



सत्यमेव जयते

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Memorandum of Agreement

This AGREEMENT is made and executed at Delhi on 06th January 2017

BETWEEN

Sports Authority of India (SAI), having its Office at **Jawaharlal Nehru Stadium Lodhi Road New Delhi 110003** hereinafter referred to as '**CUSTODIAN**'; which expression unless the context requires another or a different meaning shall include its successors, administrators, representatives and officers authorized by him

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AND

The Public Work Organization, **WAPCOS LTD** having its Corporate Office at **A-71, 7th Floor, Himalaya House, 23 Kasturba Gandhi Marg, New Delhi**, hereinafter referred as Project Management AGENCY or only the '**AGENCY**'; which expression unless the context requires another or a different meaning shall include his/their/its successors, heirs, representatives, executors, administrators and officers authorized by him.

The Custodian and the Agency shall be collectively referred to as the "Parties" and individually as 'Party'.

AND WHEREAS, the Agency is an organization having expertise in providing consultancy on various infrastructure related projects and has vast experience in undertaking designing, planning, construction and maintenance of infrastructure projects.

Whereas the **CUSTODIAN based on the assurances and representations of the Agency** has agreed to assign the **AGENCY**, as a Deposit work on turnkey and cost plus basis, the job of planning, designing, construction and maintenance of infrastructure projects/development at various locations across India hereinafter referred as Project and the AGENCY has accepted the aforesaid assignment at a mutually agreed PMC/Agency charge (Region wise) as under:-

<u>Region Centre</u>	<u>PMC Charges (%)</u>
RC Chandigarh	3.50%
NRC Sonapat	2.99%
Delhi Region	2.98%
WRC Gandhinagar	3.19%
RC Kandivali(Maha.)	2.99%
CRC Bhopal	3.61%
RC Lucknow	3.95%
ERC Kolkata	3.46%
NERC Guwahati	4.20%
L NCP E Thiruvananthapuram	3.95%
SRC Bangalore	3.80%

Service Tax, as applicable will be extra on the PMC charge.

The Custodian hereby retains the Agency, and the Agency hereby agrees to perform such Services (as defined below), as may be assigned by the Custodian from time to time in connection with the Projects and as broadly outlined in this AGREEMENT. For every such assignment the Custodian as per its practices may issue an Award of Work ("**AOW**") to the Agency which shall form an integral part of this Agreement.

Now this deed witnessed and it is hereby agreed between the parties here to as follows:

1. **SCOPE OF WORK /PROJECT**

The scope of work on part of the AGENCY shall include the services as may be assigned by the Custodian and in general shall include the following:



- 1.1. Providing all engineering services on turnkey basis for creating desired infrastructure. The services will include Surveying, Preparation of Master Plan, Tendering, Execution, Supervision, Quality Control, maintenance etc.
- 1.2. To obtain approval of CUSTODIAN for the conceptual plan/s of project.
- 1.3. Preparation of layout and detailed Architectural/Structural designs and drawings of buildings, plumbing, sanitary, water supply, electrical services, generators, air-conditioning , lifts, fire protection services, telephone, wiring, T.V. antenna, landscaping etc. as per requirement and submission to concerned, local bodies, where ever necessary and to obtain their approval if required.
- 1.4. Complete construction of projects through contractors/vendors for work and supply of materials and labour or both, by way of time scheduling, monitoring, supervision, quality assurance/control, accounting etc.
- 1.5. Co-ordination with all other agencies, local authorities/bodies for implementation of project as per requirement of site conditions and local bye-laws.
- 1.6. After completion, handing over the project to CUSTODIAN in complete and good shape between Custodian and the Agency along with a hard copy and soft copy of full set of completed drawings.
- 1.7. Maintenance of project for one year Defect Liability period.
The Agency shall promptly correct all work rejected by the Custodian if such work does not meet the acceptance criteria. The Agency shall bear all costs of correcting any non-conforming work
The Agency shall regularly apprise the CUSTODIAN of the manner and means used by Agency to perform the Services desired by the CUSTODIAN. The Agency shall exercise highest degree of professional skill and expertise.

