

**ROYAL IRRIGATION DEPARTMENT
MINISTRY OF AGRICULTURE AND COOPERATIVES
KINGDOM OF THAILAND**

THE BANG PAKONG DIVERSION DAM PROJECT

BIDDING DOCUMENTS

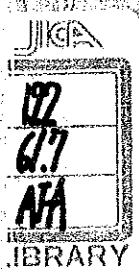
VOLUME II : CONDITIONS OF CONTRACT

NOVEMBER 1993

Prepared by :

JAPAN INTERNATIONAL COOPERATION AGENCY (JICA)

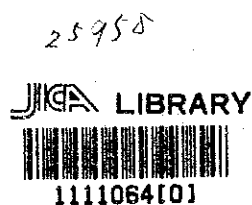
SANYU CONSULTANTS INC.



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国際協力事業団

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G. FORM OF CONTRACT

G : FORM OF CONTRACT

Contract No. _____

CONTRACT FOR CONSTRUCTION OF THE BANG PAKONG DIVERSION DAM PROJECT

This Contract is executed and delivered this ____ day of ____ B.E. ____ (A. D. ____), at _____ Bangkok, Thailand, between Royal Irrigation Department, Ministry of Agriculture and Cooperatives, Government of Kingdom of Thailand, represented by _____ hereinafter called "the Employer") of the One Part and _____ a corporation organized under the laws of _____ with its registered business office at _____ represented by _____ hereinafter called "the Contractor") of the Other Part.

The Employer and the Contractor mutually agree as follows;

G-1 CONTRACT DOCUMENTS

The following documents are attached to the Contract and are incorporated and made an integral part of the Contract as fully written out and set forth herein:

- Volume I : INSTRUCTIONS TO BIDDERS
- Volume II : CONDITIONS OF CONTRACT
- Volume III : SPECIFICATIONS
- Volume IV : CONTRACT DRAWINGS
- Volume V : BILL OF QUANTITIES
- Addenda and circular letters issued during the bidding period.

All of the foregoing documents together with this Contract are referred to herein as the Contract Documents. Also incorporated into the Contract, and made part hereof, are all codes, designation, standards, standard specifications, and similar requirements which are referred to in the Conditions of Contract and Specifications.

The priority order amongst the Contract Documents is defined as follows:

- 1 - The Contract
- 2 - Conditions of Contract and Supplementary Conditions of Contract. In case any discrepancy appears between the two, the provisions of Supplementary Conditions of Contract shall prevail.
- 3 - Specifications
- 4 - Priced Bill of Quantities. Whenever the matter of discrepancy is related to the unit price of the Works, the Bill of Quantities shall take precedence over any other document.
- 5 - Contract Drawings

Note: The original Bid Documents submitted by the Contractor shall be kept by the Employer for reference.

G-2 OBLIGATIONS OF THE CONTRACTOR

The Contractor agrees to perform efficiently and faithfully all of the Works and to furnish all of the equipment and materials described in the Contract Documents and to supply or provide all equipment, materials, supplies, labor and other facilities requisite for, or incidental to, the successful completion of the Works and to carry out all duties and obligations imposed by the Contract Documents.

It is agreed that the Contractor shall, in the performance of the works, provide and employ technicians who have passed the technical standard test from governmental test institutions or have obtained a professional Certificate or a High Professional Certificate or a Technical Training Certificate or equivalents from the institution approved by the Office of the Civil Service Commission for entering the government service for not less than Ten (10) percent of each technical branch. However, there must be at least one technician in each of the following branches:

- (1) Brick Layer
- (2) Carpenter
- (3) Construction Technician
- (4) Draftsman
- (5) Electrician
- (6) Mechanic
- (7) Plasterer

- (8) Reinforcing Journeyman
- (9) Welder

The Contractor shall prepare a list showing the number of all technicians categorized according to their technical branches and levels and the names of the technicians who have passed the technical standard test or acquired the Certificate as mentioned above. The list together with related evidence shall be submitted to the Inspection Committee before the commencement of the Works and shall be kept ready for inspection at any time by the Employer or his representative during the term of this Contract.

G-3 OBLIGATIONS OF THE EMPLOYER

The Employer agrees, subject to the terms and conditions of the Contract Documents, to pay the Contractor the amount specified, at the rates and terms and in the manner set forth in the Contract Documents.

G-4 CONTRACT PRICE AND TIME FOR COMPLETION

The Employer agrees to pay the cost of the Works and the Contractor agrees to accept the cost of the Works to be executed for the following total amount.

Contract Price :

Baht _____
(_____)

The above amount is based on the unit prices and prices specified in the Bill of Quantities and such other sums as may be ascertained under the Conditions of the Contract.

The Contractor shall complete the Works within Forty Two (42) months from the date stipulated in the Notice to Proceed issued by the Employer.

G-5 NOTICES

All notices called for by the terms of the Contract Documents shall be in writing in the English language and shall be delivered by hand or by registered mail to the party's address.

All notices shall be deemed to be duly made when received by the party at the following address or such other address as one party may subsequently notify to the other:

the Employer _____

the Contractor _____

G-6 INTEGRATION

The Employer and the Contractor agree that the Contract, including the Contract Documents, expresses all of the agreements, understandings, promises, and covenants of the parties, and that it integrates, combines, and supersedes all prior and contemporaneous negotiations, understandings and agreements, whether written or oral, and that no modification or alteration of the Contract shall be valid or binding on either party, unless expressed in writing and executed with the same formality as the Contract, except as may otherwise be specifically provided in the Contract.

G-7 COUNTERPARTS

This Contract is executed in Three (3) identical counterparts, one for the Employer, one for the Contractor, and one for the records of the Employer's Consultant.

Both parties have read and understood all details in this Contract and all of the Contract Documents and hereto appended their respective signatures and affixed their seals in the presence of witnesses.

the Employer

By _____
()

the Contractor

By _____
()

Witness :

()

Witness :

()

H. CONDITIONS OF CONTRACT

H : CONDITIONS OF CONTRACT

H-1 Definitions and Interpretations

1. Definitions

The following words and expressions, wherever used in the Contract, shall have the meaning herein assigned to them except where the context requires otherwise:-

Addendum or Addenda	means the additional contract provisions(s) issued in writing by the Employer.
Approval	means written approval of the Employer on the particular and specified subject including subsequent written confirmation of previous verbal approval or consent of the Employer.
Construction Drawings	means the combination of contract drawings and shop drawings.
Constructional Plant	means all appliances or things of whatever nature required in or for the execution, completion or maintenance of the Works or Temporary Works (as hereinafter defined) but does not include materials or other things intended to form or forming part of the Permanent Works.
Consultant	means the Consultant designated as such in the Clause I-1 of I. Supplementary Conditions of Contract or other Consultant appointed from time to time by the Employer and notified in writing to the Contractor to act as Consultant for the purpose of the Contract.
Contract Documents	has the same meaning as defined in clause G-1 of the Form of Contract.
Contractor	means the registered partnership, limited company or other juristic person, either alone or in joint venture whose bid has been accepted by the Employer and who agrees to accomplish the Works for the Employer and includes the Contractor's personal representatives, legal successors and permitted assignees.
Contract Price	means the sum specified in the Contract subject to such additions thereto or deductions therefrom, as may be made under the provisions herein contained.
Days	means consecutive calendar days unless otherwise specified.
Employer	means Royal Irrigation Department, Ministry of Agriculture and Cooperatives and its authorized representatives.

Director	means the person designated by the Employer for the purpose of the Contract, the Project Director, and also means the authorized representative of the Director.
Dispute	means the lack of agreement between the parties that have obligations, duties or responsibilities under the terms of Contract.
Drawings	means the drawings referred to in the Contract Documents and any modification of such drawings as may be furnished or approved in writing by the Employer.
Force Majeure	means any event, the happening or pernicious results of which could not be prevented even though a party against whom it happened or threatened to happen were to take such appropriate care as might be expected from him in his situation.
Inspection Committee	means the representatives of the Employer and has the right of final construction inspection. The Inspection Committee shall be appointed to make final construction inspection as stipulated in H-23 hereof and any other inspections necessary at all times while the Contractor is preparing to work or is working.
Modification or Variation Order	means written interpretations, changes or revisions of the Contract Documents issued by the Employer, and received by the Contractor after the award of the Contract.
Month	means calendar month according to Gregorian Calendar.
Nominated Subcontractor	means an individual, firm or company who will be nominated by the Contractor to execute particular part of the Works, and notified in writing to the Employer to act as Subcontractor.
Notice of Award	is a written notice to the Successful Bidder stating that his bid has been accepted and that he is required to execute the Contract and furnish the required performance security.
Permanent Works	means permanent structures to be constructed and completed in accordance with the Contract Documents.
Provisional Sums	means a sum included in the Contract and so designated in the Bill of Quantities for the execution of the Works or for the supply of goods, materials or services.

Site	means the lands and other places on, under, in or through which the Works are to be executed or carried out and any other lands or places provided by the Employer for the purpose of the Contract together with such other places as may be specifically designated in the Contract Documents as forming part of the said lands and places.
Special Risks	means war, hostilities (whether war be declared or not), invasions, act of foreign enemies, or insofar as it relates to Thailand, rebellion, revolution, insurrection, military or usurped power, civil war, ionizing, radiations or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, nuclear assembly or nuclear component thereof, or pressure waves caused by aircraft or other aerial devices traveling at sonic or supersonic speeds, provided that the happening of the foregoing events could not be prevented even though a party against whom it happened or threatened to happen were to take such appropriate care as might be expected from him in his situation.
Subcontractor	means an individual, firm or corporation to whom any part of the Contract has been assigned with the consent, in writing, of the Employer and the legal personal representatives, successors and permitted assignees of such individual, firm or corporation.
Successful Bidder	means the registered partnership, limited company or other juristic person either alone or in joint-venture whose bid to do the work has been accepted by the Employer.
Site Manager	means the authorized representative of the Contractor whose duties are set forth in Clause H-5 of Conditions of Contract.
Supplier	means an individual, firm or corporation that sells materials, equipment or services to the Contractor or his subcontractors.
Temporary Works	means all temporary works of every kind required in or for the execution, completion or maintenance of the Works.
Work	means and includes equipment (machinery) and/or materials to be supplied and all of the various classes of work and services to be executed temporarily or permanently under the terms of the Contract.
The Works	means the Temporary Works and the Permanent Works to be executed in accordance with the Contract Documents.

