

Construction Management Contract

Project:

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Construction Management Contract

Project:.....

Part 1 Articles of Agreement

Contract No :

This Contract is made at, on.....by
and between:

....., residing at.....
.....

....., by, and
authorized director(s) OR by, authorized attorney (herein referred
to as "Owner") as party of the one part, and

....., residing at
.....

....., by, and
authorized director(s) OR by, authorized attorney (herein
referred to as "Consultant") as party of the other part.

(each a "Party" and collectively the "Parties")

Whereas the Owner is desirous of constructing.....
.....at

.....(herein referred to as "Project"), and

Whereas the Owner, in relying upon the information and confirmation of the Consultant that the
Consultant is capable and has sufficient resources to comply with all of the obligations in this
Contract, agree to engage the Consultant.

The parties mutually agree as follows:

1. The Owner agrees to engage the Consultant and the Consultant agrees to accept the
engagement to provide construction management services in connection with the Project within
the scope of this Contract.

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2. The Time for Completion of the Services shall be..... days (.....)
commencing from the Commencement Date, which period may be extended in accordance with this Contract.
3. The Owner agrees to pay Remuneration and other Expense to the Consultant in the amount and manner stated in this Contract and in Appendix 3 (Remuneration and Payment).
4. This Contract comprises of:
 - (1) Part 1 - This Articles of Agreement
 - (2) Part 2 - General Conditions
 - (3) Part 3 - Details of General Conditions
 - (4) Part 4 - Particular Conditions
 - (5) Part 5 - List of Contract Documents (all documents stated therein)
 - (6) Appendix 1 - Scope of Services
 - (7) Appendix 2 - Owner's Facilities
 - (8) Appendix 3 - Remuneration and Payment
 - (9) Appendix 4 - Consultant's Personnel
 - (10) Appendix 5 - Schedule of Services
5. Priority of Documents
 - (1) The documents forming part of this Contract shall be taken as mutually explanatory of one another. If there is any conflict, ambiguity or discrepancy, unless otherwise provided in this Contract, the priority of the documents shall be in accordance with the following sequence:
 - (a) This Articles of Agreement
 - (b) Particular Conditions
 - (c) General Conditions
 - (2) Any and all other conflicts, ambiguities or discrepancies shall be decided in accordance with standard practices of professional construction management services.

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Part 1 Articles of Agreement

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This Contract is made in 2 (two) identical copies, each Party shall keep 1 (one) copy. Both Parties have read and fully satisfy with its content before affixing their signatures and seal of corporation (if any) in evidence whereof.

..... Owner
(.....)

..... Consultant
(.....)

..... Owner
(.....)

..... Consultant
(.....)

..... Attorney
(.....)

..... Attorney
(.....)

..... Witness
(.....)

..... Witness
(.....)

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Part 2 General Conditions

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1. General Provisions

1.1 Definitions

Except where the context otherwise requires, the words and expressions in this Contract shall have the meaning as defined in the Articles of Agreement and herein below:

- (1) "Claim" means an assertion by one party to the other for an entitlement or relief of any kind in relation to the Works contract.
- (2) "Commencement Date" means the date of commencement of the Services.
- (3) "Confidential Information" means all information relating to either Party's business and affairs which either Party receives, directly or indirectly, from the other Party, whether in writing or otherwise, and which is not otherwise already in the public knowledge.
- (4) "Consultant's Representative" means a natural person appointed by the Consultant to act on his behalf.
- (5) "Construction Documents" means all documents related to the Services and/or the Works.
- (6) "Contractor" means any and all contractors and/or subcontractors as well as suppliers for the Works.
- (7) "Dispute" means disagreement between the Parties which cannot be settled amicably.
- (8) "Expense" means the amount of money necessarily incurred by the Consultant in relation to the Services.
- (9) "Final Completion" means final completion of the construction Works.
- (10) "Final Completion Certificate" means a document issued by the Consultant certifying the Works of each of the Contractor achieving Final Completion.
- (11) "Final Payment Certificate" means a document issued by the Consultant certifying the amount of final payment due from or to the Owner to or from each of the Contractor after Final Completion of the Works.

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- (12) "Force Majeure" means an event or circumstance which is beyond a Party control; the affected Party could not reasonably have avoided or overcome and is not attributable to such Party.
- (13) "Interim Payment Certificate" means a document issued by the Consultant certifying the amount of payment due periodically from the Owner to the Contractor for the Works.
- (14) "Laws" means all legislation, statute, act, decree, rule, ordinance, order, regulation and by-law of legally constituted public authority.
- (15) "Owner's Representative" means a natural person appointed by the Owner to act on his behalf.
- (16) "Promptly" means as soon as possible but shall in no case later than 15 (Fifteen) days.
- (17) "Remuneration" means the sum of money payable by the Owner to the Consultant for the Services, excluding Expense.
- (18) "Schedule of Services" means schedule prepared by the Consultant in carrying out the Services in stages for due completion of the Works.
- (19) "Services" means the services stated in Appendix 1 [Scope of Services] and in this Contract.
- (20) "Substantial Completion Certificate" means a document issued by the Consultant certifying the Works of each of the Contractor achieving substantial completion.
- (21) "Supervision" means part of the Services of the Consultant to ensure that the Contractor performs in accordance with the Works contract.
- (22) "Superintendent" means a qualified person required under the Laws to direct and control the construction Works.
- (23) "Time for Completion" means time for completion of the Services.
- (24) "Variation" means change to the nature and/or scope of the Services.
- (25) "Works" means the works, whether construction of otherwise, of any and all Contractor

including the supplies of materials of the supplier under the Services.

