

STANDARD TERMS OF CONSTRUCTION CONTRACT FOR RENOVATION AND SMALL PROJECTS (STCC-RSP 2015)

between

CLIENT and CONTRACTOR



Tingkat 10,
Menara Dato Onn,
Pusat Dagangan Dunia Putra,
No. 45, Jalan Tun Ismail,
50480 Kuala Lumpur.
Tel: 03-4047 7000
Faks: 03-4047 7070
www.cidb.gov.my



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PREFACE

STANDARD TERMS OF CONSTRUCTION CONTRACT FOR RENOVATION AND SMALL PROJECTS

Background

This contract was written to fill a gap within the Malaysian construction industry. Although there are several construction contracts published for the Malaysian construction industry – so far, none of the main contracts are written entirely in plain language and none cater specifically for renovation or small projects. While contracts can be entered into orally, written contracts avoid uncertainty. Well-written plain language standard contracts can also help achieve greater efficiency and help avoid unwarranted disputes.

Usage of this contract

This set of standard terms of contract may be used together with other documents such as drawings, specifications, and bills of quantities to form a complete construction contract. It may be used for any construction project – although it was originally targeted at renovation and smaller projects. No minimum or maximum price has been specified for the size of projects this contract may be suitable for because it may well serve a wide range of project types and sizes.

Unique features

This contract is uncommon in several ways.

Most construction contracts published in Malaysia are written in traditional legal language. This contract is written in modern plain language. It is the first construction contract in the world to be accredited with the Clear English Standard by the Plain English Commission, United Kingdom. The contract has about 5,000 words. It fulfills most of the criteria of what would be expected of a plain language contract. Among these: the contract has a low average words per sentence of about 20, adopts gender-neutral style, uses mainly active sentences, has good use of numbering and listing, has no multiple cross-referencing, and uses plain language but retains terms of art where necessary. This contract hopes to set the trend for other construction contracts to emulate its structure and style.

This contract was drafted afresh from a blank 'screen'. It has the benefit of not being influenced by dated habits. Most notably the structure follows a clear and logical 'project management' approach where the clauses are clustered under general obligations, contract administration, time obligations, financial obligations, quality obligations, subcontracting, termination, and dispute resolution.

This contract has two parts – Parts A and B. Only part A needs to be filled. There are some default provisions if some of these are not filled. The contract is written with built-in flexibility.

Language checked by



Authorship, policy committee, and plain language advice

Sr Noushad Ali Naseem Ameer Ali, a former President of the Royal Institution of Surveyors Malaysia, drafted this contract. He developed the initial concepts and a complete draft. He was then guided by a policy committee of representatives from various professional and trade organizations that gave directions on preferred policy refinements, which he translated into updated drafts. This was coordinated by the Construction Industry Development Board Malaysia. Mr Martin Cutts from the Plain Language Commission, United Kingdom reviewed the final draft and suggested further plain language refinements. The drafter incorporated most of the very useful suggestions. The final version was then accepted by the Plain Language Commission, United Kingdom and accredited as a Clear English Standard document.

The policy committee members

The following are the policy committee members:

- 1 Prof Sr Dr Hjh Wan Maimun Wan Abdullah (Royal Institution of Surveyors Malaysia) Chair
BSc (Hons) QS (UTM), MBA (Aston), PhD (UM), PPRISM, FRICS, ICES, Reg QS
- 2 Sr Abd Shukor Ibrahim (Board of Quantity Surveyors Malaysia)
BSc (Hons) QS (UTM), FRISM, Reg QS
- 3 Ar Che Wan Ahmad Faizal Che Wan Putra (Pertubuhan Arkitek Malaysia)
Dip Arch (UTM), BA Hons Arch (MU, UK), B Arch (MU, UK), APAM
- 4 Sr Dainna Baharuddin (Royal Institution of Surveyors Malaysia)
BSc QS (Newcastle Upon Tyne, UK), Reg QS, FRISM, MRICS
- 5 Ir Gunasagaran Kristnan (The Institution of Engineers Malaysia)
BEng Civil Engineering, PEng, MIEM
- 6 Sr Noridah Shaffii (Business Department, CIDB Malaysia)
BSc QS (UK), MBA (UiTM), MRISM, Reg QS (BQSM)
- 7 Reihana Abd Razak (Tribunal Tuntutan Pengguna Malaysia, Kementerian Perdagangan Dalam Negeri, Koperasi dan Kepenggunaan)
LLB (ITM) Shah Alam
- 8 Pn Seniyati Ibrahim (MAA Takaful Berhad)
Exec Cert in Insurance (UiTM), Dip in Banking (UiTM), BBA (Hons) (Insurance) (UiTM)
- 9 En Tee Seng Kong (Master Builders Association Malaysia)
Diploma Civil Engineering (FIT)
- 10 En Tukiman Radion (Tunggal Reka Bena Enterprise)
Managing Director, Tunggal Reka Bena Enterprise
- 11 Sr Noushad Ali Naseem Ameer Ali (Past President, Royal Institution of Surveyors Malaysia)

