrate how each of his specific rights has been or will be infringed upon if the criminal proceedings proceed. It is argued that his case fails the ripeness test.*

*vii. Concurrent civil and criminal proceedings are permissible by virtue of Section 193(A) of the Criminal Procedure Code.*

viii. *This court ought not to usurp the mandate of the trial court by determining the substance of the issues in this case.*

ix. *The mere fact that there is a criminal prosecution does not negate the petitioners fundamental rights and freedoms as guaranteed by the Constitution and their presumption of innocence.*

x. *The petition is misconceived and vexatious as the petitioners have failed to demonstrate how either the 1<sup>st</sup> or 2<sup>nd</sup> respondents acted illegally, unreasonably, ultra vires contrary to natural justice and consequently should be dismissed.*

22. The 3<sup>rd</sup> respondent filed the following grounds of opposition dated 22<sup>nd</sup> April 2021:

i. *The petition seeks to limit the constitutional and statutory powers of the 1<sup>st</sup> and 2<sup>nd</sup> respondents' mandate.*

ii. *The 1<sup>st</sup> and 2<sup>nd</sup> respondents' work as espoused in the petitioners pleadings was done in good faith based on Article 157(6) of the Constitution, Section 5 and 6 of the Office of the Director of Public Prosecutions Act and Section 35 of the National Police Service Act.*

iii. *The 1<sup>st</sup> respondent is bound by the provisions of Article 10 and 157(11) of the Constitution while carrying out his mandate.*

iv. *The 1<sup>st</sup> and 2<sup>nd</sup> respondents' constitutional mandate can only be interfered with by the Court where it is proven that they acted contrary to their mandate.*

v. *The petitioners have failed to adduce evidence to prove that the 2<sup>nd</sup> respondent in carrying out his function acted arbitrarily in conducting the investigations against them. Moreover that he violated their rights with the ongoing investigations against them.*

vi. *An allegation of violation or threatened violation of fundamental rights and freedoms does not warrant grant of the remedies sought since the petitioners must prove real danger that is imminent to warrant the court's intervention.*

vii. *This court and petitioners cannot anticipate the result of the ongoing investigation. Further that if the investigations culminate into an arrest and prosecution, both processes fall within legal processes provided by law. This in essence does not take away the petitioners rights under Articles 22, 49 and 50 of the Constitution.*

viii. *Both civil and criminal proceedings can run concurrently by dint of Section 193A of the Criminal Procedure Code.*

ix. *The Court in entertaining this matter would be assuming the role of the 1<sup>st</sup> respondent to review the case as presented by the 2<sup>nd</sup> respondent in making the decision to charge. This essentially would be usurping the 1<sup>st</sup> and 2<sup>nd</sup> respondents constitutional mandate. In a*

*nutshell grant of the orders sought would be equal to making a determination of the matter.*

*x. The petitioners have failed to adduce evidence that they will suffer prejudice and their rights violated if the investigations proceed.*

*xi. The petition is based on an unsubstantiated apprehension with the sole purpose to frustrate the investigations against them and so without merit. It should then be dismissed.*

23. The 4<sup>th</sup> respondent, the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> interested parties filed their response to the petition through their preliminary objection (P.O.) dated 10<sup>th</sup> May 2021. The grounds raised for the P.O. are:

*i. The petitioners petition dated 4<sup>th</sup> March, 2021 is a non-starter, misguided, misconceived and frivolous as they both run afoul and contravene Section 193A of the Criminal Procedure Code cap 75 Laws of Kenya.*

*ii. The petitioners petition dated 4<sup>th</sup> March, 2021 is bad in law as it seeks to improperly interfere with the constitutional powers of the office of the Director of Public Prosecution as enshrined under Article 157 of the Constitution.*

24. The 5<sup>th</sup> and 6<sup>th</sup> interested parties filed their response to the amended petition dated 9<sup>th</sup> March 2021 vide a sworn replying affidavit by the former dated 12<sup>th</sup> April 2021. It is averred that a complaint was lodged by the directors of the 2<sup>nd</sup> and 3<sup>rd</sup> interested parties with the 2<sup>nd</sup> respondent, who summoned them with regards to this complaint. They were interrogated and their statements recorded.

25. The 5<sup>th</sup> interested party depones that owing to the petitioners' suit, she stands to suffer great prejudice that cannot be compensated by way of damages. She urges the court to dismiss the amended petition with costs to them.

26. The 7<sup>th</sup> interested party did not file any documents, but indicated to the court on 15<sup>th</sup> March, 2021 that he supported the petitioners' case. The 9<sup>th</sup> and 11<sup>th</sup> interested parties did not file any documents. They sought not to take a stand in the matter as per the court record dated 11<sup>th</sup> May 2021.

27. The petitioners filed written submissions and a list of authorities dated 13<sup>th</sup> April 2021 and further supplementary submissions and a list of authorities dated 10<sup>th</sup> May 2021 all by C. B. Mwangela advocate. Counsel states that the petitioners state that the issues for determination are whether the petitioners' fundamental rights and freedoms were violated or likely to be violated, whether an order of prohibition should issue, whether the petitioners are entitled to compensation and general damages and whether exemplary and punitive damages should be granted.

28. On the first issue, counsel submits that the 1<sup>st</sup> and 2<sup>nd</sup> respondents' intentions are premised on improper factual grounds. This threatens the 1<sup>st</sup> and 2<sup>nd</sup> petitioners' right to human dignity as envisaged under Article 28 of the Constitution. To buttress this point reliance was placed on the case of Samuel Rukenya Mburu & Others v Castle Brewing Kenya Limited & Another (2006) eKLR where it was observed that inhuman

Hon.FML & 2 others v Director of Public Prosecutions & 3 others; Registrar of Companies & 10 others (Interested Parties) [2021] eKLR

treatment is an action that is barbarous, brutal and cruel while degrading punishment is that which brings a person in dishonor or contempt. Addition dependence was placed on the cases of Ahmed Issack Hassan v Auditor General(2015)eKLR and Dawood and another v Minister of Home Affairs and others( CCT 35/99)(2000)ZACC 8

29. Discussing the right to fair administrative action under Article 47 of the Constitution, the petitioners submit that the actions of the 1<sup>st</sup> and 2<sup>nd</sup> respondents were unfair and done in bad faith, since they commenced their investigations based on issues spinning from the credit facilities, securities and fraudulent change of directorship of the 3<sup>rd</sup> petitioner which emanate from a contractual commercial relationship. Moreover it is submitted that the 2<sup>nd</sup> respondent's failure to investigate the petitioners complaint while prioritizing the 4<sup>th</sup> respondent's complaint is unfair and biased. In support counsel relied on the case of Commissioner of Police and Director of Criminal Investigations Department v Kenya Commercial Bank and Others (2013) eKLR where the court observed that:

*"...the power must be exercised responsibly, in accordance with the laws of the land and in good faith. What is it that the company was not able to do to prove its claim against the bank in the previous and present civil cases that must be done through the institution of criminal proceedings" It is not in the public interest or in the interest of administration of justice to use criminal justice process as a pawn in civil disputes."*

Counsel also relied on the cases of Judicial Service Commission v Mbalu Mutava & another [2015] eKLR, Associated Provincial Picture Houses v Wednesbury Corporation (1948)1 KB and Philip K. Tunoi & Another vs. Judicial Service Commission & another(2016) eKLR

30. According to the counsel the respondents' actions are selective and discriminatory with the effect of violating their rights to equality and freedom from discrimination under Article 27 of the Constitution. To emphasize this point reliance was placed on the English case of "Willis v the United Kingdom Application no. 36042/97" where the European Court of Human Rights noted that discrimination means treating differently without any objective and reasonable justification for persons in similar situations.

31. It is further submitted that the 1<sup>st</sup> petitioner is a victim of political intolerance which in essence violates his political rights as provided for under Article 38 of the Constitution. To buttress this argument counsel cited the case of Republic v Director of Public Prosecutions & another Ex pate Kamani & Others (2015) eKLR where it was held that:

*"...where the respondent is shown not to be acting independently but just reading a script prepared by someone else or that he has been pressured to go through the motions. The courts will not hesitate to terminate the proceedings in such circumstances."*

32. Counsel has submitted that the intended criminal proceedings by the 1<sup>st</sup> and 2<sup>nd</sup> respondents amount to abuse of power, because the 1<sup>st</sup> respondent has recommended arrest of the petitioners based on the 4<sup>th</sup> respondent's complaint despite the ongoing

Hon.FML & 2 others v Director of Public Prosecutions & 3 others; Registrar of Companies & 10 others (Interested Parties) [2021] eKLR

court cases. While it is acknowledged that both civil and criminal proceedings can run concurrently the petitioners submit that it is the respondents intention that is in issue and which they deem to be a total disregard of Article 157(11) of the Constitution.

33. To support this argument counsel relies on the case of Republic v the Judicial Commission into the Goldenberg Affair and 2 Others ex parte Saitoti HC Misc. Application 102 of 2006 where it was held that:

*"it is not good for the DPP to argue that the Applicant should be arrested and charged so that he can raise whatever defense he has in a trial court. The Court has a constitutional duty to ensure that a flawed threatened trial is stopped in its tracks if it is likely to violate any of the applicants fundamental rights."*

34. Other decisions relied on include: Republic v Chief Magistrate's Court at Mombasa Ex parte Ganijee & Another [2002] 2 KLR 703; Muchanga Investments Limited v Safaris Unlimited (Africa) Ltd & 2 others Civil Appeal No.25 of 2002 [2009] KLR 229; Stephen Oyugi Okero v Chief Magistrate's Court at Milimani Law Courts & Another, Commissioner of Police and Director of Criminal Investigations Department v Kenya Commercial Bank and others (*Supra*), Republic vs. Minister for Home Affairs and others Ex parte Sitamze Nairobi HCCC No.1652 of 2004 [2008] 2 EA 323, Kuria & 3 others v Attorney General [2002] 2 KLR 69.

35. On the issue of oppressive nature of the respondents actions, it is submitted that the intended criminal charges are planned to harass and oppress the petitioners as they revolve around issues already in various courts. To support this assertion counsel cited the case of G. B. M. Kariuki v Attorney General [2016] eKLR where the court opined that:

*"the law enforcement agencies are required to investigate the complaint before preferring a charge against a person suspected of having committed an offence. In other words, the police or any prosecution arm of the government is not a mere conduit for complainants. The police must act impartially and independently in respect if a complaint..."*

They further relied on the cases of Kuria & 3 others v Attorney General (*Supra*), Gulam & another v Chief Magistrate's Court and another [2006] eKLR and Joram Mwenda Guantai v the Chief Magistrate [2007] 2 E.A. 170.

36. On the third issue, it is their submission that having established that their fundamental rights have been violated, it their prayer that this court grants them general damages. Reliance was placed on the case of Senator Johnstone Muthama v Director of Public Prosecutions & 2 Others; Japheth Muriira Muroko (Interested Party) [2020] eKLR where it was held that:

*"...it is now well settled that award of compensation against the State is an appropriate and effective remedy for redress of an established infringement of a fundamental rights under the Constitution."*

52

Hon.FML & 2 others v Director of Public Prosecutions & 3 others; Registrar of Companies & 10 others (Interested Parties) [2021] eKLR

He further relied on the case of: Edward Akong'o Oyugi & 2 Others v Attorney General [2019] eKLR.

37. It is the petitioners' contention that the grant of exemplary and punitive damages by the court will deter repetition of such violations. Further that enjoyment of these rights must be respected. To buttress this argument counsel relied on the case of Miguna Miguna v Fred Okengo Matiang'i Cabinet Secretary, Ministry of Interior and Coordination of National Government & 6 others; Kenya National Commission on Human Rights (Interested Party) [2018] eKLR where it was held that:

*"...an award ought in proper cases to be made with a view to deterring a repetition of breach or punishing those responsible for it or even securing effective policing of the constitutionally enshrined rights by rewarding those who expose breach of them with substantial damages."*

38. The 1<sup>st</sup> and 2<sup>nd</sup> respondents filed written submissions dated 5<sup>th</sup> May 2021 by prosecution counsel Berryl Marinda. Counsel submitted that the 1<sup>st</sup> respondent is a constitutional office established under Article 157(6) of the Constitution and Section 4 of the Office of the Director of Public Prosecutions Act. That the 1<sup>st</sup> respondent is required to pay attention to Article 157(11) of the Constitution while carrying out his mandate. This was emphasized by the court in the case of Yunus Abdul Rubi & 2 Others v Director of Public Prosecution & 2 others [2016] eKLR where it was stated that:

*"...it must not be lost to this Court and the parties that the powers to institute any criminal proceedings are vested in the office of the Director of Public Prosecutions by dint of Article 157(6) of the Constitution....additionally by dint of Article 157(11) of the Constitution, in exercising the powers conferred on him, the Director of Public Prosecutions is required to have regard for the public interest, the interests of the administration of justice and the need to prevent and avoid abuse. The foregoing makes it clear therefore that the Office of the Director of Public Prosecutions is an independent office with the mandate to independently institute criminal prosecutions."*

39. It is submitted that the 2<sup>nd</sup> respondent is a constitutional office under Article 245(1) of the Constitution. The mandate to investigate crime is vested in the police under Section 24 of the National Police Service Act and once done he/she recommends prosecution to the 1<sup>st</sup> respondent who then makes the decision on whether to charge the person or not.

40. Considering this, the respondents argue that the petitioners are inviting the court to examine the evidence which is a preserve of the trial court. To support this argument counsel cited the case of Justus Mwendu Kathenge v Director of Public Prosecutions and 2 others, petition No.372 of 2013 where it was held that:

*"it is now trite that Courts cannot interfere with the exercise of the above mandate unless it can be shown that under Article 157(11) of the Constitution he acted without due regard to public interest and*

*interests of administration of justice and not taken account of the need to prevent and avoid abuse of Court process...this court will be usurping the mandate of the trial court by evaluating the sufficiency of the evidence and to make a finding on whether the same can sustain a conviction."*

41. Counsel argues that the arrest and prosecution of the petitioners in and of itself is not unlawful as the petitioners are entitled to rights under the Constitution. Further that the two processes operate in public interest and embodiment of the rule of law. Relying on the case of Elory Kraneveld v the Attorney General & 2 Others, Nairobi petition No.153 of 2012 counsel argues that the Constitution should be read holistically to discern its real meaning. Also referred to is the case of Michael Monari & Another v Commissioner of Police & 3 others Miscellaneous Application No.68 of 2011.

42. It is submitted that the petitioners have simply stated the provisions of the Constitution but have fail to demonstrate how the said provisions were violated. This they assert is the legal threshold as set out in the case of Andrew Okoth Onanda v Inspector General Police & 2 others [2018] eKLR which cited the case of Anarita Karimi Njeru v Republic [1979] KLR 154 with approval.

43. To support their argument on discrimination in the investigations and prosecution, reliance was placed on the case of Joshua Kulei and 5 others v Attorney General and 4 Others Petition No.66 of 2012 where it was held that:

*"...it is within the mandate of the DPP to elect whom to prefer charges against and this court has no jurisdiction to direct him with respect thereto. More importantly the decision to prefer charges against one person as opposed to another is not itself without more, sufficient to lead to an order of prohibition against a prosecution."*

44. On separation of powers, it is submitted that other than checking other organs of the government, any interference must be guarded against and justified. In the case of Dr. Alfred N. Mutua v. The Ethics and Anti-Corruption Commission & Others, Misc. Application No.31 of 2016 it was noted that, interference should only be where it is shown that there was violation of the Constitution. Counsel supported this with the case of Director of Public Prosecutions V Humphrey [1976] 2 ALL ER 497 at 511 and Njuguna S. Ndung'u v Ethics & Anti-Corruption Commission (EACC) & 3 others [2018] eKLR.

45. Counsel submitting on Section 193(A) of the Criminal Procedure Code placed reliance on the case of Ashish Kampani v Director of Public Prosecution & 3 others [2016] eKLR where it was held that the fact that a dispute has both civil and criminal elements is not per se a ground for terminating on-going criminal proceedings. The Court essentially intervenes where it is shown that the impugned criminal proceedings are instituted for other means other than the honest enforcement of criminal law. The Court noted that this was what the drafters of Section 193 A of the Criminal Procedure Code anticipated. It is Counsel's submission that the petition is an abuse of the court process, since it is focused on circumventing the criminal justice system and curtailing the 1<sup>st</sup> and 2<sup>nd</sup> respondents' constitutional mandate.

Hon.FML & 2 others v Director of Public Prosecutions & 3 others; Registrar of Companies & 10 others (Interested Parties) [2021] eKLR

46. The 3<sup>rd</sup> respondent filed written submissions dated 3<sup>rd</sup> June 2021 through Grace Mutindi Senior State Counsel. She submits that the issues for determination are whether the investigations, the intended arrest and prosecution violate the petitioners' rights and whether the petitioners are entitled to the reliefs sought. On the first issue, counsel submits that the petition is bent on interfering with the 1<sup>st</sup> and 2<sup>nd</sup> respondents' constitutional mandate as espoused under Article 157 and 245 of the Constitution. That their mandate is spelt out in the Office of the Director of Public Prosecutions Act No.2 of 2013 and National Police Service Act Cap 84. It is emphasized that both offices are guided by the fundamental principles promoted in the Constitution.

47. He contends that the 2<sup>nd</sup> respondent's authority to investigate has so far been recognized by the courts. To underscore this argument, reliance is placed on the cases of *Thuita Mwangi & 2 others v Ethics & Anti-corruption Commission and 3 others* [2013] eKLR, *David Ndulo Ngali & 2 others v DPP & 4 others* [2015] eKLR, *Erick Kibiwott & 2 others v Director of Public Prosecutions & 2 others* (JR No.89 of 2010) and *Republic v Commissioner of Police and another ex parte Michael Monari & another* [2012] eKLR. The courts commonly observed that the police have a duty to investigate on any complaint once it is made. Otherwise they would be failing in their mandate to detect and prevent crime. Additionally reliance was placed on the case of *Isaac Tumunu Njunge v Director of Public Prosecutions & 2 others* [2016] eKLR.

48. Borrowing from the law and authorities relied upon it is submitted that the 1<sup>st</sup> and 2<sup>nd</sup> respondents' undertakings were legal actions and can only be challenged if it is proven that they acted ultra vires or contrary to constitutional values and principles. This is the position in the numerous cases cited in support. The authorities are: *Koinange v Attorney General and others* [(2007) 2 EA 256, *Justus Mwenda Kathenege v. Director of Public Prosecutions & 2 others* [2014] eKLR and *Daniel Ogwoka Manduku v Director of Public Prosecutions & 2 others* [2019] eKLR.

49. Counsel while dismissing the petitioners selective discriminations claims submits that under Article 157(10) and Section 6 of the ODPP Act the 1<sup>st</sup> respondent cannot be directed by any person on whether or not to prosecute while the 2<sup>nd</sup> respondent under Article 245(4) (a) (b) of the Constitution is granted independence to investigate. To buttress this argument reliance is placed on the case of *Stephen Ndambuki Muli & 3 others v Director of Public Prosecutions & another* [2016] eKLR where it was held that:

*"...it is within the mandate of the DPP to elect whom to prefer cases against and this Court has no jurisdiction to direct him with respect thereto."*

Also referred to is the case of *Godfrey Mutahi Mgunyi v. Director of Public Prosecutions and 4 others*, Petition No.428 of 2015.

50. The A.G. filed submissions dated 3<sup>rd</sup> June, 2021. Counsel submits that at this point the petition is merely speculative as the 1<sup>st</sup> respondent is yet to charge and as for now cannot determine whether the 1<sup>st</sup> respondent will abuse his mandate as outlined under Article 157(11) of the Constitution and Section 4 of the ODPP Act. It is their case accordingly that the petitioners have failed to demonstrate how their fundamental rights were violated to merit this court's intervention.

Public Case No. 1 of 2021

55

51. On Section 193A of the Criminal Procedure Code counsel submits that the prohibition relief sought ought not to be granted as the law dictates that both can run concurrently. Further that the matters can only be determined during the trial. To support this point he relied on the case of *Republic v Director of Public Prosecutions & 2 others ex parte Joseph Gathuku Kamuiru & another* [2014] eKLR where it was held that:

*"...the existence of civil proceedings arising out of the same set of facts is however not in itself a bar to commencement or continuation of criminal proceedings. Section 193 A of the Criminal Procedure Code is clear on this."*

Further reliance is placed on the cases of *Republic v Director of Public Prosecutions & 3 others ex parte Bedan Mwangi Nduati & another* [2015] eKLR and *Michael Monari case (supra)*.

52. Counsel further submits that although the petitioners aver that their rights under Articles 27, 28, 38 and 47 of the Constitution have been violated, they fail to demonstrate how this was done. To support this he cites the cases of *Anarita Karimi Njeru v. Republic (No.1)* [1979] 1 KLR 154 and later *Mumo Matemu v Trusted Society of Human Rights Alliance* [2013] eKLR. He adds that the alleged rights are not absolute as can be limited by the Constitution and the law. Furthermore, that while the 1<sup>st</sup> petitioner claims his political rights have been violated he did not produce evidence to that effect. He argued that if there is a dispute between the 1<sup>st</sup> Petitioner and his political party the same should be determined by the Political Parties Disputes Tribunal as provided under the Political Parties Act, 2011.

53. Counsel finally submits that the petitioners have failed to present a case that merits this court's intervention. Further that an arrest and prosecution do not negate the petitioners' rights under Articles 22, 49 and 50 of the Constitution. It is on this premise that they conclude that the case is unmerited and an abuse of the court process.

54. The 4<sup>th</sup> respondent in conjunction with the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> interested parties filed written submissions dated 24<sup>th</sup> May 2021 through Musyoki Mogaka & Co. Advocates. They submit that the issues for determination are whether the amended petition is arguable, whether grant of the orders sought in the petition are in the public interest and interest of justice and lastly, who is to bear the costs of the petition.

Counsel reiterated that the 1<sup>st</sup> respondent's mandate is provided for in the Constitution under Article 157. In addition, he submits that the petitioners' case fails to reveal a cognizable constitutional controversy as pronounced by the Supreme Court in the case of *George Mike Wanjohi v Steven Kariuki* [2014] eKLR, which they relied on in support.

55. On the effect of Section 193 A of the Criminal Procedure Code, counsel sought to rely on the cases of *Republic v. Chief Magistrates Kilgoris, ex parte Johana Kipngeno Langat* [2021] and *Director of Public Prosecutions V Kuldip Madan & another* [2009] eKLR. It is argued that the investigations and intended prosecution of the petitioners is as a result of forgery of documents and their unjust enrichment through the illegal abuse of the 2<sup>nd</sup> and 3<sup>rd</sup> interested parties' property. They contend that

granting the reliefs sought would be against public interest. Either way they state that the petitioners are entitled to their constitutional rights hence their apprehension is uncalled for.

56. Finally it is submitted that grant of the orders sought would be in direct violation to Section 193A of the Criminal Procedure Code and their rights under the Victim Protections Act, 2015. Counsel contends that the mentioned statutes enjoy legitimacy and protection from the Constitution so granting them would be against public interest.

57. The 5<sup>th</sup> and 6<sup>th</sup> interested parties filed submissions dated 12<sup>th</sup> April 2021 through Anyango & Opiyo Advocates. Counsel submitted the issues for determination to be whether there is a bar and prohibition in law to instituting proceedings for matters in issue in any pending civil proceedings and whether under the doctrine of judicial restraint this court lacks jurisdiction to interfere with the powers of the 1<sup>st</sup> and 2<sup>nd</sup> respondents. He submitted that while the parties reiterated and aligned themselves with the dictates of Section 193A of the Criminal Procedure Code it is their position that the petitioners have not argued that the charges are not *coherent charges* as provided under sections 134 to 137 of the Criminal Procedure Code. As such the matter should be subjected to trial. Counsel in addition argues that the other courts in this matter are not the suitable forums considering the ingredients of the charges preferred against the petitioners.

58. It is his contention that it is a mockery of justice for the petitioners to seek prohibition orders. Counsel relied on the case of *William v. Spautz* [1992] 66 NWS LR 585 where it was held that:

*"The purpose of criminal proceedings generally speaking is to hear and determine finally whether the accused engaged in conduct which amounts to an offence and on that account is deserving of punishment."*

59. According to counsel grant of the orders sought is not merited as no evidence has been adduced to prove illegality, irrationality, and impropriety on the part of the 1<sup>st</sup> and 2<sup>nd</sup> respondents. To buttress this point reliance was placed on the case of *Kuria & 3 Others -V- Attorney General* [2002] 2KLR where it was held thus:

*"It is not enough to simply state that because there is an existence of a civil dispute or suit, the entire criminal proceedings commenced based on the same set of facts are an abuse of the court process. There is a need to show how the process of the court is being abused or misused and a need to indicate or show the basis upon which the rights of the applicant are under serious threat of being undermined by the criminal prosecution. In absence of concrete grounds for supposing that a criminal prosecution is an "abuse of process", is a "manipulation", "amounts to selective prosecution" or such other processes, or even supposing that the applicants might not get a fair trial as protected in the Constitution, it is not mechanical enough that the existence of a civil suit precludes the institution of criminal proceedings based on the same facts."*

60. Counsel submits that justice must be done to both the complainant and the accused and so where there is evidence upon which the 1<sup>st</sup> respondent can make the decision to charge, it is not for the court to inquire into the sufficiency of the evidence since it ought not to usurp the role of the trial court in determining the merits of the criminal case as esteemed in the Michael Monari case (*supra*) which they cited in support. As such it is submitted that a prohibition order in the circumstances of this case must be used sparingly and exceptionally as appreciated in the case of Goddy Mwakio & Another V R [2011] 2KLR. Counsel contends that the petitioners have not demonstrated any exceptional circumstances to merit grant of the prohibition orders.

61. It is counsel's submission that this court by virtue of Article 165 ought to exercise restraint on exercising jurisdiction over matters within the purview of the 1<sup>st</sup> and 2<sup>nd</sup> respondent as mandated by the Constitution. He argues that owing to the principle of separation of powers the court cannot usurp the power of the 1<sup>st</sup> and 2<sup>nd</sup> respondents by determining the issues raised in this petition. On that note it is submitted that the petitioners have not demonstrated that the 1<sup>st</sup> and 2<sup>nd</sup> respondents exercised their mandate outside the ambit of the law to warrant this court's intervention. He relied on the case of Justus Kariuki Mate and Another vs Martin Nyaga Wambora and Another [2017] eKLR, to support this argument.

62. The 10<sup>th</sup> interested party filed submissions and a list of authorities dated 28<sup>th</sup> September 2021 through Kipkenda & Co. Advocates opposing the amended petition. Counsel identified the issues for determination to be whether the 1<sup>st</sup> and 2<sup>nd</sup> respondents acted within their mandate and whether the concurrent civil and intended criminal proceedings were merited.

63. He reiterates the mandate of the 1<sup>st</sup> and 2<sup>nd</sup> respondents as established in the Constitution and the law. He contends while relying on the Michael Monari case (*supra*) that the 1<sup>st</sup> and 2<sup>nd</sup> respondents did not act in a manner to permit this court's intervention. Additionally he argues that while the 2<sup>nd</sup> respondent can recommend charges the 1<sup>st</sup> respondent is first required to review and weigh the evidence before making the decision to prosecute someone. To buttress this point he placed reliance on the case of Raymond Kipchirchir & another v. Republic [2021] eKLR where it was held that:

*"...In exercising this mandate the Director of Public Prosecutions (DPP) is required to review and determine the prosecutability of any matters forwarded for their actions...The decision must however be made judiciously in all cases."*

He further relied on the case of Douglas Maina Mwangi v. KRA & Another, Constitutional Petition No.528 of 2013.

64. Counsel echoes similar sentiments as those of the respondents with regards to Section 193A of the Criminal Procedure Act. He referred to the following cases:

(i) Commissioner of Police & Director of Criminal Investigation Department & another v Kenya Commercial Bank LTD(*supra*);

(ii) Republic v. Director of Public Prosecutions & 2 others ex parte Francis Njakwe Maina & another [2015] eKLR.

Hon.FML & 2 others v Director of Public Prosecutions & 3 others; Registrar of Companies & 10 others (Interested Parties) [2021] eKLR

65. Counsel further submits that it is the petitioners' burden to prove that the 1<sup>st</sup> and 2<sup>nd</sup> respondents' actions in the face of existing civil proceedings were erroneous and as a result an abuse of the court process. It is argued that the petitioners have failed to submit any evidence to support the claim that the proceedings were initiated with an ulterior motive, malice, intimidation, bias, double standards, improper influence and unfairness.

#### Analysis and Determination

66. I have duly considered the parties' pleadings, submissions, authorities cited and the law. It is my view that the issues that stand out for determination are as follows:

- i. *Whether civil and criminal proceedings can run concurrently;*
- ii. *Whether the 1<sup>st</sup> and 2<sup>nd</sup> respondents acted within their mandate considering the 1<sup>st</sup> issue;*
- iii. *Whether the petitioners' fundamental rights and freedoms were threatened or violated specifically under Articles 27, 28, 29, 38, 47 and 50 of the Constitution; and*
- iv. *Whether the petitioners are entitled to general, exemplary, and punitive damages.*

#### Issue No. (i) Whether civil and criminal proceedings can run concurrently

67. The respondents, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, and 10<sup>th</sup> interested parties in this matter have submitted that the law permits that both civil and criminal proceedings can run concurrently.

68. The law on this issue is provided under Section 193A of the Criminal Procedure Code Cap 75. This Section reads as follows: *Concurrent criminal and civil proceedings*

*Notwithstanding the provisions of any other written law, the fact that any matter in issue in any criminal proceedings is also directly or substantially in issue in any pending civil proceedings shall not be a ground for any stay, prohibition or delay of the criminal proceedings.*

69. The parties to buttress their arguments in this issue relied on a plethora of authorities that are well known and affirm the position as espoused under Section 193A of the Criminal Procedure Code. The authorities are namely: *Ashish Kampani v Director of Public Prosecution & 3 others [2016] eKLR*; *Republic v Director of Public Prosecutions & 2 others ex parte Joseph Gathuku Kamuiru & another [2014] eKLR*; *Republic v Director of Public Prosecutions & 3 others ex parte Bedan Mwangi Nduati & another [2015]*; *Republic v Commissioner of Police and Another ex parte Michael Monari & Another [2012] eKLR*; *Republic v. Chief Magistrates. Kilgoris: ex parte Johana Kipngeno Langat [2021]*; *Director of Public Prosecutions V Kuldip Madan & another [2009] eKLR*; *Kuria & 3 Others-V- Attorney General [2002] 2KLR*; *Commissioner of Police & Director of Criminal Investigation Department & another v Kenya Commercial Bank LTD [2013] eKLR* and *Republic v. Director of Public Prosecutions & 2 others ex parte Francis Njakwe Maina & another [2015] eKLR*.

SQ

70. This is the position correspondingly held in foreign jurisdictions. A case in point is that of the Supreme Court of India in P. Swaroopa Rani vs. M. Hari Narayana (AIR 2008 SC 1884). The Court while discussing this issue noted as follows:

*"13. It is, however, well-settled that in a given case, civil proceedings and criminal proceedings can proceed simultaneously. Whether civil proceedings or criminal proceedings shall be stayed depends upon the fact and circumstances of each case. [See M.S. Sheriff v. State of Madras AIR 1954 SC 397, Iqbal Singh Marwah v. Meenakshi Marwah (2005) 4 SCC 370 and Institute of Chartered Accountants of India v. Assn. of Chartered Certified Accountants (2005) 12 SCC 226]."*

71. I do not find it necessary to rehash the authorities which were ably cited by the parties save to say I find no distinguishing circumstance in this matter. This is the position in law. The obvious question to be determined next is whether the circumstances of this case bar this court from intervening or whether they necessitate this court's intervention.

**Issue No.(ii) Whether the 1<sup>st</sup> and 2<sup>nd</sup> Respondent acted within their mandate in light of the 1<sup>st</sup> issue**

72. Stemming from the first issue the petitioners state that although it is correct that civil and criminal proceedings can run concurrently, this court is permitted by virtue of Article 165(6) of the Constitution to exercise supervisory jurisdiction over the subordinate courts and over any person, body or authority exercising a judicial or quasi-judicial function.

73. The Director of Public Prosecutions derives his powers from Article 157(6) of the Constitution which is recapped in the Office of the Director of Public Prosecutions Act, 2013(ODPP Act) under Section 5. Article 157(6) provides:

*The Director of Public Prosecutions shall exercise State powers of prosecution and may--*

*a. institute and undertake criminal proceedings against any person before any court (other than a court martial) in respect of any offence alleged to have been committed;*

*b. take over and continue any criminal proceedings commenced in any court (other than a court martial) that have been instituted or undertaken by another person or authority, with the permission of the person or authority; and*

*c. subject to clause (7) and (8), discontinue at any stage before judgment is delivered any criminal proceedings instituted by the Director of Public Prosecutions or taken over by the Director of Public Prosecutions under paragraph (b).*

74. To exercise this power objectively and independently the 1<sup>st</sup> respondent is under sub - Article 10 granted the following scope which is also echoed in the ODPP Act under Section 5 It provides:

Hon.FML & 2 others v Director of Public Prosecutions & 3 others; Registrar of Companies & 10 others (Interested Parties) [2021] eKLR

*(10) The Director of Public Prosecutions shall not require the consent of any person or authority for the commencement of criminal proceedings and in the exercise of his or her powers or functions, shall not be under the direction or control of any person or authority.*

75. The 2<sup>nd</sup> respondent on the other hand obtains his power from Article 245 of the Constitution which establishes the National Police Service Act, 2011 (NPS Act) creates his office. To guarantee independence of this organ, Article 245(4) provides:

*The Cabinet secretary responsible for police services may lawfully give a direction to the Inspector-General with respect to any matter of policy for the National Police Service, but no person may give a direction to the Inspector-General with respect to--*

*a. the investigation of any particular offence or offences;*

*b. the enforcement of the law against any particular person or persons; or*

*c. ....*

76. Section 28 of the (NPS Act) establishes the office of the 2<sup>nd</sup> respondent as follows:

*There is established the Directorate of Criminal Investigations which shall be under the direction, command and control of the Inspector-General.*

77. The functions of the 2<sup>nd</sup> respondent are accordingly provided under Section 35 of the (NPS Act) as follows:

*a. collect and provide criminal intelligence;*

*b. undertake investigations on serious crimes including homicide, narcotic crimes, human trafficking, money laundering, terrorism, economic crimes, piracy, organized crime, and cyber crime among others;*

*c. maintain law and order;*

*d. detect and prevent crime;*

*e. apprehend offenders;*

*f. maintain criminal records;*

*g. conduct forensic analysis;*

*h. execute the directions given to the Inspector-General by the Director of Public Prosecutions pursuant to Article 157 (4) of the Constitution;*

*i. co-ordinate country Interpol Affairs;*

*j. investigate any matter that may be referred to it by the Independent Police Oversight Authority; and*

k. *perform any other function conferred on it by any other written law.*

78. It is certain from a reading of the Constitution and enabling statutes that both the 1<sup>st</sup> and 2<sup>nd</sup> respondents' mandate is grounded in the Constitution. Supplementary to this is their enjoyment of absolute independence as they carry out their role. This is a factor that has been appreciated by the courts, which as a result are generally reluctant to interfere with the stated mandate.

79. Lenaola J. (*as he then was*) in the widely cited case of Justus Mwenda Kathenge (*supra*) with regards to the constitutional mandate of the 1<sup>st</sup> respondent held at paragraph 8 of the determination as follows:

*"It is now trite that Courts cannot interfere with the exercise of the above mandate unless it can be shown that under Article 157(11):*

*(i) he has acted without due regard to public interest,*

*(ii) he has acted against the interests of the administration of justice,*

*(iii) he has not taken account of the need to prevent and avoid abuse of Court process.*

*These considerations are not new and have over time been taken as the only bar to the exercise of discretion on the part of the 1st Respondent. I say so taking into account the following decisions where the issue has been addressed;"*

80. Ogola J. in the case of Daniel Ogwoka Manduku (*supra*) as cited by the 3<sup>rd</sup> respondent appreciated the 2<sup>nd</sup> respondent's mandate while citing other authorities as seen below:

*"The powers of the police to investigate a crime cannot be challenged because the police is there principally to combat crime. It is therefore not possible to stop any criminal investigations unless the foundation of such investigations is malicious or is an abuse of power.*

51. Odunga J. in *Isaac Tumunu Njunge v Director of Public Prosecutions & 2 others* [2016] eKLR, said with regard to the power of the police to investigate:

*"42. It is however my view that the police are clearly mandated to investigate the commission of criminal offences and in so doing they have powers inter alia to take statements and conduct forensic investigations. In order for the applicant to succeed he must show that not only are the investigations which were being done by the police are being carried out with ulterior motives but that the predominant purpose of conducting the investigations is to achieve some collateral result not connected with the vindication of an alleged commission of a criminal offence. It must always be remembered that the motive of institution of the criminal proceedings is only relevant where the predominant purpose is to further some other ulterior purpose and as*

*long as the prosecution and those charged with the responsibility of making the decisions to charge act in a reasonable manner, the High Court would be reluctant to intervene."*

*In Pauline Adhiambo Raet v. DPP & 5 Ors., [2016] eKLR, a case where breach of right to equality was alleged to have been violated by investigations of an offence, Onguto J. held, and I agree, that-*

*"I have also been unable to see how in investigating an alleged criminal conduct or activity there could be discrimination or a practice of inequality before the law. The respondents are enjoined to investigate any allegations of criminal activity or conduct both by statute as well as by the Constitution. The investigations may take them to anyone including the petitioner. They could investigate on their own prompting or upon being prompted by any member of the public as did the interested party in this case. In so doing, it is a legal mandate they would be undertaking."*

81. From the foregoing it is clear that the courts will generally not interfere with the mandate of the 1<sup>st</sup> and 2<sup>nd</sup> respondents. However, where the circumstances of a case justify an intervention, the court will not hesitate to do so in the interest of justice. The Constitution itself anticipated these situations as can be seen under Article 165 (3)(d) (ii) of the Constitution, which states as follows:

*(d) jurisdiction to hear any question respecting the interpretation of this Constitution including the determination of-*

*(ii) the question whether anything said to be done under the authority of this Constitution or of any law is inconsistent with, or in contravention of, this Constitution.*

82. Further the 1<sup>st</sup> respondent while exercising his constitutional power is mandated under Article 157(11) of the Constitution to act as follows:

*In exercising the powers conferred by this Article, the Director of Public Prosecutions shall have regard to the public interest, the interests of the administration of justice and the need to prevent and avoid abuse.*

83. Likewise, Section 4 of the ODPP Act outlines the following as the 1<sup>st</sup> respondent's guiding principles:

- a. *The diversity of the people of Kenya;*
- b. *impartiality and gender equity;*
- c. *the rules of natural justice;*
- d. *promotion of public confidence in the integrity of the Office;*
- e. *the need to discharge the functions of the Office on behalf of the people of Kenya;*

- f. *the need to serve the cause of justice, prevent abuse of the legal process and public interest;*
- g. *protection of the sovereignty of the people;*
- h. *secure the observance of democratic values and principles; and*
- i. *promotion of constitutionalism.*

84. Odunga J. while discussing the delicate balance between instigation of criminal proceedings by the 1<sup>st</sup> respondent and this court's intervention in the case of Agnes Ngenesi Kinyua aka Agnes Kinywa v Director of Public Prosecution & another [2019] eKLR stated as follows:

*"42. It is bears repeating that in these types of proceedings the Court ought to be extremely cautious in its findings so as not to prejudice the intended or pending criminal proceedings. In a petition such as this the court ought not to transform itself into the trial court. In determining the issues raised herein the Court will therefore avoid the temptation to unnecessarily stray into the arena exclusively reserved for the criminal or trial Court.*

*43. The general rule in these kinds of proceedings is that the Court ought not to usurp the Constitutional mandate of the Director of Public Prosecutions to investigate and undertake prosecution in the exercise of the discretion conferred upon that office under Article 157 of the Constitution. Therefore, mere fact that the intended or ongoing criminal proceedings are in all likelihood bound to fail, is not, on its own and without more, a ground for halting such proceedings by way of judicial review since judicial review proceedings are not concerned with the merits but with the decision making process. An applicant who contends that he has a good defence in the criminal trial ought to be advised to raise the same in his defence before the criminal trial instead of invoking this Court's jurisdiction with a view to having this Court determine such an issue as long as the criminal process is being conducted bona fides and in a fair and lawful manner. However, if the applicant demonstrates that the criminal proceedings that the police intend to carry out constitute an abuse of process, the Court will not hesitate in putting a halt to such proceedings."*

85. The court went further to state that:

*"50. It is therefore clear that whereas the discretion given to the Respondents to prosecute criminal offences is not to be lightly interfered with, that discretion must be properly exercised and where the Court finds that the discretion is being abused or is being used to achieve some collateral purposes which are not geared towards the vindication of the commission of a criminal offence such as with a view to forcing a party to submit to a concession of a civil dispute, the Court will not hesitate to bring such proceedings to a halt. However, it must be emphasised that a constitutional petition challenging prosecution*

*does not deal with the merits of the case but only with the process. The Court in such proceedings is mainly concerned with the question of fairness to the petitioner in the institution and continuation of the criminal proceedings and once the Court is satisfied that the same are bona fides and that the same are being conducted in a fair manner, the High Court ought not to usurp the jurisdiction of the trial Court and trespass onto the arena of trial by determining the sufficiency or otherwise of the evidence to be presented against the applicant. Where, however, it is clear that there is no evidence at all or that the prosecution's evidence even if were to be correct would not disclose any offence known to law, to allow the criminal proceedings to continue would amount to the Court abetting abuse of the Court process by the prosecution."*

86. Perusal of the material presented before this Court is necessary to ascertain whether the 1<sup>st</sup> and 2<sup>nd</sup> respondents adhered to the dictates of the law. What is clear is that the petitioners case revolves around their complaint that the 3<sup>rd</sup> petitioner's particulars were fraudulently charged and soon thereafter learnt of the existence of Account no. xxxx held at the Gulf Bank Limited. They say this account was used to take out credit facilities by the alleged directors. On the other hand, the 2<sup>nd</sup> interested party's criminal claim constituted the fraudulent use of its titles of land as security for credit facilities advanced by the Family Bank to the 3<sup>rd</sup> petitioner and the credit facility advanced to the 3<sup>rd</sup> petitioner by Gulf African Bank. The 1<sup>st</sup> respondent in their communication to the 2<sup>nd</sup> interested party's advocate did indeed acknowledge that the two matters were different and could not be merged.

87. What emerges from the petitioners documents in support is that first, the parties relationship was contractual in nature based on their commercial relations with each other which was well noted by Okwany J in her determination in *Barons Estate Limited v Atticon Limited & 5 others* [2019] eKLR and *Barons Estate Limited v Atticon Limited & 5 others* [2020] eKLR which is a public document for this Court's reference. Okwany J notes in both rulings under paragraph 10 and 39 of the rulings that the supposed titles were given voluntarily. This was affirmed by the 2<sup>nd</sup> interested party's letter dated 2<sup>nd</sup> October 2018 to the 9<sup>th</sup> interested party that indicated they had pledged their land and surrendered its titles.

88. As has been found severally, this court cannot ascertain the veracity of the claims of the parties in this matter as this is the preserve of the trial court. What however this court takes note of is the material placed before it. The preceding account reveals pertinent information concerning this case which as it was well within the knowledge of the 1<sup>st</sup> and 2<sup>nd</sup> respondents.

89. It's against this backdrop that I question whether the 1<sup>st</sup> and 2<sup>nd</sup> respondents actions were founded in good faith taking into consideration the prerequisites of Article 157(11) of the Constitution and Section 4 of the ODPP Act. Lenaola J in the case of *Justus Mwenda Kathenge (supra)* after summarizing a plethora of cases speaking to this topic came to the following conclusion:

*"The reasoning in all the above cases would lead to only one conclusion; whereas the DPP has the ultimate discretion in determining which complaint should lead to a criminal prosecution, where that power is seen to have been manifestly abused, the High Court can intervene by powers conferred by Articles 165(3)(d)(ii) of the Constitution and stop that abuse, including where the Court system is being used to settle scores and to put an accused person to great expense in a case which is clearly not otherwise prosecutable."*

90. The Court of Appeal in the case of Commissioner of Police & The Director of Criminal Investigation Department & another v Kenya Commercial Bank Limited (*Supra*) while upholding the High Court's decision pronounced as follows:

*"...in exercising powers donated by the law, including the power to direct the Inspector General to investigate an allegation of criminal conduct, the DPP is enjoined, among other considerations, to have regard to the need to prevent and avoid abuse of the legal process. The court on the other hand is required to oversee that the DPP and the Inspector General undertake these functions in accordance and compliance with the law. If it comes to the attention of the court that there has been a serious abuse of power, it should, in our view, express its disapproval by stopping it, in order to secure the ends of justice, and restrain above of power that may lead to harassment or persecution. See Githunguri V. Republic [1985] LLR 3090.*

*It has further been held that an oppressive or vexatious investigation is contrary to public policy and that the police in conducting criminal investigations are bound by the law and the decision to investigate a crime (or prosecute in the case of the DPP) must not be unreasonable or made in bad faith, or intended to achieve ulterior motive or used as a tool for personal score-settling or vilification. The court has inherent power to interfere with such investigation or prosecution process. See Ndarua V. R. [2002] 1EA 205. See also Kuria & 3 Others V. Attorney General [2002] 2KLR 69.*

91. The Court went ahead to express itself as follows:

*"While the law (Section 193A of the Criminal Procedure Code) allows the concurrent litigation of civil and criminal proceedings arising from the same issues, and while it is the prerogative of the police to investigate crime, we reiterate that that power must be exercised responsibly, in accordance with the laws of the land and in good faith...It is not in the public interest or in the interest of the administration of justice to use criminal justice process as a pawn in civil disputes. It is unconscionable and a travesty of justice for the police to be involved in the settlement of what is purely a civil dispute being litigated in court...."*

(iii) Whether the Petitioners' fundamental rights and freedoms were threatened or violated specifically under Articles 27, 28, 29, 38, 47 and 50 of the Constitution

92. From the above analysis it is clear that the petitioner, 4<sup>th</sup> respondent, 2<sup>nd</sup> - 4<sup>th</sup> interested parties raised complaints with the 2<sup>nd</sup> respondent. The same needed to be investigated by the 2<sup>nd</sup> respondent and a decision made by the 1<sup>st</sup> respondent on whether to charge anyone or not. The 1<sup>st</sup> and 2<sup>nd</sup> respondents are under no obligation to disclose every step taken in the investigation to the complainants or this court. Any challenges and/or shortfalls should be raised with the trial court. On the other hand the 2<sup>nd</sup> respondent has a duty to properly investigate the complaints raised by the petitioners, and balance the evidence against that which they have in respect of the complaints by the other parties. Thereafter they can decide on the way forward on the advice of the 1<sup>st</sup> respondent.

93. I base this opinion on the fact that there are already numerous cases of a civil nature between the parties, stemming from family and contractual relationships. The court has however not been presented with sufficient material to make it stop the investigations and/or the arrest or charging of any party. To do so would be to usurp the powers of the 2<sup>nd</sup> respondent.

94. It is the petitioners contention that the 1<sup>st</sup> and 2<sup>nd</sup> respondents intended arrest and prosecution with relation to the ongoing civil, commercial and family suits is a contravention of their rights as provided under Articles 27, 28, 29, 38, 47 and 50 of the Constitution. The respondents on the other hand in their grounds of opposition assert that the process of arrest and prosecution are processes provided by law and in essence do not take away the petitioners rights under Articles 22, 49 and 50 of the Constitution. Secondly, they contend that the petitioners have failed to satisfy the threshold set out in the case of Anarita Karimi Njeru v Republic (1979). This is because they have merely stated their rights failing to demonstrate how each of the specific rights have been or will be infringed upon if the criminal proceedings proceed. It is accordingly argued that their case fails the ripeness test.

95. To satisfy the threshold set out in Anarita Karimi's case as submitted by the respondents, the petitioners are required to detail the facts that led up to the violation of the mentioned rights. For the claim of the right to fair hearing, they should show that the dispute was not resolved by the application of the law, and neither was it decided in a fair and public hearing before a court or impartial tribunal. If it is discrimination to show that their treatment in the process was not equal to what persons in a similar position receive. If it is human dignity to show for instance degrading treatment. If it is the right to fair administrative action they should show they were not accorded an opportunity to be heard, nor given reasons for actions taken out against them that would have adverse effects on them.

Article 27 of the Constitution on equality and freedom from discrimination provides that:

1. *Every person is equal before the law and has the right to equal protection and equal benefit of the law.*

2. *Equality includes the full and equal enjoyment of all rights and fundamental freedoms.*

(3).....

