

CONSTRUCTION CONTRACT

This Construction Contract (hereinafter called as “Contract”) is made and entered into force as of October 17th, 2003 by and between:

PARTY A: HARBOUR VIEW HOTEL

Address: 4 Tran Phu Street, Hai Phong

Telephone: (031) 827 827

Facsimile: (031) 827 828

Represented by: Mr. Pius Hugo Luechinger, General Director

(Hereinafter called as “**The Owner**”)

PARTY B: HTM AND ASSOCIATES

Address: No. 18, Lane 105 Lang Ha Street, Dong Da District, Hanoi

Telephone: (04) 562 2930 - 562 2931

Facsimile: (04) 562 2932

Account No. 004837.4 opened at INDOVIBANK - HANOI

88 Hai Ba Trung Street, Hanoi

Tax Code: 0101023902

Represented by: Mr. Peter Riddell, Managing Director

(Hereinafter called as “**The Contractor**”)

Both parties agree to sign a contract for The Swimming Pool and Terrace as per quotations B.O.Q and Drawings attached will form an integral part of the Contract – Annexure A.

The works will be carried out at premises: No. 4 Tran Phu Street, Hai Phong

ARTICLE 1: DEFINITION AND INTERPRETATION

In the Contract, the following words and expressions shall have the meaning hereby assigned to them:

- “Owner” is HARBOUR VIEW HOTEL
- “Contractor” is HTM AND ASSOCIATES
- “Contract” includes terms and conditions of this Contract and document attached herewith forming and inseparable parts of the Contract.
- “Contract Price” means the lump sum price offered by the Contractor and accepted by the Owner.
- “Work” means **The Swimming Pool and Terrace Bar Works.**
- “Day” means calendar day

ARTICLE 2: SCOPE OF WORKS

The Owner assigns the Contractor to construct the Work in compliance with work volume prescribed in scope of work and requirements as agreed upon the Parties, using proper materials, tools and equipment and with skillful workmanship.

ARTICLE 3: RESPONSIBILITY OF THE PARTIES

a. The Owner shall be responsible for the following

- To hand-over the Contractor the job site
- To provide the Contractor sufficient technical document and designs relating the execution of the Work
- To certify and pay the Contractor in strict accordance with Article 5 of this Contract.

b. The Contractor shall be responsible for the following

- To execute the construction works in accordance with the work volume mentioned in Article 2
- To implement the construction works in strict accordance with standards issued by the State

- To keep the site secure, to keep the materials and equipment preserved and to keep the labor rate. In any case, under any circumstance and regardless of how serious any accident may be, the Contractor must bear the full responsibility to the law as well as other costs.
- Perform reasonable measures in order to protect the environment inside and outside the job site during the construction
- The Contractor must arrange all matters relating to his execution on the site in combination with the local authority

ARTICLE 4: CONTRACT PRICE

The Contract price shall be **US\$ 61,948.04**

(in words: sixty one thousand nine hundreds forty eighth, 04/100 US Dollars only)

This price is inclusive of 10% Value Added Tax

ARTICLE 5: PAYMENT AND ADVANCE PAYMENT

- After signing the Contract, the Owner shall make advance payment to the Contractor the value of 30% (Thirty Percent) of the Contract value, being **US\$ 18,600**.
- To advance 30% (Thirty Percent) of the Contract value being **US\$ 18,600** after Contractor had been completed 50% of the works and all materials had been mobilized to the site.
- 35% (Thirty Five Percent) of the Contract value within 7 days after taking over all works, being **US\$ 21,500**.
- To liquidate the outstanding balance of 5% (Five Percent) 90 days after taking over all works, being **US\$ 3,248.04**

Payment method: By Cash or Bank Transfer.

ARTICLE 6: CHANGES AND EXTRA WORKS IN THE WORK SCOPE

Based on the notice by the Owner specifying the changes in the work scope, the two Parties shall proceed with the signing of the Change Order and the Contract Order shall be deemed a supplemental Contract between the Owner and the Contractor

The Contractor shall have no right to make any adjustment to appearance, quality or quantity of the works without approval of the Owner

ARTICLE 7: SUPERVISION DURING CONSTRUCTION

The Owner's supervision: representative of the Owner preserve the right the check any portion of the work executed by the Contractor at the job site to see if the work items in the work scope are being executed fully and properly. When necessary, they may help the Contractor clarify the drawings or the technical requirements.

The Contractor's supervision: The Contractor shall supervise and fully bear the responsibility for the construction method, facility and construction technique under the Contract.

The Contractor shall nominate one Supervisor throughout the construction duration who shall be the representative of the Contract while the Contractor is not present and who shall be fully authorized in dealing with all work related to the Contract implementation.