2. Singular and Plural

Words importing the singular only also include the plural and vice versa where the context requires.

H-2 Performance Security

Before or at the time of signing of the Contract the Successful Bidder shall furnish to the Employer a Performance Security in the prescribed form issued by a bank in Thailand and acceptable to the Employer. The amount of Performance Security shall be Five (5) percent of the Contract Price.

The said security shall be released within _____ () days after the expiry of the specified period of maintenance or at such later time as the Contractor has discharged all his obligations to the Employer under the Contract. The Contractor shall maintain the validity of the security accordingly.

H-3 Assignment and Subcontracting

1. The Contractor shall not assign the Contract or any part thereof, or any benefit or interest therein or thereunder without the prior written consent of the Employer.

Provided that the Contractor may transfer any monies due or to become due under the Contract in favor of his bankers without written consent of the Employer but shall notify the Employer of such transfer.

2. 1) The assignment of the claims for the payment under the Contract shall only be made to a local bank or finance company authorized by the Bank of Thailand to conduct finance and suretyship business.
- 2) The Party who proposes to be the assignor shall issue a receipt stating the amount which shall be deducted for the withholding income tax and indicate the amount as the cost of works or cost of goods.
3. The Contractor shall not subcontract the whole of the Works. Except where otherwise provided by the Contract, the Contractor shall not subcontract any part of

the Works without the prior written consent of the Employer. Such consent, if given, shall not relieve the Contractor from any liability or obligation under the Contract and he shall be liable for the defaults and neglects of any subcontractor, his agents or workmen.

H-4 Drawings

1. The Drawings shall remain in the sole custody of the Employer, but two copies thereof shall be furnished to the Contractor free of charge. The Contractor shall provide and make at his own expense any further copies required by him.
2. One copy of the Drawings, furnished to the Contractor as aforesaid, shall be kept by the Contractor on the Site and one copy shall at all reasonable times be available for inspection and use by the Employer and by any other person authorized by the Employer in writing.
3. The Contractor shall give written notice to the Employer whenever planning or progress of the Works is likely to be delayed or disrupted, unless any further drawing or order is issued by the Employer within a reasonable time. The notice shall include details of the drawing or order required and of why and by when it is required and of any delay or disruption likely to be suffered if it is late.

H-5 General Obligations

1. The Contractor shall take full responsibility for the adequacy, liability and safety of all Site operations and methods of construction.
2. The Employer shall have made available to the Contractor the technical data which shall have been obtained by or on behalf of the Employer from investigations undertaken relevant to the Works and the bid is deemed to have been based on, but the Contractor shall be responsible for his own interpretation thereof.
3. The Contractor shall be deemed to have inspected and examined the Site and its surroundings and the information available in connection therewith and to have satisfied himself, before submitting his bid, as to the form and nature thereof, including the subsurface conditions, the hydrological and climatic conditions, the

extent and nature of work and materials necessary for the completion of the Works, the means of access to the Site and the accommodation he may require, and in general, the Contractor shall be deemed to have obtained all necessary information, subject to the above-mentioned, as to risks, contingencies and all other circumstances which may influence or affect his bid.

4. The Contractor shall be deemed to have satisfied himself before bidding as to the correctness and sufficiency of his bid for the Works and of the unit prices and prices stated in the Priced Bill of Quantities and the Schedule of Unit Prices for Construction Equipment, Materials and Man-Power, if any, and those prices shall, except insofar as it is otherwise provided for in the Contract, cover all his obligations under the Contract and all matters and things necessary for the proper execution and maintenance of the Works.
5. Save insofar as it is legally or physically impossible the Contractor shall execute and maintain the Works in strict accordance with the Contract to the satisfaction of the Employer and shall comply with and adhere strictly to the instructions and directions of the Employer on any matter whether mentioned in the Contract or not, concerning the Works.
6. The Contractor shall give or provide all necessary superintendence during the execution of the Works and as long thereafter as the Employer may consider necessary for the proper fulfilling of the Contractor's obligations under the Contract. The Contractor, or his Site Manager who shall be approved in writing by the Employer, whose approval may at anytime be withdrawn, is to be constantly on the Works and shall give his whole time to the superintendence of the same. If such approval is withdrawn by the Employer, the Contractor shall, as soon as practicable, having regard to the requirement of replacing him as hereinafter mentioned, after receiving notice of such withdrawal, remove the Site Manager from the Works and shall not thereafter employ him again on the Works in any capacity and shall replace him by a new Site Manager approved by the Employer. Such Site Manager shall receive, on behalf of the Contractor, directions and instructions from the Employer.
- 7(1) The Contractor shall provide and employ on the Site in connection with the execution and maintenance of the Works:

- (a) only such technical assistants as are skilled and experienced in their respective callings and such sub-agents, foremen and leading hands as are competent to give proper supervision to the Works, and
 - (b) such skilled, semi-skilled and unskilled labor as is necessary for the proper and timely execution and maintenance of the Works.
- 7(2) The Employer shall be at liberty to object and require the Contractor to remove forthwith from the Works any person employed by the Contractor in or for the execution or maintenance of the Works who, in the opinion of the Employer, misconducts himself, or is incompetent or negligent in the proper performance of his duties, or whose employment is otherwise considered by the Employer to be undesirable and such person shall not be again employed upon the Works without the written permission of the Employer. Any person so removed from the Works shall be replaced as soon as possible by a competent substitute approved by the Employer.
8. The Contractor shall in connection with the Works provide and maintain at his own cost all lights, guards, fencing and watch when and where necessary or required by the Employer for the protection of the Works, or for the safety and convenience of the public or others.
9. The Contractor shall procure and employ the successful testee of the standard test from the governmental test institution or those who have held vocational or technical diplomas or certificates or other academic degrees accredited by the Office of the Civil Service Commission eligible for admission to government service at the rate of not less than Ten (10) per cent of all but at least one technician for each of the following fields:
- (1) Brick Layer
 - (2) Carpenter
 - (3) Construction Technician
 - (4) Draftsman
 - (5) Electrician
 - (6) Mechanic
 - (7) Plasterer
 - (8) Reinforcing Journeyman
 - (9) Welder

The Contractor shall present a list showing the number and rank of all technicians in each field as well as the names of the successful testees or those who have held certificates, diplomas, or degrees as aforementioned including other evidences to the Work Inspection Committee or the Superintendents before setting out the works, and be ready for the inspection of the Consultant during the period of the Contract.

H-6 Care of Works

From the commencement of the Works until the date stated in the Certificate of Completion for the whole of the Works pursuant to Clause H-23 hereof the Contractor shall take full responsibility for the care thereof. When the Employer has issued a Certificate of Completion in respect of the Permanent Works the Contractor shall cease to be liable for the care of the Permanent Works from the date stated in the Certificate of Completion and the responsibility for the care of the Works shall pass to the Employer. Provided that the Contractor shall take full responsibility to complete any outstanding work as specified in clause H-23 hereof. In case damage, loss or to injury shall happen to the Works, or to any part thereof, from any cause whatsoever, save and except "Special Risks" and the cause due to the design of the Works for which the Contractor is not responsible, while the Contractor shall be responsible for the care thereof, the Contractor shall, at his own cost, repair and make good the same, so that at completion, the Works shall be in good order and condition and in conformity in every aspect with the requirements of the Contract. In the event of any such damage, loss or injury occurring from Special Risks and the afore-mentioned cause, the Contractor shall, if and to the extent required by the Employer and subject to the provisions of Clause H-32 hereof, repair and make good the same as aforesaid at the cost of the Employer. The Contractor shall also be liable for any damage to the Works occasioned by him in the course of any operations carried out by him for the purpose of complying with his obligations under Clause H-24 hereof.

H-7 Insurance of Works

1. Without limiting his obligations and responsibilities under Clause H-8 hereof, the Contractor shall so far as insurable by using his best effort, at his own cost, insure in the joint names of the Employer and the Contractor against all loss or damage to the Works from whatever cause, including strike, riot and civil commotion, arising

during the performance under the Contract in such a manner that the Employer and the Contractor are covered for the period stipulated in Clause H-6 hereof and the Period of Maintenance and against any loss or damage occasioned by the Contractor in the course of any operations carried out by him for the purpose of complying with his obligations under Clause H-24 hereof:-

- (a) The Works for the time being executed to the estimated current contract value thereof, or such additional sum as may be specified together with the materials for incorporation in the Works at their replacement value.
 - (b) The Constructional Plant and other things brought on to the Site by the Contractor to the replacement value.
2. Such insurance shall be effected with an insurer registered or authorized to do business in Thailand in terms approved by the Employer, whose approval shall not be unreasonably withheld, and the Contractor shall, whenever required, produce to the Employer the policy or policies of insurance and the receipts for payment of the current premiums.

H-8 Damage to Persons and Property

The Contractor shall, except if and insofar as the Contract provides otherwise, indemnify and save harmless the Employer against and from all losses and claims in respect of injuries or damage to any person, material or physical damage to any property whatsoever which may arise out of, or in consequence of, the execution and maintenance of the Works and against all claims, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto except any compensation or damages for or with respect to :-

- (a) The permanent use or occupation of land by the Works or any part thereof, which is not caused by the fault of the Contractor, his agents or his employees.
- (b) The right of the Employer to execute the Works, or any part thereof, on, over, under, in or through any land.
- (c) Injuries or damage to persons or property solely resulting from any act or neglect of the Employer or his employees.