96. In the case of *John Harun Mwau v Independent Electoral And Boundaries Commission & another* [2013] eKLR the scope of this right was expounded upon as follows at paragraph 33:

*"...It must be clear that a person alleging a violation of Article 27 of the Constitution must establish that because of the distinction made between the claimant and others, the claimant has been denied equal protection or benefit of the law. It does not necessarily mean that different treatment or inequality will per se amount to discrimination and a violation of Article 27 of the Constitution. It is my view that the regulation is justified and reasonable. I am therefore in agreement with the sentiments of Khanna J in the case of State of Kesata & Anor v N. M. Thomas & others 1976 AIR 490, 1976 SCR(17906 where he stated as follows;*

*"The principle of equality does not mean that every Law must have universal application for all persons who are not by nature, attainment or circumstances in the same position and the varying needs of different classes of persons require special treatment. The Legislature understands and appreciates the need of its own people, that its Laws are directed to problems made manifest by experience and that its discriminations are based upon adequate grounds. The rule of classification is not a natural and logical corollary of the rule of equality, but the rule of differentiation is inherent in the concept of equality. Equality means parity of treatment under parity of conditions. Equality does not connote absolute equality. A classification in order to be constitutional must rest upon distinctions that are substantial and not merely illusory. The test is whether it has a reasonable basis free from artificiality and arbitrariness embracing all and omitting none naturally falling into that category."*

97. The next right on dignity which is found in Article 28 of the Constitution provides that:

*Every person has inherent dignity and the right to have that dignity respected and protected.*

This right was well pronounced and analyzed in the case of *Mutuku Ndambuki Matingi v Rafiki Microfinance Bank Limited* [2021] eKLR where various opines were expressed as follows:

*"50. As regards the right to dignity, in Ahmed Issack Hassan' vs. Auditor General [2015] the Court held that:*

*"...the right to human dignity is the foundation of all other rights and together with the right to life, forms the basis for the enjoyment of all*

*other rights...put differently thereof, if a person enjoys the other rights in the Bill of rights, the right to human dignity will automatically be promoted and protected and it will be violated if the other rights are violated". See Francis Coralie Mullin v Administrator, Union Territory of Delhi (1981) SCR (2) 516.*

98. The court proceeded to state at paragraph 54 that:

*"In Kennedy vs. Ireland [1987] IR 587 as cited in Coalition for Reform and Democracy (CORD) & 2 Others vs. Republic & 10 Others [205] KLR it was held that:*

*"The dignity and freedom of an individual in a democratic society cannot be ensured if his communication of a private nature, be they written or telephonic, are deliberately, consciously and unjustifiably intruded upon and interfered with."*

99. The next right in issue is the right to freedom and security in person under Article 29 of the Constitution, which states that :

*Every person has the right to freedom and security of the person, which includes the right not to be--*

*a. deprived of freedom arbitrarily or without just cause;*

*b. detained without trial, except during a state of emergency, in which case the detention is subject to Article 58;*

*c. subjected to any form of violence from either public or private sources;*

*d. subjected to torture in any manner, whether physical or psychological;*

*e. subjected to corporal punishment; or*

*f. treated or punished in a cruel, inhuman or degrading manner.*

100. Mativo J. in the case of M W K v another v Attorney General & 3 others [2017] eKLR underscored the weight of this right as follow:

*"51. So important is the right not to be subjected to cruel, inhuman or degrading treatment or punishment that under Article 25 of the Constitution, it is one of the Rights that may not be limited."*

101. In addressing the issue of political rights under Article 38 of the Constitution, the relevant sub-article for purposes of the present matter is as follows:

*1. Every citizen is free to make political choices, which includes the right--*

*a. to form, or participate in forming, a political party;*

*b. to participate in the activities of, or recruit members for, a political party; or*

*c. to campaign for a political party or cause.*

102. With reference to Articles 27, 28, 29 and 38 of the Constitution, the petitioners in their pleadings have not in any way demonstrated precisely how these rights have been infringed. The rights are stated without any material to support their existence. This is because the facts relied upon do not bear nor satisfy the elements alluded to in these Articles. There is no evidence of malice, unlawful actions, want of authority, harassment or intimidation by the 1<sup>st</sup> and 2<sup>nd</sup> respondents. There is also no evidence of manipulation by the 4<sup>th</sup> respondent, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> interested parties. Moreover, there is no evidence of influence of his political stand used against the 1<sup>st</sup> petitioner.

103. This as a consequence renders their arguments of violations of these rights unsustainable. Furthermore, their argument fails the threshold set out for constitutional petitions. Regarding this matter, I associate myself with the insight provided by Lenaola J (as he then was) in the case of *Eliud Nyauma Omwoyo & 2 others v Kenyatta University* [2014] eKLR at paragraph 50 where he cited several authorities with approval:

*"...in Mathew Okwanda v Minister of Health and Medical Services and 3 Others Pet No. 94 of 2012 Majanja J in agreement with the decision in Anarita Karimi Njeru v Attorney General 19790 KLR 154 stated;*

*"The fact that the case was one that involved enforcement of economic and social rights did not however relieve the petitioner of the responsibility to plead a case that disclosed a violation of fundamental rights and freedoms with due particularity, as in such matters a petitioner had to plead with particularity that of which he complained, the provision said to be infringed and the manner in which the particular right was violated."*

*In Trusted Society of Human Rights Alliance v Attorney General and Others Pet No. 229 of 2012 (unreported) the Court noted that;*

*"It was not necessary to set out the violations with mathematical precision but in a manner that will enable the respondent have notice of the allegations and defend himself or herself and to enable the court adjudicate the violation."*

*In Daniel Chacha Muriri v Attorney General Petition No.41 of 2011 eKLR the Court stated;*

*"Availability of other available avenues for redress of grievances does not however prevent the petitioner from approaching this court alleging breach of his fundamental right and freedom. Such claim must however be precisely stated and the particular provision infringed to enable this court, sitting as a constitutional court to address the grievances and frame appropriate reliefs."*

104. Moving over to the other rights, the petitioners claim that their rights under Articles 47 and 50 of the Constitution were violated. Article 47 of the Constitution of Kenya provides as follows:

*a. Every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.*

*b. If a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action.*

105. Further under the Fair Administrative Actions Act, No. 4 of 2015 which gives effect to this Article provides redress to aggrieved parties as follows:

*Section 7*

*(1) Any person who is aggrieved by an administrative action or decision may apply for review of the administrative action or decision to—*

*a. a court in accordance with section 8; or*

*b. a tribunal in exercise of its jurisdiction conferred in that regard under any written law.*

Section 7(2) sets out the grounds under which an administrative action may be reviewed.

106. The prominence of fair administrative action as a constitutional right was appreciated in the South African case of *President of the Republic of South Africa and Others vs. South African Rugby Football Union and others* (CCT16/98) 2000 (1) SA 1 at paragraphs 135 -136 where it was held as follows:

*"Although the right to just administrative action was entrenched in our Constitution in recognition of the importance of the common law governing administrative review, it is not correct to see section 33 as a mere codification of common law principles. The right to just administrative action is now entrenched as a constitutional control over the exercise of power. Principles previously established by the common law will be important though not necessarily decisive, in determining not only the scope of section 33, but also its content. The principal function of section 33 is to regulate conduct of the public administration, and, in particular, to ensure that where action taken by the administration affects or threatens individuals, the procedures followed comply with the constitutional standards of administrative justice. These standards will, of course, be informed by the common law principles developed over decades..."*

107. Closely related although different to the right to fair administrative action is the right to fair hearing as set out under Article 50(1) of the Constitution. This Article provides that:

*Every person has the right to have any dispute that can be resolved by the application of law decided in a fair and public hearing before a court or, if appropriate, another independent and impartial tribunal or body.*

TF

108. The Court of Appeal in the case of Mbalu Mutava (*supra*) discussing and differentiating the two principles opined as follows:

*"22. ...Although on the surface, the three principles appear to refer to the same thing, on deeper examination they are of different legal character and their application may not be necessarily the same. Without attempting to lay an exhaustive distinction, the right to fair administrative action under article 47 is a distinct right from the right to fair hearing under article 50(1). Fair administrative action on the other hand refers broadly to administrative justice in public administration. It is concerned mainly with control of the exercise of administrative powers by state organs and statutory bodies in the execution of constitutional duties and statutory duties guided by constitutional principles and policy considerations. The right to fair administrative action, though a fundamental right, is contextual and flexible in its application and as article 24(1) provides, can be limited by law. "Fair hearing" in article 50(1) as the text stipulates applies where any dispute can be resolved by the application of the law and applies to proceedings before a court or, if appropriate, another independent and impartial tribunal or body.*

*It is clear that fair hearing as employed in article 50(1) is a term of art which exclusively applies to trial or inquiries in judicial proceedings where a final decision is to be made through the application of law to facts. By article 25 that right cannot be limited by law or otherwise."*

109. Guided by the law and cited authorities, I note from the petitioners pleadings and the annexures that they notified the 1<sup>st</sup> interested party of the change of particulars of the 3<sup>rd</sup> petitioner in a letter dated 18<sup>th</sup> October 2018. The 1<sup>st</sup> interested party acted on the complaint. They went ahead to lodge a complaint with the 2<sup>nd</sup> respondent on the alleged fraudulent change and the account held at Gulf Bank Limited on its behalf in a letter dated 23<sup>rd</sup> May 2019. The 1<sup>st</sup> respondent responding to the 4<sup>th</sup> respondent's, 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> interested parties' advocates communication to the 2<sup>nd</sup> interested party, notified them in a letter dated 13<sup>th</sup> February 2020 that the complaints were separate and distinct.

110. The petitioners advocates in their further communication to the 2<sup>nd</sup> respondent dated 27<sup>th</sup> July 2020 listed the facts revolving around the case. The record does not reflect any response from the 1<sup>st</sup> or 2<sup>nd</sup> respondent. The petitioners advocates in their letter dated 25<sup>th</sup> February 2021 addressed to the 2<sup>nd</sup> respondent highlighted the petitioners grievance that their complaint had not been actioned. Moreover, their light of the turn of events in the matter. No evidence was adduced by the 1<sup>st</sup> and 2<sup>nd</sup> respondents to the contrary.

111. From the foregoing discussion it is clear that there is an unresolved issue bothering the petitioners. It is however not this court's duty to determine whether the petitioners are guilty or not as already emphasized. This mandate belongs to the trial court as presented by the 1<sup>st</sup> respondent. It is however, the duty of this court to determine whether the 1<sup>st</sup> and 2<sup>nd</sup> respondents employed the laid down constitutional

Hon.FML & 2 others v Director of Public Prosecutions & 3 others; Registrar of Companies & 10 others (Interested Parties) [2021] eKLR

principles and values as is necessary when carrying out their mandate. The 1<sup>st</sup> and 2<sup>nd</sup> respondents as espoused in the first issue turned a blind eye to relevant facts which is one of the elements that should be considered if the right to fair administrative action is to be intact.

112. The result of this oversight would reasonably in turn affect and threaten the right to a fair trial as would be premised on inopportune facts. The respondents moreover overlooked the petitioners concerns through their various communication even in light of the fact that their decision would have adverse effects on the petitioners. In addition to this the 2<sup>nd</sup> respondent failed to respond to the petitioners communication as per the court record.

113. It is appreciated that the mandate of the 1<sup>st</sup> and 2<sup>nd</sup> respondents is empowered by the Constitution and this court would be quite hesitant to interfere. This however can only occur where there was no violation of fundamental rights and freedoms as safeguarded by the Constitution. I find that the 2<sup>nd</sup> respondent ought to have fully investigated the petitioners' complaint before even considering charging them. There was therefore a violation of the petitioners' rights to fair administrative action.

**Issue No. iv. Whether the petitioners are entitled to general, exemplary, and punitive damages**

114. Among the reliefs sought the petitioners pray that they be awarded general, punitive, and exemplary damages. Are they entitled to these damages"

The Court of Appeal while addressing the question of damages in the case of Gitobu Imanvara & 2 others v Attorney General [2016] eKLR pronounced as follows:

*"...the South African Case of Dendy v University of Witwatersrand, Johannesburg & Others - [2006] 1 LRC 291 where the Constitutional Court of South Africa held that:*

*"...The primary purpose of a constitutional remedy was to vindicate guaranteed rights and prevent or deter future infringements. In this context an award of damages was a secondary remedy to be made in only the most appropriate cases.*

*"...The primary object of constitutional relief was not compensatory but to vindicate the fundamental rights infringement and to deter their future infringement. The test was not what would alleviate the hurt which plaintiff contended for but what was appropriate relief required to protect the rights that had been infringed. Public policy considerations also played a significant role. It was not only the plaintiff's interest, but the interests of society as a whole that ought as far as possible to be served when considering an appropriate remedy.".....The Supreme Court of Canada established a consideration on when a remedy in a Constitutional violation case is "just and appropriate" in Doucet-Boudreau v. Nova Scotia (Minister of Education), 2003 SCC 62 to include, a remedy that will:*

*i. Meaningfully vindicate the rights and freedoms of the claimants;*

ii. *employ means that are legitimate within the framework of our constitutional democracy;*

iii. *be a judicial remedy which vindicates the right while invoking the function and powers of a court; and*

iv. *be fair to the party against whom the order is made.*

*Consistent with the above judicial experience and philosophy, it seems to us that the award of damages for constitutional violations of an individual's right by state or the government are reliefs under public law remedies within the discretion of a trial court, however, the court's discretion for award of damages in Constitutional violation cases though is limited by what is "appropriate and just" according to the facts and circumstances of a particular case. As stated above the primary purpose of a constitutional remedy is not compensatory or punitive but is to vindicate the rights violated and to prevent or deter any future infringements. The appropriate determination is an exercise in rationality and proportionality. In some cases, a declaration only will be appropriate to meet the justice of the case, being itself a powerful statement which can go a long way in effecting reparation of the breach, if not doing so altogether. In others, an award of reasonable damages may be called for in addition to the declaration. Public policy considerations is also important because it is not only the petitioner's interest, but the interests of society as a whole that ought as far as possible to be served when considering an appropriate remedy."*

115. Similarly, the court in the case of Irene Donna Shamala v NIC Bank Limited [2021] eKLR opined as follows:

*"56....In awarding general damages, the Court is required to provide a justification for the figure arrived at. Support for this statement is found in the decision of Peter Mauki Kaijenja & 9 others v Chief of the Defence Forces & another [2019] eKLR where it was held that:*

*"96. Award of damages entails exercise of judicial discretion, which should be exercised judicially. The discretion must be exercised upon reason and principle and not upon caprice or personal opinion. The jurisprudence that has emerged in cases of violation of fundamental rights has cleared the doubts about the nature and scope of this public law remedy evolved by the Courts. The following principles clearly emerge from decided cases;*

i. *Monetary compensation for violation of fundamental rights is now an acknowledged remedy in public law for enforcement and protection of fundamental rights;*

ii. *Such claim is distinct from, and in addition to remedy in private law for damages for tort;*

*iii. This remedy would be available when it is the only practicable mode of redress available;*

*iv. Against claim for compensation for violation of a fundamental right under the constitution, the defence of Sovereign immunity would be inapplicable.*

116. I am guided by the above decisions and see no reason to depart from them. I am of the view that an award of general damages is not merited in light of the foregoing analysis and circumstances of this case. What is apparent from the material placed before this court is that this suit's intention is geared towards ensuring that the 1<sup>st</sup> and 2<sup>nd</sup> respondents are estopped from violating the petitioners' rights which they have partially succeeded in. They have however failed to justify why they should be granted these damages.

117. As to punitive and exemplary damages, it is important to state that these are damages which are normally awarded where the respondents' conduct aggravated the violation of the petitioner's rights. They are normally awarded to punish the respondent, primarily where the conduct was motivated by malice. I find that in the instant case the respondents actions did not amount to such as no evidence was adduced as earlier stated to prove this exacerbation.

118. In the circumstances of this case, I am guided by the decision of the Court of Appeal in the case of *Bank of Baroda (Kenya) Limited v Timwood Products Ltd [2008]* eKLR which sets out the principles for awarding exemplary damages as follows:

*"...in Kenya such damages are awardable only under two circumstances, namely:-*

*"(i) where there is oppressive, arbitrary or unconstitutional action by the servants of the government; and*

*(ii) where the defendant's action was calculated to procure him some benefit, not necessarily financial, at the expense of the plaintiff - see OBONGO & ANOTHER V. MUNICIPAL COUNCIL OF KISUMU [1971] EA 91 which approved and applied the principles of the English case of ROOKES V. BANARD & OTHERS [1964] AC 1129."*

Also see *Abdulhamid Ebrahim Ahmed Vs. Municipal Council of Mombasa [2004]* eKLR.

119. Having found that the 2<sup>nd</sup> respondent did not fully act or investigate the petitioners' complaint lodged with him, I direct him to act on the same and forward his findings to the 1<sup>st</sup> respondent within 90 days. During the 90 days the 1<sup>st</sup> and 2<sup>nd</sup> respondents shall not charge or arrest the petitioners. Save for the above, I find no merit in the petition which I hereby dismiss with costs.

Orders accordingly.

DELIVERED ONLINE, SIGNED AND DATED THIS 30TH DAY OF NOVEMBER, 2021 IN OPEN COURT AT MILIMANI NAIROBI.

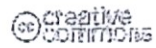
H. I. ONG'UDI

Full text at: <https://www.eKLR.org>

75

Hon.FML & 2 others v Director of Public Prosecutions & 3 others; Registrar of Companies & 10 others  
(Interested Parties) [2021] eKLR

JUDGE OF THE HIGH COURT



While the design, structure and metadata of the Case Search database are licensed by [Kenya Law](#) under a [Creative Commons Attribution-ShareAlike 4.0 International](#), the texts of the judicial opinions contained in it are in the [public domain](#) and are free from any copyright restrictions. Read our [Privacy Policy](#) | [Disclaimer](#)

1. The annual consumption of fertilizers is as follows

Response :

The total projected fertilizer require ment for 2023/24 short rains and long rains crop season as estimated by Ministry of Agriculture and livestock Development (MOALD) for 2023/2024 crop seasons is 12,308,908 bags (50kg). Distribution for different value chains is as tabulated below;

Value chain	Long rains	Short rains	Total
Maize	4,417,329.04	3,398,997.17	7,816,326.21
Beans	919,726.12	530,738.00	1,450,464.12
Potatoes	749,988.64	321,038.65	1,071,027.29
Wheat	191,964.88	80,760.58	272,725.46
Rice	79,960.00	38,347.73	118,307.73
Sunflower	15,000	6,675.54	21,675.54
Cotton	40,558.32	18,289.51	58,847.83
Tea	317,498.12	215,613.20	533,111.32
Sugarcane	108,421.16	95,235.73	204,656.89
Coffee	258,997.04	51,924.96	320,922.00
Tomatoes	43,002.80	31,549.94	74,552.74
Kales	63,119.92	35,805.60	98,925.52
Cabbages	78,570.80	36,624.17	115,194.97
Sorghum	275,399.37	70,761.58	346,160.94
<b>Total</b>	<b>7,569,536.21</b>	<b>4,533,462.35</b>	<b>12,103,098.56</b>

1. The amount of subsidized fertilizer (in kg) distributed in the FY 2021/22, FY 2022/23, and FY 2023/24. Provide data on the amount of fertilizers distributed in each county.

**Response**

The quantities of subsidized fertilizers distributed during the 2021/22FY, 2022/23FY and 2023/24FY is summarized in the table below. However, it is worth noting that distribution for 2023/24 long rains crop season is still ongoing. As at 14<sup>th</sup> March 2024, a total of 1,140,786 bags of fertilizer had been distributed for the long rain season planting.

No.	Financial Year	Short Rains period	Long Rains Period	Total
1	FY 2021/22	-	235,733	235,733
2	FY 2022/23	948,160	3,950,950	4,899,110
3	FY 2023/24	2,445,697	1,140,786	3,586,483
	<b>TOTAL</b>	<b>3,393,857</b>	<b>5,327,469</b>	<b>8,721,326</b>

Distribution plan for Counties is guided by national acreage and annual budget per county and the value chain as estimated by MOALD. Data for distribution per County is summarized in **annex 1 (a) to (d)**.

3. List of suppliers of the fertilizers, how the suppliers were identified, the quantity supplied by each supplier and the warehouses or stores where the fertilizers were supplied since the beginning of the program.

**Response**

List of suppliers awarded to supply subsidized fertilizer in FY 2021 - 2022

No.	Names of the bidders contracted	How suppliers were identified
1.	Mems Distributors Ltd	Open Tender method
2.	Yara E.A Ltd	Open Tender method
3.	MEA Limited	Open Tender method
4.	Unifert Kenya Ltd	Open Tender method
5.	Fertiplant East Africa Ltd	Open Tender method
6.	Export Trading Company Inputs Kenya Ltd	Open Tender method
7.	Minjingu mines & Fertilizer Ltd	Open Tender method
8.	CFAO Agri Ltd	Open Tender method
9.	Maisha Mineral & Fertilizers Ltd	Open Tender method
10.	Kaptuei Meadows Ltd	Open Tender method
11.	Chiromo Fertilizer Ltd	Open Tender method

All the supplier were awarded to supply fertilizer on consignment basis.

50

List of suppliers awarded to supply subsidized fertilizer in FY 2022 - 2023

No	Names of the bidders contracted	How suppliers were identified
1.	Export Trading Company Inputs (K) Ltd	Open Tender method
2.	Elgon Kenya	Open Tender method
3.	Chiromo Fertilizer Ltd	Open Tender method
4.	Yara East Africa Ltd	Open Tender method
5.	OCP Kenya	Open Tender method
6.	Mems Distributors	Open Tender method
7.	Maisha Minerals & Fertilizer Ltd	Open Tender method
8.	Unifert Kenya	Open Tender method
9.	Eldoret Agricultural	Open Tender method
10.	Kapenguria Mifugo	Open Tender method
11.	First Quality Services Ltd	Open Tender method
12.	Chiromo Fertilizer	Open Tender method

All the supplier were awarded to supply fertilizer on consignment basis.

List of suppliers awarded and supplied subsidized fertilizer in FY 2023 - 2024

No.	Names of the bidders contracted	How suppliers were identified
1.	SLDR International	Open Tender method
2.	Export Trading Company Input (K) Ltd	Open Tender method
3.	Merns Distributors Ltd	Open Tender method
4.	Itracom Fomi Ltd	Open Tender method
5.	Elgon Kenya Ltd	Open Tender method
6.	Minjingu Mines & Fertilizer (K) Ltd	Open Tender method
7.	Kel Chemicals Ltd	Open Tender method
8.	Chiromo Fertilizer Ltd	Open Tender method
9.	Yara East Africa Ltd	Open Tender method
10.	OCP International Ltd	Open Tender method

All the supplier above except SLDR International were awarded to supply fertilizer on consignment basis.

Procurement of fertilizer for the 2022/2023 long rains season and 2023/2024 short rains season was done by the Kenya National Trading Corporation (KNTC).

Detailed of the quantities per supplier are captured in annex 2 (a), 2 (b) and 2 (c).

a. The total payments made to the suppliers as a subsidy component for the respective financial years.

### Response

The total payment made to suppliers as a subsidy component for the FYs 2021/22, 2022/23 and 2023/24 is Kshs.8, 977,943,899 capture as annexes 3 (a) to (d).

### Summary payment to suppliers

	Period / Season	Amount Paid (Kshs.)
1	Long Rains season 2021/2022 FY	1,053,450,775
2	Short Rains 2022/2023	2,545,065,200
3	Short Rains 2023/2024	4,161,593,087
4	Long Rains Season 2023/2024 as at 14/3/2024 (on going)	1,217,834,837
	<b>Total Subsidy Paid</b>	<b>8,977,943,899</b>

Payment of subsidy component for 2022 / 2023 long rains season was processed by KNTC.

54

The NCPB through an advertisement Tender No. NCPB/REG-UP/27/2021 - 2022 (29) requested for registration of suppliers for supply and delivery of different types of fertilizers for 2022-2023 FY. The said procurement process followed due procedure and culminated in an agency contract between NCPB and St. Capital (k) limited dated 31<sup>st</sup> March, 2022. The nature of the agreement is such that St. Capital (k) limited as the principal was desirous of selling a variety of products among them GPC Soil Conditioner and NCPB acting as the Agent was to provide an outlet through its designated depots for sale of the products on agency basis. As part of the agency contract, the principal was to satisfy the Agent that the products delivered to its depots

The Soil Conditioner supplied by St. Capital (k) limited was NOT distributed under the GOK subsidy program. The fact is that, NCPB engages in business partnerships with interested parties that provide farm inputs and other supplies on agency basis in food production and associated value chains in an effort to boost food security. Through this arrangement, NCPB has partnered with organizations that supply products like fertilizers, lime, bio fertilizers and certified seeds. This is in line within NCPB's mandate on food security.

Response:-

NCPB has been responsible for procurement and distribution of fertilizer under the subsidy programme. However NCPB does not have data for annual fertilizer production by SBL Innovate. The annual fertilizer production by SBL Innovate, the amount of channels, supply by regions.

shall meet quality standards as required by Kenya Bureau of Standards (KEBS) and other regulatory bodies.

51 Capital (k) limited provided requisite documentation to facilitate the engagement. The documents included standardization mark issued by KEBS, Quality Analysis report from KEBS, certificate of incorporation and PIN (Annex 4). The said certificate and standardization mark at the time of contracting the service of 51 Capital (K) was valid. It is after this review that NCPB signed Agency Agreement with 51 Capital, Africa Diatomite Industries on 31/03/2022 for supply and distribution of the GPC Diatomaceous on the understanding that the product is pure organic and sold as soil conditioner (Annex 4).

In conclusion, We wish to clarify on the expose aired by Africa Uncensored titled 'Fertile Deception' on 10<sup>th</sup> March, 2024 vide various social media platforms as well as NTV Kenya as follows;

- i. NCPB signed Agency Agreement with 51 Capital, Africa Diatomite Industries on 31/03/2022 for supply and distribution of the GPC Diatomaceous for its commercial function. During the period when the contract was signed, NCPB was not involved in any way in listing suppliers for the government subsidy fertilizer program.
- ii. The product supplied by 51 Capital (k) limited has never been part of GOK Fertilizer Subsidy Program. There is no money paid to 51 Capital (k) limited as subsidy component.
- iii. The product supplied by 51 Capital (k) limited was not sold as chemical fertilizer but as soil conditioner.
- iv. The Board had not received any formal complaints, guidance or instructions from relevant government agencies that check on

product quality assurance and conformity to show the product did not meet required quality specifications.

- v. African Uncensored requested NCPB management vide email dated 12<sup>th</sup> January 2024 to give response to a set of questions. The questions were on the relationship between NCPB and 51 Capital (k) limited, the measures NCPB employs to ensure that farmers receive quality fertilizer that is beneficial to their crops and what mechanism were put in place to ascertain the source of the product and its quality. The Board responded vide email on 19<sup>th</sup> January 2024 reiterating the Agency Contract and stated 51 Capital Limited did not take part in the GOK subsidy Program. NCPB further stated that it relies on other state agencies mandated to determine as well as verify standards of quality of goods and services. The Board also requested for audience so as to clarify on areas of falsehoods/misrepresentation however the request was not honored by the media house leading to publishing a lopsided document.
- vi. On 8<sup>th</sup> March 2024, a court order appended as Annex 4 (c) was issued restraining African Uncensored from publishing the alleged document about SBL Innovate Manufacturer limited business on internet, any print media, facebook, you tube, twitter or any other social media platform. The court order was disobeyed.
- vii. NCPB confirms that having received official communication vide letter reference KEBS/SRR/QAS/2/GEN dated 8<sup>th</sup> March 2024, (Annex 4 (b)) indicating that samples tested against the Kenyan Standard KS 2290:2012B Organic fertilizer failed to comply with requirement, mixed very slightly and on 9<sup>th</sup> March, 2024 all stocks

within the network were isolated as non-conforming products and stopped transactions on the product. Following this guidance, selling was inactivated. NCPB will fully cooperate with KEBS on the product recall and safe disposal.

6. The number of farmers that were supplied with the fertilizers and the specific locality.

Response:-

The Ministry is not at a position to give data on number of farmers who were supplied with the fertilizer. Farmers were not required to be registered in order to buy the soil amendment fertilizer and conditioner. Records of number of farmers who bought the product were therefore not maintained. The total number of bags however sold by NCPB under the agency agreement (NOT SUBSIDY PROGRAM) was 140,865 x 25 kg bags (or 70,143 bag of 50kg). NCPB ceased selling the soil amendment fertilizer and conditioner on March 9<sup>th</sup>, 2024.

The fertilizers was distributed through NCPB depots as detailed in Annex 4(d).

7. The number of bags of fertilizer that could still be in the market and the mechanism of compensating stockists.

Response:

As at 9<sup>th</sup> March 2024 when NCPB received the letter suspending permit for the product. The quantity of the soil amendment fertilizer and conditioner that was still in the NCPB depots is 6,552 x 25 kg bags (or 3,276 bags by 50k) (Annex 4 (b)). This consignment is seized awaiting recall and disposal at suppliers cost as guided by KEBS.

NCPB has not enlisted stockists for this product hence we were selling direct to users. There is no stockiest who is likely to demand and require compensation.

Under the agency business model adopted, NCPB does not spend any money in acquiring the product. The supplier is provided with the selling outlet (depot) and undertakes marketing using own resources. The supplier is paid after receipt of sales revenue and NCPB recovering its commission.

8. The existing mechanism and the shortcomings in ensuring quality specification of agricultural inputs in the market.

Response:

The Ministry ensures that agricultural inputs are of the right quality. The quality assurance is done by Kenya Plant Health Inspectorate Service (KEPHIS) a state corporation whose mandate is to assure

Amongst such quality of agricultural inputs and produce towards food security & safe trade. Among its functions under KEPHIS Act 54 of 2012 in Section 5 (d) is to establish service laboratories to monitor the quality and levels of the toxic residues in agro-inputs, irrigation water, plants, soils and produce.

- The Institution has got two analytical chemistry laboratories at its Karen Headquarter office, as well as its Kitale regional office where analysis of fertilizers from clients are done.
- KEPHIS has also an annual fertilizer quality monitoring program where approximately 500 samples of fertilizer are collected from stockists on an annual basis and analyzed for their quality.
- Parameters analyzed include macro nutrients such as nitrogen, phosphorus and potassium.

#### **Shortcomings:**

- i. Inadequate resources (limited budget) to carry out an elaborate fertilizer monitoring program to establish the quality status. Only a few samples are purchased per county for analysis twice a year.
- ii. Lack of regulatory powers (enforcement) to take any actions against non-compliant fertilizers and vendors.
- iii. In-adequate facilities/equipment and consumables in both laboratories to hasten the analysis process (AAS, UV-Vis, pH meters, block digester, kjeldahl apparatus)
- iv. Faulty equipment that require urgent repair and maintenance which is also expensive
- v. Few number of personnel/analysts who handles fertilizer analysis.

- A. The Ministry through NCPB has contracted Inspectorate EA Ltd, an independent inspection firm /surveyor, to undertake inspection and quality analysis of the fertilizer being supplied.

9. Proof that all fertilizer distributed in the program is certified by the Kenya Bureau of Standards.

Response:-

- As part of the contractual agreement, NCPB obtains KEBS certificates of analysis from suppliers for all the products that they will supply.
- Samples of the fertilizers are obtained and submitted to KEBS/KEPHIS for analysis for compliance.
- NCPB carries out close monitoring, inspection and testing during deliver for compliance
- 

10. The capacity for fertilizer quality assurance analysis which includes laboratories, equipment and personnel.

Response

Fertilizer quality assurance analysis is conducted by KEPHIS. Capacity of KEPHIS to carry out fertilizer analysis is as follows

- I. Laboratories: Two laboratories; one at KEPHIS Head quarter in Karen and the other at Kitale regional office
- II. Equipment.

- 2 Atomic Absorption Spectroscopy (AAS)
  - 2 UV-Vis
  - 1 Inductively Coupled Plasma-Optical Emission Spectroscopy (ICP OES)
  - 2 Kjeldahl Distillation Unit
  - 2 Block digester
  - 1 pH meter
  - 4 Printers
- iii. Personnel Handling Fertilizer samples in the two labs:
- 3 Principal Chemist
  - 2 Principal Technologist
  - 2 Senior Technologist
  - 3 Casuals

**11. The remedial measures that the government has put in place to restore quality of the soil that was allegedly affected by the fertilizers.**

#### **Response**

- The Government has developed National soil agriculture management policy 2023 addresses the restoration, use and management of agriculture soil.
- The policy gives direction on how agriculture soil; will be managed. It emphasize the establishment of soil testing center in counties to ensure that farmers are encouraged to test soil before application of fertilizer.
- The Government through the fertilizer subsidy programme is distributing non acidifying fertilizer e,g N.P.K instead of D.A.P to reduce soil acidity. We are also promoting soil amendment by encouraging farmers to use of lime.

- Collaborating with county Government by enhancing of extension services through national programmes e.g. Kenya Climate smart agriculture project, build capacity of small holder farmers on making and use of organic fertilizers /manure which will restore the soil

## 12. Comparison of maize harvest in the Country before and after the fertilizer subsidy program.

### Response

The fertilizer subsidy programme and favorable weather in 2023 boosted maize production. In 2023, total area under maize was estimated 2.88 million Hectares and the total production of 60.2 million bags of maize.

In 2022, the total maize produced was 34.4 million bags from 2.35 million Hectares of land.

Implementation of the fertilizer subsidy programme increased maize production by 75%.

## 13. Challenges that have been experienced in the implementation of the subsidy program.

### Response:

Challenges that have been experienced during implementation of fertilizer subsidy program

- i) Supply constraints associated with global crisis such as high currency fluctuations, geopolitics and delivery period due to shipping routes.

- ii) Budgetary and cash flow constraints not aligned to the seasonality factor that cuts across financial years
- iii) Delay in payment of the subsidy component to suppliers thereby hindering continuous supply on agreed consignment and credit arrangements.
- iv) Inadequate staff and associated cost needed to run the last mile distribution centers identified by county governments
- v) Technology related issues such as lack of internet connectivity, down time
- vi) Operationalization of last mile distribution has been hampered by inadequate facilities, lack of utilities such as power connection and poor road infrastructure

**11. Any other relevant information regarding the fertilizer subsidy program that you may wish to bring to the attention of the committee.**

There is need to enhance capacity of local production and efficiency so as to reduce cost and increase supply.

Signed ..... Date.....

Hon. Mithika Linturi, EGH

## ANNEX 1 (a)

## FY2022/23 SHORTRAIL FERTILIZER DISTRIBUTION TO COUNTIES

No.	County	CUMULATIVE QUANTITY DISPATCHED
1	Migori	42,405
2	Zisil	27,350
3	Vihiga	3,950
4	Kakamega	30,720
5	Bungoma	42,080
6	Kisumu	29,800
7	Nyamira	14,480
8	Siaya	10,120
9	Homa Bay	5,500
10	Busia	6,230
11	Narok	45,700
12	Nakuru	89,360
13	Samburu	5,500
14	Nvandarua	19,750
15	Laikipia	24,080
16	Baringo	21,920
17	Bomet	26,200
18	Kericho	26,475
19	Embu	32,680
20	Isiolo	11,380
21	Kirinyaga	58,945
22	Kitui	12,800
23	Meru	54,700
24	Murang'a	15,640
25	Nyeri	27,525
26	Tharaka Nithi	10,920
27	Kajiado	27,180
28	Nairobi	26,600
29	Kiambu	24,320
30	Machakos	56,800
31	Makueni	39,640
32	Mombasa	2,040
33	Kilifi	2,240
34	Kwale	1,680
35	Lamu	2,240
36	Taita Taveta	3,040
37	Tana River	11,750
38	Elgeyo Marakwet	1,680
39	Nandi	9,500
40	Trans Nzoi	9,550
41	Uasin Gishu	12,000
42	West Pokot	2,240
	TOTAL	948,150

## ANNEX 1 (c)

## SUMMARY DISTRIBUTION OF FERTILISER SUBSIDY PROGRAM FOR LONG RAIN SEASON

	COUNTY	PLANTING FERTILISER	TOP DRESSING FERTILISER	TOTAL
1	Uasin Gishu	510,530	460,110	970,640
2	Nandi	102,747	138,221	240,968
3	Egevo Marakwet	48,530	53,077	101,607
4	West Pokot	52,757	37,038	89,795
5	Trans Nzoia	196,306	148,077	344,383
6	Nakuru	128,002	252,374	380,376
7	Narok	44,236	119,486	163,722
8	Bomet	32,111	38,309	70,420
9	Kericho	42,584	81,615	124,200
10	Migori	73,992	71,378	145,370
11	Bungoma	155,130	129,602	284,732
12	Kakamega	81,051	73,541	154,592
13	Baringo	31,381	35,835	67,216
14	Laikipia	32,199	69,400	101,599
15	Homabay	13,593	7,364	20,957
16	Kisii	30,481	16,440	46,921
17	Nyamira	8,770	9,211	17,981
18	Embu	19,306	29,078	48,384
19	Kirinyaga	55,994	57,090	113,084
20	Nyeri	13,428	27,635	41,063
21	Muranga	8,138	14,562	22,700
22	Meru	25,710	36,086	61,796
23	Tharaka Nithi	7,560	13,409	20,969
24	Kitui	3,440	6,870	10,310
25	Kiambu	17,546	22,694	40,240
26	Machakos	12,852	23,664	36,516
27	Makueni	16,276	19,177	35,453
28	Nvandarua	12,412	22,235	34,647
29	Kajiado	6,529	7,648	14,177
30	Busia	15,482	15,089	30,571
31	Vihiga	17,685	13,668	31,353
32	Siaya	17,302	10,240	27,542
33	Isiolo	1,160	1,120	2,280
34	Kisumu	21,174	6,100	27,274
35	Lamu	1,120	559	1,679
36	Mombasa	560	-	560
37	Taita Taveta	4,579	580	5,159
38	Kilifi	1,800	1,117	2,917
39	Kwale	1,120	1,720	2,840
40	Tana River	3,920	1,120	5,040
41	Garissa	1,720	2,980	4,700
	GRAND TOTAL	1,874,423	2,076,527	3,950,950

IS

## ANNEX 1 (c)

## FY20/21 SHORT RAIN'S FERTILISER DISTRIBUTION PER COUNTY AND NCRB DEPOTS

COUNTY	DEPOT	PLANTING FERTILISER	TOP DRESSING FERTILISER	TOTAL
Uasin Gishu	Eldoret	25,761	19,866	45,627
	Nois Bridge	10,980	31,045	42,025
	Ziwa	7,915	20,034	27,949
	Turbo	11,598	18,270	29,868
	Kiplaibus	7,582	2,753	10,335
	Ainabkoi	4,842	4,410	9,252
	Kipkarren River	12,928	9,532	22,460
	Tuiyotich PMC	3,019	3,278	6,297
	Borater FC Union	4,880	6,199	11,079
	Soy Mateeny PMC	1,170	1,311	2,481
	Marathon PMC	1,180	2,748	3,928
		<b>SUB-TOTAL</b>	<b>91,865</b>	<b>119,426</b>
Nandi	Miteitei	8,151	11,496	19,647
	Mosoriot	8,693	11,123	19,816
	Lessos	10,812	15,312	26,124
	Kipkarren Salient	26,164	19,156	45,320
	Kobujoi PMC	6,746	4,455	11,201
		<b>SUB-TOTAL</b>	<b>60,566</b>	<b>61,542</b>
Elgeyo Marakwet	Kapsowar	15,778	7,813	23,591
	Kamwosor PMC	-	-	-
	Kapcherop PMC	4,049	2,337	6,386
	Chebaror PMC	3,905	1,791	5,696
	Chepkorio PMC	6,460	687	7,147
	Chesoi PMC	560	-	560
		<b>SUB-TOTAL</b>	<b>30,752</b>	<b>12,537</b>
West Pokot	Kapenguria	21,460	17,025	38,485
	<b>SUB-TOTAL</b>	<b>21,460</b>	<b>17,025</b>	<b>38,485</b>
Trans Nzoia	Kitale & Kenya Seed	19,868	21,074	40,942
	Sinverere PMC	644	1,525	2,169
	Saboti PMC	600	1,165	1,765
	Kwanza PMC	3,550	972	4,522
		<b>SUB-TOTAL</b>	<b>24,662</b>	<b>24,736</b>
Nakuru	Nakuru	37,485	33,325	70,810

96

	Elburgon	27,318	11,939	39,257
	Olunguruone	20,553	16,851	37,404
	Naivasha	21,156	15,454	36,610
	Solai	4,483	1,485	5,968
	Subukia	6,279	3,525	9,805
	Kiambogo PMC	2,860	-	2,860
	Mauche PMC	2,240	-	2,240
	Keringet PMC	5,639	-	5,639
	Pyrethrum Stores(Molo)	5,840	-	5,840
	Kamara PMC	3,540	-	3,540
	Kiptororo PMC	4,712	-	4,712
	Rongai PMC	-	-	-
	Mutungati PMC	1,120	-	1,120
	<b>SUB-TOTAL</b>	<b>143,225</b>	<b>82,650</b>	<b>225,875</b>
Narok	Narok	34,160	14,413	48,573
	Kilgoris	32,560	14,292	46,852
	Enosaen	14,491	14,003	28,494
	Mulot	9,640	2,786	12,426
	<b>SUB-TOTAL</b>	<b>90,851</b>	<b>45,494</b>	<b>136,345</b>
Bomet	Bomet	18,722	26,763	45,485
	Sotik	11,519	19,948	31,467
	Ndanai	12,351	6,293	18,644
	<b>SUB-TOTAL</b>	<b>42,592</b>	<b>53,004</b>	<b>95,596</b>
Kericho	Kipkelion	21,315	9,716	31,031
	Kericho	14,650	16,273	30,923
	Kedowa	11,112	6,194	17,306
	Fort Ternan	6,860	4,047	10,907
	<b>SUB-TOTAL</b>	<b>53,937</b>	<b>36,230</b>	<b>90,167</b>
Baringo	Eldama Ravine	14,712	3,559	18,271
	Marigat	6,710	7,016	13,726
	Kabarnet	4,549	690	5,239
	Mogotio PMC	-	-	-
	Bartolimo PMC	93	-	93
	Mochongoi PMC	-	-	-
	Tenges PMC	-	-	-
	<b>SUB-TOTAL</b>	<b>26,064</b>	<b>11,265</b>	<b>37,329</b>
Laikipia	Nyahururu	16,760	6,686	23,446
	Nanyuki	42,295	20,376	62,671

	Kinamba PMC	-	-	-
	Rumarubi PMC	-	-	-
	Oli-Moran PMC	-	-	-
	Marina PMC	-	-	-
	Mitanga PMC	-	-	-
	Larouria PMC(Nzarenviro)	-	-	-
	Mwafiri PMC	-	-	-
	<b>SUB-TOTAL</b>	<b>59,055</b>	<b>27,062</b>	<b>86,117</b>
Nyandarua	Olkalau	12,300	4,800	17,100
	Kipipiri	5,720	1,971	7,691
	Ndaragwa PMC	-	-	-
	Njambini PMC	-	-	-
	Tulaga PMC	-	-	-
	<b>SUB-TOTAL</b>	<b>18,020</b>	<b>6,771</b>	<b>24,791</b>
Migori	Migori	18,672	9,140	27,812
	Awendo	24,750	16,365	41,115
	Kehancha	27,560	9,780	37,340
	Ntimaru	23,564	13,824	37,388
	<b>SUB-TOTAL</b>	<b>94,546</b>	<b>49,109</b>	<b>143,655</b>
Bungoma	Bungoma	38,062	34,946	73,009
	Webuye	22,885	14,489	37,374
	Kapsokwony	15,152	10,686	25,838
	Tamlega	6,880	-	6,880
	Matisi	4,976	600	5,576
	Mvanga	3,316	-	3,316
	Kimilili Selling Centre	4,722	1,200	5,922
	Kabuchai Selling centre	1,120	-	1,120
	<b>SUB-TOTAL</b>	<b>102,117</b>	<b>61,921</b>	<b>164,038</b>
Kakamega	Kakamega	4,807	12,909	17,716
	Malava	12,542	10,459	22,701
	Butere	12,796	9,400	22,196
	Lugari	11,845	3,097	20,932
	<b>SUB-TOTAL</b>	<b>41,989</b>	<b>41,565</b>	<b>83,545</b>
Homabay	Kendu Bay	1,727	3,742	5,469
	Homabay	3,591	2,316	5,907
	<b>SUB-TOTAL</b>	<b>5,318</b>	<b>6,058</b>	<b>11,376</b>
Kisii	Kisii	22,513	22,153	44,666

	Elago Selling Centre	4,540	-	4,540
	Sombogo (Marani) PMC	4,520	-	4,520
	Nyamarambe Selling Centre	5,060	-	5,060
	Bomachoge	1,117	-	1,117
	Kuumbu Selling Centre	560	-	560
	Kenya Selling Centre	600	-	600
	Masimba Selling Centre	560	600	1,160
	Sumeka Selling Centre	560	-	560
	<b>SUB-TOTAL</b>	<b>41,117</b>	<b>23,968</b>	<b>65,085</b>
Nyamira	Nyansiongo	8,927	9,902	18,829
	Ekerenyo Selling Centre	2,800	-	2,800
	Tombe Selling Centre	560	-	560
	Nyamira DCC	560	-	560
	<b>SUB-TOTAL</b>	<b>12,847</b>	<b>9,902</b>	<b>22,749</b>
Busia	Malaba	13,099	11,614	24,713
	Amukura Selling Centre	1,720	-	1,720
	Butula Selling Centre	4,540	-	4,540
	National Irrigation Authority	2,270	-	2,270
	Nambale	3,539	-	3,539
	Angurai	2,860	-	2,860
	Mulwanda	3,380	580	3,960
	<b>SUB-TOTAL</b>	<b>31,408</b>	<b>12,194</b>	<b>43,602</b>
Vihiga	Chavakali	9,585	9,313	18,898
	Vihiga IEBC CDF PMC	2,320	-	2,320
	Esirabe Emuhaya CDF PMC	2,352	-	2,352
	Mulukhore CDF PMC	4,040	-	4,040
	Hamisi	3,417	3,314	6,731
	<b>SUB-TOTAL</b>	<b>31,714</b>	<b>12,627</b>	<b>34,341</b>
Siaya	Sondo	2,914	2,018	4,932

	Tala	3,656	5,792	14,448
	Ugunja PMC	3,535	5,571	12,004
	Ugenya CDF	4,704	600	5,904
	<b>SUB-TOTAL</b>	<b>22,607</b>	<b>14,081</b>	<b>36,688</b>
Kisumu	Kisumu	3,966	2,478	6,408
	Muhoroni	6,455	12,628	19,084
	<b>SUB-TOTAL</b>	<b>10,386</b>	<b>15,106</b>	<b>25,492</b>
Embu	Embu	41,511	21,964	68,475
	Ishiara	18,344	5,944	24,288
	Kathanje	400	-	400
	Kiamariga coffee factory	580	600	1,180
	Kiamhere	-	-	-
	Kiritiri Agricultural	1,400	600	2,000
	Makima DCC	200	-	200
	Siakago DC	1,120	600	1,720
	Wamagana hail	600	900	1,500
	Wataka FCS	180	-	180
	Youth Empowerment	-	-	-
	<b>SUB-TOTAL</b>	<b>64,335</b>	<b>30,608</b>	<b>94,943</b>
Kirinyaga	Mivea	13,331	9,848	23,179
	Sagana	45,519	30,077	75,596
	Togonyo	200	-	200
	Kandongu DCC	-	-	-
	Kianyaga	-	-	-
	Kiaga	-	600	600
	Kirinyaga Town CC Office	-	2,460	2,460
	Muranga Farmers CU	300	600	900
	<b>SUB-TOTAL</b>	<b>59,350</b>	<b>43,585</b>	<b>102,935</b>
Nyeri	Kiganjo	13,360	6,591	19,951
	Karatina PMC	12,671	4,970	17,641
	Ikani North	200	300	500
	Kieni Dairy	560	-	560
	Naromoru Livestock Fisheries	-	-	-
	Nittheka Farmers Society	-	-	-

