



सत्यमेव जयते

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MEMORANDUM OF UNDERSTANDING

MOU for Construction of National Institute of Technology Delhi Campus at Delhi.

This memorandum of understanding is made and executed at Delhi on this day 12th of August 2015 between:-

NATIONAL INSTITUTE OF TECHNOLOGY, DELHI (hereinafter referred to as NITD which expression shall unless repugnant to the context shall include its successors and assigns as its authorized representative on the one part.).

AND

NATIONAL BUILDINGS CONSTRUCTION CORPORATION LTD. (A Govt. of India Enterprise) a company registered under the Companies Act, 1956 working under the aegis of Ministry of Urban Development and having its registered office at NBCC Bhawan, Lodi Road, New Delhi-110003 (hereinafter referred to as NBCC which

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expression shall unless repugnant to the context shall include its successors and assigns on the other part.).

AND WHEREAS NITD has decided to construct/prepare following Buildings at NITD Campus, Delhi (hereinafter referred to as 'Projects')

SCOPE OF WORKS

1.1 The execution of the project by NBCC shall include the following activities:

- a) Preparation of Master Plan and preliminary assigned works;
- b) Site Development estimate for construction of Boundary wall;
- c) Construction of boys and girls hostel;
- d) Construction of administrative /academic block;
- e) Construction of Auditorium Block;
- f) Construction of Guest House;
- g) Construction of Residential complex for administrative, academic staff and subordinate staff;
- h) Preparation of interior drawings of the project;
- i) Preparation of detailed estimates of work and all services (civil, electrical and mechanical);
- j) Preparation of Notice Invitation Tender (NIT), call of tenders including bid conference wherever applicable, receipt of and opening of tenders, decision of tender and award of work
- k) Execution of work and contract management;
- l) Completion of work;
- m) Testing and commissioning;
- n) Handing over to client;

1.2 Towards the implementation of the Project the parties further agree that:

- a) The NBCC shall work on "Deposit work basis" for these projects on behalf of NITD and shall be paid the actual cost of work plus the agency charges @ 5.1% plus service tax as applicable thereon for Project Management, Supervision and including services for Architectural planning, designing and Engineering Consultancy Services.
- b) Escalation: NBCC will provide in its MOU with contractor(s) / Agencies, payment of Escalation as per CPWD clause 10C and 10 CC. Through the escalation amount payable to the contractor shall be included in the actual cost



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of work, however the agency charges to NBCC shall not be payable on this escalated amount.

1.3 The Expression actual cost of works shall, inter alia, include the following:

- a) All the final payments made to the contractor(s), supplier(s), agency as agreed upon in the tender for the demolition of building, re-routing of services, construction of all the buildings, services, related facilities etc. assigned to NBCC for these projects by NITD.
- b) All costs of materials acquired for the project and used on the work, either directly or through the contractor(s) including storage charges, carriage and any other incidental charges connected with such material but excluding the material not incorporated or not handed over to the NITD;
- c) Service Tax, if applicable, shall be reimburse to the Executing Agency. Any other Tax levied by Govt. after signing this Agreement is to be paid etc.
- d) All liabilities of NBCC payable to the contractor(s)/sub-contractor(s), supplier(s) and other agencies to the extent these fall within the definition of actual cost as may be left outstanding at the time of payment of final bill, provided they have been accepted by NBCC as outstanding, balance payment against final bill of these contractor(s) and agencies.
- e) All liabilities arising out of any court decree or arbitration award and/or any additional costs transpiring due to the direction of any court. 'tribunal statutory body and/or any other legal costs including but not limited to the cost of hiring advocates, getting legal opinions, filling of pleadings etc. for the purpose of initiating on behalf of or defending, itself or the NBCC in any suit or arbitration, in respect of any dispute arising out of the project works done or to be done and/or freeing the site of all encumbrances and/or charges.

The Sub-Clause (f) only addresses disputes/ arbitrations/ suits with any or all of the contractor(s) or any or all of the contractor(s) or any other person(s) body authority. Nothing in this Sub-Clause shall be constructed to cover any dispute/arbitrations/suits between NITD and NBCC, in which case, each party shall bear its own costs.

The parties hereto understand and agree that although the costs will come under actual costs and therefore be borne by the NITD, same shall be taken into account for the purpose of calculating the agency charges, except for such costs which as a result of an order/judgment/decrees have resulted in some form of addition or variation in the Project Works.



