

## **STANDARD MEMORANDUM OF UNDERSTANDING**

**FOR <Name of work>**

**OF < Name of Organization > (MHA), GOVERNMENT OF INDIA**

Memorandum of Understanding/Agreement made on ***this day of.....20.....*** between the <Name of Organisation> hereinafter called <Name> which expression shall, unless the context requires another or different meaning, include its representatives and assigns.

**AND**

**M/S <PWO> (A Government of India Enterprises)** a company registered under the companies Act, 1956 under the Ministry of Urban Development and its registered office at <Address of PWO> (hereinafter called <Abridged name of PWO>) which expression shall unless the context requires another or a different meaning include their successors, heirs, legal representatives, executors, administrators and assigns on the other part.

**WHEREAS, <Name of Organisation>** vide sanction letter No. < letter no and date> conveyed the administrative approval cum expenditure sanction of incurring an expenditure not exceeding Rs. <Amount in figures (Amount in words) for <name of work> by <PWO> including 3% contingency (at actual against documentary evidence) and \_\_\_\_\_% agency charges, plus service taxes, wherever applicable.

**AND WHEREAS <Name of PWO>** has offered to take up and execute the detailed engineering and construction of the aforesaid works, as per the estimates submitted by <PWO> vide their letter No..... dated..... for undertaking the work on agency charges @ \_\_\_\_% of the actual cost of works, plus service tax.

**NOW THEREFORE,** this MoU/Agreement witnessed and it is hereby agreed between the parties as follows :

## 1. SCOPE OF WORK

- 1.1 The scope of work for execution of the project by <PWO> shall include the following activities:
- (i) Preparation of detailed working and structural drawings
  - (ii) Preparation of detailed estimates for buildings and all services (civil, electrical and mechanical)
  - (iii) Preparation of NIT, call of tenders including pre bid conference wherever applicable, receipt and opening of tenders, decision of tender and award of work
  - (iv) Execution of work and contract management
  - (v) Completion of work
  - (vi) Testing and commissioning
  - (vii) Completion certificate from local body including clearance from all relevant authorities.
  - (viii) Handing over to client.

## 2. DETAILS OF WORK

- a) <PWO> shall undertake the <Name of work > for Rs. <Approved cost in figures? <Approved cost in words> as Public Works Organization based on the preliminary estimates submitted by them and sanction conveyed by <Organisation> vide letter No..... dated..... The estimate covers the provision of construction of <details of work approved>. The estimates have been prepared based on DPAR-2007 with up to date correction slips. <PWO> shall make on its own arrangement of water, electricity and obtain necessary permission for carrying the material by road where applicable from local Traffic Department.
- b) Built up area of the construction shall be as under :-  
<Detailed breakup to be given> - <.....> sqm
- c) References of Drawings

The work shall be carried out as per CPWD specifications, based on DPAR 2007. The items not included in the DPAR like <details of such items as may be contained therein > shall be executed as per the recommendations and specifications of the manufacturer duly approved by the **<Organization>**. In case of items having options in DPAR like external finishing, the selection of items to be used shall be decided by the **<Organization>**. In case it becomes necessary to substitute any item due to unavoidable reasons, the rate of the substituted item(s) shall be worked out without affecting the financial implication as under:

- c.i) If the market rate for the substituted item so determined is more than the market rate of the agreement item (to be substituted), the rate payable to the contractor for the substituted item shall be the rate for the agreement item (to be substituted) so increased to the extent of the difference between the market rates of substituted item and the agreement item (to be substituted).
- c.ii) If the market rate for the substituted item so determined is less than the market rate of the agreement item (to be substituted), the rate payable to the contractor for the substituted item shall be the rate for the agreement item (to be substituted) so decreased to the extent of the difference between the market rates of substituted item and the agreement item (to be substituted).

