REPORT OF THE AUDITOR-GENERAL ON NATIONAL CONSTRUCTION AUTHORITY FOR THE YEAR ENDED 30 JUNE, 2022

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.

B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure Government achieves value for money and that such funds are applied for the intended purpose.

C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment and the internal controls, developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of National Construction Authority set out on pages 1 to 44, which comprise of the statement of financial position as at 30 June, 2022, statement of financial performance, statement of changes in net assets, statement of cash flows and the statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the

Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of the National Construction Authority as at 30 June, 2022, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Accrual Basis) and comply with the Public Finance Management Act, 2012 and the National Construction Authority Act, 2011.

Basis for Qualified Opinion

1. Cash and cash Equivalents

The statement of financial position reflects cash and cash equivalents balance of Kshs.263,390,306 which as disclosed in Note 23(a) to the financial statements includes staff car and mortgage balance with a local bank of Kshs.102,099,092. However, review of the bank reconciliation statement for the month June,2022 provided for audit revealed reconciled cashbook balance of Kshs.904,291 resulting to an unreconciled balance of Kshs.101,194,801.

In the circumstances, the accuracy and completeness of the staff car loan and mortgage balance of Kshs.102,099,092 could not be confirmed.

2. Unsupported Expenditure on Use of Goods and Services

The statement of financial performance reflects use of goods and services expenditure totalling Kshs.937,381,403. Included in the expenditure is travelling and accommodation, research, contractors training and capacity building and professional and consultancy expenditure amounting to Kshs.138,332,879, Kshs.239,454,233 and Kshs.13,632,580 out of which schedules provided did not have details of payees and activities undertaken for expenditure totaling Kshs.18,624,000, Kshs.26,238,263 and Kshs.8,165,649 respectively.

In the circumstances, the accuracy and completeness of expenditure totaling to Kshs.80,007,152 could not be confirmed.

3. Receivables from Non-Exchange Transactions

3.1 Long Outstanding Receivables

The statement of financial position reflects net receivables from non-exchange transactions balance of Kshs.1,133,662,761 as disclosed in Note 21 to the financial statements includes gross debtors balance of Kshs.1,659,273,434. However, supporting schedules provided for the gross debtors was not aged. Review of the debtors ledger reveals an opening balance of Kshs.1,658,223,424 which has been outstanding for more than one year.

Further, included in the receivables from non-exchange transactions balance is sundry debtors balance of Kshs.3,584,700. Review of the supporting documents revealed that the balance was a borrowing by the State Department for Public Works vide a letter dated 31 October, 2018 to assist in Medium Term Expenditure Framework (MTEF) sector activities. The amount was to be reimbursed to the Authority upon operationalization of the budget vote. Although Management requested for reimbursement from the Department vide two letters referenced NCA3/6/Vol.1/2018(73) dated 15 March, 2019 and NCA3/6/Vol.v (20), the State Department had not reimbursed the amount borrowed as at 30 June, 2022.

In the circumstances, the accuracy, completeness recoverability of gross debtors amounting to Kshs.1,658,223,424 and the sundry debtors' balance of Kshs.3,584,700 could not be confirmed.

3.2 Prepayments-Payment to Konza Technopolis Development Authority

Included in Note 21 of the financial statements is a prepayment balance of Kshs.66,884,838 out of which Kshs.6,179,843 relates to a payment to Konza Technopolis Development Authority (KoTDA). Review of documents provided revealed that the payment was made on 21 September, 2020 for the purchase of 6.4 acres of land in respect of the proposed Centre for Construction Industry Development (CCID). However, The National Treasury through a letter dated 27 November, 2020 advised Authority to engage KoTDA for allocation of 6.4 acres at no cost since the CCID project is for the public use and KoTDA had been allocated land by the Government at no cost for such projects. Although the prepayment was made before the National Treasury advisory was given, the Authority had not claimed the prepaid balance as at the time of the audit.

In the circumstances, the regularity of the prepayment balance of Kshs.6,179,843 to the Konza Technopolis Development Authority could not be confirmed.

4. Failure to Revalue Fully Depreciated Assets

The statement of financial position and as disclosed in Note 24 to the financial statements reflects property, plant and equipment net book value balance of Kshs.200,515,907. However, assets with a total historical cost of Kshs.402,163,221 were fully depreciated but still in use. Management has not explained why the assets were not revalued and included in the property, plant and equipment.

In the circumstances, the accuracy and completeness of property, plant and equipment net book value balance of Kshs.200,515,907 could not be confirmed.

5. Trade and Other Payables

The statement of financial position and as disclosed under Note 26 to the financial statements reflects trade and other payables balance of Kshs.467,051,481 as at 30 June, 2022. The balance comprises of accounts payables amounting to Kshs.181,280,333, provisions and accruals of Kshs.235,714,904, prepaid levy of

Kshs.24,251,869, sundry creditors Kshs.22,658,866 and receipts in advance Kshs.3,045,509. However, detailed breakdown and ageing analysis of the payable balances was not provided for review.

