

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. 251 OF 2010

BETWEEN:

**SMALL ENGINEERING (CAYMAN) LIMITED**

1<sup>st</sup> PLAINTIFF

SMALL ENGINEERING (CAYMAN) LIMITED  
TRADING AS S.E.L. CONSULTING



PLAINTIFF

DOLPHIN COVE (CAYMAN) LIMITED

DEFENDANT

**AMENDED WRIT OF SUMMONS**

**TO: DOLPHIN COVE (CAYMAN) LIMITED**  
9A Garvin Road  
P.O. Box 285  
West Bay,  
Grand Cayman, KY1-1301  
Cayman Islands

**THIS WRIT OF SUMMONS** has been issued against you by the above-named Plaintiff in respect of the claim set out on the next page.

Within 14 days after the service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, P.O. Box 495G, George Town, Grand Cayman, the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

**DATED** this ~~9<sup>th</sup>~~ day of July 2010 23<sup>rd</sup> day of August 2010

**ISSUED** this ~~12<sup>th</sup>~~ day of July 2010-08 26<sup>th</sup> day of August 2010

**NOTE:** This Writ may not be served later than 4 calendar months (or, if leave is required to effect service out of the jurisdiction, 6 months) beginning with the date of issue unless renewed by order of the Court.

**IMPORTANT**

Directions for Acknowledgment of Service are given with the accompanying form

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## STATEMENT OF CLAIM

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1. The 1<sup>st</sup> Plaintiff is and was at all material times a company organised and carrying on business as a General Contractor and Developer pursuant to the Laws of the Cayman Islands. The 1<sup>st</sup> Plaintiff's address for service is care of its attorneys, Goldfield Cayman Attorneys-at-Law, PO Box 10734, Grand Cayman, KY1-1007, Cayman Islands.

~~1.2.~~ The 2<sup>nd</sup> Plaintiff is and was at all material times a company organised and carrying on business pursuant to the laws of the Cayman Islands. The 2<sup>nd</sup> Plaintiff's address for service is care of its attorneys, Goldfield Cayman Attorneys-at-Law, PO Box 10734, Grand Cayman, KY1-1007, Cayman Islands.

~~2.3.~~ The Defendant is and was at all material times a company organised and carrying on business in accordance with the Laws of the Cayman Islands. The Defendant's principal office is situated at 9A Garvin Road, PO Box 285, West Bay, Grand Cayman, KY1-1301, Cayman Islands.

~~3.4.~~ On or about October 2007 the 1<sup>st</sup> Plaintiff and the Defendant entered into an Agreement evidenced in writing by email correspondence between the parties and evidenced by the invoices from the 1<sup>st</sup> Plaintiff to the Defendant.

~~4.5.~~ The express and/or implied terms of the Agreement were that the 1<sup>st</sup> Plaintiff would construct and build an aquamarine park. Full particulars of the services which were to be supplied were well known to the Defendant and will be provided at trial. In brief the services included but were not limited to the following;

construction of the shell and core of a three storey building (Building A), construction and the fit out of partitions, offices, etc in a second two storey building (Building B), together with additional works which were added to the original agreement as instructed by the Defendant. These works included, but were not limited to the construction of a car park, connection of the building to the mains supply, builders' work for the Defendant's supplied sewage treatment plants, elevators and all exterior works apart from dredging the lagoon, building the boardwalk, landscaping and building the dock and advising generally on all ancillary matters in connection therewith (the "Services")

5.6.\_\_\_\_\_ It was also an express term of the Agreement that the contract price for the said services was CI\$2,239,092.88. However, the actual costs of the works and Services was CI\$3,518,136.71 due to the variations and additions instructed by the Defendant. Alternatively, there is an implied contract sum in the agreement for Services which were to be provided under the Agreement such that the Defendant would pay the 1<sup>st</sup> Plaintiff for Services which were satisfactorily completed on a quantum meruit basis.

6.7.\_\_\_\_\_ In furtherance of the Agreement the Services were undertaken by the 1<sup>st</sup> Plaintiff on behalf of the Defendant and at the Defendant's request. In particular, the 1<sup>st</sup> Plaintiff provided the Services and carried out the works on an ongoing basis from the commencement of the Agreement until December 2008 for the Defendant and on the Defendant's behalf.