1.2 Interpretation

In this Contract, except where the context requires otherwise:

- (1) words indicating one gender include all genders;
- (2) words indicating the singular include the plural and vice-versa;
- (3) the headings shall not be taken into consideration in the interpretation of this Contract.

1.3 Communications

All communication between the Parties shall be in writing which may be electronically printable records.

1.4 Law and Language

- (1) This Contract shall be governed by Thai Laws.
- (2) The language of this Contract shall be English.
- (3) The language for all communications shall be either Thai or English.

1.5 Change in Laws

If after the date of this Contract, the Laws has been changed affecting:

- (1) the scope and nature of the Services, then such change shall be treated as Variation;
- (2) the Remuneration of the Consultant, then such Remuneration shall be adjusted accordingly.

1.6 Assignment and Subcontract

- (1) Neither Party shall assign the benefit nor obligations under this Contract without prior written consent of the other Party.
- (2) The Consultant shall not subcontract all or part of the Services without prior written consent of the Owner.
- (3) If the Owner has given consent to the Consultant to subcontract, the Consultant shall remain responsible to the Owner for all of his obligations under this Contract.

1.7 Copyright and License

(1) Copyright and Intellectual Property

Each Party shall retain the copyright and other intellectual property right of any documents and other things in any form whatsoever made by him or on his behalf for the purpose of this Contract or otherwise.

(2) License

Either Party may use, copy and/or modify the documents and other things the copyright and other intellectual property of which belong to the other Party for the purpose of this Contract, but not otherwise.

1.8 Disclosure of Confidential Information

Neither Party shall disclose Confidential Information, unless:

- (1) necessary to take personnel advice or to enable either Party's personnel to perform any obligations of such Party under this Contract or in relation to the Services.
- (2) it is already in public knowledge;
- (3) is required by Laws or in the process of Dispute Resolution; or
- (4) after 2 (two) years from completion of the Services or termination of this Contract, whichever is earlier.

1.9 Publication

The Consultant may use title of the Project and necessary scope of the Services for commercial tendering purposes.

1.10 Corruption and Bribery

The Consultant hereby represents, warrants and covenants that:

- (1) it shall not participate, directly or indirectly in bribery, fraud, deception, abuse of power, use of insider information or any other criminal activity; and
- (2) it shall neither receive nor offer, pay or promise to pay, either directly or indirectly,

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anything of value to any public authority or the Owner's personnel in connection with any business opportunities which are the subject of this Contract.

1.11 Relationship of Parties

(1) Nothing contained in this Contract shall be construed as creating a partnership, agency or joint venture between the Parties.

(2) Where either Party consists of a joint venture or consortium, then members of such joint venture or consortium shall be jointly and severally liable under this Contract.

1.12 Contract Amendment

This Contract supersedes any previous agreement or arrangement between the Parties in relation to the Services (whether oral or written) and represents the entire agreement between the Parties. Any amendment to this Contract shall be binding only if made in writing and signed by both Parties.

1.13 Severability

If any term or provision of this Contract is held to be illegal or unenforceable in whole or in part then such term or provision shall be severed from this Contract without affecting the validity of the remainder of this Contract, which shall remain in full force and effect.

1.14 Non-Waiver

No failure or delay by either Party in exercising any of its rights under this Contract shall operate as a waiver of such rights. Any waiver given by either Party in connection with this Contract is binding only if it is made in writing.

2. The Owner

2.1 Information

(1) The Owner shall within a reasonable time and with due regard to the Schedule of Services, provide to the Consultant, free of cost, all information relating to the Services requested by the Consultant,

(2) The Consultant shall review all significant information provided to him by the Owner or by others on behalf of the Owner as soon as possible to ensure that such information does not contain any manifest error, omission or ambiguity and shall inform the Owner Promptly of any adverse findings.

(3) In the event of any error, omission, or ambiguity in the information provided to the Consultant, the Owner shall rectify such matter as soon as possible.

2.2 Decisions

On all matters referred to the Owner by the Consultant, the Owner shall give its decision, approval, consent, instruction or Variation Promptly.

2.3 Supply of Owner's Facilities

The Owner shall provide equipment and facilities described in Appendix 2 [Owner's Facilities] to the Consultant in order to carry out the Services, free of charge, and within the time to enable the Consultant to carry out the Services in accordance with the Schedule of Services.

2.4 Supply of Owner's Personnel

(1) The Owner shall at its own cost arrange for the selection and provision of suitably qualified personnel in its employment to the Consultant in accordance with the requirements, if any, in Appendix 2 [Owner's Facilities]. Such personnel shall take instructions from the Consultant.

(2) The personnel to be supplied by the Owner, and any future replacements that may be necessary, shall be acceptable to the Consultant with regard to their qualifications and experiences.