In addition, prepaid levy of Kshs.24,251,869 has been long outstanding and no explanation has been provided by Management on who is owed the monies and why the amount has not been surrendered to Unclaimed Financial Assets Authority.

In the circumstances, the accuracy and completeness of the trade and other payables balance of Kshs.467,051,481 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Construction Authority Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

Other Matter

1. Budgetary Control and Performance

The statement of comparison of budget and actual amounts reflects final receipts budget and actual on comparable basis of Kshs.2,246,000,000 and Kshs.2,008,943,000 respectively, resulting to an underfunding of Kshs.237,057,000 or 11% of the budget. Similarly, the Authority's actual recurrent expenditure for the year amounted to Kshs.1,981,958,000 against budgeted expenditure of Kshs.1,943,000,000 resulting to over absorption of Kshs.38,958,000 or by 2% of the budget.

The underfunding affected the planned activities and may have impacted negatively on service delivery to the public.

2. Failure to Comply with 30% Affirmative Action for Board of Directors

Review of the board composition revealed that out of 11 members of the board, 10 (90.9%) members are of the same gender against the requirement that not more than 70% of the members should be of the same gender. This contravened Office of the President Circular Ref OP/CAB.13/15A dated 7 November, 2006 which directs State Corporations to comply with "at least" 30% affirmative action for women for new appointments for Directors of the Boards and Chief Executives.

In the circumstances, the composition of the Board was not in accordance with the President Circular Ref OP/CAB.13/15A dated 7 November, 2006

3. Unresolved Prior Year Audit Matters

In the audit report of the previous year, a number of issues were raised under the Report on the Financial Statements and the Report on Lawfulness and Effectiveness in Use of Public Resources. However, the Management has not resolved the issues or given explanations for failure to do so, as part of the contents provided for in the reporting format prescribed by the Public Sector Accounting Standards Board.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matter described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources section of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1. Delay in Implementation of the Centre for Construction Industry Development) Project

Included in the property, plant and equipment balance of Kshs.200,515,907 is capital work in progress balance of Kshs.73,039,917. Review of records maintained by the Authority revealed that, these are expenses in respect of the proposed Centre for Construction Industry Development (CCID). The amount includes expenses on daily subsistence allowances, preparation of detailed designs and geotechnical investigation services. However, the designs developed, specifications and geotechnical investigation reports were not provided for audit. Further, Management, has not explained why the works on the project have not commenced two and a half years after the project was initiated,

In the circumstances, value for money obtained on the expenditure of Kshs.73,039,917 already incurred on the project could not be confirmed.

2. Failure to Prepare Separate Financial Statements for Car Loan and Mortgage Schemes

During the year under review, Management did not prepare separate financial statements for the car loan and mortgage schemes. However, the Funds operations were reported together with the Authority's financial statements. This contravened Regulation 221. (1) of the Public Finance Management (National Government) Regulations 2015 which states that the accounting officer for a national government entity listed in Schedule 2 and 3 shall prepare and submit annual financial and non-financial statements in the format gazetted

by the Cabinet Secretary within three months to the Auditor General with copies to the responsible Cabinet Secretary and the National Treasury.

Management was therefore in breach of the law.

3. Non-Compliance to One Third Basic Pay Rule in Payment of Staff Salaries

Review of sampled payroll data for the months July, 2021,Otober,2021, February,2022 and 30 June,2022 revealed that twenty-eight (28) members of staffs had net salaries less than one-third of their basic pay contrary to Section 19(3) of the Employment Act, 2007 and section 5.6.3 (v) of the Authority's human resource manual.

In the circumstances, Management was in breach of the law.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, except for the matter described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

Weaknesses in Information Communication Technology (ICT)

The Authority uses the Regulatory Construction Information System (RCIS) for contractor registration, renewal of contractor licenses, contractor and artisan training registration and accreditation of skilled workers and site supervisors. The system is supposed to seamlessly integrate with the E-Citizen platform for payments including direct deposits. However, review of the system revealed the direct deposits have not been integrated to the E-Citizen platform and RCIS. Further record of certificates issued out to various categories of contractors with details of the serial numbers in the year under review were not provided for audit.

In the circumstances, Authority's integration of the various income recording systems in use to ensure accurate, reliable and timely information was not effective.

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether effective processes and systems of internal controls, risk management and governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and the Board of Directors

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Accrual Basis) and for maintaining effective internal controls as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal controls, risk management and overall governance.

In preparing the financial statements, Management is responsible for assessing the Authority's ability to continue to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to terminate the Authority or to cease operations.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

The Board of Directors is responsible for overseeing the Authority's financial reporting process, reviewing the effectiveness of how Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could

reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal controls in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal controls would not necessarily disclose all matters in the internal controls that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal controls components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal controls may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal controls.

- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.

- Conclude on the appropriateness of the Management's use of the applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Authority's ability to continue to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to

modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Authority to cease to continue to sustain its services.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Authority to express an opinion on the financial statements.

- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal controls that are identified during the audit.

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.

CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

05 May, 2023