7.8.\_\_\_\_\_ Interim Invoices were presented by the 1<sup>st</sup> Plaintiff to the Defendant for payment on a monthly basis as the works progressed and the Defendant discharged same as they fell due until in or around October 2008.

8.9.\_\_\_\_\_ In or around October 2008, the Defendant fell behind on payment of interim invoices. The 1<sup>st</sup> Plaintiff, having faith in the Defendant's word, continued working to complete the project based upon assurances from the Defendant that all outstanding

monies owed would be discharged in or around mid-December when it was anticipated that a bank loan would be secured and drawn down.

~~9.~~10. The 1<sup>st</sup> Plaintiff completed construction and having discharged its duties under the agreement the 1<sup>st</sup> Plaintiff handed the development over to the Defendant on 22<sup>nd</sup> of December 2008 at which time the Defendant began to fully utilise the buildings in preparation for the opening of the park.

~~10.~~11. The 1<sup>st</sup> Plaintiff issued further invoices for the Services in December 2008. The Defendant queried two items on the bill and the 1<sup>st</sup> Plaintiff remedied the discrepancies and issued the revised invoices accordingly. The necessary invoices were tabled with a Civil Engineer appointed by the Defendant to quantify the works and the 1<sup>st</sup> Plaintiff was satisfied to accept his final recommendation as it related to the price of the services. The Defendant has failed to discharge the monies owed despite the recommendations of his appointed engineer.

~~11.~~12. The 1<sup>st</sup> Plaintiff issued further invoices on the 23<sup>rd</sup> of April 2009 (#CO7-111-18) and on the 22<sup>nd</sup> of June 2009 (CO7-111-20), which include interest on the overdue balance but the Defendant has failed, refused and/or neglected to pay the same. These invoices now total CI\$~~178,815.34~~ 174,176.97.

~~12.~~13. In or around April 2010, the Defendant contacted the 1<sup>st</sup> Plaintiff and advised him that the reason for non-payment of the monies owed was by reason of the fact that there remained a number of deficiencies that required attention. In an effort to resolve the matter amicably the 1<sup>st</sup> Plaintiff attended to these matters to the satisfaction of the Defendant yet the Defendant continues to refuse to make payment.

~~13.~~14. The Defendant asked the 1<sup>st</sup> Plaintiff to construct a second phase to the development. The 1<sup>st</sup> Plaintiff agreed to carry out the said works. The Defendant subsequently failed to retain the services of the 1<sup>st</sup> Plaintiff leaving the 1<sup>st</sup> Plaintiff fully resourced with labour and equipment. Further, by reason of the Defendant's

non-payment of invoices due for Phase I of the development, the 1<sup>st</sup> Plaintiff was in a huge amount of debt preventing them from pursuing new work with other potential clients as they owed their suppliers money and had little or no cash flow thus preventing them from working. The 1<sup>st</sup> Plaintiff was supporting labour in accordance with Cayman Islands' Laws expecting the Defendant to release the work.

15. The Defendant endeavoured to hire the 1<sup>st</sup> Plaintiff's sub-contractors directly.

16. On or about July/August 2008, the 2<sup>nd</sup> Plaintiff and the Defendant entered into an Agreement evidenced in writing by e-mail correspondence between the parties and invoices from the 2<sup>nd</sup> Plaintiff to the Defendant whereby the 2<sup>nd</sup> Plaintiff would supply Architectural and planning services to the Defendant. Full particulars of the services which were supplied were known to the Defendant and included, but were not limited to the following: start up and concept design of the second phase of the project, drafting planning documents together with submission of same to the Central Planning Authority for approval and advising generally on all ancillary matters (the "Services")

17. In furtherance of this Agreement the Services were undertaken by the 2<sup>nd</sup> Plaintiff on behalf of the Defendant and at the Defendant's request.

14. In pursuance of the said Agreement, the 2<sup>nd</sup> Plaintiff provided the Services and carried out the works on an ongoing basis in September 2008 and again from February 2009 to the 21<sup>st</sup> of July 2009 for the Defendant, who received and accepted the same.