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1.4 The actual final cost of work shall not include:

- a) Cost of land.
- b) Statutory payments such as fees, development charges, service connection deposits, charges, premiums etc. with any local authority/statutory body/ Government.
- c) Cost of bought out items i.e. loose furniture and furnishing, windows/ split ACs, laboratory equipment, diesel generator sets purchased by NITD directly.
- d) Payment on account of arbitration award, if any, Institute's administrative expenses.
- e) Fee payable to architectural consultants by the NBCC.
- f) Fees paid/payable by the Institute in terms of this contract.

1.5 The payments by the NITD shall be made by transfer of funds in a bank account of NBCC or through demand draft/cheques, as may be mutually decided from time to time.

- a) The NBCC shall open and maintain a separate bank account in any nationalized bank for the works of NITD only. The net interest accrued after deduction of income tax in the bank account shall be credited to NITD.

1.6 Payment and submission of bills

- a) The NBCC shall implement the project as Deposit work, NBCC shall follow competitive tendering process for selection of agencies for planning, design and execution of works of the project as per their procedure.
- b) The NITD shall transfer deposit upto 10% (Ten percent only) interest free advance of preliminary estimated cost against submission of corporate guarantee by NBCC within 10 days from the opening of account after signing the MOU. The initial deposit would be retained for adjustment against the last portion of the actual cost of the work.
- c) The NBCC shall submit to NITD the monthly utilization of the amount along with the duly certified copies of bills made to the contractor(s)/ supplier(s) by the competent officer (to be designated by NBCC in advance) along with their expenditure claim (including agency charges) for reimbursement of expenditure incurred. NITD shall release the payment within 30 days of submission of invoices/ reimbursement bill by the NBCC. NBCC shall ensure to deduct @ 5% of contractor's running account bill amount as SD/retention money. The retention money shall be released from time to time to contractor as per provisions laid by CPWD or NBCC GCC. NBCC on completion and handing over of work, the accounts of the works shall be closed and a final statement shall be submitted for settlement along with refund of excess deposit received



and interest earned on deposits and mobilization advance to contractor(s), if any, duly audited by a Chartered Accountant.

- d) The agency charges will be released in stages as per the running accounts bills and utilization certificate issued by NBCC.
- e) 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 MOU and the workmanship is upto standards followed in the industry’.
- f) All payments shall be made/released by NITD to NBCC or vice-versa through an electronic transfer of funds or by way of cheques/DD/other instruments.
- g) The NITD reserves the right to verify the extent of bill if so required.

1.7 Responsibilities of NBCC:

- a) NBCC shall implement the project as deposit work, NBCC shall follow competitive tendering process (e-tendering) for selection of agencies for execution of the Projects, as per their procedure and guidelines of CVC. However the tender shall be accepted by the NBCC after obtaining the consent of NITD.
- b) Before inviting the tenders, the NBCC shall obtain the consent of NITD for NIT specifications, technical conditions and eligibility criteria.
- c) The NITD representatives shall be invited to be present in the pre-bid meeting with the agencies.
- d) Before opening of financial bids of the shortlisted agencies, the NBCC shall provide the list of shortlisted agencies, prequalification criteria and procedure adopted in finalizing of shortlist to NITD.
- e) NBCC shall provide a clause in the tender condition that no labour hutment for the contractual workers shall be allowed in the NITD campus.
- f) NBCC shall provide a clause in the tender condition that three phase electrical power connection shall be provided by the NITD at one point with the electrical meter at each project site. Further distribution shall be the responsibility of the NBCC/contractor. The monthly electricity consumption bill shall be raised by NBCC as per the prevailing rate from time to time. It will be the responsibility of the NBCC to realize the electricity charges from the contractor(s).



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- g) NBCC shall provide a clause in the tender document that either the contractor shall make own arrangement of water for construction or may take the water from the network of NITD on payment basis.
- h) The work shall be carried out in general as per existing CPWD specifications. NBCC shall ensure that the quality of work is executed as per specifications and norms such as CPWD specifications with updated correction slips, BIS codes and other specifications as given by the consultants and manufacturers as specified for the project and shall carry out such periodic tests in the laboratories of NITD or as recommended by NBCC if the facility is not available in NITD for which proper records shall be maintained by NBCC.
- i) NBCC shall submit to NITD monthly or as may be required, report indicating physical and financial progress.
- j) The project and documentation will be open for examination by the Central Govt. Agencies like CTE organization, Regional Labour Commissioner Officer/ Labour Cess, EPF, ESIC & CAG etc. NBCC shall be solely responsible for pursuing & settling the observations.
- k) NBCC shall appoint one Nodal Officer headquartered at Delhi who shall co ordinate with NITD for various activities related to Project inter alia including periodic monitoring of the Project. NITD shall set up a project monitoring committee to monitor progress and quality of the work. On demand all contractual documents will be made available to NITD.
- l) The meeting called by project monitoring committee of NITD and their site inspection shall be attended by the Nodal or higher officer of NBCC.

