MEMORANDUM OF UNDERSTANDING FOR

"Construction of Residential & Non Residential buildings for 53rd Battalion ITBP at Chittoor (Andhra Pradesh)"

OF INDO TIBETAN BORDER POLICE (MHA), GOVERNMENT OF INDIA

Memorandum of Understanding/Agreement made on 11th day of September 2015 between the Indo Tibetan Border Police Force (hereinafter called ITBP) which
expression shall, unless the context requires another or different meaning, include its representatives and assigns.

AND

M/S Engineering Projects (India) Limited (A Government of India Enterprise) a company registered under the companies Act, 1956 under the Ministry of Heavy Industry and its Corporate office at Core-III, Scope Complex, 7, Institutional area, Lodhi Road New Delhi (hereinafter called EPIL) 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, ITBP vide letter no. II-11012/08/2013-Const-699 dated 11/09/2015 has convey the Sanction issued by MHA vide letter No. 27012/100/2015/PF-V dated: 11.09.15 for administrative approval cum expenditure sanction for incurring an expenditure not exceeding Rs. 65,75,01,584,000/- (Rupees Sixty Five Crore Seventy One Thousand Five Hundred Eight Four Only) for "Construction of Residential & Non Residential buildings for 53rd Battalion ITBP at Chittoor (Andhra Pardesh)" by EPIL including 3% contingency (at actual against documentary evidence) and 7% agency charges, plus service taxes, wherever applicable,

AND WHEREAS EPIL has offered to take up and execute the detailed engineering and construction of the aforesaid works, as per the estimates submitted by EPIL vide their letters No: PCO/MKTG/F-04/GEN/ITBP(CTR) dated: 16.07.2015 for undertaking the work on agency charges @ 7% 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 EPIL shall include the following activities:

(i) Preparation of detailed working and structural drawings
(ii) Preparation of detailed estimates for building 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 fire clearance
(viii) Handing over to client

Sign. by ITBP Representative

Sign. by EPIL representative
2. DETAILS OF WORK

a) EPIL shall undertake the “Construction of Residential & Non Residential buildings for 53rd Battalion ITBP at Chittoor (Andhra Pardesh)” for Rs. 65,75,01,584/- (Rupees Sixty Five Crore Seventy Five Lac One Thousand Five Hundred Eighty Four Only) as Public Works Organization based on the detailed estimates submitted by them and sanction issued by MHA vide Sanction no. 27012/100/2015/PF-V dated: 11.09.15 and conveyed by ITBP vide letter no. II-11012/08/2013-Const-699 dated 11.09.15. The estimate covers the provision of “Construction of Residential & Non Residential buildings for 53rd Battalion ITBP at Chittoor (Andhra Pardesh )”. The estimate has been prepared based on (DSR-2014) with up to date correction slips. EPIL 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 :-

<table>
<thead>
<tr>
<th>Non-Residential</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Boundary wall, Entrance Gateway, Guard room &amp; Sentry post</td>
<td>2961 Mtr</td>
</tr>
<tr>
<td>03 No. 120 Men Barrack</td>
<td>5999.40 Sqm</td>
</tr>
<tr>
<td>Combined ADMIN Block, Quarter Guard &amp; Quarter Master Store</td>
<td>3898 Sqm</td>
</tr>
<tr>
<td>G0s Mess</td>
<td>777.80 Sqm</td>
</tr>
<tr>
<td>SOs Mess</td>
<td>796.50 Sqm</td>
</tr>
<tr>
<td>Bin Type Magazine</td>
<td>133.00 Sqm</td>
</tr>
<tr>
<td>M.I Room (10 Bedded)</td>
<td>1002.51 Sqm</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Residential</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Type-II- Quarter 80 Nos.</td>
<td>5600.00 Sqm</td>
</tr>
<tr>
<td>Type-III- Quarter 32 Nos.</td>
<td>2560.00 Sqm</td>
</tr>
<tr>
<td>Type-IV- Quarter 08 Nos.</td>
<td>1009.28 Sqm</td>
</tr>
<tr>
<td>Type V Quarter 1 No.</td>
<td>210.95 Sqm</td>
</tr>
</tbody>
</table>

In addition to above services and development works as per details in the sanctioned estimate.