18. The 2<sup>nd</sup> Plaintiff issued invoice number A08-102-1 on the 13<sup>th</sup> of September 2009 for Architectural fees up to Planning submission stage for Dolphin Cove Phase II and further invoice FC4 for finance charges on the overdue balance on the 31<sup>st</sup> of October 2009. These invoices totalled C/\$19,314.63.

19. Notwithstanding demands for payment made on the Defendant, the Defendant has wrongfully failed, refused or neglected to pay the 1<sup>st</sup> Plaintiff the price of the said services provided by the 1<sup>st</sup> Plaintiff, namely CI\$141,252.76 plus interest, and the same is still due and owing to the 1<sup>st</sup> Plaintiff.

15.20. Nothwithstanding demands for payment made on the Defendant, the Defendant has wrongfully failed, refused or neglected to pay the 2<sup>nd</sup> Plaintiff the price of the services provided by the 2<sup>nd</sup> Plaintiff, namely CI\$19,314.63 plus interest and the same is still due and owing to the 2<sup>nd</sup> Plaintiff.

16.21. As a result of the above, the 1<sup>st</sup> and 2<sup>nd</sup> Plaintiffs are ~~is~~ entitled to the relief claimed in this proceeding.

22. The 1<sup>st</sup> Plaintiff also claims interest on all overdue sums pursuant to the Judicature Law and the Judgment Debts Rates of Interest Rules with effect from the 31<sup>st</sup> of July 2009 to date and until such outstanding sums are fully paid.

17.23. The 2<sup>nd</sup> Plaintiff also claims interest on all overdue sums pursuant to the Judicature Law and the Judgment Debts Rates of Interest Rules with effect from the 13<sup>th</sup> of September 2009 to date until such outstanding sums are fully paid.

18.24. Given the above, the Defendant must be estopped from denying the 1<sup>st</sup> Plaintiff's right to receive damages, loss of profit, and interest by way of equitable estoppel and specifically by way of acquiescence and/or proprietary estoppel.

**THE PLAINTIFFS THEREFORE CLAIMS:**

(a) CI\$163,567.39 ~~144,252.76~~ being the Principal Sum due on the ~~9<sup>th</sup> of July 2010~~ 23<sup>rd</sup> of August 2010

(b) Loss of gross profit for phase II of the development at a rate of 13.5% of 2.5million in the sum of CI\$325,000.00

(c) Interest on the overdue amount of ~~CI\$144,252.76~~ CI\$163,567.39 currently in the sum of ~~CI\$29,924.21~~ CI\$39,993.96

~~(d)~~ Pre and post Judgment Interest on CI\$56,749.38 from the 24<sup>th</sup> of May 2009 at a rate of 18% per annum together with pre and post judgment interest on CI\$87,503.38 from the 31<sup>st</sup> of July 2009 in accordance with the agreement;

~~(d)~~~~(e)~~ Pre and post Judgment Interest on CI\$19,314.63 at a rate of 18% per annum from the 19<sup>th</sup> of September 2009 in accordance with the Agreement

~~(e)~~~~(f)~~ Alternatively, pre and post Judgment Interest in accordance with the Judicature Law (2007 Revision) and the Judgment Debts (Rates of Interest) Rules as amended from time to time from the ~~31<sup>st</sup> of July~~ 19<sup>th</sup> of September 2009 until payment in full;

~~(f)~~~~(g)~~ Costs to be taxed if not agreed;

~~(g)~~~~(h)~~ Such further and other relief as this Honourable Court may deem fit.

If within the time for returning the Acknowledgement of Services, the Defendant pays the total amount claimed ~~CI\$518,491.60~~ 499,176.97 plus interest and costs further proceedings will be stayed. The money must be paid to the Plaintiffs or their Attorneys.