(3) In the event that the Owner cannot supply the Owner's personnel for which it is responsible or the performance of the Owner's personnel supplied to the Consultant is not adequate to discharge the services assigned to them, then the Consultant shall arrange

for an alternative supply of personnel at the Owner's cost.

2.5 Owner's Representative

The Owner shall appoint a representative to act for and on behalf of the Owner and notify the Consultant of such appointment.

2.6 Services of Others

The Owner shall provide services from others in connection with the Services which is required or will be required by the Consultant to enable the Consultant to provide proper performance of the Services.

The said services include, but not limited to, architect, engineer, lawyer.

The Consultant shall coordinate such services providers, but shall not be responsible for their performance.

The Owner shall help ensuring that such services by others is given in sufficient time so as to allow the Consultant to proceed in accordance with the Schedule of Services.

3. The Consultant

3.1 Scope of Services

The Consultant shall perform the Services as provided in this Contract and in Appendix 1 (Scope of Services) diligently and in accordance with the Schedule of Services.

Notwithstanding any other provision under this Contract, the Consultant is not a Superintendent in charge of directing, controlling, commanding and ordering the execution of the Works as required by Laws.

3.2 Conflict of Interest

The Consultant hereby confirms that as at the date of this Contract there are no circumstances or matters that may give rise to a conflict of interest in the performance of its obligations under the Contract.

3.3 Standard of care

(1) In performing the Services under this Contract, the Consultant shall have the responsibility to exercise reasonable skill, care and diligence to be expected from a consultant experienced in the provision of such services for projects of similar size, nature and complexity.

(2) The Consultant shall comply with all Laws as well as standards and code of practices applicable to the Services.

3.4 Ownership of the Property

Anything supplied or paid for by the Owner for the use of the Consultant shall be the property of the Owner. The Consultant shall safeguard and protect such property of the Owner until completion of the Services or return to the Owner.

Anything paid out of the Consultant's Remuneration, own expense or unpaid Expense shall be the property of the Consultant.

3.5 Consultant's Personnel

To carry out the Services in accordance with this Contract, the Consultant shall provide the personnel with qualifications and experiences as stated in Appendix 4 [Consultant's Personnel].

If any of the Consultant's Personnel does not report to work within the normal working time, the Owner shall be entitled to deduct Remuneration at the same rate of overtime for such personnel.

Unless named in Appendix 4 [Consultant's Personnel], key personnel who are proposed by the Consultant shall be acceptable to the Owner with regard to their qualifications and experiences.

3.6 Consultant's Representative

The Consultant shall appoint a representative to act for and on behalf of the Consultant and notify the Owner of such appointment.

3.7 Conduct of the Consultant's Personnel

The Consultant shall at all times take necessary precautions to prevent any unlawful or disorderly conduct of the Consultant's Personnel.

The Owner may require the Consultant to remove any of the Consultant's Personnel who engage in misconduct. The Consultant shall then remove and replace with suitable personnel.

3.8 Safety and Security of Consultant's Personnel

If the health, safety or security of its personnel is compromised by Force Majeure or otherwise, the Consultant shall be entitled to suspend all or part of the Services and remove such personnel until such danger has ceased.

4. **Construction Administration**

4.1 General Responsibility

(1) Unless otherwise provided in this Contract, the Consultant shall act for and on behalf of the Owner for Supervision of the Contractor and the Works.

(2) The duty and authority of the Consultant shall be limited to the provisions under the Works contract and this Contract.

(3) The Consultant has no authority to change any provision of the Works contract.

(4) Where the Works contract authorized the Consultant to certify, determine or exercise discretion the Consultant shall act independently and fairly between the Owner and the Contractor as an independent professional using reasonable skill, care and diligence.

(5) Before issuing any instruction to the Contractor involving extension of time and/or additional cost to the Contractor, the Consultant shall first obtain consent of the Owner, except in case of emergency to protect loss of property or injury to person.

(6) The Consultant shall reply any inquiry in relation to the duty and authority of the Consultant in the Works contract and in this Contract Promptly.

4.2 Management Scope

Unless otherwise specified in Appendix 1 [Scope of Services], the management responsibility of the Consultant shall include, but not limited to, the following:

(1) Time Management

The Consultant shall ensure that the Contractor has complied with any and all provisions in the Works contract in relation to period of time provided therein. If there shall be any delay in the performance of the Contractor, the Consultant shall issue instruction to avoid the delay or limit such delay to the minimum.

If the delay caused by the Owner, Force Majeure or otherwise, the Consultant shall advise the Owner Promptly.

In the case where it is likely that the delay would be significant, the Consultant shall inform the Owner in advance with proposed action to remedy such delay.

(2) Quality Management

The Consultant shall ensure that the Works and materials incorporated in the Works are in accordance with the Drawings, the Specification, Laws, instruction of the Consultant and in good workmanship.

The Consultant shall instruct the Contractor to remove any incorrect materials from the Site immediately.

The Consultant shall ensure that at all times during construction or otherwise, any defects in the Works or materials found shall be repaired or replaced as soon as possible.

In the case where the Contractor requests to use alternative materials or method of construction, or proposes to do value engineering, the Consultant shall obtain prior consent from the Owner before giving consent or approval of such request or proposal.