### **3. METHODOLOGY OF EXECUTION**

- 3.1 The provisions contained in GFR, 2005 and the manual on Polices and procedure for procurement of works issued by Ministry of Finance should be scrupulously followed by **<PWO>** for awarding the work to executing agency. The entire work including .....shall be executed through wide open tender system as per the required codal provisions, GFR, CVC and CPWD guidelines.
- 3.2 **<PWO>** shall assume total and single point responsibility for the quality of work and timely completion of the projects by its executing agencies. **<PWO>** shall engage reputed experienced, financially

sound Contractors and Suppliers for ensuring timely and satisfactory completion of the project within the time frame stipulated in clause 4. In the interest of work, **<PWO>** shall obtain necessary guarantees relating to workmanship, quality assurance and timely completion of work from the contractors / firms / agencies / suppliers. Clauses for security deposits, compensation for delay, etc. shall be included in the agreements to be entered into with selected Contractors/Suppliers Contractors. The work shall be executed as per CPWD specifications and all mandatory tests on materials etc. shall be carried out as per accepted procedure. Proper records of the test result shall be maintained. While executing the construction works, the general conditions of contract for CPWD works will be taken as guidelines by **<PWO>**.

- 3.3 Execution of the Project shall be carried out by **<PWO>** as Public Works implementation company (Public Works Executing Agency). The work will be completed within time frame stipulated in clause 4. **<PWO>** shall submit CPM/PERT chart of the construction activity, matching with stipulated time schedule agreed by **<PWO>**. The copy of the work order of various works awarded to contractor/firm/agency/supplier to the party of first part of the contractors/agencies bills, will be submitted to **<Organisation>** for record. **<PWO>** shall not alter the scope and specifications during execution of the work, as originally submitted by them while obtaining the approval without the prior approval of **<Organisation>**. The cost will comprise all payments to consultant(s), contractors, suppliers, vendors and other agencies connected with the implementation of the project.
- 3.4 It is understood that the **<Organisation>** or any person authorized by it/him may inspect the "Construction Work" at any time to satisfy itself/himself that the buildings are being constructed by the agency as per drawings & specification as provided in the Estimate. If any

defects or variation are found during the inspection, they will have to be got rectified by **<PWO>** at their own cost.

- 3.5 The work shall be commenced only after the approval of drawings from the local body including fire department. The general clauses of the contract including labour regulations, registration of contractor, obtaining labour licence from labour department, safety precautions etc. and all statutory provisions shall be as per the prevailing CPWD General Clauses of Contract. The **<PWO>** will also/ submit a schedule to complete the work within the time frame. Monitoring of the physical and financial progress of the work shall be done monthly or as and when required by a team comprising of officers from<Organisation>/ MHA and <PWO>. <PWO> shall also submit a set of working drawings, detailed estimate and copy of certified agreement entered into by <PWO> before the commencement of the work.

#### 4. **TIME OF COMPLETION**

- 4.1 The total period of completion of the work shall be ..... months. There shall not be any escalation payable by **<Organization>** to **<PWO>** on account of any delay in the work and the cost of the project for the sanctioned amount shall be firm. The period of completion shall be considered from either from the dates mentioned here in below, which happens later:-

- a) Date of sanction of estimate
- b) Date of hand over of encumbrance free site
- c) Date of approval of building plans by local bodies with maximum limit of 2 months time.

**<PWO>** shall draw out a detailed construction schedule covering all activities and submit the same to **<Organisation>**. <PWO> shall exercise strict supervision, high quality control and efficient project management.

- 4.2 Time will be decided mutually by PWO and Organisation on case to case basis. Since the very idea of allotting works to PWOs is to

speed up the work, the time of completion, with detailed PERT Chart, should be very specifically worked out keeping in view the 9 (NINE) factors mentioned in Annexure I of this MoU.

