

**CONTRACT AGREEMENT FOR THE DESIGN, SUPPLY AND INSTALLATION
OF AUTOMATIC FIRE SPRINKLER SYSTEM FOR CHAPEL BLOCK AND
PHARMACY BUILDING (Water and Suppression Gas at Selected Area)**


ANGEL P. PALMERY
Contractor

KNOW ALL MEN BY THESE PRESENTS:

This Contract is made and entered into by and between:

THE REPUBLIC OF THE PHILIPPINES, DEPARTMENT OF HEALTH, thru the MARIANO MARCOS MEMORIAL HOSPITAL AND MEDICAL CENTER (MMMh & MC), with office and postal address at Barangay No. 6, San Julian, City of Batac, Ilocos Norte, represented by Medical Center Chief II, **MARIA LOURDES K. OTAYZA, MD, MHA, CESO V, FPOGS,** hereinafter referred to as the "ENTITY";

And

PALMER-ASIA, INC., a duly organized and existing under and by virtue of the laws of the Philippines, with office and postal address at 33-D E. delos Santos Avenue, Bangkal, Makati City, represented by **ANGEL P. PALMERY,** duly authorized in his capacity as President and General Manager, hereinafter referred to as the "CONTRACTOR";

WHEREAS, it is the intention of the ENTITY to secure the services of the CONTRACTOR for the above-mentioned project which "Scope of Work" consist of the following:


**DESIGN, SUPPLY AND INSTALLATION OF AUTOMATIC FIRE SPRINKLER
SYSTEM FOR CHAPEL BLOCK AND PHARMACY BUILDING (Water and
Suppression Gas at Selected Area)**

WHEREAS, the ENTITY accepted the bid of the CONTRACTOR for **SEVEN MILLION FIFTY FOUR THOUSAND EIGHT HUNDRED THREE PESOS ONLY (Php 7,054,803.00),** for the construction, implementation, execution and completion of the aforesaid works (hereinafter called the "PROJECT") and the remedying or otherwise the resolution of defects or imperfection that may thereafter be found, it any, and for this purpose the ENTITY is desirous that the CONTRACTOR execute a Contract for the above PROJECT.

NOW, THEREFORE, in consideration of the foregoing premises, and the covenant and stipulations hereinafter set forth, the ENTITY and the CONTRACTOR have agreed as they hereby agree, as follows:

**ARTICLE 1
SCOPE OF WORKS**

The CONTRACTOR, for and in consideration of the **Contract Price,** as hereinafter defined, agrees to furnish all labor, material equipment, tools and other facilities, and to satisfactorily and faithfully perform all the work necessary to complete the **Project,** ready for use (except the works to be done by third parties), as specified in the Drawings, Scope of Works, and as described in the Technical Specifications, Terms and Conditions, Instruction and other related documents pertaining to the **Project.**


CELSON B. LIGSAY, CPA
Finance and Management Officer II


BERNADETTE G. IPAC, MHA
Chief Administrative Officer


MARIA LOURDES K. OTAYZA, MD, MHA, CESO V, FPOGS
Medical Center Chief II

**ARTICLE 2
TIME OF COMPLETION**

The **Project** shall be complete "broom" clean and ready for use, within **ONE HUNDRED TWENTY (120) CALENDAR DAYS**, reckoned seven (7) calendar days from the receipt by the **CONTRACTOR** of the Notice to Proceed.

Programme Evaluation Review Technique/Critical Path Method (PERT/CPM) should be established for the **Project**. There shall be incentives for the **CONTRACTOR** provided that the **CONTRACT** works is completed ahead of schedule without any suspension order in effect or extension of contract time granted.

**ARTICLE 3
CONTRACT AMOUNT**

For and in consideration of the faithful performance by the **CONTRACTOR** of his duties and obligation under this **CONTRACT**, the **ENTITY** agrees to pay the **CONTRACTOR** the total amount of **PESOS: SEVEN MILLION FIFTY FOUR THOUSAND EIGHT HUNDRED THREE PESOS ONLY (Php 7,054,803.00)** to be paid in the manner hereinafter provided in Article 4 hereof.

Should the **ENTITY** require the **CONTRACTOR** to perform work outside the Scope of Work, in accordance with the guidelines on Variation Orders, the additional cost shall be added to the **Contract Price**. Likewise, should the **CONTRACTOR** be ordered to omit work, the same shall be deducted from the contract price. In either case, the cost of additions or reductions shall be mutually agreed upon in writing by the **ENTITY** and the **CONTRACTOR** before its execution.