(3) Cost Management

In the case of issuing an Interim Payment Certificate, the Consultant shall ensure that the

amount of money certified shall be:

- (a) the sum due to the Contractor on the related period in accordance with the Works contract;
- (b) in the case of payment on progress of Works done, the sum certified shall not be more than the value of the Works actually carried out or materials supplied by the Contractor, or, in the case of payment on achieving milestone Works, the Contractor has actually achieved such milestone;
- (c) any sum which the Owner has the right to deduct or withhold in accordance with the Works contract are properly accounted for.

If, under the Works contract, the Consultant has authority to allow additional cost, expense or extra sum of money to the Contractor, the Consultant shall obtain prior consent from the Owner before allowing such sum of money to the Contractor, whether or not substantial.

(4) Safety Management

It is acknowledged by the Parties that the Contractor has the responsibility and liability to carry out the construction. Therefore, the liability as to safety of the construction shall be that of the Contractor. However, the Consultant shall review construction method, execution and all other performance related to safety in construction and assist the Contractor, without responsibility, to ensure safety of the construction and personnel in order to avoid loss or damage to property and injury to person.

(5) Environment Management

The Consultant shall help ensuring that the construction activities at the Site by the Contractor conform with any and all provisions in relation to environment imposed by the authority and avoid any disturbance or unnecessary interference with the public.

(6) Site Management

The Consultant shall:

- (a) issue a non-exclusive possession of the Site document to the Contractor to carry out the construction in accordance with the Works contract. If the delay in issuing of such document caused by the Owner, the Consultant shall alert the Owner with estimated impact;
- (b) give proper and accurate benchmark, level, dimension and all necessary reference for Contractor to set out the related Works;
- (c) before any Contractor use any part of the Site for storing, site office or for other purpose, make sure that such part of the Site will not obstruct the performance of any Contractor or the use of the Owner;
- (d) make sure that using of the Site by any Contractor and the Owner shall not against the Laws and unnecessary interference with the public;
- (e) make sure that the Contractor properly stored and protected all materials, Permanent and/or Temporary Works as well as Site Office and equipment; and
- (f) make sure that all Contractor remove waste and rubbish from the Site every day and keep the Site tidy and clean as much as possible.

(7) Contract Management

The Consultant shall make sure that the parties to the Works contract have performed the obligations thereunder properly, correctly and timely, which obligations included, but not limited to, payment, submission of bonds, effecting insurance, and notifying the authority of the Superintendent under the Laws.

(8) Claim Management

On any Claim where the Works contract authorized the Consultant to make decision, the Consultant shall make decision independently in accordance with professional practices. Such decision shall be made timely in writing so as not to cause delay to the Works.

On any Claim where the Works contract does not authorize the Consultant to make decision, the Consultant shall report to the Owner Promptly.

(9) Coordination Management

The Consultant shall supervise and monitor coordination of all contractors in relation to the Works so that all part of the Works shall be carried out smoothly and properly without delay.

(10) Other management

The Consultant shall carry out other management services related to the construction in accordance with standard practices of professional management.

4.3 Supervision Responsibility

Unless otherwise specified in Appendix 1 [Scope of Services], the Supervision responsibility of the Consultant shall include, but not limited to, the following:

(1) Meeting The Consultant shall be responsible to organize and keep records of the following meetings related to the Works,

(a) Kickoff Meeting

Before each and every Contractor commencing the Works at the Site, the Consultant shall organize a kickoff meeting with them to make mutual understanding of the way in which the Works should be carried out, including, but not limited to, the materials to be brought to the Site, application for payment and all other matters normally create misunderstanding in order to achieve smooth operation at the Site and successful completion of the Works.

(b) Weekly Meeting

The Consultant shall organize a weekly meeting with all Contractor carrying out the Works to follow up the progress of the Works and to solve any and all problem or difficulty of all concerned parties.

(c) Other Meeting

The Consultant shall organize any other meeting which may be required from time to time to solve any problem or difficulty.

If any important or serious matter arises, the Consultant shall immediately organize a meeting to solve such matter.

Copy of the meeting records shall be distributed to all participants by the Consultant.

The Consultant shall be entitled to require the Contractor related to the matter to be discussed to attend any meeting organized by the Consultant. The Consultant shall inform the Owner if any of the required Contractor fails to attend.

The Consultant shall follow up any work or action assigned or agreed to in the meeting.

(2) Report

(a) Monthly Report

The Consultant shall prepare and submit a monthly report to the Owner, describing:

- (i) progress of the Works of each and every Contractor;
- (ii) any problem or difficulty arose, solved and remain unsolved;
- (iii) any delay occurred and anticipated;
- (iv) any Claim received, solved and remain unsolved; and
- (v) other matter required by the Owner.

The monthly report shall include related photo.

(b) Other Report

The Consultant shall prepare and submit any other report to the Owner:

- (i) if the Works of any Contractor is unreasonably delay and may not be completed within the time for completion under the Works contract;
- (ii) if any important or serious matter arose or anticipated; and
- (iii) if requested by the Owner on any other matter.

