LAO PEOPLE'S DEMOCRATIC REPUBLIC

Peace Independence Democracy Unity Prosperity

№ 59

04 APR 2018

MEMORANDUM OF AGREEMENT (MOA)

FOR

DESIGN AND CONSTRUCTION CONTRACTING WORKS OF ZONE A, B, C AND ICONIC BUILDING PACKAGE

of the

Commercial and Service Center

within the

Thakhek Specific Economic Zone (TSEZ),
Thakhek, Khammouane Province, Lao PDR

Reference is made to the following documents:

1. Ref. **Investment Supporting Act** No. 02/SorPorSor Dated 08/07/2009
2. Ref. **Cabinet Resolution** for establishment the council for administration the Specific Economic Zone - Thakhek, Khammoune Province No. 19/TKPZ dated 15/05/2012
   Ref. **Concession Agreement** for Development of Commercial and Service Center within the Specific Economic Zone - Thakhek by Administration Council of Economic Specific Zone - Thakhek and AKANE FARM SOLE Co.,LTD, No. 304/THK Dated 10/10/2014
3. Ref. **Construction Permit** for Commercial and Service Centerwithin the Specific Economic Zone - Thakhek by Administration Council of Economic Specific Zone - Thakhek for AKANE FARM SOLE Co., LTD, No. 178/THK Dated 27/05/2014
4. Ref. **Project Development Agreement** for the development Commercial and Service Center of Specific Economic Zone - Thakhek by Administration Council of Economic Specific Zone - Thakhek for AKANE FARM SOLE Co.,LTD, No. 016/THK Dated 02/10/2014
5. Ref.In the meeting of the project zone A the day 20 OCT 2016

This Memorandum of Agreement (hereinafter referred to as 'the MOA" or "this Agreement"), entered into this date **04 April 2018**

[redacted]

Wandee Real Estate And Services Co.,Ltd.

[redacted]

LAO SEZ CO.LTD

BY AND BETWEEN

AKANE DEVELOPMENT LAO SEZ CO., LTD. (AKANE) a Corporate Body incorporated under the Laws of Lao People's Democractic Republic and having its registered office at Hongkae Village, Xaysettha District, Vientiane, Lao PDR. Tel: [redacted] (hereinafter referred to as "Party A"), which is represented by

1. **Mr.Somjith ALIYAPHAPHONE , (Passport No: [redacted]),**
   email: [redacted]

And

WANDEE REAL ESTATE & SERVICES CO., LTD. (WANDEEGROUP), its business office at House No. 162/220-222, Moo 10, Thappraya Road, Nongprue Sub-district, Banglamung District, Chonburi Province, THAILAND Tel : [redacted] (hereinafter referred to as "Party B"), which is represented by

1. **Mr.Bhumeth ISSARASILP , (Passport No: [redacted],**
   email: [redacted]

(any or all of the above companies also hereinafter referred to as "Party" or "Parties").

WHEREAS, Party A has secured the approval by the Government of Lao PDR, represented by the Administration Council of Economic Specific Zone, to develop the Commercial and Service Center (hereinafter referred to as "the Project") within the **Thakhek Specific Economic Zone (TSEZ) Thakhek, Khammouane Province, Lao PDR**

WHEREAS, a Project Management Consultant, **CIVIL AND STRUCTURAL ENGINEERS CO., LTD.**, a Thai incorporated company (herein after referred to as "PMC") who assumes the roles to formulate supervision of the construction towards successful completion of the project has been engaged by Party A througout the Project.

WHEREAS, Party B has the expertise and capacity, and able and willing to undertake the design and construction contracting works of the entire Project.

WHEREAS, Party A wishes to appoint Party B as the Architect, Engineering and Construction Contractor by means of Design and Construction Contracts for the Zone A, B, C and Iconic Building package.

WHEREAS, the Parties shall furnish each other all relevant data, statistics, information and records as necessary for the execution of the Works for the Project. Besides , the Parties explicitly declare their capacity to supply the necessary acknowledgement, design and construction plans, resources of staff, manpower and equipment for the execution of the Works and in particular:

- Party A confirms capacity to coordinate and obtain all licenses, registration, declaration and any other necessary governmental or notary approvals and documents as required for the performance of the Project.
- Party B will provide the necessary expertise, design and construction plans, resources, logistics and know-how for the design and construction of the Project; and
- All sub-contractors shall be appointed and under the direct supervision and control of the Party B.