Drafter of contract

PPRISM, FRISM, FCIQB, FCI Arb, MNZIQS, MRICS, AIQS (Affil), ICECA, MAPM, Reg QS (M'sia), BSc (Hons) QS (Reading, UK), CDipAF, Cert Adj (KLRC), MSc Arch (Univ College London), MSc Construction Law & Arb (Kings College London), Registered Quantity Surveyor (M'sia), Chartered Quantity Surveyor (UK), Chartered Builder (UK), Accredited Mediator (CIDB, M'sia), Panel Adjudicator (KLRC)

**STANDARD TERMS OF CONSTRUCTION CONTRACT
FOR RENOVATION AND SMALL PROJECTS
[STCC-RSP 2015]**

between

[Client]

and

[Contractor]

for

[Short title of construction project]

at

[Project site address]

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PART A – AGREEMENT, DEFINITIONS, AND SPECIFIC PROVISIONS

A.1 Parties to this contract

A.1.1 Client

Name:

Correspondence address:

.....

.....

.....

Telephone:

Fax:

Email:

A.1.2 Contractor

Name:

Correspondence address:

.....

.....

.....

Telephone:

Fax:

Email:

A.2 Contract Administrator

(see B.1.3)

Name:

Correspondence address:

.....

.....

.....

Telephone:

Fax:

Email:

A.3 Contract documents

In addition to Part A and Part B, if any of the following documents are attached, they form part of this contract:

- (i) Client’s requirements
- (ii) Breakdown of work and prices
- (iii) Bills or schedules of quantities with rates rationalized by the Contract Administrator without affecting the total price if the total price has been pre-agreed
- (iv) Schedule of rates with rates rationalized by the Contract Administrator
- (v) Drawings
- (vi) Specifications
- (vii) Contractor’s proposal
- (viii) Other documents stated here. Attach additional sheets if necessary.

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A.4 Scope of work and breach

‘Contractor’s work’, ‘work’ and ‘renovation work’ mean the full scope of work to be done by the Contractor stated in the contract documents. This includes all design, if any is specified, all temporary and permanent work, and all subcontracted work. The reference to ‘breach’ refers to any breach of contract and includes any defective work done by the Contractor.

A.5 Price for the work
(see B.3.1.1)

Ringgit Malaysia:

.....

.....

.....

(RM:.....)

A.6 Date for starting the work
(see B.2.1.2)

.....

A.7 Date for completing the work
(see B.2.1.3)

.....

- A.8 Subcontractors and other contractors** (see B.5) 'Subcontractor' means a party who is engaged by the Contractor to do work that is part of the Contractor's work under this contract. Subcontractors may include designers, consultants, suppliers, or work or labour subcontractors selected by the Contractor or the Contract Administrator. 'Other contractors' are contractors engaged to do work that is not part of this contract.
- A.9 Defects liability period** (see B.2.7.1 and B.2.7.3) weeks from the practical completion date. (If not stated, it is 12 weeks.)
- A.10 Liquidated damages** (see B.2.8.2) RM per day.
- A.11 Insurance amount to be added to the performance guarantee insurance amount to cover existing property** (see B.3.2.1) RM (If not stated, the amount is nil.)
- A.12 Limit of the performance guarantee insurance amount and limit of the retention sum** (see B.3.3.1, B.3.3.2, and B.3.5.2(vii)) RM (If not stated, this sum is equivalent to 5% of the total price for the work or estimated total price if there is no pre-agreed total price.)
- A.13 Payment for advance** (see B.3.4.1) RM (If not stated, the amount is nil.)
- A.14 Time for payment** (see B.3.4.5, B.3.5.3 and B.3.6.2) days from the date of any payment certificate including the final payment certificate. (If not stated, this is 7 days.)
- A.15 Percentage of the value of materials on site to be included in payment certificates** (see B.3.5.1(iv)) %. (If not stated, this is 75%.)
- A.16 Person who nominates a mediator** (see B.7.1.3)
If not stated, an authorized representative from the Kuala Lumpur Regional Centre for Arbitration.
- A.17 Person who nominates an arbitrator** (see B.7.2.3)
If not stated, an authorized representative from the Kuala Lumpur Regional Centre for Arbitration.
- A.18 Law governing this contract** Malaysian laws.