(3) Consent or Approval

(a) Combine Drawing

The Consultant shall ensure that before the Contractor shall carry out any construction Works, the Contractor has made combine drawings to find out discrepancy, error and/or omission in the drawings and specification and solve the same before giving consent or approval to commence such Works.

(b) Shop Drawing

Before the construction Works shall commence, the Consultant shall require the Contractor to submit a shop drawing to the Consultant for consent or approval first.

The Consultant shall ensure that the construction is carried out in accordance with the approved shop drawing.

(c) Cover Up of any part of the Works

The Consultant shall inspect to ensure that any construction Works to be covered up or put out of sight is in accordance with the Works contract and of good workmanship before giving consent or approval for the Contractor to cover up or put any construction Works out of sight.

If the Contractor covers up or put out of sight of any construction Works before the Consultant's inspection and without consent or approval of the Consultant, the Consultant shall instruct the Contractor to open up for inspection at the expense and time of such Contractor.

(d) Materials

The Consultant shall ensure that materials to be incorporated into the Works are in accordance with the Works contract and properly incorporated.

The Consultant shall also ensure that materials to be incorporated into the Works brought to the Site before incorporation are properly stored and protected.

(e) No-objection or No Response

In the case where the Works contract authorizes the Consultant to issue a notice of No-objection or no response within a specified period of time to the Contractor's submission in order to proceed, if the Consultant, after reviewing the Contractor's submission, found the submission to be proper in accordance with the Works contract, Laws or otherwise, the Consultant may issue a notice of No-objection or omit to respond. Otherwise the Consultant shall advise the Contractor to amend the submission accordingly.

(4) Testing

To ensure that the Works are properly carried out, installed and functioned in accordance with the Works contract, the Consultant shall instruct the Contractor to carry out the following test- ing:

(a) Periodic Testing

- (i) Before the Consultant shall give consent or approval to the Contractor to cover up or put out of sight any part of the Works.
- (ii) Whenever the Works or any part is found leakage or malfunction.
- (iii) Whenever the Works or any part has been suspended for a long period of time.
- (iv) Whenever required by the Owner.
- (v) Any other circumstance justify testing.

(b) Testing and Commissioning

Before the Consultant shall issue a Completion Certificate to the Contractor, Substantial Completion or otherwise, the whole of the Works of the Contractor shall be testing and commissioning, and shall have passed such testing and commissioning, except where the Works contract otherwise provided or any part of the Works has been taken over by the Owner before completion.

(5) Certificate

The Consultant is authorized to issue the following certificates to the Contractor under the

Works contract:

In issuing of any certificate below mentioned, the Consultant shall act professionally and independently as required by professional practices, without consent of either parties to the related Works contract.

(a) Interim Payment Certificate

The Consultant shall issue an Interim Payment Certificate to the Contractor timely in accordance with the Works contract.

The following details shall be included, but not limited to, in the Interim Payment Certificate:

- (i) The estimated value of the Works done or amount payable under the Works contract for the period of such Interim Payment.
- (ii) The amount of advance money to be refunded.
- (iii) The amount of retention money to be withheld.
- (iv) The amount of any other sum to be withheld.
- (v) The accumulated amount of all sum paid, refunded and withheld.
- (vi) The amount of withholding tax and value added tax.
- (vii) The amount to be paid on the Interim Payment Certificate.

(b) Final Payment Certificate

The Consultant shall issue a Final Payment Certificate to the Contractor timely in accordance with the Works contract.

The Final Payment Certificate shall not be issued unless and until the Works and other conditions in the Works contract have been complied with for the issuing of the Final Payment Certificate.

The Final Payment Certificate shall state all amount due to each party of the Works contract and state the remaining amount due to be paid by one party to the other with

sufficient details for the parties to the Works contract to understand.

(c) Substantial Completion Certificate

If the Works contract requires the issuing of a Substantial Completion Certificate, the Consultant shall issue the Substantial Completion Certificate to the Contractor timely in accordance with the Works contract.

The Substantial Completion Certificate shall not be issued unless and until the Works and other conditions in the Works contract have been complied with for the issuing of the Substantial Completion Certificate.

The Substantial Completion Certificate shall clearly state the following:

- (i) the date of Substantial Completion;
- (ii) all defect works to be repaired or replaced;
- (iii) all outstanding works to be completed;
- (iv) number of days of delay or early completion; and
- (v) other details as, in the opinion of the Consultant, should have been included.

(d) Final Completion Certificate

If the Works contract requires the issuing of a Final Completion Certificate, the Consultant shall issue the Final Completion Certificate to the Contractor timely in accordance with the Works contract.

The Final Completion Certificate shall not be issued unless and until the Works and other conditions in the Works contract have been complied with for the issuing of the Final Completion Certificate.

The Final Completion Certificate shall clearly state the following:

- (i) the date of Final Completion;
- (ii) the date of defective and remaining works has been completed;
- (iii) any other performance of the Contractor required to be done in order to be entitled

to the Final Completion Certificate have been complied with;

(iv) number of days of delay or early completion; and

(v) other details as, in the opinion of the Consultant, should have been included.

(e) Taking- Over Certificate

If the Works contract requires the issuing of a Taking-Over Certificate, the Consultant shall issue the Taking-Over Certificate to the Contractor timely in accordance with the Works contract.