2.0 SCOPE OF WORK

The Scope of work under this NBCC MOU shall be as below:

- a) NBCC shall provide Project Management Consultancy Services for the construction of above projects including Civil, Plumbing, Internal Electrical and low side HVAC (Heating Ventilation Air Conditioning) works, IT, acoustical treatment and other facilities as assigned by the NITD. The integration of low side of HVAC with existing high side shall be done as per requirement indicated by the NITD as and when required.
- b) NBCC shall prepare Tender documents required for execution of the project and get the work executed as per architectural drawings and specifications approved by NITD and to the satisfaction of NITD through contractor(s) to be engaged by NBCC.




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3.0 INFRASTRUCTURE

NBCC will work closely with NITD to ensure that all Technical Requirements and other facilities for smooth functioning of the NITD are met with.

4.0 CONSULTANCY

A reputed Architect of International Standard shall be appointed by NBCC for operational planning and technology for the project as follows:

- a) Detailed drawings of civil, electrical, plumbing HVAC, acoustic, interiors and any other services required for the building, specifications, list of approved makes in consultation with NITD/NBCC.
- b) The architect and their service consultants shall make periodic supervision of the project in consultation with NITD, their observations shall be communicated to NBCC, In case of any cost variation, because of the implementation of observations by the architect and their service consultants, the prior approval of NITD shall be obtained by NBCC.

5.0 OBLIGATIONS OF NBCC

- 5.1 NBCC shall perform the Project Management Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices and shall observe sound management practices and employ appropriate technology and safe and effective equipment, machinery, materials and methods. NBCC shall always act, in respect of any matter relating to this MOU or to services as faithful adviser to NITD and shall at all times support and safeguard NITD's legitimate interests in any dealings with Third parties.
- 5.2 NBCC shall hold NITD interests paramount, without any consideration for future work, and strictly avoid conflict of interest with other assignments or their own corporate interests. If during the period of this MOU, a conflict of interest arises for any reasons. NBCC shall promptly disclose the same to NITD and seek its instructions for compliance.
- 5.3 The representative and other persons duly authorized by NITD will have full access to the site and all the documents to assess the physical and financial progress and stage of completion of the work.
- 5.4 NBCC shall comply with all applicable laws and regulations or orders and directives of any competent authority (including but not limited to applicable labour and other laws and regulations governing its employees, contractor(s), sub-contractors) and any persons employed or engaged in connection with this MOU in performing and carrying out its obligations under this MOU and shall



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discharge and fully indemnify NITD against all liabilities, claims, demands, fines, penalties and other consequences arising from its failure to comply with any laws and regulations.

- 5.5 NBCC shall ensure compliance of labour laws by the contractor(s) to effect adequate public liability, workmen compensation, personal accident in respect of all employees, contractor(s), Sub-contractor(s) and all persons involved in the building, installation, commissioning and completion of the project. They shall at all time maintain the site in a clean and orderly condition and shall take all necessary measures to ensure that there is no accumulation of waste, rubbish or other construction material at the site
- 5.6 NBCC shall ensure the soundness of all designs, specifications, BOQ and conditions proposed by the architectural consultant before inviting the tender, NBCC may appoint third party only for highly specialized work with prior approval of NITD for proof checking for the soundness of design.
- 5.7 NBCC shall install, test and commission the all Equipments/Systems through agencies and shall ensure that the Equipments/ Systems function and perform in accordance with its published specifications and any other representation made by the manufacturers of the equipments to the satisfaction of NITD.
- 5.8 NBCC undertakes and warrants that the services rendered by it by way of handling, installation, integration & commissioning of the Project are free from all defects in workmanship/ performance. During MOU period of 36 months after obtaining statutory approvals as decided by NITD and NBCC and the defects liability period of 12 months from the date of commissioning and handing over of respective works of NITD. NBCC shall get rectified (as soon as reasonably practicable) any such defect in the workmanship/ performance of the MOU without any charge.
- 5.9 NBCC will coordinate with all concerned agencies for construction of the project.
- 5.10 NBCC and their contractor shall abide by security regulation of NITD.
- 5.11 The construction of above projects shall be executed by NBCC without causing disturbance of any nature to other activities of NITD.
- 5.12 NBCC shall be principal employer for all practical purposes for the contract workers engaged by their contractor(s) for the works at NITD. The form V to the contractor(s) for the labour license shall be issued by the NBCC. The necessary letter required for this purpose for the office of Regional Labour Commissioner, Central obtained by NBCC.