- 4.3 The user i.e. the concerned force shall ensure that there is adequate fund for the execution of the work.
- 4.4 Cost escalation allowed should be such so as to discourage the cost escalation. Delay in completion by the contractor would be covered as per the existing CPWD guidelines as contained in Clause 10 C, 10 CA and 10 CC of the CPWD General Conditions of Contract 2010, and the fixed time schedule for completion of work. The **PWO** shall enter into a contract with the contractor accordingly.

## 5. COST CONTROL

- 5.1 **<PWO>** will ensure that the inputs of all resources are kept at the optimum possible level needed to ensure cost control and timely completion of works. It will also ensure an all round efficiency in the use of all inputs so that the cost is kept at the minimum possible **<Organization>** level. **<PWO>** will prepare detailed estimates of cost for the various items of works as required by **<Organization>** on CPWD's schedule (wherever applicable) enhanced by the cost index of the locality as worked out by CPWD from time to time. These estimates shall form the basis for approval of works. On completion of works, the actual completion cost shall be worked out for the complete work showing the rates for individual items and the quantities.
- 5.2 Tenders shall be invited by **<PWO>** from registered contractors of appropriate class. Tenders shall be invited on the basis of estimated cost. On receipt of tenders, if the tendered cost is within the sanctioned cost, **<PWO>** shall award the works to the contractors. In case lowest evaluated tendered cost exceeds the approved sanctioned cost, **<PWO>** will submit revised preliminary estimate of the project duly indicating the reasons for increasing the cost of project for the approval of **<Organization>**.

- 5.3 **<PWO>** will make its endeavor to reduce the cost of constructions by any change of specifications, methods of constructions, value engineering or any innovative or economical design. Such reduction in the cost of construction shall only be made with the approval of the sanctioning authority without affecting, prejudicing or endangering in any way the quality, safety or security of the building.

## 6. RECORDS

The following documents shall, in addition to other requisite documents, be maintained by the **<PWO>** and produced by it when called for by the **<Organisation>**.

- a) **CPM and Bar Charts**: Preparation of CPM and Bar Charts, monitoring and modifications as approved by the Ministry of Home Affairs shall be made by **<PWO>**. This should be given to the **<Organisation>** prior to commencement of work and thereafter it shall be updated / rescheduled, if required, every month.
- b) A register showing list of contractors against each work and payments made should be maintained by **<PWO>** and produced for inspection to **<Organisation>** as and when required. Auditable accounts registers would be maintained.
- c) **Site Documents**: All site documents as applicable during execution of the work shall be maintained by **<PWO>** and will be kept updated at all times. **<Organisation>** / authorized representatives will have the right to peruse them and raise observations, if any, Stage passing and material testing will be paid special attention.
- d) **Structural soundness of the Building**: **<PWO>** shall be responsible for structural soundness of the project in all respects and a certificate thereon shall be furnished by **<PWO>** to the **<Organisation>** on the completion of work.
- e) **Completion Drawings**: Two sets each of final drawings of the project on completion and detailed layout plans of all services shall be prepared by **<PWO>** and handed over all the **<Organisation>** as and

when called for. This must be provided while making any AIP or final bill on completion of job. The FSTR should be self explanatory w.r.t. sanctioned amount, expenditure incurred, firm liability and anticipated liability if any for entire project.

All the financial records of **<PWO>** relevant to the contract will be open to scrutiny and inspection by the authorized representatives of **<Organization>** and MHA / CAG.

## 7. **ARCHITECTURE**

- 7.1 The layout and design for the buildings shall be done in such a manner so that harmony with the environment is maintained. The **<PWO>** shall interact with the **<Organization>**, at different stages, to take into account their requirements.
- 7.2 During the construction stage, competent architect shall also be associated for the correctness of architectural features and the quality of finishes to achieve the design envisioned by him and also to ensure incorporation of the suggestions agreed with **<Organisation>**.
- 7.3 **<PWO>** shall be responsible for obtaining approval and clearances from all relevant authorities including the local body / authority, as required under the rules/byelaws.
  - No variation in the design and drawings can be made by **<PWO>** except with the express approval of **MHA**.
  - Design of buildings should be as per entitled norms and specifications of CPWD.
  - The **<PWO>** should certify that the design is as per CPWD norms/specifications.
  - No preliminary estimate should be made / approved without approved design signed by user.
  - Approval of the local bodies should be obtained by the **<PWO>**, assisted by the client, wherever necessary, after signing of MoU



subject to maximum period of 2 months from the date of signing of MoU.