For the given Scope of Work in this **CONTRACT**, the **Contract Price** shall be considered as the fixed price, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances and upon prior approval of the Government Procurement Policy Board (hereafter GPPB) and in accordance with Section 61.2 and 61.3 of the 2016 IRR of RA 9184. The **CONTRACT** price is payable in Philippine Currency: *Provided, however*, that should the bid of the **CONTRACTOR** be denominated in foreign currency, the same shall be converted to Philippine currency based on the exchange rate prevailing on the date of the bid opening.

**ARTICLE 4
PAYMENTS**

4.1. ADVANCE PAYMENT

The **CONTRACTOR** may request an advance payment, which shall be submitted as a contract document, in an amount equal to fifteen percent (15%) of the total contract price, to be made in lump sum or, at the most two, installments according to a schedule specified in the instructions to Bidders and other relevant Tendered Documents.

The advance payment shall be made only upon the submission to and acceptance by the **ENTITY** of an irrevocable standby letter of credit of equivalent value from a commercial bank, a bank guarantee or a surety bond callable upon demand, issued by a surety or insurance company duly licensed by the Insurance Commission and confirmed by the **ENTITY**.

4.2. PROGRESS PAYMENT

The **CONTRACTOR** may submit, once a month, request for payment for work accomplished. Such request for payment shall be verified and certified by the Government project engineer concerned. Except as otherwise stipulated in the instruction

to Bidders, materials and equipment delivered on the site but not completely put in place shall not be included for payment.

The **ENTITY** shall have the right to deduct from the **CONTRACTOR's** progress billing such amount as may be necessary to cover third party liabilities, as well as uncorrected discovered defects in the **Project**.

ARTICLE 5 RETENTION MONEY

Progress payments are subject to retention of ten percent (10%) referred to as the "retention money". Such retention shall be based on the total amount due to the **CONTRACTOR** prior to any deduction and shall be retained from every progress payment until fifty percent (50%) of the value of works, as determined by the procuring entity, are completed. If, after fifty percent (50%) completion, the work is satisfactorily done and on schedule, no additional retention shall be made; otherwise, the ten percent (10%) retention shall be imposed.

The total "retention money" shall be due for release only upon final acceptance of the works. The **CONTRACTOR** may however, request for the substitution of the retention money for each progress billing with irrevocable standby letters of credit from a commercial bank, bank guarantees or surety bonds callable on demand, of amounts equivalent to the retention money substituted for and acceptable to the **ENTITY**, provided that the **PROJECT** is on schedule and is satisfactorily undertaken. Otherwise, the ten percent (10%) retention shall be made.

Said irrevocable standby letters or credit, bank guarantees and/or surety bonds, to be posted in favor of the **ENTITY** shall be valid for such duration as may be determined by the **ENTITY** and will answer for the purpose for which the ten percent (10%) retention is intended, i.e., to cover uncorrected discovered defects and third party liabilities.

ARTICLE 6 CONTRACT COMPLETION

Once the **Project** reaches an accomplishment of ninety-five percent (95%) of the total contract amount, the **ENTITY** may create an inspection team to make preliminary inspection and submit a punch-list to the **CONTRACTOR** in preparation for the final turnover of the **Project**. Said punch-list will contain, among others, the remaining works, work deficiencies for necessary corrections, and the specific duration/time to fully complete the **Project** considering the approved remaining contract time. This however, shall not preclude the **ENTITY's** claim for liquidated damages.

ARTICLE 7 LIQUIDATED DAMAGES

Where the **CONTRACTOR** refuses or fails to satisfactorily complete the work within the specified contract time, including any time extension duly granted and is hereby in default under the contract, the **CONTRACTOR** shall pay the **ENTITY** liquidated damages, which is deemed not a penalty, as provided in the conditions of this contract, equal to at least one tenth (1/10) of one (1) percent of the cost of the unperformed portion of the works for every day of delay.

The head of agency may also impose additional liquidated damages on the contractor provided that such is prescribed in the Instruction to Bidders.

A project or a portion thereof may be deemed usable when it starts to provide the desired benefits as certified by the targeted end-users and the concerned agency.

To be entitled to such liquidated damages, the **ENTITY** does not have to prove that it has incurred actual damages. Such amount shall be deducted from any money due or which may become due the **CONTRACTOR** under the contract and/or collect such liquidated damages from the retention money or other securities posted by the **CONTRACTOR**, whichever is convenient to the **ENTITY**.