H-9 Liability Insurance

1. Without in anyway limiting the Contractor's obligations and responsibilities under Clause H-8 above the Contractor shall carry insurance, at his own cost, with an insurer registered or authorized to do business in Thailand as follows:-

(a) For all workmen and employees employed for the Works

This insurance shall cover against all liabilities of the Contractor, including those of any subcontractors, in respect of any damages or compensations payable according to the law in consequence of any accident or injury to any workman or other person in the employment of the Contractor or any subcontractors.

(b) For Third Party

Before commencing the execution of the Works the Contractor (but without limiting his obligations and responsibilities under Clause H-8 hereof) shall insure against damage, loss or injury which may occur to any property (including that of the Employer) or to any person (including any employee of the Department) by or arising out of the execution of the Works or Temporary Works or in carrying out the Contract. Such insurance shall be effected with an insurer and in terms approved by the Employer (whose approval shall not be unreasonably withheld) for at least _____ Baht for bodily injury and _____ Baht for property damage in respect of any one accident or series of accidents arising out of any one event and the Contractor shall, whenever required, produce to the Employer the policy or policies of insurance and the receipts for payment of the current premiums.

2. If the Contractor shall fail to effect and keep in force the insurance referred to in Clauses H-7 and H-9.1 hereof, or any other insurance which he may be required to effect under the terms of the Contract, then and in any such case the Department may effect and keep in force any such insurance and pay such premium as may be necessary for that purpose and from time to time deduct the amount so paid by the Employer as aforesaid from any monies due or which may become due to the Contractor or recover the same as a debt due from the Contractor.

H-10 Compliance with Laws and Regulations, etc.

1. The Contractor shall give all notices and pay all fees required by laws, regulations, or by-laws of local or other duly constituted authorities in relation to the execution of the Works and by the rules and regulations of all public bodies and companies whose property or rights are affected or may be affected in any way by the Works.
2. The Contractor shall conform in all respects with the provisions of statutes, ordinances, laws, regulations or by-laws of local or other duly constituted authorities and of such rules and regulations of public bodies and companies which may be applicable to the Works, and shall keep the Employer indemnified against any penalty and liability of every kind for breach of any such provisions.

H-11 Access to Other Contractors

The Contractor shall afford all reasonable opportunities for carrying out their work to any other contractors employed by the Employer and their workmen and to the workmen of the Employer and of any other duly constituted authorities who may be employed in the execution on or near the Site of any work not included in the Contract or of any contract which the Employer may enter into in connection with, or ancillary to, the Works.

H-12 Contractor to Keep Site Clean

1. During the progress of the Works the Contractor shall keep the Site reasonably free from all unnecessary obstruction and shall store or dispose of any Constructional Plant and surplus materials and clear away and remove from the Site any wreckage, rubbish or Temporary Works no longer required.
2. On the completion of the Works the Contractors shall clear away and remove from the Site all Constructional Plant, surplus materials, wreckage, rubbish and Temporary Works of every kind, and leave the whole of the Site and Works clean and in workmanlike condition to the satisfaction of the Employer.

H-13 Labor

1. The Contractor shall make his own arrangements for the engagement of all staff and labor, local or otherwise, save insofar as the Contract otherwise provides, for the transport, housing, feeding and payment thereof.
2. The Contractor shall, so far as is reasonably practicable, having regard to local conditions, provide on the Site to the satisfaction of the Employer, an adequate supply of drinking and other water for the use of the Contractor's staff and workmen.
3. The Contractor shall not, other than in accordance with the laws and regulations or orders being in force, import, sell, give, barter or otherwise dispose of any alcoholic liquor or drugs, or permit or suffer his subcontractors, agents or employees to import, sell, give, barter or dispose of such alcoholic liquor or drugs.
4. The Contractor shall not give, barter or otherwise dispose of to any person or persons, any arms or ammunition of any kind or permit or suffer the same as aforesaid.
5. The Contractor shall in all dealings with labor in his employment have due regard to all recognized festivals, days of rest and religious or other customs.
6. In the event of any outbreak of illness of an epidemic nature, the Contractor shall comply with and carry out such regulations, orders and requirements as may be made by the Government, or the local medical or sanitary authorities for the purpose of dealing with and overcoming the same.
7. The Contractor shall at all times take all reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst his employees and for the preservation of peace and protection of persons and property in the neighborhood of the Works against the same.

H-14 Materials and Workmanship

1. All materials and workmanship shall be of the kinds described in the Contract and in accordance with the Employer's instructions and subjected from time to time to such tests as the Employer may direct at the place of manufacture, fabrication, or on the Site or at such other place or places as may be specified in the Contract or at all or

any of such places. The Contractor shall provide such assistance, instruments, machines, labor and machines, labor and materials as are normally required for examining, measuring and testing any work and the quality, weight or quantity of any materials used and shall supply samples of materials before incorporating in the Works for testing as may be selected and required by the Employer.

2. All samples shall be supplied by the Contractor at his own cost if the supply thereof is clearly intended by or provided for in the Contract, otherwise the cost will be borne by the Employer.
3. The cost of making any test shall be borne by the Contractor if such test is clearly intended or provided for in the Contract and, in the case only of a test under load or of a test to ascertain whether the design of any finished or partially finished work is appropriate for the purposes which it was intended to fulfill, is stated in the Contract in sufficient detail to enable the Contractor to price or allow for the same in his Bid.
4. If any test is ordered by the Employer which is either:-
 - (a) not so intended or provided for, or
 - (b) (in the cases above mentioned) not so stated, or
 - (c) though so intended or provided for, ordered by the Employer to be carried out by an independent person at any place other than the Site or the place of manufacture, fabrication of the materials tested. Then the cost of such test shall be borne by the Contractor, if the test shows the workmanship or materials not to be in accordance with the provisions of the Contract or the Employer's instructions, but otherwise by the Employer.

H-15 Inspection of Operations

1. The Employer and any person authorized by him shall at all times have access to the Works and to all workshops and places where work is being prepared or where materials, manufactures, articles or machinery are being obtained for the Works and the Contractor shall afford every facility and every assistance in obtaining the right to such access.
2. No work shall be covered up or put out of view without the approval of the Employer and the Contractor shall afford full opportunity for the Employer to examine and

measure any work which is about to be covered up or put out of view and to examine foundations before Permanent Works is placed thereon. The Contractor shall give due notice to the Employer whenever any such work or foundations is or are ready or about to be ready for examination and the Employer shall, without unreasonable delay, unless he considers it unnecessary and advises the Contractor accordingly, attend for the purpose of examining and measuring such work or of examining such foundations.

H-16 Removal of Improper Work and Materials

1. The Employer shall during the progress of the Works have power to order in writing from time to time:
 - (a) the removal from the Site, within such time or times as may be specified in the order, of any materials which, in the opinion of the Employer, are not in accordance with the Contract,
 - (b) the substitution of proper and suitable materials, and
 - (c) the removal and proper re-execution, notwithstanding any previous test thereof or interim payment therefor, of any work which in respect of materials or workmanship is not, in the opinion of the Employer, in accordance with the Contract.
2. In case of default on the part of the Contractor in carrying out such order, the Employer shall be entitled to employ and pay other persons to carry out the same and all expenses consequent thereon or incidental thereto shall be recovered from the Contractor to the Employer, or may be deducted by the Employer from any money due or to become due to the Contractor.

H-17 Suspension of Works

1. The Contractor shall, on the written order of the Employer, suspend the progress of the Works or any part thereof for such time or times and in such manner as the Employer may consider necessary and shall during such suspension properly protect and secure the Works, so far as is necessary in the opinion of the Employer. The extra cost

incurred by the Contractor in giving effect to the Employer's instruction under this Clause shall be borne and paid by the Employer unless such suspensions are:

- (a) otherwise provided for in the Contract; or
- (b) necessary by reason of some default on the part of the Contractor; or
- (c) necessary by reason of climate conditions on the Site; or
- (d) necessary for the proper execution of the Works or for the safety of the Works or any part thereof insofar as such necessity does not arise from any act or default by the Employer.

The Contractor shall not be entitled to recover any such extra cost unless he gives written notice of his intention to claim it to the Employer within Twenty-eight (28) days from the Employer's order. The Employer shall consider and determine such extra payment and/or extension of time under Clause H-20 hereof to be made to the Contractor in respect of such claim as shall be fair and reasonable.

2. If the progress of the Works or any part thereof is suspended in the written order of the Employer and if permission to resume work is not given by the Employer within a period of ____ () days from the date of suspension then, unless such suspension is within paragraph (a), (b), (c) or (d) of sub-clause (1) of this Clause, the Contractor may serve a written notice to the Employer requesting permission within ____ () days from the receipt thereof to proceed with the Works or the part thereof in regard to which progress is suspended. If such permission is not granted within that time, the Contractor by a further written notice so served may, but is not bound to, elect to treat the suspension where it affects only part of the Works as an omission of such part under Clause H-25 hereof, or where it affects the whole of the Works, as an event of termination of the Contract by the Employer under Clause H-31.

H-18 Notice to Proceed

The "Notice to Proceed" will stipulate the date on which it is expected the Contractor will begin the construction and from which date contract time will be reckoned. The Contractor shall not begin the Works before such stipulated date.

H-19 Commencement Time and Time for Completion

1. The Contractor shall commence the Works on the Site within _____ () days from the date stipulated in the Notice to Proceed from the Employer. The Contractor shall commence construction operations on the Site within _____ () days thereafter except as may be expressly sanctioned or ordered by the Employer, or be wholly beyond the Contractor's control.
2. Save insofar as the Contract may prescribe, the extent of portions of the Site of which the Contractor is to be given possession from time to time and the order on which such portions shall be made available to him and, subject to any requirement in the Contract as to the order in which the Works shall be executed, the Employer will give the Contractor possession of so much of the Site as may be required to enable the Contractor to commence and proceed with the execution of the Works in accordance with the agreed program. If the Contractor suffers delay and/or incurs costs from failure on the part of the Employer to give possession, the Employer shall grant an extension of time for the completion of the Works, provided that the Contractor shall not claim any cost for such delay.
3. The Contractor shall bear all costs and charges for special or temporary way leaves required by him in connection with access to the Site. The Contractor shall also provide at his own cost any additional accommodation outside the Site required by him for the purpose of the Works.