The Taking-Over Certificate shall not be issued unless and until the Works and other conditions in the Works contract have been complied with for the issuing of the Taking-Over Certificate.

The Taking-Over Certificate shall state the following:

(i) the date of taken over of the Works;

(ii) all defect works to be repaired or replaced;

(iii) all outstanding works to be completed;

(iv) number of days of delay or early completion;

(v) any other performance of the Contractor required to be done in order to be entitled to the Taking-Over Certificate have been complied with; and

(vi) other details as, in the opinion of the Consultant, should have been included.

(6) Construction Documents

The Consultant shall keep all Construction Documents at the Consultant's Site Office at all times for the performance of the Services of the Consultant and for the use and inspection of the Owner.

Upon completion of the Services, the Consultant shall pass all such documents to the Owner. The Consultant may make copy of such documents for reference and use of the Consultant at his own expense.

4.4 Working Time

- (1) Normal working days and times of the Consultant are as specified in Part 3 [Details of General Conditions].
- (2) If the Owner requests the Consultant, in writing, to work overtime, or if the Consultant need to work overtime due to accident, Force Majeure, authority inspection or otherwise, the Owner shall pay the Consultant for overtime working.
- (3) If the Contractor requests the Consultant, in writing, to work overtime, or if the Consultant need to work overtime due to the Contractor carries out the Works beyond normal working time of the Consultant, the Owner shall deduct from any payment due to the Contractor after the date of the Consultant's invoice for overtime from the Contractor, unless the Contractor has paid such overtime directly to the Consultant.
- (4) The Consultant shall not be entitled to overtime payment to carry out his own works or for failure to carry out the Services properly or punctually.
- (5) The rate of overtime working for the Consultant under Sub-Clause 8.1(2) shall be applicable to the Owner and the Contractor.

4.5 Liability

- (1) The Consultant shall be liable for loss or damage arising from an act or omission of the Consultant.
- (2) The Consultant shall not be liable for the means, techniques, methods or sequencing of any aspect of the Works or for the adequacy of the Contractor's operation, equipment or materials.
- (3) the Owner shall indemnify the Consultant against any and all claims arising out of or Connected with the Works, except due to the fault of the Consultant.

5. Commencement and Completion

5.1 Commencement and Completion of the Services

The Consultant shall commence the performance of the Services on the Commencement Date stated in Part 3 [Details of General Conditions].

5.2 Time for Completion

The Consultant shall complete the whole of the Services within the Time for Completion stated in Part 1 [Articles of Agreement], unless extended in accordance with this Contract.

5.3 Schedule of Services

Within the period of time stated in Part 3 [Details of General Conditions], the Consultant shall submit the Schedule of Services to the Owner which shall include, but not limited to, the following:

- (1) the order and timing in which the Services are to be carried out;
- (2) any key dates for completion of any part of the Services; and
- (3) any other details as required by the Owner.

The Consultant shall review and amend the Schedule of Services as necessary to correspond with the completion of the Works under the Works contract.

6. Extension of Time

6.1 Works Supervision

Time for Completion of the Services related to Supervision of the Works shall be automatically extended to the Final Completion of the Works of the last Contractor under the Works contract.

6.2 Other Services

Time for Completion of the Services not related to the Supervision of the Works shall be extended if the completion of the Services will be delayed by any of the following causes:

- (1) Variation to the Services;
- (2) Force Majeure;
- (3) Delay caused by or attributable to any person other than the Consultant; or

(4) Extension of Time allows by any other provision of this Contract.

6.3 Adjustment of Remuneration

The Remuneration to the Consultant shall be adjusted in accordance with Sub-Clause 7.2 to correspond with the Extension of Time for additional Services.

7. Variation

7.1 Instruction by Owner

(1) A Variation to the Services relating to Supervision of the Works shall be automatic and shall not require an instruction of the Owner.

(2) A Variation to the Services apart from the Supervision of the Works shall be instructed by the Owner at any time before completion of the Services.

(3) The Consultant shall be bound by each and every Variation instruction of the Owner, unless:

(a) The Consultant does not have the relevant skills or resources to carry out such instruction,

(b) Such Variation instruction has been issued too close to the completion of the Services and the Consultant does not have sufficient time to carry out such instruction before completion of the Services.

(c) Any other cause justifying the decline of the instruction.

7.2 Valuation of Variation

(1) The value of any Variation shall be determined in accordance with the rates or prices in Appendix 3 [Remuneration and Payment].

(2) Where the rates or prices are not applicable to the Variation, unless the Parties agreed otherwise, the Consultant shall be entitled to Remuneration on a time-spent basis at the rates or prices stated in Appendix 3 [Remuneration and Payment] or if no rates or prices stated, reasonable rates or prices.

8. Payment

8.1 Payment by Owner

The Owner shall pay the Consultant:

- (1) Remuneration in accordance with Appendix 3 [Remuneration and Payment];
- (2) Overtime at the rate specified in Part 3 [Details of General Conditions].
- (3) Expense reasonably incurred by the Consultant in relation to the Services.
- (4) Any other sum payable to the Consultant under this Contract.

8.2 Payment by Consultant

The Consultant shall pay the Owner:

- (1) Any sum found to be over paid by the Owner to the Consultant.
- (2) Any other sum payable to the Owner under this Contract.