**DATED** this 23<sup>rd</sup> of August 2010 ~~9<sup>th</sup> of July 2009~~

Goldfield Cayman  
**GOLDFIELD CAYMAN ATTORNEYS-AT-LAW**  
Attorneys-at-Law for the Plaintiff

### INDORSEMENT

The principal amount claimed in respect of the debt is CI\$~~163,567.39~~ ~~144,252.76~~ plus interest of CI\$~~29,924.21~~ ~~39,993.96~~ as of the date of filing. The amount of the filing fees to commence the proceedings is CI\$200.00 plus as valorem fees of CI\$~~1,217.84~~ ~~1,321.26~~. If, within the time for returning the acknowledgment of service, the Defendant pays the Plaintiff or its attorney-at-law the total amount claimed in principal, interest and the costs of issuing the Summons and Statement of Claim, further proceedings will be stayed. The money must be paid to the Plaintiff or its attorney at law.

### INDORSEMENT REGARDING INTEREST

1. The Plaintiff claims interest pursuant to the terms of the Agreement at a rate of 18% per annum on the principal sum (on CI\$56,749.38 from the 24<sup>th</sup> of May 2009, ~~and~~ on CI\$87,503.38 from the 31<sup>st</sup> of July and on CI\$19,314.63 from the 13<sup>th</sup> of September 2009) until payment in full;
2. The prescribed rate of interest is 18% per annum;
3. The dates from which interest is payable ~~are~~ is the 24<sup>th</sup> of May 2009, ~~and~~ the 31<sup>st</sup> of July 2009 ~~and the 19<sup>th</sup> of September 2009~~ respectively;
4. The total interest claimed as at the ~~9<sup>th</sup> of July 2010~~ 23<sup>rd</sup> of August 2010 is ~~CI\$29,924.21~~ ~~CI\$39,993.96~~; and
5. The amount if interest accruing daily is ~~CI\$71.14~~ CI\$72.73

**THE WRIT OF SUMMONS and STATEMENT OF CLAIM** is prepared and filed by **GOLDFIELD CAYMAN ATTORNEYS-AT-LAW**, Attorneys-at-Law for and on behalf of the Plaintiffs herein, whose address for service is situated at Rankin's Plaza, 21 Eclipse Drive, P.O. Box 1431 GT, George Town, Grand Cayman, Cayman Islands.

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***DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE OF  
WRIT OF SUMMONS***

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1. The accompanying form of Acknowledgment of Service should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person.

After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495G, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings must also serve a defence on the Attorney for the Plaintiffs (or on the Plaintiffs if acting in person).

If a Statement of Claim is indorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant.

If the Defendant fails to serve his defence within the appropriate time, the Plaintiffs may enter judgment against him without further notice.

3. A Stay of Execution against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, but he must, within that time, issue a Summons for a stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make for payment of the money by instalments or otherwise.

**See over for notes for guidance**

**Please complete overleaf**

## Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
2. For the purpose of calculating the period of 14 days for acknowledging service, a writ served on the Defendant personally is treated as having been served on the day it was delivered to him.
3. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (the name stated on the Writ of Summons)".
4. Where the Defendant is a FIRM and an attorney is not instructed, the form must be completed by a PARTNER by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
5. Where the Defendant is sued as an individual TRADING IN A NAME OTHER THAN HIS OWN, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
6. Where the Defendant is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.

**IN THE GRAND COURT OF THE CAYMAN ISLANDS**

**CAUSE NO. 251 OF 2010**

BETWEEN:

**SMALL ENGINEERING LIMITED**

1<sup>st</sup> PLAINTIFF

SMALL ENGINEERING (CAYMAN) LIMITED  
TRADING AS S.E.L. CONSULTING

2<sup>nd</sup> PLAINTIFF

**DOLPHIN COVE (CAYMAN) LIMITED**

DEFENDANT

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**ACKNOWLEDGMENT OF SERVICE  
OF WRIT OF SUMMONS**

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If you intend to instruct an Attorney to act for you, give him this form **IMMEDIATELY**.

Important. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

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1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

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2. State whether the Defendant intends to contest the proceedings (tick appropriate box)

YES  NO

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3. If the claim against the Defendant is for a debt or liquidated demand, **AND** she does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiff (tick box)

YES  NO

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Service of the Writ is acknowledged accordingly

(Signed).....Attorney for the Defendant

**Please complete overleaf**

## NOTES ON ADDRESS FOR SERVICE

Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

Indorsement by Plaintiffs' Attorney (or by plaintiffs if suing in person) of his name, address and reference, if any, in the box below.