H-20 Extension of Time for Completion

1. Should the Contractor be delayed in the completion of the Works by any act or neglect of the Employer, or of any employee of the Employer or of any other contractor employed by the Department, or by Force Majeure or by any causes for which the Contractor is not responsible, then an extension of time sufficient to compensate for the delay will be granted by the Employer. Provided that the Employer is not bound to take into account any act or circumstance by which the Contractor claims to have been delayed unless the Contractor has within _____ () days after such act or circumstance has arisen, submitted to the Employer full and detailed particulars of any extension of time to which he may consider himself entitled in order that such submission may be investigated at the time. No claim for the extension of time will be considered by the Employer unless full and detailed particulars are submitted to the

Employer before the expiry of the time stipulated in the Contract for the completion of the Works.

Extension of time will not be granted for delays caused by unfavorable hydrological and climatic conditions, unsuitable subsurface or ground conditions, inadequate construction force or labor or inadequate budget or the failure of the Contractor to place orders for equipment or materials sufficiently in advance to ensure delivery when needed.

2. Should the amount of extra or additional work of any kind referred to in these Conditions of Contract, be such as fairly to entitle the Contractor an extension of time for the completion of the Works, the Employer shall determine the length of such extension and shall notify the Contractor accordingly.

Subject to the provisions of Clause H-32 (Special Risks) hereof, the Contractor shall not be entitled to claim expenses or any damages incurred from the delay in the completion of the Works by Force Majeure.

H-21 Rate of Progress

If for any reason, which does not entitle the Contractor to an extension of time, the rate of progress of the Works or any section is at any time, in the opinion of the Employer, too slow to ensure completion by the prescribed time or extended time for completion, the Employer shall so notify the Contractor in writing and the Contractor shall thereupon take such steps as are necessary which the Employer may approve to expedite progress so as to complete the Works or such section by the prescribed time or extended time. The Contractor shall be liable for any expenses which may incur from taking such steps and shall not be entitled to any additional payment.

H-22 Supervisory Expense and Liquidated Damages for Delay

If the Contractor fails to complete the Works within the time prescribed for the completion of the Works provided for in the Contract or extended time allowed under Clause H-20 hereof, the Contractor shall pay to the Employer the sum of _____ as liquidated damages and the sum of _____ as compensation of supervisory expense for such default for every day or part of a day which shall elapse between the

time for completion prescribed in the Contract or extended time allowed, as the case may be, and the date of certified completion of the Works. The Department may, without prejudice to any other method of recovery, deduct the amount of such liquidated damages from any money in his hands due or which may become due to the Contractor. The payment or deduction of such liquidated damages shall not relieve the Contractor from his obligation to complete the Works, or from any other obligations or liabilities under the Contract.

When liquidated damages is imposed, if, in the opinion of the Employer, the Contractor will not be able to complete the Works, then the Employer shall be entitled to, apart from the liquidated damages up to the date of termination, terminate the Contract and exercise his rights under Clause H-31.

H-23 Certificate of Completion

1. When the whole of the Works have been substantially completed and have satisfactorily passed any final test that may be prescribed in the Contract, the Contractor may give notice to that effect to the Department accompanied by an undertaking to finish any outstanding work during the maintenance period. Such notice and undertaking shall be in writing and shall be deemed to be a request by the Contractor for the Employer to issue a Certificate of Completion in respect of the Works. The Employer or the Inspection Committee shall, within ____ () days of the date of delivery of such notice, either issue to the Contractor a Certificate of Completion stating the date on which, in his opinion, the Works were substantially completed in accordance with the Contract, or give instructions in writing to the Contractor specifying all the work which, in the Inspection Committee's opinion, requires to be done by the Contractor before the issue of such Certificate. The Inspection Committee shall also notify the Contractor of any defects in the Works affecting substantial completion that may appear after such instructions and before completion of the work specified therein.
2. For the purpose of this clause the Works will be considered to be substantially complete when they are fully operational. Minor items of work can be outstanding provided these do not in any way affect full operation of the Permanent Works. The decision of the Inspection Committee with respect to what constitutes substantial completion shall be final and not subject to question by the Contractor.

3. When the Certificate of Completion is issued to the Contractor, the liability of the Contractor to pay liquidated damages under Clause H-22 shall cease, however, the Contractor shall still be liable to pay for supervisory expenses under Clause H-22 actually and necessarily incurred during the performance of the outstanding work.

H-24 Guarantee against Defects and Liability for Defective Works

1. In these Conditions the expression "Period of Maintenance" shall mean a period of guarantee for one year from the date of completion stipulated in the Certificate of Completion determined in accordance with Clause H-23 hereof.
2. During the Period of Maintenance and upon notification from the Employer, the Contractor shall correct or reconstruct without delay, free of cost to the Employer, any defects or damage arising out of faulty materials or workmanship.
3. If the Contractor fails to carry out any such work within Fifteen (15) days of being required to do so by the Employer, the Employer shall be entitled to carry out such work by its own workmen or to employ and pay other persons to carry out the same and all expenses consequent thereon or incidental thereto shall be recoverable from the Contractor, or may be deducted by the Employer from any money due or to become due to the Contractor or from any of the Contractor's guarantees.
4. Where the Contract is terminated prior to the completion of the Works, the liability of the Contractor for faulty materials or defective workmanship shall apply to the partially completed work for a period of One (1) year after the partially completed work has been completed and taken over by the Employer.

H-25 Alterations, Additions and Omissions

1. The Department shall make any variation of the form, quality or quantity of the Works or any part thereof that may, in his opinion, be necessary; and for that purpose the Employer shall have power to order the Contractor to do and the Contractor shall do any of the following:
 - (a) increase or decrease the quantity of any work included in the Contract,
 - (b) omit any such work,

- (c) change the character, quality or kind of any such work,
- (d) change the levels, lines, positions and dimensions of any part of the Works, and
- (e) execute additional work of any kind necessary for the completion of the Works.

And no such variation shall in any way vitiate or invalidate the Contract, but the value, if any, of all such variations shall be taken into account in ascertaining the amount of the Contract Price.

- 2. No such variation shall be made by the Contractor without an order in writing of the Employer.
- 3. All extra or additional work done or work omitted by order of the Employer shall be valued at the prices (unit prices and others) set out in the Contract if, in the opinion of the Employer, the same shall be applicable. If the Contract does not contain any prices (unit prices and others) applicable to the extra or additional work, then suitable prices (unit prices and others) shall be agreed upon between the Employer and the Contractor. In the event of disagreement the Employer shall fix such prices (unit prices and others) as shall, in his opinion, be reasonable and proper.

H-26 Plant, Temporary Works and Materials

- 1. All Constructional Plants, Temporary Works and materials provided by the Contractor shall, when brought on the Site be deemed to be exclusively intended for the execution of the Works and the Contractor shall not remove the same or any part thereof, except for the purpose of moving it from one part of the Site to another, without the consent in writing of the Employer.

The location, operation and maintenance of all buildings and facilities of the Temporary Works shall be subject to the approval of the Employer.

- 2. Upon completion of the Works the Contractor shall remove from the Site all the said Constructional Plants and Temporary Works remaining thereon and any unused materials provided by the Contractor.
- 3. The Employer shall not at any time be liable for the loss or damage to any of the said Constructional Plant, Temporary Works or Materials save mentioned in Clause H-8 (a), (b) hereof.

H-27 Measurement of Quantities

1. The quantities set out in the Bill of Quantities are the estimated quantities of the Works, but they are not to be taken as the actual and correct quantities of the Works to be executed by the Contractor in fulfillment of his obligations under the Contract.
2. The Employer shall, except as otherwise stated, ascertain and determine by measurement of the value in terms of the Contract of the Works done in accordance with the Contract. He shall, when he requires any part or parts of the Works to be measured, give notice to the Contractor's Site Manager, who shall forthwith attend or send a qualified agent to assist the Employer in making such measurement, and shall furnish all particulars required by the Employer. Should the Contractor not attend, or neglect or omit to send such agent, the measurement made by the Employer shall be taken to be the correct measurement of the Works.
3. The Works shall be measured net notwithstanding any general or local practices, except where otherwise specifically described or prescribed in the Contract.

H-28 Adjustment of Contract Price Due to Variations in Quantities

1. Should the total aggregate sum of all monthly progress payments excepting payment for alterations, additions or omissions under Clause H-25 and all provisional sum (if applicable) items exceed or fall short of the sum named in the Contract, then adjustment shall be made to the sum named in the Contract upon completion of the Works as follows:
 - (a) In the case of the total aggregate sum of all monthly payments being more than One Hundred and Twenty (120) percent of the sum named in the Contract, then the amount exceeding One Hundred and Twenty (120) percent of the sum named in the Contract shall be calculated and paid at Eighty (80) percent of the amount.
 - (b) In the case of the total aggregate sum of all monthly progress payments being less than Eighty (80) percent of the sum named in the Contract, then the difference between Eighty (80) percent of the sum named in the Contract and the total aggregate sum of all monthly progress payments will be paid at Twenty (20) percent of the amount to compensate the Contractor for overheads and loss of profit.

- (c) Provided that adjustment of Contract Price under this Clause shall not apply in the event of termination of the Contract as provided for in Clause H-31, settlement of payment for the adjusted amount shall be made to the final payment or any payment before the final payment as the Employer deems appropriate.
2. The Contractor shall send to the Employer every month an account giving particulars, as full and detailed as possible, of all claims for any additional payments which the Contractor may consider himself to be entitled and of all extra or additional work ordered by the Employer which he executed during the preceding month.

No final or interim claim for payment for any such work or expense will be considered if it has not included such particulars.

The Employer shall be entitled to authorize payment to be made for any such work or expense, notwithstanding the Contractor's failure to comply with this condition, if the Contractor has, at the earliest practicable opportunity, notified the Employer in writing that he intends to make a claim for such work.