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5.13 NBCC shall be sole responsible in case of any police case against their employees, contractual workers engaged by the contractor(s) for the works assigned to NBCC at NITD.

6.0 OBLIGATOR OF THE NITD

6.1 Within 3 months of signing of the MOU, NITD shall handover the site to NBCC. The NITD shall provide to NBCC any additional information related to the project, if requested by NBCC to enable NBCC to complete the project within the specified time frame.

6.2 NITD shall release timely payment to NBCC as per the schedule to avoid any delay in the execution of the project. It shall be based on the reimbursement of bills submitted by NBCC.

6.3 NITD shall provide necessary authorizations to NBCC to facilitate processing of relevant permits from concerned agencies to enable NBCC, its Sub-Entities or Personnel to perform the Services.

6.4 NITD will issue to officials, agents and representatives of the Govt., all such instructions as may be necessary or appropriate for the prompt and effective implementation of the services.

6.5 NITD shall provide suitable approvals for the items listed in para 10.2 in a reasonable time frame so as to avoid delay in execution of related works.

6.6 NITD to provide to NBCC any such other relevant assistance to facilitate performance of the MOU.

7.0 COST, FEES AND PAYMENT

7.1 The estimated cost is based on the quantities and any variation in the quantities or scope of services shall call for additional financial allocations commensurate with that change to be made available to NITD. The cost estimate of the project includes NBCC's agency charges as per clause 1.5 (a) of this MOU.

7.2 The payment to NBCC shall be based on actual cost of all the works of the project. The actual cost of the project shall also include all the costs as paid to contractor(s)/Supplier(s)/Agencies, cost of materials & other items as supplied by NBCC (including the ones received by transfer from other Units of NBCC with prior concurrence of NITD) for incorporation in the project, cost of reconstruction (if any) due to change in design/ decision/ modification/ expenditure on survey/ investigations/testing.

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- 7.3 Any variation in quantities beyond what is indicated in the schedule or change in scope of services shall either call for additional financial allocation or reduction commensurate with changes conveyed by NITD to NBCC. The final payment will be made to NBCC on the basis of actual cost incurred by NBCC.
- 7.4 NBCC agency charges will be payable on actual project cost as per clause 1.3 of this MOU.
- 7.5 NBCC shall provide necessary assistance to NITD in obtaining necessary clearance related to construction and completion of this project from statutory authorities for which NITD shall provide required documents and issue necessary authorization in favour of NBCC wherever so required. However, all statutory deposits/expenses shall be paid by NITD on actual basis and shall not form part of the work as per clause 1.6 above.
- 7.6 The estimated cost approved by NITD based on CPWD par 2012 updated up to date in accordance with CPWD PAR 2012. The final cost shall be determined on completion of the project after actual expenditure is incurred and final settlement of the payment made with NBCC.
- 7.7 NBCC shall submit report for requirement of funds along with funds Utilization certificate on the basis of which NITD shall release further funds keeping in view physical progress & milestones. While submitting the invoices (in Triplicate), NBCC, at the level of Project In-charge will certify having completed the activity as scheduled for which payment is being claimed. However, NBCC shall be free to submit such additional reports as required for timely and successful implementation of the project and NITD agrees to consider and release money on the basis of such reports about the progress of work. NITD will expeditiously process the bill of NBCC. Payment will be released to NBCC within 30 days of submission of report. At the completion of the project, NBCC shall submit final expenditure statement along with utilization certificate.
- 7.8 The project will be executed by NBCC as a deposit work. The legal and beneficial ownership and all rights, titles and interest will always vest with NITD. NBCC shall not have any right at law any time to make any claim of title or create any lien, charge or other encumbrances whatsoever overall or an part of the project or land.
- 7.9 All Arbitration award(s)/Court decree(s) in favor of the contractor(s) along with legal expenditure shall be borne by the NITD. However NBCC shall not charge agency charges on such arbitration award(s)/court decree(s) in favor of contractor(s). The arbitration/court cases shall be contested by NBCC on behalf of the NITD. The NITD representative shall be part of the team in contesting the arbitration/court cases.



