

MEMORANDUM OF UNDERSTANDING

THE MEMORANDUM OF UNDERSTANDING is made at on this.....day of between (hereinafter called the 'Client', which expression shall unless repugnant to the context thereof include its successor in office and assigns) of the one part and U.P. Projects Corporation Ltd. (hereinafter called "UPPCL." which expression shall unless repugnant to the context thereof include its assigns) of the other part.

WHEREAS at the proposal of the Client, the UPPCL. has agreed to execute the work of "....." (hereinafter called the "Project").

NOW, this Memorandum of Understanding (MOU) execute between the parties hereto witnesses as follows:

1. It is understood that the ceiling cost of the Project shall be decided after checking of estimate by "Client" and "U.P. Projects Corporation Ltd.", subject to its revision from time to time (hereinafter called the Estimated Cost) according to the variation of quantities actually executed and rise in cost of materials, labour & P.O.L. etc. The approx cost of the works, as per Sanctioned Project Estimate, is Rs.....
2. It is understood that the UPPCL shall start actual construction work only after the Client has (i) communicated in writing to the UPPCL administrative and financial sanction of the preliminary estimate. (ii) delivered clear possession of the land for the Project and (iii) within thirty (30) days of the issue of letter of intent by the Client, deposited with UPPCL sufficient advance being not less than 25% of approx. cost. The UPPCL shall start the construction work within 15 days with effect from the last date of the three dates as above.
3. It is understood that at the time of allotment of work, the flow of funds shall be mutually decided in accordance with the expected/desired progress of work (by

the Client). The issue of letter of intent to the UPPCL will be deemed as the allotment of work to the UPPCL.

4. CENTAGE CHARGES

It is understood that the construction work will be taken up by the UPPCL as deposit work on the basis of actual cost of labour, materials, equipments and all other inputs as defined in Annexure-1, which will form the part of this MOU. The 12.5% of the actual cost will be charged as centage charges in accordance with U.P. Government order No. A-2-87/10-07-17(4)/75 dated 27-02-1997, a copy of which is enclosed hereto as Annexure-II, which will form a part of the MOU.

5. The Client shall provide land for construction of various structures and also for site offices, laboratory and temporary residences etc. required by UPPCL, free of cost.
6. Power required for construction shall be arranged by the Client. The UPPCL shall make payment towards energy charges at prevalent rates.

7. PROJECT COST

- (a) It is understood that the actual cost will be worked out in the manner specified as per Annexure-1 hereto, but the total extent of actual cost shall not exceed the revised estimated cost as per actual work executed and calculated on the rates of labour and material, duly updated, if the actual cost exceeds the revised estimate cost calculated as above, the excess shall be borne from the overheads of the UPPCL. If the final actual cost is less than the revised estimated cost, only the final actual cost will be charged.
- (b) The estimated rate shall be applicable only when the actual specifications of the work strictly conform to specifications on which such estimated rates are based. In case of any deviation from the specifications, extra provisions based on such extra items shall be provided in the preliminary estimates.

8. TIME OF COMPLETION

- (a) It is understood that the UPPCL shall take up the work in accordance with the priorities indicated in writing by the Client and its completion will be governed by

a joint PERT showing the activities of the Client and the UPPCL which will be updated according to the constraints of either party from time to time.

- (b) The UPPCL shall build and completely finish the project within..... months from the date of receipt of 25% (twenty five percent) amount of the estimated cost as advance subject to cash flow as per clause – 3 above unless prevented by any labour strike, fire accident, earth quake, mob-violence, attack from the air of any other majeure, disturbances (force majeure) or any other reasons beyond the control of the UPPCL, in case of any such event, UPPCL will obtain written permission from the Client for extension of time and completely finish the project within extended time.
- (c) The UPPCL shall also be entitled to get compensation for losses/extra expenditure, if any, incurred due to damages on account of causes mentioned above, if such cause(s) were not beyond the control of the Client. The decision of the Principal Secretary, Irrigation Department and the Chairman, UPPCL as to whether the cause(s) were not beyond the control of the Client and as to the amount of compensation for losses/extra expenditure shall be binding on the Client.

9. INSURANCE

In case the Client desires, the UPPCL shall make insurance of property against damages, accidents, fire, riots or any act of 'GOD' and charges incurred for this purpose will be included in the actual cost.

10. ACCOUNT

The periodical accounts of the UPPCL are being audited by statutory auditors (Chartered Accountants). The UPPCL shall be submit to the Client such periodical audited accounts of the unit relating to the work as when audited in the format enclosed here as Annexure-III. The final accounts shall be submitted in format enclosed hereto as Annexure-IV. The Client shall also have an access to the books of accounts of the UPPCL in case, the Client deems it necessary.

11. INSPECTION OF WORK AND QUALITY CONTROL

It is understood that the Client or any person authorized by it/him not below the rank of Assistant Engineer may inspect the construction work at any time and time to time to satisfy himself that the works are being constructed by the UPPCL as per drawings and specifications as provided in the preliminary estimate or as amended/revised by the Client from time to time. If any defects or variation, made without the written request of the Client, are found during the inspection, they will have to be rectified by the UPPCL at its own cost on written notice by the Client within 30 (thirty) days from its receipt.

12. COMPENSATION FOR DAMAGES

It is understood that the UPPCL shall remain liable to and shall indemnify the Client in respect of losses, damages or compensation arising out of any accident of injury, sustained by the Client or by any workman in the employment of the UPPCL while in or upon the said works or the same arising out of any act, default or negligence, error in judgment on the part of the UPPCL, its employees or agents subject to the determination of the compensation or damages by the competent authority as defined in the relevant law.

13. SETTLEMENT OF DISPUTES

It is understood that any dispute or differences arising out of this Memorandum of Understanding shall be settled in accordance with the provisions of Govt. order No. 1195/स०ख०/९६-२७-सि० ३/९६ dated ३१.०३.१९९६ a copy of which is annexed hereto as Annexure-V.

14. INSPECTION BY TECHNICAL AUDIT CELL

The work during progress and after completion shall be subject to technical examination by the Technical Audit Cell. Any defects of material or workmanship pointed out by them and established as such, shall be rectified by the UPPCL at their own cost. Any recoveries or reduction of rates considered necessary by Technical Audit Cell shall be recovered from UPPCL, even if work has been accepted by the Client.

15. MEASUREMENTS

The nominated representative of the Client and UPPCL shall jointly observe initial cross-section of the site where earthwork is required to be executed and final cross-section after completion of work. The quantity of earthwork shall be calculated on that basis. These cross sections shall be entered in the measurement book of UPPCL and shall be signed by the authorised representative of UPPCL and the Client.

In witness whereof the parties hereto set their hands through their authorized representatives on this deed and affixed their seals on the date, month and year first above written.

FOR AND ON BEHALF OF
THE CLIENT

IN THE PRESENT OF:

WITNESS

1.....

2.....

FOR AND ON BEHALF
U.P. PROJECTS CORPORATION LTD.

IN THE PRESENCE OF

WITNESS

1.

2.