H-29 Provisional Sums

1. Provisional sums may be used, in whole or in part, or not at all, at the direction and discretion of the Employer. The final certified value of the Works carried out under the Contract shall include the value of works, goods, materials or services supplied in respect of the Provisional Sum as the Employer has approved or determined.
2. The Contractor shall, when required by the Employer, produce all quotation, invoices, vouchers and accounts or receipts in connection with expenditure in respect of Provisional Sum.

H-30 Payment and Retention

1. If the Contractor so requests, the Employer will make an advance payment to the Contractor of an amount equal to _____ () percent of the Contract Price.

Such payment will be made after the Contractor has deposited with the Employer an Advance Payment Security in the prescribed form issued by a bank in Thailand acceptable to the Employer in the full amount of the advance money. The Contractor shall acknowledge the receipt of advance payment in the form prescribed by the Employer. The advance payment shall be subject to the following conditions concerning the use and repayment of the advance money.

- 1.1 The Contractor shall use the advance payment only to cover expenses incurred by him in the performance of the Works under the Contract. Should the Contractor put the advance money or any part thereof to any other use, the Employer may immediately recover the whole amount of the advance money, either directly from the Contractor or from the Advance Payment Security.
- 1.2 Whenever requested by the Employer to do so, the Contractor shall, within _____ () days from the receipt of such request, produce proof of how much of the advance money has been spent and that such expenditure was in accordance with Clause H-30 hereof. Should the Contractor fail to produce such proof within _____ () days as aforesaid, the Employer may immediately recover the advance money either directly from the Contractor or from the Advance Payment Security.
- 1.3 Towards the repayment of the advance money, the Employer will deduct from each interim payment made to the Contractor, except the first three interim payments, Ten (10) percent of the amount of the relevant interim certificate, until the full amount of the advance money has been repaid. In any event the outstanding advance money shall be deducted in full from the final payment to the Contractor. Should the outstanding advance money exceed the amount of the final payment, the Contractor shall pay such excess within _____ () days after having received a written request from the Employer to do so.
- 1.4 Any money payable by the Contractor to the Employer as debts or under any obligation arising out of the Contract, shall be deducted from interim payments due to the Contractor before any deduction is made towards the repayment of the advance money under Clause H-30 1.3 hereof.
- 1.5 Should the Contractor not perform the Works in accordance with the terms of the Contract or any of the conditions attached thereto, the Employer shall be entitled to deduct any money due to the Contractor under the Contract for the repayment

of all the advance money or any outstanding amount thereof subject to the provisions in Clause H-30 1.4 hereof.

If on termination of the Contract, the outstanding amount of advance money exceeds the amount then due to the Contractor after all other deductions have been made, the Contractor shall pay such excess to the Employer within Seven (7) days after receiving a request in writing to do so by the Employer.

2. The Contractor shall present his statement for monthly progress payment to the Department as soon as possible after the end of each calendar month. The statement shall be in the form approved by the Employer and shall be accompanied by copies of records of measurement and calculations to support the amounts claimed. The Employer after due certification of the statement of payment shall release for payment to the Contractor the net amount after deduction of the retention amount specified. The final payment will be made on the issuance of the Certificate of Completion.

3. The Employer shall retain Ten (10) percent of each monthly progress payment as retention money. In case the retention money has been deducted for any number of periods, each period of not less than Six (6) months, the Contractor has the option to furnish a bank guarantee issued by a commercial bank in Thailand acceptable to the Employer in the form required by the Employer in exchange for the release of such accumulated retention money.

The Employer will release the said retention money or the bank guarantee as the case may be to the Contractor after the issuance of the Certificate of Completion.

4. The Contractor shall pay to all workmen employed by him, wages at the rate and on the schedule agreed upon. In case of failure of payment of wages to the workmen, the Employer shall make direct payments to the Contractor's workmen and shall treat such payments as being made by the Contractor and shall deduct such amount of payments from any money due or to become due to the Contractor.

5. Unless otherwise expressly stipulated in the Contract

(1) The Contractor shall accept the payment, as herein provided, for the full payment and the full compensation for furnishing all materials, labor, tools, equipment and incidental necessary to the completed work and for performing all work contemplated and embraced under the Contract, for all losses or damages arising

from the nature of the work or from the action of the elements or from any unforeseen difficulties which may be encountered from the commencement of the Works until the Maintenance Certificate shall have been issued to the Contractor, for all risks of every description connected with the prosecution of the Works and for all expenses incurred in consequence of the suspension of the Works as herein authorized.

- (2) In whatsoever cases, the Employer shall not be liable to pay the Contractor any sum apart from the Contract Price.

H-31 Termination of Contract by the Employer

1. If the Contractor shall become bankrupt, or shall be brought into bankruptcy proceeding or, being a juristic person, shall go into liquidation (other than a voluntary liquidation for the purpose of amalgamation or reconstruction), or if the Contractor assigns the Contract, without having first obtained the consent in writing of the Employer, or has an execution levied on his property, or if, in the opinion of the Employer, the Contractor:
 - (a) has abandoned the Contract, or
 - (b) without reasonable excuse, has failed to commence the Works within the time specified in the Contract or refused or failed to execute the Works or any separable part thereof with such diligence as will ensure its completion within the times specified in the Contract or any authorized extension of those times or failed to complete the said Works within such times; or
 - (c) has committed any breach of or failed to comply with or observe any provisions of this Contract; or
 - (d) has failed to remove materials from the Site or to pull down and replace work for _____ () days after receiving from the Employer written notice that the said materials or work has been condemned and rejected by the Employer under these conditions, or
 - (e) despite previous warnings by the Employer in writing, has failed to execute the Works in accordance with the Contract, or persistently or flagrantly neglected to carry out his obligations under the Contract, or
 - (f) has, to the detriment of good workmanship, or in defiance of the Employer's instructions to the contrary, subcontract any part of the Contract.

Then in any of such events, the Contractor shall be in default under the Contract and the Employer may, after giving _____ () days notice in writing to the Contractor, terminate the Contract and/or enter upon the Site and the Works and expel the Contractor therefrom. In such event the Employer, may himself, complete the Works or may employ any other contractor to complete the Works. In case where the Department employs any other contractor to complete the Works, the Employer or such other contractor may use for the completion so much of the Constructional Plant, Temporary Works and materials, which have been deemed to be reserved exclusively for the execution of the Works, under the provisions of the Contract, as he or they may think proper, and the Employer may at any time, sell any of the said Constructional Plant, Temporary Works and unused materials and apply the proceeds of the sale in or towards the satisfaction of any sums due or to become due to him from the Contractor under the Contract.

The Contractor shall be responsible for all costs, and charges incurred by the Department, together with the increased construction and supervision cost for completing the Works under the Contract, which shall be deducted from any money due or to become due to the Contractor. Any amount of costs insured to the Employer in excess of normal contract completion costs which may be incurred as a result of the Contractor's default shall be deemed a debt due to the Contractor and shall be paid by the Contractor accordingly. If there are any residues, the Contractor shall be paid accordingly in reasonable time after the aforesaid deduction.

2. The Employer shall, as soon as may be practicable after any such entry and expulsion by the Employer, fix and determine ex-parte, or by or after reference to the parties, or after such investigation or enquiries as he may think fit to make or institute, and shall certify what amount, if any, had at the time of such entry and expulsion been reasonably earned by or would reasonably accrue to the Contractor in respect of work then actually done by him under the Contract and the value of any of the said unused or partially used materials, any Constructional Plant and any Temporary Works.
3. If the Employer shall enter and expel the Contractor under this Clause, he shall not be liable to pay to the Contractor any money on account of the Contract until the expiration of the Period of Maintenance and thereafter until the costs of execution and maintenance, damages for delay in completion, if any, and all other expenses incurred by the Employer have been ascertained. The Contractor shall then be entitled to receive only such sum or sums, if any, as would have been payable to him.

H-32 Special Risks

Notwithstanding anything contained in the Contract:

1. Neither the Contractor nor the Employer shall be under any liability whatsoever whether by way of indemnity or otherwise in respect of destruction of or damage to the Works, or to property whether of the Employer or third parties, or for or in respect of injury or loss of life which is the consequence of any Special Risks save that the Contractor shall remain responsible for work condemned under the provisions of Clause 16 hereof prior to the occurrence of any Special Risks.
2. If the Works shall sustain destruction or damage by reason of any of the said Special Risks, the Contractor shall be entitled to payment only for:
 - (a) any Permanent Works so destroyed or damaged, insofar as such amounts shall not have already been covered by payments on account made to the Contractor.
 - (b) replacing or making good any such destruction or damage to the Permanent Works, so far as may be required by the Employer, or as may be necessary for the completion of the Permanent Works.

The Contractor shall not be entitled to payment for replacing or making good any materials intended to be used for the purpose of the Works but not incorporated therein which shall sustain destruction or damage by reason of any of the said Special Risks.

3. If, during the period of the Contract, there should be an outbreak of war, whether war is declared or not, in any part of the world which whether financially or otherwise materially affects the execution of the Works, the Contractor shall, unless and until the Contract is terminated under the provisions of this Clause, continue to use his best endeavours to complete the execution of the Works. Provided always the Employer shall be entitled, at any time after such outbreak of war to terminate the Contract by giving written notice to the Contractor and upon such notice being given, this Contract shall, except as to the rights of the parties under this Clause and to the operation of Clause 34 hereof, terminate, but without prejudice to the rights of either party in respect of any antecedent breach hereof.
4. If the Contractor shall be terminated under the provisions of the last preceding sub-Clause, the Contractor shall, with all reasonable dispatch, remove from the Site all Constructional Plant and shall give similar facilities to his sub-contractors to do so.

5. If the Contract is terminated as aforesaid, the Contractor shall be paid by the Employer, insofar as such amount or items shall not have already been covered by payments on account made to the Contractor, for all work executed prior to the date of termination at the rates and prices provided in the Contract:

Provide always that, against any payments due from the Employer under this Clause, the Employer shall be entitled to be credited with any outstanding balances due from the Contractor and any other sums which at the date of termination were recoverable by the Employer from the Contractor under the terms of the Contract.