A.19 Authorized signatories and details

Client's signature:

Name:

Identity card or passport number:

Organization name:

Date:

Witness' signature:

Name:

Identity card or passport number:

Contractor's signature:

Name:

Identity card or passport number:

Organization name:

CIDB registration number:

Date:

Witness' signature:

Name:

Identity card or passport number:

PART B – STANDARD TERMS OF CONTRACT

1 General obligations, contract administration, and variations

The Client, Contract Administrator, and Contractor must comply with all their obligations expressed in this contract and those implied in law. All parties must act in a spirit of mutual cooperation and do their best to avoid disputes.

1.1 The Client's general obligations

The Client's general obligations include:

- (i) giving timely access to the project site;
- (ii) providing relevant information in a timely manner;
- (iii) paying the Contractor based on the terms of this contract;
- (iv) naming a Contract Administrator and a replacement whenever necessary; and
- (v) complying with all relevant laws including statutory obligations.

1.2 The Contractor's general obligations

The Contractor's general obligations include:

- (i) completing the work by the date for completion using competent personnel;
- (ii) completing the work based on all the provisions in this contract including those on time and quality;
- (iii) cooperating with others and not causing anyone including neighbours and neighbouring properties to suffer disruption, physical injury, damage to property, or financial loss or expense; and
- (iv) complying with all relevant laws including statutory obligations.

1.3 The Contract Administrator

1.3.1 The Contract Administrator must:

- (i) provide all available relevant information to the Contractor in a timely manner;
- (ii) make all decisions on issues concerning quality, quantity, finance, time, and the contract (including resolving discrepancies), except where stated differently in this contract; and
- (iii) administer this contract in a timely manner and carry out certification functions impartially.

1.3.2 The Contract Administrator's authority ends automatically when the final payment certificate is issued.

1.4 Instructions, decisions, certificates, claims, and notices

- 1.4.1 The Contract Administrator may issue instructions relating to the work until the final payment certificate is issued.
- 1.4.2 All Contract Administrator's instructions, decisions, and certificates must be dated and made in writing.
- 1.4.3 No oral or written instruction is valid unless confirmed in writing by the Contract Administrator.
- 1.4.4 The Contractor must comply with the Contract Administrator's instructions within the time specified by the Contract Administrator and, if not specified, in a timely manner.
- 1.4.5 All Contractor's notices and claims must be in writing, dated, justified with full records, and submitted to the Contract Administrator in a timely manner.
- 1.4.6 All instructions, decisions, certificates, and notices and claims must be in writing, copied to all relevant parties, and sent by registered post or delivered by hand with acknowledgement by the receiving party or office.

1.5 Variations

- 1.5.1 The Contract Administrator may issue instructions to vary the work. All instructions issued by the Contract Administrator are taken to have had the Client's prior approval.
- 1.5.2 If there is a financial effect on the Contractor's price, the Contract Administrator must certify the value of the varied work in payment certificates.
- 1.5.3 If the instruction for varying work is given as a result of any breach by the Contractor, the Contractor must bear all loss and expense associated with the breach including the value of the varied work.

2 Time

2.1 Access to the site, and the date for starting and completing the work

- 2.1.1 The Client may give the Contractor access to the relevant areas of the project site at one time or progressively.
- 2.1.2 The Contractor must start the work on the date stated in **A.6**.
- 2.1.3 The Contractor must complete the work not later than the date stated in **A.7** or any adjusted date.

2.2 Work programme

- 2.2.1 Before starting the work, the Contractor must give the Contract Administrator a work programme showing a breakdown and timing of the work.
- 2.2.2 The Contractor must update the work programme whenever there are significant changes that affect the work programme and give a copy to the Contract Administrator.

2.3 Work progress

- 2.3.1 The Contractor must progress with the work in a regular and timely manner.
- 2.3.2 The Contractor must use reasonable effort to prevent and minimize any delay to the progress of the work however caused.

2.4 Suspension of work

- 2.4.1 The Contract Administrator may issue instructions to suspend the work for any reason. If so instructed, the Contractor must suspend the work.
- 2.4.2 If the Client does not pay the Contractor the net amount due under a payment certificate, the Contractor may choose to suspend the work instead of terminating the Contractor's employment under the termination provision. However, before suspending the work, the Contractor must give a written notice to the Client with a copy to the Contract Administrator for the breach on payment to be rectified. The notice must also inform the Client of the possibility of suspension if the breach on payment is not rectified.
- 2.4.3 If the Client does not pay within 7 days from the date the Client receives the notice, the Contractor may suspend the work until the Client pays.