Goldfield Cayman Attorneys-at-Law  
Rankin's Plaza, 21 Eclipse Drive  
P.O. Box 10734  
Grand Cayman, KY1-1007  
Cayman Islands

Indorsement by Defendant's Attorney (or by Defendant if suing in person) of his name, address and reference, if any, in the box below.

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## STATEMENT OF CLAIM

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1. The Plaintiff is and was at all material times a company organised and carrying on business as a General Contractor and Developer pursuant to the Laws of the Cayman Islands. The Plaintiff's address for service is care of its attorneys, Goldfield Cayman Attorneys-at-Law, PO Box 10734, Grand Cayman, KY1-1007, Cayman Islands.
2. The Defendant is and was at all material times a company organised and carrying on business in accordance with the Laws of the Cayman Islands. The Defendant's principal office is situated at 9A Garvin Road, PO Box 285, West Bay, Grand Cayman, KY1-1301, Cayman Islands.
3. On or about October 2007, the Plaintiff and the Defendant entered into an Agreement evidenced in writing by email correspondence between the parties and evidenced by the invoices from the Plaintiff to the Defendant.
4. The express and/or implied terms of the Agreement were that the Plaintiff would construct and build an aquamarine park. Full particulars of the services which were to be supplied were well known to the Defendant and will be provided at trial. In brief the services included, but were not limited to the following; construction of the shell and core of a three storey building (Building A), construction and the fit out of partitions, offices, etc in a second two storey building (Building B), together with additional works which were added to the original agreement as instructed by the Defendant. These works included, but were not limited to the construction of a car park, connection of the building to the mains supply, builders' work for the Defendant's supplied sewage treatment plants, elevators and all exterior works apart from dredging the lagoon, building the boardwalk, landscaping and building

the dock and advising generally on all ancillary matters in connection therewith (the "Services").

5. It was also an express term of the Agreement that the contract price for the said Services was CI\$2,239,092.88. However, the actual cost of the works and Services was CI\$3,518,136.71 due to the variations and additions instructed by the Defendant. Alternatively, there is an implied contract sum in the agreement for Services which were to be provided under the Agreement such that the Defendant would pay the Plaintiff for Services which were satisfactorily completed on a quantum meruit basis.
6. In furtherance of the Agreement the Services were undertaken by the Plaintiff on behalf of the Defendant and at the Defendant's request. In particular, the Plaintiff provided the Services and carried out the works on an ongoing basis from the commencement of the Agreement until December 2008 for the Defendant and on the Defendant's behalf.
7. Interim Invoices were presented by the Plaintiff to the Defendant for payment on a monthly basis as the works progressed and the Defendant discharged same as they fell due until in or around October 2008.
8. In or around October 2008, the Defendant fell behind on payment of interim invoices. The Plaintiff, having faith in the Defendant's word, continued working to complete the project based upon assurances from the Defendant that all outstanding monies owed would be discharged in or around mid-December when it was anticipated that a bank loan would be secured and drawn down.
9. The Plaintiff completed construction and having discharged its duties under the agreement the Plaintiff handed the development over to the Defendant on 22<sup>nd</sup> of December 2008 at which time the Defendant began to fully utilise the buildings in preparation for the opening of the park.

10. The Plaintiff issued further invoices for the Services in December 2008. The Defendant queried two items on the bill and the Plaintiff remedied the discrepancies and issued the revised invoices accordingly. The necessary invoices were tabled with a Civil Engineer appointed by the Defendant to quantify the works and the Plaintiff was satisfied to accept his final recommendation as it related to the price of the services. The Defendant has failed to discharge the monies owed despite the recommendations of his appointed Engineer.
11. The Plaintiff issued further invoices on the 23<sup>rd</sup> of April 2009 (#CO7-111-18) and on the 22<sup>nd</sup> of June 2009 (CO7-111-20), which include interest on the overdue balance but the Defendant has failed, refused and/or neglected to pay the same. These invoices now total CI\$174,176.97.
12. In or around April 2010, the Defendant contacted the Plaintiff and advised him that the reason for non-payment of the monies owed was by reason of the fact that there remained a number of deficiencies that required attention. In an effort to resolve the matter amicably the Plaintiff attended to these matters to the satisfaction of the Defendant yet the Defendant continues to refuse to make payment.
13. The Defendant asked the Plaintiff to construct a second phase to the development. The Plaintiff agreed to carry out the said works. The Defendant subsequently failed to retain the services of the Plaintiff leaving the Plaintiff fully resourced with labour and equipment. Further, by reason of the Defendant's non-payment of invoices due for Phase I of the development, the Plaintiff was in a huge amount of debt preventing them from pursuing new work with other potential clients as they owed their suppliers money and had little or no cash flow thus preventing them from working. The Plaintiff was supporting labour in accordance with Cayman Islands' Laws expecting the Defendant to release the work.
14. The Defendant endeavoured to hire the Plaintiff's sub-contractors directly.