	New Gikaru Farmers	-	1,500	1,500
	Warazo Farmers Society	-	300	300
	<b>SUB-TOTAL</b>	<b>26,701</b>	<b>13,661</b>	<b>40,462</b>
Muranga	Maragua	12,968	14,581	34,549
	Murang'a PMC	1,974	-	1,974
	Cakarara Coffee factory	-	100	100
	Iyego Main Coffee Factory	-	75	75
	Kahuro Agric Office	-	-	-
	Kamugongo Coffee Factory	-	75	75
	Marumi Coffee Factory	-	100	100
	Rwegetha Coffee Factory	-	300	300
	Sivap Aggregation Store	-	100	100
	Wempa Chief Office	100	50	150
	<b>SUB-TOTAL</b>	<b>22,042</b>	<b>15,381</b>	<b>37,423</b>
Meru	Meru	41,663	22,790	64,453
	Maua	15,294	11,406	26,700
	Kianjai PMC	2,340	1,800	4,140
	Igembe North	-	-	-
	Igento Coffee factory	-	600	600
	Tigania East DCC	-	-	-
	Uri Coffee Factory	600	1,200	1,800
	<b>SUB-TOTAL</b>	<b>59,897</b>	<b>37,796</b>	<b>97,693</b>
Tharaka Nithi	Mitheru PMC	22,962	7,240	30,202
	Mukuuni	2,440	1,900	4,340
	Nkondi	560	600	1,160
	<b>SUB-TOTAL</b>	<b>25,962</b>	<b>9,740</b>	<b>35,702</b>
Kitui	Kitui	7,012	2,551	9,563
	Mwingi	4,857	2,199	7,056
	<b>SUB-TOTAL</b>	<b>11,869</b>	<b>4,750</b>	<b>16,619</b>
Isiolo	Isiolo	8,653	2,400	11,053
	<b>SUB-TOTAL</b>	<b>8,653</b>	<b>2,400</b>	<b>11,053</b>
Garissa	Garissaa	153	578	731

	SUB-TOTAL	373	678	751
Kiambu	Taita	19,655	17,101	36,756
	GCP	4,091	1,652	5,743
	Gatundu North PMC	3,180	930	4,110
	Gatundu South PMC	4,927	941	5,868
	Lari PMC	4,643	820	5,463
	Limuru PMC	1,120	937	2,057
	Karuri (Kiambu) PMC	1,684	39	1,723
	Githunguri PMC	1,716	600	2,316
	Kabete PMC	718	242	960
		SUB-TOTAL	36,673	22,658
Machakos	Machakos	11,852	4,669	16,521
	Kithimani	12,176	1,980	14,156
	Tala	10,065	2,820	12,885
	SUB-TOTAL	34,993	9,479	44,472
Makueni	Emali	8,468	2,430	10,898
	Makueni	9,542	4,961	14,503
	Kibwezi	7,811	3,278	11,089
	Konza	-	-	-
	Kikima PMC	2,290	852	3,142
	Mukuyuni PMC	3,892	1,587	5,479
	Kasikou	560	600	1,160
	Kitise	-	-	-
	Mukuyuni	-	-	-
	Nunguni	560	600	1,160
	Tawa	560	600	1,160
	SUB-TOTAL	33,683	14,908	48,591
Kajiado	Loitokitok	12,485	6,434	18,919
	Kajiado	3,108	3,578	6,686
	SUB-TOTAL	16,593	10,012	26,605
Lamu	Mokowe	1,516	444	1,960
		SUB-TOTAL	1,516	444
Mombasa	Changamwe	764	575	1,339
		SUB-TOTAL	764	575
Taita Taveta	oi	2,848	1,385	4,233
	Timbuu	3,216	2,969	6,185

	SUB-TOTAL	3,081	1,285	4,366
Niini	Niini	2,075	503	2,578
	SUB-TOTAL	2,075	503	2,578
Kwale	Kwale	2,858	1,050	3,908
	Shimba hills	560	600	1,160
	SUB-TOTAL	3,418	1,650	5,068
Tana River	Hole	5,155	4,685	9,840
	SUB-TOTAL	5,155	4,685	9,840
<b>TOTAL</b>		<b>1,471,205</b>	<b>974,269</b>	<b>2,445,464</b>

## ANNEX 1 (d)

FY 23/24 LONG RAINS FERTILISER DISTRIBUTION REPORT PER  
COUNTY AND DEPOTS AS AT 14.09.24

No.	COUNTY	S/NO	DEPOT/SELLING CENTRE	CUMULATIVE TOTAL DISPATCHED
1	Baringo	1	Eldama Ravine	13,910
		2	Tabaret	4,760
		3	Marigat	4,194
		4	Mochongoi Selling Centre	660
		5	Mogotio Selling Centre	620
			Subtotal	24,144
2	Bomet	6	Bomet	15,010
		7	Bomet-Siongiroi Selling centre	600
		8	Bomet-Mogosiek Selling centre	1,240
		9	Bomet-Kambu Siling Centre	640
		10	Bomet-Kipkoibet Selling Centre	620
		11	Mulot	15,848
		12	Ndanai	7,740
		13	Sotik	10,940
			Subtotal	52,638
3	Bungoma	14	Bungoma	40,140
		15	Bungoma-Kimifili Selling centre	1,800
		16	Bungoma-Kabuchai Selling Centre	600
		17	Bungoma-Tandaga	3,030
		18	Kapsokwony	17,010
		19	Wobuye	16,280
			Subtotal	78,860
4	Busia	20	Malaba	6,960
		21	Malaba-Nambaile Selling centre	640
			Subtotal	7,600
5	Elgeyo Marakwet	22	Kapsowar	10,280
		23	Kapsowar-Kaniwosor Selling Centre	3,000
		24	Kapsowar-Chepkorio Selling centre	2,400
		25	Kapsowar-Chebukor Selling Centre	2,420
		26	Kapsowar-Chesoi Selling Centre	1,260

		27	Kapsowar- Labor selling Centre	1,220
		28	Kapsowar- Kibendo Selling Centre	1,240
		29	Kapsowar- Kapkitony Selling Centre	1,220
			<b>Subtotal</b>	<b>3,680</b>
6	Embu	30	Embu	5,960
		31	Ishara	3,500
			<b>Subtotal</b>	<b>9,460</b>
7	Garissa	32	Garissa	-
			<b>Subtotal</b>	
8	Homa bay	33	Homa bay	7,280
		34	Kendu bay	5,538
			<b>Subtotal</b>	<b>12,818</b>
9	Isiolo	35	Isiolo	3,000
			<b>Subtotal</b>	<b>3,000</b>
10	Kajiado	36	Kajiado	1,120
		37	Loitokrok	2,980
			<b>Subtotal</b>	<b>4,100</b>
11	Kakamega	38	Butere	7,480
		39	Kakamega	10,959
		40	Lugari	10,450
		41	Malava	6,080
			<b>Subtotal</b>	<b>34,919</b>
12	Kericho	42	Port Ternan	10,368
		43	Kedowa	26,760
		44	Kericho	21,924
		45	Kericho-Kabianga Tea Farm-Kericho	1,840
		46	Kericho-Cherobu Co-op	1,800
		47	Kericho - Chepkemel	1,830
		48	Kiokelion	12,950
			<b>Subtotal</b>	<b>77,472</b>
13	Kiambu	49	Thika	6,390
		50	Thika-Gatundu South Selling Centre	600
		51	Thika-Gatundu North Selling Centre	660
			<b>Subtotal</b>	<b>7,650</b>
14	Kilifi	52	Kilifi	560
			<b>Subtotal</b>	<b>560</b>
15	Kirinyaga	53	Mvea	4,470
		53	Sagana	7,680
			<b>Subtotal</b>	<b>12,150</b>
16	Kisii	55	Kisii	27,460
		56	Kisii- Sonaka Selling Centre	620
		57	Kisii - Masimba Selling Centre	1,260

		59	Kisii- Kenyerya Selling Centre	1,250
		60	Kisii- Kooiba Selling Centre	1,250
		61	Kisii- Etago Selling Centre	1,250
		62	Kisii- Nyamarambe Selling Centre	1,500
		63	Kisii- Ogembo- Selling Centre	1,200
		64	Kisii- Marani Selling Centre	1,240
		64	Kisii- Nyamache Selling Centre	640
			<b>Subtotal</b>	<b>8,630</b>
17	Nyamira	65	Nyansiongo	11,100
		66	Nyansiongo- Ekerenyo Selling Centre	620
		67	Nyansiongo - Deputy County Commissioner	600
		68	Nyansiongo- Tombe Tea Factory	610
			<b>Subtotal</b>	<b>12,930</b>
18	Kisumu	69	Kisumu	5,620
		70	Muhoroni	9,200
			<b>Subtotal</b>	<b>4,820</b>
19	Kitui	71	Kitui	1,120
		72	Mwingi	660
			<b>Subtotal</b>	<b>1,780</b>
20	Kivale	73	Kivale	1,120
			<b>Subtotal</b>	<b>1,120</b>
21	Laikipia	74	Nanyuki	4,410
		75	Nyahururu	14,160
		76	Nyahururu- Kinambe Selling Centre	620
		77	Nyahururu- Mutanga Selling Centre	620
		78	Nyahururu- Ol- Moran Selling Centre	620
		79	Nyahururu- Sipili Selling Centre	620
		80	Nyahururu- Salama Selling Centre	620
			<b>Subtotal</b>	<b>21,570</b>
22	Lamu	81	Mokowe	1,120
			<b>Subtotal</b>	<b>1,120</b>
23	Machakos	82	Kithimani	1,200
		83	Machakos	2,890
		84	Tala	2,300
			<b>Subtotal</b>	<b>6,390</b>
24	Makueni	85	Emali	2,300
		86	Gbwezi	2,500
		87	Makueni	2,350

		88	Makueni-Makuyuni Selling Centre	500
		89	Makueni-Nunguni Selling Centre	500
		90	Makueni-Tawa Selling centre	1,240
		91	Makueni- Kilima Selling Centre	550
		92	Makueni- Kithmani Selling Centre	560
		93	Konza	520
			<b>Subtotal</b>	<b>12,020</b>
25	Mandera	94	Mandera	-
			<b>Subtotal</b>	<b>-</b>
26	Marsabit	95	Marsabit	-
			<b>Subtotal</b>	<b>-</b>
27	Meru	96	Maun	7,210
		97	Meru	13,830
		98	Meru-Kianjai Selling Centre	18,10
			<b>Subtotal</b>	<b>22,880</b>
28	Migori	99	Awendo	15,750
		100	Kehancha	13,920
		101	Migori	7,170
		102	Ntimaru	10,340
			<b>Subtotal</b>	<b>47,180</b>
29	Muranga	103	Maragua	4,532
			<b>Subtotal</b>	<b>4,532</b>
30	Mombasa	104	Mombasa	-
			<b>Subtotal</b>	<b>-</b>
31	Nairobi	105	GCP	3,140
		106	GCP-Limuru Selling Centre	660
		107	GCP-Githunguri Selling Centre	1,180
		108	GCP-Kikuyu&Karura(Kabete)	600
		109	GCP- Lari Selling Centre	1,240
			<b>Subtotal</b>	<b>7,120</b>
32	Nakuru	107	Elburgon	27,240
		108	Elburgon -Pyrethrum Selling Centre	1,140
		109	Naivasha	23,880
		110	Nakuru	40,479
		111	Nakuru-Kiptororo Selling Centre	2,880
		112	Nakuru- Kiambogo Selling Centre	2,840
		113	Nakuru- Karunga Farmers	1,700
		114	Nakuru-Rongai Selling Centre	2,300

		115	Nakuru- Kabari Selling Centre	2,230
		116	Nakuru- Manche Selling centre	1,380
		117	Nakuru- Lamara Selling Centre	3,200
		118	Nakuru- Pyrethrum Selling Centre	2,820
		119	Nakuru- Sirikwa Selling Centre	500
		120	Nakuru- Kiamaina Selling Centre	560
		121	Nakuru- ADC Lanet	1,890
		122	Olungurone	14,857
		123	Olungurone-Koringet Selling Centre	3,430
		124	Olungurone- Kapkamba Selling Centre	1,170
		125	Solai	4,950
		126	Subukia	7,350
			<b>Subtotal</b>	<b>147,996</b>
33	Nandi	127	Kipkarean salient	17,940
		128	Kobuioi	7,710
		129	Lessos	16,940
		130	Meteitei	11,960
		131	Mosoriot	19,760
			<b>Subtotal</b>	<b>74,310</b>
34	Narok	132	Enosoen	11,408
		133	Kilgoris	25,110
		134	Narok	48,320
			<b>Subtotal</b>	<b>84,838</b>
35	Nyandarua	135	Kipipiri	8,185
		136	Olkalou	13,690
			<b>Subtotal</b>	<b>21,875</b>
36	Nyeri	137	Karatina	3,830
		138	Kiganjo	3,640
			<b>Subtotal</b>	<b>7,470</b>
37	Samburu	139	Maralal	1,140
			<b>Subtotal</b>	<b>1,140</b>
38	Siaya	140	Bondo	2,360
		141	Yala	3,880
		142	Yala-Ugunja Selling Centre	2,360
			<b>Subtotal</b>	<b>8,600</b>
39	Taita	143	Tinjoia	1,120
	Tareta	144	Voi	580
			<b>Subtotal</b>	<b>1,700</b>
40	Tana River	145	Hola	2,380
			<b>Subtotal</b>	<b>2,380</b>

41	Trans Nzoia	146	Mitheni	1,320
			Subtotal	1,320
42	Trans Nzoia	147	Kitale	40,720
		148	Kitale- Kwanza Selling Centre	500
		149	Kitale- ADC Namandala Farm	2,400
		150	Kitale-ADC Sabwani Farm	3,000
		151	Kitale-Oigatongo Farm	3,000
		152	Kitale- ADC Jayata Farm	3,000
		153	Kitale- ADC Nai Farm	1,800
		154	Kitale- ADC Katuke Farm	1,800
		155	Kitale- ADC Chorlim Farm	2,400
		156	Kitale- ADC Suam Farm	2,400
		157	Kitale- Kapcherop	1,220
			Subtotal	62,340
43	Turkana	158	Lodwar	-
			Subtotal	-
44	Uasin Gishu	159	Ainabkoi	4,240
		160	Kipkabus	6,680
		161	Eldoret	56,270
		162	Eldoret-Boratet Selling Centre	11,380
		163	Eldoret- Tuyotich Selling centre	640
		164	Kipkaren river	6,600
		165	Mois Bridge	25,800
		166	Turbo	7,220
		167	Ziwa	27,440
		168	Kipkaren River	4,080
		169	Turbo	4,800
			Subtotal	155,150
45	Vihiga	162	Chavakali	4,990
		163	Chavakali-Mulukhorro Selling Centre	800
		164	Chavakali-Esirabe Selling Centre	600
		165	Hamisi	7,854
			Subtotal	14,244
46	Wajir	166	Wajir	-
			Subtotal	-
47	West Pokot	167	Kapenguria	15,810
			Subtotal	15,810
	GRAND TOTAL DISPATCHED			1,140,786

## Annex 2 (ii)

## SUBSIDY FERTILIZER THAT WAS AWARDED AND SUPPLIED IN FY 2021 - 2022

No.	TYPE OF FERTILIZER	BIDDERS AWARDED	QUANTITIES AWARDED (50kg BAU)	UNIT PRICE (KSHS X 50KGS)	TOTAL PRICE	METHOD OF PROCUREMENT
PHASE 1						
1.	DAP	Yara E.A Ltd Mems Distributors Ltd	40,000 100,000	6,250.00 6,250.00	250,000,000.00 625,000,000.00	Open Tender method
2.	Yara Nilar Power	Yara E.A Ltd	40,000	6,250.00	250,000,000.00	Open Tender method
3.	UREA	MEA Limited	30,000	7,000.00	210,000,000.00	Open Tender method
		Mems Distributors Ltd	6,000	7,000.00	42,000,000.00	Open Tender method
4.	CAN	Unifert Kenya Ltd	600	5,500.00	3,300,000.00	Open Tender method
		Fertilplant East Africa Ltd	30,000	5,500.00	165,000,000.00	Open Tender method
5.	Amidas 40:6:0:1	Yara East Africa Ltd	30,000	5,425.00	162,750,000.00	Open Tender method
6.	MOP	Yara East Africa Ltd	3,000	4,000.00	12,000,000.00	Open Tender method
7.	SA	Export Trading Company Inputs Kenya Ltd	30,000	4,970.00	162,800,000.00	Open Tender method
8.	Nufaka plus NPK Fertilizer	Minjingu mines & Fertilizer	10,000	4,950.00	49,500,000.00	Open Tender method
9.	Planting NPK 11.25:5 (Baraka Misingi)	CFAO Agri Ltd	15,000	4,800.00	72,000,000.00	Open Tender method
10.	NPK 26:0:6 (Baraka top dressing)	CFAO Agri Ltd	30,000	4,600.00	138,000,000.00	Open Tender method
11.	NPK Mavuno Planting	Minshe Mineral Fertilizers Ltd	15,000	4,900.00	73,500,000.00	Open Tender method
12.	Mavuno top dressing	Minshe Mineral Fertilizers Ltd	140,000	5,000.00	700,000,000.00	Open Tender method
13.	Organic Super Phosphate (10:0:0)	Minjingu mines & Fertilizer (K) Ltd	15,000	2,950.00	44,250,000.00	Open Tender method

14.	NPK 25:5:5 (For tea)	Yara East Africa Ltd	30,000	6,100.00	183,000,000.00	Open Tender method
		CFAO Agri Ltd	150,000	3,000.00	1,250,000,000.00	Open Tender method
15.	Agricultural lime	Kapitel Meadows Ltd	100,000	450.00	45,000,000.00	Open Tender method
		Cairo Fertilizer Ltd	100,000	450.00	45,000,000.00	Open Tender method
PHASE 2 -						
16.	CAN	Yara East Africa Ltd	40,000	5,150.00	206,000,000.00	Open Tender method
17.	UREA	NEA Ltd	1,285	7,000.00	29,995,000.00	Open Tender method
18.	CAAM	Minjingu Mines & Fertilizer (K) Ltd	10,000	5,300.00	53,000,000.00	Open Tender method
19.	Minjingu dressing	Minjingu Mines & Fertilizer (K) Ltd	30,000	5,300	159,000,000.00	Open Tender method

## Annex 2 (b)

## SUBSIDY FERTILIZER THAT WAS AWARDED IN FY 2022 - 2023

NO	TYPE OF FERTILIZER	SUPPLIER AWARDED	QUANTITY	UNIT PRICE (KSHS)	TOTAL PRICE (KSHS)	METRIC PROCUR
1.	COFFEE BLEND	EXPORT TRADING	20,000	5,450	109,000,000.00	
		CHIROMO FERTILIZER	10,000	5,600	56,000,000.00	
2.	CALCIGROW GRANULATED URE	CHIROMO FERTILIZER	50,000	1,200	60,000,000.00	
3.	TEA BLEND	ELGON KENYA EXPORT TRADING	10,000	4,970	49,700,000.00	
		EXPORT TRADING	10,000	5,550	55,500,000.00	
		YARA E.A	10,000	5,500	55,000,000.00	
4.	DAP	CCP KENYA	25,000	7,920	2,237,800,000.00	
5.	CAN	YARA	100,000	5,100	510,000,000.00	
6.	SULPHATE OF AMMONIA	EXPORT TRADING	6,000	3,850	23,100,000.00	
		MEMS DISTRIBUTORS	6,000	4,070	24,420,000.00	
7.	RICE BLEND	MAISHA MINERALS	15,000	5,400	81,000,000.00	
		UNIFERT KENYA	5,000	5,450	27,250,000.00	
OTHER NPK BLENDS:						
Planting						
1.	BARAKA MSINGI	ELDORET AGRICULTURAL	25,000	4,700	117,500,000.00	
2.	BARAKA MSINGI	KAPENCURIA NIJUNGO	12,500	4,700	58,750,000.00	
3.	MAVUNGO	MAISHA MINERALS	27,500	4,950	136,125,000.00	
4.	PANISI NPK PLANTING	FIRST QUALITY	12,500	3,000	126,125,000.00	
5.	PLANTING	CHIROMO FERTILIZER	12,500	5,000	62,500,000.00	
6.	KYNOCH	EXPORT TRADING	25,000	5,350	62,500,000.00	
7.	MICROP PLANTING	YARA E.A	25,000	5,700	54,500,000.00	
Top Dressing						
1.	PANISI TOP DRESSING	FIRST QUALITY	10,000	6,550	45,500,000.00	
2.	TOP DRESSING	CHIROMO FERTILIZER	15,000	4,550	68,250,000.00	
3.	KYNO MAIZE	ELGON KENYA	15,000	4,900	73,500,000.00	
4.	MAVUNGO	MAISHA MINERALS	20,000	5,050	100,000,000.00	
5.	BARAKA MSINGI	ELDORET AGRICULTURAL	20,000	4,800	96,000,000.00	
6.	KYNOCH	EXPORT TRADING	20,000	5,450	109,000,000.00	
7.	MICROP TOP	YARA E.A	20,000	7,500	150,000,000.00	

## Annex 2 (2)

## 2. SUBSIDY FERTILIZER AWARDED IN FY 2023 - 2024

No.	TYPE OF FERTILIZER	BIDDERS AWARDED	QUANTITIES AWARDED (50kg BAG)	UNIT PRICE (KSHS X 100000)	TOTAL PRICE	METHOD OF PROCUREMENT
NCPB/FERTILIZER/23/2023 - 2024						
1.	NPK 23:23:23	SLDR International	2,000,000 bags	4.35.00	8,700,000,000.00	Open tender
	NPK 25:5:5		500,000 bags	3.850.00	1,925,000,000.00	
	NPK 17:17:17		1,000,000 bags	4.250.00	4,250,000,000.00	
2.	CAN 26%	First Quality Supplies Ltd	1,000,000 bags	3.845.00	3,845,000,000.00	Open tender
4.	CAN 46%	Export Trading Company Input (K) Ltd	300,000 bags	3.500.00	1,050,000,000.00	Direct Procurement
	NPK 23:23:0		240,000 bags	4.350.00	1,044,000,000.00	
5.	UREA 46%N	Mems Distributors Ltd	600,000 bags	4.150.00	2,490,000,000.00	Open tender
6.	Pomi Olesha	Tracoon Pomi Ltd	700,000 bags	4.150.00	2,905,000,000.00	Open tender
7.	NPK 26:0:0+CaO+5	Elgon Kenya Ltd	400,000 bags	3.400.00	1,360,000,000.00	Open tender
8.	Nafaka plus Organic Hyper Phosphate (AloHP)	Minjingu Mines & Fertilizer (K) Ltd	380,000	4.140.00	1,573,200,000.00	Open tender
			20,000 bags	2.690.00	53,800,000.00	
9.	Kelphos steam granuals	Kel Chemicals Ltd	10,000 bags	3.000.00	30,000,000.00	Open tender
	Kelphos plus 10%N		190,000 bags	3.400.00	646,000,000.00	
	NPK 9:16:6		200,000 bags	4.000.00	800,000,000.00	
10.	Calcium Lime	Chiromo Fertilizer Ltd	600,000 bags	1.350.00	810,000,000.00	Open tender
11.	Yara Milla Power	Yara East Africa Ltd	50,000 bags	6.350.00	317,500,000.00	Direct Procurement
	Sulfur		50,000 bags	4.500.00	225,000,000.00	
NCPB/FERTILIZER/30/2023 - 2024						
4.	CAN 26%N	Export Trading Company Inputs (K) Ltd	300,000 bags	3.500.00	1,050,000,000.00	Open tender
	Sulphate of Ammonia 21%N	OCP International Ltd	150,000 bags	3.550.00	532,500,000.00	Open tender
6.	Triple Super Phosphate (TSP)	OCP International Ltd	300,000 bags	4.350.00	1,305,000,000.00	Open tender
7.	Nitrogen Phosphorus Sulphur Boron (NPSB)	OCP International Ltd	900,000 bags	4.400.00	3,960,000,000.00	Direct Procurement

	18.9:37.7 + 6.95S + 0.1B					
8.	NPK 10:26:10	Mems Distributors Ltd	500,000 bags	4,290.00	2,145,000,000.00	Direct Procurement
9.	NPK 25:15:15 (sea fertilizer)	Export Trading Company Inputs (K) Ltd	20,000 bags	4,000.00	80,000,000.00	Direct Procurement
10.	MICROP planting (NPK Blend)	Yara East Africa Ltd	400,000 bags	5,540.00	2,216,000,000.00	Direct Procurement
11.	MICROP Top dress (blend)	Yara East Africa Ltd	400,000 bags	4,500.00	1,800,000,000.00	Direct Procurement
12.	AMIDAS Top dress (Compound)	Yara East Africa Ltd	100,000 bags	5,435.00	543,500,000.00	Direct Procurement

114

Annex 3 (c)

Fertilizer Subsidy Program 2023-2024 F/Y		
Summary Of Subsidy Paid As At 31-03-2024 (Long Runns-2023-2024, F/Y)-On Going		
Supplier	Product	Amount Paid(KSh)
Export Trading	Kyno Maizeic	1,139,802.04
Export Trading	Npk 23:23:23	394,541,446.02
Export Trading	Can	680,845.46
Total Paid-Export Trading Ltd		396,362,093.52
Yara E.A Ltd	Yara Microplanting	11,200.00
Yara E.A Ltd	Yara Milla Power	16,322,600.00
Total Paid -Yara E.A Ltd		16,333,800.00
Itracom	Fomi Otesha	279,871,953.07
Itracom	Fomi Kuzia	101,050.43
Total Paid-Itracom		279,973,003.50
Maisha Minerals	Mavuno Planting	313,289,419.81
Maisha Minerals	Mavuno Top Dressing	876,520.19
Total Paid Maisha Minerals		314,165,940.00
Kel Chemicals	Npk 9:16:6	28,027,117.00
Kel Chemicals	Npk Plus 10:17:CaO+S	6,972,883.00
Total Paid Kel Chemicals		35,000,000.00
Mems Distributors	Npk 10:26:10+10	60,000,000.00
Total-Paid Mems Distributors		60,000,000.00
Minjingu Minerals And Mines	Nafuka Plus	116,000,000.00
Total Paid Minjingu Mines		116,000,000.00
Total-Subsidy Paid		1,217,834,837.02

115

## Annex 3 (b)

FERTILIZER SUBSIDY PROGRAM 2023-2024 F/Y		
SUMMARY OF SUBSIDY PAID -(SHORT RAINS-2023-2024 F/Y)		
SUPPLIER	PRODUCT	AMOUNT PAID(KSH)
EXPORT TRADING	KYNO MAIZEIC	382,676,932.28
EXPORT TRADING	NPK 23:23:23	323,188,818.00
EXPORT TRADING	CAN	89,462,000.00
EXPORT TRADING	PRILLED UREA	250,658,983.63
EXPORT TRADING	SULPHATE OF AMMONIA	7,274,613.57
TOTAL PAID-EXPORT TRADING		1,558,261,347.48
YARA E.A LTD	YARA MICROPLANTING	434,883,069.00
YARA E.A LTD	YARA MILLA POWER	18,519,300.00
YARA E.A LTD	YARA MICRO TOP DRESSING	185,177,151.20
YARA E.A LTD	YARA CAN BELLA	112,229,300.00
YARA E.A LTD	YARA SULFAN	7,202,750.00
TOTAL PAID -YARA E.A LTD		758,011,570.20
IFRACOM	FOMI OTESHA	184,848,549.05
IFRACOM	FOMI KUZIA	195,358,491.45
TOTAL PAID-IFRACOM		380,207,040.50

116

MAISHA MINERALS	MAVUNO PLANTING	377,767,000.00
MAISHA MINERALS	MAVUNO TOP DRESSING	8,067,060.00
TOTAL PAID MAISHA MINERALS		385,834,060.00
FIRST QUALITY SUPPLIES LTD	CAN	523,339,596.00
TOTAL PAID- FIRST QUALITY		523,339,596.00
CHIROMO FERTILIZER LTD	FANISI NPK 25 15:15S	11,129,295.00
CHIROMO FERTILIZER LTD	TRIPLE SUPER PHOSPHATE	15,808,120.00
TOTAL PAID TO CHIROMO		26,937,415.00
KNTC	NPK 23:23:23	868,846.21
KNTC	NPK 17:17:17	533,138,211.79
TOTAL PAID TO KNTC		534,007,058.00
TOTAL-SUBSIDY PAID		4,161,593,087.18

## Annex 3 (c)

Fertilizer Subsidy Program 2022-2023 F/X		
Summary Of Subsidy Paid (Short Rains-2022-2023 F/D)		
Supplier	Product	Amount Paid(Ksh)
Export Trading	Sulphate Of Ammonia	45,450,000.00
Export Trading	Coffee Blend	50,500,000.00
Export Trading	Kyno Maizeic	68,125,000.00
	KYNO CHAI	37,875,000.00
Total Paid-Export Trading Ltd		201,950,000.00
Yara E.A Ltd	Yara Microplanting	25,942,000.00
Yara E.A Ltd	Npk 25:5:5	1,414,000.00
Yara E.A Ltd	Can	358,348,000.00
Total Paid -Yara E.A Ltd		385,704,000.00
Ocp Kenya	Dap	1,075,650,000.00
Total Paid-Ocp Kenya		1,075,650,000.00
Maisha Minerals	Mawuno Planting	56,775,125.00
Maisha Minerals	Mawuno Top Dressing	80,598,000.00
Maisha Minerals	Mawuno Rice Blend	9,090,000.00
Total Paid Maisha Minerals		146,463,125.00

118

Cfao-Agri Limited	Baraka Top Dressing	11,312,000.00
Cfao-Agri Limited	Baraka Musingi Planting	5,104,000.00
Cfao-Agri Limited	Baraka Npk 25:5:5 Tea	1,906,375.00
<b>Total Paid Cfao Agri</b>		<b>19,322,375.00</b>
Mems Distributors	Urea	392,638,000.00
<b>Total-Paid Mem Distributors</b>		<b>392,638,000.00</b>
Minjingu Minerals And Mines	Nafaka Plus	527,725.00
Minjingu Minerals And Mines	Caan-Npca 27:10:15	1,800,325.00
<b>Total Paid Minjingu Mines</b>		<b>2,328,050.00</b>
Kaptuei Meadow	Agricultural Lime	1,249,400.00
<b>Total Paid Kaptuei</b>		<b>1,249,400.00</b>
Volcanicity	Baraka Potato	16,786,000.00
<b>Total Paid Volcanicity</b>		<b>16,786,000.00</b>
Eldoret Agricultural Inv.	Baraka Msingi Planting	
Eldoret Agricultural Inv.	Baraka T/Dressing	22,990,125.00
<b>Total Eldoret Agri. Inv</b>		<b>22,990,125.00</b>
Elgon Kenya Ltd	Elgon Tea Blend	37,875,000.00
Elgon Kenya Ltd	Elgon Npk Maize T/Dressing	37,875,000.00

Total Paid Elgon Kenya		75,750,000.00
Kapenguria Mifugo	Beraka Msimai Planting	2,507,000.00
Total Paid-Kapenguria Mifugo		2,507,000.00
Chiromo Fertilizer Ltd	Fanisi T/Dressing	30,906,000.00
Chiromo Fertilizer Ltd	Fanisi Coffee Blend	16,627,125.00
Chiromo Fertilizer Ltd	Agricultural Lime	24,970,000.00
Total Paid-Chiromo		72,503,125.00
First Quality Supplies Ltd	Fanisi T/Dressing	2,828,000.00
First Quality Supplies Ltd	Fanisi Npk-Planting	3,052,000.00
Total Paid First Quality		5,880,000.00
Mems Distributors	Sulphate Of Ammonia	75,750,000.00
Total Paid Mems Distributors		75,750,000.00
Mea Distributors	Urea	37,593,000.00
Total Paid Mea Distributors		37,593,000.00
Total-Subsidy Paid		2,545,065,200.00

FERTILIZER SUBSIDY PROGRAM 2021-2022 F/Y		
SUMMARY OF SUBSIDY PAID (LONG RAINS-2021-2022 F/Y)		
SUPPLIER	PRODUCT	AMOUNT PAID (KSH)
CFAO AGRI LTD	BARAKA MUSINGI PLANTING	10,553,200.00
CFAO AGRI LTD	BARAKA TOP DRESSING	48,493,200.00
TOTAL PAID TO CFAO AGRI LTD		59,046,400.00
FIRST QUALITY SUPPLIES LTD	FANISI T/DRESSING	7,752,800.00
FIRST QUALITY SUPPLIES LTD	FANISI NPK-PLANTING	29,982,400.00
TOTAL PAID TO FIRST QUALITY		37,735,200.00
FERTIPLANT E.A LTD	CAN	22,249,150.00
TOTAL PAID TO FERTIPLANT E.A LTD		22,249,150.00
KAPTUEI MEADOW	Agricultural Lime	151,000.00
TOTAL PAID TO KAPTUEI		151,000.00
MAISHA MINERALS	MAVUNO PLANTING	61,297,200.00
MAISHA MINERALS	MAVUNO TOP DRESSING	88,583,350.00
TOTAL PAID TO MAISHA MINERALS		149,880,550.00
MEA DISTRIBUTORS	UREA	149,429,100.00

TOTAL PAID TO MEA DISTRIBUTORS		149,429,100.00
MEMS DISTRIBUTORS	UREA	98,400,525.00
TOTAL PAID TO MEMS DISTRIBUTORS		98,400,525.00
MINJINGU MINERALS AND MINES	NAFAKA PLUS	30,666,400.00
MINJINGU MINERALS AND MINES	CAAN-NPCA 27:10:15	74,258,800.00
MINJINGU MINERALS AND MINES	ORGANIC HYPER PHOSPHATE	34,377,950.00
TOTAL PAID TO MINJINGU MINES		139,303,150.00
OCP KENYA	DAP	337,432,250.00
TOTAL PAID TO OCP KENYA		337,432,250.00
YARA E.A LTD	AMIDAS TOP DRESSING	45,620,400.00
YARA E.A LTD	DAP	8,437,500.00
YARA E.A LTD	MOP	652,750.00
YARA E.A LTD	NPK	7,112,800.00
TOTAL PAID TO YARA E.A LTD		61,823,450.00
TOTAL SUBSIDY PAID		1,055,450,775.00

122

## ANNEX 3

## OPERATIONAL LAST MILE FERTILIZER SELLING CENTRES AS AT 31.03.2011

S/No	Counties	Operational selling centres	Selling centres in pipeline
1	Baringo	4	-
2	Bomet	4	-
3	Bungoma	4	6
4	Busia	6	-
5	Elgeiyo Marakwet	2	-
6	Embu	9	-
7	Homa Bay	6	-
8	Kericho	3	-
9	Kiambu	8	-
10	Kirinyaga	6	-
11	Kisumu	0	7
12	Kisii	12	-
13	Kwale	1	1
14	Kilifi	-	3
15	Laikipia	9	-
16	Lamu	2	2
17	Makueni	7	-
18	Meru	6	4
19	Murang'a	9	-
20	Nakuru	15	-
21	Nyamira	3	-
22	Nyandarua	4	-
23	Nyeri	6	6
24	Siaya	1	18
25	Tharaka Nithi	3	2
26	Trans-nzoia	3	-
27	Tana River	-	1
28	Taita Taveta	3	3
29	Uasin Gishu	4	-
30	Vihiga	3	-
TOTAL		143	53

## ANNEX 4 (a)

Diatomaceous Sales Report as at 10/3/2024		
Depot Name	Quantity Sold (25KG Bag)	Sales Revenue (KSHS)
NAIROBI GCF	5	8,500.00
THIKA	1,670	2,833,900.00
LOITOKITOK	145	246,500.00
MAKUENI	624	1,060,800.00
TALA	2,478	4,210,900.00
KIBWEZI	434	737,800.00
MACHAKOS	5,136	8,602,000.00
KITHIMANI	3,849	6,393,700.00
EMALI	427	724,200.00
NYAHURURU	552	938,400.00
MARIGAT	526	894,200.00
ELDAMA RAVINE	1,119	1,902,300.00
ELBURGON	3,479	5,740,900.00
OL KALOU	2,335	3,969,500.00
NAKURU	1,461	2,482,000.00
SUBUKIA	829	1,409,300.00
BOMET	2,821	4,795,700.00
SOTIK	3,816	6,434,500.00
NAROK	453	770,100.00
KILGORIS	1,122	1,907,400.00
NAIVASHA	2,114	3,571,700.00
KEDOWA	1,080	1,836,000.00
MULOT	2,201	3,704,300.00
OLENGURUONE	1,086	1,829,200.00
NDANAI	1,950	3,292,900.00
KIPIPIRI	679	1,091,400.00
ZIWA	54	91,800.00
MOI'S BRIDGE	557	946,900.00
TURBO	152	258,400.00
KITALE	1,634	2,777,800.00
ELDORET	4,161	7,073,700.00
ANABKOI	1,172	1,938,000.00
MOSOROT	2,023	3,435,700.00
METETEI	106	178,500.00
KIPKABUS	643	1,069,300.00
LESSOS	1,470	2,499,000.00
KIPKAREN	763	1,297,100.00
SALIENI		

124

KAPSAWAR	1,732	2,041,400.00
WEBUYE	2,585	4,511,800.00
PUTERE	1,847	3,090,600.00
MALABA	1,337	2,272,900.00
BUNGOMA	3,460	5,832,700.00
CHAVAKALI	2,472	4,202,400.00
KAPSOKWONY	1,733	3,005,600.00
KIPKARFEN RIVER	976	1,662,230.00
LUGARI	1,601	2,709,300.00
HAMISI	1,305	2,213,400.00
KAKAMEGA	4,389	7,432,400.00
HOMA-BAY	981	1,715,200.00
KEHANCHA	2,695	4,581,500.00
NTIMARU	2,066	3,508,800.00
MIGORI	2,548	4,314,600.00
BONDO	800	1,135,600.00
AWENDO	2,088	3,491,800.00
KISUMU	51	78,200.00
YALA	3,214	5,220,700.00
KENDU-BAY	970	1,640,500.00
KISII	3,514	5,963,600.00
MUHORONI	172	273,700.00
NYANSIONGO	3,789	6,302,400.00
MALAVA	295	491,300.00
SAGANA	4,086	6,936,000.00
KIGANJO	4,595	7,811,500.00
MWEA	1,827	3,102,500.00
NANYUKI	3,470	5,890,500.00
EMBU	4,574	7,774,100.00
KITUI	893	1,518,100.00
MERU	6,875	11,657,945.00
MWINGI	602	1,023,400.00
ISHIARA	1,251	2,126,700.00
MAUA	854	1,450,100.00
MARAGUA	4,540	7,610,315.00
MOKOWE	2,554	4,319,700.00
VOI	793	1,280,100.00
KILIFI	1,157	1,960,100.00
KWALE	684	1,161,100.00
HOLA	214	331,500.00
TOTAL	140,865	237,491,090.00

## ANNEX 4 (b)

Diatomaceous Stock Balance Report			
	Region	Depot Name	Quantity (25kg bags)
1	Nairobi Eastern	Thika Depot	14
		Loirokitok Depot	45
		Makueni Depot	196
		Tala Sub-Depot	153
		Kibwezi Depot	6
		Machakos Depot	21
		Emali Sub-Depot	13
		Sub-Total	448
2	South Rift	Nyahururu Depot	88
		Marigat Depot	26
		Eldama Ravine	78
		Elburgon Sub- Depot	68
		Ol Kalau Sub Depot	112
		Nakuru Maize Sub-Depot	184
		Subukia Sub- Depot	150
		Bomet Depot	34
		Sotik Sub-Depot	2
		Narok Depot	64
		Kilgoris Depot	296
		Naivasha Depot	55
		Kedowa Depot	107
		Mulot Sub-Depot	11
		Olenguruone Sub-Depot	66
		Ndanai Sub- Depot	120
		Kipipiri Sub- Depot	61
Sub-Total	1,522		
3	North East	Ziwa Depot	45
		Moi's Bridge Depot	39
		Turbo Depot	33
		Kilifi Depot	61

	Eldoret Depot	18	
	Mosoriot Depot	2	
	Metaitai Sub-Depot	84	
	Kipkabus Sub-Depot	7	
	Lessos Depot	123	
	Kipkarren Salient Depot	42	
	Kapsowar Sub-Depot	71	
	<b>Sub-Total</b>	<b>530</b>	
4	Lake / Western	Webuye Depot	177
		Butere Sub-Depot	99
		Malaba Sub-Depot	93
		Bungoma Depot	73
		Kapsokwony Sub-Depot	87
		Kipkaren River Depot	158
		Lugari Depot	124
		Hamisi Sub-Depot	22
		Kakamega Depot	41
		Homa Bay Depot	107
		Kehancha Depot	91
		Ntimaru Sub-Depot	76
		Migori Depot	22
		Awendo Sub-Depot	32
		Kisumu Depot	157
		Yala Sub-Depot	119
		Kendu Bay Depot	97
		Kisii Depot	64
		Muhoroni Sub-Depot	149
		Malava Sub-Depot	272
	<b>Sub-Total</b>	<b>2,060</b>	

5	Northern	Meru Depot	92
		Kiganjo Sub-Depot	64
		Miwea Depot	51
		Nanyuki Depot	105
		Embu Depot	11
		Kitui Depot	77
		Meru Depot	239
		Mwingi Depot	130
		Ishiara Depot	7
		Maua Depot	98
		Maragua Depot	39
Sub-Total		913	
6	Coast	Mukowe	426
		Kilifi Depot	207
		Kwale Depot	298
		Hola Depot	148
		Sub-Total	1,079
Total		6,552	

128



Kenya Bureau of  
Standards  
Standards for Quality

SUBMISSIONS BY THE MANAGING DIRECTOR KENYA BUREAU OF STANDARDS TO THE  
DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK IN REGARD TO FERTILIZER  
SUBSIDY PROGRAMME.

19<sup>th</sup> MARCH, 2024

Hon Chair and Hon Members,

Good morning.

Reference is made to the letter Ref: NA/DDC/A&L/2024/005 dated 11th March 2024 that invited KEBS to appear before this honorable committee today to shed light on the matters raised in relation to fertilizer subsidy Programme.

Hon members,

I hereby make my submission as follows.

As the Kenya Bureau of Standards (KEBS), we are committed to providing transparent and accurate information to assist the committee in its investigations in relation to this matter. In your letter, several questions were asked, in order to give more clarity to the matter I would wish to respond to the questions in the following order.

I will start with question 9, then 8, 10 then conclude with question 7, I believe these questions are deemed within the purview of KEBS's mandate.

Question 9: Proof that the fertilizer distributed in the program is certified by Kenya Bureau of Standards.

The product being distributed is NOT Certified by KEBS.

The product is not in the Government Subsidy Program as per the information we have.

Honorable members,

I wish to explain the above as follows.

1. The product which KEBS initially Certified is different from what has been seized from various NCPB depots in the country and condemned as substandard and counterfeit and thus not suitable for sale in the market.

2. KEBS certified organic fertilizer (Brand: BL-GPC ORIGINAL) upon fulfilling the following:
- a. Fulfilment of the requirements for application of Product Permit for Organic fertilizer by SBL Innovate Manufacturers Limited.

*Pursuant to section 10(4) of the Standards Act of the Laws of Kenya,*

*Where any person manufactures, or intends to manufacture, any commodity in respect of which a standardization mark has been specified under paragraph (b) of subsection (1) he may notify the Bureau of his intention to comply with the approved specification and his wish to apply the relevant standardization mark, and the Bureau, if it is satisfied that he is capable of manufacturing the commodity in accordance with the relevant specification, shall issue him with a permit to use that standardization mark.*

The application was done on 4<sup>th</sup> January 2023.

- b. Production Facility inspection and Sampling by KEBS was carried out on 20<sup>th</sup> January 2023 and samples for testing were drawn on the same day.
- c. Testing of the drawn samples took place in KEBS laboratories and the results showed that the product complied with the requirements of KS 2290:2018 - Kenya Standard on the Specification for Organic Fertilizer (See Annex 1; Lab-Test Report Reference REF BS202302194)
- d. Pursuant to the Standards Act, Cap 496 of the laws of Kenya, Section 10 (5), KEBS and the SBL - Innovate Manufacturers Limited Signed a Certification Contract also called Scheme of Supervision and Control on 25<sup>th</sup> January 2023 as shown in Annex 2.

The Certification Contract or Scheme of Supervision and Control (SSC) as signed is a commitment by the manufacturer to adhere and meet all the requirements of the applicable standard and terms and conditions of certification and to manufacture quality products in the validity period of the Standardization mark Permit.

2. Under article 3.11 of the Certification Contract or SSC, the permit holder SHALL be responsible for guaranteeing that all products which carry the standardization mark always meet the quality requirements specified in the relevant standard(s).

3. Having confirmed compliance as described above, SBL – Innovate Manufacturers Limited was granted a Permit to use the KEBS Standardization Mark Permit Number 60392 (Annex 3) for Organic Fertilizer, Brand: BL – GPC Original, against the Kenya Standard KS 2290:2018 (Annex 4) on 28<sup>th</sup> January 2023.

Honorable members,

Having signed the scheme of supervision and control, the economic operator who is SBL Innovate Manufacturers Limited was obligated to consistently manufacture quality products and offer for sale certified products during the validity period of the mark.

The law (the Standards Act Cap 496, of the Laws of Kenya Section 10 (5)) requires that, and I quote

*The permit-holder shall comply with the general and specific conditions and scheme of supervision and control which the Certification Body may issue from time to time.*

Honorable Members,

Kenya Bureau of Standards (KEBS) prioritizes the quality and safety of products available in the Kenyan market in its sacred mandate of protecting human life, the environment from sub-standard and harmful commodities.

Through routine Market Surveillance activities and public complaints, KEBS recently identified a potential breach of the Certification Contract by SBL – Innovate Manufacturers Limited.

Our investigations revealed that, SBL - Innovate Manufacturers Limited engaged in misuse of the KEBS Standardization Mark on a product that was not certified by KEBS. The company displayed the mark on a product that had not undergone the mandatory certification process as stipulated by Standards Act and governed by the applicable standard.

This act undermines consumer trust and could potentially harm agricultural productivity.

KEBS's immediate Actions were as follows:

1. Suspension of Standardization Mark Number 60392 for Organic Fertilizer, Brand: BL – GPC Original.

2. Product Seizure: All unauthorized products from the company found in NCPB depots have been seized to prevent further distribution.
3. Legal Action: KEBS has initiated legal proceedings against SBL Innovate Manufacturers Limited to hold them accountable for this violation.

Honourable members,

The product by the SBL – Innovate Manufacturers Limited is not on a Government Subsidy Program because it failed in the labeling requirements of similar subsidy products (see annex 5).

Question (8): The existing mechanism and shortcomings in ensuring quality specifications of agricultural inputs in the market.

Kenya Bureau of Standards has instituted a robust framework in ensuring quality agricultural inputs including fertilizers. This is under the framework of Standardization, Metrology and Conformity Assessment. Kenya Standards are the basis of evaluation of commodities manufactured and certified for sale in the Kenyan Market. The different standards covering fertilizers are outlined in the section below.

a. Kenya Standards

The foundation of conformity assessment (product certification and testing) is compliance to Standards or set Specification. KEBS has a framework for development of Standards. Standards are developed through Technical Committees. The technical committee responsible for fertilizers consists of experts from Government, Regulatory agencies, and users of the products. Among the representation in the technical committee are; KEPHIS, KARLO, Government Chemist, KTDA, Ministry of Agriculture Livestock and Fisheries, Universities, representative from Industry with KEBS acting as the secretariat.

The following Kenya Standards have been developed covering fertilizers.

S.NO	Title	Scope
1	KS 2290: 2018: Specification for Organic Fertilizer	The Standard Specifies requirements for organic fertilizers. Organic fertilizer is naturally occurring in nature originating from organic materials or derived from natural mineral deposits. The fertilizer increases soil fertility by supplying plant nutrient or by conditioning the soil.
Other Standards		
2	KS EAS 905:2019 Specification for Granulated Phosphate rock and KS EAS 904: 2019 Specification for Phosphate rock Powder	The Standards Specifies requirements for granulated or powder phosphate rock fertilizer which contain phosphorus as the only predominant primary plant nutrient of biogenic sedimentary origin. When applied, the fertilizer supplies both Phosphorus and calcium to plants.
3	KS 157: 2020 Specification for Monoammonium Phosphate (MAP) and Diammonium Phosphate (DAP) fertilizers Specification	The Standard Specifies requirements for Monoammonium Phosphate (MAP) and Diammonium Phosphate (DAP). When applied, the fertilizer supplies both Phosphorus and Nitrogen to plants.
4	KS EAS 908:2019 Kenya standard fertilizers - potassium chloride (murate of potash) - specification	The Standard Specifies requirements for Potassium Chloride. When applied, the fertilizer supplies potassium to plants.

134

5	KS EAS 909:2019 Kenya standard fertilizers - calcium ammonium nitrate (CAN) specification	The Standard Specifies requirements for calcium ammonium nitrate (CAN). When applied, the fertilizer supplies nitrogen, ammonium and calcium to plants.
6	KS EAS 910 :2019 Kenya standard fertilizers - urea - specification	The Standard Specifies requirements for Urea Fertilizer. When applied, the fertilizer supplies nitrogen to plants.
7	KS EAS 911:2019 Kenya standard fertilizers - Ammonium sulphate	The Standard Specifies requirements for Ammonium sulphate (sulphate of ammonia). When applied, the fertilizer supplies nitrogen and sulphur to plants.
8	KS EAS 912 :2019 Kenya standard fertilizer - nitrogen, phosphorous and potassium (NPK)compounded- specification	The Standard Specifies requirements for NPK. When applied, the fertilizer supplies nitrogen, phosphorus and potassium to plants.