2.5 Adjusting the date for completing the work

- 2.5.1 The Contractor must notify the Contract Administrator of any delay in writing and show the impact of the delay on the work programme and date for completing the work immediately:
 - (i) if the Contractor cannot start the work on the date for starting the work; or
 - (ii) whenever there is any disruption to the Contractor's progress of the work.
- 2.5.2 If the delay is due to any of the following reasons but not due to any breach by the Contractor or those the Contractor is responsible for, the Contract Administrator must assess and decide if

the date for completing the work is affected and so, adjust the date for completing the work in an adjustment of time certificate:

- (i) The act or failure to act by the Client, the Contract Administrator, or others engaged by the Client or anyone within their control.
- (ii) Exceptionally bad natural environmental event (including exceptionally bad weather) beyond the control of the parties.
- (iii) A government authority or statutory body action.
- (iv) The Contractor suspending the work following an instruction from the Contract Administrator to do so.
- (v) The Contractor suspending the work following non-payment by the Client as provided under the suspension of work provision in this contract.

2.6 Practical completion and practical completion certificate

2.6.1 When the Contract Administrator decides the Contractor has achieved practical completion, the Contract Administrator must certify the practical completion date in a practical completion certificate.

2.6.2 Practical completion is achieved when:

- (i) the work under this contract is substantially complete; and
- (ii) any minor outstanding work and any minor defective work will not cause major disruption to the Client when the minor work is completed or rectified.

2.7 Defects liability period and final completion certificate

2.7.1 The defects liability duration is stated in **A.9** and starts the day after the practical completion date.

2.7.2 The Contract Administrator may instruct the Contractor to rectify all breaches including defects at any time throughout the project until the final completion certificate is issued.

2.7.3 The Contract Administrator must issue a final completion certificate when all breaches including defects are rectified, or at the end of the defects liability period stated in **A.9**, whichever is later.

2.8 Non-completion and compensation for delay

2.8.1 If the Contractor does not complete the work by the date for completing the work or any adjusted date, the Contract Administrator must issue a non-completion certificate.

2.8.2 The Contractor must then compensate the Client for the delay by paying liquidated damages at the rate stated in **A.10**.

2.8.3 The total liquidated damages payable is calculated from the day after the current contractual date for completing the work to the practical completion date. The Contract Administrator must certify this in payment certificates.

3 Financial

3.1 Price for the work

- 3.1.1 The total price for the work is stated in **A.5**. This, or an adjusted sum, is the sum the Client must pay the Contractor for the work done.
- 3.1.2 If the total price is not stated, the Contract Administrator must calculate the price for the Contractor's work based on actual work done and the rates stated in this contract. If the rates are not stated, then fair market rates must be used.

3.2 Indemnity and insurance

- 3.2.1 The Contractor is liable for and must indemnify the Client against any damage to the work, existing property (if the amount is stated in **A.11**), any third-party property damage and third-party personal injury.
- 3.2.2 The Contractor must take up insurance to cover these liabilities in the joint name of the Client and Contractor. The Contractor must also take up all other insurance stated in this contract and all other insurance required under the law including that covering workers and others.
- 3.2.3 The insurance must remain valid until the final completion certificate is issued.

3.3 Performance guarantee insurance and retention sum

- 3.3.1 The Contractor must submit a performance guarantee insurance in a form approved by the Contract Administrator within 7 days of the date for starting the work in the Client's name. The guarantee amount is stated in **A.12**.
- 3.3.2 If the Contractor does not provide the performance guarantee insurance, then the Contractor is taken to have opted for a retention sum instead. The Contract Administrator must then retain 10% of the total amount certified as the cumulative value of work done by the Contractor under a progress payment as a retention sum up to the limit of the amount for performance guarantee insurance stated in **A.12**.

3.4 Advance, payment claims, and payment certificates

- 3.4.1 If this contract provides for an advance to be paid by the Client as stated in **A.13**, the Contract Administrator must issue a payment certificate for the advance amount.
- 3.4.2 Payment claims and payment certificates are based on actual work valued unless payment in stages is specified and attached under **A.3 (viii)**.
- 3.4.3 The Contractor may submit a payment claim for all claims provided in this contract at any time but not more often than once a week.
- 3.4.4 The Contract Administrator must assess and value all entitlement provided in this contract and issue a payment certificate within 7 days of receiving a payment claim.
- 3.4.5 The Client must pay the Contractor the net amount due stated in payment certificates including the final payment certificate not later than the time stated in **A.14**.

3.5 Contents of payment certificates

Payment certificates must contain the following items if applicable:

3.5.1 Additions

- (i) Cumulative value of the work properly done based on stages if specified and attached in **A.3(viii)**. If not, then cumulative value of the work properly done by the Contractor valued based on contract rates and, if none are stated, based on fair market rates.
- (ii) Cumulative value of work done by the subcontractors based on contract rates (and, if none are stated, based on fair market rates), including an amount for managing subcontractors selected by the Contract Administrator.
- (iii) The net value of the varied work based on contract rates and, if none are stated, based on fair market rates.
- (iv) Value of unfixed materials for the work on site calculated using the percentage stated in **A.15**.
- (v) Compensation for direct financial loss and expense incurred by the Contractor following a breach by the Client or following suspension of the work instructed by the Contract Administrator or suspension of work following non-payment by the Client.
- (vi) Compensation for direct financial loss and expense incurred by the Contractor following valid termination of the Contractor's employment by the Contractor.

