



OWNER-CONTRACTOR AGREEMENT

KNOWN ALL MEN BY THESE PRESENT

This Agreement, made and executed this _____ day of _____ 2016 at Quezon City Philippines, by and between:

_____ with _____ residential address at _____ hereinafter referred to as the
“OWNER”

-And-

BENDAL DESIGN AND BUILDERS, a private design and construction company duly organized under Philippine law, with office and postal address at # 07 Tacloban St. Pael Culiati Quezon City represented by _____, a sole proprietor and Owner/ Principal Architect of BENDAL Design and Builders Hereinafter referred to as the
“CONTRACTOR”

WITNESSETH: That

WHEREAS, the OWNER is desirous that certain work should be constructed namely ” _____ ” situated at _____, and has accepted the bid by the CONTRACTOR for the construction and completion of such works.

WHEREAS, the proper Bidding procedure has been undertaken for this purpose as Evidence by the Owner which recognizes this transaction as Public Bidding without newspaper _____ publication in _____ the _____ amount of _____ which is the amount approved by the OWNER

WHEREAS, in this OWNER-CONTRACTOR AGREEMENT words and expressions shall have the same meaning as are respectively assign to them in the Contract (General Conditions Provisions and Special Conditions Provisions), which likewise form an integral part of this Owner-Contractor Agreement.

NOW, THEREFORE, for and in consideration of the foregoing premises and the terms and conditions hereinafter set forth, the parties hereto have agreed as follows

ARTICLE I

CONTRACT DOCUMENTS

The following documents shall form and be interpreted and constructed as part of this Agreement.

1. General and Special Conditions of the Contract
2. Bidding Documents
3. Scope of Works
4. Drawing and Plans
5. Technical Specifications

- 1.01 All stipulations, documentary requirements, warranties and other terms and conditions which are, and can be agreed upon by the OWNERS and the CONTRACTOR during and after the bidding process for this Project, but are not explicitly provided herein, shall still form part of this Agreement.
- 1.02 Any all deficiencies that can be found in this Agreement which are intended to be covered by it but are not expressly stated herein shall be supplied by any of a foresaid Contract Documents.
- 1.03 In case of doubt or conflict between and among the provisions of this Agreement, and/or between the above Contract Documents and this Agreement, the CONTRACTOR shall refer the same in the Writing to the OWNER for clarification and guidance. The clarification or determination made by the OWNER shall be bidding and conclusive upon the parties. The CONTRACTOR shall not make any change or alteration in the plans, conditions and specifications of the project without prior written approval by the OWNER.
- 1.04 The parties herein, may in writing, agree to any revision, alteration or addition to the terms and conditions of his agreement, provided the same shall not be in violation of any law, rule or regulation governing contracts of infrastructure of government.

ARTICLE II

SCOPE OF WORKS AND RESPONSIBILITIES OF THE CONTRACTOR

- 2.01 The CONTRACTOR shall furnish and provide for its account all the necessary materials, labor, tools, supplies, equipment, plant and other facilities as required for the satisfactory

performance and accomplishment of the PROJECT in accordance with and as directed by the Contract Documents.

- 2.02 The CONTRACTOR hereby warrants and guarantees that all the materials to be supplied by it under this Agreement are new, first class, free from defects and shall fully comply in every respect with the specifications, approved samples and other requirements of the contract plan and other related Contract Documents. The CONTRACTOR shall make no substitution for materials required to furnish by it under the agreement unless written approval is first obtained from the OWNER. The CONTRACTOR warrants that the materials to be supplied by it are free and clear of all liens and encumbrances.
- 2.03 The CONTRACTOR shall employ sufficient number of men to carry out the various phases of work diligently and efficiently in order to complete the PROJECT in accordance with the agreed Work Program.
- 2.04 For the effective and efficient accomplishment of the PROJECT, overall coordination shall be done by the OWNER's Construction Supervision Group/ Technical Working Group/ Owner's representative.
- 2.05 The CONTRACTOR recognizes the position of trust and confidence vested on it by this agreement and agrees to furnish its best skill and judgment and to cooperate with the OWNER's representative/s in furthering efficient administration and supervision in accomplishing this PROJECT, to have adequate supply of workmen and materials, to secure the execution of this agreement in the soundest way and in the most expeditious and economical manner.
- 2.06 The CONTRACTOR shall be responsible for the storage and safekeeping of its materials. Any damages, losses and pilferages to these materials shall be for its sole account.
- 2.07 It is hereby mutually understood and agreed that the CONTRACTOR is an independent contractor not an employee of the OWNER. Neither shall the personnel, workmen or sub-contractors of the CONTRACTOR be deemed employees of the owner. Hence, the OWNER shall not in any way be liable or responsible for any personal injury or damages including death sustained or caused by any of the employees of the CONTRACTOR and or its subcontractors during the lawful performance of their duties. The CONTRACTOR shall at all times be directly responsible and liable for the enforcement of and compliance with all existing laws, rules and regulations particularly in respect of any and all claims brought by its personnel for the enforcement of the provisions of the Labor Code of the Philippines and other related laws. The CONTRACTOR hereby holds the OWNER free and harmless from all such claims and liabilities.