## 8. ARBITRATION

In the event of any dispute(s) or difference relating to the interpretation and application of the provisions of the contracts, such dispute or difference shall be referred by either party to the Arbitration of one of the Arbitrators in the Department of Public Enterprises to be nominated by the Secretary to the Government of India in charge of the Bureau of Public Enterprise. If the Department of Public Enterprises fails to settle the dispute, the same shall be referred to the Committee on Disputes under Cabinet Secretariat. The Arbitration and Reconciliation Act, 1996 shall not be applicable to the arbitration under the clause. The award of the Arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make a further reference for setting aside for revision of the award to the Law Secretary, Department of Legal Affairs, Ministry of Law & Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary or the Special Secretary/Additional Secretary when so authorized by the Law Secretary, whose decision shall bind the parties finally and conclusively. The parties to the dispute will share equally the cost of arbitration as intimated by the Arbitrator.

## 9. COMPENSATION FOR DELAY

- 9.1 The work is to be completed within the scheduled time frame and no extension will be granted. However, in case of delay in completion of work due to reasons beyond control of <PWO>, suitable extension time may be granted by **<Organisation>** for which **<PWO>** will make a request to **<Organisation>**.
- 9.2 In case there are some hindrance which comes to the notice of **<PWO>** and are to be attended by **<Organisation>**, the same shall be intimated immediately so that timely action for removal of

the same could be taken. In case, hindrances occur not on the part of <PWO>, the same shall also be intimated and recorded within 15 days of the occurrence of the hindrance.

- 9.3 <PWO> will provide compensation clauses in their contract with contractors as per CPWD norms. For any delay attributable to the <PWO> {including those by the contractor engaged by the PWO and for any reasons and contingencies other than force majeure} compensation shall be made to the <Organisation> by the <PWO> @ 0.5% of the total project cost per week of delay, subject to a maximum of 10% of the total project cost.

## 10. INSURANCE

<PWO> shall incorporate necessary clause(s) in the tender document for contract between <PWO> and Contractors/agencies for any damage/loss or injury which may occur to any property or person(s) including any employee of the employer arising out of the execution of works or temporary works or carrying out of the contract as third party insurance.

## 11. NO RESPONSIBILITY TO THE <Organisation>

- 11.1 The <Organisation> shall not be responsible or accountable to <PWO> for the employees, agents, technicians and labourer employed by <PWO> who shall work on the project site and its premises and <PWO> shall be exclusively responsible for all such personnel engaged, on the works for such matters as payment of salary, wages, bonus, compensation and compensation in the event of death and accident.
- 11.2 There shall be no contractual nexus or privity between the <Organisation> and the technicians, employees, engineers, architects, labourers and contractors and such personnel shall not be the employees of the <Organisation> and <Organisation> shall not be liable in any way (employer –

employees relationship, legal and financial) to such personnel who shall be exclusive liability and responsibility of <PWO>.

## **12. DAMAGE TO PERSONS AND PROPERTY**

The <PWO> shall (except and in so far as this agreement provides otherwise) indemnify and keep indemnified the <Organization> against all losses and claims for injuries or damage to any person or any property whatsoever which may arise out of or in consequence of or in relation thereto. <Organization> will not be responsible in this regard.

## **13. THIRD PARTY INSURANCE**

Before commencing the execution of the work the <PWO> and or its Contractors (but limiting his obligations and responsibilities under clause –14 hereof) shall insure against any damage/loss or injury which may occur to any property including any employee of the employer arising out of the execution of the contract otherwise than due to the matters referred to in this agreement herein before.