ARTICLE 8: ENGAGEMENT OF LABOUR

The Contractor shall make its own arrangement for the engagement of all labour and for the transportation, feeding, housing and payment thereof. The Owner shall have no responsibility of the employees of the Contractor.

Contractor will provide worker list together the copy of their Identification Card and this worker list will may not be changed during execution period without prior consent of the Owner. The list of workers will be submitted to the Owner on before the start of the work.

ARTICLE 9: QUALITY OF MATERIALS

All materials supplied shall be identical to the specification and performance sheets supplied and formed a part of this Contract.

The Contractor warrants to the Employer that the materials furnish under this Contract will be new and of good quality and that the Works will be of a high quality standard and of superior workmanship, free from defects, which will be carried for a warranty period of **2 years** from completion.

ARTICLE 10: COMMENCEMENT OF WORKS

Within 7 (seven) calendar days after the Contract signing and nominated deposit being received by the Contractor, the Owner will hand over of the job site to the Contractor, the Contractor shall proceed with the construction execution in accordance with the Construction Schedule.

ARTICLE 10-A: REMOVAL OF IMPROPER WORKS AND MATERIALS

10-A-1: The Owner shall, during the progress of the works, have right to order

- The removal from the construction site of any material, which are not in accordance with this Contract
- The substitution of proper and suitable materials and
- The proper re-execution of any work which in respect of material and workmanship, is not in accordance with this Contract

10-A-2: Any cost incurred by the use of improper material and workmanship shall be borne by the Contractor

10-A-3: Contractor will provide a list of material and attach to this Contract

ARTICLE 11: TIME FOR COMPLETION OF CONSTRUCTION

Subject to any requirement in this Contract, the work execution performed by the Contractor must be completed by 15th of December 2003.

Working Time: from 08:30 to 17:00 everyday including weekend and Holidays.

If the execution, however, is delayed due to the Force Majeure, the Owner shall allow, upon the Contractor's request, extension time for the work.

ARTICLE 12: PENALTY AGAINST DELAYED CONSTRUCTION

If the Contractor fails to complete the construction works in time as stipulated in Article 11 hereof and if the delay is caused by the faults of the Contractor, the Contractor shall pay to the Owner a penalty of 0.01% of the Contract Price for each day of delay from the completion time prescribed in the Contract.

ARTICLE 13: WARRANTY PERIOD

At the completion of the work, a formal letter of guarantee of works for the two years will be produced for the Owner by HTM AND ASSOCIATES.

The period of maintenance warranty shall be twenty four (24) months from the date of completion of the Work certified by the Owner for **The Swimming Pool Work and The Terrace Bar Work**.

All the repairing works of the Contractor conducted at its own expenditure during maintenance period result from

- Improper use of raw materials or workmanship to the Contract
- Neglect of its own obligations specified in the Contract
- Such repairs shall be attended to by the Contractor within 7 days notice from the Owner's advice or by mutual agreements to dates of work.

ARTICLE 14: FORCE MAJEURE

The failure or delay of either party hereto perform any obligation under this Contract solely by reason of force majeure such as acts of God, acts of government, wars, strikes, lockouts, accidents in transportation or others caused beyond its control shall not be deemed to be a breach of this Contract, provided however, that the party so prevented from complying herewith shall continue to take all actions within its power to comply as fully as possible hereinwith.

Except where the nature of the event shall prevent it from doing so, the party suffering such force majeure shall notify the other party in writing within 14 days after the occurrence of such force majeure and shall in every instance, to the extent it is capable of doing so, use its best efforts to remove or remedy such cause with all reasonable dispatch.

ARTICLE 15: AMENDMENT

Any amendment, modification or supplement to this Contract shall be in writing and signed by duly authorized representatives of both parties hereto.

This Contract and any written amendments thereof constitutes the entire agreement between the parties.

ARTICLE 16: DISPUTE SETTLEMENT

Any disputes arising in connection with this contract shall be settled by mutual agreement of the parties.

In the event that the parties are unable to reach agreement, the dispute shall be submitted to arbitration. If agreeable, one arbitrator will be selected to settle the dispute. If the parties cannot agree on the selection of one arbitrator, each party shall appoint one arbitrator and two arbitrators so selected shall agree on the appointment of their arbitrator. The parties shall submit evidence and argument of to the arbitrators at a place and time selected by the arbitrators

ARTICLE 17: GOVERNING LAW

This Contract and the rights and obligation of the Parties hereunder and thereunder shall be constructed and interpreted in accordance with the Laws of Vietnam applicable to agreements made and to be performed entirely therein.

ARTICLE 18: LANGUAGE

This Contract is made in 02 English and 02 Vietnamese versions and concluded by authorized representatives of the two parties. Each Party shall keep 1 copy in English and 1 copy in Vietnamese.

FOR THE OWNER

FOR THE CONTRACTOR

Pius Hugo Luechinger

Peter Riddell

General Director Managing Director