3.5.2 Deductions

- (i) Payment made under a payment certificate for advance, if any.
- (ii) Cumulative value certified under previous payment certificates.
- (iii) Financial compensation for liquidated damages for delay calculated from the day after the date for completing the work or adjusted date to the latest payment certificate date.
- (iv) Adjustment in the value of the completed work following a breach that the Contract Administrator instructs is not to be rectified.
- (v) Compensation for direct financial loss and expense incurred by the Client following a breach by the Contractor.
- (vi) Compensation for direct financial loss and expense incurred by the Client, following the Client's valid termination of the Contractor's employment.
- (vii) Retention sum, if applicable, at 10% of the total amount certified as the cumulative value of work done by the Contractor up to the limit stated in **A.12**.

3.5.3 Net amount due

The Client must pay the Contractor the net amount due (total additions minus total deductions) stated in payment certificates including the final payment certificate, not later than the time stated in **A.14**.

3.6 *Final payment certificate and release of retention sum*

- 3.6.1 Within 30 days after the final completion certificate, the Contract Administrator must finalize the accounts and release any retention sum after all adjustments and issue a final payment certificate.
- 3.6.2 The Client must pay the Contractor (or vice versa as appropriate) the net amount due stated in the final payment certificate not later than the time stated in **A.14**.

4 Quality and other obligations

4.1 Contract obligations relating to quality and other obligations

4.1.1 The Contractor must complete the work based on all express and implied provisions in this contract. These include provisions relating to:

- (i) time;
- (ii) quality;
- (iii) safety including provision of suitable plant, equipment, tools, training, and safe access;
- (iv) health;
- (v) environment; and
- (vi) design, if any.

4.1.2 The Contractor must ensure and guarantee that all design, if any, construction work, materials, and workmanship comply with the contract requirements including other documents or samples referred to in this contract and that the work done is fit for the intended purposes.

4.2 Breach of contract obligations relating to quality and other obligations

4.2.1 The Contractor must rectify any breach immediately, failing which the Contract Administrator may do one of the following:

- (i) Instruct the Contractor in writing to rectify the breach specifying the period for doing so. If the Contractor does not rectify the breach within 7 days after the period specified by the Contract Administrator, the Contract Administrator may get others to rectify the breach and deduct from payment certificates all costs associated with doing so.
- (ii) Instruct the Contractor in writing not to rectify the breach. The Contract Administrator may then adjust the value of the work done, taking into account the effect of the breach, in payment certificates.

4.2.2 The Contract Administrator may continue to act on any breach by the Contractor throughout the contract period, which includes the defects liability period and ends when the final payment certificate is issued.

4.3 Safety, health, and environment

The Contractor must:

- (i) keep the project site clean, safe, and clear of rubbish at all times, and enable proper safe access for others; and
- (ii) comply with all safety, health, and environmental laws and other related requirements in this contract.

5 Subcontracting and other contractors

5.1 Subcontracting

- 5.1.1 The Contractor must not wholly subcontract the work without the Contract Administrator's written consent.
- 5.1.2 The work under this contract may be subcontracted for design, consultancy, supplies, construction work, or labour.
- 5.1.3 The work may be subcontracted through either or both of the following ways:
- (i) By identifying the scope of work separately in the contract documents together with names of designers, consultants, suppliers, or work or labour subcontractors. The Contractor must then select a subcontractor for each part of the work to be subcontracted from the list and must enter into terms of subcontract specified by the Contract Administrator, if so instructed.
 - (ii) By providing a fixed provisional sum of money within the total price for the work to be subcontracted. Following a subsequent selection of subcontractor for such work by the Contract Administrator, the Contractor must contract with the selected subcontractor on terms of contract, scope of work, and price specified by the Contract Administrator, if so instructed.

5.2 Obligations for subcontract work

The Contractor remains fully responsible for all work subcontracted whichever way the subcontractor is procured and even if the Contract Administrator gives written consent for the work to be wholly subcontracted. All breaches by the subcontractors are treated as if they are breaches by the Contractor.

5.3 Other contractors

The Contractor must cooperate with all other contractors whether contracted by the Client or others.

6 Termination

6.1 Termination of the Contractor's employment by the Client

6.1.1 If the Contractor defaults by:

- (i) not proceeding with the work in a regular and timely manner;
- (ii) stopping or suspending the work without valid grounds;
- (iii) not complying with the Contract Administrator's instructions; or
- (iv) not rectifying a breach instructed by the Contract Administrator to be rectified within the time provided in this contract;

then the Contract Administrator may give a written notice to the Contractor stating what the default is. The notice must instruct the Contractor to rectify the default and warn of a possible termination if the default is not rectified.