2. METHODOLOGY OF CONSTRUCTION AND MANAGAEMENT

- 2.1. After getting award of work from CUSTODIAN, the AGENCY will plan and carry out the project as per the scope of work under clause 1.0 above. The CUSTODIAN shall constitute a 'Project Management Group' for all major decision making activities of the Project and also nominate one of his authorized representatives for day-to-day co-ordination with the AGENCY to ensure smooth progress of work.
- 2.2. The AGENCY shall submit the Site Plan and Architectural drawings for approval of the CUSTODIAN, after which, the AGENCY shall submit the time schedule to the CUSTODIAN within a month for effective monitoring of the project.
- 2.3. The Tenders for execution of works shall be invited and finalized by the AGENCY as per laid down Govt. guidelines and their approved departmental procedures. CUSTODIAN will not be responsible for any procedural lapse in the tendering procedure of the AGENCY.
- 2.4. The work shall be executed by the AGENCY as per relevant Indian Standard Codes and National Building Code as applicable.
- 2.5. The quality assurance and control shall be ensured by the AGENCY in all respects including mandatory tests on all materials and performance tests of complete items of works, as may be applicable. The requisite supervisory staff and engineers shall be provided at the site of work for effective supervision and quality assurance work.
- 2.6. The AGENCY shall be responsible for the consequential effects arising out of the inspection of the project by the CTE Cell of CVC 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 AGENCY and for recoveries to be credited to CUSTODIAN. The same will apply for the defects pointed out by CUSTODIAN through its authorized representative/Officer.

2.7. **PROCEDURE FOR HANDING/TAKING OVER**

2.7.1. The AGENCY shall be responsible for structural soundness of the project in all respects and a certificate there on shall be furnished by them to the CUSTODIAN after the completion of work as under:

It is certified that all prescribed Quality control measures had been ensured in the execution of the Project (Name of Project) and infrastructure created is Structurally sound and complies with relevant Indian Standard Codes and National Building Code as applicable.

2.7.2. Two sets of final completed drawings of project (Architectural and Structural) and detailed layout plans of all services shall be prepared by AGENCY and handed over to the CUSTODIAN after completion of the Project along with a Soft copy of all documents.

2.7.3. AGENCY shall prepare a list of inventories that can be counted and is visible. These inventories shall be checked and taken over by the CUSTODIAN through its authorized representative. Taking over the assets does not absolve the PWO of its responsibility of quality of work executed and rectification of defects at a later stage.

2.8. AGENCY will make its own arrangement for the site office for their executive staff to supervise the execution and subsequent maintenance period. The cost is deemed to be included in the estimate.

3. **TERMS OF PAYMENT AND MAINTENANCE/ACCOUNTS**

3.1. The project shall be executed as a Deposit work and AGENCY shall be paid %age Charges as mentioned above as 'Project Management Consultancy'/Agency, charges over the actual cost of project. Service tax as per actual is to be paid extra. TDS shall be deducted while making the payments.

3.2. **ORIGINAL/SPECIAL REPAIR WORKS**

3.2.1. The Custodian will release the advance as first installment of up to 10% of the sanctioned amount/Administrative approval of the capital works to the construction AGENCY within seven days after issue of Administrative Approval.

3.2.2. Balance fund will be released as advance in Phases depending on the physical quarterly progress of work.

3.2.3. Balance 10 % for cost approval limit up to 1 Crore and 5% for cost approval limit for more than 1 crore, will be released after satisfactory completion of the work and handing over of the Project to the CUSTODIAN as per clause 2.7 above.

3.2.4. On completion of the project, within three months, the **AGENCY** shall submit the final bill of accounts duly certified and audited for final adjustment of advances and settlement of final accounts of the project.