In case that the delay in the completion of the work exceeds a time duration equivalent to ten (10) percent of the specified contract time plus any time extension duly granted to the contractor, the **ENTITY** may rescind the contract, forfeit the contractor's performance security and takeover the continuation of the project or award the same to a qualified contractor through negotiated contract.

In no case, however shall the total sum of liquidated damages exceed ten percent (10%) of the total contract price, in which event, the contract shall automatically be taken over by the **ENTITY** or award the same to a qualified **CONTRACTOR** through negotiation, and the erring **CONTRACTOR's** performance security shall be forfeited. The amount of the forfeited performance security shall be set aside from the amount of the liquidated damages that the **CONTRACTOR** shall pay the **ENTITY** under the provisions of this clause and impose other appropriate sanctions.

For terminated contracts where negotiation shall be undertaken, the procedures prescribed in the Implementing Rules and Regulations shall be adopted.

ARTICLE 8 PERFORMANCE SECURITY

To guarantee the faithful performance by the **CONTRACTOR** of its obligations under the **CONTRACT** prepared in accordance with the bidding documents, the **CONTRACTOR** shall post a Performance Security in favor of the **ENTITY** upon the signing of the **CONTRACT** in accordance with Section 39 of the 2016 IRR of RA 9184.

The Performance Security shall be subject to the following conditions:

1. It shall be forfeited in favor of the **ENTITY** in the event it is established that the **CONTRACTOR** is in default in any of its obligations under the **CONTRACT**.
2. It shall be co-terminus with the final completion of the **CONTRACT**.
3. The following provision shall form part of the Performance Security. *"The right to institute action on the penal bond pursuant to Act No. 3688 of any individual firm, partnership, corporation and association supplying the contractor with labor and materials for the prosecution of the work is hereby acknowledged and confirmed."*
4. It shall be released by the **ENTITY** after the issuance of the Certificate of Completion of the **CONTRACT**, provided that there are no claims for labor and materials filed against the **CONTRACTOR** or the surety company.
5. The amount of the Performance Security shall be subject to the corresponding increase or decrease of the original value as a result of amendments in the **CONTRACT**, in accordance with Section 39.5 and 39.6 of 2016 IRR of RA 9184.

In the case of failure to post the required performance security, the bid security shall be forfeited without prejudice to the imposition of sanctions under Article XXII of RA 9184.

ANGEL P. PALMERY
Contractor

CELSO B. LIGSAY, CPA
Finance and Management Officer II

BERNADETTE G. IPAC, MBA
Chief Administrative Officer

MARIA LOURDES R. OTAYZA MD, MBA, CISO V, FPOGS
Medical Center Chief II

ARTICLE 9 CONTRACTOR'S WARRANTY

The **CONTRACTOR** shall assume full responsibility for the contract work from the time project construction commenced up to final acceptance by the **ENTITY** and shall be held responsible for any damage or destruction of the works except those occasioned by *force majeure*.

The **CONTRACTOR** shall be fully responsible for the safety, protection, security, convenience of his personnel, third parties, and the public at large, as well as the works, equipment, installation and the like to be affected by his construction work and shall be required to put up a warranty security in the form of cash, bank guarantee, letter of credit, GSIS or surety bond callable on demand, in accordance with the following schedule:

Form of Warranty	Minimum Amount in % of Total Contract Price
1. Cash or Letter of Credit issued by a Universal or Commercial Bank: Provided, however, That the Letter of Credit shall be confirmed or authenticated by a Universal or Commercial Bank, if issued by a foreign bank.	Five percent (5%)
2. Bank guarantee confirmed by a Universal or Commercial Bank.	Ten percent (10%)
3. Surety bond callable upon demand issued by GSIS or a surety or insurance company duly certified by the Insurance Commission as authorized to issue such security.	Thirty percent (30%)

The warranty security shall be stated in Philippine Pesos, and shall remain effective during the applicable warranty period provided in Section 62.2.2 of 2016 IRR of RA 9184 hereof, and shall be returned only after the lapse of the said warranty period.

The defects liability period for this **Project** shall be one (1) year from project completion up to final acceptance by the **ENTITY**. During these periods, the **CONTRACTOR** shall undertake the repair works, at its own expense, of any damage to the infrastructure projects on account of the use of materials of inferior quality within ninety (90) days from the time the head of the **ENTITY** has issued an order to undertake repair. In case of failure or refusal to comply with this mandate, the **ENTITY** shall undertake such repair works and shall be entitled to full reimbursement of expenses incurred therein upon demand.