## **14. FORCE MAJEURE CLAUSES**

<PWO> shall not be held responsible for the delays/stoppage of work due to force majeure conditions like natural calamities, flood, fire, earth quake and other acts of God as well as war, military operations, blockade, acts or actions of acute authorities and for losses suffered, if any, by <Organization> on this account. <PWO> shall also not be able in any way to bear such losses and no compensation of any kind whatsoever will be payable by <PWO> to <Organization>. Suitable force majeure clause shall be incorporated in all the agreements entered in to by <PWO> with the contractors/agencies.

## **15. SECURITY DEPOSIT**

Retention Money/Security Deposit as per the CPWD manual will be retained by <PWO> from the contractors; the amount so retained will

be released only after rectification of the defects pointed out by <Organization> during the defect liability period and after specific approval of <Organization>.

## 16 DEFECTS LIABILITY PERIOD

This period shall be one year from the date of completion of works. During this period <PWO> Ltd shall get the defects rectified without any cost to <Organization>. For the item water proofing roof treatment, <PWO> shall give guarantee bond for five years. Similarly for other items like electrical/mechanical equipments which have guarantee/warranty period beyond one year wherever applicable as per manufacturer recommendations shall also be given by the <PWO>.

17. The terms of agreement shall be extended to any additional work within the site as mutually and specifically agreed upon.

## 18. TERMINATION OF CONTRACT

### a) Cancellation of Contract in part or in Full for Contractor's Default:

If the contractor fails to complete the works, work order and items of the work within the date of completion and continues in that state after a reasonable notice from the Accepting Authority <PWO> without any prejudice shall cancel the contract as a whole or only such work order or items of work in default from the contract. <PWO> shall also complete the work by any means at contractor's risk and cost and if the estimated cost for completion exceeds the amount due to contractor under the contract, the contractor shall either pay the excess amount or same shall be recovered by <PWO> as per CPWD provision.

### b) Special Powers of Determination:

The work wholly or partly can be foreclosed, at any time, after acceptance of the contract (by **<PWO>**) for any reason, whatsoever, by the **<Organization>**, without assigning any reason or payment of any compensation, whatsoever. The **<Organization>** shall give notice in writing to the effect to **<PWO>** who shall have no claim to any payment of compensation or otherwise, whatsoever, on account of any profit or advantage which they might have derived from the execution of the works, in full but which they did not derive in consequence of the foreclosing of the work. **<PWO>** shall be paid at accepted rates, for the full amount of the work executed including such additional work e.g. clearing of site etc. as may be rendered necessary by the said foreclosing. They shall also be allowed a reasonable payment (as decided by the **<Organization>**) for any expenses sustained on account of labour, tools & plants and materials collected but not utilized on the works, verified by the **<Organization>**.

## 19. TERMS OF PAYMENT

19.1 The Agency charges will be @ \_\_\_\_% of the actual cost of work subject to maximum sanctioned amount and it will be paid along with each Running Account bill. Agency Charges will be restricted on actual or sanctioned cost whichever is less.

19.2 The mobilization advance @ 10% of the cost put to tender or tendered cost (whichever is less) shall be provided to **<PWO>**, subject to the following conditions :-

(i) The advance shall be provided only on the specific request of the PWO.

(ii) The advance shall be backed by Bank Guarantee bond of an equivalent amount.

(iii) The PWO shall maintain a project account for each work, which will show all receipts and expenditure. All interests earned by the PWO on the advance provided shall be credited to this account and

used solely for the items of work for which sanction has been taken from the Competent authority.

(iv) At the end of financial year, a review would be carried out at MHA to ascertain the progress of works for which such advance payment have been authorised. In case the work is delayed beyond the original date of completion or proportionately for reasons attributable to the NBCC/contractor, the remaining amount of advance shall be recovered along with interest. Decision on forfeiture of the guarantee bond shall be considered on a case to case basis.