3.3. **MAINTENANCE/CONSTRUCTION WORKS**

3.3.1. Payments/funds will be released to the **AGENCY** as per CPWD work manual (Section 3 of Deposit work) as per which one-third (1/3) of the estimated cost of work will be deposited in advance, Thereafter, the actual expenditure may get reimbursed through monthly/quarterly



bills as per the physical progress of work and submission of 'Utilization Certificate' and the advance recouped.

- 3.3.2. In case of minor works in which the completion period is less than 3 months, full amount may be deposited to ensure smooth progress of work.
- 3.3.3. The **AGENCY** shall submit every month/Quarter, the audited statement of expenditure (inclusive of taxes) with the original bills and schedule of deposit works in form CPWA 65 to **CUSTODIAN** to regularize the advance.

4. **ACTUAL COST SHALL INCLUDE THE FOLLOWING**

- 4.1. All fees / charges paid / payable to the Architectural and Structural Consultant.
- 4.2. The Cost of soil, geo-technical investigation and actual laboratory charges for testing of any materials, manufactured or built items.
- 4.3. The cost of all works and supplies carried out by the contractors and suppliers employed by the AGENCY.
- 4.4. All statutory fee/charges payable to local bodies in connection with sanctioning of development/Master plans etc, and license for construction of building including processing and other allied charges for above.
- 4.5. All existing and / or new taxes except Service Tax payable to the concerned authorities. Any other charges shall be payable only if a specific prior written approval has been taken from the Custodian, otherwise no charges shall be entertained on any account whatsoever.

5. **TIME SCHEDULE**

- 5.1. The work will be completed within the period agreed mutually (on case to case basis) after the award of work depending upon the nature, priority of work and availability of funds. The date of start will be reckoned from the date of release of 1st installment of fund by the CUSTODIAN.
- 5.2. The time as given under Para 5.1 shall be adhered to and monitored by the CUSTODIAN. A detailed time schedule for all the activities shall be submitted by the AGENCY within 30 days of the date of issue of Administrative Approval.
- 5.3. Time shall be the essence of the Agreement.

6. **PENALTY AND BONUS**

- 6.1. AGENCY shall have a **Penalty** clause in their tender documents for the delay in completion of work by the contractor and also a **Bonus** clause as incentive for completing the work before time. This will be strictly in accordance with the limits of 1% of the Tendered value per month subject to maximum of 5% as provided in clause-2A of the General Conditions of the Contract for CPWD works.

7. **MISCELLANEOUS**

- 7.1. A Copy of the agreement with the contractor, showing the quantities of different items and the approved rates will be furnished to the CUSTODIAN if demanded for record.
- 7.2. The AGENCY however assumes the responsibility to complete the work within cost estimates framed by them and approved by the CUSTODIAN. In the event of any increase in the cost of the work, as a result of escalations of prices of cement & Steel etc. due to Statutory Acts or Orders of the Govt. revised estimate will be submitted giving detailed



justification well in time to the CUSTODIAN for issuing Revised Administrative approval and Expenditure Sanction.

- 7.3. The unspent balance will be utilized or refunded as per directions given by the CUSTODIAN. In case of failure to refund the unspent balance within a period of one month from the date of giving such directives, AGENCY shall be liable to pay interest @12% per annum thereon.
- 7.4. In case the AGENCY fails for any reason whatsoever to undertake execution of work entrusted to it, it shall inform the CUSTODIAN accordingly within a period of three months from the date of release of funds by the CUSTODIAN and whole amount will be refunded in one installment to SAI, with interest @ 18 % per annum will be charged by SAI.
- 7.5. The account books of such deposit works will be subjected to audit by the C&AG or his nominee.