6.1.2 If the Contractor does not rectify the default within the period specified by the Contract Administrator (if not specified, then the period is taken to be within 7 days from the date the Contractor receives the notice), the Client may then terminate, in writing, the Contractor's employment. This termination must occur within 7 days following the end of the specified period.

6.1.3 If the Contractor commits any subsequent default that is a ground for termination of the Contractor's employment, whether the same ground or a different one, the Client may terminate, in writing, the Contractor's employment within 7 days from the date of the default without giving further notice.

6.1.4 The Client may terminate, in writing, the Contractor's employment immediately if the Contractor becomes bankrupt or insolvent or has a winding-up order made.

6.2 Termination of the Contractor's employment by the Contractor

6.2.1 If the Client does not pay the Contractor the net amount due under a payment certificate, the Contractor must:

- (i) give a written notice to the Client with a copy to the Contract Administrator for the breach on payment to be rectified; and
- (ii) notify the Client of the possibility of a termination if the breach on payment is not rectified.

6.2.2 If the Client does not pay within 7 days from the date the Client receives the notice, the Contractor may then terminate, in writing, the Contractor's employment within the next 7 days.

6.2.3 If the Contractor chooses not to terminate within the 7 days and the breach on payment is still not rectified, the earlier notice becomes void and a new written notice must be given.

6.2.4 The Contractor may terminate, in writing, the Contractor's employment immediately if the Client becomes bankrupt or insolvent or has a winding-up order made.

6.3 Compensation following termination

Following valid termination of the Contractor's employment by the Client or Contractor, the defaulting party must pay compensation for all direct financial loss and expense incurred by the other as certified by the Contract Administrator in payment certificates.

6.4 Procedures following termination of the Contractor's employment

Following termination of the Contractor's employment for any reason:

- (i) the Contract Administrator must issue instructions on all plant, equipment, materials, and labour that are to be retained on or removed from the project site. The instructions must be issued within 7 days from the date of termination of the Contractor's employment;
- (ii) the Contractor must demobilize from the project site within 3 days from the Contract Administrator's instruction;
- (iii) the Client and the Contractor must submit all claims to the Contract Administrator within 30 days from the date of termination of the Contractor's employment;
- (iv) the Contract Administrator must prepare a payment certificate not later than within the next 30 days; and
- (v) the Client and the Contractor must submit all final claims under this contract as soon as reasonably possible to enable the Contract Administrator to close the accounts, prepare the final accounts, and issue a final payment certificate.

7 Resolution of disagreements

This contract provides for disagreements between the contracting parties to be resolved through negotiation, mediation, and arbitration. These provisions are additional to statutory rights the parties may have such as their rights to refer disputes to adjudication under the Malaysian Construction Industry Payment and Adjudication Act 2012 or amendments to it.

7.1 Negotiation and mediation

- 7.1.1 If any disagreements arise, the parties are encouraged to negotiate and reach a settlement.
- 7.1.2 The parties may also agree to opt for mediation and appoint a neutral party as a mediator.
- 7.1.3 If the parties have decided to opt for mediation but cannot agree on a mediator, either party may write to the person named in **A.16** for a mediator to be nominated. The request must briefly outline the nature of the disagreement.
- 7.1.4 The parties may agree on any mediation procedures. If they cannot agree, the mediator will decide on the procedures.
- 7.1.5 If a settlement is reached, the parties are bound by the settlement contract terms.

7.2 Arbitration

- 7.2.1 All remaining disagreements arising under or in connection with this contract must be referred to arbitration if a final and binding resolution is required. These include disagreements relating to any breach of and subsequent disagreements on negotiated or mediated terms of a settlement contract.
- 7.2.2 An arbitration may, however, only be started and continued after any one of the following events:
 - (i) The work is certified to be practically complete by the Contract Administrator.
 - (ii) One party thinks that party's obligations under this contract have been completed.
 - (iii) One party acts as if that party is not bound by this contract.
 - (iv) The Contractor's employment has been terminated.
 - (v) This contract has been terminated.
 - (vi) Both parties to this contract agree to go to arbitration in writing before the events listed above.
- 7.2.3 The parties may agree on one arbitrator, failing which either party may write to the person named in **A.17** for an arbitrator to be nominated. All requests to refer any disagreements to arbitration must be in writing with a brief outline of the nature of the disagreements.
- 7.2.4 Once an arbitrator accepts a nomination, the arbitrator is considered appointed. Both parties may agree on the procedures and rules to be adopted in the arbitration, failing which the arbitrator will decide the procedures and rules.