[redacted]

NOW IT IS HEREBY UNDERSTOOD AND DECLARED AS FOLLOWS:

Article 01 : Purpose of the MOA

The purpose of this MOA is ;

1. To form an understanding between Party A and Party B to enter into agreement for the execution of the Design and Construction Contract for Zone A, B, C and Iconic Building package, and

2. To get both parties to adhere to requirements set forth herein, specifically, but not limited to Article 09 : Contractual Obligations of FIDIC Contract.

Article 02: Project name

Commercial and Service Center within the **Thakhek Specific Economic Zone (TSEZ), Thakhek District, Khammouane Province, Lao PDR.**

Article03: Scope of Services

Party A will be responsible for liaison with statutory authorities and the appointment of the Consultants for the successful implementation of the Project.

Party B will execute the Design And Construction Works of the Zone A, B, C and Iconic Building package with Sub-Contract elements and Consultants.

Article 04 : Standard Conditions of Contract

The Design and Construction Contract will be based on Federation Internationale Des Ingenieurs Conseils's FIDIC's Conditions of Contract For Works of Civil Engineering Construction (The Red Book)

Article05: Project Duration

The whole design and construction works for Zone A, B, C and Iconic Building package shall be completed within **5 years** from the date of the award of the Design and Construction contract to Party B. In the event both parties agreed later on timeframe changes, this shall be signed up by both parties and be attached to this contract.

Article 06: Scope of Design Works of the Design And Construction Contract for Zone A, B, C and Iconic Building package:

The specified Zone A, B, C and Iconic Building package forming of the above said development consists of the following components:

1. Zone A, Two (2) Blocks of Serviced Apartment Tower A and B, 45 Floors each
2. Zone A, One (1) Block of Cable Car Tower ; 5 Floors.
3. Zone B, One (1) Block of 4 Stars Hotel Tower, 45 Floors
4. Zone C, One (1) Block of 5 Stars Hotel Tower, 45 Floors
5. Iconic Building, One (1) Block of Business Center Building, 65 Floors
6. Carpark Decks of Zone A, B, C and Iconic Building
7. Footing and Foundation (Pilling or Underpinning) of Zone A, B, C and Iconic Building
8. Landscape and Road within the said zone(s)

It is agreed that following components are in full part of the Design Work Contract:

[redacted]

1. Master plan of Zone A, B, C and Iconic Building
2. Complete set of architectural plans of Zone A, B, C and Iconic Building
3. Complete set of structural plans of Zone A, B, C and Iconic Building
4. Complete set of system plans of Zone A, B, C and Iconic Building
5. Complete set of mechanical plans of Zone A, B, C and Iconic Building

Architecture plans, structural plans, system plans and mechanic plans must be complied and followed the law with Laos Government construction and safety regulations.

6. High quality 3-D renders (CGI) of Zone A, B, C and Iconic Building
7. High quality 3-D walk-through movie clip of Zone A, B, C and Iconic Building
8. High quality real model (miniature) of Zone A, B, C and Iconic Building.

Article 07: Scope of Construction Works of the Design And Construction Contract for Zone A, B, C and Iconic Building package:

The specified Zone A, B, C and Iconic Building package forming of the above said development consists of the following components:

1. Zone A, Two (2) Blocks of Serviced Apartment Tower A and B, 45 Floors each
2. Zone A, One (1) Block of Cable Car Tower ; 5 Floors.
3. Zone B, One (1) Block of 4 Stars Hotel Tower, 45 Floors
4. Zone C, One (1) Block of 5 Stars Hotel Tower, 45 Floors
5. Iconic Building, One (1) Block of Business Center Building, 65 Floors
6. Carpark Decks of Zone A, B, C and Iconic Building
7. Footing and Foundation (Pilling or Underpinning) of Zone A, B, C and Iconic Building
8. Landscape and Road construction with the said zone(s)

Article 08: Nominated Subcontractors

Party B will execute the construction works of the Zone A, B, C and Iconic Building package with Sub-Contract elements and Consultants.