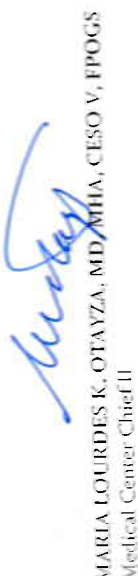
After final acceptance of the **Project** by the **ENTITY**, the **CONTRACTOR** shall be held responsible for structural defects and/or failure of the completed project within the following warranty period from final acceptance, except those occasioned by *force majeure* and those caused by other parties: a) Permanent Structure: fifteen (15) years; b) Semi-Permanent Structure: five (5) years and c) Other Structures: two (2) years. The coverage of each of the foregoing structures is as specified in Section 62.2.2 of 2016 IRR of RA 9184.

The **CONTRACTOR** shall be liable in cases where structural defects and/or failures arise during the warranty period due to faults attributable to improper construction use of inferior quality/substandard materials, and any violation of the contract plans and specifications. In which case, the **ENTITY** shall undertake the necessary restoration or reconstruction works and shall be entitled to full reimbursement by the parties found to be liable, of expenses incurred therein upon demand, without prejudice to the filing of appropriate administrative, civil, and/or criminal charges against the responsible persons as well as the forfeiture of warranty securities posted in favor of the **ENTITY**.


ANGEL P. PALMERY
Contractor


CELSON LIGSAY, CPA
Finance and Management Officer II


BERNADETTE J. IPAC, MHA
Chief Administrative Officer


MARIA LOURDES K. OTAYZA, MD, MHA, CESO V, FPOGS
Medical Center Chief II

"Structural Defects" shall mean major faults/flaws/deficiencies in one or more key structural elements of the project which may lead to structural failure of the completed elements or structure.

"Structural Failures" is defined as an occurrence where one or more key structural elements in an infrastructure facility fails or collapses, thereby rendering the facility or part thereof incapable of withstanding the design loads, and/or endangering the safety of the users or the general public.

ARTICLE 10 SUSPENSION OF WORK

The **ENTITY** shall have the authority to suspend the work wholly or partly by written order for such period as may be deemed necessary, due to *force majeure* or any fortuitous events or for failure on the part of the **CONTRACTOR** to correct bad conditions which are unsafe for workers or for the general public, to carry out valid orders given by the **ENTITY** or to perform any provision of the **CONTRACT**, or due to adjustment of plans to suit field conditions as found necessary during construction. The **CONTRACTOR** shall immediately comply with such order to suspend the work wholly or partly.

The **CONTRACTOR** or its duly authorized representative shall have the right to suspend work operation on any or all projects/activities along the critical path of activities after fifteen (15) calendar days from date of receipt of written notice from the **CONTRACTOR** to the district engineering/regional director/consultant or equivalent official of the **ENTITY**, as the case may be, due to any of the causes provided under Section 9 (2) paragraphs a to e, Annex "e" of the 2016 IRR of RA 9184.

In case of total suspension, or suspension of activities along the critical path, which is not due to any fault of the **CONTRACTOR**, the elapsed time between the effective order of suspending operation and the order to resume work shall be allowed the **CONTRACTOR** by adjusting the contract time accordingly.

ARTICLE 11 EXTENSION OF CONTRACT TIME

11.1 GENERAL RULE

Should the amount of additional work of any kind or other special circumstances of any kind whatsoever occur such as to fairly entitle the **CONTRACTOR** to an extension of contract time, the **ENTITY** shall determine the amount of such extension; **Provided** that the **ENTITY** is not bound to take into account any claim for an extension of time unless the **CONTRACTOR** has, prior to the expiration of the contract time and within thirty (30) calendar days after such work has been commenced or after the circumstances leading to such claim have arisen, delivered to the **ENTITY** notices in order that it could have investigated them at that time. Failure to provide such notice shall constitute a waiver by the **CONTRACTOR** of any claim. Upon receipt of full and detailed particulars, the **ENTITY** shall examine the facts and extent of the delay and shall extend the contract time completing the contract work when, in the **ENTITY**'s opinion, the findings of facts justify an extension.

Extension of contract time may be granted only when the affected activities fall within the critical path of the PERT/CPM network.