**b. Product Certification**

KEBS runs a product certification scheme based on the requirements of *ISO/IEC 17065:2012 - Conformity Assessment – Requirements for bodies certifying products, processes and services*.

The Standardization Mark is a pre-condition that enables products to access the local market.

The Standardization Mark is also Kenya's Notified mark under the EAC Standardization, Quality Assurance, Metrology and Testing Act 2006 (EAC SQMT Act 2006). The Act provides for mutual recognition of quality certification by EAC member states for ease of trade that allows free movement of goods within the EAC common market.

1327

The process of acquiring/ grant of KEBS Standardization Mark includes:

- i. The manufacturer submits a formal request to KEBS for the grant of the Standardization Mark using prescribed forms.
- ii. Upon receipt of the application, KEBS undertakes a review which includes, the applicable regulations, standards and other requirements for the manufacture of the product.
- iii. KEBS undertakes inspection to verify the applicant's ability to comply to requirements stipulated in the standards, regulations and any applicable code of practice. The inspection includes evaluation of controls in place to ensure that the manufacturer uses quality raw materials, in quality controls during production and evaluation of the final products based on the requirement of the Kenya Standard.
- iv. The Bureau also tests samples of the products at KEBS Laboratories or other Laboratories accredited to *ISO/IEC 17025: 2017- General requirements for the competence of testing and calibration laboratories*.
- v. Upon satisfying itself that the manufacturer meets the requirements for manufacture of the products, KEBS develops and signs a certification agreement (*Scheme of Supervision and Control*) with the manufacturer. The agreement commits the manufacturer to consistently implement the quality controls and maintain records which should be availed to KEBS during surveillance inspection.
- vi. KEBS issues the manufacturer a two-year permit to apply the Standardization Mark on the product label. The Manufacturer is also required to print the permit number beneath the Mark as a control that empowers consumers using a mobile phone to verify its validity against KEBS published database of certified products.
- vii. During the permit validity period, KEBS undertakes surveillance at the factory as well as in the market to ensure compliance.
- viii. Where a product fails to comply with the requirements specified in the standard, KEBS undertakes the following:
  - a) Require the manufacturer to review their controls and submit a corrective action to the Bureau. The corrective action is evaluated and if acceptable, the manufacturer is authorized to implement it.
  - b) KEBS may also order the manufacturer to recall from the market any affected batches of the products. This is based on an assessment of the impact to health,

consumer safety, environment, or principles of fair trade of the requirement that has been breached.

- c) Where breach of the certification agreement is significant, KEBS may suspend the permit to use Standardization Mark as provided in Section 10A of the standardization mark.
- d) KEBS may in addition to above measures take legal action as per the provision of the Standards Act.
- e) Where an order to stop production is issued, manufacturers shall not release any product until KEBS verifies the controls/ corrective action taken and is satisfied that the controls are effective.

#### c. Testing Services

As an integral component of Conformity Assessment, KEBS has a network of laboratories located at the KEBS Headquarters, Coast Region, Lake Region and North Rift Region. To provide quality testing services; the KEBS Laboratories are accredited to *ISO/ IEC 17025:2017 General requirements for the competence of testing and calibration laboratories*. Through these laboratories, KEBS is able to undertake testing of fertilizers which is part of the inputs in the product certification process. KEBS laboratories are available for use by manufacturers where they submit samples for their own quality control purposes and as required under the KEBS Product Certification scheme rules.

#### d. Quality Inspection services.

As part of conformity assessment, KEBS undertakes inspection of imports at the point of entry through destination inspection or at the country of source through the Pre-Export Verification of Conformity Programme.

The above framework provides a strong foundation for Quality products imported into the country.

However, there are shortcomings in the conformity assessment work. The main shortcomings are;

- Inadequate quality culture in the country. This may lead to low understanding of quality requirements causing challenges in compliance.

187

- > Fraudulent practices by manufacturers; whereas the framework of conformity assessment stated above is robust, we have few cases where unscrupulous manufacturers engage in production without the knowledge of regulators. This becomes a great challenge since such commodities are not traceable to a certified premise. The multi-agency framework should therefore be strengthened in order to curb such practices.

As a regulatory agency in the conformity assessment field, we are committed to engage relevant stakeholders in adopting workable solutions.

Question 10: The capacity for fertilizer quality assurance analysis which includes laboratories, equipment, and personnel.

Currently, KEBS has capacity to undertake over 3000 samples of fertilizers per year. KEBS conducts fertilizer testing at its laboratories situated in Nairobi, Mombasa, and Kisumu.

Parameters that can be tested in KEBS labs.

- 1) Moisture
- 2) pH
- 3) Organic matter
- 4) Phosphorus
- 5) Potassium
- 6) Nitrogen
- 7) Calcium
- 8) Sulphur
- 9) Heavy metals (lead, cadmium, arsenic, copper, iron, magnesium, zinc etc.)

Types and number of Equipment used to analyze the parameters.

The equipment used to analyze the fertilizers are: -

- 1) ICP-OES: Two (2)
- 2) Kjeldah distillation systems: Two (2)
- 3) Block digestors: - Two (2)

- 4) Balances: Seven (7)
- 5) Vacuum pumps: - Two (2)
- 6) Fume hoods/safety cabinets: Eight (8)
- 7) Muffle furnaces: - Three (3)
- 8) Ovens (air and vacuum): - Five (5)
- 9) Flame photometers: - Two (2)
- 10) Autoclaves: - Fourteen (14)
- 11) Incubators: - Fifteen (15)

#### Qualification of analysts

KEBS has a team of 150 exceptionally skilled personnel strategically located across Nairobi, Mombasa, Eldoret, and Kisumu, proficient in conducting comprehensive chemical, physical, and microbiological examinations. Among them, 25 are trained to carryout fertilizer analyses.

The qualification of the staff are as follows: -

- 1) Education: - Master's degrees, Bachelor of Science (B.Sc.), Higher Diploma and Diploma
- 2) Experience: - Five (5) years hand –on.

The analysis have also undergone In-house training and have been authorized as competent in parameter matrices and equipment use. They are monitored to ensure continued competence.

Accreditation status of the parameters being tested.

The following parameters of fertilizer testing are accredited by South Africa National Accreditation Services (SANAS) under the certificate number T0705.

1. Moisture content (TES/F&A/TM/20)
2. Total nitrogen (TES/F&A/TM/21)
3. Ammoniacal nitrogen (TES/F&A/TM/22)
4. Water soluble phosphorus (TES/F&A/TM/23)
5. Total phosphorus (TES/F&A/TM/24)
6. Mineral acid Sulphates (TES/F&A/TM/25)

7. Nitrate nitrogen (TES/F&A/TM/21&22)

Other Quality Assurance (QA) activities for fertilizer testing

KEBS also participates in the following Quality Assurance (QA) activities to provide extra confidence in the competence of testing: -

- 1) Participation in Proficiency Testing (PT) in fertilizer testing
- 2) Participation in Inter-laboratory comparisons (ILC) in fertilizer testing
- 3) Procurement of chemical and reagents from prequalified suppliers
- 4) Analysis of certified reference materials (CRMs)

Question number 7: the number of bags of fertilizer that could still be in the market and the mechanism to compensate stockists.

Pertaining to the inventory of fertilizer still present in the market and the measures in place to address the stock held by distributors. While the precise quantity available remains undisclosed to KEBS, our diligent market surveillance has resulted in the seizure of 5,840 bags, each weighing 25 kilograms, from various NCPB depots nationwide, as outlined in the table below:

S/NO	PRODUCT NAME	PRODUCT CODE	DEPOT NAME	DEPOT CODE	NO. OF BAGS SEIZED(25Kg )
1	GPC PLUS organic fertilizer	729-4, Batch 010	Elbergon NCPB	R2502	68
2	GPC PLUS organic fertilizer		Kipkaren Salfant	S3402	31
3	GPC PLUS organic fertilizer	Batch GPC 001	Ziwa	S2102	45
4	GPC PLUS organic fertilizer	7284 Batch 010,	Oiangurucane	R4202	65

140

		Batchless			
5	GPC PLUS organic fertilizer	7284 Batch GPC 010	Kwale Depot	V2502	297
6	GPC PLUS organic fertilizer	-	Turbo Depot	S24002	42
7	GPC PLUS organic fertilizer	-	Kipkaren River	T27	157
8	GPC PLUS organic fertilizer	7284 Batch GPC 010/001	Thika	Q2302	39
9	GPC PLUS organic fertilizer	Mfg Date 2023, Exp date 2025	Moi's Bridge	S2302	39
10	GPC PLUS organic fertilizer	7284. mfg Date.2023 Exp date 2023	Butere Depot	T2201	96
11	GPC PLUS organic fertilizer	Mfd 2023 Exp 2025, BN: GPC001 Mfd2022 Exp2027	Ishiera Depot	U3502	7
12	GPC PLUS organic fertilizer	BN: GPC001; Mfd2023 Exp 2025	Mwea Depot	U2301	47
13	GPC PLUS organic fertilizer	Mfg Date 2023, Exp date 2025 code- 7284	Kilifi Depot	V24	207
14	GPC PLUS organic fertilizer	GPC07645	Kitale depot	S2502	8
15	GPC PLUS organic fertilizer	Mfg 2023,	Kitale depot	S2502	60

1491

	fertilizer	Exp 2027			
16	GPC PLUS organic fertilizer	7284, GPC001 mig 2023 Exp 2023	Marigat Depot	R2202	27
17	GPC PLUS organic fertilizer	Mfg Date 2023, Exp date 2025	Kapsowar	S3502.00 1	72
18	GPC PLUS organic fertilizer	7284, Batchless	Eldama Ravine	R2302	77
19	GPC PLUS organic fertilizer	Mf 2023, Exp date 2025	Lugari Depot	T2802	142
20	GPC PLUS organic fertilizer	Mfd 2023 Exp 2025, BN: GPC010	Maragua Depot	U3902	39
21	GPC PLUS organic fertilizer	Mfd 2023 Exp 2025, BN: GPC010	Kiganjo Depot	U2201	64
22	GPC PLUS organic fertilizer	Mfd 2023 Exp 2025, BN: GPC010	Webuye Depot	T2102	177
23	GPC PLUS organic fertilizer	7284, Batchless	Kedowa depot	R4002	110
24	GPC All Purpose fertilizer for Farming	Mfd 2022 Exp 2027, BN: GPC001	Kitui Depot	U3102	103
25	GPC All Purpose fertilizer for Farming	Mfd 2022 Exp 2027, BN: GPC001	Mwingi Depot	U3302	139
26	GPC PLUS organic fertilizer	Mfd 2023 Exp 2025,	Nanyuki depot	U2401	104

142

		BN: GPC010			
27	GPC original plus organic fertilizer	Mfd 2023 Exp 2025	Kendubay	T3902	82
28	GPC original plus organic fertilizer	Mfd 2023 Exp 2025	Homabay	T3102	107
29	GPC original plus organic fertilizer	Mfd 2023 Exp 2025	Awendo	T3602	29
30	GPC original plus organic fertilizer	Mfd 2023 Exp 2025	Migori	T3402	16
31	GPC original plus organic fertilizer	Mfd 2023 Exp 2025	Kehancha	T5256	91
32	GPC original plus organic fertilizer	Mfd 2023 Exp 2025	Niimaru	T3302	70
33	GPC original plus organic fertilizer	Mfd 2023 Exp 2025	Bungoma depot	T2402	71
34	GPC original plus organic fertilizer	Mfd 2023 Exp 2025	Kilgoris Depot	R3602	293
35	GPC original plus organic fertilizer	Mfd 2023 Exp 2025- CODE 7284	Mokowe Depot	V21	426
36	GPC PLUS organic fertilizer	Mfg 2023, Exp 2025	Meteitei	S2902	91
37	GPC PLUS organic fertilizer	7284 Batch GPC 001, batchles s	Mulot Depot	R4102	9
38	GPC PLUS organic fertilizer	Mfg 2023, Exp 2025	Nakuru Depot	R2702	188
39	GPC PLUS organic fertilizer	Mfg 2023, Exp date 2025, BN	Subukia Depot	R2802	185

143

		GPC001			
40	GPC PLUS organic fertilizer	Mfg 2023, Exp date 2025, BN 001	Myzhururu Depot	R2102	88
41	GPC original plus organic fertilizer	Mfg 2023, Exp 2025	Lessos depots	S3302	148
42	GPC PLUS organic fertilizer	Mfg 2023, Exp 2025, BN 010	Oi-Kalou	R2602	108
43	GPC PLUS organic fertilizer	7284, Batchless	Bomet	R3102	32
44	GPC PLUS organic fertilizer	Mfg 2023, Exp 2025	Kipipiri	R5102	62
45	GPC PLUS organic fertilizer	Mfg 2023, Exp 2025	Naivasha	R3802	54
46	GPC original plus organic fertilizer	Mfd 2023 Exp 2025	Kisii NCPB	T4002	60
47	GPC original plus organic fertilizer	Mfd 2023 Exp 2025- CODE 7284	Ndanai NCPB	R4401	114
48	GPC original plus organic fertilizer	Mfg 2023, Exp 2025	Muhoroni NCPB	T4101	143
49	GPC original plus organic fertilizer	Mfg 2023, Exp 2025	Malaba	T2302	93
50	GPC original plus organic fertilizer	Mfg 2023, Exp 2025	Kapsokwony	T2602	87
51	GPC All purpose organic fertilizer	Mfg 2022, Exp 2027, GPC07645	Mau-Narok	R3402	63
52	GPC original plus organic fertilizer	Mfg 2023, Exp 2025	Hole/Bura	V2602	164

1244

53	GPC All purpose organic fertilizer	MFD2022, EXPD 2027	YALLA NCPB	T3805	82
54	GPC original plus organic fertilizer	Mfd 2023 Exp 2025- CODE 7284	UGUNJA	T3806	45
55	GPC original plus organic fertilizer	Mfd 2023 Exp 2025- CODE 7285	KAKAMEGA	T3002001	42
56	GPC PLUS organic fertilizer	Mfd 2023 Exp 2025	MALAVA	T4601	245
57	GPC PLUS organic fertilizer	Mfd 2023 Exp 2026	HAMISI	T2901	15
58	GPC PLUS organic fertilizer	Mfd 2023 Exp 2027	KISUMU	T3701	157
59	GPC PLUS organic fertilizer	BN:010; BN:001	MAUA	U3601	117
	TOTAL				5840

I submit chair.



Esther Ngari.

145

# ANNEX 1





Laboratory Test Report

*Signature*

REPORT UID: 20230131160153-V4

KEBS Sample Ref. No: 35202302194

Date: 27 January, 2023

1. Description of Sample: ORGANIC FERTILIZER

2. Sample Submitted by: KEBS SOUTH RIFT REGION-QAS (NKU)

6. Lab Ref: KEBS/TES/FOO-NAR/2/13

3. Customer Contact: MOHAMED IBRAHIM

7. Date of Receipt: 23 January, 2023

4. Customer's Ref No: KEBS/SRR/SM/

8. Date Analysis Started: 27 January, 2023

5. Customer's Address: KEBS-SRR, MAKURU, KENYA

9. Sample Submission Form No: 203405

10. Additional Information provided by the customer:  
SSL - GPC

11. Acceptance criteria-title and number of specification against which it is tested:  
KS Z390:2018 KENYA STANDARD Organic fertilizer - Specification

12. Parameters tested and Method(s) of test as listed in the report below:

LABORATORY TEST REPORT					
No.	Parameters	Results	Requirements	Test Method No.	LOD
1.	Calcium	% 3.9	16Min	AOAC	
2.	Moisture	%(m/m) 15.0	15-35	KS 351	
3.	Organic Matter Content	% by mass 70.0	70Min	SAS 456	
4.	PH	6.4	6.5-9.5	KS-150	
5.	Sulphur as S	% 1.2	14Min	KS 150	

COMMENTS/REMARKS:

The sample performed as shown

*Signature*

Emmaculate Senya - Laboratory Analyst

FOR: MANAGING DIRECTOR

27 January, 2023

Date of Issue

The results contained herein apply only to the particular sample(s) tested whose sample submission form serial number is herein quoted, and to the specific tests carried out, as detailed in this Test Report. No extract, abridgement or abstraction from a Test Report may be published or used to advertise a product without the written consent of the Managing Director, KENYA BUREAU OF STANDARDS. If undelivered, please return to the address written above.

147

\_\_\_\_\_

1  
2  
3

\_\_\_\_\_

4  
5

6  
7  
8



REPORT UID: 20230131160115-V1

KEBS Sample Ref. No: 95202302194

Date: 31 January, 2023

1. Description of Sample: ORGANIC FERTILIZER

2. Sample Submitted by: KEBS SOUTH RIFT REGION-OAS (NRIU)

6. Lab Ref: KEBS/TES/WHO-NARN/13

3. Customer Contact: MOHAMED IBRAHIM

7. Date of Receipt: 23 January, 2023

4. Customer Ref No: KEBS/SRR/SIA/

8. Date Analysis Started: 27 January, 2023

5. Customer's Address: KEBS-FRR, HAKURU, KENYA

9. Sample Submission form No: 203-100

10. Additional information provided by the customer:  
SBL - GAC

11. Acceptance criteria-title and number of specification against which it is tested:  
KS 2250:2008 KENYA STANDARD Organic fertilizer - Specification

12. Parameters tested and Method(s) of test: as listed in the report below:

LABORATORY TEST REPORT					
No.	Parameters	Results	Requirements	Test Method No.	LOD
1.	Arsenic as As	mg/kg 0.05	10Max	AAS	
2.	Cadmium as Cd	mg/kg 0.5	5Max	AAS	
3.	Copper as Cu	mg/kg 35	300Max	AAS	
4.	Iron Content	ppm 1520	1000-2500	AAS	
5.	Lead as Pb	mg/kg 1.5	30Max	AAS	
6.	Magnesium	% 0.8	0.5Min	AAS	
7.	Zinc as Zn	mg/kg 52	300Max	AAS	

COMMENTS/REMARKS:

The sample performed as shown

Tom O. Okumu - Manager Inorganic Chemistry Laboratory

31 January, 2023

FOR: MANAGING DIRECTOR

Date of Issue

The results contained herein apply only to the particular sample(s) tested whose sample submission form serial number is herein quoted, and to the specific tests carried out as detailed in this Test Report. No extract, abridgement or abstraction from a Test Report may be published or used to advertise a product without the written consent of the Managing Director, KENYA BUREAU OF STANDARDS. If undelivered, please return to the address written above.

Annex 7

148



REPORT UID: 202301111115GB-V1  
KEBS Sample Ref. No: BS202302194  
Date: 31 January, 2023  
1. Description of Sample: ORGANIC FERTILIZER  
2. Sample Submitted by: KEBS SOUTH RIFT REGION-QAS (WRU)  
3. Customer Contact: MOHAMED IBRAHIM  
4. Customer Ref No: KEBS/SRR/SW/  
5. Customer's Address: KEBS-SRR, MAKURU, KENYA  
6. Lab Ref: KESS/TES/MIC-MAN/M/25  
7. Date of Receipt: 23 January, 2023  
8. Date Analysis Started: 24 January, 2023  
9. Sample Submission Form No: S02402  
10. Additional information provided by the customer:  
SSL - GPC

Annex 7

11. Acceptance criteria-title and number of specification against which it is tested:  
KS 2290:2010 KENYA STANDARD Organic fertilizer - Specification


12. Parameters tested and Method(s) of test: as listed in the report below:

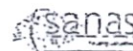
LABORATORY TEST REPORT					
No.	Parameters	Results	Requirements	Test Method No.	LOD
1.	E. Coli	cfu/g Not Detected	1000Max	TES/MIC/TM/17	
2.	Faecal streptococci	cfu/g <10	500Max	TES/MIC/TM/21	
3.	Salmonella	/25g Not Detected	0.05CMax	TES/MIC/TM/05	1.0

\* Not SANAS Accredited.  
Result(s) marked "Not SANAS Accredited" in this report is not included in the SANAS Schedule of Accreditation for this laboratory

COMMENTS/REMARKS:

The sample performed as shown

  
Bernard Wipkiriri  
FOR: MANAGING DIRECTOR



31 January, 2023  
Date of Issue

The results contained herein apply only to the particular sample(s) tested whose sample submission form serial number is herein quoted, and to the specific tests carried out, as detailed in this Test Report. No extract, abridgement or abstraction from a Test Report may be published or used to advertise a product without the written consent of the Managing Director, KENYA BUREAU OF STANDARDS. If undelivered, please return to the address written above.

149

# ANNEX 2

150





### 3.5 CALIBRATION AND VERIFICATION OF EQUIPMENT

The client shall ensure that monitoring, measuring, and verification equipment bear a valid calibration or verification status.

### 3.6 QUALITY RECORDS

Quality records in relation to inspection and testing, calibration, audit reports, complaints, relevant equipment, personnel, client's subcontractors and any other quality control activities shall be maintained by the client for a specified period of time and made available whenever required by the Product certification body.

### 3.7 COMPLAINTS

Client shall establish a mechanism of investigation of complaints and make all necessary arrangements for investigation of complaints by the PCB.

The client shall keep a record of all complaints made known to it relating to compliance with certification requirements and make these records available to the PCB when requested.

The client shall take appropriate action with respect to such complaints and any deficiencies found in products that affect compliance with the requirements for certification and document the actions taken.

### 3.8 LABELLING

The client shall ensure that the product is labelled according to the requirements of the applicable Standard(s).

### 3.9 STANDARDIZATION MARK SCHEME REQUIREMENTS

The client shall:

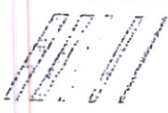
- i. pay the required fees.
- ii. apply the mark on the said products, where applicable.
- iii. not use the Certification mark on a product other than the one certified.
- iv. make an application for renewal at least three (3) months before expiry of certification permits.
- v. make necessary arrangements for evaluation, surveillance, access to the relevant equipment, location(s), area(s), personnel, and client's subcontractors by the product certification body.
- vi. make necessary arrangements for the participation of observers where applicable.
- vii. not apply or affix the standardization mark(s) on the product for which the permit has expired.



\_\_\_\_\_

**CONDITIONS FOR USE OF KBS**

1. This permit is issued subject to the provisions of the Standards Act, Cap 496 Laws of Kenya and Standardization Mark Logo (Permits and Fees) Regulations which include:
  - i. The permit-holder shall comply with the general and specific conditions and scheme of supervision and control which the Certification Body may issue from time to time.
  - ii. The permit is not transferable.
  - iii. Costs incurred during inspection to determine whether commodities to which standardization has been applied fulfill applicable requirements set forth by the Certification Body shall be defrayed by the permit-holder.
  - iv. The right to use the mark applies only to the commodities listed in the Permit.
  - v. Costs incurred in applying the standardization mark shall be defrayed by the permit-holder.
  - vi. The Certification body reserves the right to revise the regulations for marking certified commodities.
  - vii. If the Kenya Standard on which the permit is based is revised, the Permit shall be valid only if the permit-holder agrees to comply with the requirements set forth in the revised Kenya Standard or approved specification.
  - viii. The permit shall be valid for the period shown unless suspended or revoked before expiry.
  - ix. In the event that for any reason there is stoppage of production with regard to the product described on the permit, the permit-holder shall be obliged to notify the Regional Manager/Managing Director of Kenya Bureau of Standards about the stoppage, for the suspension of the permit. Failure to do so shall be deemed as misuse of the mark and shall lead to demand to pay accrued monies in the period that renewal of same permit had not taken place.
  
2. The breach of any of the conditions contained in this permit constitutes an offence under the provisions of Standards act and the Standards marks (Permits and Fees) Regulations:
  
3. Any permit-holder aggrieved by a decision of the Certification Body may appeal in writing to the Standards Tribunal.





# ANNEX 4

LSTF

-----

-

1  
2  
3

KENYA STANDARD

KS 2290: 2018

ICS 65.080

APPROVED  
2018-01-11

## Organic fertilizer — Specification

© KEBS 2018

Second Edition 2018

155

KS 2290: 2018

#### TECHNICAL COMMITTEE REPRESENTATION

The following organizations were represented on the Technical Committee:

Kenya Plant Health Inspectorate Service  
Kenya Organic Agriculture Network  
Koppert Biological Systems  
National Environment Management Authority (NEMA)  
Department of Veterinary Services  
Sanergy Ltd.  
Green Resources Exploration  
Elgon Kenya Ltd.  
Ministry of Health  
Kenya Bureau of Standards — Secretariat

#### REVISION OF KENYA STANDARDS

In order to keep abreast of progress in industry, Kenya Standards shall be regularly reviewed. Suggestions for improvements to published standards, addressed to the Managing Director, Kenya Bureau of Standards, are welcome.

© Kenya Bureau of Standards, 2018

Copyright. Users are reminded that by virtue of Section 25 of the Copyright Act, Cap. 130 of 2001 of the Laws of Kenya, copyright subsists in all Kenya Standards and except as provided under Section 25 of this Act, no Kenya Standard produced by Kenya Bureau of Standards may be reproduced, stored in a retrieval system in any form or transmitted by any means without prior permission in writing from the Managing Director.

## Organic fertilizer — Specification

---

### KENYA BUREAU OF STANDARDS (KEBS)

Head Office: P.O. Box 54974, Nairobi-00200, Tel.: (+254 020) 605490, 602350, Fax: (+254 020) 604031  
E-Mail: [info@kebs.org](mailto:info@kebs.org), Web: <http://www.kebs.org>

**Coast Region**

P.O. Box 99376, Mombasa-80100

Tel.: (+254 041) 229553, 226939/40

Fax: (+254 041) 229448

**Lake Region**

P.O. Box 2949, Kisumu-40100

Tel.: (+254 057) 23549, 22393

Fax: (+254 057) 21814

**Rift Valley Region**

P.O. Box 2136, Nakuru-20100

Tel.: (+254 051) 210553, 210555

LSA

## KS 2290: 2018

### Foreword

This Kenya standard was prepared by the Technical Committee on Organic Farming and Organic Products under the guidance of the standards projects committee and it is in accordance with the procedures of the Kenya Bureau of standards.

Organic fertilizers are natural products used to provide plant nutrients. There are a number of organic fertilizers like farmyard manure, green manures, compost prepared from crop residues and other farm wastes, vermicompost, oil cakes, biological wastes - animal bones, slaughter house refuse and natural mineral deposits that include but not limited to phosphate rock, greensand, epsom salt, calcium, limestone flour.

This standard has been revised to improve on the definitions, classifications, specifications, packaging and labelling. The standard covers solid, liquid and natural minerals as organic fertilizers.

Recent Association of Official Analytical Chemists (AOAC) methods of analysis are adopted.

This standard has been prepared to promote safe use of organic fertilizers, promote fair trade practices and ensure safety of consumers.

This standard cancels and replaces KS 2290:2011, Organic fertilizer — Specification.

During the preparation of this standard, reference was made to the following documents:

EAS 458:2007, Organic products standard.

FAO/IAQL, Fertilizer specifications, 2010.

IFOAM Basic standards.

PNS/BAFPS- 40:2013, Philippine National Standard for Organic Fertilizers.

Acknowledgement is hereby made for the assistance received from these sources.

## Organic fertilizer — Specification

## 1 Scope

This Kenya Standard specifies requirements for organic fertilizers.

## 2 Terms and definitions

For the purposes of this standard, the following terms and definitions shall apply.

## 2.1

## organic matter

biomass of animals and plants. For this reason, only products that are solely derived from organic matter may be identified or described as "organic".

## 2.2

## organic based product

a product that contains at least 70% organic material

## 2.3

## fertilizer

any material of natural or synthetic origin that is applied to soils or plants to supply one or more plant nutrients. Substance that increases soil fertility by supplying plant nutrients or by conditioning the soil with organic matter.

## 2.4

## organic fertilizer

a fertilizer that is either in solid or liquid form, naturally occurring in nature, which originates from organic material and those derived from natural mineral deposits. Organic fertilizers are substances that increase soil fertility by supplying plant nutrients or by conditioning the soil. Examples include: farmyard manure, green manure, compost, guano, alfalfa meal, bone meal, blood meal, feather meal and sea weed meal, night soil, biogas slurry, humic acid, urine based, fulvic acid and other materials found in nature.

## 2.5

## natural mineral fertilizer

Materials that are directly mined from mineral deposits and only subjected to physical processes such as crushing and drying. Examples of these materials may include: phosphate rock, gypsum, sulphate of potassium-magnesia and any other natural mineral deposits.

## 2.6

## manure

mixture of litter and/or dung in process of biological change

## 2.7

## farmyard manure

a decomposed mixture of livestock dung and urine with straws and litter used as bedding material and residues from the fodder fed to livestock

## 2.8

## green manure

a crop that is incorporated into the soil for the purpose of soil improvement and which may include spontaneous crops, plants or weeds

KS 2290: 2018

2.9

compost

well decomposed organic wastes like plant residues, animal slurry from livestock sheds

2.10

bone meal

fertilizer made from degreased bone which may be degelatinized and has been ground or crushed

2.11

guano

well decomposed accumulated and mined excrements of birds, bats and seals valued as fertilizers

2.12

blood meal

this is dried, powdered blood collected from livestock slaughterhouses

2.13

fish emulsion fertilizer

a partially decomposed blend of finely pulverized fish

2.14

cottonseed meal

milled cotton seeds used as a fertilizer

2.15

sewage sludge

a recycled product of sewage treatment plants

2.16

night soil

human urine and faeces collected separately from each other or mixed with flush water and amendments such as soil, ash and other organic matter

2.17

bio solids

organic material from sewage and related materials recycled and treated for use as a fertilizer

2.18

vermicompost

product or process of composting using various worms such as earthworms to create a heterogeneous mixture of decomposing vegetable or food waste, bedding materials

2.19

plant extracts

substances with desirable properties that are derived from plant tissues used as organic fertilizers

3

Requirements

3.1

General requirements

3.1.1

Organic fertilizer shall be practically free from foul smell.

3.1.2

Organic fertilizers shall be homogeneous in nature.

3.1.3

Organic fertilizer shall not contain more than the maximum allowed substances such as residual hormones, antibiotics and pesticides.

160

3.1.4 Organic fertilizer shall not contain any pathogenic organisms which could affect plants, animals, human beings and the environment.

3.1.5 The carrier used for organic fertilizer shall not be of a nature that is harmful to plants, animals, human beings and the environment.

3.1.6 All raw manures shall be subjected to appropriate treatment.

3.1.7 Dog and cat manures as well as untreated human waste shall not be used as fertilizers.

3.1.8 The fertilizer shall be free from foreign matter such as plastics, aluminium, wrappers, stones, weed seeds, etc.

3.2 Specific quality requirements

3.2.1 Organic fertilizers shall comply with the compositional requirements given in Table 1.

Table 1 — Compositional requirements for solid organic fertilizers<sup>a</sup>

S/N	Parameter	Limit
i)	pH	5.5 – 8.5
ii)	Carbon: Nitrogen ratio	≤ 20:1
iii)	Moisture content	15 % – 35 %
iv)	Temperature	20 °C – 30 °C
v)	Nitrogen	> 1 %
vi)	Organic matter content	≥ 70 %
vii)	Total primary nutrients (NPK), % by weight	≥ 3.5

<sup>a</sup> For natural based mineral fertilizers, reference should be made to relevant Kenya Standards for natural fertilizers.

3.2.2 Organic plant supplements shall comply with the compositional requirements given in Table 2.

Table 2 — Compositional requirements for organic plant supplements

S/N	Parameter	Limit
i)	pH	5.5 – 8.5
ii)	Temperature	≤ 30 °C
iii)	Nitrogen	> 1 %
iv)	Total primary nutrients (NPK), % by weight	≥ 3.5

3.2.3 Secondary plant nutrients shall not be identified and guaranteed if they are not present in at least the concentrations given in Table 3.

161

Table 3 — Concentrations for secondary plant nutrients

Element	Limit
Calcium (%)	≥ 1.0000
Magnesium (%)	≥ 0.5000
Sulphur (%)	≥ 1.0000
Boron (ppm)	20 – 140
Cobalt (ppm)	0.5 – 1.0
Copper (ppm)	8 – 300
Iron (ppm)	1 000 – 2 500
Manganese (ppm)	200 – 600
Molybdenum (ppm)	0.5 – 1.0
Zinc (ppm)	40 – 1 000

#### 4 Heavy metal contaminants

Metal contaminants if present in fertilizer shall comply with the limits given in Table 4.

Table 4 — Heavy metal contaminant limits for organic fertilizer

S/N	Parameter	Limit, mg/kg
i)	Arsenic, max.	10
ii)	Cadmium, max.	5
iii)	Chromium, max.	50
iv)	Copper, max.	300
v)	Lead	30
vi)	Mercury	0.1
vii)	Nickel	50
viii)	Zinc	300

#### 5 Hygiene

The fertilizer shall be free from pathogenic organisms. Where applicable, the product shall also comply with microbiological limits given in Table 5.

Table 5 — Microbiological limits for organic fertilizer

S/N	Microorganism	Allowable level
i)	<i>Escherichia Coli</i>	1000, cfu/g
ii)	<i>Salmonella</i>	NR
iii)	<i>Faecal streptococci</i>	< 500, cfu/g
iv)	Infective parasites	NR

#### 6 Packaging

6.1 The organic fertilizer shall be packaged in materials that ensure the product integrity and quality.

6.2 The fill of the package shall comply with the Weight and Measures Act, Cap. 513 of the Laws of Kenya.

## 7 Environment

The disposal of condemned organic fertilizer and used packaging shall be done as stipulated in the Environmental Management and Coordination Act (EMCA, 1999), Public Health Act, Cap. 242 and the Plant Protection Act, Cap. 324 of the Laws of Kenya.

## 8 Labelling

8.1 The packages shall be legibly and indelibly labelled with the following information:

- i) Product name;
- ii) Brand name;
- iii) Net weight;
- iv) Batch number;
- v) Manufacturer/importer name and (contacts) physical address, telephone/email/fax;
- vi) Nutrient content;
- vii) Carbon/nitrogen ratio;
- viii) Organic matter content;
- ix) Moisture content;
- x) Date of manufacture;
- xi) Expiry date/best before date;
- xii) Instructions for use eg rate, frequency, time, method of application etc;
- xiii) Ingredients;
- xiv) Storage conditions;
- xv) Directions on disposal;
- xvi) Compatibility;
- xvii) Declaration on GMO Status; and
- xviii) Liability clause and guarantee analysis.

8.2 Other labelling guidelines include the following

- a) Testimonials/endorsements: The public has no way of evaluating the status of the endorser in relation to a product. For this reason, testimonials and endorsements will be viewed as claims and evaluated accordingly.
- b) Other claims: Any reference to the activity of a product containing plant nutrients that is not generally associated with its nutritional value must be substantiated with statistically significant efficacy data.
- c) Where the product does not contain all 3 major plant nutrients, the label should carry a statement indicating that some plants may require an additional source of the nutrient(s) that are lacking.
- d) Blanket statements suggesting that the product is completely safe and non-toxic to humans, animals or the environment must not appear on the label unless verified and approved.

163

Annex A  
(informative)

## Substances that may be used as fertilizers or soil conditioners

S/N	Substance	Description, compositional requirements, conditions of use
1)	Farmyard and poultry manure	Products comprising a mixture of animal excrements and vegetable matter (animal bedding). Indication of animal species. Coming from extensive farming, but if sourced from intensive farming or not sourced from organic production systems, need recognition by the approved certifying organization and shall be composted.
2)	Slurry or urine (not from human origin)	If not from organic farming sources, need recognition by the approved certifying organization. Use after controlled fermentation and/or appropriate dilution. Factory farming sources not permitted. Indication of animal species.
3)	Composted animal excrements, including poultry manure	Need recognition by the approved certifying organization. Indication of animal species.
4)	Dried farmyard manure and dehydrated poultry manure	Need recognition by the approved certifying organization. Indication of animal species. Coming from extensive farming, but if from intensive farming sources it must be composted.
5)	Guano	Need recognition by the approved certifying organization.
6)	Straw	Need recognition by the approved certifying organization.
7)	Composts from spent mushroom & dejects of worms and insects (vermiculture substrates)	The initial composition limited to products on this list.
8)	Composted or fermented organic household refuse	Organic vegetable and animal waste separated from household waste, which has been subjected to composting or anaerobic fermentation for biogas production. Need recognition by the approved certifying organization. Maximum concentrations in mg/kg of dry matter: Cadmium: 0.7; Copper: 70; Nickel: 25; Lead: 45; Zinc: 200; Mercury: 0.4; Chromium (total): 70; Chromium (VI): 0 (*). (* ) = limit of determination.
9)	Composted or fermented plant residues	Need recognition by the approved certifying organization.

S/N	Substance	Description, compositional requirements, conditions of use
		Mixtures of plant matter which has been subjected to composting or anaerobic fermentation for biogas production.
10)	Products and by-products of animal origin from slaughterhouses & fish industries: <ul style="list-style-type: none"> <li>- blood meal</li> <li>- hoof meal</li> <li>- horn meal</li> <li>- bone meal or degelatinised bone meal</li> <li>- fish meal</li> <li>- meat-meal</li> <li>- feather, hair and "chiquette" meal</li> <li>- wool</li> <li>- fur</li> <li>- hair</li> <li>- dairy products</li> </ul>	Need recognition by the approved certifying organization.  Heavy metal contamination monitoring necessary.  maximum concentration in mg/kg of dry matter of Chromium (VI):0 (*) (*) = limit of determination
11)	By-products of food & textile industries	Not treated with synthetic additives. Need recognition by the approved certifying organization.
12)	Seaweeds and seaweeds products	Need recognition by the approved certifying organization. Directly obtained by physical processes; extraction with water or acid and/or alkaline solution; and fermentation.
13)	Sawdust, bark and wood waste	From wood not chemically treated after felling.
14)	Wood ash	From wood not chemically treated after felling.
15)	Natural phosphate rock	Need recognition by the approved certifying organization. Cadmium should not exceed 90 mg/kg of P <sub>2</sub> O <sub>5</sub> .
16)	Basic slag	Need recognition by the approved certifying organization.
17)	Rock potash, mined potassium salts (e.g. kainite, sylvite)	Need recognition by the approved certifying organization.
18)	Potassium sulphate, possibly containing magnesium salt	Obtained by physical procedures but not enriched. Need recognition by the approved certifying organization. Derived from crude potassium salt.
19)	Calcium carbonate of natural origin (e.g. chalk, marl, maerl, limestone, phosphate chalk)	

165

S/N	Substance	Description, compositional requirements, conditions of use
20)	Magnesium and calcium carbonate of natural origin (e.g. magnesium chalk, ground magnesium limestone)	-
21)	Industrial lime from sugar production	Need recognition by the approved certifying organization.
22)	Epsom salt (magnesium sulphate)	Only of natural origin
23)	Gypsum (calcium sulphate)	Only of natural origin.
24)	Stilage and stillage extract	Ammonium stillage excluded.
25)	Sodium chloride	Only mined salt. Need recognition by the approved certifying organization
26)	Aluminium calcium phosphate	Cadmium should not exceed 90 mg/kg of P <sub>2</sub> O <sub>5</sub> . Use limited to basic soils (pH > 7.5).
27)	Trace elements (e.g. boron, copper, iron, manganese, molybdenum, zinc)	Need recognition by the approved certifying organization.
28)	Sulphur	Need recognition by the approved certifying organization.
29)	Stone meal	-
30)	Clay (e.g. bentonite, vermiculite, perlite, zeolite)	-
31)	Naturally occurring biological organisms (e.g. worms)	-
32)	Peat	Excluding synthetic additives; permitted for seed, potting media composts (limited to horticulture).
33)	Calcium chloride solution	Need recognition by the approved certifying organization. Foliar treatment of apple trees after identification of deficit of calcium.
34)	By-products of industries processing ingredients from organic agriculture	Need recognition by the approved certifying organization.
35)	Night soil/faeces and material containing faecal matter	Subjected to either of the following treatments: composting, incineration/drying, anaerobic digestion and ammonia treatment.
36)	Sewage sludge	Subjected to anaerobic digestion/fermentation, composting or long time treatments.
37)	Human urine	Proper storage (based on the action of ammonia in combination with temperature.

# ANNEX 5

\_\_\_\_\_

1

2

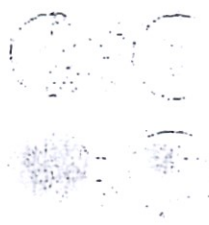
3

4

5



1. The first part of the document  
 is a list of names and addresses  
 of the members of the  
 committee. The names are  
 listed in alphabetical order  
 and the addresses are listed  
 in the same order.



188

\_\_\_\_\_

0  
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100

1

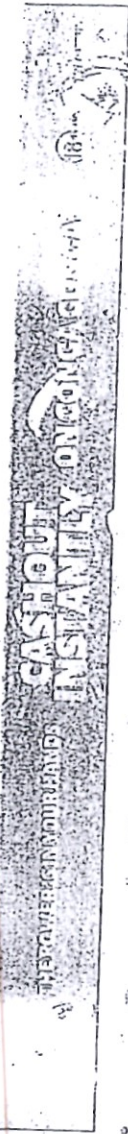
2

3

4

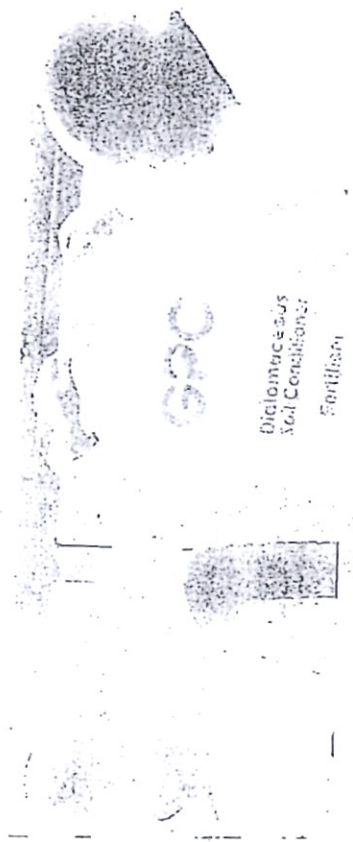
5

Citizen  
Search



# National Cereals Board Enters Into Merge Aimed At Lowering Fertilizer Prices

By [...](#)  
Published on March 31, 2022 06:25 (EAT)



## TRENDING NOW

- Kenya's blast CS Namwamba for always inserting his image on posters congratulating athletes**  
23 hours ago
- Drama in Turkana after KDF soldiers who slapped, disarmed and ordered police officer to kneel arrested**  
12 hours ago
- 'We are not flower girls... Behave like the grandmother of the House': MPs Ichung'wah, Millie Odhiambo clash in Parliament**  
23 hours ago
- President Ruto exposes 2,100 Gov't employees with fake certificates**  
17 hours ago



Citizen  
Desktop

be in trouble - Ruto warns CS Muriuki  
over road accidents  
20 hours ago

### LATEST STORIES

LIVE: Medical Services PS Harry Kimutai  
briefs MPs on status of Social Health  
Insurance Fund (SHIF)  
9 minutes ago

LIVE: CS Duale handing over Uhuru Park to  
Nairobi County govt after rehabilitation by  
KDF  
14 minutes ago

Doctors are striking because many have  
private practices, Manyatta MP Mukunji says  
26 minutes ago

Dubai roads, airport reel from floods after  
record rains  
43 minutes ago

It is not your money that pays doctors, our  
taxes should pay them - Sifuna tells Ruto  
1 hour ago

The National Cereals and Produce Board (NCPB) has reached new partnerships aimed at  
bringing down the cost of fertilizer amidst runaway costs of the commodity over recent  
months.

In one of the partnerships bringing together the State parastatal, 51 Capital and Africa  
Diatomite Limited, NCPB will supply affordable fertilizer through its respective nationwide  
branches in a two year contract.

Early March, Agriculture Cabinet Secretary Peter Munya warned that the price of fertilizer  
was bound to escalate to over Ksh.7,000 for a 50kg bag due to the ongoing tensions  
between Russia and Ukraine.

You May Like

Sponsored Links by Taboola

Placeholder for sponsored links and related content, including a small image of a person.



"We get most of our fertilizer from Russia and China and this war may see the price of fertilizer hit Sh7,000 if there will be no subsidy in place," Munya told Parliament.

At the time, fertilizer was retailing at a staggering Ksh.6,000 for a 50kg bag which has been attributed to high prices of natural gas in Europe.

In comes 51 Capital, a company in conjunction with Africa Diatomite Limited who have now entered into an unprecedented deal with the National Cereals Board of Kenya to supply affordable fertilizer to all the NCPB branches nationwide in a tantalizing two-year contract.

51 Capital, whose CEO is businessman Joe Kariuki, has now been tasked with easing the burden of farmers across the country and will be in charge of supplying millions of GPC fertilizers to the NCPB which will then trickle down to the farmers from all corners of the Country.

GPC Premium Products comprise of fertilisers, pesticides and earth powders and will all be

171



Citizen  
Digital

supported community through the cereals board and their prices that have been extraordinary slashed to accommodate all farmers.

"Fertilizer has been going for Ksh.6000 and this has greatly affected the average farmer. We want to happily announce that our fertilizers, through the amazing partnership we've made with the Cereals Board, shall now be going for as little as Sh. 1700 countrywide as they are locally-made, organic and excellent for the soil," Joe Kariuki, the 51 Capital CEO, says.

Hilda Birech, the Sales Manager confirmed that the multi-million partnership with NCPB takes effect immediately.

"I'm truly thankful to you all. To the team, our leaders and especially to the Cereals Board for the partnership that will see us supply fertilizers across the country. It's truly a milestone for us and it has taken everyone's efforts to see the success of this rare merger. Let's forge ahead and make Kenya a great farming nation again," she said at the company offices.

Want to send us a story? Submit on [WAMANCHI REPORTING](#) on the Citizen Digital App

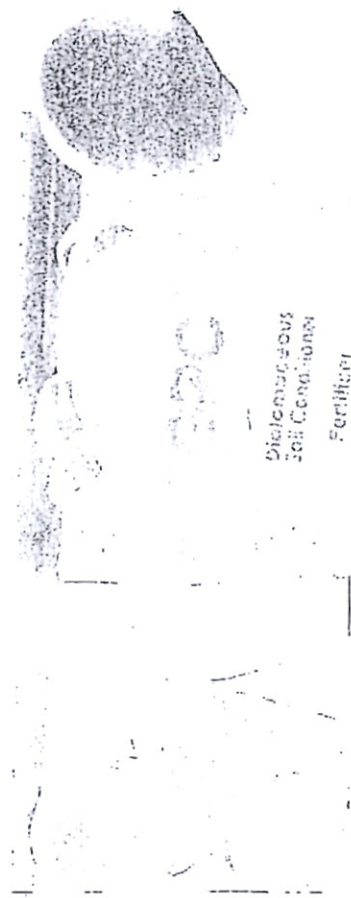
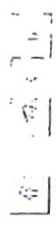


Kenya's top court has ruled that the merger of the National Council of Governors and the National Council of County Governors is unconstitutional. The court found that the merger would violate the separation of powers and the independence of the judiciary. The ruling is a significant setback for the government's efforts to streamline the executive branch.



## National Councils Board Enters Info Merger Aimed At Lowering Fertilizer Prices

by [Charles Kariuki](#)  
 Published on: March 31, 2022 06:20 (EAT)



170

### TRENDING NOW

- Kenya's blast CS Namwamba for always inserting his image on posters congratulating athletes  
23 hours ago
- Drama in Turkana after KDF soldiers who slapped, disarmed and ordered police officer to kneel arrested  
12 hours ago
- 'We are not flower girls... Behave like the grandmother of the House': MPs Ichung'uah, Millie Odhiambo clash in Parliament  
23 hours ago
- President Ruto exposes 2,100 Gov't employees with fake certificates  
17 hours ago

Citizen  
Digital

NEWS | WORLD | BUSINESS | SPORTS | ENTERTAINMENT | OPINION | ANALYSIS

Kenya | KISumu

174

The National Cereals and Produce Board (NCPB) has reached new partnerships aimed at bringing down the cost of fertilizer amidst runaway costs of the commodity over recent months.

In one of the partnerships bringing together the State parastatal, 51 Capital and Africa Diatomite Limited, NCPB will supply affordable fertilizer through its respective nationwide branches in a two year contract.

Early March, Agriculture Cabinet Secretary Peter Munya warned that the price of fertilizer was bound to escalate to over Ksh.7,000 for a 50kg bag due to the ongoing tensions between Russia and Ukraine.