15. Notwithstanding demands for payment made on the Defendant, the Defendant has wrongfully failed, refused or neglected to pay the Plaintiff the price of the said services, namely CI\$141,252.76 plus interest, and the same is still due and owing to the Plaintiff.
16. As a result of the above, the Plaintiff is entitled to the relief claimed in this proceeding.
17. The Plaintiff also claim interest on all overdue sums pursuant to the Judicature Law and the Judgment Debts Rates of Interest Rules with effect from the 31<sup>st</sup> of July 2009 to date and until such outstanding sums are fully paid.
18. Given the above, the Defendant must be estopped from denying the Plaintiff's right to receive damages, loss of profit, and interest by way of equitable estoppel and specifically by way of acquiescence and or/proprietary estoppel.

**THE PLAINTIFFS THEREFORE CLAIMS:**

- (a) CI\$144,252.76 being the Principal Sum due on the 9<sup>th</sup> of July 2010
- (b) Loss of gross profit for phase II of the development at a rate of 13.5% of 2.5million in the sum of CI\$325,000.00
- (c) Interest on the overdue amount of CI\$144,252.76 currently in the sum of CI\$29,924.21
- (d) Pre and post Judgment Interest on \$56,749.38 from the 24<sup>th</sup> of May 2009 at a rate of 18% per annum together with pre and post judgment interest on \$87,503.38 from the 31<sup>st</sup> of July 2009 in accordance with the agreement;
- (e) Alternatively, pre and post Judgment interest in accordance with the Judicature Law (2007 Revision) and Judgment Debts (Rates of Interest) Rules as amended from time to time from the 31<sup>st</sup> of July 2009 until payment in full;
- (f) Costs to be Taxed if not agreed;

(g) Such further and other relief as this Honourable Court may deem fit.

If within the time for returning the Acknowledgement of Services, the Defendant pays the total amount claimed CI\$499,176.97 plus interest and costs further proceedings will be stayed. The money must be paid to the Plaintiffs or their Attorneys.

**DATED** this 9<sup>th</sup> day of July 2009

Goldfield Cayman  
**GOLDFIELD CAYMAN ATTORNEYS-AT-LAW**  
Attorneys-at-Law for the Plaintiffs

**INDORSEMENT**

The principal amount claimed in respect of the debt is CI\$144,252.76 plus interest of CI\$29,924.21 as of the date of filing. The amount of the filing fees to commence the proceedings is CI\$200.00 plus ad valorem fees of CI\$1,321.26. If, within the time for returning the acknowledgement of service, the Defendant pays the Plaintiff or its attorney-at-law the total amount claimed in principal, interest and the costs of issuing the Summons and Statement of Claim, further proceedings will be stayed. The money must be paid to the Plaintiff or its attorney-at-law.

**INDORSEMENT REGARDING INTEREST**

1. The Plaintiff claims interest pursuant to the terms of the Agreement at a rate of 18% per annum on the principal sum (on \$56,749.38 from the 24<sup>th</sup> of May 2009 and on \$87,503.38 from the 31<sup>st</sup> of July) until payment in full
2. The prescribed rate of interest is 18% per annum;
3. The date from which interest is payable is the 24<sup>th</sup> of May 2009 and the 31<sup>st</sup> of July 2009 respectively;
4. The total interest claimed as at the 9<sup>th</sup> of July 2010 is CI\$29,924.21; and
5. The amount of interest accruing daily is CI\$71.14.