Article9: Contractual Obligations

The Design And Construction Contract Package shall be executed and come into full force and effect after the following conditions are fulfilled by both Parties:

1. Party B shall be entitled to receive an advanced payment for the purpose of Design Works, amounting a minimum of **1,000,000 USD (One Million USD) of the Total Amount of Design Works of 2,200,000 USD (Two Millions And Two Hundred Thousand USD).** And the Reminding amount of **1,200,000 USD (One Million and Two Hundred Thousand USD)** of the total amount paid to Party B on the day of all plans submission and design works to Party A. It is agreed that all and complete set(s) of architectural plans, structural plans, system plans and mechanical plans of Zone A, B, C and Iconic Building will be finalized and completed within 6 months but not later 6 months from the date Party B received the first amount.

2. Party B shall be entitled to receive an advanced payment for Construction Works, amounting a minimum of **7,750,000 USD (Seven Million and Seven Hundred Fifthy Thousand USD)** for mamobilization cost, initial start-up cost and for the 50% of pilling works on Tower A and B

[redacted]

And Services Co.,Ltd.

[redacted]

and Cable Tower of Zone A. (Ref. Detailed information as shown in two piling construction agreements dated March 6th, 2018 – contract no. WRS-AKN 001/2561 and March 12th, 2018 - contract no. WRS-AKN 003/2561)

3. Party B shall execute a boring/soil random test across Zone A, B, C and Iconic Building, and shall be entitled to receive an payment for this work, amountimg **110,000 USD (One Hundred Thousand USD)**. (Ref. Detailed information as shown in one soil boring test agreement dated 03 April, 2018.

4. Party B shall provide to Party A a Bank Guarantee amounting equally **7,750,000 USD (Seven Million and Seven Hundred Fifthy Thousand USD)**. The guarantee should be in the form of BG/SBLC.

Detailed Payment Terms for further construction of Zone A, B, C, Iconic Building, Road and Landscape, both parties A and B must agree in written form with additional construction contracts attached to this **Design and Construction Contracting Works agreement for Zone A, B, C and Iconic Building Package** (MOA).

Article 10: CONFIDENTIALITY AND NON-SOLICITATION.

10.1 Confidentiality. The Parties expressly agree, at all times, to maintain the confidentiality of, and not to disclose to or discuss with, any person any Confidential Information concerning the business, affairs, operations, strategies, policies, procedures, and trade secret of the Parties and shall hold such information obtained pursuant to this Understanding and the transactions contemplated hereby or effected in connection herewith in accordance with customary procedures for handling confidential information of this nature and will not disclose or use such information to its own advantage or for the advantage of any outside parties other than the Parties to this Understanding, except (i) to the extent reasonably necessary or appropriate to perform duties and responsibilities, including without limitation furthering the interests of the Parties, (ii) with the prior written consent of the Party, (iii) information that has been made generally available to the public domain, other than through the breach of this Agreement by the party, or (vi) as otherwise required by law, regulation or legal process or by any regulatory or organization having jurisdiction, and except that only the terms of the restrictions to disclose such information thereof.

10.2 Non-Solicitation. In recognition of the considerations, promises and obligations described herein, the Parties to this Understanding hereby shall never ever, in any direct or indirect communication of any kind whatsoever, regardless of by whom initiated, inviting, advising, encouraging or requesting, in any manner, to: (i) contact or solicit, or attempt to contact or solicit, any other individual, person, firm or other entity in soliciting, the business of any Client or Prospective Client for or on behalf of an existing or prospective Competitive Business; (ii) either alone or in association with others shall never ever (a) for the purpose of, soliciting, employing, engaging or retaining, any investor, consultant or adviser to terminate business relationship with the Parties; (b) perform, provide or assist any other individual, person, firm or other entity in performing or providing, services similar to those provided by the Party; or (c) recommending or suggesting any other individual, person, firm or other third party take any of the foregoing actions against the Party or any affiliated entity of the Party, provided, however, that nothing contained in this Understanding shall be deemed to prohibit the party from acquiring or holding, solely for business of any corporation some of the activities of which are competitive with the business of the Parties.

Article 11: Acknowledgement

Party B acknowledged that Party A has engaged the services **of CIVIL AND STRUCTURAL ENGINEERS CO., LTD. as the Project Management Consultants (PMC)** who assumes the roles to formulate costing and supervision towards successful completion of the project.

Wanlee Real Estate And Services Co.,Ltd.

[redacted]

[redacted]

It is further acknowledged that vide execution of this MOA determines the exclusive and qualified nomination of the Party B as the Contractor for the Zone A, B, C and Iconic Building package of the project.