You May Like



Sponsored Links by Taboola

be in trouble - Ruto warns CS Murkomen over road accidents  
20 hours ago

### LATEST STORIES

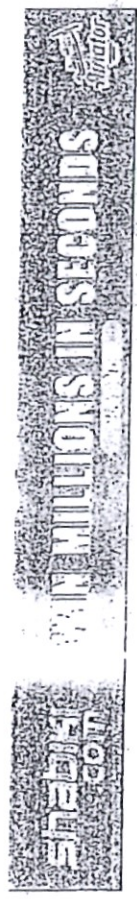
LIVE: Medical Services PS Harry Kimutai briefs MPs on status of Social Health Insurance Fund (SHIF)  
9 minutes ago

LIVE: CS Duale handing over Uhuru Park to Nairobi County govt after rehabilitation by KDF  
14 minutes ago

Doctors are striking because many have private practices, Manyatta MP Mukunji says  
28 minutes ago

Dubai roads, airport reel from floods after record rains  
43 minutes ago

It is not your money that pays doctors, our taxes should pay them - Sifuna tells Ruto  
1 hour ago



"We get most of our fertilizer from Russia and China and this war may see the price of fertilizer hit Sh7,000 if there will be no subsidy in place," Munya told Parliament.

At the time, fertilizer was retailing at a staggering Ksh.6,000 for a .50kg bag which has been attributed to high prices of natural gas in Europe.

In comes 51 Capital, a company in conjunction with Africa Diatomite Limited who have now entered into an unprecedented deal with the National Cereals Board of Kenya to supply affordable fertilizer to all the NCPB branches nationwide in a tantalizing two-year contract.

51 Capital, whose CEO is businessman Joe Kariuki, has now been tasked with easing the burden of farmers across the country and will be in charge of supplying millions of GPC fertilizers to the NCPB which will then trickle down to the farmers from all corners of the Country.

GPC Premium Products comprise of fertilisers, pesticides and earth powders and will all be

17

experience noteworthy through the screens boards and some prices that were been summarized slashed to accommodate all farmers.

"Fertilizer has been going for Ksh. 6000 and this has greatly affected the average farmer. We want to happily announce that our fertilisers, through the amazing partnership we've made with the Cereals Board, shall now be going for as little as Sh. 1700 countrywide as they are locally-made, organic and excellent for the soil." Joe Karuki, the 51 Capital CEO, says.

Hilda Birech, the Sales Manager confirmed that the multi-million partnership with NCPB takes effect immediately.

"I'm truly thankful to you all. To the team, our leaders and especially to the Cereals Board for the partnership that will see us supply fertilizers across the country. It's truly a milestone for us and it has taken everyone's efforts to see the success of this rare merger. Let's forge ahead and make Kenya a great farming nation again," she said at the company offices.

x

Want to send us a story? Submit on [WAFANANCHI REPORTING](#) on the Citizen Digital App



111

Articles

West Pokot County | Lake Region | Rift Valley

of the subsidised fertiliser.

- The government-issue subsidised fertiliser is being sold at Sh2,500.

The national government has imported 12.5 million bags of fertiliser, offering some relief to maize farmers in the North Rift region ahead of the planting season.

Agriculture Cabinet Secretary Mithika Linturi said a consignment of the farm input had been delivered to National Cereals and Produce Board (NCPB) depots in Eldoret and Kitale, among other towns in the region, to address a scarcity of the commodity.

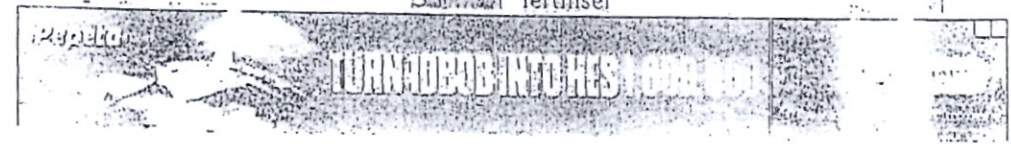
Mr Linturi blamed logistical challenges for delays in the delivery of the subsidised fertiliser, which has led to a biting shortage of the agricultural input.

RELATED

Cheap fertiliser shortage hits farmers in North Rift



Government to import 12.5 million bags of subsidised fertiliser





Page 2

The government-issue subsidised fertiliser is being sold at Sh2,500, while Di-ammonium Phosphate (DAP), which is popular with most farmers, is being sold at Sh6,200 in most outlets.

According to the latest Ministry of Agriculture data, about five million farmers are registered for the subsidy scheme, with 313,959 bags having been issued in 23 counties.

Read: Uasin Gishu, for the bulk of subsidised fertiliser, audit reveals

"About 418,267 fertiliser stocks valued at Sh790.88 million are at NCPB and Kenya National Trading Corporation warehouses," the ministry revealed in a report. The daily transaction for the fertiliser is estimated at Sh80,217,650.

Uasin Gishu and Trans Nzoia counties have a balance of 68,236 and 17,071 bags respectively. The country needs about 650,000 tonnes of fertiliser annually.

But questions have been raised over the quality of the fertiliser that is being imported by the government. Dr Timothy Njiru, an expert



179



"Because of the lower nutrient content, farmers have to apply an extra bag of the fertiliser compared to DAP to achieve higher fertilisation," Dr Njagi said.

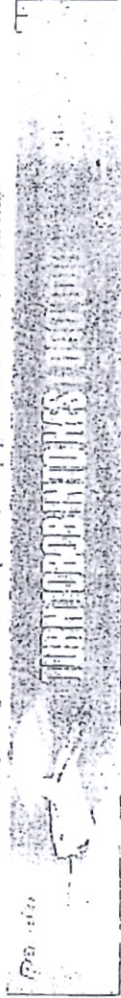
At the same time, a study by the Kenya Agricultural and Livestock Organisation (KALRO) has revealed that farmers in Uasin Gishu and Trans-Nzoia counties are losing an average of 10 bags of maize per harvest due to declining soil fertility caused by continuous application of conventional fertiliser. Most farmers do not know the acidity of their soil to determine the type of fertiliser to apply to their crops, the study said.

"Farmers are encouraged to test the soil before applying fertiliser to enable them to achieve high yields," said Mr Mathew Langat, a crop production and development officer based in Eldoret.

Read: *Inside the fertiliser cartels: How subsidies enriched wealthy farmers in Rift Valley*

It costs farmers between Sh1,500 and Sh2,000 to take samples for soil acidity testing at the Kenya Plant Health and Inspectorate Service (Kephis) and Kalro, among other institutions that carry out soil analysis.

According to agricultural experts, crop production in Africa has



14

02/11/2018

11:00 AM

11:00 AM

# NATION

11:00 AM

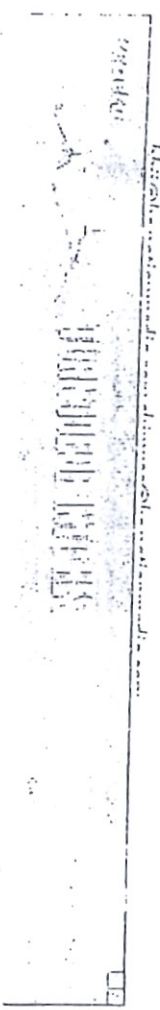
11:00 AM

11:00 AM

It costs farmers between Sh1,500 and Sh2,000 to take samples for soil acidity testing at the Kenya Plant Health and Inspectorate Service (KEPHIS) and Kalro, among other institutions that carry out soil analysis.

According to agricultural experts, crop production in Africa has declined by between two and five per cent in the past 10 years as a result of land degradation caused by increased soil acidity.

AGRICULTURE SOLUTIONS



Government confirms distribution of bad fertiliser to farmers

Menu ePaper Kenya Edition

NATION

Search Log in Sign up

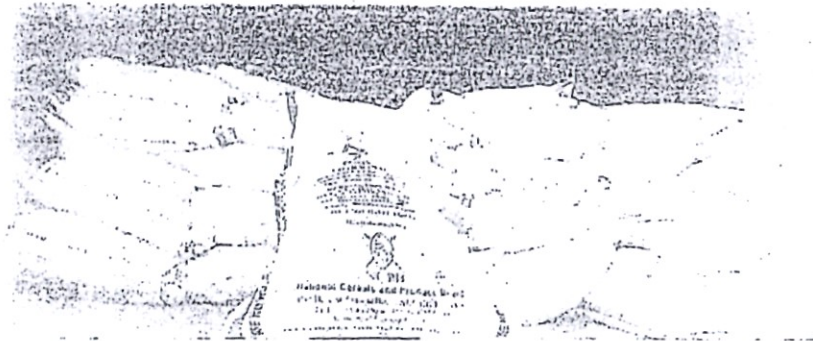
News

World Gender Tech

7 DAYS TO GO LIVE ON TV

# Government confirms distribution of bad fertiliser to farmers

By [Name]



We use cookies to enhance your experience. By continuing to visit this site you agree to our use of cookies. [Learn More](#)

183

News

World Gender Tech

Government confirms distribution of sub-standard fertiliser to farmers and suspended the distribution of the vital farm input by KEL chemicals pending legal action.

**NN**

by Burubura Bill & Vialis Kamani

The government has confirmed the distribution of sub-standard fertiliser to farmers and suspended the distribution of the vital farm input by KEL chemicals pending legal action.

The move follows the release of test results by the Kenya Bureau of Standard (KEBS) on all fertiliser being distributed under the subsidy programme which showed that fertiliser distributed by KEL chemicals did not meet quality requirements.

The quality regulatory body has consequently initiated legal action against KEL Chemicals for distributing substandard products as per the Standards Act Cap 496.

**RELATED**

Stinking mess: The murky politics of fertiliser in Kenya  Rift MPs want action taken against traders selling fake 

[We use cookies to enhance your experience. By continuing to visit this site you agree to our use of cookies. Learn More](#)





News

World Gender Tech

fertiliser

News 17:33

News 14:34

"This measure underscores the Government commitment to upholding stringent product quality and safety standards, ensuring accountability and safeguarding the agricultural sector and the wider public," said a statement from the Ministry of Agriculture.



Agribusiness

### AQUACULTURE SOLUTIONS

ISM Agrifarms



It assured farmers that all fertiliser being distributed under the subsidy programme meet the required requirements except those manufactured and distributed by Ms KEL chemicals.

Among the brands distributed by the firm that did not meet all required test parameters include *Kelphos Plus*, *Kelphos Gold* and *NPK 10:26:10*. It affected consignments distributed between and March 5 to 10 2024.



We use cookies to enhance your experience. By continuing to visit this site you agree to our use of cookies. [Learn More](#)

185

# NATION

World Gender Tech

Search

Log in

Sign up

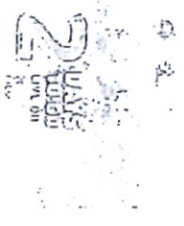
Chemicals' operations and seizure of its fertiliser products," added the statement.

Also Read: Action must be taken against those supplying fake fertilisers to farmers

It asked farmers who have acquired or possess fertiliser from KIEL Chemicals to immediately discontinue its use and to visit their nearest NCPB facility for further guidance.

"The Government remains committed to enforcing strict compliance with safety and quality standards for all fertiliser being availed to farmers among other products.

"This is to ensure that the farmers are protected against unscrupulous industry players and to preserve safety and quality of the food supply chain," said the statement.



We use cookies to enhance your experience. By continuing to visit this site you agree to our use of cookies. [Learn More](#)

As the controversy over the distribution of counterfeit fertiliser rages on, farmers are seeking explanations on who are the individuals behind its circulation and how it jammed the supply chain of the government subsidy program, posing potential threat to food security.

Also Read: [Doctors strike, banditry, fake fertiliser: Ruto ministers and the big crises](#)

Failure by the Ethics and Anti-Corruption Commission (EACC) and the Directorate of Criminal Investigations (DCI) to arrest and prosecute suppliers of fake fertiliser to farmers through the National Cereals and Produce Board (NCPB) has also raised questions on the identity of the untouchable businessmen.

This is despite the admission by the Cabinet and the Kenya Bureau of Standards (Kebs) that the government subsidy programme had been affected with supply of fake fertiliser (NPK 10:26:10) which farmers across the country had bought over an unknown period of time.

"As a precautionary measure, the NCPB has been directed to suspend the further distribution of fertiliser until the investigation is concluded and a report is provided. The NDIC affirmed that after the completion of the fertiliser investigations, those found culpable will face the full force of the law," said the National Development Implementation Committee (NDIC) chaired by Prime Cabinet



187

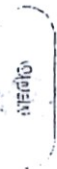
News

World Gender Tech

Secretary Musalia Mudavadi last week.

### Capital Roofing

We Proudly Design & Manufacture Iron sheets



### Also Read: [State now suspends distribution of NCPB fertilizer after fake farm inputs claims](#)

Kebs, the standards agency, told a parliamentary committee that it had withdrawn 5,840 bags of substandard fertiliser.

The scandal is expected to have far reaching ramifications on the government's efforts to enhance food production in the country and lower imports that Kenya has relied on over the years.

Through the lobby Kenya Farmers Association (KFA) and respective cooperative societies, farmers have taken issue with government pushback over non-existence of bogus fertiliser claiming some rogue government officials were behind the scam to enrich themselves at the expense of the farmers.

They have censured the government over failure to protect them



We use cookies to enhance your experience. By continuing to use this site you agree to our use of cookies. [Learn More](#)

481

## News

World Gender Tech

firms approved to distribute the fertiliser.

"There are documentations on how the consignment entered the National Cereals and Produce Board stores and register of farmers who purchased the inputs under the subsidy program. It should take responsibility and go for them instead of taking farmers in circles," said Kiptorir Menjo, Kenya farmers Association (KFA) director during a farmers meeting in Eldoret.

Agriculture



RAS Rich Farming

Agricultural debate remains a contentious issue, especially in maize growing zones in the North Rift region, the country's breadbasket where increase in the cost of farm inputs-fertiliser or imports of the grains especially during harvest period which lowers prices trigger protests from farmers.

100

News

World Gender Tech

Several bags of suspected fake fertilizer have been impounded across the country as farmers' push for the resignation of CS Linturi and compensation for the impending losses.

The board has recalled suspected fake fertilizer sold to farmers for this season's planting exercise.



The country requires 650,000 tonnes of fertilizer annually for optimum production.

Dr Paul Kipronoh Rono, the Principal Secretary for Agriculture and Crops Development recently announced the suspension of the NPK fertilizer (N:PK 10:26:10) manufactured by Ken Chemicals Limited on claims it may be substandard.

The PS said the government will subject the suspected fake fertilizer

[Click here to enlarge your experience. By continuing to use this site you agree to our use of cookies. Learn More](#)

01

in circulation in parts of the country to laboratory tests to ascertain the quality of the farm input and determine its fate in the market.

Some farmers from the North Rift region who purchased the fake fertiliser for dry planting period are now compensation from companies that received certification from Kebs to sale the inputs that have been declared.

"The government should protect farmers from cartels who have subverted the fertiliser distribution chain, selling them fake inputs. The scam subject farmers to heavy losses and shatter the dream of attaining food security," said Joshua Kosgei from Chepkanga, Uasin Gishu County.

A similar situation prevails in Mugamba Ciura village in Kirinyaga county, who bought the said fertiliser from the Embu NCPB stores.

"The bags did not have the nylon lining that helps prevent water from seeping in and we realized it is mixed with goat droppings complete with the animal's hair" Mr David Karatai, an affected farmer said.

Mrs. Lydia Wanjira is another farmer who expressed her frustrations, "Why did they sell this to us after queuing at the NCPB stores for hours," she asked.

GITEX AFRICA, 29-31 May 2024

For more information, visit [www.gitexafrica.com](http://www.gitexafrica.com) or contact us at [info@gitexafrica.com](mailto:info@gitexafrica.com)

191

News

World Gender Tech

under the subsidy program are tested and certified by Kebs and suitable for crop production. It however acknowledges that some fertiliser is under investigations after claims emerged that they could be substandard.

"The product under investigation was withdrawn from circulation within the NCPB network as of 9th March 2024 as directed by Kebs," said the report.

Lawmakers from the maize growing zone in Rift Valley have joined the debate on the counterfeit fertilizer and want proper investigations launched into the matter.

*Additional reporting by Ruth Samwezi and Ken Rop*

Nation. Empower Africa.

**We come to you. We are always looking for ways to improve our stories. Let us know what you liked and what we can improve on.**



**GITEX AFRICA, 29-31 May 2024**

Registration: <https://www.gitexafrica.com/registration>

2024

102

### LIST AND BUNDLE OF DOCUMENTS

1. NOTICE TO ISSUE SUMMONS TO APPEAR
2. NOTICE OF MOTION
3. LIST OF WITNESSES
  - i. Titus Kiprotich
  - ii. Sammy Kiptum Birgen
  - iii. Hosea Kipketer Ruto
  - iv. Benard Kuria Wanjiku
  - v. Dennis Barasa Adundo
  - vi. Celestine Nakhumicha Wanyama
  - vii. Cornelius Wafula Wanjala
  - viii. David Maina Ndegwa-Expert Witness
4. DOCUMENTARY EVIDENCE
  - i. Letter dated 19<sup>th</sup> October, 2023 (Ref. No. MOALD/LCD/9/VOL. XXXI (89)
  - ii. 1<sup>st</sup> December, 2023 (Ref: No. MOAL/ LCD/9/41 VOL.XXX)
  - iii. Letter dated 5<sup>th</sup> December, 2023 (Ref: MOA/LCD/9/41)
  - iv. Letter dated 4<sup>th</sup> January 2024 (Ref: FEAL/MOALD/001/24)
  - v. Letter dated 22<sup>nd</sup> January, 2024 (Ref: MOA/LCD/9/39/VOL.VI) (with Annex 1)
  - vi. Letter dated 12<sup>th</sup> February, 2024 (Ref: MOALD/LCD/11/VOL.XXX3)
  - vii. Letter dated 20<sup>th</sup> March 2024 (Ref: MOA/LCD/9/41)
  - viii. Memo dated 8<sup>th</sup> January 2024 (Ref: NCPB/A/9/17 VOL. XX/56)
  - ix. Memo dated 9<sup>th</sup> January 2024 (Ref: NCPB/4/1 VOL II/24)
  - x. Press Release of KEL Chemical/MEMS Limited subsidized fertilizer distribution-1
  - xi. Press Release of KEL Chemical/MEMS Limited Subsidized Fertilizer Distribution (Amended)
  - xii. Response on Fertilizer Subsidy Programme by Hon. Mithika Linturi, EGH Cabinet Secretary

- xiii. Submissions by Managing Director Kenya Bureau of Standards to the Departmental committee on Agriculture and Livestock in regard to Fertilizer Subsidy Programme dated 19<sup>th</sup> March, 2024
- xiv. Certificate as to electronic mail print-out dated 6<sup>th</sup> May 2024
  - 5. FLASH DISK
  - 6. **PHOTOGRAPHIC EVIDENCE**

STATEMENT OF TITUS KIPROTICH

I, Titus Kiprotich, an adult male, 26 years old of age of ID Number, 37902449 of Kipkelion West Constituency within Kericho County.

1. THAT I am a farmer and I do joint farming with my parents since 2023 in our 15 acres.
2. THAT I normally use Yara government subsidy fertilizer, under the guidance of the Agricultural Extension Officers.
3. THAT sometime in 2023, following a directive from the President on the fertilizer subsidy programme, I switched to KELS - NPK 10.26.10 fertilizer and the result was good. I received a good harvest.
4. THAT before 25<sup>th</sup> December, 2023 (Christmas) an agricultural extension officer came to evaluate and advise on the number of bags of fertilizer that I needed for my 15 acres under the Agripreneurs Programme by UNESCO through Ministry of Agriculture fertilizer to be used. (Both planting and top dressing).
5. THAT on 31<sup>st</sup> January, 2024 I received a text message to collect 30 bags (using updated voucher no. Y2VDB9JR) from the National Cereals Produce Board. *(I attach a text message of Esubsidy and mark it as "TR-1")*
6. THAT I paid and collected fertilizer 15cbags of fertilizer on 26<sup>th</sup> February, 2024, the cost was Ksh 37, 500 which I paid to pay bill number 8522000 belong to National cereal and produce board account number Y2VDB9JR. *(I attach a copy of the MPESA statement and mark it as "TR-2")*
7. THAT two weeks after planting, the seed germinated. However, the plant did not grow beyond the height of the knee.
8. THAT I have incurred losses, harrowed, purchasing of seeds and hiring a Oxen to plant 8 acres of land to the tune of Ksh 75, 000.00




195

9. THAT I have lost harvest for planting of maize for Eight acres of land to the tune of Ksh 640,000 (20 bags per acre= 160 bags by ksh 4000 per 90 kgs bag.)
10. THAT my mother depends on me for food, clothing, hospital bills and I also pay fees.
11. THAT the application of the fake fertilizer has affected my farms productivity and will continue for several years leading to further loss of income. (I attach a sample of the fertilizer and mark it as "FK-3")
12. THAT I also fearful that the maize grown in my farm will not be safe for consumption in future.
13. THAT the issue has affected me psychologically, mentally because I depend on the farm for income for both my financial support and for my family as well.
14. THAT I would like compensation from the National Government for the losses.

That is all I wish to state

NAME: TITUS KIPROTICH

Signed.......... Date: 6/05/2024

Receipt No	Completion Time	Details	Transaction Status	Paid In	Withdrawn	Balance
SBQ6A5CSOC	2024-02-26 20:50:40	Customer Withdrawal At Agent TIII 779013 - Semigran Comm Koltakem Kapchebwal Shop Kericho	Completed		2,100.00	265.00
SBQ99LN9LB	2024-02-26 19:00:21	Customer Transfer to - 2547*****949 EMILY CHEPNGENO	Completed		200.00	2,365.00
SBQ99KMZ6H	2024-02-26 18:54:49	Pay Bill Online to 244441 - SAFARICOM POSTPAID BUNDLES Acc. 254757140155	Completed		25.00	2,375.00
SBQ79K6Z1L	2024-02-26 18:52:18	Customer Transfer to - 07*****766 RUTH CHEPKEMOI	Completed			2,400.00
SBQ49JU1NM	2024-02-26 18:50:22	Pay Bill Charge	Completed		-4.00	2,473.00
SBQ49JU1NM	2024-02-26 18:50:22	Pay Bill Online to 290290 - BETIKA Acc. Betika 3	Completed		-49.00	2,477.00
SBQ69F22X0	2024-02-26 18:22:41	Funds received from - 2547*****074 DENNIS MUTAI	Completed	50.00		2,526.00
SBQ19EVH73	2024-02-26 18:21:35	Funds received from - 2547*****074 DENNIS MUTAI	Completed	100.00		2,476.00
SBQ3970LCT	2024-02-26 17:31:29	Customer Transfer to - 07*****775 EDMOND BETT	Completed		-50.00	2,476.00
SBQ096P438	2024-02-26 17:29:20	Customer Transfer to - 2547*****027 Jesca chepkoech	Completed		-100.00	2,526.00
SBQ492YJFU	2024-02-26 17:02:13	Pay Bill Charge	Completed		-500.00	2,626.00
SBQ492YJFU	2024-02-26 17:02:13	Pay Bill Online to 8522000 - NATIONAL CEREALS AND PRODUCE BOARD Acc. Y2VDB9JR	Completed		-37,500.00	3,126.00
SBQ48ZLJDI	2024-02-26 16:36:06	Funds received from - 2547*****074 DENNIS MUTAI	Completed	5,140.00		40,626.00
SBQ48ZASLW	2024-02-26 16:33:40	Funds received from - 2547*****204 IRINE TONUI	Completed	12,850.00		35,486.00
SBQ58V2ATP	2024-02-26 15:58:23	Funds received from - 2547*****749 KIPSIELE RUTO	Completed	5,200.00		22,636.00
SBQ88U9WA4	2024-02-26 15:51:25	Funds received from - 2547*****455 JOSEPH SANG	Completed	10,300.00		17,436.00
SBQ98J9NLT	2024-02-26 14:12:52	Funds received from - 2547*****297 SUSAN CHIRCHIR	Completed	2,580.00		7,136.00
SBQ48H01KS	2024-02-26 13:53:28	Customer Transfer to - 2547*****304 KIPNGENO RONO	Completed		-50.00	4,556.00
SBQ38631MN	2024-02-26 12:21:54	Pay Bill Online to 826915 - Safaricom Offers Acc. Tunukiwa	Completed		-20.00	4,676.00
SBQ07SM19I	2024-02-26 10:21:09	Pay Bill Charge	Completed		-6.00	4,696.00
SBQ47R9G0K	2024-02-26 10:08:47	Funds received from - 2547*****984 EMILY CHERAMGO	Completed	4,800.00		4,801.00
SBQ07IWM70	2024-02-26 08:46:32	Pay Bill Online to 244441 - SAFARICOM POSTPAID BUNDLES Acc. 254	Completed		-12.00	1.00
SBQ47IPQGW	2024-02-26 08:44:34	Pay Bill Online to 244441 - SAFARICOM POSTPAID BUNDLES Acc. 254	Completed		-5.00	13.00
SBP36PZMHD	2024-02-25 20:53:42	Customer Transfer to - 07*****976 Alfred Yegon	Completed		-20.00	18.00
SBP06LBA46	2024-02-25 20:19:25	Merchant Payment to 609308 - PETER KOECH	Completed		-30.00	38.00
SBP06ID4TU	2024-02-25 20:01:16	Customer Transfer to - 2547*****856 VINCENT LANGAT	Completed		-40.00	68.00
SBP06F5XII	2024-02-25 19:41:48	Funds received from - 2547*****984 EMILY CHERAMGO	Completed	70.00		108.00
SBP8619MTQ	2024-02-25 18:15:21	Funds received from - 2547*****725 THIOPHILUS NGETICH	Completed	30.00		38.00
SBP64QT84K	2024-02-25 11:23:25	Pay Bill Charge	Completed		-4.00	8.00
SBP64QT84K	2024-02-25 11:23:25	Pay Bill Online to 290290 - BETIKA Acc. Betika 3	Completed		-35.00	12.00
SBP14EV51X	2024-02-25 09:18:48	Pay Bill Charge	Completed		-4.00	47.00
SBP14EV51X	2024-02-25 09:18:48	Pay Bill Online to 290290 - BETIKA Acc. Betika 3	Completed		-49.00	51.00
SBP74E5KJZ	2024-02-25 09:10:43	Funds received from - 2547*****984 EMILY CHERAMGO	Completed	100.00		100.00
SBP54CJ54L	2024-02-25 08:52:39	Pay Bill Online to 244441 - SAFARICOM POSTPAID BUNDLES Acc. 254	Completed		-10.00	0.00
SBO13KZWZ1	2024-02-24 20:59:54	Pay Bill Online to 244441 - SAFARICOM POSTPAID BUNDLES Acc. 254	Completed		-10.00	0.00
SBO03KTUAB	2024-02-24 20:58:44	Funds received from - 2547*****708 kennedy koech	Completed	10.00		10.00
SBO63DNJL2	2024-02-24 20:13:37	Customer Transfer to - 2547*****725 THIOPHILUS NGETICH	Completed		-50.00	0.00

This is the Exhibit Marked "JK" referred to in the Affidavit Declaration of Lily Kipwari Sworn at JK day of May 2024 at JK in the Republic of Kenya before me Commissioner for Oaths / Notary Public

Approved - 6th Nov 2024  
Completed - 6th Nov 2024  
Approved - 6th Nov 2024  
Completed - 6th Nov 2024  
Approved - 6th Nov 2024  
Completed - 6th Nov 2024  
Approved - 6th Nov 2024  
Completed - 6th Nov 2024

XXX

XXX

Disclaimer: Any personal information shared with you should be handled in accordance with the Data Protection Act and only used for the purpose for which it was provided.

Statement Verification Code

To verify the validity of this M-PESA statement dial \*334#, select My account and follow the prompts to enter the code.

ZFENUPL3



For self-help dial \*334# | Web: www.safaricom.co.ke | Twitter: @SafaricomPLC | @safaricom\_care | Facebook: Safaricom PLC | Terms and conditions apply

197

← Esubsidy

Dear KIPTROTICH TITUS ,  
you have a voucher code:  
AVR437MB for 15 Bags  
of Fertilizer .This voucher  
will expire in 4 days.  
Please visit your nearest  
NCPB Depot to redeem  
2024-02-26 16:05:28  
Thank You - Ministry of  
Agriculture

This is the Exhibit Marked "JK-1"  
referred to in the Affidavit / Declaration  
of Titus Kiptrotich Sworn  
This 6th day of Feb 2024  
in the Republic of Kenya before me  
Notary Public

Dear KIPTROTICH TITUS ,  
you have redeemed  
voucher code Y2VDB9JR  
for your Maize criterion.  
Thank you - Ministry of  
Agriculture. ↓

Can't reply to this short code Learn more

19\$

← Esubsidy



Agriculture.

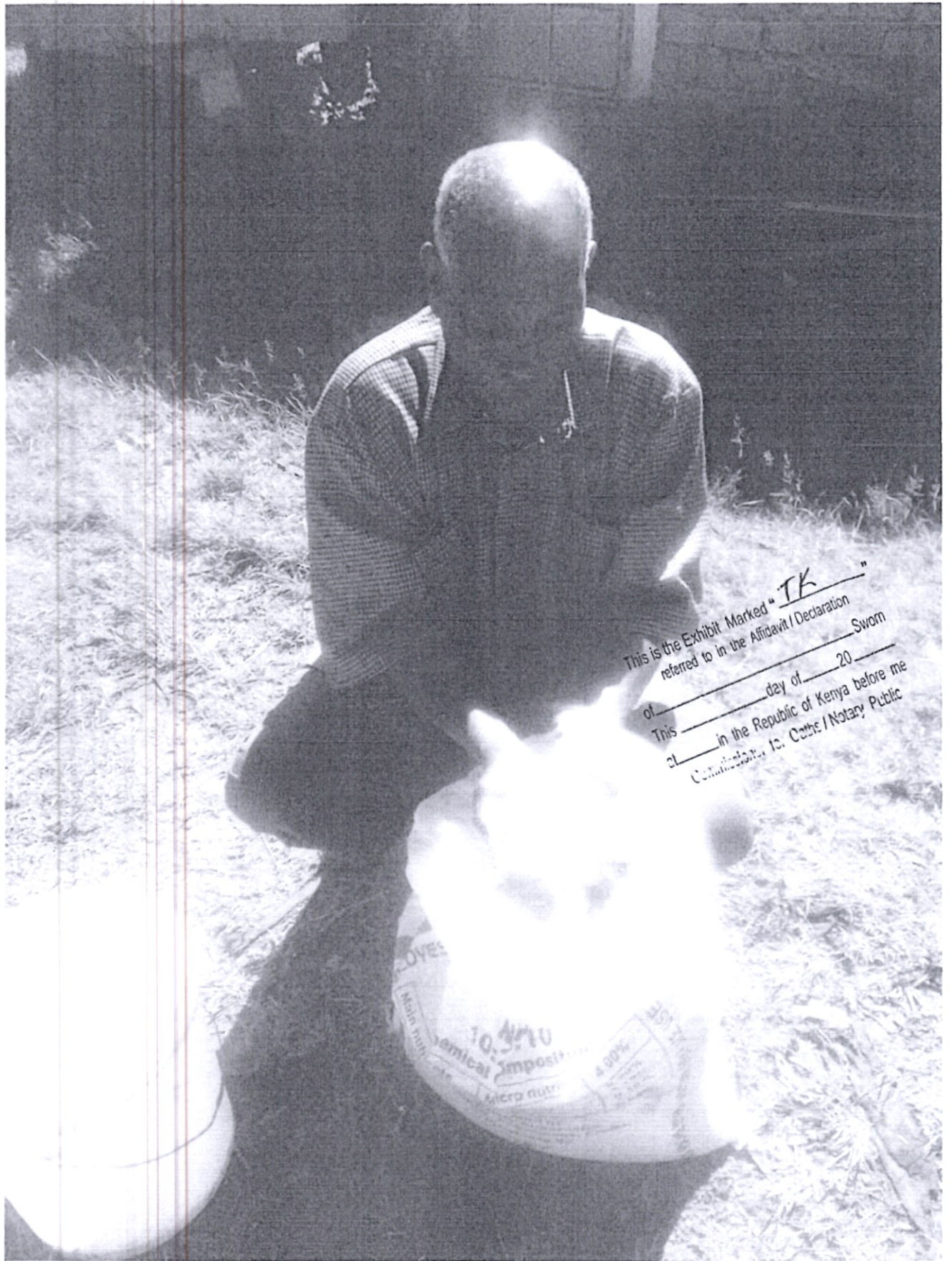
Dear KIPTROTICH TITUS ,  
you have a voucher code:  
AVR437MB for 15 Bags  
of Fertilizer .This voucher  
will expire in 4 days.  
Please visit your nearest  
NCPB Depot to redeem  
2024-02-26 16:05:28  
Thank You - Ministry of  
Agriculture

This is the Exhibit Marked " \_\_\_\_\_ " referred to in the Affidavit / Declaration of \_\_\_\_\_ Sworn This \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_ at \_\_\_\_\_ in the Republic of Kenya before me Commissioner for Oaths / Notary Public

Dear KIPTROTICH TITUS ,  
you have redeemed  
voucher code Y2VDB9JR  
for your Maize criterion.  
Thank you - Ministry of  
Agriculture.

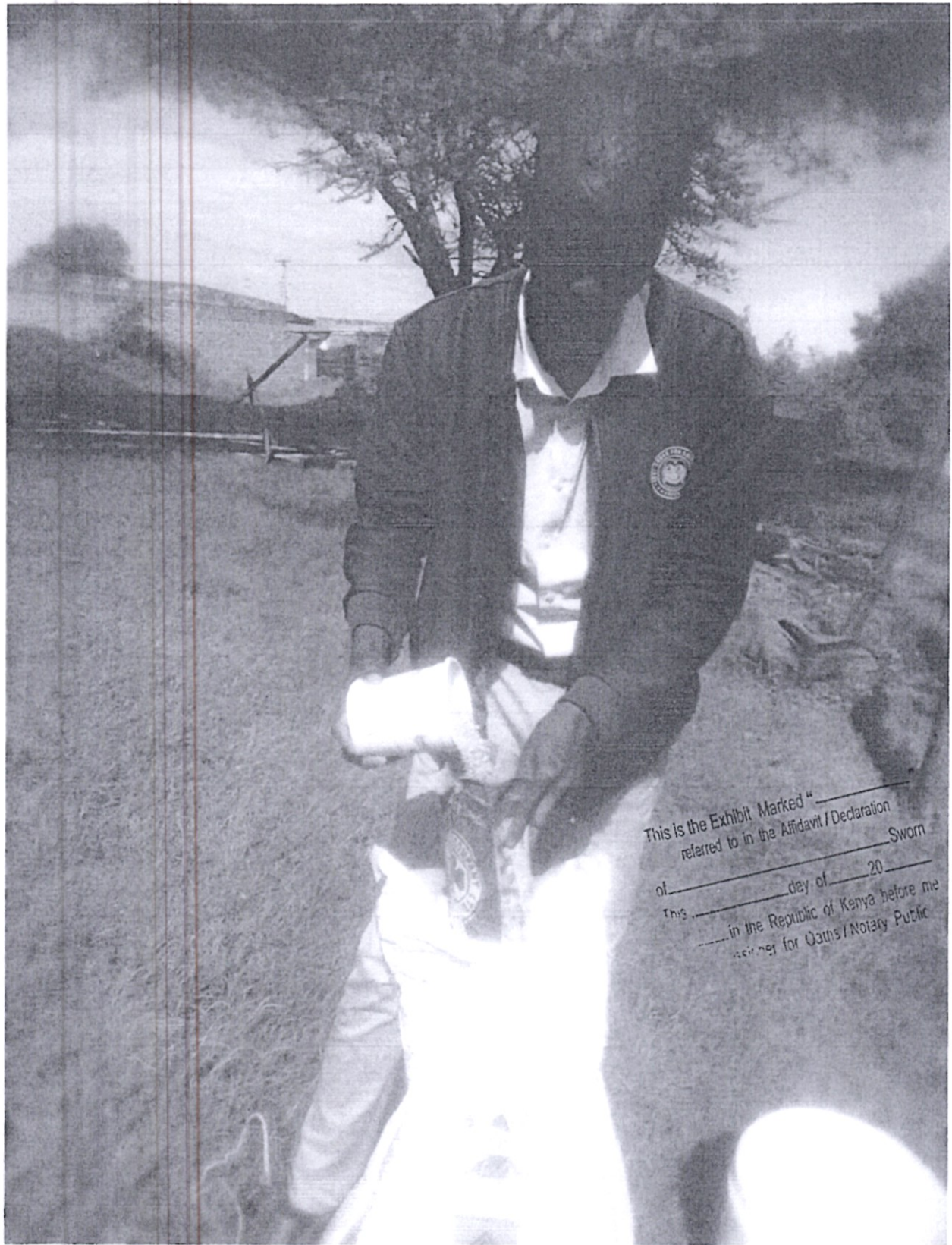


149

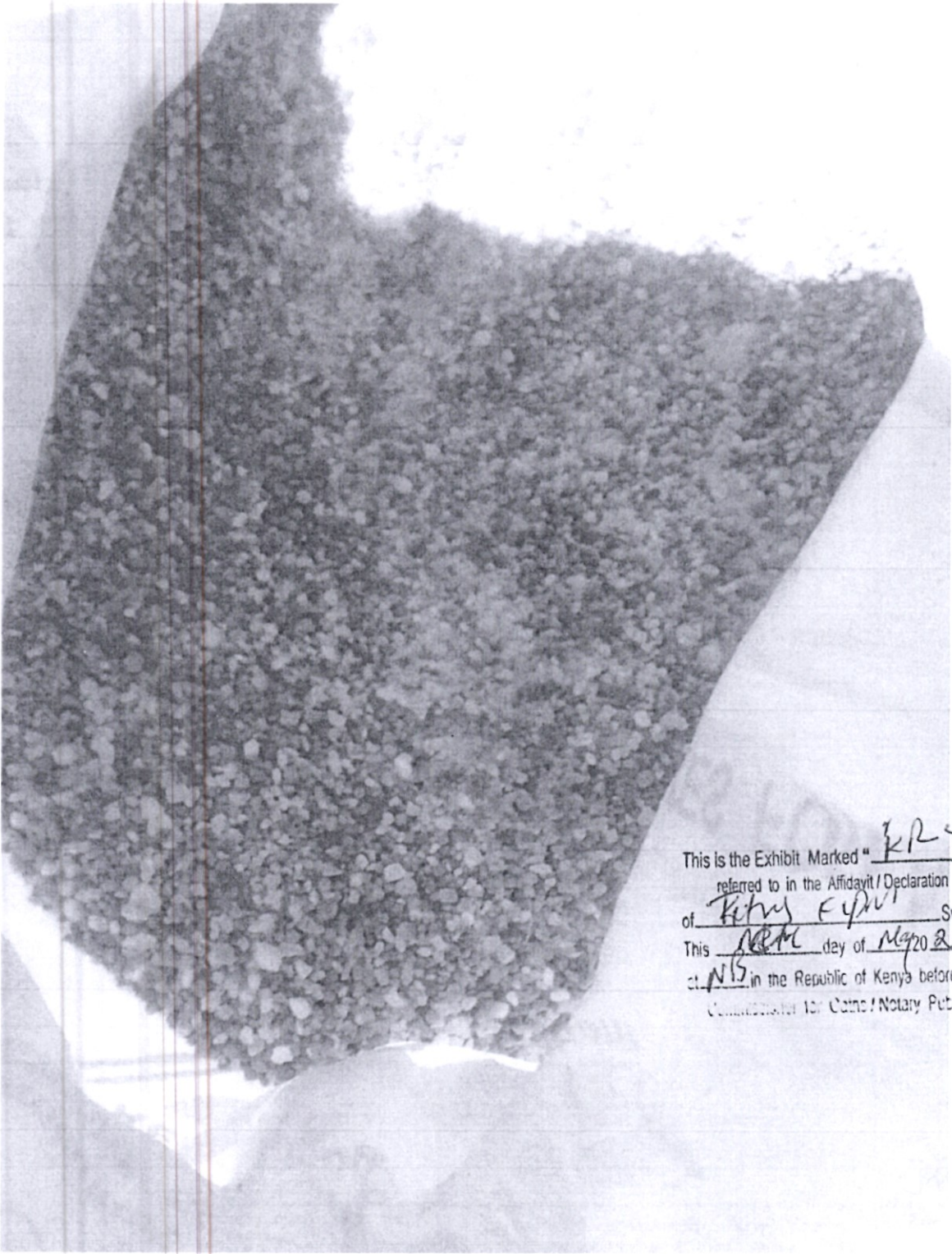


This is the Exhibit Marked "TK"  
referred to in the Affidavit / Declaration  
of \_\_\_\_\_ Sworn  
This \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_  
at \_\_\_\_\_ in the Republic of Kenya before me  
\_\_\_\_\_, Esq. / Notary Public

200



This is the Exhibit Marked " \_\_\_\_\_  
referred to in the Affidavit / Declaration  
of \_\_\_\_\_ Sworn  
This \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_  
\_\_\_\_\_ in the Republic of Kenya before me  
\_\_\_\_\_ for Oaths / Notary Public



This is the Exhibit Marked "KR 4"  
referred to in the Affidavit / Declaration  
of Kitus Eyo Sworn  
This 10th day of May 2024  
at NIS in the Republic of Kenya before me  
Commissioner for Courts / Notary Public

202

WITNESS STATEMENT OF SAMMY KIPTUM BIRGEN

I, Sammy Kiptum Birgen, an adult male born on 1<sup>st</sup> January, 1967 of P.O Box Number, 10055 Eldoret of Kesses Constituency within Uasin Gishu County, Cheptiret/Kipchamo ward

1. THAT I am a farmer since 1989, my farm is 5acre in total
2. THAT 4 acre is where I plant maize
3. THAT I have been using fertilizer from 1989 since then.
4. THAT I have using Mea fertilizer under the guidance of the Agricultural Extension Officers.
5. THAT sometime in 2023, following a directive from the President on the fertilizer subsidy programme, I switched to what the government was offering which was Yara fertilizer and the results were good. I received a good harvest.
6. That on 19<sup>th</sup> September, 2023 I one Peris Bor (0711xxxx70) an agricultural extension officer from the Ministry of Agriculture paid visit to my farm to ascertain the number of fertilizer bags require for both planting and top dressing. Which she recommended 8 bags for planting and 8 for top dressing.
7. THAT on 17<sup>th</sup> February, 2024 I received a text message from an Esubsidy informing me to collect 8 bags (using updated voucher no. D69C5JRE) from the National Cereals Produce Board by 3<sup>rd</sup> March, 2024. *(I attach a copy of a text Message and mark it "SKB -1")*
8. THAT on 14<sup>th</sup> March, 2024, I received a text message on Safaricom Line Number 0722 xxxx32 from the Ministry of Agriculture directing me to collect 8 bags of top dresser before 14<sup>th</sup> April, 2024 from the nearest NCPB Depot using voucher TDUZ459RF8. *I attach a copy of the Mpesa statement and mark it "SKB -2")*
9. THAT on 19<sup>th</sup> March, 2024, I paid Ksh. 20,000.00 to pay bill number 8522000 registered to the National Cereals Produce Board using voucher number TDUZ459RF8 under Safaricom transaction number



SCJ6HP7LTW at 11.01. *(I attach a copy of the Mpesa Message and mark it "SKB -3")*

10. THAT on 20<sup>th</sup> March, 2024, I paid Kshs.20, 000.00 to Playbill number 852200 registered to National Cereals Produce Board using number D69C5JRE at 14.26 under Safaricom Transaction No.SCK2LT36BM. *(I attach a copy of the Mpesa statement and mark it "SKB -3")*.
11. THAT I went to the National produce and cereal board to retrieve my fertilizer serial collection number 10321 which was to enable me collect my allocation for the fertilizer.
12. THAT I 19<sup>th</sup> March, 2024 I picked 8 bags of Top dressing fertilizer and on the 20<sup>th</sup> March 2024 I picked the planting fertilizer from the last mile collection centre in Tulwet. *(I attach a photo of the 50 kg bag full of fertilizer and mark it "SKB -4")*
13. THAT on 25<sup>th</sup> March, 2024, I planted the maize using a Tractor and I applied fertilizer which I had purchased from The National cereal board in Tulwet, Kesesi constituency.
14. THAT two weeks after planting, the seed germinated. However, the plant did not grow beyond the height of the knee, I realise that there was a problem of restarted maize growth.
15. THAT I started applying the top dresser to assist the plant to grow, but this did not work out. *(I attach evidence of the Top dressing sample and mark it as "SKB -5")*
16. THAT when I checked again on the top dressing fertilizer I realise that it was not a normal top dressing fertilizer.
17. THAT I noticed after several hour the the top dressing fertilizer was not dissolving and it looked like marram. *(I attach a photograph of the Marram and mark it "SKB -6")*
18. THAT, one week later I noticed that the fertilizer was not being absorbed in the soil. The fertilizer remained on top of the soil and is visible to date. This is despite, that it has been raining heavy to date.




19. THAT I have incurred losses, harrowed, Planting, purchasing of seeds and hiring a tractor to plant four acres of land.
20. THAT I have incurred losses of an estimated KShs.74,400/=for ploughing, harrowing, purchasing, spraying, hiring a planter Tractor, and labour.
21. THAT I have also lost the harvest income from my 4 acre land to the tune of 90 bags of 90 kgs each at Ksh 4000 (Cereal board price) Totaling to Ksh 360,000.
22. THAT the application of the fake fertilizer has affected my farm's productivity and will continue for several years leading to further loss of income.
23. THAT I also fear that the maize grown in my farm will not be safe for consumption in future.
24. THAT as a result I will not be able to pay for school fees for my 9 children, parents who I feed, and educate from my earnings as a farmer and as a business man. *(I attach a copy of Three school/ university fees structures for my children and mark it "SKB -7")*
25. THAT the issue has affected me psychologically, mentally because I depend on the farm for income for both my financial support and for my family as well.
26. THAT I would like compensation from the National Government for the losses.

That is all I wish to state

NAME: SAMMY KIPTUM BIRGEN

Signed:  Date: 6/05/2024



Dear SAMMY KIPTUM  
BII, you have an updated  
voucher code: D69C5JRE  
for 8 bags. This voucher  
will expire on 2024-03-03.  
Please visit your nearest  
NCPB Depot to redeem.  
2024-02-17 00:25. Thank  
You - Ministry of Agriculture.