No extension of contract time shall be granted the **CONTRACTOR** due to any of the following circumstances:


ANGEL P. PALMARY
Contractor


CELSON Y. LIGSAY, CPA
Finance and Management Officer II


BERNADETTE C. IPAC, MHA
Chief Administrative Officer


MARIA LOURDES K. OTAYZA, MD, MHA, CISO V, FPOGS
Medical Center Chief II

- a) ordinary unfavorable weather conditions;
- b) inexcusable failure or negligence of the **CONTRACTOR** to provide the required equipment, supplies or materials;
- c) when the reason given to support the request for extension was already considered in the determination of the original contract time during the conduct of detailed engineering and in the preparation of the contract documents as agreed upon by the parties before contract perfection.

11.2 EXCEPTIONS

Extension of contract time shall be granted for any of the following:

- a. rain/unworkable days considered unfavorable for the performance of the works at the site, based on the actual conditions obtained at the site, in excess of the number of rain/unworkable days pre-determined by the **ENTITY** in relation to the original contract time during the conduct of detailed engineering and in the preparation of the contract documents as agreed upon by the parties before contract preparation;
- b. equivalent period of delay due to major calamities such as exceptionally destructive typhoons, floods and earthquake, and epidemics;
- c. non-delivery on time of materials, working drawings, or written information to be furnished by the **ENTITY**;
- d. non-acquisition of permit to enter private properties within the right-of-way resulting in complete paralysis of construction activities;
- e. shortage of construction materials, general labor strikes, and peace and order problems that disrupt construction operations through no fault of the **CONTRACTOR**, may be considered as additional grounds for extension of contract time provided they are publicly felt and certified by appropriate government agencies such as DTI, DOLE, DILG and DND, among others; and
- f. other meritorious causes as determined by the **ENTITY's** authorized engineer and approved by the **ENTITY**.

The written consent of bondsmen must be attached to any request of the **CONTRACTOR** for extension of contract time and submitted to the **ENTITY** for consideration and the validity of the performance security shall be correspondingly extended.

ARTICLE 12 VARIATION ORDERS

12.1 VARIATION ORDERS

The **ENTITY** may issue Variation Orders to cover any increased/decreased quantities, including the introduction of new work items that are not included in the original contract or reclassification of work items that are either due to change of plans, design or alignments to suit actual field conditions resulting in disparity between the pre-construction plans used for purposes of bidding and the "as staked plans" or construction drawings prepared after a joint survey by the **CONTRACTOR** and the **ENTITY** after award of the **CONTRACT**, **PROVIDED** that the cumulative amount of the Variation Order does not exceed ten percent (10%) of the original project cost. The addition/deletion of works should be within the general scope of the project as having been bid and awarded. A Variation Order may either be in the form of a change order or extra work order.

12.2 CHANGE ORDER

A *Change Order* may be issued by the implementing official to cover any increase/decrease in quantities of original work items in the **CONTRACT**.

- a) ordinary unfavorable weather conditions;
- b) inexcusable failure or negligence of the **CONTRACTOR** to provide the required equipment, supplies or materials;
- c) when the reason given to support the request for extension was already considered in the determination of the original contract time during the conduct of detailed engineering and in the preparation of the contract documents as agreed upon by the parties before contract perfection.

11.2 EXCEPTIONS

Extension of contract time shall be granted for any of the following:

- a. rain/unworkable days considered unfavorable for the performance of the works at the site, based on the actual conditions obtained at the site, in excess of the number of rain/unworkable days pre-determined by the **ENTITY** in relation to the original contract time during the conduct of detailed engineering and in the preparation of the contract documents as agreed upon by the parties before contract preparation;
- b. equivalent period of delay due to major calamities such as exceptionally destructive typhoons, floods and earthquake, and epidemics;
- c. non-delivery on time of materials, working drawings, or written information to be furnished by the **ENTITY**;
- d. non-acquisition of permit to enter private properties within the right-of-way resulting in complete paralysis of construction activities;
- e. shortage of construction materials, general labor strikes, and peace and order problems that disrupt construction operations through no fault of the **CONTRACTOR**, may be considered as additional grounds for extension of contract time provided they are publicly felt and certified by appropriate government agencies such as DTL, DOLE, DILG and DND, among others; and
- f. other meritorious causes as determined by the **ENTITY**'s authorized engineer and approved by the **ENTITY**.

The written consent of bondsmen must be attached to any request of the **CONTRACTOR** for extension of contract time and submitted to the **ENTITY** for consideration and the validity of the performance security shall be correspondingly extended.