- 2.08 The CONTRACTOR agrees and binds itself to indemnify the OWNER for whatever injuries or damages suffered by reason of failure, negligence, delay or conduct on the part of the CONTRACTOR and/ or its employees in the performance of its obligation.
- 2.09 The CONTRACTOR shall provide storage and delivery facilities for the testing concrete, CHB, steel bar and other materials required for the PROJECT. Testing laboratories shall accredited by Bureau of Research and Standards (BRS) of the DPWH, Department of Science and Technology (DOST), Department of Trade and Industries (DTI) in accordance with industry guidelines. Testing fees shall be paid by the CONTRACTOR.
- 2.10 The CONTRACTOR shall also comply with all laws and regulation promulgated by the government of the republic of the Philippines or any of its instrumentalities applicable to this PROJECT and shall be personally and solely responsible for any violation of the same
- 2.11 The CONTRACTOR shall hold the OWNER, its Officers, agents and employees, free and harmless against any claim, loss, damages, or injuries of whatever kind or nature that may be filled or claimed against the owner by any third person, firm or entity arising out of or in connection with the construction undertaken by the CONTRACTOR, its agents servants and employees.
- 2.12 The CONTRACTOR shall be responsible for maintain the general cleanliness and sanitation of the site shall undertake clearing of the site and removal of the construction debris during the entire contract period
- 2.13 After the completion but before the acceptance of the work and final settlement is made between the parties, the CONTRACTOR shall forthwith remove all the surplus materials, scaffoldings, apparatus, machinery, tool and equipment not part of the project, furnished or supplied by its and shall remove all debris and leaved the work free and clean of all obstruction and hindrances.
- 2.14 All provision with respect to warranties contained in this Agreement are cumulative and all alternatives are in addition to such warranties as may be provided by the law or contained in the other provision of this Agreement.

ARTICLE III

RIGHTS AND OBLIGATION OF THE OWNER

- 3.01 The OWNER and/or its representatives may, without invalidating this Agreement or the Contract Documents, at any time during the progress of the work by its written instruction to the CONTRACTOR, cause alteration in the original plans and specification by way of addition, deletion or otherwise deviations therefrom, and the work shall be executed by the

CONTRACTOR under the direction of the Architect/Owner's Construction Supervisor, in the same manner as if such have been included in the original plans and specifications. In which case, any additional cost/ expenses that can be incurred by reason of such alteration, over and above the original contract price shall be borne by the Owner

- 3.02 The OWNER shall inform the CONTRACTOR of any pending litigation involving the former, which might adversely tend to affect the PROJECT, and/or the relations and obligation of each party to one another. Upon notification by the OWNER thereof, the CONTRACTOR shall acknowledged the notice by executing a document duly notarized sating it has been informed thereof.

ARTICLE IV CONTRACT PRICE

- 3.01 The OWNER shall pay the CONTRACTOR, in consideration for the satisfactory performance and accomplishment of all the obligation herein specified which the CONTRACTOR agrees to undertake, perform and accomplish, total amount of _____ for this project.
Exclusive of all applicable government fees and taxes

ARTICLE V TERMS OF PAYMENT

- 5.01 The OWNER in its interest to have the project started and completed on time stipulates to give the CONTRACTOR an advance payment of **THIRTY PERCENT (30%) OF** _____ which is _____

- 5.02 It is hereby agreed that, what, whenever by reason of the causes mentioned in paragraph 3.02 of the Article III hereof and Paragraph 9.02 of Article 9 of this Agreement it becomes legally and/or physically impossible for either of the parties to perform their respective obligations, any of the parties may legally demand to rescind this Agreement, and return to the OWNER the amount that has already been paid for this PROJECT, and indemnify the actual damages due to the concerned party.

- 5.03 The advance payment shall be made only 1-2 days upon signing of Contract Agreement.

5.04 The balance shall be paid in progress payment once every 2 weeks (12) day based on actual work completed. Progress payments on account of this Agreement shall be made at the CONTRACTOR'S request to base on the computed progress of work provided however, that the following amount on each progress payment shall be deducted by the Owner.

1. Five Percent (5%) retention
2. Pro-rated Advance payment of 30% of the value of its progress
3. Payment until advance payment is fully liquidated or paid for by the CONTRACTOR

5.05 The first progress of billing shall be processed only after the CONTRACTOR has accomplished an amount Equivalent to or more than the 30% of construction development.

5.06 The CONTRACTOR shall submit its billing on actual accomplishment to the OWNER through PROJECT DESIGNER ARCH_____. The PROJECT DESIGNER shall process, certify to the correctness of and make appropriate recommendation as to said billings within (5) working days from the receipt thereof, and the OWNER shall pay the CONTRACTOR within five (5) working days upon receipt of said billings from the PROJECT DESIGNER together with the latter's appropriate recommendation. In no case shall any payment to the CONTRACTOR be more than the latter's accomplishment, except in the form of advance payment.