This is the Exhibit Marked as SKB-1  
referred to in the Affidavit / Declaration  
of Sammy Kiptum BII Sworn  
this 16<sup>th</sup> day of Aug 2024  
at NB in the Republic of Kenya before me  
Commissioner for Oaths / Notary Public

206

Dear SAMMY KIPTUM BII ,  
you have a voucher code:  
TDUZ459RF8 for 8 Bags of  
Top Dresser. This voucher  
will expire in 30 days. Please  
visit your nearest NCPB  
Depot to redeem 2024-03-14  
23:41:27 Thank You -  
Ministry of Agriculture

15:19 📍

This is the Exhibit Marked "SKB-2"  
referred to in the Affidavit / Declaration  
of Sammy Kiptum Bii  
This 6th day of May 2024  
at NY in the Republic of Kenya before me  
Commissioner for Oaths / Notary Public

207

Receipt No	Completion Time	Details	Transaction Status	Paid In	Withdrawn	Balance
SCL30EYPN3	2024-03-21 09:49:27	Business Payment from 501901 - KCB 1 via API, Original conversation ID is BCLSTYXCR5.	Completed	3,000.00		11,817.60
SCL20CYWT6	2024-03-21 09:30:24	Merchant Payment to 7401283 - LESSOS HARDWARE	Completed		-250.00	8,817.60
SCK9NMVSWD	2024-03-20 22:06:53	Customer Transfer of Funds Charge	Completed		-7.00	9,067.60
SCK9NMVSWD	2024-03-20 22:06:53	Customer Transfer to - 2547*****012 ANGELINE JEPKOECH	Completed		-500.00	9,074.60
SCK6N7IDVO	2024-03-20 20:10:08	Customer Transfer to - 07*****483 VICTOR KIBIWOT	Completed		-80.00	9,574.60
SCK2N069M	2024-03-20 19:34:40	Funds received from - 2547*****802 PAULO KURGAT	Completed	500.00		9,654.60
SCK5MZWG23	2024-03-20 19:33:19	Funds received from - 2547*****088 Gilbert Kipruto	Completed	300.00		9,154.60
SCK8MZDEMC	2024-03-20 19:30:48	Business Payment from 501901 - KCB 1 via API, Original conversation ID is BCK4TYZ6C.	Completed	2,900.00		8,854.60
SCK8MRCKFC	2024-03-20 18:50:52	Funds received from - 2547*****917 Victor Yagan	Completed	100.00		5,954.60
SCK4MR5CSA	2024-03-20 18:49:30	Funds received from - 2547*****917 Victor Yagan	Completed	4,750.00		5,854.60
SCK6MFFE06	2024-03-20 17:34:26	Funds received from - 2547*****053 LEWIS NJOONI	Completed	800.00		1,104.60
SCK7LV5YEH	2024-03-20 14:44:41	Customer Transfer of Funds Charge	Completed		-23.00	304.60
SCK7LV5YEH	2024-03-20 14:44:41	Customer Transfer to - 07*****437 Daniel Rotich	Completed		-1,050.00	327.60
SCK9LTL4LD	2024-03-20 14:30:38		Completed		-5.00	1,377.60
SCK2LT36BM	2024-03-20 14:26:15	Pay Bill Charge	Completed		-500.00	1,382.60
SCK2LT36BM	2024-03-20 14:26:15	Pay Bill Online to 8522000 - NATIONAL CEREALS AND PRODUCE BOARD Acc. D69CSJRE	Completed		-20,000.00	1,282.60
SCK3LF3ZIL	2024-03-20 12:26:35	Customer Transfer of Funds Charge	Completed		-7.00	21,882.60
SCK3LF3ZIL	2024-03-20 12:26:35	Customer Transfer to - 2547*****820 MAGDALINE TUWEI	Completed		-300.00	21,889.60
SCK3LDV0J	2024-03-20 11:35:35	Deposit of Funds at Agent Till 418252 - CASTE GMS Ltd/CHEPTIRET CENTRE Agg	Completed	20,000.00		22,189.60
SCK6L0VB0	2024-03-20 10:16:16	Customer Transfer of Funds Charge	Completed		-13.00	2,189.60
SCK6L0VB0	2024-03-20 10:16:16	Customer Transfer to - 2547*****800 JULIUS TUWEI	Completed		-770.00	2,202.60
SCK7KZGAP1	2024-03-20 10:06:38	Customer Transfer to - 2547*****944 TERESA BITOK	Completed		-50.00	2,972.60
SCJ0K59WEA	2024-03-19 21:58:51	Customer Transfer of Funds Charge	Completed		-33.00	3,022.60
SCJ0K59WEA	2024-03-19 21:58:51	Customer Transfer to - 2547*****699 SOFIA LANGAT	Completed		-2,000.00	3,055.60
SCJ0JCVNLO	2024-03-19 19:01:51	Funds received from - 2547*****691 MERCY CHEPNGETICH	Completed	150.00		5,055.60
SCJ2J64206	2024-03-19 18:22:28	Customer Transfer of Funds Charge	Completed		-7.00	4,905.60
SCJ2J64206	2024-03-19 18:22:28	Customer Transfer to - 07*****653 Beatrice arusei	Completed		-500.00	4,912.60
SCJ7JRLKJF	2024-03-19 16:35:06	Customer Transfer to - 07*****333 MAXIMILLAH SEGO	Completed		-100.00	5,412.60
SCJ9CBTYF	2024-03-19 14:21:14	Merchant Payment to 7255440 - MEINDO FRUITS	Completed		-50.00	5,512.60
SCJ6I2RTTQ	2024-03-19 13:00:58	Merchant Payment to 7127572 - GACHOKA TRADERS	Completed		-200.00	5,562.60
SCJ0I109F2	2024-03-19 12:45:32	Merchant Payment to 7127572 - GACHOKA TRADERS	Completed		-3,500.00	5,762.60
SCJ4HUXDDS	2024-03-19 11:52:32	Customer Transfer to - 2547*****181 BRIGHTON WANYONYI	Completed		-60.00	9,262.60
SCJ6HP7LTW	2024-03-19 11:01:30	Pay Bill Charge	Completed		-500.00	9,322.60
SCJ6HP7LTW	2024-03-19 11:01:30	Pay Bill Online to 8522000 - NATIONAL CEREALS AND PRODUCE BOARD Acc. TDUZ459RFB	Completed		-20,000.00	9,822.60
SCJ8HMZZ48	2024-03-19 10:33:27	Customer Transfer to - 2547*****511 ISAAC RONO	Completed		-50.00	29,822.60
SCJ2HD4W24	2024-03-19 09:09:41	Funds received from - 2547*****856 BYRON BORE	Completed	300.00		29,872.60
SCJ1H6H3GH	2024-03-19 08:02:44		Completed		-5.00	29,572.60
SCJ4G8FLUG	2024-03-18 20:13:31	Funds received from - 07*****208 Duncan Koech	Completed	50.00		29,577.60

Disclaimer: Any personal information shared with you should be handled in accordance with the Data Protection Act and only used for the purpose for which it was provided.

Statement Verification Code  
**LCATP63J**

This is the Exhibit Marked ii SBK 3 referred to in the Affidavit / Declaration

day of 20 2024  
in the Republic of Kenya before me

This is the Exhibit Marked ii SBK 3 referred to in the Affidavit / Declaration

day of 20 2024  
in the Republic of Kenya before me

For self-help dial \*334# | Web: [www.safaricom.co.ke](http://www.safaricom.co.ke) | Twitter: @SafaricomPLC | Facebook: Safaricom PLC | Terms and conditions apply

*209*

This is the Exhibit Marked "SKB7" referred to in the Affidavit / Declaration of SAMUEL KIPKIN Sworn on 15/01/2024 day of January 2024 at NBI in the Republic of Kenya before me

# ST. PAUL'S UNIVERSITY

Private Bag 00217 LIMURU, KENYA  
 Email: [office@spu.ac.ke](mailto:office@spu.ac.ke)  
 Website: [www.spu.ac.ke](http://www.spu.ac.ke)



Tel Office: +254 (0)20 - 2020505/10  
 Mobile: +254 (0)728 - 669000  
 (0)736 - 424440

## FEES STRUCTURE FOR ACADEMIC YEAR 2022/2023 UNDER GRADUATE PROGRAMS (GOVERNMENT SPONSORED STUDENTS)

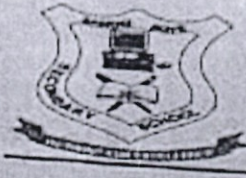
ITEMS	Kshs	Frequency
Tuition	8,000.00	Per semester
Examination	3,600.00	Per semester
Library fee	2,500.00	Per semester
Activity fee	1,000.00	Per semester
Computer fee	2,000.00	Per semester
Medical fee	2,500.00	Per semester
Student Assoc fee (SPUSA)	300.00	Per semester
<b>Total</b>	<b>19,900.00</b>	
Boarding fee-Optional	45,900.00	Per semester
Bed ONLY (Sharing occupancy- Optional )	14,400.00	Per semester
<b>One off Items</b>		
Equipment fee (Technical courses only)	3,000.00	Once on Admission
Application fee	1,500.00	Once on Admission
Registration	2,500.00	Once on Admission
Student I.D	500.00	Once on Admission
CUE	1,000.00	Once on Admission
Graduation	8,500.00	Once in Final Semester

All Payments should be made either by bankers Cheque payable to ST. PAUL'S UNIVERSITY or Cash Deposited into the University's Bank Accounts as below:  
 NB (Your admission number and name should be captured by Bank cashier)

Name:	St. Paul's University	St. Paul's University	St. Paul's University
Bank:	National Bank of Kenya	Family Bank of Kenya	Equity Bank
Branch:	St. Paul's University	Limuru Branch	Limuru Branch
Account:	01021091200100	047000017919	0690261549404

Cash and personal cheques are not accepted

FINANCE MANAGER  
 ST. PAUL'S UNIVERSITY  
 P.O. BOX PRIVATE BAG 00217  
 LIMURU, KENYA  
 209



# SAMOEI BOYS SECONDARY SCHOOL

## APPROVED FEES STRUCTURE FOR THE YEAR 2024

VOTE HEADS	GOVERNMENT		PARENTS		TOTAL
	SH.	CTS	SH.	CTS	
TEACHING LEARNING MATERIAL		4,144.00			4,144.00
BE.S & MEALS				25,385.00	25,385.00
REPAIRS, MAINTAINCE, IMPROVEMENT	5,000.00		2,000.00		7,000.00
LOCAL TRAVEL & TRANSPORT	1285.00		774.00		2,059.00
ADMINISTRATION COST	2,048.00		2,322.00		4,370.00
E W & C	2,054.00		4,804.00		6,858.00
MEDICAL & INSURANCE	2,000.00				2,000.00
ACTIVITY	1,500.00		250.00		1,750.00
PERSONAL EMOLUMENTS	4,013.00		5,000.00		9,013.00
SMASSE	200.00				200.00
<b>TOTAL</b>		<b>22,744.00</b>		<b>40,535.00</b>	<b>62,779.00</b>

Fees will be paid as follows:

	50%	30%	20%	
FORMS	TERM 1	TERM 2	TERM 3	TOTAL
FORM I	20,535.00	12,200.00	7,800.00	40,535.00
FORM II	20,535.00	12,200.00	7,800.00	40,535.00
FORM III	20,535.00	12,200.00	7,800.00	40,535.00
FORM IV	26,777.00	13,758.00	-	40,535.00

Parents/Guardians are asked to pay fees by Bankers Cheques, Money Order or banking in to school account No. 1106 787 285 K.C.B Nandi Hills Branch or Equity Bank A/C No. 09202 9760 3289. Nandi Hills branch and bring the banking in- slip to school. Cash and personal Cheques shall not be accepted. PAYBILL: BUSINESS NO; 522123 A/C No: 20099k Admission Number.

Thank you.

Yours faithfully,

SAMOEI BOYS SEC SCHOOL

21 OCT 2023

MB KIPTOO KIMOSOR

Senior Principal P. O. Box 27-30301, NANDI HILLS

*Form 2*  
*Adm →*

*2/0*

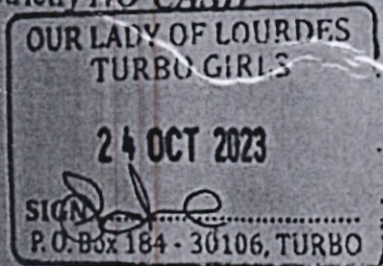
## OUR LADY OF LOURDES TURBO GIRLS SECONDARY SCHOOL

### PARENTS FEES STRUCTURE FOR THE YEAR 2024

	TERM 1	TERM 2	TERM 3	TOTAL
BOARDING EQUIPMENT & STORES	12,693.00	7,615.00	5,077.00	25,385.00
MAINTENANCE & IMPROVEMENT	1,000.00	600.00	400.00	2000.00
ACTIVITY FEES	125.00	75.00	50.00	250.00
OTHER VOTE HEADS(L.T&T, ADMIN. COST, E.W&C, PERSONAL EMOL.)	6,450.00	3,870.00	2,580.00	12,900.00
<b>TOTAL</b>	<b>20,268.00</b>	<b>12,160.00</b>	<b>8,107.00</b>	<b>40,535.00</b>

Kindly deposit to school Account Number 1217436766  
Kenya Commercial Bank(K.C.B)Moi Teaching and Referral  
Hospital Branch or Safaricom Pay Bill Number 800370(Business  
Number) and Account Number(Students Admission Number).

Strictly **NO CASH**



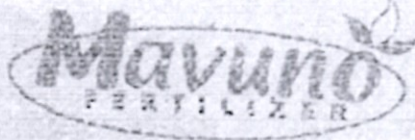
**MRS. OCEANIC KANDIE**  
**SENIOR PRINCIPAL/B.O.M SECRETARY**

24/1



212

Ministry of Agriculture and Livestock Development  
Fertilizer Subsidy Program (FSP)



VUNA ZAIDI NA MAVUNO  
MAVUNO TOP DRESS  
FERTILIZER

N:P:K 26:0:0 + 6S + 5Ca

Blended by:

MAISHA MINERALS & FERTILIZERS LTD.

ATHI RIVER, KENYA

P.O. BOX 33255-00600 NAIROBI KENYA

TEL: +254 759 020 101

Email: info@mavunofertilizer.com

FOR MANUAL APPLICATION ONLY

NET WEIGHT 50 KG

PRODUCT OF KENYA (E.A.)

Original Material Supplied by URALCHEM/URALKALI GROUP (RUSSIA)

[www.uralchem.com](http://www.uralchem.com)

Distributed by

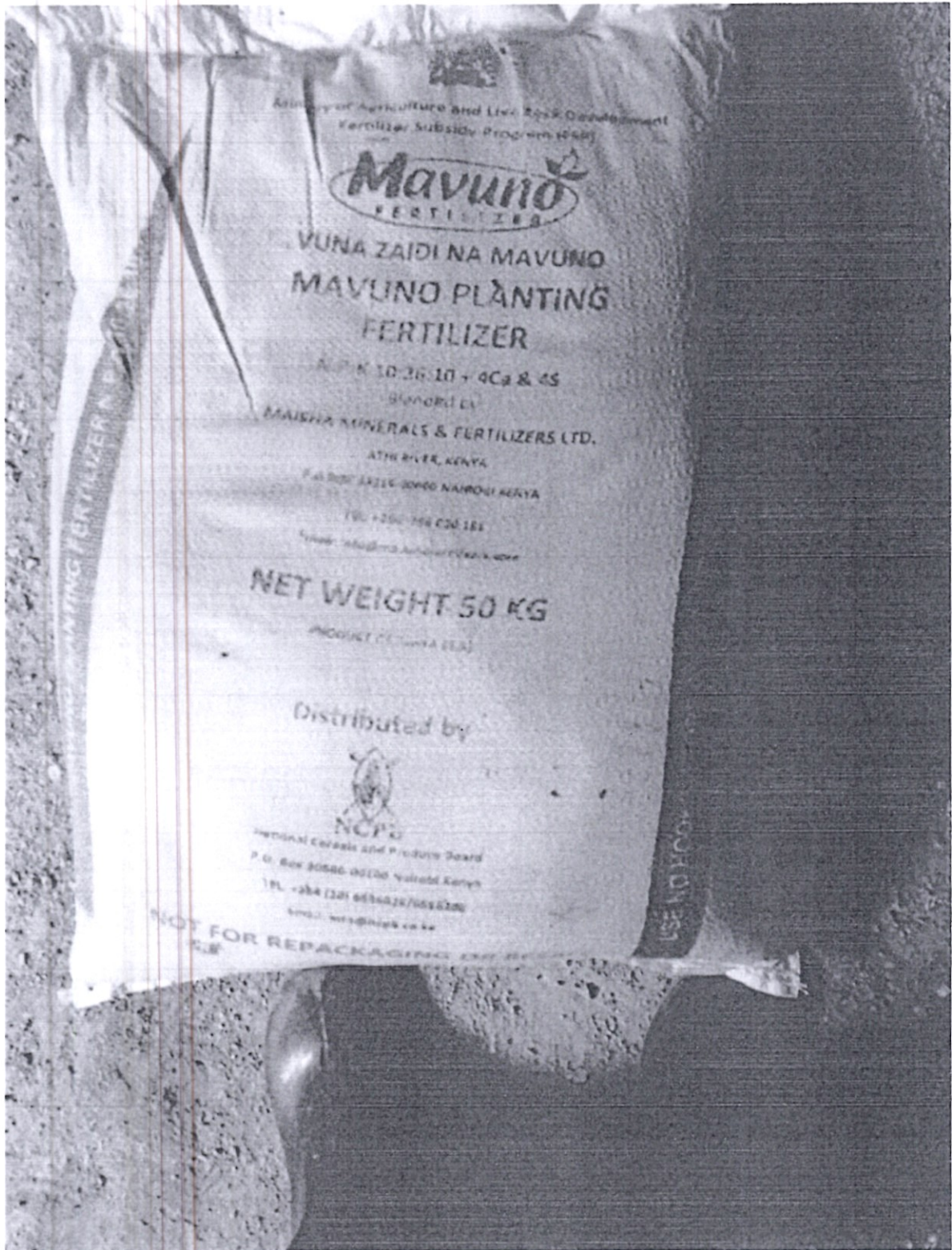


National Cereals and Products Board

P.O. Box 80805-00200 Nairobi Kenya

TEL: +254 20 271 2000

www.ncpd.or.ke



Ministry of Agriculture and Livestock Development  
Fertilizer Subsidy Program (2008)

**Mavuno**  
FERTILIZER

VUNA ZAIDI NA MAVUNO  
MAVUNO PLANTING  
FERTILIZER

N-P-K 10-36-10 + 4Ca & 4S

SUPPORTED BY

MAISHA MINERALS & FERTILIZERS LTD.

ATHI RIVER, KENYA

P.O. BOX 34216-00100 NAIROBI KENYA

TEL: +254 799 620 181

www.maisha-minerals.com

**NET WEIGHT 50 KG**

PRODUCT OF KENYA (EAC)

Distributed by



**NCPB**

National Cereals and Produce Board

P.O. Box 80880-00100 Nairobi Kenya

TEL: +254 (20) 6636028/6636030

email: ncpb@ncpb.co.ke

NOT FOR REPACKAGING USE ONLY

WITNESS- STATEMENT OF HOSEA KIPKETER RUTO

I, Hosea Kipketer Ruto, an adult male aged forty years old of P.O BOX Number 39- ZIWA of Soy Constituency within Uasin Gishu County,

1. THAT I am a farmer since 2022 have been farming maize since 2022 in my 4 acre land..
2. THAT I have been using DAP 18460 fertilizer from 2022 for some time,
3. THAT sometime in 2023, following a directive from the President on the fertilizer subsidy programme, I switched to Yara fertilizer and the result was good. I received a good harvest.
4. THAT in January, 2024 an agricultural extension officer to evaluate and advise on the number of bags of under the Agripreneurs Programme by UNESCO through Ministry of Agriculture fertilizer to be used. (Both planting and top dressing).
5. THAT on 2<sup>nd</sup> February, 2024 I received an esubsidy text message to collect 8 bags via my mobile number 0722 xxxx35 (using updated voucher FRZYSQM4) from the National Cereals Produce Board by 15<sup>th</sup> April, 2024. The message was from the Ministry of Agriculture. *(I attach a copy of the message and mark it as "HR-1")*
6. THAT on 15<sup>th</sup> March, 2024, I received a text message on Safaricom Line Number 0722 722435 from the Ministry of Agriculture directing me to collect 8 bags of top dresser before 15<sup>th</sup> April, 2024 from the nearest NCPB Depot using voucher TDB6GATSPU. *(I attach a copy of the message and mark it as "HR-2")*
7. THAT on , I paid Ksh 20,000 to pay bill number 8522000 registered to the National Cereals Produce Board using voucher number under safaricom transaction number FRZYSQM4. *(I attach a copy of the MPESA Statement and mark it as "HR-3")*
8. THAT on, I paid Kshs 20,000 to Playbill number 8522000 registered to under National Cereals Produce Board. *(I attach a copy of the MPESA Statement and mark it as "HR-4")*
9. THAT on 10<sup>th</sup> April, 2024, I planted the maize seeds using the esubsidy fertilizer.



10. THAT two weeks after planting, the maize seed germinated. However, the plant did not grow beyond the knee level and I wondered why this was the case, since this never happened before.
11. THAT, one week later I noticed that the fertilizer was not being absorbed in the soil. The fertilizer remained on top of the soil and is visible to date. This is despite, that it has been raining heavy to date.
12. THAT I got to know from the Citizen TV news that the fertilizer which was being distributed by the National cereal Board was fake and had affected many farmers, myself included.
13. THAT I have incurred losses, harrowed, purchasing of seed and hiring a tractor to
14. THAT I have lost harvest for planting of maize for four acres of land to the tune of Ksh 480,000 (24 bags per acre= 96 bags by ksh 5000 per 90 kgs bag.)
15. THAT as a result I will not be able to pay for school fees for my 5 children, 2 parents who I feed, clothe, pay hospital bills for my family and sickly parents as a farmer and businessman. *(I attach a copy of the school fees structure and mark it as "HR-5")*
16. THAT the application of the fake fertilizer has affected my farms productivity and will continue for several years leading to further loss of income.
17. THAT I also fearful that the maize grown in my farm will not be safe for consumption in future.
18. THAT the issue has affected me psychologically, mentally because I depend on the farm for income for both my financial support and for my family as well.
19. THAT I would like compensation from the National Government for the losses.

That is all I wish to state

NAME: Hosea Kipketer Ruto

Signed:  Date: .....



ZIWA SECONDARY SCHOOL P.O. BOX 1108, ELDORET TEL. 072  
E-mail: [machineziw@gmail.com](mailto:machineziw@gmail.com)

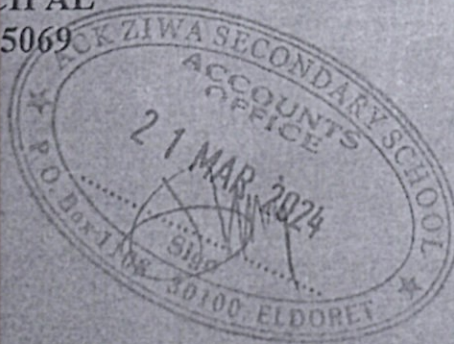
**FORM 1&2 LUNCH PROGRAMME FOR DAY SCHOLARS - 2**

VOTEHEAD	TERM 1	TERM 2	TERM 3	TOTAL
Lunch	8750	5250	3500	17500
Total	8750	5250	3500	17500

SCHOOL ACCOUNT NUMBER: 1252489218- KCB ELDORET WEST

PAY BILL- BUSINESS NO: 522123, ACCOUNT: 21065KADM NO.

M<sup>r</sup> MASI J M  
PRINCIPAL  
0720405069



This is the Exhibit Marked "HR-5"  
referred to in the Affidavit / Declaration  
of Hofeei Kuto Sworn  
This 6<sup>th</sup> day of Mar 2024  
at ... in the Republic of Kenya before me  
Notary Public



5/6/24, 12:55 PM

15/3/2024

Gmail - (no subject)



Mark Allan <254markallan@gmail.com>

(no subject)

1 message

Hosea Ruto <hosearuto84@gmail.com>  
To: 254markallan@gmail.com

Mon, May 6, 2024 at 1:19 PM

Dear HOSEA KIPKETER RUTO , you have a voucher code: TDB6GATSPU for 8 Bags of Top Dresser.This voucher will expire in 30 days.Please visit your nearest NCPB Depot to redeem 2024-03-15 04:57:16 Thank You - Ministry of Agriculture

This is the Exhibit Marked "HR 2"  
referred to in the Affidavit / Declaration  
of Hosea Ruto Sworn  
This 07 day of May 2024  
at NBS in the Republic of Kenya before me  
Commissioner for Capital Assets Public

5/6/24, 12:46 PM

2/2/2024

Gmail - (no subject)

**M** Gmail

Mark Allan <254markallan@gmail.com>

(no subject)  
1 message

Hosea Ruto <hosearuto84@gmail.com>  
To: 254markallan@gmail.com

Mon, May 6, 2024 at 1:09 PM

Dear HOSEA KIPKETER RUTO , you have a voucher code: FRZYSQM4 for 8 Bags of Fertilizer .This voucher will expire in 30 days. Please visit your nearest NCPB Depot to redeem 2024-02-02 21:46:35 Thank You - Ministry of Agriculture

This is the Exhibit Marked "HR-1!"  
referred to in the Affidavit/Declaration  
of Hosea Ruto Sworn  
by HR on 01 May 2024  
in the Republic of Kenya before me

200



This is the Exhibit Marked " HR " referred to in the Affidavit / Declaration of Hole 9 2010 Sworn This 15 day of May 20 & 4 at 115 in the Republic of Kenya before me Commissioner of Lands & Natural Resources

7<sup>TH</sup> MAY, 2024

NAME: BENARD KURIA WANJIKU

OCCUPATION: FARMER

ADDRESS: 223 RUIRU

RESIDENCE: GITHUNGURI SUB-COUNTY, KOMOTHAI WARD, KIAMBU COUNTY

WITNESS STATEMENT

My name is Benard Kuria Wanjiku and I live and farm for gain in Komothai area. I married and blessed with children. I have been a coffee and horticulture farmer for the past fifteen years. I have been using various types of fertilizers which I used to buy from the local Agrovets outlets. Examples of the fertilizers I have used before are such as DAP, 17 17 17 and Tropical which were all chemical-based fertilizers. Over the years, I was always happy with the results and got a bumper harvest.

In the year 2023, around the month of May the Government announced that they would be availing to farmers subsidized fertilizer and encouraged farmers to register their names with the area Chiefs through the Village Elders (*Wazee wa Nyumba Kumi*) on behalf of the Ministry of Agriculture. At the time of registration, I applied for nine (9) bags of top dresser. I was happy when I heard this news because at that time, the price of fertilizer was retailing at Kenya Shillings Seven Thousand Five Hundred (Kshs 7,500) for a 50-kg bag. Initially, farmers were informed that The subsidized fertilizer would retail at Kenya Shillings Three Thousand (Kshs 3,000) for a 50-kg bag but later on the price reduced even further to Kenya Shillings Three Thousand (Kshs 2,500).

On 8<sup>th</sup> September, 2023, I received a text message with a voucher code: TDZTGJSC4F from the Ministry of Agriculture informing me that I had qualified for the nine (9) bags of top dresser fertilizer that I had applied for earlier on that year. I was directed to proceed to the nearest National Produce and Cereals Board (NCPB) Depot to purchase the same and that I had 30 days before the offer voucher code expired. Unfortunately, I did not have the money then so I waited until 22<sup>nd</sup> January, 2024 when I instead redeemed/ bought seven (7) bags of fertilizer through the previous voucher code: TDZTGJSC4F sent to me on 8<sup>th</sup> September, 2023. I went to NCPB, Githunguri Town, showed them the text message I received on 8<sup>th</sup> September 2023, and was asked to make payment. The fertilizer was packed in 50-kg bags and were all labelled *Mavuno*. The bags of fertilizer also bore a KEBS mark, NCPB as well as Government of Kenya logo. The bags further bore the writing "Ministry of Agriculture and Livestock Fertilizer Subsidy Programme (FSP)". I paid NCPB via account TDZTGJSC4F by MPESA, a total of Kenya Shillings Seventeen Thousand Five Hundred (Kshs 17,500). Six 6 of the 7 sacks had their Date of Manufacture as November 2023, Expiry Date as November 2028 and Batch Number as 11-2023 while the 7<sup>th</sup> sack had the Date

202

of Manufacture as January 2024, Expiry Date as January 2029 and Batch Number MMPL:01-2024. I transported the fertilizer home and stored them until the month of March 2024 during the onset of the short rains.

I prepared part of my 4-acre shamba, and applied the fertilizer as usual on my coffee plantation then went back home. I returned a day later, only to notice that the fertilizer had not dissolved into the soil as it should. At the time of applying the fertilizer on my shamba, I did not notice anything unusual with the fertilizer in terms of colour, texture or smell. I also applied the fertilizer on the remainder part of my shamba where I had planted maize, potatoes and tomatoes but the outcome was the same; it did not dissolve into the soil.

I decided to inquire from other farmers who I knew had also purchased the same fertilizer at NCPB and they informed me that they had experienced the same. I wish to state that out of the seven bags that I bought from the NCPB Depot, I used 6 and a half bags of the fertilizer I had purchased from NCPB and half a sack remained. Other neighboring farmers and I all noticed that this fertilizer did not behave the same as the ones we used to buy at Agrovet outlets. Further, we had purchased fertilizer from NCPB before but had never seen such a thing. I was very shocked and disappointed and decided to remain silent until when I saw the President announce on television that all farmers who had bought substandard fertilizer from the NCPB under the National Fertilizer Subsidy Programme should return the same so as to be compensated. Since I was a victim, this was a sigh of relief though I did not know how I would go about getting this compensation. Upon inquiring from my neighbours who are also farmers, I learnt that farmers were supposed to go back to the NCPB Depot where the purchase was made with the text message from the Ministry of Agriculture. However, I was too discouraged and disappointed to even go back to the NCPB Depot for compensation.

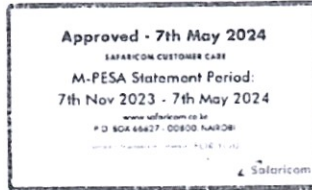
I further wish to state that after that horrible ordeal, the Ministry of Agriculture still reached out to me via text message on 15<sup>th</sup> March 2024, requesting me to go and buy two more bags of subsidized fertilizer at the NCPB Depot through voucher code: TDM68ZC7VU. I ignored that message since I had lost my money before and my crops had been damaged by the same fertilizer. I was not sure that this fertilizer would be different.

That is all I wish to state.

SIGNED: 

## M-PESA STATEMENT

Customer Name: BENARD null KURIA WANJIKU  
 Mobile Number: 0724296064  
 Email Address: gabrielo cyber001@gmail.com  
 Statement Period: 07 Nov 2023 - 07 May 2024  
 Request Date: 07 May 2024



## SUMMARY

TRANSACTION TYPE	PAID IN	PAID OUT
SEND MONEY:	0.00	128,046.00
RECEIVED MONEY:	408,922.85	0.00
AGENT DEPOSIT:	152,650.00	0.00
AGENT WITHDRAWAL:	0.00	303,554.00
LIPA NA M-PESA (PAYBILL):	0.00	246,728.00
LIPA NA M-PESA (BUY GOODS):	0.00	29,185.59
OTHERS:	288,028.40	300,983.25
<b>TOTAL:</b>	<b>1,095,065.40</b>	<b>1,008,496.84</b>

## DETAILED STATEMENT

Receipt No	Completion Time	Details	Transaction Status	Paid In	Withdrawn	Balance
SE68FSNMKK	2024-05-06 22:12:27	Customer Transfer Fuliza MPesa to - 2547*****601 SUSAN KANG'ETHE	Completed		-20.00	0.00
SE68FSNMKK	2024-05-06 22:12:27	OverDraft of Credit Party	Completed	20.00		20.00
SE62FSHK0M	2024-05-06 22:10:44	Pay Bill Charge	Completed		-4.00	0.00
SE62FSHK0M	2024-05-06 22:10:44	Pay Bill Fuliza M-Pesa to 955100 - SportPesa Acc. sportpesa	Completed		-49.00	4.00
SE62FSHK0M	2024-05-06 22:10:44	OverDraft of Credit Party	Completed	53.00		53.00
SE69F5E1R9	2024-05-06 22:09:35	Pay Bill Charge	Completed		-3.00	0.00
SE69F5E1R9	2024-05-06 22:09:35	Pay Bill Fuliza M-Pesa to 929262 - KTELL NETWORKS LIMITED Acc. 0780762002	Completed		-60.00	3.00
SE69F5E1R9	2024-05-06 22:09:35	OverDraft of Credit Party	Completed	63.00		63.00
SE61F8UKGH	2024-05-06 19:48:58	OD Loan Repayment to 232323 - M-PESA Overdraw	Completed		-65.00	0.00
SE66F8UGRU	2024-05-06 19:48:58	Funds received from - 2547*****473 STEPHEN MAINA	Completed	65.00		65.00
SE64F8L7B2	2024-05-06 19:47:37	OD Loan Repayment to 232323 - M-PESA Overdraw	Completed		-100.00	0.00
SE63F8L23T	2024-05-06 19:47:37	Funds received from - 2547*****473 STEPHEN MAINA	Completed	100.00		100.00
SE60EAGUQE	2024-05-06 16:34:16	Withdrawal Charge	Completed		-87.00	0.00
SE60EAGUQE	2024-05-06 16:34:16	Customer Withdrawal at Agent Till with Fuliza to 366073 - Sharp Focus Assessors Ltd Joemax Electronics Next To Main Tage Kibichoi Agg	Completed		-7,000.00	87.00
SE60EAGUQE	2024-05-06 16:34:16	OverDraft of Credit Party	Completed	3,962.03		7,087.00
SE67DULMWT	2024-05-06 14:33:41	Customer Transfer of Funds Charge	Completed		-23.00	3,124.97
SE67DULMWT	2024-05-06 14:33:41	Customer Transfer to - 2547*****776 BENSON JOSEPH	Completed		-1,500.00	3,147.97
SE66DRL140	2024-05-06 14:10:28	Customer Transfer of Funds Charge	Completed		-7.00	4,647.97
SE66DRL140	2024-05-06 14:10:28	Customer Transfer to - 07*****572 ANN NG'ANG'A	Completed		-160.00	4,654.97
SE69DMJQG3	2024-05-06 13:32:58	Customer Transfer of Funds Charge	Completed		-23.00	4,814.97
SE69DMJQG3	2024-05-06 13:32:58	Customer Transfer to - 2547*****998 HANNAH GITHII	Completed		-1,030.00	4,837.97
SE61DGHOLF	2024-05-06 12:47:38	Pay Bill Charge	Completed		-3.00	5,867.97
SE61DGHOLF	2024-05-06 12:47:38	Pay Bill to 929262 - KTELL NETWORKS LIMITED Acc. 0780762002	Completed		-100.00	5,870.97
SE62DGBA28	2024-05-06 12:45:42	OD Loan Repayment to 232323 - M-PESA Overdraw	Completed		-4,029.03	5,970.97

Disclaimer: Any personal information shared with you should be handled in accordance with the Data Protection Act and only used for the purpose for which it was provided.

Statement Verification Code

To verify the validity of this M-PESA statement dial \*334#, select My account and follow the prompts to enter the code.

DWGL4DC9

Receipt No.	Completion Time	Details	Transaction Status	Paid In	Withdrawn	Balance
SAM3SML5ZR	2024-01-22 21:03:35	OverDraft of Credit Party	Completed	117.00		117.00
SAM9S9W6QD	2024-01-22 19:51:57	Customer Transfer of Funds Charge	Completed		-7.00	0.00
SAM9S9W6QD	2024-01-22 19:51:57	Customer Transfer Fuliza MPesa to - 2547*****478 JAMES MUCUGU	Completed		-300.00	7.00
SAM9S9W6QD	2024-01-22 19:51:57	OverDraft of Credit Party	Completed	307.00		307.00
SAM5RYIV4V	2024-01-22 18:55:09	OD Loan Repayment to 232323 - M-PESA Overdraw	Completed		-530.00	0.00
SAM2RYIK30	2024-01-22 18:55:06	Funds received from - 07*****207 beatrice ngondo	Completed	530.00		530.00
SAM6RHLB04	2024-01-22 17:09:45	Pay Bill Charge	Completed		-3.00	0.00
SAM6RHLB04	2024-01-22 17:09:45	Pay Bill Fuliza M-Pesa to 929262 - KTELL NETWORKS LIMITED Acc. 0780762002	Completed		-60.00	3.00
SAM6RHLB04	2024-01-22 17:09:45	OverDraft of Credit Party	Completed	63.00		63.00
SAM3QLPPXN	2024-01-22 12:46:10	Withdrawal Charge	Completed		-29.00	0.00
SAM3QLPPXN	2024-01-22 12:46:10	Customer Withdrawal at Agent Till with Fuliza to 244210 - LORIANI Comm kambaa shopping centre Kiambu	Completed		-1,000.00	29.00
SAM3QLPPXN	2024-01-22 12:46:10	OverDraft of Credit Party	Completed	1,029.00		1,029.00
SAM6QKFFPA	2024-01-22 12:34:33	Customer Transfer of Funds Charge	Completed		-7.00	0.00
SAM6QKFFPA	2024-01-22 12:34:33	Customer Transfer Fuliza MPesa to - 07*****810 daniel matua	Completed		-200.00	7.00
SAM6QKFFPA	2024-01-22 12:34:33	OverDraft of Credit Party	Completed	207.00		207.00
SAM4QEM6J2	2024-01-22 11:41:29	Pay Bill Online Fuliza M-Pesa to 8522000 - NATIONAL CEREALS AND PRODUCE BOARD Acc. TDZTJ5C4F	Completed		-17,500.00	500.00
SAM4QEM6J2	2024-01-22 11:41:29	OverDraft of Credit Party	Completed	2,167.20		18,000.00
SAM4QBG5VM	2024-01-22 11:12:26	Pay Merchant Charge	Completed		-1.65	15,832.80
SAM4QBG5VM	2024-01-22 11:12:26	Merchant Payment to 7975237 - JKOMU INVESTMENT HQ	Completed		-300.00	15,834.45
SAM2QAPC4K	2024-01-22 11:05:25	OD Loan Repayment to 232323 - M-PESA Overdraw	Completed		-965.55	16,134.45
SAM3QAOV4X	2024-01-22 11:05:25	Funds received from - 2547*****644 James Githii	Completed	17,100.00		17,100.00
SAM7QA6UEL	2024-01-22 11:00:44	OD Loan Repayment to 232323 - M-PESA Overdraw	Completed		-1,900.00	0.00
SAM0QA6NM5	2024-01-22 11:00:43	Funds received from - 2547*****644 James Githii	Completed	1,900.00		1,900.00
SAM3Q3PQ7V	2024-01-22 10:00:25	Pay Bill Charge	Completed		-6.00	0.00
SAM3Q3PQ7V	2024-01-22 10:00:25	Pay Bill Fuliza M-Pesa to 955106301 - SportPesa Acc. SPORTPESA.M	Completed		-99.00	6.00
SAM3Q3PQ7V	2024-01-22 10:00:25	OverDraft of Credit Party	Completed	105.00		105.00
SAM9PQ3L3L	2024-01-22 07:33:32	Funds received from - 2547*****205 JUDITH MUTUA	Completed	70.00		70.00
SAM2PQ3YF4	2024-01-22 07:33:32	OD Loan Repayment to 232323 - M-PESA Overdraw	Completed		-70.00	0.00
SAL1OZMP2D	2024-01-21 20:12:11	Pay Bill Charge	Completed		-3.00	0.00
SAL1OZMP2D	2024-01-21 20:12:11	Pay Bill Fuliza M-Pesa to 929262 - KTELL NETWORKS LIMITED Acc. 0780762002	Completed		-50.00	3.00
SAL1OZMP2D	2024-01-21 20:12:11	OverDraft of Credit Party	Completed	53.00		53.00
SAL0OWGK1C	2024-01-21 19:51:46	Pay Bill Fuliza M-Pesa to 888880 - KPLC PREPAID Acc. 14246461702	Completed		-100.00	0.00
SAL0OWGK1C	2024-01-21 19:51:46	OverDraft of Credit Party	Completed	100.00		100.00
SAL2OSQ54A	2024-01-21 19:29:59	Pay Bill Charge	Completed		-5.00	0.00
SAL2OSQ54A	2024-01-21 19:29:59	Pay Bill Fuliza M-Pesa to 929262 - KTELL NETWORKS LIMITED Acc. 0780762002	Completed		-125.00	5.00
SAL2OSQ54A	2024-01-21 19:29:59	OverDraft of Credit Party	Completed	130.00		130.00
SAL3NX495B	2024-01-21 15:34:56	Customer Transfer of Funds Charge	Completed		-7.00	0.00
SAL3NX495B	2024-01-21 15:34:56	Customer Transfer Fuliza MPesa to - 2547*****332 JOSEPH NGANGA	Completed		-160.00	7.00
SAL3NX495B	2024-01-21 15:34:56	OverDraft of Credit Party	Completed	167.00		167.00
SAL3NLQX2D	2024-01-21 13:52:29	OD Loan Repayment to 232323 - M-PESA Overdraw	Completed		-1,000.00	0.00
SAL9NLQWAH	2024-01-21 13:52:29	Funds received from - 07*****013 Jane Migwi	Completed	1,000.00		1,000.00
SAL7NHIVH1	2024-01-21 13:12:18	Withdrawal Charge	Completed		-29.00	0.00

Approved - 7th May 2024  
 Completed - 7th May 2024  
 www.safaricom.co.ke  
 Safaricom

Disclaimer: Any personal information shared with you should be handled in accordance with the Data Protection Act and only used for the purpose for which it was provided.

Statement Verification Code

**DWGL4DC9**

To verify the validity of this M-PESA statement dial \*334#, select My account and follow the prompts to enter the code.




**STATEMENT OF DENNIS BARASA ADUNDO**

I, Dennis Barasa Adundo, an adult male born on 19<sup>th</sup> December 1992 of ID Number 29439667 of Bungoma County, Bumula Sub County.

1. That I have been a farmer since 2013.
2. That I had been using MEA fertilizer up until 2022 and changed to NPK Fertilizer in 2023 and used it for 1 year.
3. That on 18<sup>th</sup> February 2024, I received a text message from Ministry of Agriculture to go and collect 3 bags of fertilizer from the National Cereals Produce (NCPB) depot.
4. That I paid for the 3 bags of fertilizer using mpesa and later discovered that the fertilizer in one of the bags was substandard as it contained stones and particles.
5. That on 3<sup>rd</sup> March 2024, I received another text message from Ministry of Agriculture to go and collect 1 bag of fertilizer from NCPB depot which I later discovered was substandard as it appeared to be in porridge like form.
6. That I paid for the fertilizer using mpesa, SE302DEG96.
7. That due to substandard fertilizer I have been unable to do farming this year. As a farmer I usually harvest about 5 bags of maize.
8. That I have not done any harvesting this year due to the substandard fertilizer.
9. That I have been unable to support my family as a result of being unable to plant and sell maize due to the substandard fertilizer.

Dated 6<sup>th</sup> May 2024

  
DENNIS BARASA ADUNDO

22A

DENNIS BARASA ADUNDO  
 0728771187  
 18th February 2024 - 20th April 2024  
 6th May 2024



Send Money	0.00	16,538.00
Received Money	27,922.87	0.00
Agent Deposit	6,420.00	0.00
Agent Withdrawal	0.00	3,967.00
Lipa na Mpesa (PAYBILL)	31.63	8,198.75
Lipa na Mpesa (Buy Goods)	110.19	600.00
Others	270.00	5,130.57
<b>Total</b>	<b>35,058.77</b>	<b>34,434.32</b>



SDK2SU3T8E	2024-04-20 19:56:26	Customer transfer to 0*****8070 - Mourine Achieng	Completed	0.00	55.00	624.45
SDK8S1GC8I	2024-04-20 17:02:18	Customer transfer to 254*****8107 - ROSELYNE KORIKA	Completed	0.00	40.00	679.45
SDK4RMM7GA	2024-04-20 15:06:59	Withdrawal Charge	Completed	0.00	29.00	719.45
SDK4RMM7GA	2024-04-20 15:06:59	Customer Withdrawal At Agent Till 617626 - Hambalash Comm Ltdopp cross road next to tea room	Completed	0.00	600.00	748.45
SDK6RF115A	2024-04-20 14:07:05	Funds received from 0*****4077 - Julius Mukhebi	Completed	50.00	0.00	1,348.45
SDI4M94P36	2024-04-18 22:22:38	Customer transfer of Funds Charge	Completed	0.00	7.00	1,298.45
SDI4M94P36	2024-04-18 22:22:38	Customer Transfer to 254*****1787 - VITALIS SIMIYU	Completed	0.00	300.00	1,305.45
SDI2M5Q8QC	2024-04-18 21:45:02	Funds received from 254*****6671 - BENJAMIN WABWIRE	Completed	1,550.00	0.00	1,605.45
SDI2M5D8L	2024-04-18 21:41:36	Customer Transfer to 254*****8107 - ROSELYNE KORIKA	Completed	0.00	20.00	55.45
SDI5L9WXGJ	2024-04-18 18:29:06	Customer Transfer to 254*****8107 - ROSELYNE KORIKA	Completed	0.00	60.00	75.45
SDI9KH82WR	2024-04-18 14:57:19	Funds received from 0*****9061 - HESBON MASINDE	Completed	100.00	0.00	135.45
SDI7JAU555	2024-04-18 09:02:10	Customer Transfer to 0*****8741 - BONFACE WANZALA	Completed	0.00	50.00	35.45
SDI0IZY72O	2024-04-18 07:00:59	Funds received from 0*****3764 - Christopher ouma	Completed	16.00	0.00	85.45
SDH0HXZICK	2024-04-17 19:36:58	Funds received from 0*****1366 - JULIUS NGOME	Completed	40.00	0.00	75.45
SDH0GR6YGG	2024-04-17 15:00:25	OD Loan Repayment to 232323 - M-PESA Overdraw	Completed	0.00	24.55	35.45
SDH4GR77PQ	2024-04-17 15:00:24	Funds received from 254*****9435 - MARY MUKHEVI	Completed	60.00	0.00	60.00

Disclaimer: This record is produced for your personal use and is not transferable. If this record is sought to be produced in court, please contact the nearest retail shop for further guidance.

Statement Verification Code

To verify the validity of this M-PESA statement dial \*334#, select My Account and follow prompts to enter the code

229

SCS6FDZQOS	2024-03-28 17:48:43	Pay Bill to 333222 - M-KOPA Kenya Ltd Acc. 13439631	Completed	0.00	70.00	1,081.82
SCS4EXNI9M	2024-03-28 15:46:30	Airline Purchase	Completed	0.00	60.00	1,151.82
SCS4EX436Y	2024-03-28 15:41:58	Airline Purchase	Completed	0.00	50.00	1,211.82
SCS7E70L9L	2024-03-28 12:06:21	Pay Bill Charge	Completed	0.00	231.75	1,261.82
SCS7E70L9L	2024-03-28 12:06:21	Pay Bill Online to 8522000 - NATIONAL CEREALS AND PRODUCE BOARD Acc. TDHRBG38UX	Completed	0.00	7,500.00	1,493.57
SCS5E6SJ35	2024-03-28 12:04:28	Funds received from 254*****8900 - TIMOTHY KARAKACHA	Completed	550.00	0.00	8,993.57
SCS6E6M6Q2	2024-03-28 12:03:00	Funds received from 254*****8900 - TIMOTHY KARAKACHA	Completed	2,000.00	0.00	8,443.57
SCS3DWB3AJ	2024-03-28 10:35:46	Funds received from 254*****7482 - ANDREW MURUNGA	Completed	6,000.00	0.00	6,443.57
SCS0DNUKRC	2024-03-28 09:20:16	Funds received from 254*****2835 - CYPRIAN WAFULA	Completed	250.00	0.00	443.57
SCS1DAV3P9	2024-03-28 07:00:55	Funds received from 0*****8581 - Everlyne Wandera	Completed	50.00	0.00	193.57
SCR5CGASC7	2024-03-27 19:59:31	Customer Transfer to 0****5712 - Caroline Machafu	Completed	0.00	20.00	143.57
SCR6C74MII	2024-03-27 19:14:13	Funds received from 254*****8107 - ROSELYNE KORIKA	Completed	20.00	0.00	163.57
SCR6BVMMEQ	2024-03-27 18:11:54	Customer Transfer to 0*****5176 - JOYCE WABWILE	Completed	0.00	50.00	143.57
SCQ79DBEVT	2024-03-26 22:31:21	Customer Transfer of Funds Charge	Completed	0.00	7.00	193.57
SCQ79DBEVT	2024-03-26 22:31:21	Customer Transfer to 254*****1787 - VITALIS SIMIYU	Completed	0.00	300.00	200.57
SCQ187Z9MZ	2024-03-26 18:06:00	Withdrawal Charge	Completed	0.00	29.00	500.57
SCQ187Z9MZ	2024-03-26 18:06:00	Customer Withdrawal At Agent Till 2033705 - Jondok Holdings Limited (Retail pharmaceuticals)	Completed	0.00	250.00	529.57
SCQ575STXF	2024-03-26 16:17:22	Funds received from 254*****1860 - EVERLYNE NAMUSASI	Completed	700.00	0.00	779.57
SCP35C4BLN	2024-03-25 20:10:34	Customer Transfer of Funds Charge	Completed	0.00	7.00	79.57
SCP35C4BLN	2024-03-25 20:10:34	Customer Transfer to 254*****1787 - VITALIS SIMIYU	Completed	0.00	500.00	86.57
SCP54JGNZD	2024-03-25 17:28:13	Funds received from 254*****0302 - MARTIN MURUNGA	Completed	630.00	0.00	630.00
SCP84JGIVU	2024-03-25 17:28:13	OD Loan Repayment to 232323 - M-PESA Overdraw	Completed	0.00	43.43	586.57
SCP247M6DA	2024-03-25 15:52:57	Funds received from 0*****0823 - Jay Masibayi	Completed	50.00	0.00	50.00
SCP647MCHO	2024-03-25 15:52:57	OD Loan Repayment to 232323 - M-PESA Overdraw	Completed	0.00	50.00	0.00
SCP631URHI	2024-03-25 09:44:10	Funds received from 0*****6402 - Ruth Mugo	Completed	70.00	0.00	70.00
SCP731UOKJ	2024-03-25 09:44:10	OD Loan Repayment to 232323 - M-PESA Overdraw	Completed	0.00	70.00	0.00
SCN8VL1I02	2024-03-23 10:36:55	Customer Transfer Fuliza M-Pesa to 254*****7658 - JOASH RECHA	Completed	0.00	40.00	0.00
SCN8VL1I02	2024-03-23 10:36:55	OverDraft of Credit Party	Completed	40.00	0.00	40.00
SCM8UK130Y	2024-03-22 21:34:41	Customer Transfer of Funds Charge	Completed	0.00	7.00	0.00
SCM8UK130Y	2024-03-22 21:34:41	OverDraft of Credit Party	Completed	121.81	0.00	407.00
SCM8UK130Y	2024-03-22 21:34:41	Customer Transfer Fuliza M-Pesa to 254*****1787 - VITALIS SIMIYU	Completed	0.00	400.00	7.00

Disclaimer: This record is produced for your personal use and is not transferable. If this record is sought to be produced in court, please contact the nearest retail shop for further guidance.