8.3 Time for Payment

Unless otherwise stated in Part 3 [Details of General Conditions], payment by one Party to the other shall be made within 30 (Thirty) days from the date of receiving an invoice for payment.

8.4 Interest on Overdue Payment

Unless stated otherwise in Part 3 [Details of General Conditions], interest on overdue payment shall be at the rate of 7.5% per annum.

9. Suspension of Services

9.1 Suspension by Owner

The Owner may suspend the Services at its sole discretion by giving advance notice to the Consultant of not less than 60 (Sixty) days.

9.2 Suspension by Consultant

If the Owner does not make payment to the Consultant for more than 60 (Sixty) days after due date, the Consultant may suspend the Services by given advance notice to the Owner of not less than 30 (Thirty) days.

9.3 Resumption of Suspended Services

(1) Where the Services have been suspended by the Owner, the Consultant shall resume the Services as soon as possible after the Owner give notice to the Consultant to resume the Services.

(2) Where the Services have been suspended by the Consultant, the Consultant shall resume the Services as soon as possible after the Owner has made payment of all amount due.

9.4 Payment during Suspension

During the suspension, whether by the Owner or by the Consultant, the Consultant shall be entitled to Remuneration for 30 (Thirty) days to cover salary of the Consultant's Personnel and other ex- penses.

10. Termination of Contract

10.1 Termination by Owner

(1) The Owner may terminate this Contract with immediate effect if:

- (a) a bankruptcy action has been filed against the Consultant;
- (b) the Consultant is in breach of Sub-Clause 1.10 [Corruption and Bribery]; or
- (c) the Consultant has caused substantial damages to the Owner.

(2) The Owner may terminate this Contract after giving advance notice of not less than 30 (Thirty) days under the following circumstances:

- (a) The Consultant commits any material breach of this Contract;
- (b) The Consultant fails to make payment to the Owner for a period of more than 90 (Ninety) days after due date; or
- (c) By any other cause of this Contract, the Owner has the right to terminate, except termination with immediate effect under Sub-Clause (1) above.

10.2 Termination by Consultant

(1) The Consultant may terminate this Contract with immediate effect if a bankruptcy action

has been filed against the Owner.

(2) The Consultant may terminate this Contract after giving advance notice of not less than 30 (Thirty) days under the following circumstances:

(a) The Owner commits any material breach of this Contract;

(b) The Owner fails to make payment to the Consultant for a period of more than 90 (Ninety) days after due date; or

(c) By any other cause of this Contract, the Consultant has the right to terminate, except termination with immediate effect under Sub-Clause (1) above.

10.3 Termination Notice

Notice of termination shall be made in writing and send by registered mail to the address of the other Party stated in this Contract or any other address giving by such other Party before this notice of termination is sent. If such notice has been sent as aforesaid and there is no recipient, the notice shall be deemed duly served.

10.4 Effects of Termination

Without prejudice to any rights and liabilities of either Party, after termination of this Contract, whether by the Owner or by the Consultant, the Owner shall be entitled to take over from the Consultant all Construction Documents to enable the Owner to complete the Services either by itself or with the assistance of another consultant.

11. Liabilities

11.1 Liability for Damages

The Party causing loss or damages to the other Party shall be liable for such loss or damage in accordance with the provisions of this Clause.

11.2 Duration of Liability

Neither Party shall be liable for any loss or damage after 2 (two) years from the date of completion of the Services or termination of this Contract, whichever is earlier.

Construction Management Contract

Part 2 General Conditions

Contract No

11.3 Limit of Liability

The maximum amount of liability by either Party to the other shall not exceed the amount stated in Part 3 [Details of General Conditions].

11.4 Exclusion

Neither Party shall be liable to the other Party for loss of revenue, profit, production, business or for any indirect, special or consequential loss or damage.

11.5 Exception

The Limit of Liability shall not apply to deliberate default, fraud or reckless misconduct by the default- ing Party.

12. Force Majeure

12.1 Duty to Inform

If performance of any obligations under this Contract of either Party is prevented from Force Majeure, the affected Party shall, without delay, inform the other Party to be excused from performance of such obligations for so long as the effects of the Force Majeure prevent such performance.

12.2 Excusable Performance

Only performance affected by the Force Majeure can be excused. Duty to make payment due shall not be excused.

12.3 Duty to Minimize

Both Parties shall assist each other in an endeavor to minimize the affected performance due to Force Majeure.

12.4 Right to Terminate

If performance of either Party's obligations under this Contract is prevented from Force Majeure for an unreasonably long period of time, either Party may terminate this Contract.

13. Insurance

Construction Management Contract

Part 2 General Conditions

Contract No

13.1 Obligation to Effect

Unless otherwise stated in Part 3 [Details of General Conditions], the Consultant shall take out and maintain professional indemnity insurance.

13.2 Amount to be Insured

The professional indemnity insurance shall be:

(1) in the amount of not less than the amount stated in Part 3 [Details of General Conditions];

(2) maintained at all times until completion of the Services.

13.3 Supply of Copy

The Consultant shall submit a copy of such insurance policy and a receipt of the insurance premium to the Owner upon requested by the Owner.