8.0 TIME SCHEDULE

- 8.1 NBCC shall execute and complete the project within specified time schedule prepared by NBCC from the i) Date of Signing of the MOU ii) Handing over of the encumbrances free site, iii) Sanction of Estimate/release of Initial advance to NBCC and iv) Approvals of drawings from statutory authorities whichever is later.

However, the completion period as mentioned above shall be extended by the NITD if the delay in the project completion occurs due to reasons not attributable to NBCC. Necessary extension of time shall be granted by NITD without levy of compensation in such event.

9.0 WORKS, SUPPLY OF MACHINERY AND EQUIPMENT

- 9.1 The equipment(s)/ items and works if any will be procured by NBCC on behalf of NITD through the contractor(s) or from reputed manufacturers/ suppliers/ agencies as per NBCC norms of procurement/works procedure which is approved by NBCC's competent authorities within framework of CVC guidelines. While inviting quotations from contractor(s)/ manufacturer(s)/ supplier(s)/ agencies, following criteria will be kept in view

- a) Meeting the functional requirement of the project
- b) Technical acceptance of items in line with specifications and desired performance
- c) Compatibility with the other major chain equipment
- d) Reliability of the Items
- e) Feedback on supplies made for other similar/equipment projects by the supplier(s)
- f) Extent of customization and onsite support
- g) NBCC's past experience with the suppliers in relevant fields.

10.0 PERIODIC REVIEWS

- 10.1 In order to facilitate progress and time bound completion of the project; NBCC will prepare quarterly or as desired by NITD, progress reports and submit the same to NITD showing the progress of the work viz-a-viz time schedule drawn as per Bar Chart/ updated time schedule. A Project Monitoring Committee will be set up by NITD to carry out periodic review of the progress and quality of

works. NBCC shall make available all contractual documents and details to the committee.

10.2 Approval of NITD will be required for the following in conjunction with the MOU made by NBCC with construction agencies.

- a. Approval of samples for all Civil & Sanitary items
- b. Inspection of electrical cables, panels & fixtures, etc.
- c. Inspection of AHUs and other fixtures for HVAC.

11.0 AFTER PROJECT SERVICE AND WARRANTIES OF EQUIPMENT


11.1 NBCC shall provide all back to back warranties from the suppliers of all equipments and pass this on to NITD

12.0 AFTER COMMISSIONING

12.1 After completion of works at NITD campus at Delhi, NBCC will prepare a completion report which will also include a detailed list of works and equipments installed/supplied and as built drawing after of the building & services including electrical wiring, water supply, sewer line, computer wiring, etc. NBCC shall develop maintenance schedule for all works and handover the same to NITD. NBCC shall also submit compilation of Manufactures catalogues, test reports conducted before acceptance for all equipments and systems.

13.0 FORCE MAJEURE

For the purpose of this MOU, "Force Majeure" means an event which is beyond the reasonable control of a party, is not foreseeable, is unavoidable and not brought about by or at the instance of the party claiming to be affected by such events and which has caused the non performance or delay in performance and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances. NBCC shall not be considered in default, if delay in completion of work occurs due to cause beyond its control such as acts of God, natural calamities, civil wars, fire, strike, frost, flood, riots, and acts of unsurpassed power. NBCC shall notify NITD in writing within Ten days from the date of such occurrence. In the event of delay due to such causes, the completion schedule will be extended for the length of time equal to the period of force majeure. If the construction and other related work/obligation by NBCC is suspended by force majeure condition lasting for more than 2 (Two) months, NITD shall have the option of cancelling this MOU in whole or part at its discretion without any liability on its part. In event of such cancellation, NBCC shall refund any adjusted advance


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lying with NBCC and deliver back any materials issued to them by NITD and release facilities, if any, provided by NITD.