Statement Verification Code

4741103F


To verify the validity of this M-PESA statement dial \*334#, select My Account and follow prompts to enter the code

*Handwritten signature*

**STATEMENT OF CELESTINE NAKHUMICHA WANYAMA**

I, Celestine Nakhumicha Wanyama, an adult, female born on 21<sup>st</sup> March 1986 of ID Number 26168223 of Bungoma County, Bumula Sub County.

1. That I have been a farmer since 2009.
2. That sometime in February 2024, I received a text message from Ministry of Agriculture to go and collect 4 bags of fertilizer from the National Cereals Produce (NCPB) depot.
3. That being a farmer I went to collect the 4 bags of fertilizer and paid kshs 2500 per bag.
4. That I learned the fertilizer was substandard upon using it to plant maize.
5. That the maize was not growing due to the fertilizer I had purchased. It had only grown up to the height of my knee.
6. That after learning the fertilizer was substandard I decided to purchase another fertilizer called DAP which proved to be up to standard for planting maize.
7. That on 22<sup>nd</sup> March 2024, I received a text message from Ministry of Agriculture to go and collect 4 bags of top tracing fertilizer from the National Cereals Produce (NCPB) depot.
8. That I learned later that the all the fertilizer I had purchased was substandard as it had been mixed with eura and had stones in it. Upon learning this I no longer used it.
9. That I have been unable to carry out any farming since purchasing the substandard fertilizer.
10. That my farm is 4 acres and had it not been for the substandard fertilizer, I would have been harvesting 12 to 13 bags of maize per acre.
11. That as a result of the substandard fertilizer I have been unable to provide for my family as I usually do.

  
Celestine Nakhumicha Wanyama.

Dated 5<sup>th</sup> May 2024

## STATEMENT

DATE : 7<sup>th</sup> May ,2024

NAME : David Maina Ndegwa

QUALIFICATIONS : KCE Division II

: Bukura College of Agriculture Certificate

: BASIS (UK) British Agrochemicals Standards of Inspection Scheme

: FACTS (UK) Fertilizer Advisers Certification and training Scheme

: BASIS & FACTS Examiner in Kenya and Zambia

WORK EXPERIENCE: I have 30 years of Experience working in Horticultural Companies Namely Homegrown, East African growers, Frigoken Kenya Ltd and I am currently practicing Farming in a 100 acres Horticultural Farm in Narumoru. I have served in various Capacity from supervisory to General Manager in the above mentioned companies. I am currently the managing director of Taccazze Limited which is a Company involved in Horticultural farming.

PROFESSIONAL BODIES AFFILIATED: I am a board member of SOCAA- Society of Crops agribusiness Advisors of Kenya

OTHER RELATED ASSIGNMENTS: I am a board member of Nyeri Hill Farm which has 800 acres under Coffee, over 100 acres under and over 100 dairy animals.

### HOW I CAME INTO CONTACT WITH GPC.

As the managing director of Taccazzo Limited Which Farms Horticultural Crops in 100-acre farm, I sometimes buy Fertilizer at Kiganjo National cereals and produce depot. At around 2022 I saw fertilizer bags labelled GPC displayed at the depot and on reading the

230

nutrients Composition, I saw that the fertilizer was low in major nutrients and it also had Sodium in it which put me off since Sodium is not an Essential plant nutrient.

I purchased C.A.N and other fertilizers which I needed and left. At around November 2023. I got a call from a lady who introduced herself as Cynthia Gichiri from Africa uncensored. She told me that she was referred to me by a member of SOCAA and she wanted to interview me about a fertilizer called GPC. She asked me if I had used it and I told her that I saw it at NCPB depot in Kiganjo but I didn't purchase it.

We agreed to meet in November 20<sup>th</sup> 2023. Cynthia came to the farm with a fertilizer bag that had some little content in it and it was labelled G.P.C Similar to what I had seen in Kiganjo NCPB depot.

The bag had the following % of plants nutrients written on it.

P	10%
K	30%
Ca	10%
Mg	0.28%
Fe	0.084%
Al	0.087%
Na	4%
Mn	0.11%
Sl	3%

From the ingredients listed I picked on Sodium and aluminum which are not Essential plant nutrients and I wondered why they would be included in a fertilizer bag. Cynthia told me that she had talked to many farmers who expressed disgust due to poor results after using the fertilizer and she wanted to hear my opinion as an expert.

I asked her if she had the fertilizer analysis report which she handed to me. I compared the results to what was labelled in the bag and there was no similarity. The results showed very low levels of NPK which are major nutrients. I compared the results given to me by Cynthia to my soil analysis results and found that my soil was richer in plant nutrients than the purported fertilizer and that is when I told her that if what she showed was being sold as fertilizer, then my soil put in bags would be far much better.

231

Something else that was unique with the GPC bag was the declaration of Nutrients in Elemental form than their Oxide forms which is a common practice all over.

Cynthia asked me to give my Opinion and I told her that if the soil analysis results reflected what was being sold to the farmers, then that can't be referred to as a fertilizer and I would like to submit the following report to support my Opinion.

1. Soil analysis report from my farm in Narumoru.
2. Fertilizer analysis report given to me by Cynthia.

From the two report it will be seen clearly that the soil from my farm is richer in Nutrients than the product in question.

David Moino Ndopwa

7th May 2024

7<sup>TH</sup> MAY, 2024

**NAME: CORNELIUS WAFULA WANJALA**  
**OCCUPATION: FARMER**  
**ADDRESS: BUNGOMA**  
**RESIDENCE: KANGEMI, NAIROBI COUNTY**

**WITNESS STATEMENT**

My name is Cornelius Wafula and I reside in Kangemi. I farm in Western Kenya. I wish to state that I am a well-meaning Kenyan who has been keenly following the fake fertilizer scandal and have in my possession correspondence that I believe will shed light on the matter before this Honourable Committee.

That is all I wish to state.

SIGNED 

## STATEMENT

DATE : 7<sup>th</sup> May ,2024

NAME : David Maina Ndegwa

QUALIFICATIONS : KCE Division II

: Bukura College of Agriculture Certificate

: BASIS (UK) British Agrochemicals Standards of Inspection Scheme

: FACTS (UK) Fertilizer Advisers Certification and training Scheme

: BASIS & FACTS Examiner in Kenya and Zambia

WORK EXPERIENCE: I have 30 years of Experience working in Horticultural Companies Namely Homegrown, East African growers, Frigoken Kenya Ltd and I am currently practicing Farming in a 100 acres Horticultural Farm in Narumoru. I have served in various Capacity from supervisory to General Manager in the above mentioned companies. I am currently the managing director of Taccazze Limited which is a Company involved in Horticultural farming.

PROFESSIONAL BODIES AFFILIATED: I am a board member of SOCAA- Society of Crops agribusiness Advisors of Kenya

OTHER RELATED ASSIGNMENTS: I am a board member of Nyeri Hill Farm which has 800 acres under Coffee, over 100 acres under and over 100 dairy animals.

### HOW I CAME INTO CONTACT WITH GPC.

As the managing director of Taccazzo Limited Which Farms Horticultural Crops in 100-acre farm, I sometimes buy Fertilizer at Kiganjo National cereals and produce depot. At around 2022 I saw fertilizer bags labelled GPC displayed at the depot and on reading the

234

nutrients Composition, I saw that the fertilizer was low in major nutrients and it also had Sodium in it which put me off since Sodium is not an Essential plant nutrient.

I purchased C.A.N and other fertilizers which I needed and left. At around November 2023. I got a call from a lady who introduced herself as Cynthia Gichiri from Africa uncensored. She told me that she was referred to me by a member of SOCAA and she wanted to interview me about a fertilizer called GPC. She asked me if I had used it and I told her that I saw it at NCPB depot in Kiganjo but I didn't purchase it.

We agreed to meet in November 20<sup>th</sup> 2023. Cynthia came to the farm with a fertilizer bag that had some little content in it and it was labelled G.P.C Similar to what I had seen in Kiganjo NCPB depot.

The bag had the following % of plants nutrients written on it.

P	10%
K	30%
Ca	10%
Mg	0.28%
Fe	0.084%
Al	0.087%
Na	4%
Mn	0.11%
Sl	3%

From the ingredients listed I picked on Sodium and aluminum which are not Essential plant nutrients and I wondered why they would be included in a fertilizer bag. Cynthia told me that she had talked to many farmers who expressed disgust due to poor results after using the fertilizer and she wanted to hear my opinion as an expert.

I asked her if she had the fertilizer analysis report which she handed to me. I compared the results to what was labelled in the bag and there was no similarity. The results showed very low levels of NPK which are major nutrients. I compared the results given to me by Cynthia to my soil analysis results and found that my soil was richer in plant nutrients than the purported fertilizer and that is when I told her that if what she showed was being sold as fertilizer, then my soil put in bags would be far much better.

235

Something else that was unique with the GPC bag was the declaration of Nutrients in Elemental form than their Oxide forms which is a common practice all over.

Cynthia asked me to give my Opinion and I told her that if the soil analysis results reflected what was being sold to the farmers, then that can't be referred to as a fertilizer and I would like to submit the following report to support my Opinion.

1. Soil analysis report from my farm in Narumoru.
2. Fertilizer analysis report given to me by Cynthia.

From the two report it will be seen clearly that the soil from my farm is richer in Nutrients than the product in question.

David Moino Ndegwe.

7<sup>th</sup> May 2024.

# Manure Compost Analysis Report

## Complete Compost/Manure Analysis



Report Ref#: CN-221616

TL/21

Customer:	Africa Uncensored	Fertilizer:	Manure/compost	Date Received:	27-Oct-23
Address:	gichiri@africauncensored.net	Crop Stage:		Analysis Date:	2-Nov-23
Farm Name:	Africa Uncensored	Comments:		Report Date:	3-Nov-23
Contact Person:	Cynthia	Condition:	Dry Organic Material	Sample ID:	CA661CM0002

Field: GPC Sample 1

History (Last 3 analysis)

Parameter	Unit	Result	Guide Low	Guide High	Low	Optimum	High	Symbol	Current	Method
pH		10.00	6.00	8.50				pH	10.00	Electrode
EC (Salts)	ms/cm	1.43	0.75	1.50				EC <sub>50</sub>	1.43	Electrode
Dry matter	%	99.2		< 50.0				DM	99.2	Gravimetric
Carbon	%	1.64	13.0	60.0				C	1.64	Lab. Data
Total Nitrogen	%	0.013	0.80	1.50				N	0.013	Lab. Data
Phosphorus	%	< 0.02	0.20	0.75				P	< 0.02	Lab. Data
Potassium	%	0.11	0.40	2.00				K	0.11	Lab. Data
Calcium	%	1.18	0.60	1.50				Ca	1.18	Lab. Data
Magnesium	%	0.04	0.20	0.80				Mg	0.04	Lab. Data
Sulphur	%	< 0.05	0.20	0.50				S	< 0.05	Lab. Data
Manganese	ppm	207	200	800				Mn	207	Lab. Data
Iron	ppm	4180						Fe	4180	Lab. Data
Zinc	ppm	20.2	40.0	1000				Zn	20.2	Lab. Data
Copper	ppm	1.96	8.00	400				Cu	1.96	Lab. Data
Boron	ppm	16.6	20.0	140				B	16.6	Lab. Data
Sodium	ppm	2220		< 3000				Na	2220	Lab. Data
C/N ratio		125	10.0	20.0				C:N	125	Lab. Data

\* The result is below the limit of detection.

NUTRIENT CONTRIBUTION PER TON						NOTES:
N	P	K	Ca	S	Mg	Nutrient Contribution & Fertilizer Deductions  These figures estimate the quantity of nutrients supplied per 1000 kg (1 ton) of this manure/compost applied each hectare of land. The calculation takes into account the material dry matter %, the nutrient content % result above, and an estimated nutrient release of 30% to the first crop.
kg/Ha	kg/Ha	kg/Ha	kg/Ha	kg/Ha	kg/Ha	
0.04	0.06	0.33	3.51	0.15	0.12	

	Jo Gakobo Lab Manager Approval Date: 03/11/2023		Cordingley Jeremy Managing Director Approval Date: 03/11/2023	
--	---	--	---	--

**Disclaimer Statement:** \*Due care and skill are applied in handling of samples presented by you for examination at the Laboratory to ensure that the Analysis Report is as accurate as possible. It is noteworthy that the Analysis Report exclusively relates to the sample presented and examined by the Laboratory. The Company gives no warranty that the Analysis Report relates to the source or any part of the source of the sample. Please note that the recommendations given in the Analysis Report are based on the parameters included in the request from you for analysis. The sporadic character of samples and the date of the Analysis Report shall be fundamental in the reading and interpretation of the Analysis Report. This document cannot be reproduced except in full, without prior written approval of the company.  
 \* Parameter is not accredited. ~ Parameters sub contracted to a third party laboratory (NAS). # Opinions and Interpretations expressed herein are outside the scope of accreditation.

Crop Nutrition Laboratory Services Ltd, Limuru, Kenya  
 Mobile: +254 (0)711 091 414  
 Email: laboratory@crobnuts.com

www.crobnuts.com

287

# Manure Compost Analysis Report

## Complete Compost/Manure Analysis



Report Ref#: CN-223489

TL/Z1

Customer: Africa Uncensored	Fertilizer: Compost	Date Received: 26-Oct-23
Address: gichiri@africauncensored.net	Crop Stage:	Analysis Date: 2-Nov-23
Farm Name: Africa Uncensored	Comments:	Report Date: 3-Nov-23
Contact Person: Cynthia	Condition: Moist Organic Material	Sample ID: CA661CM0001

Field: GPC (New Packaging) Fertilizer

History (Last 3 analysis)

Parameter	Unit	Result	Guide Low	Guide High	Low	Optimum	High	Symbol	Current	Method
pH		9.39	6.00	8.50				pH	9.39	Distillation
EC (Salts)	mS/cm	0.78	0.75	1.20				EC(S)	0.78	Distillation
Dry matter	%	81.5						DM	81.5	Calculation
Carbon	%	1.33	13.0	60.0				C	1.33	Combustion
Total Nitrogen	%	0.016	0.80	4.00				N	0.016	Distillation
Phosphorus	%	< 0.02	0.20	3.00				P	< 0.02	Spectrophotometry
Potassium	%	0.17	0.40	2.00				K	0.17	Spectrophotometry
Calcium	%	1.29	1.00	10.0				Ca	1.29	Spectrophotometry
Magnesium	%	0.032	0.20	0.80				Mg	0.032	Spectrophotometry
Sulphur	%	< 0.05	0.20	0.50				S	< 0.05	Spectrophotometry
Manganese	ppm	140	200	800				Mn	140	Spectrophotometry
Iron	ppm	2830						Fe	2830	Spectrophotometry
Zinc	ppm	21.5	40.0	1000				Zn	21.5	Spectrophotometry
Copper	ppm	2.69	8.00	400				Cu	2.69	Spectrophotometry
Boron	ppm	12.1	20.0	140				B	12.1	Spectrophotometry
Sodium	ppm	1510		< 3000				Na	1510	Spectrophotometry
C/N ratio		83.8	10.0	20.0				C:N	83.8	Calculation

\* If the result is below the guide low deduction.

### NUTRIENT CONTRIBUTION PER TON

N	P	K	Ca	S	Mg
kg/Ha	kg/Ha	kg/Ha	kg/Ha	kg/Ha	kg/Ha
0.04	0.05	0.42	3.15	0.12	0.08

### NOTES:

Nutrient Contribution & Fertilizer Deductions

These figures estimate the quantity of nutrients supplied per 1000 kg (1 ton) of this manure/compost applied each hectare of land. The calculation takes into account the material dry matter %, the nutrient content % result above, and an estimated nutrient release of 30% to the first crop.

Jo Gakobo Lab Manager Approval Date: 03/11/2023		Cordingley Jeremy Managing Director Approval Date: 03/11/2023	
---	--	---	--

Disclaimer Statement: "Due care and skill are applied in handling of samples presented by you for examination at the Laboratory to ensure that the Analysis Report is as accurate as possible. It is noteworthy that the Analysis Report exclusively relates to the sample presented and examined by the Laboratory. The Company gives no warranty that the Analysis Report relates to the source or any part of the source of the sample. Please note that the recommendations given in the Analysis Report are based on the parameters included in the request from you for analysis. The sporadic character of samples and the date of the Analysis Report shall be fundamental in the reading and interpretation of the Analysis Report. This document cannot be reproduced except in full, without prior written approval of the company."  
\* Parameter is not accredited. - Parameters sub-contracted to a third party laboratory (NAS). # Opinions and Interpretations expressed herein are outside the scope of accreditation.

# Manure Compost Analysis Report

## Complete Compost/Manure Analysis



Report Ref#: CN-230915

Customer:	Africa Uncensored	Fertilizer:	Manure/compost	Date Received:	28-Nov-23
Address:	gichiri@africauncensored.net	Crop Stage:		Analysis Start:	28-Nov-23
Farm Name:	Africa Uncensored	Comments:		Report Date:	6-Dec-23
Contact Person:	Cynthia	Condition:	Dry Organic Material	Sample ID:	CA661CM0005

Field: GPC Sagara

History (Last 3 analysis)

Parameter	Unit	Result	Guide Low	Guide High	Low	Optimum	High	Symbol	Current	Method
pH		9.29	6.00	8.50				pH	9.29	Titrimetric
EC (Salts)	mS/cm	0.94	0.75	1.50				EC <sub>60</sub>	0.94	Electrometric
Dry matter	%	68.8		< 60.0				DM	68.8	Gravimetric
Carbon	%	0.93						C	0.93	Combustion
Total Nitrogen	%	< 0.03	0.80	1.50				N	< 0.03	Distillation
Phosphorus	%	< 0.02	0.20	0.75				P	< 0.02	Spectrometry
Potassium	%	< 0.10	0.40	2.00				K	< 0.10	Spectrometry
Calcium	%	1.70	0.60	1.50				Ca	1.70	Spectrometry
Magnesium	%	0.023	0.20	0.80				Mg	0.023	Spectrometry
Sulphur	%	< 0.05	0.20	0.50				S	< 0.05	Spectrometry
Manganese	ppm	52.5	200	800				Mn	52.5	Spectrometry
Iron	ppm	2230						Fe	2230	Spectrometry
Zinc	ppm	18.0	40.0	1000				Zn	18.0	Spectrometry
Copper	ppm	1.06	8.00	400				Cu	1.06	Spectrometry
Boron	ppm	2.74	20.0	140				B	2.74	Spectrometry
Sodium	ppm	2740		< 3000				Na	2740	Spectrometry
C/N ratio		31.2	10.0	20.0				C/N	31.2	Calculated

\* If the result is below the guide range.

NUTRIENT CONTRIBUTION PER TON					
N	P	K	Ca	S	Mg
kg/Ha	kg/Ha	kg/Ha	kg/Ha	kg/Ha	kg/Ha
0.06	0.04	0.21	3.51	0.1	0.05

**NOTES:**  
Nutrient Contribution & Fertilizer Deductions

These figures estimate the quantity of nutrients supplied per 1000 kg (1 ton) of this manure/compost applied each hectare of land. The calculation takes into account the material dry matter %, the nutrient content % result above, and an estimated nutrient release of 30% to the first crop.

<p>Jo Gakobo Lab Manager Approval Date: 07/12/2023</p>	<p>Cordingley Jeremy Managing Director Approval Date: 07/12/2023</p>
--	--

Disclaimer Statement: "Due care and skill are applied in handling of samples presented by you for examination at the Laboratory to ensure that the Analysis Report is as accurate as possible. It is noteworthy that the Analysis Report exclusively relates to the sample presented and examined by the Laboratory. The Company gives no warranty that the Analysis Report relates to the source or any part of the source of the sample. Please note that the recommendations given in the Analysis Report are based on the parameters included in the request from you for analysis. The sporadic character of samples and the date of the Analysis Report shall be fundamental in the reading and interpretation of the Analysis Report. This document cannot be reproduced except in full, without prior written approval of the company."  
\* Parameter is not accredited. \* Parameters sub contracted to a third party laboratory. \* Opinions and Interpretations expressed herein are outside the scope of accreditation.

239

# Manure Compost Analysis Report

Complete Compost/Manure Analysis



Report Ref#: CN-230914

Customer: Africa Uncensored	Fertilizer: Manure/compost	Date Received: 28-Nov-23
Address: gichini@africauncensored.net	Crop Stage:	Analysis Start: 28-Nov-23
Farm Name: Africa Uncensored	Comments:	Report Date: 6-Dec-23
Contact Person: Cynthia	Condition: Dry Organic Material	Sample ID: CA661CM0004

Field: GPC Tala

History (Last 3 analysis)

Parameter	Unit	Result	Guide Low	Guide High	Low	Optimum	High	Symbol	Current	Method
pH		9.78	6.00	8.50				pH	9.78	Titrimetric
EC (Salts)	mS/cm	1.66	0.75	1.50				EC <sub>50</sub>	1.66	Electrometric
Dry matter	%	85.0		< 60.0				DM	85.0	Gravimetric
Carbon	%	1.16						C	1.16	Loss on ignition
Total Nitrogen	%	< 0.03	0.80	1.50				N	< 0.03	Kjeldahl
Phosphorus	%	< 0.02	0.20	0.75				P	< 0.02	Spectrophotometric
Potassium	%	< 0.10	0.40	2.00				K	< 0.10	Flame photometry
Calcium	%	1.23	0.60	1.50				Ca	1.23	Spectrophotometric
Magnesium	%	0.029	0.20	0.80				Mg	0.029	Spectrophotometric
Sulphur	%	< 0.05	0.20	0.50				S	< 0.05	Spectrophotometric
Manganese	ppm	72.0	200	800				Mn	72.0	Inductively coupled plasma atomic emission spectrometry
Iron	ppm	3070						Fe	3070	Inductively coupled plasma atomic emission spectrometry
Zinc	ppm	26.6	40.0	1600				Zn	26.6	Spectrophotometric
Copper	ppm	3.05	8.00	400				Cu	3.05	Spectrophotometric
Boron	ppm	3.30	20.0	140				B	3.30	Spectrophotometric
Sodium	ppm	2840		< 3000				Na	2840	Spectrophotometric
C/N ratio		38.6	10.0	20.0				C/N	38.6	Loss on ignition

\* If the result is below the limit of detection.

### NUTRIENT CONTRIBUTION PER TON

N	P	K	Ca	S	Mg
kg/Ha	kg/Ha	kg/Ha	kg/Ha	kg/Ha	kg/Ha
0.08	0.05	0.26	3.14	0.13	0.07

**NOTES:**  
Nutrient Contribution & Fertilizer Deductions

These figures estimate the quantity of nutrients supplied per 1000 kg (1 ton) of this manure/compost applied each hectare of land. The calculation takes into account the material dry matter %, the nutrient content % result above, and an estimated nutrient release of 30% to the first crop.

Jo Gakobo Lab Manager Approval Date: 07/12/2023		Cordingley Jeremy Managing Director Approval Date: 07/12/2023	
---	--	---	--

*Disclaimer Statement: "Due care and skill are applied in handling of samples presented by you for examination at the Laboratory to ensure that the Analysis Report is as accurate as possible. It is noteworthy that the Analysis Report exclusively relates to the sample presented and examined by the Laboratory. The Company gives no warranty that the Analysis Report relates to the source or any part of the source of the sample. Please note that the recommendations given in the Analysis Report are based on the parameters included in the request form you for analysis. The specific character of samples and the date of the Analysis Report shall be fundamental in the reading and interpretation of the Analysis Report. This document cannot be reproduced except in full, without prior written approval of the company."*

\* Parameter is not accredited. - Parameters sub contracted to a third party laboratory. - All Opinions and Interpretations expressed herein are outside the scope of accreditation.

240

# Manure Compost Analysis Report

Complete Compost/Manure Analysis



Report Ref#: CN-230913

Customer:	Africa Uncensored	Fertilizer:	Manure/compost	Date Received:	28-Nov-23
Address:	gichiri@africauncensored.net	Crop Stage:		Analysis Start:	28-Nov-23
Farm Name:	Africa Uncensored	Comments:		Report Date:	6-Dec-23
Contact Person:	Cynthia	Condition:	Dry Organic Material	Sample ID:	CA661CM0003

Field: GPC Siaya

Parameter	Unit	Result	Guide Low	Guide High	History (Last 3 analysis)			Symbol	Current	Method
					Low	Optimum	High			
pH		8.81	6.00	8.50				pH	8.81	Titrimetric
EC (Salts)	mS/cm	1.87	0.75	1.50				EC(S)	1.87	Titrimetric
Dry matter	%	98.9		< 60.0				DM	98.9	Gravimetric
Carbon	%	1.37						C	1.37	Colorimetric
Total Nitrogen	%	0.061	0.80	1.50				N	0.061	Kjeldahl
Phosphorus	%	< 0.02	0.20	0.75				P	< 0.02	Spectrophotometry
Potassium	%	0.12	0.40	2.00				K	0.12	Spectrophotometry
Calcium	%	1.54	0.60	1.50				Ca	1.54	Spectrophotometry
Magnesium	%	0.045	0.20	0.80				Mg	0.045	Spectrophotometry
Sulphur	%	0.051	0.20	0.50				S	0.051	Spectrophotometry
Manganese	ppm	158	200	800				Mn	158	Spectrophotometry
Iron	ppm	5040						Fe	5040	Spectrophotometry
Zinc	ppm	29.2	40.0	1000				Zn	29.2	Spectrophotometry
Copper	ppm	3.86	8.00	400				Cu	3.86	Spectrophotometry
Boron	ppm	7.31	20.0	140				B	7.31	Spectrophotometry
Sodium	ppm	2470		< 3000				Na	2470	Spectrophotometry
C/N ratio		22.3	10.0	20.0				CN	22.3	Calculated

\* If the result is outside the limits of detection.

NUTRIENT CONTRIBUTION PER TON					
N	P	K	Ca	S	Mg
kg/Ha	kg/Ha	kg/Ha	kg/Ha	kg/Ha	kg/Ha
0.18	0.06	0.36	4.57	0.15	0.13

**NOTES:**  
Nutrient Contribution & Fertilizer Deductions

These figures estimate the quantity of nutrients supplied per 1000 kg (1 ton) of this manure/compost applied each hectare of land. The calculation takes into account the material dry matter %, the nutrient content % result above, and an estimated nutrient release of 30% to the first crop.

	Jo Gakobo Lab Manager Approval Date: 07/12/2023	Cordingley Jeremy Managing Director Approval Date: 07/12/2023
--	---	---

Disclaimer Statement: "Due care and skill are applied in handling of samples presented by you for examination at the Laboratory to ensure that the Analysis Report is as accurate as possible. It is noteworthy that the Analysis Report exclusively relates to the sample presented and examined by the Laboratory. The Company gives no warranty that the Analysis Report relates to the source or any part of the source of the sample. Please note that the recommendations given in the Analysis Report are based on the parameters included in the request from you for analysis. The specific character of samples and the date of the Analysis Report shall be fundamental in the reading and interpretation of the Analysis Report. This document cannot be reproduced except in full, without prior written approval of the company."  
\* Parameter is not accredited. - Parameters sub contracted to a third party laboratory. - Opinions and Interpretations expressed herein are outside the scope of accreditation.

**Soil Analysis**  
Complete Soil Analysis with Recommendations



TL/21

Customer:	TACCAZZE LTD	Crop:	Beans (French)	Date Received:	21-Mar-24
Address:	Narumoru	Crop Stage:		Analysis Start:	21-Mar-24
Farm Name:	Taccaze farm	Comments:		Report Date:	26-Mar-24
Contact Person:	Ndegwa David	Condition:	Moist	Sample ID:	CT307SA0001

Field: L14A Top Soil To maintain the correct history ensure that the next sample sent from this Field is labelled: L14A History (Last 3 analysis)

Parameter	Unit	Result	Guide Low	Guide High	Low	Optimum	High	Symbol	Current	Method
pH (H <sub>2</sub> O)		6.71	6.00	7.20				pH	6.71	Potentiometric
*EC (Salts)	uS/cm	687		< 800				EC(S)	687	Potentiometric
Phosphorus	ppm	201	30.0	100				P	201	Mehlich 3 - ICP
Potassium	ppm	1010	498	1330				K	1010	Mehlich 3 - ICP
Calcium	ppm	5390	5110	6390				Ca	5390	Mehlich 3 - ICP
Magnesium	ppm	620	511	1020				Mg	620	Mehlich 3 - ICP
Sulphur	ppm	62.4	20.0	100				S	62.4	Mehlich 3 - ICP
*Sodium	ppm	927		< 490				Na	927	Mehlich 3 - ICP
Iron	ppm	112	30.0	350				Fe	112	Mehlich 3 - ICP
Manganese	ppm	253	30.0	200				Mn	253	Mehlich 3 - ICP
Boron	ppm	2.50	0.80	2.00				B	2.50	Mehlich 3 - ICP
Copper	ppm	3.35	2.00	10.0				Cu	3.35	Mehlich 3 - ICP
Zinc	ppm	2.11	2.00	20.0				Zn	2.11	Mehlich 3 - ICP
*C.E.C.	meq/100g	42.6	15.0	30.0				C.E.C.	42.6	Calculated
*Total Nitrogen	%	0.18	0.20	0.50				N	0.18	Kjeldahl
*Organic Matter	%	4.28	3.00	4.00				OM	4.28	Dumas
*C/N ratio		13.8	10.0	25.0				C:N	13.8	Calculated

*PERCENTAGES AND RATIOS										
Calcium %	%	63.3	60	75				Ca%	63.3	
Magnesium %	%	12.1	10	20				Mg%	12.1	
Potassium %	%	6.08	3	8				K%	6.08	
Sodium % (ESP)	%	9.46	0	5				Na%	9.46	
Other Bases %	%	4.69	3	10				OB%	4.69	
Hydrogen %	%	4.35	10	15				H%	4.35	
Total	%	100.00								
Ca:Mg Ratio	%	5.22	4	7				Ca:Mg	5.22	

**COMMENTS #**  
>Very High Phosphorus in this Top Soil>High Sodium in this Top Soil>High Manganese in this Top Soil>High Boron in this Top Soil>Very High C:E.C in this Top Soil>Low Total Nitrogen in this Top Soil>High Organic Matter in this Top Soil>High Sodium % (ESP) in this soil.>Very Low Hydrogen % in this soil.

Jo Galambo Lab Manager *(Signature)* Cordingley Jeremy Managing Director *(Signature)* Approval Date: 26/03/2024

Disclaimer Statement: "Due care and skill are applied in handling of samples presented by you for examination at the Laboratory to ensure that the Analysis Report is as accurate as possible. It is noteworthy that the Analysis Report exclusively relates to the sample presented and examined by the Laboratory. The Company gives no warranty that the Analysis Report relates to the source or any part of the source of the sample. Please note that the recommendations given in the Analysis Report are based on the parameters included in the request from you for analysis. The sporadic character of samples and the date of the Analysis Report shall be fundamental in the reading and interpretation of the Analysis Report. This document cannot be reproduced except in full, without prior written approval of the company."  
\* Parameter is not accredited. - Parameters sub contracted to a third party laboratory. # Opinions and Interpretations expressed herein are outside the scope of accreditation.

Crop Nutrition Laboratory Services Ltd, Limuru, Kenya  
Mobile: +254 (0)711 094 444  
Email: laboratory@croppnuts.com

242

# RECOMMENDATIONS REPORT #

## SOIL FERTILITY CORRECTION AND CROP FERTILIZER PROGRAMS



Customer:	TACCAZZE LTD	Crop:	Beans (French)	Date Received:	21-Mar-24
Address:	Narumoru	Crop Stage:		Analysis Date:	21-Mar-24
Farm Name:	Taccaze farm	Comments:		Report Date:	26-Mar-24
Contact Person:	Ndegwa David	Condition:	Moist	Sample ID:	CT307SA0001

Crop	Beans (French)	Yield Target	12 t/Ha
------	----------------	--------------	---------

\*\* This includes any nutrient deductions from manure/compost application.  
To improve the accuracy of these recommendations, please send a sample of manure/compost.

### SOIL FERTILITY CORRECTION & FERTILIZER PROGRAM

PROBLEM	SOLUTION /INPUT	RATE		COMMENTS	STAGE (Input Type)
		Kg/Ha	g/m2		
High sodium in the soil	GYPSUM (20 - 24% Ca, 18% S) <a href="#">Find Gypsum Suppliers</a>	4000	400	Apply gypsum to remove sodium - follow with deep tillage and leaching with irrigation water	PREPLANTING (Soil Correction)
Phosphorus fertilization required.	NP (23.23) <a href="#">Find Nitrogen fertilizers (&gt;20% N) Suppliers</a> <a href="#">Find Phosphate Fertilizers (&gt;20% P2O5) Suppliers</a>	150	15	Apply basal before planting - if inoculating the seed, then use a Phosphorus fertilizer without N.	PLANTING (Fertilizer)
Nitrogen fertilization required.	40%N 6%S Topdress <a href="#">Find Nitrogen fertilizers (&gt;20% N) Suppliers</a>	270	27	Split into weekly equal applications based on rain/irrigation schedule	TOP DRESS (Fertilizer)

### ADDITIONAL RECOMMENDATIONS

> High sodium requires treatment. Apply gypsum in combination with soil conditioning products. Check irrigation water quality. > Indicator of soils with high clay content. Correct this by applying the lime/gypsum/manure as per the recommendations. > If roots are healthy, reduce P fertilizer at planting. Only top-up P will be required. > Check amount of manure/compost applied to avoid over application. > Low soil nitrogen - crop will require nitrogen fertilizers according to yield target.

NEED HELP UNDERSTANDING THIS REPORT? Visit our [Help Desk](#)

NEED TO FIND FARM INPUTS? Search our [Farm Inputs Directory](#)

\*\*Disclaimer: These fertilizer recommendations are only valid for the sample presented, specific crop type, yield target and estimated fertilizer recovery. However, please also note that the recommendations provide indicative rates only and should be validated at farm level through fertilizer trials. Whilst we have taken all reasonable care to ensure that our recommendations are accurate, we have not taken into account other factors that could greatly reduce crop nutrient uptake including but not limited to soil moisture, root diseases, nematodes, water logging, compaction, salinity, fertilizer placement and other management factors. Therefore, we accept no liability for any loss or damage arising directly or indirectly from the use of the fertilizers and under no circumstances whatsoever shall we be liable for any special, incidental or consequential damages which may arise therefrom. This document cannot be reproduced except in full, without prior written approval of the company.  
\* Parameter is not accredited. - Parameter sub contracted to a third party Laboratory. # Opinions and Interpretations expressed herein are outside the scope of accreditation.

Crop Nutrition Laboratory Services Ltd, Limuru, Kenya  
Mobile: +254 (0)711 094 444  
Email: [laboratory@croppnuts.com](mailto:laboratory@croppnuts.com)

**Soil Analysis**  
Complete Soil Analysis with Recommendations



TL/21

Customer:	TACCAZZE LTD	Crop:	Beans (French)	Date Received:	21-Mar-24
Address:	Narumoru	Crop Stage:		Analysis Start:	21-Mar-24
Farm Name:	Taccanze farm	Comments:		Report Date:	26-Mar-24
Contact Person:	Ndegwa David	Condition:	Moist	Sample ID:	CT307SA0002

**Field: M12** Top Soil To maintain the correct history ensure that the next sample sent from this field is labelled: M12 History (Last 3 analysis)

Parameter	Unit	Result	Guide Low	Guide High	Low	Optimum	High	Symbol	Current	Method
pH (HZC)		5.80	6.00	7.20				pH	5.80	Potentiometric
*EC (Salts)	uS/cm	190		< 800				EC(S)	190	Potentiometric
*Phosphorus	ppm	124	30.0	100				P	124	Mehlich 3 - TCP
Potassium	ppm	1130	257	685				K	1130	Mehlich 3 - TCP
Calcium	ppm	1830	2630	3290				Ca	1830	Mehlich 3 - TCP
Magnesium	ppm	340	263	527				Mg	340	Mehlich 3 - TCP
Sulphur	ppm	34.6	20.0	100				S	34.6	Mehlich 3 - TCP
*Sodium	ppm	274		< 252				Na	274	Mehlich 3 - TCP
Iron	ppm	189	30.0	350				Fe	189	Mehlich 3 - TCP
Manganese	ppm	184	30.0	200				Mn	184	Mehlich 3 - TCP
Boron	ppm	1.25	0.80	2.00				B	1.25	Mehlich 3 - TCP
Copper	ppm	1.97	2.00	10.0				Cu	1.97	Mehlich 3 - TCP
Zinc	ppm	5.04	2.00	20.0				Zn	5.04	Mehlich 3 - TCP
*C.E.C.	meq/100g	22.0	15.0	30.0				C.E.C.	22.0	Calculated
*Total Nitrogen	%	0.18	0.20	0.50				N	0.18	Kjeldahl
*Organic Matter	%	3.64	3.00	4.00				OM	3.64	Dumas
*C/N ratio		11.8	10.0	25.0				C/N	11.8	Calculated

*PERCENTAGES AND RATIOS										
Calcium %	%	41.7	60	75				Ca%	41.7	
Magnesium %	%	12.9	10	20				Mg%	12.9	
Potassium %	%	13.2	3	8				K%	13.2	
Sodium % (ESP)	%	5.43	0	5				Na%	5.43	
Other Bases %	%	5.80	3	10				OB%	5.80	
Hydrogen %	%	21.0	10	15				H%	21.0	
Total	%	100.00								
Ca:Mg Ratio	%	3.23	4	7				Ca:Mg	3.23	

**COMMENTS #**  
>Low pH in this Top Soil>High Phosphorus in this Top Soil>Very High Potassium in this Top Soil>Very Low Calcium in this Top Soil>High Sodium in this Top Soil>Low Copper in this Top Soil>Low Total Nitrogen in this Top Soil>Very Low Calcium % in this soil.>Very High Potassium % in this soil.>High Sodium % (ESP) in this soil.>Very High Hydrogen % in this soil.>Low Ca:Mg Ratio in this soil.

Jo Gakobo Lab Manager Cordingley Jereny Managing Director Approval Date: 26/03/2024

Disclaimer/Statement: "Due care and skill are applied in handling of samples presented by you for examination at the Laboratory to ensure that the Analysis Report is as accurate as possible. It is noteworthy that the Analysis Report exclusively relates to the sample presented and examined by the Laboratory. The Company gives no warranty that the Analysis Report relates to the source or any part of the source of the sample. Please note that the recommendations given in the Analysis Report are based on the parameters included in the request from you for analysis. The specific character of samples and the date of the Analysis Report shall be fundamental in the reading and interpretation of the Analysis Report. This document cannot be reproduced except in full, without prior written approval of the company."  
\* Parameter is not accredited. - Parameters sub contracted to a third party laboratory. # Opinions and Interpretations expressed herein are outside the scope of accreditation.

244

**Soil Analysis**  
Complete Soil Analysis with Recommendations



TL/21

Customer:	TACCAZZE LTD	Crop:	Beans (French)	Date Received:	21-Mar-24
Address:	Narumoru	Crop Stage:		Analysis Start:	21-Mar-24
Farm Name:	Taccazze farm	Comments:		Report Date:	26-Mar-24
Contact Person:	Ndegwa David	Condition:	Moist	Sample ID:	CT307SA0001

Field: L14A

Top Soil

To maintain the correct history ensure that the next sample sent from this Field is labelled: L14A

History (Last 3 analysis)

Parameter	Unit	Result	Guide Low	Guide High	Low	Optimum	High	Symbol	Current	Method
pH (H <sub>2</sub> O)		6.71	6.00	7.20				pH	6.71	Potentiometric
*EC (Salts)	uS/cm	687		< 800				EC(S)	687	Potentiometric
Phosphorus	ppm	201	30.0	100				P	201	Mehlich 3 - ICP
Potassium	ppm	1010	498	1330				K	1010	Atrich 3 - ICP
Calcium	ppm	5390	5110	6390				Ca	5390	Atrich 3 - ICP
Magnesium	ppm	620	511	1020				Mg	620	Mehlich 3 - ICP
Sulphur	ppm	62.4	20.0	100				S	62.4	Mehlich 3 - ICP
*Sodium	ppm	927		< 490				Na	927	Mehlich 3 - ICP
Iron	ppm	112	30.0	350				Fe	112	Mehlich 3 - ICP
Manganese	ppm	253	30.0	200				Mn	253	Mehlich 3 - ICP
Boron	ppm	2.50	0.80	2.00				B	2.50	Mehlich 3 - ICP
Copper	ppm	3.35	2.00	10.0				Cu	3.35	Mehlich 3 - ICP
Zinc	ppm	2.11	2.00	20.0				Zn	2.11	Mehlich 3 - ICP
*C.E.C.	meq/100g	42.6	15.0	30.0				C.E.C.	42.6	Calculated
*Total Nitrogen	%	0.18	0.20	0.50				N	0.18	Kjeldahl
*Organic Matter	%	4.28	3.00	4.00				OM	4.28	Dumas
*C/N ratio		13.8	10.0	25.0				C:N	13.8	Calculated

**\*PERCENTAGES AND RATIOS**

Calcium %	%	63.3	60	75				Ca%	63.3	
Magnesium %	%	12.1	10	20				Mg%	12.1	
Potassium %	%	6.08	3	8				K%	6.08	
Sodium % (ESP)	%	9.46	0	5				Na%	9.46	
Other Bases %	%	4.69	3	10				OB%	4.69	
Hydrogen %	%	4.35	10	15				H%	4.35	
Total	%	100.00								
Ca:Mg Ratio	%	5.22	4	7				Ca:Mg	5.22	

**COMMENTS #**

>Very High Phosphorus in this Top Soil>High Sodium in this Top Soil>High Manganese in this Top Soil>High Boron in this Top Soil>Very High C.E.C in this Top Soil>Low Total Nitrogen in this Top Soil>High Organic Matter in this Top Soil>High Sodium % (ESP) in this soil.>Very Low Hydrogen % in this soil.

Jo Gakodo Lab Manager		Cordingley Jeremy Managing Director		Approval Date: 26/03/2024
--------------------------	--	--	--	---------------------------

Disclaimer Statement: "Due care and skill are applied in handling of samples presented by you for examination at the Laboratory to ensure that the Analysis Report is as accurate as possible. It is noteworthy that the Analysis Report exclusively relates to the sample presented and examined by the Laboratory. The Company gives no warranty that the Analysis Report relates to the source or any part of the source of the sample. Please note that the recommendations given in the Analysis Report are based on the parameters included in the request from you for analysis. The sporadic character of samples and the date of the Analysis Report shall be fundamental in the reading and interpretation of the Analysis Report. This document cannot be reproduced except in full, without prior written approval of the company."  
\* Parameter is not accredited. - Parameter sub contracted to a third party laboratory. # Opinions and Interpretations expressed herein are outside the scope of accreditation.

Crop Nutrition Laboratory Services Ltd, Limuru, Kenya  
Mobile: +254 (0)711 094 444  
Email: laboratory@cropnuts.com

245

# RECOMMENDATIONS REPORT #

## SOIL FERTILITY CORRECTION AND CROP FERTILIZER PROGRAMS



Customer:	TACCAZZE LTD	Crop:	Beans (French)	Date Received:	21-Mar-24
Address:	Narumoru	Crop Stage:		Analysis Date:	21-Mar-24
Farm Name:	Taccaze farm	Comments:		Report Date:	26-Mar-24
Contact Person:	Ndegwa David	Condition:	Moist	Sample ID:	CT307SA0002

Crop	Beans (French)	Yield Target	12 t/Ha
------	----------------	--------------	---------

\*\* This includes any nutrient deductions from manure/compost application.  
To improve the accuracy of these recommendations, please send a sample of manure/compost.

### SOIL FERTILITY CORRECTION & FERTILIZER PROGRAM

PROBLEM	SOLUTION /INPUT	RATE		COMMENTS	STAGE (Input Type)
		Kg/Ha	g/m2		
Low calcium /pH levels in the soil. Calcium magnesium imbalance.	<b>CALCITIC LIME</b> (35 - 40% Ca, <1% Mg) <a href="#">Find Calcitic Lime Suppliers</a>	3900	390	Apply agricultural lime after harvest and incorporate to depth. Apply a maximum of 3 t/Ha (agricultural + dolomitic) in one season. Always check quality of lime before application.	PREPLANTING (Soil Correction)
Low magnesium /pH levels in the soil. Calcium magnesium imbalance.	<b>DOLOMITIC LIME</b> (20 - 24% Ca, 10 - 14% Mg) <a href="#">Find Dolomitic Lime Suppliers</a>	2700	270	Apply dolomitic lime after harvest and incorporate to depth. Apply a maximum of 3 t/Ha lime (agricultural + dolomitic) in one season. If magnesium levels are low start with dolomitic lime, otherwise start with agricultural lime. Always check quality of lime.	PREPLANTING (Soil Correction)
High sodium in the soil	<b>GYPSUM</b> (20 - 24% Ca, 18% S) <a href="#">Find Gypsum Suppliers</a>	2000	200	Apply gypsum to remove sodium - follow with deep tillage and leaching with irrigation water	PREPLANTING (Soil Correction)
Phosphorus fertilization required.	<b>NP (23.23)</b> <a href="#">Find Nitrogen fertilizers (&gt;20% N) Suppliers</a> <a href="#">Find Phosphate Fertilizers (&gt;20% P2O5) Suppliers</a>	150	15	Apply basal before planting - if inoculating the seed, then use a Phosphorus fertilizer without N.	PLANTING (Fertilizer)
Nitrogen fertilization required.	<b>40%N 6%S Topdress</b> <a href="#">Find Nitrogen fertilizers (&gt;20% N) Suppliers</a>	290	29	Split into weekly equal applications based on rain/irrigation schedule	TOP DRESS (Fertilizer)
Low Copper in soil	<b>Copper Foliar</b> <a href="#">Find Copper Suppliers</a>	Copper Foliar		Apply copper foliar feed at pre flowering to boost copper levels.	PRE-FLOWERING (Foliar feeds)
Low Calcium in soil	<b>Calcium Foliar</b> <a href="#">Find Calcium Suppliers</a>	Calcium Foliar		Apply calcium foliar during mid-growth to boost calcium levels.	MID GROWTH (Foliar feeds)

### ADDITIONAL RECOMMENDATIONS

> Low pH can lock up molybdenum which is very important for nodulation and fixing nitrogen. Seed dressing and foliar of molybdenum recommended - also check molybdenum with leaf analysis. Lime needed to increase pH > Apply magnesium foliar feeds. Check leaf tissue concentration (leaf analysis) of manganese and boron and apply foliar where necessary. > Build up the calcium levels with the recommended lime. Monitor soil pH as well as calcium plays a major role in soil pH > High sodium requires treatment. Apply gypsum in combination with soil conditioning products. Check irrigation water quality. > Apply copper foliar feeds. > If roots are healthy, reduce P fertilizer at planting. Only top-up P will be required. > Low soil nitrogen - crop will require nitrogen fertilizers according to yield target.

NEED HELP UNDERSTANDING THIS REPORT? Visit our [Help Desk](#)

NEED TO FIND FARM INPUTS? Search our [Farm Inputs Directory](#)

"Disclaimer: These fertilizer recommendations are only valid for the sample presented, specific crop type, yield target and assumed fertilizer recovery. However, please also note that the recommendations provide indicative rates only and should be validated at farm level through fertilizer trials. Whilst we have taken all reasonable care to ensure that our recommendations are accurate, we have not taken into account other factors that could greatly reduce crop nutrient uptake including but not limited to soil moisture, root diseases, nematodes, water logging, crop rotation, acidity, fertilizer placement and other management factors. Therefore, we accept no liability for any loss or damage arising directly or indirectly from the use of the fertilizers and under no circumstances whatsoever shall we be liable for any special, incidental or consequential damages which may arise therefrom. This document cannot be reproduced except in full, without prior written approval of the company."  
\* Parameter is not accredited. - Parameter sub-contracted to a third party laboratory. # Opinions and Interpretations expressed herein are outside the scope of accreditation.