H-33 Settlement of Disputes and Arbitration

1. Any dispute or difference arising out of, or in connection with, the Contract or the implementation of any of the provisions of the Contract which cannot be settled amicably shall be referred to arbitration.
2. Unless both parties agree on the appointment of a single arbitrator, either party shall serve upon the other a notice of intention to submit the dispute or difference to arbitration and specify the name of an arbitrator to be appointed by him. Then, the dispute or the difference shall be referred to two arbitrators, one to be appointed by the issuing party as aforesaid and the other one to be appointed by the other party within thirty (30) days after receipt of the said notice. If the two arbitrators are unable to agree on such dispute or difference, an umpire shall be appointed by the two arbitrators within thirty (30) days from the date of disagreement. The umpire so appointed shall resolve the dispute or difference.
3. Should either party be unable to appoint an arbitrator or in case of disagreement as regards to the appointment of an umpire, each party is entitled to refer the matter to the Civil Court in Bangkok, Thailand for the appointment of the arbitrator or umpire as the case may be.
4. Any decision or award given by the single arbitrator or the two arbitrators jointly, or the umpire in case the two arbitrators disagree, shall be final, conclusive and binding upon the parties hereto. The arbitration proceedings shall follow the Rule of Arbitration of the Ministry of Justice's Arbitration Office or any rule as agreed by both parties and shall be conducted in Bangkok.

5. Each party shall bear the cost of his own arbitrator's service and share equally other costs of all proceeding. In case a single arbitrator or an umpire is appointed, the cost of the single arbitrator's service or the cost of the umpire's service shall be decided by the arbitrator, or the umpire, as the case may be.
6. The submission of any matter in dispute or difference to the arbitration proceedings as aforesaid, shall be a condition precedent to the right of institution of court action.
7. The Contract shall be construed according to the laws of the Kingdom of Thailand. Each party shall have the right to institute a suit against the other in the Civil Court in Bangkok, Thailand, to enforce any decision or award rendered in arbitration proceedings.

H-34 Termination of Contract by the Contractor

If the whole of the Works should be completely stopped, for a period of more than _____ () days, through no act or fault of the Contractor or of any one employed by him, or in the event of the occurrence of Special Risks longer than the said period the Contractor may, without prejudice to any other right or remedy and after giving the Employer Fourteen (14) days written notice, terminate the Contract.

If the Contract is terminated as provided above, the Employer shall be under the same obligations to the Contractor in regard to payments as if the Contract has been terminated in accordance with Clause H-32 hereof.

H-35 Liabilities of the Parties

Termination of the Contract for whatever reason, shall not prejudice or affect any accrued rights, claims or liabilities under the Contract.

H-36 Assistance by the Employer

The Employer will upon application from the Contractor provide reasonable assistance in obtaining the issuance of all necessary permits or in issuing any certificates, which are required in order to perform the Works by the Contractor.

H-37 Notices

1. All certificates, notices or written orders to be given by the Employer to the Contractor under the terms of the Contract shall be sent by registered post, cable or telex or delivered by hand to Contractor's principal place of business, or such other address as the Contractor shall nominate for this purpose in the Contract.
2. All notices to be given to the Employer under the terms of the Contract shall be sent by registered post, cable or telex or delivered by hand to the respective addresses nominated for this purpose in the Contract.

H-38 Language

All notices, instructions, correspondence or any other written documentation concerning the Contract between the Employer and the Contractor shall be in English or in Thai as the parties agree.

H-39 Law of the Contract

The Contract shall be governed by the laws of the Kingdom of Thailand.

H-40 Laws to be Observed

In connection with the performance of the Works under the Contract, the Employer and the Contractor, their representatives, personnel, technicians or dependents shall observe and comply with the Thai laws.

I. SUPPLEMENTARY CONDITIONS OF CONTRACT

I. SUPPLEMENTARY CONDITIONS OF CONTRACT

I-1 Definitions and Interpretations

1. Consultant assigned by the Employer

Consultant is assigned by the Employer to assist the Employer in this Contract,

Name : _____
Address : _____

and performs the supervision of the Works until such date when the Employer withdraws the Consultant by written notice to the parties concerned.

2. Documents to be mutually explanatory

Except if and to the extent otherwise provided by the Contract, the provisions of the Conditions of Contract shall prevail over those of any other document forming part of the Contract. Subject to the foregoing, the several documents forming the Contract are to be taken as mutually explanatory to one another, but in case of ambiguities or discrepancies, the same shall be explained and adjusted by the Employer who shall thereupon issue to the Contractor instructions thereon. Provided always that if, in the opinion of the Employer, compliance with any such instructions shall involve the Contractor in any costs, which by reason of any such ambiguity or discrepancy could not reasonably have been foreseen by the Contractor, the Employer shall certify and pay such additional sum as may be reasonable to cover such cost.

I-2 Additional Obligations of the Contractor

1. The Site Manager of the Contractor shall speak, read and write the English language fluently. In case the Site Manager is a Thai national, he shall be a Licensed Engineer of any acceptable category. In case he is a foreigner, his professional qualification shall be at least equal to that of the Licensed Engineer in the judgment of the Employer.
2. The Contractor shall employ Thai nationals as far as practicable except where otherwise provided by the Contract or proposed in his bid as one of his substantial

conditions. In case of the employment of foreigners, the Contractor shall obtain, in his own initiative, the permits required under the regulations.

The Contractor shall notify the Employer of all arrivals and departures of such foreign personnel.

Any foreign employee of the Contractor assigned to the Works shall not engage himself, directly or indirectly, whether in his own name or not, in other business or professional activities in the Kingdom of Thailand or make loans or investment in connection with any business, profession or occupation in the Kingdom of Thailand.

I-3 Adjustment of Contract Price due to Cost Escalation

Contract price for the local construction work shall be adjusted due to the cost escalation in the manner as described in detail below. While no escalation shall be applied to other part of the Works.

The unit and lump-sum prices in the Bill of Quantities are considered on the basis of costs of labor, materials, equipment, etc. prevailing on the bid opening date.

If there should be variations of the main basic costs for the local construction work, resulting in increase or decrease in any of the unit and lump sum prices by more than four (4) percent, then the Contract Price for the local construction work shall be adjusted in accordance with the method of calculation and the formulae stipulated hereunder.

A. Conditions and Basis of Application

- 1) If the Official Price Indices published by the Ministry of Commerce, Government of Thailand, should increase or decrease from the price indices prevailing on the bid opening date, the Contract Price shall be adjusted in the manner set forth in the clause.
- 2) In claiming additional costs, the Contractor is required to submit his request for adjustment of Contract Price within Ninety (90) days from the date of issuance of the Certificate of Completion. After the expiration of this period, the Contractor shall have no right whatsoever to claim any additional cost of the Works from the Employer.

If the Employer is to pay or deduct the monies to or from the Contractor, the Employer will proceed promptly with the payment for such costs, or deduction of the amount from the next progress payment or from the Performance Security, as the case may be.

- 3) Payment of any additional costs to the Contractor as a result of Cost Escalation shall be subject to verification and consent of the Bureau of Budget whose ruling shall be final.

B. Applicable Formulae and Symbols

In calculation of the increase or decrease of the Contract Price, the following formulae shall be applied:

$$P = (P_o) \times (K)$$

Where P = Unit or lump-sum price in the Bill of Quantities to be paid to the Contractor after the adjustment.

P_o = Unit or lump-sum price in the Bill of Quantities as per original or modified Contract, if any.

K = Escalation Factor, after deducting Four (4) percent where cost of the Works increases, or after adding Four (4) percent where cost of the Works decreases.

Escalation Factor K can be determined by applying the formulae classified in accordance with the types and characteristics of the work items in the Bill of Quantities.

Escalation formulae as well as the applicable work items under this Contract are as shown in "D. Escalation Formulae."

C. Method of Calculation

- 1) The Price Indices of labor, materials equipment, etc. used in the calculation of K-value under this Contract shall be the Price Indices published by the Ministry of Commerce which developed from the base-indices of the month and year of the bid opening date.

- 2) In the calculation of K-value, the first two decimal places, without rounding-off, shall be used in all steps. Computation of each relative fraction shall be carried out first and the results shall then be multiplied each of the constant coefficients.
- 3) The Contract Price will be subject to adjustment, increase or decrease, where the K-value in the formula for each specific type of work items on the date of delivery of the Works should be more than four (4) percent over the value prevailing on the bid opening date. For this purpose, only the portion of the K-value in excess of four (4) percent shall be used for Contract Price adjustment, either increase or decrease. (The first 4% will not be used for Contract Price Adjustment).
- 4) If, due to the Contractor's default, the Works are not completed within the time specified in the Contract, the K-value shall be calculated in determining the price indices in the Contract expiration date, or on the date of delivery of the Works, whichever is lower.
- 5) Progress payment shall be first made to the Contractor in accordance with the original or modified Contract Price, if any. Increase or decrease in the cost of the Works can be calculated only after the Price Indices on the date of delivery of the Works have been published by the Ministry of Commerce. Any increase in the cost of the Works shall then be submitted to the Bureau of Budget for additional appropriation.

D. Escalation Formulae

Escalation Formulae are classified in accordance with the type and nature of the works as follows.

The application of which Formula to which item is shown in the Bill of Quantities.