14. Dispute Resolution

14.1 Amicable Settlement

Should any Dispute arise between the Parties, the Parties shall attempt to settle the Dispute amicably and in good faith.

This Amicable Settlement is not a condition precedent to either Mediation and/or Arbitration.

14.2 Mediation

If the Parties so agree, they may jointly request any third party to provide assistance to resolve any issue or disagreement that may have arisen between them during the performance of this Contract or thereafter.

Such assistance may take place during any meeting. Unless the Parties agree otherwise, both Parties shall be present at such meeting. However, the Parties are not bound to act on any advice given by such third party.

This Mediation is not a condition precedent to Arbitration.

14.3 Arbitration

- (1) Unless otherwise stated in Part 3 [Details of General Conditions], any Dispute shall be finally settled by arbitration.
- (2) Subject to (1) above and Unless otherwise stated in Part 3 [Details of General Conditions], the arbitration shall be in accordance with the following conditions:
- (a) the Dispute shall be administered by Thailand Arbitration Center (THAC);
 - (b) the Rules of Arbitration shall be the rules of the entity administering the arbitration;
 - (c) the Arbitral Tribunal shall consist of 3 (three) arbitrators, each Party shall appoint 1 (one) arbitrator and the 3rd (third) arbitrator, who shall act as chairman of the Arbitral Tribunal, shall be appointed by the entity administering the arbitration;
 - (d) the Arbitral Tribunal shall determine the Dispute on the principles of honest and fair (ex aequo et bono);
 - (e) the place of arbitration shall be Bangkok, Thailand;
 - (f) the language of the arbitration shall be Thai.
- (3) The arbitration may be commenced before or after completion of the Services. The obligations of the Parties shall not be altered by reason of any arbitration being conducted during the progress of the Services.

Construction Management Contract

Project :

Part 3 Details of general Conditions

Contract No

General Conditions	Clause	Details
Working Time	44 (1)	<u>Normal Working Day</u> <u>Normal Working Time</u> <u>Monday to Friday</u> <u>Saturday</u>
Commencement Date	5.1
Submission of Schedule of Services	5.3	<u>State Period or Date</u>
Rate of Overtime working	8.1 (2)	<u>Project Manager</u>Baht/hour <u>Engineer/Architect</u>Baht/hour <u>Technician</u>Baht/hour -----Baht/hour -----Baht/hour -----Baht/hour <u>Secretary/Support Staff</u>Baht/hour

Construction Management Contract

Part 3 Details of general Conditions

Contract No :

General Conditions	Clause	Details
Time for Payment	8.3	<u>If not within 30 (thirty) days, state period</u>
Interest on overdue payment	8.4	<u>If not 7.5% per annum, state the interest rate</u>
Maximum amount of liability	11.3Baht
Professional Indemnity Insurance	13.1	<u>If not require, state Not Applicable</u>
Minimum Limit of Liability of the Professional Indemnity Insurance	13.2(1)	<u>If Professional Indemnity Insurance is Applicable, state the minimum amount</u>
Arbitration	14.3(1)	<u>Dispute shall be settled by Arbitration, if not, State Not Applicable</u>
Arbitration Institute	14.3(2) (a)	<u>If not THAC, state the name of institute</u>
Rules of Arbitration	14.3(2) (b)	<u>If not the Rules of the named Arbitration Institute, state the applicable Rules</u>
Number of Arbitrator(s)	14.3(2) (c)	<u>If not 3 (three) arbitrators, state number of Arbitrator(s)</u>
Applicable law for Arbitration	14.3(2) (d)	<u>If not the principle of honest and fair, state Applicable law</u>

Construction Management Contract

Part 3 Details of general Conditions

Contract No :

General Conditions	Clause	Details
Place of Arbitration	14.3(2) (e)	<u>If not Thai language, state applicable</u> <u>Arbitration</u>
Language of Arbitration	14.3(2) (f)	<u>If not Thai language, state applicable</u> <u>Language</u>

Construction Management Contract

Project :

Part 4 Particular Conditions

Contract No

[illegible]

Construction Management Contract

Project :

Part 5 List of Contract Documents

Contract No

The following documents form part of this contract

<u>Documents</u>	<u>Number</u>	<u>Unit</u>
(1)
(2)
(3)
(4)
(5)
(6)
(7)
(8)
(9)
(10).....
(11)
(12)
(13)
(14)
(15)
(16)
(17)
(18)
(19)
(20)

Construction Management Contract

Project :

Appendix 1 Scope of Services

Contract No

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Construction Management Contract

Project :

Appendix 2 Owner's Facilities

Contract No

[illegible]

Construction Management Contract

Project :

Appendix 3 Remuneration and Payment

Contract No

This image shows a full page of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page, providing a template for handwriting practice. There are no margins, text, or other markings on the page.

Construction Management Contract

Project :

Appendix 4 Consultant's Personnel

Contract No

No	Name	Qualification	Experience		Part time or Full Time at Site
			Field	Years	
1					
2					
3					
4					
5					
6					
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Construction Management Contract

Project :

Appendix 5 Schedule of Services

Contract No

This image shows a full page of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page, providing a template for handwriting practice. There are no margins, text, or other markings on the page.