Crop Nutrition Laboratory Services Ltd, Limuru, Kenya  
Mobile: +254 (0)711 994 444  
Email: [laboratory@croppnuts.com](mailto:laboratory@croppnuts.com)



THE REPUBLIC OF KENYA

LAWS OF KENYA

---

**THE FERTILIZERS AND ANIMAL FOODSTUFFS ACT**

CHAPTER 345

Revised Edition 2022 [1962]

Published by the National Council for Law Reporting  
with the Authority of the Attorney-General

[www.kenyalaw.org](http://www.kenyalaw.org)

247

CHAPTER 345

FERTILIZERS AND ANIMAL FOODSTUFFS ACT

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
- 2A. Establishment of the Board
- 2B. Functions of the Board
- 2C. Membership of the Board
- 2D. Conduct of business and affairs of the Board
- 2E. Powers of the Board
- 2F. Remuneration of Board members
- 2G. Chief Executive Officer
- 2H. Staff of the Board
  - 2I. Delegation by the Board
- 2J. Protection from personal liability
- 2K. Common seal
- 2L. Funds of the Board
- 2M. Financial year
- 2N. Annual report
- 2O. Annual estimates
- 2P. Accounts and audit
- 2Q. Investment of funds
  3. Restrictions on importation, manufacture, selling, etc.
  4. Sterilization of bone and animal products
  5. Sterilizing plant
  6. Appeal against refusal or cancellation of licence
  7. Use of unsterilized bone or other substance
  8. Appointment of analysts and inspectors
  9. Inspection and taking of samples
  10. Analysis of samples by request
  11. Analyst's certificates
  12. Deleterious ingredients
  13. Offence and penalties
  14. Evidence
  15. Criminal liability of managers, agents and employees
  16. General penalties
  17. Supplementary orders on conviction
  18. Exclusions and exemptions
  19. Rules
  20. *[Deleted by Act No. 20 of 2015, s. 13.]*

248

CHAPTER 345

FERTILIZERS AND ANIMAL FOODSTUFFS ACT

[Date of assent: 24th August, 1962.]

[Date of commencement: 4th August, 1967.]

An Act of Parliament to regulate the importation, manufacture and sale of agricultural fertilizers and animal foodstuffs and substances of animal origin intended for the manufacture of such fertilizers and foodstuffs, and to provide for matters incidental to and connected with the foregoing

[Act No. 23 of 1962, Act No. 5 of 2007, Act No. 20 of 2015.]

1. Short title

This Act may be cited as the Fertilizers and Animal Foodstuffs Act.

2. Interpretation

In this Act, except where the context otherwise requires—

"analyst" means any person appointed under section 8 of this Act to be an analyst for the purposes of this Act;

"animal" means cattle, camels, horses, sheep, pigs, goats and poultry, but does not include dogs, cats and other domestic pets, or marine animals;

"animal foodstuff" means—

(a) any—

- (i) substance obtained by a process of crushing, gristing or grinding or by the addition to any substance or the removal therefrom of any ingredient; or
- (ii) condimental foodstuff or mineral substance which possesses or is alleged to possess nutritive properties; or
- (iii) substance of animal origin, which is intended or offered for the feeding of livestock, domestic animals or poultry; or

(b) any stock lick or substance which can be and is used as a stock lick, whether or not it possesses medicinal properties, but does not include straw, chaff, underground hay, silage, cereal in the grain or any substance which has been crushed, gristed or ground for a farmer in accordance with his directions for his own use, unless such substance has been declared by the Cabinet Secretary, by notice in the Gazette, to be an animal foodstuff for the purposes of this Act;

"Board" means the Fertilizer and Animal Foodstuffs Board of Kenya established by section 2A;

"Cabinet Secretary" means the Cabinet Secretary for the time being in-charge of matters relating to agriculture;

"fertilizer" means any substance or mixture of substances which is intended or offered for improving or maintaining the growth of plants or the productivity of the soil, but does not include manure, compost, wood ash, gypsum or refuse when sold in its original condition and under the same name, nor does it include organic fertilizers, other than lime;

249

"inspector" means any person appointed by the Cabinet Secretary under section 8 of this Act to be an inspector for the purposes of this Act;

"sell" includes offer, advertise, keep, expose, transmit, convey, deliver or prepare for sale or exchange, dispose of for any consideration whatsoever, or transmit, convey or deliver in pursuance of a sale, exchange or disposal as aforesaid;

"the Director" *deleted by Act No. 20 of 2015, s. 2(a).*

[Act No. 20 of 2015, s. 2.]

## 2A. Establishment of the Board

(1) There is established a body to be known as the Fertilizer and Animal Foodstuffs Board of Kenya.

(2) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing money or making investments;
- (d) charging fees for services rendered by it and requesting for securities for such fees; and
- (e) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

[Act No. 20 of 2015, s. 3.]

## 2B. Functions of the Board

The functions of the Board shall be to—

- (a) regulate the fertilizers and animal foodstuffs industry in Kenya including the production, manufacture, packaging, importation and marketing of fertilizers and animal foodstuffs;
- (b) regulate the importation of raw materials for the manufacture of animal foodstuffs;
- (c) promote the manufacture of fertilizers and animal foodstuffs;
- (d) advise the national and county governments on—
  - (i) ~~the procurement, importation and efficient and timely distribution of subsidized fertilizers and animal foodstuffs;~~
  - (ii) establishment of retail outlets of fertilizers and animal foodstuffs in the counties; and
  - (iii) development of policies related to the manufacture and distribution of fertilizer and animal foodstuffs;
- (e) inspect and test fertilizers and animal foodstuffs to ensure their quality and safety;
- (f) license manufacturers, distributors and retailers of fertilizers and animal foodstuffs on the recommendation of the Director of Agriculture and the Director of Veterinary Services;
- (g) promote, in collaboration with stakeholders in the agriculture industry, research on fertilizer and animal foodstuffs;

- (h) ensure that fertilizers and animal food stuffs imported, manufactured or distributed in Kenya meet the standards of quality and safety as prescribed by law.

[Act No. 20 of 2015, s. 3.]

## 2C. Membership of the Board

(1) The Board shall consist of the following persons appointed by the Cabinet Secretary—

- (a) the Chairperson competitively sourced and appointed by the Cabinet Secretary;
- (b) the Principal Secretary in the Ministry for the time being responsible for agriculture or his designated alternate not being below the level of Deputy Secretary;
- (c) the Principal Secretary in the Ministry responsible for livestock or a designated alternate not being below the level of Deputy Secretary;
- (d) the Principal Secretary in the Ministry for the time being responsible for finance;
- (e) two persons of either gender representing prescribed farmers' associations competitively nominated, and one person of either gender from the Fertilizers Association of Kenya;
- (f) one person nominated by the Council of Governors;
- (g) the Director of Veterinary Services;
- (h) one person representing research institutions in the agriculture sector competitively sourced and appointed by the Cabinet Secretary;
- (i) the Chief Executive Officer who shall be an *ex officio* member and Secretary to the Board.

(2) No person shall be appointed under subsection (1)(a) unless such person is a holder of a degree in a relevant discipline with not less than five years' professional experience.

(3) The Cabinet Secretary shall ensure that not more than one third of the persons appointed under subsection (1), are of the same gender.

(4) A person appointed under subsection (1) shall hold office for a period of three years and may be reappointed for a further non-renewable term of three years.

(5) Subject to this Act, all acts and things done in the name of, or on behalf of, the Board, by the Board or with the authority of the Board shall be deemed to have been done by the Board.

[Act No. 20 of 2015, s. 3.]

## 2D. Conduct of business and affairs of the Board

(1) The conduct and regulation of the business and affairs of the Board shall be as provided in the Schedule.

(2) Except as provided in the Schedule, the Board may regulate its own procedure.

[Act No. 20 of 2015, s. 3.]

**2E. Powers of the Board**

(1) The Board shall have all powers necessary for the proper performance of its functions under this Act.

(2) Without prejudice to the generality of the subsection (1), the Board shall have power to—

- (a) control, supervise and administer the assets of the Board in such manner as best promotes the purpose for which the Board is established;
- (b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Board;
- (c) receive any grants, gifts, donations or endowments and make legitimate disbursements there from;
- (d) open such banking accounts for the funds as the Board may deem necessary;
- (e) invest any funds of the Board not immediately required for its purposes in the manner provided in section 2P;
- (f) establish such directorates, departments and regional centres of the Board to deal with such specific matters as may be necessary;
- (g) undertake any activity necessary for the fulfilment of any of the functions of the Board.

[Act No. 20 of 2015, s. 3.]

**2F. Remuneration of Board members**

The Board shall pay its members such allowances as it may determine upon the advice of the body responsible for matters relating to remuneration.

[Act No. 20 of 2015, s. 3.]

**2G. Chief Executive Officer**

(1) There shall be a Chief Executive Officer who shall be appointed by the Board and whose terms and conditions of service shall be determined by the Board in the instrument of appointment or otherwise in writing from time to time upon the advice of the Salaries and Remuneration Commission.

(2) No person shall be appointed under this section unless such person has—

- (a) a university degree from a recognized university in a relevant discipline;
- (b) at least five years' post qualification working experience.

(3) The Chief Executive Officer shall—

- (a) be the secretary to the Board; and
- (b) subject to the directions of the Board be responsible for the day to day management of the affairs and staff of the Board.

[Act No. 20 of 2015, s. 3.]

**2H. Staff of the Board**

The Board may appoint such officers and other staff as are necessary for the proper discharge of its functions under this Act, upon such terms and conditions

of service as it may determine upon the advice of the Salaries and Remuneration Commission.

[Act No. 20 of 2015, s. 3.]

**2I. Delegation by the Board**

The Board may, by resolution either generally or in any particular case, delegate to any committee or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act or under any other written law.

[Act No. 20 of 2015, s. 3.]

**2J. Protection from personal liability**

(1) No act or omission by any member of the Board or by any officer, employee, agent or servant of the Board shall, if the act or omission was done *bona-fide* for the purposes of executing a function, power or duty under the Act render such member, officer, employee, agent or servant personally liable to any action, claim or demand whatsoever.

(2) The provisions of subsection (1) shall not relieve the Board of the liability to pay compensation to any person for any injury to him, his property or to any of his interests caused by the exercise of any power conferred by this Act or by failure, whether wholly or partially, of any works.

[Act No. 20 of 2015, s. 3.]

**2K. Common seal**

(1) The common seal of the Board shall be kept in such custody as the Board may direct and shall not be used except on the order of the Board.

(2) The affixing of the common seal of the Board shall be authenticated by the signature of the Chairperson and the Chief Executive Officer and any document not required by law to be made under seal and all decisions of the Board may be authenticated by the signatures of both the Chairperson and the Chief Executive Officer.

(3) Notwithstanding the provisions of subsection (2) the Board shall, in the absence of either the Chairperson or the Chief Executive Officer in a particular matter, nominate one member to authenticate the seal on behalf of either the Chairperson or the Chief Executive Officer.

(4) The common seal of the Board when affixed to a document and duly authenticated shall be judicially and officially noticed and unless and until the contrary is proved, any necessary order or authorization by the Board under this section shall be presumed to have been duly given.

[Act No. 20 of 2015, s. 3.]

**2L. Funds of the Board**

(1) The funds of the Board shall comprise of—

- (a) such sums as may be appropriated by Parliament for that purpose;
- (b) grants, gifts or donations that the Board may receive as a result of public and private appeal from local and; international donors or agencies for the purposes of carrying out its functions;
- (c) such fees, monies or assets as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act or under any written law; and

253

*Fertilizers and Animal Foodstuffs*

- (d) all monies from any other lawful source provided for or donated or lent to the Board.

(2) The funds of the Board and its balances at the close of each financial year shall not be paid into the Consolidated Fund, but shall be retained for the purposes for which the Board is established.

[Act No. 20 of 2015, s. 3.]

**2M. Financial year**

The financial year of the Board shall be the period of twelve months ending on the thirtieth June in each year.

[Act No. 20 of 2015, s. 3.]

**2N. Annual report**

(1) The Chief Executive officer shall cause to be prepared an annual report setting out the activities of the Board.

(2) The Chief Executive Officer shall submit the report referred to in subsection (1) to the Cabinet Secretary not later than two months after the end of the financial year.

(3) The Cabinet Secretary shall transmit copies of the report to the Senate and the National Assembly within three months after receipt of the report.

[Act No. 20 of 2015, s. 3.]

**2O. Annual estimates**

(1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Board for that year.

(2) The annual estimates shall make provision for all estimated expenditure of the Board for the financial year and in particular, the estimates shall provide for—

- (a) the payment of the allowances and other charges in respect of members of the Board;
- (b) the payment of salaries, allowances, pensions, gratuities and other charges in respect of staff of the Board;
- (c) the proper maintenance of the buildings and grounds of the Board;
- (d) the maintenance, repair and replacement of the equipment and other property of the Board; and
- (e) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Board may deem appropriate.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval and after the Cabinet Secretary's approval, the Board shall not increase the annual estimates without the consent of the Cabinet Secretary.

[Act No. 20 of 2015, s. 3.]

**2P. Accounts and audit**

(1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure and assets of the Board.

*Fertilizers and Animal Foodstuffs*

(2) Within a period of four months from the end of each financial year, the Board shall submit to the Auditor-General the accounts of the Board together with—

- (a) a statement of the income and expenditure of the Board during that year; and
- (b) a balance sheet of the Board on the last day of that year.

(3) The accounts of the Board shall be audited and reported upon in accordance with the Public Audit Act (Cap. 412B).

[Act No. 20 of 2015, s. 3.]

**2Q. Investment of funds**

The Board may invest any of the funds of the Board in securities, in which for the time being trustees may by law invest trust funds, or in any other securities or banks which the National Treasury may, from time to time, approve for that purpose.

[Act No. 20 of 2015, s. 3.]

**3. Restrictions on importation, manufacture, selling, etc.**

(1) No person shall import, manufacture, compound, mix or sell any fertilizer or animal foodstuff other than a substance declared by rule made under section 19 of this Act to be an approved fertilizer or an approved animal foodstuff, as the case may be.

(2) No person shall import, manufacture, compound, mix or sell any fertilizer or animal foodstuff in respect of which rules have been made under paragraph (a) of subsection (1) of section 19 of this Act unless the fertilizer or animal foodstuff conforms to the standard or specification prescribed by such rules:

Provided that it shall be a sufficient defence for a person charged with importing or selling in contravention of this subsection to show that—

- (i) he imported or purchased the fertilizer or animal foodstuff under a name or brand the subject of a declaration pursuant to subsection (1) of this section, as being the same in all respects as the article which he had ordered or, as the case may be, which he later purported to sell; and
- (ii) he had no reason to believe at the time of importation or sale that it was in any respect different from such article; and
- (iii) the container thereof was branded, labelled, marked or sealed in the prescribed manner; and
- (iv) in the case of a sale, he sold it in the original container and in the state in which it was when he imported or purchased it.

(3) Any person who contravenes any of the provisions of this section shall be guilty of an offence.

(4) Nothing in this section shall render illegal the addition to animal foodstuffs of condiments, growth stimulants, essential food factors or pharmaceutical preparations for the control of disease.

**4. Sterilization of bone and animal products**

(1) No person shall import—

- (i) any fertilizer or animal foodstuff which contains bone or any other substance derived from an animal carcass; or

- (b) bones or any other substance derived from an animal carcass for the purpose of manufacturing any fertilizer or animal foodstuff,

unless he has first submitted to the Board a certificate signed in the country of origin by a person designated by the Cabinet Secretary, certifying that such bone or substance has been effectively and completely sterilized in such manner as may be prescribed and is free from such pathogenic organisms as may be prescribed.

(2) No person shall manufacture or sell any fertilizer or animal foodstuff containing bone or any other substance derived from an animal carcass unless such bone or substance has been sterilized in the prescribed manner.

(3) Any person who contravenes any of the provisions of this section shall be guilty of an offence.

[Act No. 20 of 2015, s. 4.]

#### **5. Sterilizing plant**

(1) Any person who, for the purpose of the manufacture or sale of any fertilizer or animal foodstuff, uses any sterilizing plant for the sterilizing of bones or other substances derived from an animal carcass except under and in accordance with the provisions of a licence issued to him in respect of that plant, shall be guilty of an offence.

(2) Any person who desires to set up a sterilizing plant as aforesaid shall make application in the form prescribed to the Board, who shall, if he is satisfied that the applicant is a suitable person to engage in the sterilizing of bones and other substances derived from an animal carcass and that such requirements as may be prescribed in relation thereto are likely to be complied with, issue the applicant with a licence, on payment of the fee prescribed therefor.

(3) A licence under this section shall be in the form prescribed, and shall, subject to renewal, be valid for three years, from the date of issue unless cancelled earlier under the provisions of this Act or under any rule made under this Act.

(4) If the Board is satisfied that a person who has been issued with a licence to sterilize bones and other products of an animal carcass has contravened the requirements prescribed for sterilizing bones and other products of an animal carcass, he may cancel that licence.

[Act No. 5 of 2007, s. 17, Act No. 20 of 2015, s. 5.]

#### **6. Appeal against refusal or cancellation of licence**

(1) Any person aggrieved by a decision of the Board refusing or cancelling a licence under section 5 of this Act may—

- (a) apply to the Board for a written statement of the reasons why the licence was refused or cancelled, as the case may be, and upon receipt of such application the Board shall within fourteen days thereafter or such longer period as may be reasonable in the circumstances furnish such statement;
- (b) appeal to the Cabinet Secretary against such decision.

(2) On an appeal under this section the Cabinet Secretary may uphold the decision of the Board or make an order instructing the Board—

- (a) to license the applicant; or
- (b) to restore the licence under such conditions as the Cabinet Secretary may direct,

*Fertilizers and Animal Foodstuffs*

and the Board shall comply with such order.

[Act No. 20 of 2015, s. 6.]

**7. Use of unsterilized bone or other substance**

Any person who, for the purpose of the manufacture or sale of a fertilizer or animal foodstuff, uses any bone or other substance derived from an animal carcass which has not been either—

- (a) imported on a certificate in accordance with subsection (1) of section 4; or
- (b) sterilized in accordance with subsection (1) of section 5, of this Act, shall be guilty of an offence.

**8. Appointment of analysts and inspectors**

The Cabinet Secretary on the recommendation of the Board, may by notice in the *Gazette* appoint suitably qualified analysts and inspectors for the purposes of this Act:

Provided that a person shall not, while holding such appointment, engage in any business connected with the manufacture, sale or distribution of fertilizers or animal foodstuffs.

[Act No. 20 of 2015, s. 7.]

**9. Inspection and taking of samples**

(1) An inspector may at all reasonable times and on production, if required, of his authority—

- (a) enter and inspect any premises, place or vehicle in which he has reasonable grounds for believing there is any fertilizer, animal foodstuff or sterilizing plant or records pertaining to the importation, manufacture or sale of a fertilizer or animal foodstuff or to the operation of such sterilizing plant;
- (b) inspect and if he considers it necessary seize and remove any fertilizer or animal foodstuff and any books, records or documents found in or upon such premises, place or vehicle which pertain to the manufacture, importation, mixing, compounding or sale of fertilizers or animal foodstuffs or to the sterilizing of bones or other products of an animal carcass, and which he has reasonable cause to believe affords evidence of any contravention of any of the provisions of this Act or of any rules made thereunder;
- (c) take such samples in the manner prescribed of any fertilizers, animal foodstuffs, bones or other products of an animal carcass as he may deem necessary for the purpose of examination or analysis and call upon the occupier of the premises in which the fertilizer, animal foodstuff, bone or other product of an animal carcass lies, to provide him with such reasonable assistance as he may need for so doing.

(2) An inspector shall take such steps as are reasonably practicable to afford the owner of the fertilizer, animal foodstuff, sterilizing plant or records, as the case may be, and the occupier of the premises in which they are situated, an opportunity of being present when any inspection under this section is carried out.

(3) Where it is intended to submit for analysis any sample procured under paragraph (c) of subsection (1) of this section, the inspector procuring it shall before

*Fertilizers and Animal Foodstuffs*

- (a) that he did not know and could not with reasonable care have known that the fertilizer or animal foodstuff contained a deleterious ingredient; and
- (b) where he obtained the fertilizer or animal foodstuff from some other person, that on demand by or on behalf of the prosecutor he gave all the information in his power with respect to the person from whom he obtained it, and as to any statement given to him and any mark applied to the fertilizer or animal foodstuff when he obtained it:

Provided that proceedings for an offence under this section shall not be instituted unless the fertilizer or animal foodstuff has been sampled by an inspector in the prescribed manner on the premises on which it was sold and the sample has been analysed in accordance with the provisions of this Act and of any rules made thereunder.

(2) Any substance prohibited by rules made under paragraph (b) of subsection (1) of section 19 of this Act shall, if present in a fertilizer or animal foodstuff or, where a percentage limit has been prescribed by such rules, if present in excess of that limit, as the case may be, be deemed to be a deleterious ingredient unless the contrary is proved.

**13. Offence and penalties**

Any person who—

- (a) obstructs, hinders, deceives or misleads an inspector in the exercise of his powers or the performance of his duties under this Act or any rules made thereunder; or
- (b) knowingly makes use of, issues or maintains any false or misleading records, statement, document, declaration, marking or label in connexion with the manufacture, importation, mixing, compounding or sale of any fertilizer or animal foodstuff,

shall be guilty of an offence and liable, for a first offence, to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding two months or to both such fine and such imprisonment, and for a second or subsequent offence to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

**14. Evidence**

In any proceedings under this Act, unless the contrary is proved—

- (a) a sample of a fertilizer or animal foodstuff drawn by an inspector shall be deemed to be of the same composition, to have the same degree of efficacy and, except in so far as the taking of the sample causes it to be otherwise, to possess in all other respects the same properties as the whole from which it was drawn;
- (b) a certificate of analysis purporting to be signed by an analyst shall be accepted as *prima facie* proof of the facts stated therein.

**15. Criminal liability of managers, agents and employees**

(1) Whenever any manager, agent or employee of a manufacturer, importer or owner of a fertilizer or animal foodstuff does or omits to do any act which it would be an offence under this Act for such manufacturer, importer or owner to do or omit to do, then unless it is proved that—

*Fertilizers and Animal Foodstuffs*

- (a) in doing or omitting to do that act the manager, agent or employee was acting without the connivance or permission of the manufacturer, importer or owner; and
- (b) all reasonable steps in addition to withholding such connivance and permission were taken by the manufacturer, importer or owner to prevent such act or omission; and
- (c) it was not under any condition or in any circumstances within the scope of the authority or in the course of the employment of the manager, agent or employee to do or omit to do such act,

the manufacturer, importer or owner, as the case may be, shall be presumed himself to have done or omitted to do that act and shall be liable to be convicted and sentenced in respect thereof.

(2) Whenever any manager, agent or employee of a manufacturer, importer or owner of a fertilizer or animal foodstuff does or omits to do any act which it would be an offence under this Act for such manufacturer, importer or owner to do or omit to do, he shall be liable to be convicted and sentenced therefor as if he were the manufacturer, importer or owner and may be so convicted and sentenced in addition to such manufacturer, importer or owner.

**16. General penalties**

Any person who is guilty of an offence under this Act for which no special penalty (other than those referred to in subsection (4) of section 5, and in section 17, of this Act) is prescribed shall be liable, for a first offence, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one month, and for a second or subsequent offence to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

[Act No. 20 of 2015, s. 10.]

**17. Supplementary orders on conviction**

A court convicting any person of an offence against this Act or against any rules made thereunder may make such order as the Court shall deem proper, as to—

- (a) the forfeiture or disposal of any fertilizer, animal foodstuff, bone or other product of an animal carcass;
- (b) the payment by the defendant of all or any fees and other expenses incidental to the analysis of a fertilizer or animal foodstuff,

in respect of which the conviction is obtained.

**18. Exclusions and exemptions**

(1) The Cabinet Secretary on recommendation of the Board may by notice in the *Gazette*, subject to such terms and conditions if any as may be specified in such notice, exclude any fertilizer or animal foodstuff, or exempt any person or class of persons, from the operation of all or any of the provisions of this Act.

(2) The Cabinet Secretary for the time being in charge of the National Treasury shall implement tax policies and where appropriate price policies on imported fertilizers so as to promote local industries.

[Act No. 20 of 2015, s. 11.]

**19. Rules**

(1) The Cabinet Secretary on recommendation of the Board may make rules generally for the better carrying out of the purposes and provisions of this Act and particularly, but without prejudice to the foregoing generality, for prescribing—

- (a) standards of composition, efficacy, fineness and purity of fertilizers and animal foodstuffs;
- (b) the prohibition of certain substances and the limitation of percentages of certain substances in fertilizers or animal foodstuffs;
- (c) records and returns to be kept and furnished by importers, manufacturers and sellers of fertilizers and animal foodstuffs;
- (d) requirements as to the proper storage of fertilizers and animal foodstuffs;
- (e) the manner in which fertilizers and animal foodstuffs shall be packed and the branding, labelling, marking and sealing of containers thereof, and the manner in which declarations made at the time of sale shall be made and in which fertilizers and animal foodstuffs shall be exposed for sale;
- (f) any declaration or warranty which may be required to be made or given in prescribed cases, the effect of any declaration made by the seller of a fertilizer or animal foodstuff, and the existence and effect of any implied or written warranty concerning a fertilizer or animal foodstuff;
- (g) the methods whereby bones and other substances derived from an animal carcass shall be sterilized for sale or for manufacture as fertilizers or animal foodstuffs;
- (h) the manner in which samples shall be drawn for analysis and in which such samples shall be certified and analysed, and the manner in which their analyses shall be reported;
- (i) anything which under this Act is required to be or may be prescribed.

(2) Rules made under this section may provide penalties for their breach not exceeding a fine of one million shillings or imprisonment for a term of six months, or both such fine and such imprisonment.

[Act No. 20 of 2015, s. 12.]

**20.**

[Deleted by Act No. 20 of 2015, s. 13.]



MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT  
STATE DEPARTMENT FOR CROP DEVELOPMENT  
*Office of the Principal Secretary*

Telephone: 255 254 218870/9  
Website: [www.kilimo.go.ke](http://www.kilimo.go.ke)  
Email: [cropdevelopmentsecretary@gmail.com](mailto:cropdevelopmentsecretary@gmail.com)  
When replying please quote:

KILIMO HOUSE  
Cathedral road  
P.O. Box 30023  
NAIROBI

Ref: MOA/D/LCD/9/VOL. XXX1 (89)

19<sup>th</sup> October, 2023

Mr. M. Kimote, MBS  
General Director  
National Cereals & Produce Board  
P.O. Box 30586-00100  
NAIROBI

Dear **MD**

**RE: PREPARATIONS FOR THE 2024 LONG RAINS**

As you are aware, the government is implementing a Fertilizer Subsidy Programme (FSP) where it has committed to avail to the farming community affordable fertilizer. This is an immediate intervention to impact on agricultural productivity for assured increased food and raw materials supply.

During the 2024 long rains season, the state Department for Crops Development estimates that 335,000MT (6,700,000 X 50kg bags) of various types of fertilizers will be made available to 2 million farmers in the 47 counties for their crop value chains. The crop value chains to be supported include maize, rice, wheat, Irish potatoes, vegetables, coffee, sugarcane, tea, cotton and sunflower (see annex 1 attached).

The National Treasury has confirmed to the State Department for Crops Development that the fertilizer subsidy funds available for the 2023/2024 Financial Year is Kshs. 8.5 billion. The bill for the 2023 short rains subsidy component as at 18<sup>th</sup> October 2023 is Kshs. 2.093 billion and this leaves a budget of Kshs. 6.156 billion for the 2024 long rains season.

262



MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT  
STATE DEPARTMENT FOR AGRICULTURE  
*Office of the Principal Secretary*

Telephone: +254 20 7188 70/9  
Website: www.kdnia.go.ke  
Email: [rd@kenya.mailserver.or.ke](mailto:rd@kenya.mailserver.or.ke)  
When making a call please dial

XILIMO HOUSE  
CATHEDRAL ROAD  
P.O. Box 35028-00100  
NAIROBI

REF. NO. MOAL/LCD/9/41 VOL.XXX

1<sup>st</sup> December 2023

Joseph M. Kimote  
Managing Director  
National Cereals and Produce Board  
P. Box 30586-00100  
NAIROBI

Dear *MD*

**REQUEST TO PROCURE LIME FERTILIZER**

The Government of Kenya is currently providing subsidized fertilizer to increase production and productivity of various crops as per the Bottom-Up Economic Transformation Agenda (BETA). We have received requests from farmers to consider procurement of calcium lime fertilizer.

This is to request you to consider including 30MT of calcium lime fertilizer within the current procurement of subsidized fertilizer as part of current consignment sale to the farmers as the demand is expected to rise during the planting season.

Yours,

*[Handwritten Signature]*  
Hon. Kiprono Ronoh P.  
PRINCIPAL SECRETARY

REPUBLIC OF KENYA



MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT  
STATE DEPARTMENT FOR AGRICULTURE  
OFFICE OF THE PRINCIPAL SECRETARY

Telegraphic Address NAIROBI  
Telephone 318870/9  
Fax 277749  
When answering please quote:

KILIMO HOUSE  
CATHEDRAL ROAD  
P.O. Box 30028  
NAIROBI

Ref: MOA/LCD/9/41

5<sup>th</sup> December, 2023

Joseph M. Kimote, MBS  
Managing Director  
National Cereals and Produce Board (NCPB)  
P.O. Box 30586-00100  
NAIROBI

**RE: PROCUREMENT OF VARIOUS TYPES OF FERTILIZER FOR 2024  
SEASON**

---

We refer to the meeting held on 4<sup>th</sup> December, 2023 to finalize the procurement of the various types of fertilizers for the 2024 season.

The Government will continue with the implementation of the Fertilizer Subsidy Program to increase food production to address food availability and price stability. As you may be aware, the Government will not be purchasing the fertilizer under the subsidy program. However, it will be leveraging on the available competitively priced fertilizer in the country. The Government has planned to subsidize an estimated 365,000 MT of various types of fertilizer; with the selling price to farmers being approximately Kshs.2,500 with the subsidy component at approximately Kshs.1,500.

In order to ensure that the farmers continue to access affordable and quality fertilizer, NCPB will, in pursuit of its commercial trading activity, procure competitively part of the fertilizer and facilitate other Suppliers/Afro-dealers to do through consignment basis.

NCPB will therefore utilize its banking facilities at Kenya Commercial Bank (K) Ltd to competitively procure the various types of fertilizer. The fertilizer will be expected to be distributed within the various NCPB depots country wide before the onset of the long rains planting season.

264



MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT  
STATE DEPARTMENT FOR AGRICULTURE  
Office of the Principal Secretary

Telephone: 2718870/9  
Website: [www.kilimo.go.ke](http://www.kilimo.go.ke)  
Email: [cdapriciplesecretary@gmail.com](mailto:cdapriciplesecretary@gmail.com)  
When replying please quote;

KILIMO HOUSE  
Cathedral road  
P.O. BOX 30028  
NAIROBI

Ref: MOA/LCD/9/41

Dr. Juma Mulwana, PhD,  
Principal Secretary  
State Department for Industrialization  
Ministry Investments, Trade and Industry  
NAIROBI

22<sup>nd</sup> January, 2024

Dear

ANALYSIS OF THE GOVERNMENT SUBSIDIZED FERTILIZER

The Government is planning to roll out the long rains fertilizer distribution after the supply was awarded to various firms. The intent of the Government is to ensure that the fertilizer is delivered to NCPB depots and last mile County selling centers in the next one week.

Before the fertilizer is supplied, it is normally subjected to quality analysis to ensure that farmers have access to quality fertilizers. Due to the strict delivery timelines, the process of analysis and release of the quality results need to be done promptly.

I am therefore seeking your intervention so that results are released within a period that will ensure timely deliveries and enable farmers access the fertilizer for early application.

Dr. Kipronohi Rouch P.  
PRINCIPAL SECRETARY

Copy to: Mr. Joseph K. Kimote, PhD  
Managing Director  
National Cereals and Produce Board  
NAIROBI

265

Annex 1: Estimated Quantities for 2 million farmers

S/No.	Fertilizer Type	Quantity		Crops
		MT	50kg bags	
	<b>Planting</b>			
1	Soil /Crop Specific Blends	126,000	2,520,000	All crops
2	NPK 23:23:0	15,000	300,000	Cereals, coffee, cotton, sugarcane
3	TSP	5,000	100,000	Rice
4	<b>Sub Total</b>	<b>146,000</b>	<b>2,920,000</b>	
	<b>Top dressing</b>			
5	Soil /Crop Specific Blends	60,000	1,200,000	All crops
6	CAN	55,000	1,100,000	Cereals, coffee, Potatoes
7	Urea	50,000	1,000,000	Sugarcane, cereals
8	NPK 17:17:17	20,000	400,000	Coffee, horticulture
9	SA	4,000	80,000	Rice
10	<b>Sub Total</b>	<b>189,000</b>	<b>3,780,000</b>	
11	<b>Grand Total</b>	<b>335,000</b>	<b>6,700,000</b>	

246



REPUBLIC OF KENYA

**MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT**  
**STATE DEPARTMENT FOR AGRICULTURE**  
*Office of the Principal Secretary*

Telephone: 2718870/9  
Website: [www.kilimo.go.ke](http://www.kilimo.go.ke)  
Email: [cdarprincipalsecretary@gmail.com](mailto:cdarprincipalsecretary@gmail.com)

Kilimo House  
Cathedral Road  
P. O. Box 30028  
**NAIROBI**

When replying please quote;

12<sup>th</sup> February, 2024

Ref: MOALD/LCD/11/VOL.XXX3

**Kennedy Miriti**

State Department for Agriculture  
Head ICT

**John Matiri**

National Cereals and Produce Board  
General Manager Operations and Marketing

**Joseph Kimeu**

National Cereal and Produce Board  
Manager Warehousing

**Tito Keino**

National Cereals and Produce Board  
Head ICT

**RE: APPOINTMENT TO THE NATIONAL FERTILIZER  
MONITORING COMMITTEE**

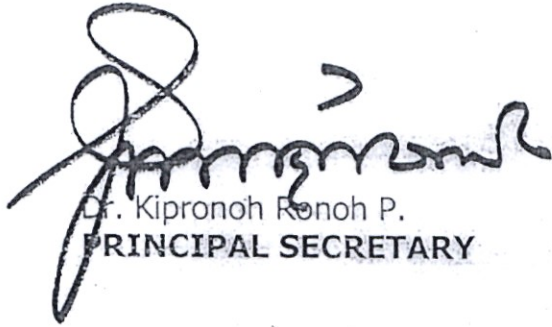
This is to inform you that you have been appointed to the national fertilizer monitoring committee.

The fertilizer monitoring committee will operate under the following terms of reference;

1. Assess the fertilizer accessibility by farmers
2. Asses fertilizer uptake by farmers considering the type of fertilizer
3. To monitor closely all points of sale of fertilizer and scrutinize list fa agents availed
4. Determine fertilizer needs per county based on farmer's registration data

267

5. Monitor the performance of E-voucher system
6. Liaise with Kenya National Trading Corporation to generate weekly report.
7. Establish and operationalize a call Centre at the ministry of agriculture to receive, respond to questions related to subsidy fertilizer programs.
8. Any other responsibilities assigned.



Dr. Kipronoh Renoh P.  
**PRINCIPAL SECRETARY**



MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT  
State Department for Agriculture  
Office of the Principal Secretary

After reading please quote:  
Email: oas@secretary@kllimo.go.ke  
Telephone: 2718870/9  
Fax: 271146

MINISTRY OF AGRICULTURE AND LIVESTOCK DEVELOPMENT  
STATE DEPARTMENT FOR AGRICULTURE  
P.O. BOX 3002  
NAIROBI

Ref: MOA/LCD/9/41

20<sup>th</sup> March 2021

Joseph M. Kimote, MBS  
Managing Director  
National Cereals & Produce Board  
P.O. BOX 30586-00100  
NAIROBI

Dear Sir,

RE: SUSPEND DISTRIBUTION OF NPK 10:26:10 FERTILIZER MANUFACTURED BY KEN CHEMICAL LTD

The above matter refers.

Following a spot visit by Ministry staff led by the Principal Secretary to Counties and National Cereals and Produce Board stores, it was established that the above fertilizer being distributed under subsidy programme may not be meeting the required standards as earlier indicated.

Your institution is requested to suspend the distribution of this fertilizer with immediate effect from being issued to farmers. Additionally, you are required to carry out an investigation to ascertain the specifications of this fertilizer before being re-introduced to the programme.

In the event the fertilizer is found not to be meeting specifications the supplier will be penalized and meet full cost.

Yours

Dr. Kipronoh Ronoh P.  
PRINCIPAL SECRETARY

Copy to: Cabinet Secretary  
Ministry of Agriculture and Livestock Development  
Kilimo House

269

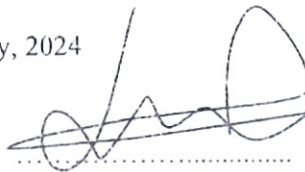
**REPUBLIC OF KENYA**  
**THIRTEENTH PARLIAMENT- (THIRD SESSION)**  
**THE NATIONAL ASSEMBLY**  
**IMPEACHMENT OF THE HON. FRANKLIN MITHIKA LINTURI, EGH CABINAET**  
**SECRETARY FOR AGRICULTURE AND LIVESTOCK DEVELOPMENT**  
**CERTIFICATE OF ELECTRONIC EVIDENCE**

(Pursuant to Section 106B of the Evidence Act, Cap 80 Laws of Kenya)

I, Peter Gachuiiri, a resident of Nairobi County and elsewhere within the Republic of Kenya and of Postal Address 10586-00200 Nairobi do state as follows:

1. That on 6<sup>th</sup> May, 2024 I was instructed by Hon. Jack Wanami Wamboka, to access on YouTube, download and save in flash disks, video clips indicating the utterances by Cabinet Secretary for Agriculture and Livestock Development, Hon. Franklin Mithika Linturi on the issue of fake fertilizer.
2. That using computer make **HP Elite Book Revolve 810 G3** of serial number **8CG7200VDG** I accessed the following clips from the link :
  - a) [https://youtu.be/NB1cuY\\_XiFw?si=IBlpP6Xz6waZBFYK](https://youtu.be/NB1cuY_XiFw?si=IBlpP6Xz6waZBFYK) -Mutembei TV channel
  - b) [https://youtu.be/3ZVQ7sCKr2Y?si=vA2xiPcS2ahbcD\\_R](https://youtu.be/3ZVQ7sCKr2Y?si=vA2xiPcS2ahbcD_R) – Nation Media
  - c) <https://youtu.be/qmVEynWDLZc?si=ifVMpRRIA1tje0iQ> – Citizen TV
3. That I, without changing the contents or form of the video clips in any way, downloaded the videos and saved them in flash disks as Video Clip 1, Video Clip 2 and Video Clip 3 respectively.
4. That I certify that the computer I used was in good working condition and it operated seamlessly without any technical difficulties and I was using it in the ordinary course of business.

Dated at Nairobi this 6<sup>th</sup> day of May, 2024



Peter Gachuiiri

Drawn & Filed By:  
Khaninwa & Kaminwa Advocates  
P. O. Box 43758  
Nairobi

269



# NATIONAL CEREALS AND PRODUCE BOARD

Leaders in Trade & Management of Agricultural Commodities

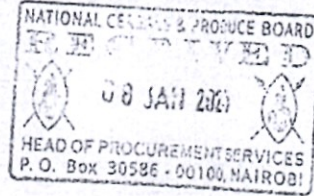
Telephone: +254 (20) 6536028/6555288

P.O. Box 30586-00100

Website: [www.ncpb.co.ke](http://www.ncpb.co.ke)

NAIROBI

E-mail: [md@ncpb.co.ke](mailto:md@ncpb.co.ke)



REF: NCPB/A/9/17 VOL. XX/56  
FM: MANAGING DIRECTOR  
TO: HEAD OF PROCUREMENT SERVICES  
DATE: 8<sup>TH</sup> JANUARY 2024

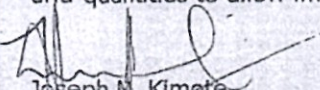
## REVIEW OF THE AWARDED BLENDED FERTILIZER QUANTITIES FOR 2024 LONG RAINS

The Principal Secretary, State Department for Agriculture has guided that the Board to consider the request by some of the suppliers who have reviewed their prices to match the Government limit of kshs. 4,300 for planting fertilizer.

In order to ensure that the fertilizers awarded reach the quantities which the Government has planned for planting season it is necessary to review the awarded quantities.

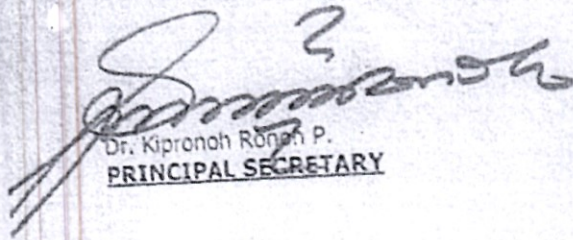
While reviewing the awarded quantities ensure that the directive by the Principal Secretary Crop Development vide letter Ref: MOA/LD/LCD/9/VOL. XXXI (89) dated 19<sup>th</sup> October 2023 are adhered to in terms of budgetary allocation, types and consideration of early planters.

This is therefore to request you to prepare a report detailing the awarded fertilizer and quantities to allow implementation of the Principal Secretary guidance.

  
Joseph M. Kimete  
**MANAGING DIRECTOR**

DFC

The purpose of this letter, therefore, is to bring to your attention the Government's directive that you proceed to procure various types of fertilizers within your commercial trading mandate. The Government will avail the necessary subsidy funds to support the funding of the letters of credit.



Dr. Kipronoh Rōnōh P.  
**PRINCIPAL SECRETARY**

121



# NATIONAL CEREALS AND PRODUCE BOARD

Leaders in Trade & Management of Agricultural Commodities

Telephone: +254 (20) 6536028/6555288

Website: www.ncpb.co.ke

NAIROBI

E-mail: [supplies@ncpb.co.ke](mailto:supplies@ncpb.co.ke)

P.O. Box 30586-00100

*Att: Maureen,  
Process this through the  
appointed tender  
committee for  
fertilizer*



REF: NCPB/4/1/VOL. 11/24  
TO: MANAGING DIRECTOR  
FM: HEAD OF PROCUREMENT SERVICES  
DATE: 9<sup>TH</sup> JANUARY 2024

## REVIEW OF THE AWARDED QUANTITIES FOR BLENDED FERTILIZER FOR 2024 LONG RAINS

Further to your memo Ref: NCPB/A/9/17 VOL. XX/56 and 8<sup>th</sup> January 2024 the details for the awarded blended fertilizer are as follows:-

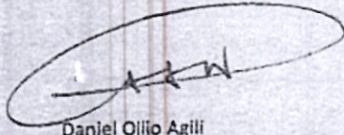
No.	SUPPLIER	FERTILIZER TYPE	CONTRACT QUANTITY (50 KG BAG)
1.	KEL CHEMICALS LIMITED	Kelphos Plus 10%N	190,000
2.	KEL CHEMICALS LIMITED	NPK 9:16:6	200,000
3.	MINJINGU MINES & FERTILIZER KENYA LIMITED	Nafaka Plus 9:16:6+25CaO+2MgO+0.5Zn+0.1B	380,000
	<b>TOTAL</b>		<b>770,000</b>

The quantities which the Ministry of Agriculture and Livestock Development had guided that the Board to procure for soil and crop specific planting fertilizer was totaling to 2,520,000 x 50 kg bags. From the above the procured and awarded quantities total to 770, 000 x 50 kg bags giving a shortfall of 1,750,000 x 50 kg bags.

*HPS  
pls open to all  
technically qualified  
and have referred  
their bid prices  
18/1/24*

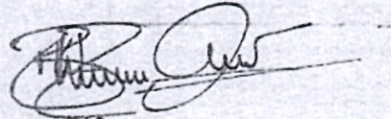
272

Yours Sincerely,



Daniel Ojjo Agili  
Managing Director  
Homefix Limited

Yours Sincerely



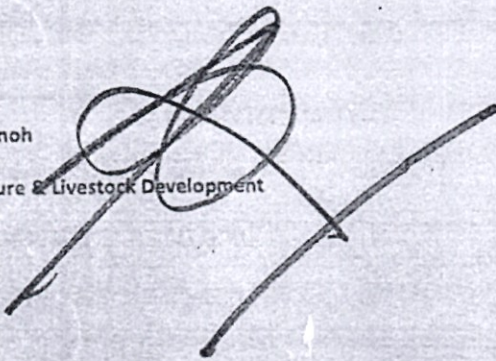
Benard Rono  
Managing Director  
Omnia Distributors Ltd

HOME FIX LIMITED  
P. O. Box 66381 - 00600,  
NAIROBI.



CC.

✓ Dr. Paul Kiprono Ronoh  
Principle Secretary  
Ministry of Agriculture & Livestock Development



FERTIPLANT EAST AFRICA LTD

FERTIPLANT EAST AFRICA LTD • HEAD OFFICE: MEA GODOWNS, STANLEY MATHENGE ROAD, OPP. SAM-CON LTD  
P.O. BOX 12591-20100 NAKURU • TEL: +254 724 253312 • Email: [Info@feal.co.ke](mailto:Info@feal.co.ke)

Our Ref: FEAL/MOALD/001/24

04 January 2024

Dr. Paul K. Ronoh, PhD  
Permanent Secretary  
Ministry of Agriculture and Livestock Development  
P.O. Box 30028  
00100 – Nairobi



HOPS

Dear Sir,

RE: SUPPLY OF FERTILIZERS AND GRANULATED LIME – LONG RAINS' SEASON 2024

This is to inform you that we have fertilizer blending and granulation facilities located in Nakuru within Nakuru Industrial area. Our blending capacity is 300,000MT per annum while that of granulation is 100,000MT per annum.

In line with our government policy to increase crop productivity to feed our growing population, we would appreciate if given an opportunity to supply fertilizers and lime on consignment basis as herein below:-

PRODUCT	QUANTITY (MT)	PRICE (KES) Per 50kg bag, EX-Nakuru Factory
NPK 9-23-0 (Planting Fertilizer)	50,000	4,300
NPK 26-0-0 (Top-Dressing Fertilizer)	50,000	4,300
Granulated Lime (30%CaO)	50,000	1,500

Terms of Payment: Payment after purchase by farmers. However, we require a bank guarantee as may be agreed by both parties to secure the consignment stocks.

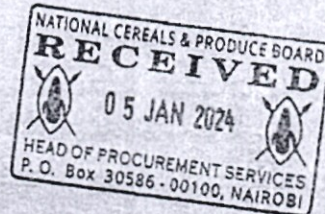
Delivery Commencement: Within 10 days after receipt of a bank guarantee.

We hope that you will consider our request favourably and look forward to your quick response.

Yours faithfully,  
FERTIPLANT (E.A.) LTD.

EUSTACE MURIUKI  
MANAGING DIRECTOR

c.c Mr. Joseph M. Kimote  
Managing Director  
National Cereals and Produce Board  
P.O. Box 30586  
00100 - Nairobi



277

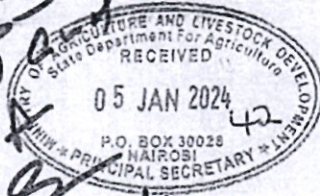
FERTIPLANT EAST AFRICA LTD

FERTIPLANT EAST AFRICA LTD • HEAD OFFICE: MEA GODOWNS, STANLEY MATHENGE ROAD, OPP. SAM-CON LTD  
P.O. BOX 12591-20100 NAKURU • TEL: +254 72/ 253312 • Email: info@feal.co.ke •

Our Ref: FEAL/MOALD/001/24

04 January 2024

Dr. Paul K. Ronoh, PhD  
Permanent Secretary  
Ministry of Agriculture and Livestock Development  
P.O. Box 30028  
00100 - Nairobi



*MS HCPB  
Renew  
L.N.A  
S.I.*

Dear Sir,

*Att: Mawen,  
Process this through  
an evaluation committee?  
8/1/24*

RE: SUPPLY OF FERTILIZERS AND GRANULATED LIME - 'LONG RAINS' SEASON 2024

This is to inform you that we have fertilizer blending and granulation facilities located in Nakuru within Nakuru industrial area. Our blending capacity is 300,000MT per annum while that of granulation is 100,000MT per annum.

In line with our government policy to increase crop productivity to feed our growing population, we would appreciate if given an opportunity to supply fertilizers and lime on consignment basis as herein below:-

PRODUCT	QUANTITY (MT)	PRICE (KES) Per 50kg bag, EX-Nakuru Factory
NPK 9-23-0 (Planting Fertilizer)	50,000	4,300
NPK 26-0-0 (Top-Dressing Fertilizer)	50,000	4,300
Granulated Lime (30%CaO)	50,000	1,500

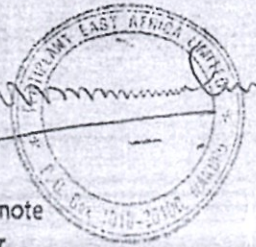
Terms of Payment: Payment after purchase by farmers. However, we require a bank guarantee as may be agreed by both parties to secure the consignment stocks.

Delivery Commencement: Within 10 days after receipt of a bank guarantee.

We hope that you will consider our request favourably and look forward to your quick response.

Yours faithfully,  
FERTIPLANT (E.A.) LTD.

*[Signature]*  
EUSTACE MURIUKI  
MANAGING DIRECTOR



c/c Mr. Joseph M. Kimote  
Managing Director  
National Cereals and Produce Board  
P.O. Box 30586  
00100 - Nairobi



*Request then  
to quote  
Depot  
prices*

*8/1/24*