- 13.1 Force majeure shall not include (i) any event which is caused by the negligence or intentional action of a party or by of such party's agent or employees, nor (ii) any event which a diligent party could reasonably have been expected both to take into account at the time of the signing of the MOU and devoid or overcome with utmost persistent efforts in carrying out its obligations hereunder.
- 13.2 Force majeure shall not include insufficiency of manpower or rain or storm.
- 13.3 The failure of a party to fulfill any of its obligations hereunder shall not be considered to be breach of or default under this MOU in so far as such inability arises from an event of Force Majeure, provided that the party affected by such an event has taken all possible precautions, due care and all measures, with the objective of carrying out the terms and conditions of this MOU.

13.4 MEASURES TO BE TAKEN

- a) NBCC affected by an event of Force Majeure shall continue to perform its obligations under the MOU as far as is reasonably practical and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.
- b) NBCC affected by an event of Force Majeure shall notify the other party of such event as soon as possible, following the occurrence of such event, providing sufficient and satisfactory evidence of the nature and cause of such event and shall similarly give written notice of the restoration of normal conditions as soon as possible.
- c) Any period within which NBCC shall, pursuant to this MOU, complete any action or task, shall be extended for a period equal to the time during which such party was unable to perform such action as a result of Force Majeure.
- d) During the period of their inability to perform the services as a result of an event of Force Majeure, NBCC, upon instructions by NITD shall either i) Demobilize or ii) continue with the services to the extent possible, in which case the NITD on being satisfied shall continue to pay proportionally to NBCC and on prorata basis, under the terms of this MOU.



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13.5 SUSPENSION

NITD may, by written notice of suspension to NBCC, suspend all payments to

NBCC hereunder if NBCC fails to perform any of its obligations under this MOU, including the carrying out of the services, provided that such notice of suspension i) shall specify the nature of the failure and ii) shall allow NBCC to remedy such failure, if capable of being remedied, within a reasonable period after receipt by NBCC of such notice of suspension.

14.0 GOVERNING LAW AND JURISDICTION

The applicable law governing this MOU shall be the laws of India and the courts of Delhi shall have the exclusive jurisdiction to adjudicate any dispute with respect to this MOU.

15.0 INSURANCE


NBCC shall ensure and incorporate necessary clause(s) in the tender document for contract between NBCC 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.

16.0 INTERPRETATION

Any reference in this MOU to any statute or statutory provisions shall include a reference to that statute or statutory provision as from time to time amended, modified, extended or enacted whether before or after the date of this MOU and to all subsidiary statutory instruments, orders and regulations for the time being in force.

17.0 SETTLEMENT OF DISPUTES

17.1 AMICABLE SETTLEMENT: Performance of the MOU is governed by the terms and conditions of the MOU, in case of dispute between the parties regarding any matter under the MOU, either party of the MOU may send a written Notice of dispute to the other party. The party receiving the notice of disputes will consider the Notice and respond to it in writing within 30 (Thirty) days after receipt. If that party fails to respond within 30 (Thirty) days, of receipt of notice or the dispute cannot be amicably settled within 60 (Sixty) days following the response of that party, the party giving the notice may initiate Arbitration proceedings.


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17.2 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 and one of the Arbitrators in the Department of Public Enterprises to be nominated by the Secretary of the Government of India in charge of the Bureau of Public Enterprises. 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.

18.0 COMPENSATION OF DELAY

- 18.1 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 the reasons beyond control of NBCC, suitable extension time may be granted by NITD for which NBCC will make a request to NITD.
- 18.2 In case there are some hindrances which come to the notice of NBCC and are to be attended by NITD, the same shall be intimated immediately so that timely action for removal of the same could be takes. In case, hindrance occurs not on the part of NBCC, the same shall also be intimated and recorded within 15 days of occurrence of the hindrance.
- 18.3 NBCC will provide compensation clauses in their contract with contractors as per CPWD norms. For any delay attributable to the NBCC (including those by the contractor engaged by the NBCC and for reasons and contingencies other than force majeure) compensation shall be made to the NITD by the NBCC @ 0.5% of the total project cost per week of delay, subject to a maximum of 10% of total project cost.


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19.0 NO RESPONSIBILITY TO THE NITD

- 19.1 The NITD shall not be responsible or accountable to NBCC for the employees, agents, technicians and laborers employed by NBCC who shall work on the project site and its premises and NBCC 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.
- 19.2 There shall be no contractual nexus or privacy between the NITD and NBCC the technicians, employees, engineers, architects, laborers and contractors and such personnel shall not be the employees of the NITD and NITD shall not be liable in any way (employee-employee relationship, legal and financial) to such personnel who shall be exclusive liability and responsibility of NBCC.