ARTICLE 12 VARIATION ORDERS

12.1 VARIATION ORDERS

The **ENTITY** may issue Variation Orders to cover any increased/decreased quantities, including the introduction of new work items that are not included in the original contract or reclassification of work items that are either due to change of plans, design or alignments to suit actual field conditions resulting in disparity between the pre-construction plans used for purposes of bidding and the "as staked plans" or construction drawings prepared after a joint survey by the **CONTRACTOR** and the **ENTITY** after award of the **CONTRACT**, **PROVIDED** that the cumulative amount of the Variation Order does not exceed ten percent (10%) of the original project cost. The addition/deletion of works should be within the general scope of the project as having been bid and awarded. A Variation Order may either be in the form of a change order or extra work order.

12.2 CHANGE ORDER

A **Change Order** may be issued by the implementing official to cover any increase/decrease in quantities of original work items in the **CONTRACT**.

- a) ordinary unfavorable weather conditions;
- b) inexcusable failure or negligence of the **CONTRACTOR** to provide the required equipment, supplies or materials;
- c) when the reason given to support the request for extension was already considered in the determination of the original contract time during the conduct of detailed engineering and in the preparation of the contract documents as agreed upon by the parties before contract perfection.

11.2 EXCEPTIONS

Extension of contract time shall be granted for any of the following:

- a. rain/unworkable days considered unfavorable for the performance of the works at the site, based on the actual conditions obtained at the site, in excess of the number of rain/unworkable days pre-determined by the **ENTITY** in relation to the original contract time during the conduct of detailed engineering and in the preparation of the contract documents as agreed upon by the parties before contract preparation;
- b. equivalent period of delay due to major calamities such as exceptionally destructive typhoons, floods and earthquake, and epidemics;
- c. non-delivery on time of materials, working drawings, or written information to be furnished by the **ENTITY**;
- d. non-acquisition of permit to enter private properties within the right-of-way resulting in complete paralysis of construction activities;
- e. shortage of construction materials, general labor strikes, and peace and order problems that disrupt construction operations through no fault of the **CONTRACTOR**, may be considered as additional grounds for extension of contract time provided they are publicly felt and certified by appropriate government agencies such as DTL, DOLE, DILG and DND, among others; and
- f. other meritorious causes as determined by the **ENTITY**'s authorized engineer and approved by the **ENTITY**.

The written consent of bondsmen must be attached to any request of the **CONTRACTOR** for extension of contract time and submitted to the **ENTITY** for consideration and the validity of the performance security shall be correspondingly extended.

ARTICLE 12 VARIATION ORDERS

12.1 VARIATION ORDERS

The **ENTITY** may issue Variation Orders to cover any increased/decreased quantities, including the introduction of new work items that are not included in the original contract or reclassification of work items that are either due to change of plans, design or alignments to suit actual field conditions resulting in disparity between the pre-construction plans used for purposes of bidding and the "as staked plans" or construction drawings prepared after a joint survey by the **CONTRACTOR** and the **ENTITY** after award of the **CONTRACT**, **PROVIDED** that the cumulative amount of the Variation Order does not exceed ten percent (10%) of the original project cost. The addition/deletion of works should be within the general scope of the project as having been bid and awarded. A Variation Order may either be in the form of a change order or extra work order.

12.2 CHANGE ORDER

A **Change Order** may be issued by the implementing official to cover any increase/decrease in quantities of original work items in the **CONTRACT**.

12.3 EXTRA WORK ORDER

An *Extra Work Order* may be issued by the implementing official to cover the introduction of new work necessary for the completion, improvement or protection of the **Project** which were not included as items of work in the original contract, such as, where there are subsurface or latent physical conditions at the site differing materially from those indicated in the **CONTRACT**, or where there are duly unknown physical conditions at the site of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in the work or character provided for in the **CONTRACT**.

Any cumulative *Variation Order* beyond ten percent (10%) shall be subject to another contract to be bid out if the works are separate from the original contract. In exceptional cases where it is urgently necessary to complete the original scope of work, the **ENTITY** may authorize the variation order beyond ten percent (10%) but not more than twenty percent (20%) subject to guidelines to be determined by the GPPB: Provided, however, That appropriate sanctions shall be imposed on the designer, consultant or official responsible for the original detailed engineering design which failed to consider the Variation Order beyond ten percent (10%).