**THE WRIT OF SUMMONS and STATEMENT OF CLAIM** is prepared and filed by **GOLDFIELD CAYMAN ATTORNEYS-AT-LAW**, Attorneys-at-Law for and on behalf of the Plaintiffs herein, whose address for service is situated at Rankin's Plaza, 21 Eclipse Drive, P.O. Box 1431 GT, George Town, Grand Cayman, Cayman Islands.

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***DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE OF  
WRIT OF SUMMONS***

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1. The accompanying form of Acknowledgment of Service should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person.

After completion it must be delivered or sent by post to the Law Courts, P.O. Box 495G, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings must also serve a defence on the Attorney for the Plaintiffs (or on the Plaintiffs if acting in person).

If a Statement of Claim is indorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant.

If the Defendant fails to serve his defence within the appropriate time, the Plaintiffs may enter judgment against him without further notice.

3. A Stay of Execution against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, but he must, within that time, issue a Summons for a stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make for payment of the money by instalments or otherwise.

**See over for notes for guidance**

**Please complete overleaf**

## Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Courts Office.
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4. Where the Defendant is a FIRM and an attorney is not instructed, the form must be completed by a PARTNER by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
5. Where the Defendant is sued as an individual TRADING IN A NAME OTHER THAN HIS OWN, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
6. Where the Defendant is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian ad litem.
8. A Defendant acting in person may obtain help in completing the form at the Courts Office.

IN THE GRAND COURT OF THE CAYMAN ISLANDS

CAUSE NO. OF 2010

BETWEEN:

SMALL ENGINEERING LIMITED

PLAINTIFF

DOLPHIN COVE (CAYMAN) LIMITED

DEFENDANT

**ACKNOWLEDGMENT OF SERVICE  
OF WRIT OF SUMMONS**

If you intend to instruct an Attorney to act for you, give him this form **IMMEDIATELY**.

Important. Read the accompanying directions and notes for guidance carefully before completing this form. If any information required is omitted or given wrongly, THIS FORM MAY HAVE TO BE RETURNED.

Delay may result in judgment being entered against a Defendant whereby he may have to pay the costs of applying to set it aside.

1. State the full name of the Defendant by whom or on whose behalf the service of the Writ is being acknowledged.

2. State whether the Defendant intends to contest the proceedings (tick appropriate box)

YES  NO

3. If the claim against the Defendant is for a debt or liquidated demand, **AND** she does not intend to contest the proceedings, state if the Defendant intends to apply for a stay of execution against any judgment entered by the Plaintiff (tick box)

YES  NO

Service of the Writ is acknowledged accordingly

(Signed).....Attorney for the Defendant

**Please complete overleaf**

**NOTES ON ADDRESS FOR SERVICE**

Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

Indorsement by Plaintiffs' Attorney (or by plaintiffs if suing in person) of his name, address and reference, if any, in the box below.

Goldfield Cayman Attorneys-at-Law  
Rankin's Plaza, 21 Eclipse Drive  
P.O. Box 10734  
Grand Cayman, KY1-1007  
Cayman Islands

Indorsement by Defendant's Attorney (or by Defendant if suing in person) of his name, address and reference, if any, in the box below.

[Empty box for Defendant's Attorney indorsement]

**Oath of Allegiance & Judicial Oath**

**Oath of Allegiance**

I, ARAK JOSEPH, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to the Law.

So help me God

Sworn to and subscribed before me this 23<sup>rd</sup> day of August, 2019

CECILE COLLINS  
DEPUTY CLERK OF THE COURT

ARAK JOSEPH

**Oath for the Due Execution of Judicial Office**

I, ARAK JOSEPH, do swear that I will well and truly serve our Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, and the people of the Cayman Islands in the Office of Justice of the Peace of the Cayman Islands, and that I will do right to all manner of people according to the law without fear or favour, affection or ill-will.

So help me God

Sworn to and subscribed before me this 23<sup>rd</sup> day of August, 2019

CECILE COLLINS  
DEPUTY CLERK OF THE COURT

ARAK JOSEPH