1) Building Works

Building Works mean the buildings such as offices, schools, hospitals, dormitories, dwelling places, convention halls, stadiums, gymnasiums, swimming pools, canteens, store rooms, factories, fences, etc. and shall also imply,

- 1.1 Electric current of a building connected to the distribution cable main but excludes the transformer and electricity system within the compound.
- 1.2 Water supply of a building connected to the distribution main but excludes the water supply system within the compound.
- 1.3 Various pipe or wire systems which are fixed or buried in the area of the buildings such as air-conditioner pipes, gas pipes, electric current wires for the air-conditioners, lightning-conductors, etc.
- 1.4 Drainage channel of a building leading to the drainage outlet.
- 1.5 Essential composition of the building, especially the parts affixed to the building which have to be constructed or assembled at the time of the building construction but excludes machines or equipment which are furnished or installed such as lift, computers, water pumps, air-conditioners, fans, etc.
- 1.6 Walkways around the building, soils for grading and leveling with a distance around the building of no more than 3 meters.

$$\text{Formula used: } K = 0.25 + 0.15 \text{ It/Io} + 0.10 \text{ Ct/Co} + 0.40 \text{ Mt/Mo} + 0.10 \text{ St/So} \dots\dots\dots (1)$$

2) Soil Works

- 2.1 Soil works mean digging in and digging up soil, crushing soil, digging to open soil surface, grading, leveling down and compressing soil, digging-filling and pressing soil in dams, canals, embankments, dykes which have to use machines and equipment in their operation.

For filling, this shall mean the filling of soil or sand or other materials for which their quality is under control and there are specifications as to the filling methods and there are also crushing and compressing by the use of machines and equipment to meet the stipulated standard similar to the works on road construction or irrigation dam building.

In this regard, it shall also include the following types of works: embankment, excavation, subbase, selected material, untreated base and shoulder.

$$\text{Formula used: } K = 0.30 + 0.10 It/Io + 0.40 Et/Eo + 0.20 Ft/Fo \quad (2)$$

- 2.2 Dry Pitching Works mean orderly laying of large stones into rows or layers to arrive at the required thickness; in the laying process, the gaps between large rocks will be inserted with small stones or various sizes of gravels and sands to fully fill the gaps, with the quality control of materials and specifications as to the operation methods by using machines, equipment or labor force and shall also mean riprap works, stone pitching works or large rock works which have a similar nature in order to prevent erosion and tumbling down of the river bank slopes and river beds.

$$\text{Formula used: } K = 0.40 + 0.20 It/Io + 0.20 Mt/Mo + 0.20 Ft/Fo \quad (3)$$

- 2.3 Boring and Rock Explosion Works mean boring and exploding rocks in general with the round-trip transportation of not more than approx. 2 kilometers except boring and exploding tunnel works which require a more advanced technique.

$$\text{Formula used: } K = 0.45 + 0.15 It/Io + 0.10 Mt/Mo + 0.20 Et/Eo + 0.10 Ft/Fo \quad (4)$$

3) Road Works

- 3.1 Surface Works (Prime Coat, Tack Coat, Seal Coat)

$$\text{Formula used: } K = 0.30 + 0.40 At/Ao + 0.20 Et/Eo + 0.10 Ft/Fo \quad (5)$$

- 3.2 Surface Works (Surface Treatment Slurry Seal)

$$\text{Formula used: } K = 0.30 + 0.10 Mt/Mo + 0.30 At/Ao + 0.20 Et/Eo + 0.10 Ft/Fo \quad (6)$$

3.3 Surface Works (Asphaltic Concrete, Penetration Macadam)

Formula used: $K = 0.30 + 0.10 \text{ Mt/Mo} + 0.40 \text{ At/Ao} + 0.10 \text{ Et/Eo} + 0.10 \text{ Ft/Fo} \dots\dots\dots (7)$

3.4 Reinforced Concrete Road Surface Works mean concrete road surface reinforced with steel which comprises welded steel wire ferric, dowel bar, deformed tie bar and various joints. This shall also imply the R. C. bridge approach.

Formula used: $K = 0.30 + 0.10 \text{ Mt/Mo} + 0.35 \text{ Ct/Co} + 0.10 \text{ Mt/Mo} + 0.15 \text{ St/So} \dots\dots\dots (8)$

3.5 Reinforced Concrete Drainage Piping Works and Manhole Works mean the works of precast reinforced concrete drainage pipe, steel-reinforced concrete drainage groove, reinforced concrete lining-the drainage groove and the bridge approach slope area including the reinforced concrete manhole and other steel-reinforced concrete works with similar type and nature such as manhole works, telephone conduits and electricity conduits.

Formula used: $K = 0.35 + 0.20 \text{ It/Io} + 0.15 \text{ Ct/Co} + 0.15 \text{ Mt/Mo} + 0.15 \text{ St/So} \dots\dots\dots (9)$

3.6 Reinforced Concrete Structural Works and Embankment Works mean reinforced concrete bridge, R. C. bearing unit foundation structure, R. C. box culvert, water tank tower of reinforced concrete structure, reinforced concrete embankment, reinforced concrete jetty and other similar structures.

Formula used: $K = 0.30 + 0.10 \text{ It/Io} + 0.15 \text{ Ct/Co} + 0.20 \text{ Mt/Mo} + 0.25 \text{ St/So} \dots\dots\dots (10)$

3.7 Steel Structure Works mean steel bridge for pedestrians, steel structures for installations of high-stayed traffic signs, high-voltage electricity post, radio post, television post or other similar steel structure works but exclude steel structure for transmission post of the Electricity Generating Authority of Thailand.

Formula used: $K = 0.25 + 0.10 \text{ It/Io} + 0.05 \text{ Ct/Co} + 0.20 \text{ Mt/Mo} + 0.40 \text{ St/So} \dots\dots\dots (11)$

4) Irrigation Works

- 4.1 Irrigation Building Works excluding Steel Valve mean various reinforced concrete buildings which are constructed along the line of the intake or drain canals to control the levels, and/or the volumes of water such as the drainage pipes, waterfall, chutes, water bridges, culverts, siphons and other types of irrigation buildings which do not have steel valves but exclude large-scale irrigation building works such as weirs, spillways or appurtenant structures of dams.

$$\text{Formula used: } K = 0.40 + 0.20 \text{ It/Io} + 0.10 \text{ Ct/Co} + 0.10 \text{ Mt/Mo} + 0.20 \text{ St/So} \dots\dots\dots (12)$$

- 4.2 Irrigation Building Works including Steel Valve mean the various reinforced concrete buildings which are constructed along the line of the intake or drain canals to control the levels and/or the volumes of water such as the intake pipes into farmland, drainage pipes, water gates, checks, culverts, and other types of irrigation buildings which have valves but exclude large-scale irrigation building works such as weirs, spillways or appurtenant structures of dams.

$$\text{Formula used: } K = 0.35 + 0.20 \text{ It/Io} + 0.10 \text{ Ct/Co} + 0.10 \text{ Mt/Mo} + 0.25 \text{ St/So} \dots\dots\dots (13)$$

- 4.3 Trashrack and Steel Liner Works mean steel trashracks, winches and lifting structures, including bulk head gates and steel piping works.

$$\text{Formula used: } K = 0.35 + 0.20 \text{ It/Io} + 0.45 \text{ Gt/Go} \dots\dots\dots (14)$$

- 4.4 Steel-reinforced Concrete Works and Anchor Bar mean steel bars which are used to reinforce concrete works and anchor bars for weir works, spillways or appurtenant structures of dams which have separate agreements to pay for such steel works only.

$$\text{Formula used: } K = 0.25 + 0.15 \text{ It/Io} + 0.60 \text{ St/So} \dots\dots\dots (15)$$

- 4.5 Concrete Works excluding Reinforcement Steel and Concrete-Lined Canals mean the reinforced concrete works that subtract the steel part for separate calculation from the weir works, spillways or appurtenant structures of dams which have separate agreements to pay for such concrete works only.

$$\text{Formula used: } K = 0.40 + 0.15 \text{ It/Io} + 0.25 \text{ Ct/Co} + 0.20 \text{ Mt/Mo} \dots\dots\dots (16)$$

- 4.6 Boring Works mean the boring, together with the burying of casing of not less than 48 mm. in inner diameter in soil layers, decayed rocks or crumbled rocks to spurt liquid cement and include repair works of the irrigation building foundation, roads and various buildings by spurting liquid cement.

$$\text{Formula used: } K = 0.40 + 0.20 \text{ It/Io} + 0.10 \text{ Mt/Mo} + 0.20 \text{ Et/Eo} + 0.10 \text{ Ft/Fo} \dots\dots\dots (17)$$

- 4.7 Spurting of Liquid Cement Works. The cost of spurting liquid cement shall increase or decrease only with respect to the prices of cement that have been changed according to the cement price index prepared by the Ministry of Commerce between the month each lot of work is surrendered and the month the bid envelopes are opened.

$$\text{Formula used: } K = \text{Ct/Co} \dots\dots\dots (18)$$

5) Infrastructure Works

5.1 AC and PVC Pipe-Laying Works

- 5.1.1 In case the Department procures the pipes and/or accessories

$$\text{Formula used: } K = 0.50 + 0.25 \text{ It/Io} + 0.25 \text{ Mt/Mo} \dots\dots\dots (19)$$

- 5.1.2 In case the Contractor procures the AC pipes and/or accessories

$$\text{Formula used: } K = 0.40 + 0.10 \text{ It/Io} + 0.10 \text{ Mt/Mo} + 0.40 \text{ ACt/ACo} \dots\dots\dots (20)$$

- 5.1.3 In case the Contractor procures PVC pipes and/or accessories

$$\text{Formula used: } K = 0.40 + 0.10 \text{ It/Io} + 0.10 \text{ Mt/Mo} + 0.40 \text{ PVct/PVCo} \dots\dots\dots (21)$$

5.2 Pipe-Laying Works of Mild Steel Pipes and Hydensity Polyethylene Pipes

- 5.2.1 In case the Department procures the pipes and/or accessories

$$\text{Formula used: } K = 0.40 + 0.10 \text{ It/Io} + 0.15 \text{ Mt/Mo} + 0.20 \text{ Et/Eo} + 0.15 \text{ Ft/Fo} \dots\dots\dots (22)$$

5.2.2 In case the Contractor procures the mild steel pipes and/or accessories and the transmission conduit works shall also be covered

$$\text{Formula used: } K = 0.40 + 0.10 \text{ It/Io} + 0.10 \text{ Mt/Mo} + 0.10 \text{ Et/Eo} + 0.30 \text{ GIPt/GIPo} \dots\dots\dots (23)$$