8. **ARBITRATION OF DISPUTE**

- 8.1. The AGENCY shall not be held responsible for any delays caused due to unforeseen reasons, natural calamities like earth quakes, flood and lightning etc.
- 8.2. In case of any dispute between the parties, the decision of the Director General, Sports Authority of India (SAI) shall be final and binding on both the parties.
- 8.3. The AGENCY shall not be held responsible for failure to complete the work in time if such failure is due to any breach of the terms of the agreement on the part of the Custodian.
- 8.4. In the event of any dispute or difference relating to the interpretation and application of the provisions of the AGREEMENT, such disputes or difference shall be referred by either party (CUSTODIAN & AGENCY) for arbitration to the sole arbitrator to be nominated by the Director General Sports Authority of India.

9. **FORCE MAJEURE**

- 9.1.1. The AGENCY shall not be responsible for the delays/stoppage of work due to force majeure conditions like, natural conditions, like natural calamities, civil disturbances, strike, war etc. and losses suffered, if any, by the CUSTODIAN on this account, the AGENCY shall not be liable to bear such losses and no compensation of any kind whatsoever will be payable by the CUSTODIAN to the AGENCY.

10. **JURISDICTION**

- 10.1. In case any necessity arises for any of the parties to this Agreement to file any suit or proceeding, the same shall be filed in the area specific Court where the work is to be awarded.

11. **INDEPENDENT CONTRACTOR STATUS**

It is understood, agreed and acknowledged that the Agency is not an agent or employee of the CUSTODIAN, and is not authorized to act on behalf of the CUSTODIAN except where specifically authorized in writing by the CUSTODIAN. The Agency agrees not to hold itself out as, or give any person any reason to believe that he is, an employee, agent, or partner of the CUSTODIAN. The Agency's employees (if any) shall for all purposes always remain the employee/s of the Agency and shall have no employer – employee relation with the CUSTODIAN. The Agency shall ensure that all statutory

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compliance with respect to its employees shall be solely complied with and always remain the sole responsibility of the Agency

12. **INDEMNIFICATION**

The Agency agrees to take all necessary precautions to prevent injury to any persons (including employees of the CUSTODIAN) or damage to property (including the CUSTODIAN's property) during the term of this AGREEMENT and shall indemnify and hold CUSTODIAN and its officers, agents, Directors and Employees harmless against all claims, losses, expenses (including reasonable attorney's fees) and injuries to person or property (including death) resulting in any way, from any act, omission or negligence on the part of Agency in the performance or failure to fulfill any Services as mentioned in the Award of Works under this AGREEMENT.

13. **VALIDITY OF AGREEMENT**

- 13.1. This AGREEMENT between CUSTODIAN and AGENCY shall be valid till the satisfactory completion of work and closure of accounts, or unless terminated by the either parties by giving one month notice, should they deem it necessary to do so.
- 13.2. Termination of this Agreement for any cause shall not release the parties from any liability which at the time of termination has already accrued to such party or which thereafter may accrue in respect of any act or omission prior to such termination.
- 13.3. This AGREEMENT shall be applicable both for construction and maintenance works.

In Witness whereof the parties here unto have set their hands and seals on the day and year first written above.

For & on behalf of

WAPCOS LTD



Prasad

Shri A.N. N. Prasad
Executive Director (P&D)
Authorized Representative

For & on behalf of

SPORTS AUTHORITY OF INDIA

Chhabra

एस. एस. चावड़ा / S. S. CHHABRA
सचिव / Secretary
भारतीय खेल प्राधिकरण / Sports Authority of India
जावाहरलाल नेहरू स्टेडियम परिसर (पूर्व)
Jawaharlal Nehru Stadium Complex (East)
लोदी रोड, नई दिल्ली-3 / Lodhi Road, N

Authorized Representative

Witness

- 1. *P. Kumar*
(Pradeep Kumar)
Chief Engineer
- 2. *P.K. Aggarwal*
(P.K. Aggarwal)
Chief (Civil)

Witness

- 1. *Sanjiv Bhanu*
(Sanjiv Bhanu)
- 2. *Kapil Kaul*
(Kapil Kaul)