(v) If the contract is terminated due to default on the part of the PWO/contractor, the mobilization advance would be deemed as interest bearing advance at an interest rate of @ 14.75%.

(vi) The recovery should be made after 10% of the work is completed and the entire amount together with interest shall be recovered by the time 80% of the work is completed.

19.3 The Agency Charges will be released in stages as per the running account bills received from the **<PWO>**.

19.4 Final payment for work shall be made only on the personal certificate of the officer-in-charge of execution of the work in the format given below:-

“I....., Executing Officer of (Name of work), am personally satisfied that the work has been executed as per the specifications laid down in the Contract Agreement and the workmanship is up to the standards followed in the Industry.”

19.5 All payments shall be made/released by **<Organization>** to **<PWO>** or vice versa through on electronic transfer of funds and not by way of cheques/DD/other instruments.

19.6 It shall be the endeavour of the **<Organization>** to ensure that the of bills of the **<PWO>** shall be made within 30 days of receipt (in the unit/formation), subject to the bill being complete in all respects and with all documents.

20. **REPORTS ON PROGRESS:**

<PWO> shall submit following monthly reports, the format for which will be provided by the <Organization> to <PWO>:-

- a) Physical progress achieved during the month and the cumulative progress of the project.
- b) Financial progress achieved during the month and expenditure incurred till date.
- c) Quarterly progress report (QPR).
- d) Any other detail / reports as required by <Organization>.

21. **COMPLETION AND TAKING OVER:**

As soon as the project is finally completed, <PWO> shall in turn inform the <Organization>, who shall nominate a Board of Officers for checking / verification of completed work as per the scope of work for final taking over of the project.

22. **SUBMISSION OF FINAL ACCOUNT**

After completion of a job in full, <PWO> shall submit a detail account of the job showing package wise payments drawn from <Organization>, payments made to their sub contractors, work contract tax recovered \_\_\_\_% departmental charges/Agency Charges levied as admissible for <PWO>, expenditure on account of contingency, savings/excess expenditure if any, to the <Organization> within a month, duly authenticated by their Accounts Branch. Any savings in the job shall be refunded to the <Organization> / MHA

23. <PWO> shall ensure that the structures being constructed are as per Energy Efficiency norms and the National Building Code structure safety standards.

24. <PWO> shall obtain necessary clearances and get the drawings approved from the local civic authorities.

25. **INSPECTION OF WORK BY CHIEF TECHNICAL EXAMINER CELL, CVC.**

<PWO> shall be responsible for the consequential effects arising out of the inspection of the project by the Chief Technical Examiner Cell, Central Vigilance Commission during the progress or any time after the construction of project and shall take appropriate action for rectification of defective work at the risk and cost of the construction agency. Rectification of defective work / replacement of sub standard as pointed out by Chief Technical Cell, Central Vigilance Commission /<Organization> or his authorized representative shall be carried out by <PWO> at their own cost. <Organization> shall not pay any extra amount for such type of liabilities.

**IN WITNESS** whereof the parties hereto have set their hands and seals the day and year first above written.

**For and on behalf of  
the President of India**

**For and on behalf of <PWO>**

**Signature**

**Signature**

Name -----

Name-----

Designation -----

Designation -----

**<Organization>**

**<PWO>**

**In presence of witness**

**In presence of witness**

Signature -----

Signature -----

Name -----

Name -----

Designation -----

Designation -----



**ANNEXURE – I**

**Time may be varied suitably due to following factors :**

1. Rainy season and inundated conditions.
2. Depth of the sub soil water.
3. Special features of the building.
4. Scattered / concentrated works.
5. Congested site.
6. Type of foundation.
7. Urgency / importance of work.
8. Extent of Mechanization involved.
9. Logistics available in area.