20.0 DAMAGE TO PERSONS AND PROPERTY

The NBCC shall (except and in so far as this MOU provides otherwise indemnify and keep indemnified the NITD, 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). NITD will not be responsible in this regard.

21.0 DEFECTS LIABILITY PERIOD

This period shall be one year from the date of completion of works. During this period NBCC shall get defects rectified without any cost to NITD. For 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 NBCC. Otherwise the defect period will be of 12 months from the date of completion work or handling over of the site of NITD whichever is later.

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

23.0 TERMINATION OF CONTRACT

- 23.1 Cancellation of contract in part or 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, NBCC without any prejudice shall cancel



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the contract as a whole or only such work order or items of work in default from the contract. NBCC 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 NBCC as per CPWD provisions.

23.2 Special power of determination:

The work wholly or partly can be foreclosed, at any time, after acceptance of the contract (by NBCC) for any reason, whatsoever, by the NITD without assigning any reason or payment of any compensation, whatsoever. The NITD shall give notice in writing to the effect to NBCC 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. NBCC 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 NITD) for any expenses sustained on account of labor, tools & plants and materials collected but not utilized on the works, verified by the NITD.

24.0 REPORTS ON PROGRESS

NBCC shall submit following monthly reports, the format for which will be provided by the NITD:

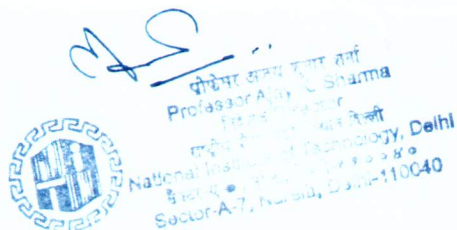
- 24.1 Physical progress achieved during the month along with photographs and the cumulative progress of the project.
- 24.2 Financial progress achieved during the month and expenditure incurred till date
- 24.3 Quarterly progress report (QPR)
- 24.4 Any other detail/reports as required by NITD

25.0 COMPLETION AND TAKING OVER

As soon as the work is finally completed, NBCC shall in turn inform the NITD, who shall nominate a Board of officers for checking/verification of completed work as per the scope for final taking over of the project.

26.0 SUBMISSION OF FINAL ACCOUNT

After completion of a job in full, NBCC shall submit a detail account of job showing package wise payments drawn from NITD, payments made to their



sub contractors, work contract tax recovered as applicable departmental charges levied as admissible for NBCC, expenditure on account of contingency, saving/excess expenditure if any, to the NITD within a month, duly authenticated by their account branch. Any savings in the job shall be refunded to the NITD.

- 27.0 NBCC shall ensure that the structure being constructed are as per Energy efficiency norms and the National Building Code Structure safety standards.
- 28.0 NBCC shall obtain necessary clearances and get the drawing approved from the local civic authorities.
- 29.0 INSPECTION OF WORK BY CHIEF TECHNICAL EXAMINER CELL, CTE/CVC

NBCC shall be responsible for the consequential effects arising out of the inspection of the project by the Chief Technical Examiner Cell, Central Vigilance Commission, CAG of India 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 construction agency. Rectification of defective work/replacement of sub standard work as pointed out by Chief Technical Cell, Central Vigilance Commission/NITD of his authorized representative shall be carried out by NBCC at their own cost, NITD shall not pay any extra amount for such type of liabilities.

- 30.0 The NBCC shall be wholly responsible for any observation, comments/defects pointed out by C.T.E/CVC/CAG of India in the planning & procedures of execution of this project.
- 31.0 Wherever there is gap in the MOU, the provisions of CPWD's manual will be applied.

32.0 HEADINGS

The headings shall not limit, after or affect the meaning of this MOU.

33.0 COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF MOU

- 33.1 EFFECTIVENESS OF MOU: This MOU shall come into force from the date of signing of this MOU
- 33.2 COMMENCEMENT OF SERVICES: NBCC shall begin carrying out the services immediately but not later than ten days from the date of signing of MOU.



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33.3 COMPLETION OF MOU: NBCC shall complete the entire work within specified time schedule as per clause 8.1.

33.4 ENTIRE MOU: This MOU contains all covenants, stipulations and provisions agreed by the parties. No agent or representative of either party has authority to make, and the Parties shall not bound by or be liable for, any other statement, representation, promise or MOU not set forth herein.