- 7.2.5 The arbitrator may revise any Contract Administrator's decisions and certificates. The arbitrator may also make decisions that should have been made by the Contract Administrator but were not made.
- 7.2.6 Arbitration under this contract is governed by the Arbitration Act prevailing in Malaysia at the time the disagreement is referred to arbitration.

Language Checked By:



**PROFORMA
STANDARD TERMS OF CONSTRUCTION CONTRACT
FOR RENOVATION AND SMALL PROJECTS
[STCC–RSP 2015]**

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LETTER OF AWARD

Reference :

Date :

To :

.....

.....

.....

(Name and address of the Contractor)

Contract for :

.....

(Short title of the Contractor's work)

I am writing to inform you that the Client has decided to award the contract for the above to you. The contract documents to be signed by the Client and you are being prepared based on terms that have been agreed between the Client and you. Meanwhile this letter serves to confirm:

The contract sum is : RM

The date for starting the work is :

The date for completing the work is :

(Insert the details above, if known)

The full scope and all other obligations are contained in the contract documents that are being prepared.

Issued by:
Contract Administrator

Acknowledgement receipt:
Contractor

.....
Signature
Name:

.....
Signature
Name :

Date :

Copy to Client: This letter is issued to the Contractor on your behalf as instructed by you.



CONTRACT ADMINISTRATOR'S INSTRUCTION

Reference : Instruction No. :

Date :

To :

.....

.....

.....

(Name and address of the Contractor)

Contract for:

(Short title of the Contractor's work)

Here is my instruction issued under clause B.1.4.1 of this contract:

.....

.....

.....

(Description of instruction. Attach other documents to elaborate if necessary)

Instructed by:
Contract Administrator

Acknowledgement receipt:
Contractor

.....
Signature

.....
Signature

Name:

Name :

Date :

Copy to Client



PAYMENT CERTIFICATE - ADVANCE

Reference :

Date :

To :

.....

.....

.....

(Name and address of the Client)

Contract for :

(Short title of the Contractor's work)

I certify the sum of RM to be paid by the Client to the Contractor as an advance under clause B.3.4.1.

The Client must pay the Contractor this amount not later than the time stated in A.13.

Certified by:
Contract Administrator

Acknowledgement receipt:
Client

.....

Signature

Name:

.....

Signature

Name :

Date :



Copy to Contractor

PAYMENT CERTIFICATE

Reference : **Payment Certificate No.** :
Date :
To :

 (Name and address of the Client)

Contract for :

 (Short title of the Contractor's work)

I certify the net amount due under clauses B.3.5.3 as follows:

Total additions (see A for breakdown attached)	RM
Less total deductions (see B for breakdown attached)	RM
Net amount due (RM)	RM

The Client must pay the Contractor this net amount due not later than the time stated in A.14.

Certified by:
Contract Administrator

Acknowledgement receipt:
Client

.....
Signature
Name :

.....
Signature
Name :
Date :

Copy to Contractor

A. Additions under B.3.5.1

Clause	Description	RM - If none insert (-)
B.3.4.2 & B.3.5.1 (i)	Cumulative value of the work properly done based on stages specified and attached in A.3 (viii). If not, then cumulative value of the work properly done.	
B.3.5.1 (ii)	Cumulative value of work done by the subcontractors including an amount for managing subcontractors, selected by the Contract Administrator.	
B.3.5.1 (iii)	Net value of varied work.	
B.3.5.1 (iv)	Value of unfixed materials for the work on site (calculated using the percentage stated in A.15).	
B.3.5.1 (v)	Compensation for financial loss and expense incurred by the Contractor following a breach by Client or following suspension instructed by the Contract Administrator or suspension of work following non-payment by the client.	
B.3.5.1 (vi)	Compensation for financial loss and expense incurred by the Contractor following valid termination of the Contractor's termination by the Contractor.	
Total additions (RM)		

B. Deductions under B.3.5.2

Clause	Description	RM - If none insert (-)
B.3.5.2 (i)	Payment advance (if any) .	
B.3.5.2 (ii)	Cumulative value certified under previous payment certificates.	
B.3.5.2 (iii)	Financial compensation for liquidated damages for delay.	
B.3.5.2 (iv)	The adjustment in the value of the completed work following breaches that are instructed by the Contract Administrator not to be rectified.	
B.3.5.2 (v)	Compensation for financial loss and expense incurred by the Client following breach by the Contractor.	
B.3.5.2 (vi)	Compensation for financial loss and expense incurred by the Client following termination of the Contractor's employment by the Client.	
B.3.5.2 (vii)	Retention sum calculated at 10% of the total amount certified as cumulative value of work done by the Contractor up to the limit stated in A.12.	
Total deductions (RM)		

FINAL PAYMENT CERTIFICATE

Reference :
Date :
To :

(Name and address of the Client) *(Name and address of the Contractor)*

Contract for :

(Short title of the Contractor's work)

I certify the net amount due of RM as a final payment certificate under clause B.3.6.2 to be as follows:

The Client to the Contractor / The Contractor to the Client [delete one]

Total additions (see A for breakdown attached)	RM.....
Less total deductions (see B for breakdown attached)	RM.....
Net amount due (RM)	RM.....