It is also acknowledged that design changes done by Party B to improve the overall appearance of the project and safety of the buildings, and to enhance construction processing during the entire construction period on building structure and architectural design elements, must be approved and agreed by PMC before execution by Party A.

Article 12: Exclusivity/Non Competition

During the term of this MOA neither party hereto and their respective associate company and/or subsidiary company shall establish any similar Project contemplated by this MOU in respect of the said Development Area nor directly or indirectly work with any other third party engaged in such Project and will not take any action or enter into any understanding or agreement that would in any way affect the exclusive rights of both parties have already established such project in respect of the said Development Land prior to the execution of this MOA and have taken all necessary steps to disclose such information to the other Party And undertake covenant with the other party to ensure that such Project not to be expanded, developed, improved or otherwise in any manner whatsoever that may affect the exclusive rights of both parties hereunder

Article 13: Entirety

This MOA constitutes the entire agreement and understanding between the Parties in relation to the Cooperation and in relation to the Works and it supersedes all previous agreements if any, representations and commitments between the Parties.

Article 14: Duration

The effective date of this MOA shall be the date first above written and the MOA shall continue in full effect for a period of 90 (ninety) days from the date of coming into force of this MOA unless terminated earlier by (i) a unanimous decision of the Parties or upon signing of the Contract for the execution of the Works or (ii) the signature of a more detailed agreement between the Parties as per Article 07 (ii) hereinabove.

Article 15: Extent

This MOAis entered into solely for the purposes specified in Article 01 and none of the Parties shall represent the other Party beyond the scope of this MOA, for any other purpose(s).

Nothing in this MOA shall authorize any Party to pledge the credit of the other Party, or to take any action or make any agreement in connection with the Works or the relevant contract which may adversely affect the other Party or the cooperation, except to the extent that this may have been expressly authorized by the authorized representatives of the Parties in writing.

Article 16: Amendments

No amendment to any part, term, or provision of this MOA shall bind the Parties unless it is in writing, expressly specified as such, and executed on behalf of each Party by a duly authorized representative.

If any provision of this MOA is or becomes invalid, the validity of the remaining provisions shall not be affected thereby and the Parties shall agree upon a valid provision to replace the invalid one. The replacement provision shall reflect the commercial intent of the invalid provision as closely as possible.

Article 17: Governing Law

This MOA shall be governed by and construed in accordance with the laws of Lao PDR.

Wandee Real Estate And Services Co.,Ltd.

[redacted]

[redacted]

LAO SEZ CO.,LTD

This MOA shall be governed by and construed in accordance with the laws of Lao PDR.

Article 18 : Costs of this MOA

Costs associated with the execution of this MOA shall be borne by Party A.

Article 19: Disputes

The Parties shall endeavour to settle amicably any dispute arising out of or in connection with this MOA. Failing amicable settlement, any such dispute shall be finally settled in accordance with the Lao PDR regulations and Law. Proceedings shall be conducted in English.

The initiation of any arbitral proceeding shall not absolve either party of due performance under the terms and conditions of this MOA.

IN WITNESS whereof the Parties hereto have caused this MOA to be executed by their duly authorized representatives in conformity with their respective constitutions the day and the year first above written.

Executed BY : PARTY A

AKANE DEVELOPMENT LAO SEZ CO., LTD.

SIGNED: [redacted]
Name: **MR SOMJITH ALIYAPHAPHONE**
(Passport No:[redacted])
Designation :**Deputy of President**
Date: _____

PARTY B

WANDEE REAL ESTATE & SERVICES CO., LTD.

Wandee Real Estate And Services Co.,Ltd.

SIGNED: [redacted]
Name : MR BHUMETH ISSARASILP
(Passport No:[redacted])
Designation : Chief Execution Officer
Date: 04 April 2018

Witnessed By:

SIGNED: [redacted]
Name: Mr. Buncha Damrongsiri
(Passport No:) [redacted]
Designation :
Date: 04/04/2018.

SIGNED: [redacted]
Name : Ms. Waraporn Na Lampang
(Passport No:) [redacted]
Designation : Architect
Date: 04 April 2018

SIGNED: [redacted]
Name: Viengxay Nhommalavong
(Passport No:)
Designation :
Date: 04/04/2018

SIGNED: [redacted]
Name :
(Passport No:)
Designation : Boundary
Date: 04/04/2018

Department of Notary MOJ. Of Lao PDR