ARTICLE 13 INSURANCE AND OTHER CONDITIONS

The **CONTRACTOR** shall take cognizance of the provisions of the other Contract Documents especially with regard to his responsibilities and liabilities on materials, workmanship, labor, and property as stipulated in the General Conditions. Within fifteen (15) days after signing of the Contract, the **CONTRACTOR** shall submit the Certificate of Insurance to protect the **CONTRACTOR** and the **ENTITY** from damages which may arise from operations under this Contract, subject to the approval of the **ENTITY** as to the adequacy of protection and reliability of insurance company.

ARTICLE 14 ASSIGNMENT AND SUBCONTRACT

The **CONTRACTOR** shall not subcontract, transfer, assign, pledge or dispose of any of its rights and interests under this **CONTRACT** except with the prior written consent of the **ENTITY**.

Approval of the subcontract shall not relieve the **CONTRACTOR** from any liability or obligation under the **CONTRACT** with the **ENTITY**, nor shall it create any contractual relation between the subcontractor and the **ENTITY**.

ARTICLE 15 TERMINATION OF CONTRACT

To ensure timely and effective remedial steps in response to delays in **PROJECT** implementation, the **ENTITY** or its duly authorized representative shall undertake the following calibrated actions whenever work accomplishment reaches levels of negative slippage (attributable to the **CONTRACTOR**) as indicated below.

16.1 Negative slippage of five percent (5%) ("Early Warning" Stage):

The **CONTRACTOR** shall be given a warning and required to submit a "Catch-up" program to eliminate the slippage. The **ENTITY** or its duly authorized representative shall provide enough supervision and monitoring of the work.

16.2 Negative Slippage of ten percent (10%) ("ICU" Stage):

ANGEL P. PALMERY
Contractor

CELSONE LIGSAY, CPA
Finance and Management Officer II

BERNADETTE GPAC, MHA
Chief Administrative Officer

MARIA LOURDIS K. OTAYCA, MD, MHA, CEO V, EPOGS
Medical Center Chief II


ANGEL P. PALMERY
Contractor

The **CONTRACTOR** shall be given a **second warning** and required to submit a detailed action on a program on a fortnightly [two (2) weeks] basis which commits him to accelerate the work and accomplish specific physical targets which will reduce the slippage over a defined time period. Furthermore, the **CONTRACTOR** shall be instructed to specify the additional input resources - money, manpower, materials, machines, and management - which he should mobilize or this action program. The **ENTITY** or his duly authorized representative shall exercise closer supervision and meet the **CONTRACTOR** every other week to evaluate the progress of work and resolve any problems and bottlenecks.

16.3 Negative slippage of fifteen percent (15%) (Make-or-Break" Stage):

The **CONTRACTOR** shall be issued a final warning and shall be required to come-up with a more detailed program of activities with weekly physical targets, together with the required additional input resources. On-site supervision shall be intensified, and evaluation of project Performance will be done at least once a week. At the same time, the **ENTITY** or its duly authorized representative shall prepare contingency plans for the termination/rescission of the Contract and/or takeover of the work by administration or Contract.

16.4 Negative slippage beyond fifteen percent (15%), ("Terminal" Stage):

The **ENTITY** or his duly authorized representative shall initiate termination/rescission of the Contract and/or takeover of the remaining work by administration or assignment to another contractor/appropriate agency. Proper transitory measures shall be taken to minimize work disruptions, e.g., take-over by administration while re-bidding is going on.

In case that the delay in the completion of the work exceeds a time duration equivalent to ten percent (10%) of the specified contract time plus any time extension duly granted to the **CONTRACTOR**, the **ENTITY** concerned may rescind the **CONTRACT**, to forfeit the **CONTRACTOR's** performance security and takeover the prosecution of the project or award the same to a qualified contractor through negotiated contract.

In no case however, shall the total sum of liquidated damages exceed ten percent (10%) of the total Contract Price, in which event the **CONTRACT** shall automatically be taken over by the **ENTITY** or award the same to a qualified contractor through negotiation and the erring **CONTRACTOR's** performance security shall be forfeited. The amount of the forfeited performance security shall accrue to the **ENTITY** aside from the amount of the liquidated damages that the **CONTRACTOR** shall pay the **ENTITY** under the provisions of this clause and the **ENTITY** may impose other appropriate actions.

ARTICLE 16 APPLICABILITY OF OTHER LAWS

The provisions of RA 9184 and The 2016 Revised Implementing Rules and Regulations of Republic Act No. 9184, Otherwise Known as the Government Procurement Reform Act and all other laws pertaining to infrastructure projects shall form part of the provisions of this **CONTRACT**.