This net amount due must be paid not later than the time stated in A.14.

Certified by:
Contract Administrator

.....
Signature
Name:

Acknowledgement Receipt:
Client

Acknowledgement Receipt:
Contractor

.....
Signature
Name :
Date :

.....
Signature
Name :
Date :

A. Additions under B.3.5.1

Clause	Description	RM - If none insert (-)
B.3.5.1 (i)	Cumulative value of the work properly done	
B.3.5.1 (ii)	Cumulative value of work done by the subcontractors including an amount for managing subcontractors.	
B.3.5.1 (iii)	Net value of varied work	
B.3.5.1 (v)	Compensation for financial loss and expense incurred by the Contractor following a breach by Client or following suspension instructed by the Contract Administrator or suspension of work following non-payment by the client.	
B.3.5.1 (vi)	Compensation for financial loss and expense incurred by the Contractor following valid termination of the Contractor's termination by the Contractor	
Total additions (RM)		

B. Deductions under B.3.5.2

Clause	Description	RM - If none insert (-)
B.3.5.2 (i)	Payment advance (if any)	
B.3.5.2 (ii)	Cumulative value certified under previous payment certificates	
B.3.5.2 (iii)	Financial compensation for liquidated damages for delay	
B.3.5.2 (iv)	The adjustment in the value of the completed work following breaches that are instructed by the Contract Administrator not to be rectified	
B.3.5.2 (v)	Compensation for direct financial loss and expense incurred by the Client following breaches by the Contractor	
B.3.5.2 (vi)	Compensation for direct financial loss and expense incurred by the Client following valid termination of the Contractor's employment by the Client	
Total deductions (RM)		



ADJUSTMENT OF TIME CERTIFICATE

Reference : **Certificate No.** :

Date :

To :

.....

.....

.....
(Name and address of the Contractor)

Contract for :

.....
(Short title of the Contractor's work)

Your date for completing the work is

Under clause B.2.5.2, I now adjust the date for completing the work to

The contract clauses and corresponding reasons for adjusting the date for completing the work are as follows:

Clause	Reason	Tick (√) all those applicable, and cross-out (X) those not applicable
B.2.5.2 (i)	the act or failure to act by the Client, the Contract Administrator, or others engaged by the Client or anyone within any of their control.	
B.2.5.2 (ii)	exceptionally bad natural environmental event (including exceptionally bad weather) beyond the control of the parties.	
B.2.5.2 (iii)	A government authority or statutory body action.	
B.2.5.2 (iv)	The Contractor suspending the work following an instruction from the Contract Administrator to do so.	
B.2.5.2 (v)	The Contractor suspending the work following non-payment by the Client as provided under the suspension of work provision in this contract.	

Certified by:
Contract Administrator

Acknowledgement receipt:
Contractor

.....
Signature

.....
Signature

Name :

Name :

Date :

Copy to Client.

PRACTICAL COMPLETION CERTIFICATE

Reference :

Date :

To :

.....

.....

.....

(Name and address of the Contractor)

Contract for :

.....

(Short title of the Contractor's work)

I certify that practical completion under clause B.2.6.1 was achieved on:

.....

(insert date practical completion was achieved)

Certified by:
Contract Administrator

Acknowledgement receipt:
Contractor

.....

Signature

Name :

.....

Signature

Name :

Date :



Copy to Client

FINAL COMPLETION CERTIFICATE

Reference :

Date :

To :

.....

.....

.....

(Name and address of the Contractor)

Contract for :

(Short title of the Contractor's work)

I certify that final completion under clause B.2.7.3 was achieved on:

.....
(insert date final completion was achieved)



Certified by:
Contract Administrator

Acknowledgement receipt:
Contractor

.....
Signature

Name :

.....
Signature

Name :

Date :

Copy to Client

NON-COMPLETION CERTIFICATE

Reference :

Date :

To :

.....

.....

.....

(Name and address of the Contractor)

Contract for :

.....

(Short title of the Contractor's work)

The current date for completing the work is :

I certify, under clause B.2.8.1 that you have failed to complete the work by this date.

You are now liable to pay liquidated damages at the rate stated in A.10.

Certified by:
Contract Administrator

Acknowledgement receipt:
Contractor

.....
Signature
Name :

.....
Signature
Name :

Date :



Copy to Client