34.0 MODIFICATIONS OR VARIATIONS

34.1 Any modification or variation of the terms and conditions of this MOU including any modification or variation of the scope of the services, may only be made by written MOU between the parties. Each party shall give due consideration to any proposal for modification or variations made by the other Party and implication thereof.

34.2 In case of substantial modifications or variation in terms and conditions of a MOU, a supplementary MOU may be signed between NITD and NBCC.

35.0 INSTITUTE RIGHT TO LIMIT THE SCOPE OF SERVICES


35.1 NITD reserves right to restrict the services of NBCC to the full or part of the project.

35.2 NBCC may be initially appointed for the execution of works as mentioned in the preface of this MOU.

35.3 The Institute reserves right to terminate the services of NBCC by giving a three months notice in writing if the Institute is not satisfied with the services of NBCC.

35.4 In the event of termination of the services of NBCC due to unsatisfactory services rendered by NBCC, NBCC will not be entitled of the remaining work or the period of contract not completed.

35.5 Further in case of termination of services of NBCC due to unsatisfactory performance, the Institute reserves the right to levy appropriate compensation up to the extent of maximum 10% of the NBCC's agency charges for the losses incurred by the Institute on account of unsatisfactory services of NBCC or due to the fact of disruption to the project due to the necessity of having to terminate the services of NBCC and having to make other arrangements for completion of the works and entrusted to NBCC or mutually agreed terms and conditions at that time.


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36.0 MISCELLANEOUS PROVISIONS

- 36.1 Any failure of delay on the part of any Party to exercise right or power under MOU shall not operate as waiver thereof.
- 36.2 NBCC shall notify to NITD of any material change in its legal status, in particular, where such change or winding up proceeding, which should impact on performance of obligations under this MOU.
- 36.3 NBCC shall at all times indemnify and keep NITD indemnified against all claims/damages etc. for any infringement of any intellectual Property Right (IPR) while providing its services under the MOU.
- 36.4 NBCC shall at all times indemnify and keep NITD indemnified against any and all claims by Employees, Workmen, Entities, Sub-entities, supplier(s), agent(s), employed engaged or otherwise working for NBCC, in respect of their wages, salaries, remuneration of the like.
- 36.5 All claims regarding indemnity shall survive the termination or expiry of the MOU.
- 36.6 It is acknowledged and agreed by all parties that there is no representation of any type, implied or otherwise, of any absorption, regularization, continued engagement by NBCC for any subsequent engagement, service or employment in any capacity in any office or establishment of the NITD.
- 36.7 The Key Engineering staff shall be posted in consultation with NITD
- 36.8 The key Engineering staff posted by NBCC for the works of NITD shall not be transferred without written consent of NITD before obtaining completion certificate.
- 36.9 The NITD reserves right to seek replacement of any Engineer of NBCC if found unfit for the desired work. Notwithstanding the above, NBCC cannot absolved its responsibility, accountability and answerability to the Institute in terms of compliance of the requirements of this MOU.
- 36.10 MOU can be terminated at any stage without assigning any reason by NIT Delhi.



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On the basis of this MOU, NBCC shall start activities for implementation of the project immediately.

Signed at Delhi on this 12th day of August '2015.

FOR

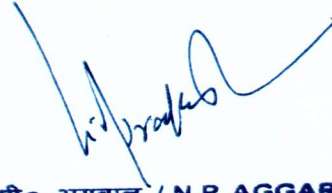
NATIONAL INSTITUTE OF
TECHNOLOGY DELHI (NITD)

FOR

NATIONAL BUILDINGS
CONSTRUCTION CORPORATION
LIMITED (NBCC)




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एन० पी० अग्रवाल / N.P. AGGARWAL
कार्यकारी निदेशक / Executive Director
नेशनल बिल्डिंग्स कन्स्ट्रक्शन कार्पोरेशन लि०
National Buildings Construction Corporation Ltd.
(भारत सरकार का उद्यम / A Govt of India Enterprises
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Assistant Registrar
National Institute of Technology Delhi
Sector-A-7, Narela Delhi-110040
(MANISHA SINGH)
ASSISTANT REGISTRAR
NIT Delhi

2.



Deputy Registrar
National Institute of Technology Delhi
Sector-A-7, Narela Delhi-110040

WITNESSES

1.


प्रदीप शर्मा / PRADEEP SHARMA
अपर महाप्रबंधक (बी.डी.) / Addl. General Manager (B.D.)
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2.


राजेन्द्र मोहन / RAJENDER MOHAN
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