5.07 Failure on the part of the OWNER to pay the CONTRACTOR'S billings within six (6) calendar days from submission to the CONTRACTOR'S due to causes imputable to the OWNER shall entitle the CONTRACTOR to suspend work on the PROJECT. No certificate given or payment made under this Agreement except the certificate of final payment shall be the conclusive evidence of the performance of this agreement, either wholly or in part, and no payment shall be considered to be an acceptance of defective work or improper materials

5.08 Should the OWNER require the CONTRACTOR to perform any additional work or extra work to omit or reduce any work, the cost of additional/ or omitted or reduce work shall be added to or deducted from the amount stated in Article IV hereof (CONTRACT PRICE) and the computation of the cost shall be based on the unit price scheduled.

5.09 Under no circumstances shall the CONTRACTOR be entitled to payment for any extra work or change of work without the written order of the OWNER to perform such work. Any work done without such expressed order shall be for the sole account of the CONTRACTOR.

5.10 Any payment due to the CONTRACTOR may be offset against any liquidated damages due to the OWNER under this agreement.

ARTICLE VI

RETENTION MONEY

- 6.01 Progress payments are subject to retention of five percent (5%) referred to as the "retention money". Such retention shall be based on the total amount due to the contractor prior to any deduction and shall be retained from every progress payment until thirty percent (30%) of the value of works, as determined by the OWNER, are completed. If, after thirty percent (30%) completion, the work is satisfactorily done and on schedule, no additional retention shall be made; otherwise, the five percent (5%) retention shall be imposed.
- 6.02 The total "retention money" shall be due for release upon final acceptance of the works.

ARTICLE VII

CONTRACTOR GUARANTEE OF WORK

- 7.01 The CONTRACTOR further agrees to guarantee its work against qualitative defects, poor workmanship and the like for a period of one (1) year reckoned from the date of final acceptance of the PROJECT, during which time, in cases of defects, failure and poor workmanship of any parts of the PROJECT due to normal use, the CONTRACTOR shall make good such defects and or failures at no expenses to the OWNER.

ARTICLE VIII

OPTION TO COMPLETE WORK OR TAKEOVER

- 8.01 If at any time during the progress of the work, the CONTRACTOR should fail, refuse or neglect to supply and provide the required tools, materials, supplies, equipment, facilities and labor workmen or should abandon or fail to continue with the project, the OWNER may at his/her option, take over the work and complete the same or engage the service of another contractor to do the same all at the expense and for the account of the CONTRACTOR. In any case, the CONTRACTOR shall also be liable to the OWNER of all damages incurred by the latter.

ARTICLE IX

OWNER'S RIGHT TO TERMINATE/SUSPEND CONTRACT

9.01 **TERMINATION WITH CAUSE** the OWNER may immediately terminate this Agreement, without prior notice to the CONTRACTOR, upon the occurrence of any of the following cases:

- a. If the CONTRACTOR makes a general assignment of his assets for the benefit of his creditors;
- b. If the CONTRACTOR files a petition for suspension of payments or to reorganized under the bankruptcy or similar laws

9.02 **OTHER GROUNDS FOR TERMINATION WITH CAUSE.** The OWNER may terminate this Agreement upon the occurrence of any of the following

- a. The CONTRACTOR disregards the Laws or Lawful order of any public body having jurisdiction
- b. The CONTRACTOR violates any provision of this Agreement

The OWNER may after giving the CONTRACTOR 10 days written notice, terminate the services of the CONTRACTOR.

9.03 **TERMINATION WITHOUT CAUSE** Upon 10 days written notice to the CONTRACTOR, the OWNER without prejudice to any other right or remedy, may elect to abandon the work and terminate the Contract. In such case the CONTRACTOR shall be paid for all work executed and any expense sustained plus reasonable termination expenses.

ARTICLE X

CONTRACTIME, COMPLETION DATE

10.01 The work to be performed by the CONTRACTOR under this Agreement shall commence one (3) day after upon signing of this Agreement or upon issuance of notice to proceed and shall be completed and delivered as define in the contract in (90) calendar days;

10.02 Any and all extension of time in the completion of the project shall be authorized or granted by the OWNER upon written request of the CONTRACTOR for any of The following causes or reason:

- a. Force Majeure or unforeseen or unforeseeable events and circumstances;

- b. Causes or events, which are beyond the control and without the fault or negligence of the CONTRACTOR

ARTICLE XI

PROJECT COMPLETION

11.01 When the project reaches an accomplishment of ninety-five percent (95%) of the total contract amount, the OWNER may create an inspectorate team to conduct preliminary inspection and submit a punch-list to the CONTRACTOR in the preparation for the final turnover of the project. Said punch list shall contain, among others, remaining works, work deficiencies for necessary correction, and the specific duration/ time to fully complete for necessary correction and specific duration/ time to fully complete the project considering the approved remaining contract time.

OWNER

CONTRACTOR

Sign in the presence of

PROJECT DESIGNER