In case of any inconsistency between the provisions of this Contract and RA 9184 and its Implementing Rules and Regulations, the latter shall prevail.


CELSO B. LIGSAY, CPA
Finance and Management Officer II


BERNADETTE C. IPAC, MBA
Chief Administrative Officer


MARIA LOURDES K. OTAYZA, MD, MBA, CISO V, FPOGS
Medical Center Chief II

ARTICLE 17
EFFECTIVITY AND REVIEW

This Contract shall be effective upon approval and signing hereof by the proper authorities, subject to whatever corrections that may be suggested by the proper authorities and the Office of the Legal Officer concerned in the contract review. The PARTIES hereby agree to execute an AMENDED or SUPPLEMENTAL AGREEMENT incorporating the proposed corrections of the Legal Officer.

ARTICLE 18
ADDITIONAL PROVISIONS

a) It is understood that no employer-employee relationship exists between the ENTITY and CONTRACTOR and/or the latter's staff or employees by reason of this Contract.

b) It is agreed that it is the sole responsibility of the CONTRACTOR to comply with all existing as well as future laws, ordinances, rules and regulations, whether national, local, or administrative, concerning employment of labor, particularly insofar as they apply to the personnel assigned by the CONTRACTOR to the ENTITY pursuant to this Contract, and for this purpose the CONTRACTOR guarantees that the ENTITY is free and harmless from any and all liability arising from such labor laws, rules or regulations as well as from death, injury or accident that befalls the workers and/or personnel assigned to the ENTITY. In this regard the CONTRACTOR shall provide the necessary health and accident insurances, as required by law, for all workers of the PROJECT.

c) Should the ENTITY be constrained to resort to court action to protect its rights and interests hereunder, the CONTRACTOR shall pay the ENTITY an amount equivalent to twenty percent (20%) of the total sum claimed in the complaint, as and by way of attorney's fees, plus expenses of litigation revocable under pertinent laws; provide, that the attorney's fees shall in no case be less than Fifty Thousand Pesos (Php 50,000.00). venue of such court action shall be laid exclusively in the proper court of Batac City, Ilocos Norte, Philippines.

IN WITNESS WHEREOF, the parties hereunto affix their signatures this ____ day of MAR 20 2018 on the bottom of this page and on the left margin of the other pages of this Contract.

**MARIANO MARCOS MEMORIAL HOSPITAL AND
MEDICAL CENTER**

By:



MARIA LOURDES K. OTAYZA, MD, MHA, CESO V, FPOGS
ENTITY


PALMER-ASIA, INC.

By:



ANGEL P. PALMERY
CONTRACTOR

Budget Available:


CELSON B. LIGSAY, CPA
Finance and Management Officer II

Witnessed by:



KRISTINE V. REYNOSO
EXTERNAL AFFAIRS OFFICER

Signed in the presence of:



BERNADETTE G. IPAC, MHA
Chief Administrative Officer

ACKNOWLEDGEMENT

Republic of the Philippines)
Batac City, Makati) S.S.S

BEFORE ME, the undersigned Notary Public in and for
City of Makati Philippines, on this MAR 20 2018
personally appeared:

Name

CTC No.

Date/Place
Issued

MARIA LOURDES K. OTAYZA, MD, MHA, CESO V, FPOGS

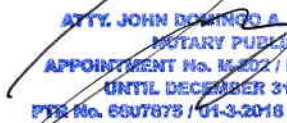
ANGEL P. PALMERY

who are known to me to be the same persons who executed the foregoing instrument and they acknowledged to me that the same is their voluntary act and deed and the free act and deed of the entities they represent.

This instrument related to a Contract consisting of eleven (11) pages including this page whereon this Acknowledgement is written and signed by the parties.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal on the date and place first above-written.

Doc. No. 164
Page No. 24
Book No. 100
Series of 2018


ATTY. JOHN DOMINGO A. RONCE JR.
NOTARY PUBLIC
APPOINTMENT No. 15102 / MAKATI CITY
UNTIL DECEMBER 31, 2018
PTR No. 6907875 / 01-3-2016 / MAKATI CITY
IBP No. 018942 / 12-18-2017 / RIZAL
MCLE COMPLIANCE No. V-0023350 / 08-03-2016
ROLL No. 38482 / TIN No. 108-599-102-000
Unit 3-14 Makati Executive Tower 3
Sen. Gil Puyat Avenue, Pio del Pilar,
Makati City, Metro Manila