5.2.3 In case the Contractor procures the hydensity polyethylene pipes and/or accessories

$$\text{Formula used: } K = 0.50 + 0.10 \text{ It/Io} + 0.10 \text{ Mt/Mo} + 0.30 \text{ PEt/PEo} \dots\dots\dots (24)$$

5.3 Improvement Works of the Water-Transmission Tunnel System and Secondary Lining Works

$$\text{Formula used: } K = 0.40 + 0.10 \text{ It/Io} + 0.15 \text{ Et/Eo} + 0.35 \text{ GIPt/GIPo} \dots\dots\dots (25)$$

5.4 Laying Works of PVC Pipes covered with Concrete

$$\text{Formula used: } K = 0.30 + 0.10 \text{ It/Io} + 0.20 \text{ Ct/Co} + 0.05 \text{ Mt/Mo} + 0.05 \text{ St/So} + 0.30 \text{ PVCt/PVCo} \dots\dots\dots (26)$$

5.5 Laying Works of PVC Pipes covered with Sand

$$\text{Formula used: } K = 0.25 + 0.05 \text{ It/Io} + 0.05 \text{ Mt/Mo} + 0.65 \text{ PVCt/PVCo} \dots\dots\dots (27)$$

5.6 Laying Works of Zinc-Bathed Steel Pipes

$$\text{Formula used: } K = 0.25 + 0.25 \text{ It/Io} + 0.50 \text{ GIPt/GIPo} \dots\dots\dots (28)$$

**PRICE INDICES USED FOR CALCULATION ACCORDING TO THE FORMULAE
APPLICABLE TO THE PRICE-ADJUSTABLE CONTRACT
PREPARED BY THE MINISTRY OF COMMERCE**

K	=	ESCALATION FACTOR
It	=	General consumer price index of the country in the month each lot of works is surrendered.
Io	=	General consumer price index of the country in the month and year of the bid opening date.
Ct	=	Price index of cement in the month each lot of works is surrendered.
Co	=	Price index of cement in the month and year of the bid opening date.
Mt	=	Price index of construction materials (excluding steel and cement) in the month each lot of work is surrendered.
Mo	=	Price index of construction materials (excluding steel and cement) in the month and year of the bid opening date.
St	=	Price index of steel in the month each lot of works is surrendered.
Gt	=	Price index of steel plate manufactured in the country in the month each lot of works is surrendered.
Go	=	Price index of steel plate manufactured in the country in the month and year of the bid opening date.
At	=	Price index of asphalt in the month each lot of works is surrendered.
Ao	=	Price index of asphalt in the month and year of the bid opening date.
Et	=	Price index of machinery and goods and chattels in the month each lot of works is surrendered.
Eo	=	Price index of machinery and goods and chattels in the month and year of the bid opening date.

- F_t = Price index of high-speed diesel oil in the month each lot of works is surrendered..
- F_o = Price index of high-speed diesel oil in the month and year of the bid opening date.
- AC_t = Price index of asbestos cement pipe in the month each lot of works is surrendered.
- AC_o = Price index of asbestos cement pipe in the month and year of the bid opening date.
- PVC_t = Price index of PVC pipe in the month each lot of works is surrendered.
- PVC_o = Price index of PVC pipe in the month and year of the bid opening date.
- GIP_t = Price index of zinc-bathed steel pipe in the month each lot of works is surrendered.
- GIP_o = Price index of zinc-bathed steel pipe in the month and year of the bid opening date.
- PE_t = Price index of hydensity polyethylene pipe in the month each lot of works is surrendered.
- PE_o = Price index of hydensity polyethylene pipe in the month and year of the bid opening date.
- W_t = Price index of electric wire in the month each lot of works is surrendered.
- W_o = Price index of electric wire in the month and year of the bid opening date.

J. FORM OF PERFORMANCE SECURITY

J. FORM OF PERFORMANCE SECURITY

**FORM OF LETTER OF GUARANTEE
(Performance Security)**

No. _____

Date: _____

We, _____ (Name of Commercial Bank in Thailand) hereby establish this letter of guarantee in favour of _____ (Name of Government Agency concerned) as follows:

- (1) As _____ (Name of Contractor) has entered into contract for _____ with _____ (Name of the Government Agency concerned) under Contract No. _____, whereby _____ (Name of Contractor) has to deposit with _____ (Name of the Government Agency concerned) earnest money as Performance Security for the proper and faithful performance of the Contract in the amount of _____ (in figures) _____ (in words) equivalent to 6% (Six percent) of the total Contract Price, we agree unconditionally to irrevocably guarantee as a primary obligator, the payment to _____ (Name of the Government Agency concerned) on its first demand, without whatsoever right of objection on our part and without its first claim on _____ (Name of Contractor) in the amount of not exceeding _____ (in figure) _____ (in words) in the event of any damages, liquidated damages, expenses or if any obligations expressed in the above mentioned Contract has not been fulfilled by _____ (Name of Contractor).
- (2) If, at any time in the course of the execution of the Contract, the Employer grants a time extension, or allows the Contractor to deviate from any conditions of the Contract without our knowledge, it shall be deemed that such grants shall have been made with our consent.
- (3) This Letter of Guarantee shall be valid and in full force and effect from the date of execution of the above-mentioned Contract until all obligations of _____ (Name of Contractor) have been fulfilled.
- (4) We shall in no event withdraw this Letter of Guarantee for any reasons so far as _____ (Name of the Contractor) is still liable under the above-mentioned Contract.

IN WITNESS WHEREOF, we have caused these presents to be signed by our
authorized representative and our corporate seal to be hereunto affixed.

Guarantor

Witness

Witness

K. FORM OF ADVANCE PAYMENT SECURITY

K. FORM OF ADVANCE PAYMENT SECURITY

FORM OF LETTER OF GUARANTEE (Advance Payment)

No. _____

Date: _____

WHEREAS, (Name of Contractor) has entered into a contract with the (Name of the Government Agency concerned) to undertake _____ as per Contract No. _____ executed on _____ whereby (Name of Contractor) are entitled to draw an advance money equivalent to 10% (Ten percent) of the total Contract Price.

WHEREAS, (Name of Contractor) wish to draw the said 10% advance money (in figure) (in words) from the (Name of the Government Agency concerned) against presentation of a bank Guarantee for the same amount.

NOW, THEREFORE, by this Letter of Guarantee, we, (Name of Commercial Bank) Business Address No. _____ Sub-District _____ District _____ Province _____ hereby agree to guarantee to the (Name of the Government Agency concerned) under the conditions set below:

1. We hereby guarantee repayment of the advance money received by (Name of the Government Agency concerned) to the extent of Baht (in figure) (in words).
2. If (Name of Contractor) having received advance money stated in Clause 1 above from (Name of the Government Agency concerned), shall act contrary to or fail to act in accordance with the Contract thereby resulting in failure to meet, or in breach of the above mentioned Contract, or any of the conditions attached thereof, and if (Name of Contractor) is required to refund the said advance money to the (Name of the Government Agency concerned), we hereby agree to repay the said advance money in full amount of Baht (in figure) (in words) or the outstanding amount thereof, to the (Name of the Government Agency concerned) within 7 (seven) days from the receipt of written request to do so from the (Name of the Government Agency concerned).

Agency concerned , without the necessity of previous request to (Name of Contractor) for repayment of the same without whatsoever right of objection on our part.

3 If, at any item in the course of the execution of the above mentioned Contract, the Employer grants a time extension, or allows the Contractor to deviate from any Conditions of Contract without our knowledge, it shall be deemed that such grants shall have been made without consent.

4. We shall in no event withdraw this Guarantee for any reason so far as (Name of Contractor) are still liable to the Employer under the Contract.

IN WITNESS WHEREOF, we _____ have caused these presents to be signed by our authorized representative and our corporate seal to be hereunto affixed.

(Signed) _____ Guarantor
(_____)

(Signed) _____ Witness
(_____)

(Signed) _____ Witness
(_____)

L. FORM OF RETENTION MONEY SECURITY

L. FORM OF RETENTION MONEY SECURITY

FORM OF LETTER OF GUARANTEE

(Retention Money)

1. WHEREAS the Royal Irrigation Department, Ministry of Agriculture and Cooperatives, Government of Kingdom of Thailand, Bangkok, Thailand, hereinafter called "the Employer", has entered into a Contract with _____ (Name of contractor) _____ hereinafter called "the Contractor", for the work under The Bang Pakong diversion Dam Project in accordance with contract No. _____ (date) _____ (Month) _____ (Year) _____ ;

AND WHEREAS, according to the said contract an amount equal to Ten percent (10%) of the value of the each monthly progressive payment shall be retained by the Employer from each payment due to the Contractor;

NOW THEREFORE, WE _____ (Name of commercial bank in Thailand) _____ hereby declare that we will guarantee the Employer the full amount of _____ baht (_____) in exchange of the amounts retained by the Employer from the payment due to the Contractor over the months of _____ (dated) _____ (Month) _____ (Year) _____

2. We are engaged to pay to the Employer any amount up to and inclusive of aforementioned full amount, upon written order from the Employer, to indemnify the Employer for any liability or damage resulting from the defects or shortcomings of the Contractor or the debts he may have incurred to any parties involved in the work under the Contract mentioned above. We will deliver the money required by the Employer immediately without delay and without necessity of previous notice or of judicial or administrative procedures and without it being necessary to prove to us the defects or shortcomings of the Contractor.

3. If, at any time in the course of the execution of Contract the Employer grants a time extension, or allows the Contractor to deviate from any conditions of the Contract without our knowledge, it shall be deemed that such grants shall have been made without consent.

4. We shall in no event withdraw this Guarantee for any reason so far as the Contractor is still liable to the Employer under the Contract.

IN WITNESS WHEREOF, we, _____ (Name of the Bank) _____ have caused these presents to be signed by our authorized representative and our corporate seal to be hereunto affixed.

(Signed) _____ Guarantor
(_____)

(Signed) _____ Witness
(_____)

(Signed) _____ Witness
(_____)

JICA