(c) References of Drawings

The work shall be carried out as per CPWD specifications, based on DPAR 2012 and DSR 2014. The items not included in the DPAR shall be executed as per the recommendations and specifications of the manufacturer duly approved by the ITBP. In case of items having option in DPAR like external finishing, the selection of items to be used shall be decided by the ITBP. 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:

Sign. by ITBP representative

Raja Babu Singh, IPS
Inspector General
Directorate General

Sign. by EPIL representative
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 Policies and procedure for procurement of works issued by Ministry of Finance should be scrupulously followed by EPIL for awarding the work to executing agency. The entire work shall be executed through wide open tender system as per the required codal provisions, GFR, CVC and CPWD guidelines.

3.2 EPIL shall assume total and single point responsibility for the quality of work and timely completion of the projects by its executing agencies. EPIL 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, EPIL 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 EPIL.

3.3 Execution of the Project shall be carried out by EPIL as Public Works implementation company (Public Works Executing Agency). The work will be completed within time frame stipulated in clause 4. EPIL shall submit CPM/PERT chart of the construction activity, matching with stipulated time schedule agreed by EPIL. 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 ITBP for record. EPIL 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
ITBP. 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 ITBP 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 EPIL 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 EPIL 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 by a team comprising of officers from ITBP/MDA and EPIL. EPIL shall also submit a set of working drawings, detailed estimate and copy of certified agreement entered into by EPIL before the commencement of the work.

4. **TIME OF COMPLETION**

4.1 **The total period of completion of the work shall be 24 months.** There shall not be any escalation payable by ITBP to EPIL 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.

EPIL shall draw out a detailed construction schedule covering all activities and submit the same to ITBP. EPIL shall exercise strict supervision, high quality control and efficient project management.

4.2 Time will be decided mutually by EPIL and ITBP 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 factors mentioned in Annexure I of this MoU.

4.3 The user i.e. ITBP 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 EPIL shall enter into a contract with the contractor accordingly.

5. COST CONTROL

5.1 EPIL 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 ITBP level. EPIL will prepare preliminary estimates of cost for the various items of works as required by ITBP on CPWD’s plinth area rates (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 EPIL 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, EPIL shall award the works to the contractors. In case lowest evaluated tendered cost exceeds the approved estimated cost, EPIL will submit revised preliminary estimate of the project duly indicating the reasons for increasing the cost of project.

5.3 EPIL 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 safety or security of the building.

6. RECORDS

The following documents shall, in addition to other requisite documents, be maintained by the EPIL and produced by it when called for by the ITBP

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 EPIL. This should be given to the ITBP 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 EPIL and produced for inspection to ITBP as and when required.

c) **Site Documents:** All site documents as applicable during execution of the work shall be maintained by EPIL and will be kept updated at all times. ITBP/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:** EPIL shall be responsible for structural soundness of the project in all respects and a certificate thereon shall be furnished by EPIL to the ITBP 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 EPIL and handed over to the ITBP 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.

f) Detailed bar charts activity wise will be submitted by EPIL and will be monitored on monthly basis.

All the financial records of EPIL relevant to the contract will be open to scrutiny and inspection by the authorized representatives of ITBP 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 EPIL shall interact with the ITBP, at different stages, to take into account their requirements.

7.2 During the construction stage, the 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 ITBP.

7.3 EPIL shall be responsible for obtaining approval and clearances from the local body/authority, as required under the rules/byelaws.

- Design of buildings should be as per entitled norms and specifications of CPWD.
- No variation in the design and drawings can be made by EPIL except with the express approval of MHA.
- The EPIL should certify that the design is as per CPWD norms/specifications.
- No preliminary estimate should be made/ approved without and approved design signed by user.
- Approval of the local bodies should be obtained by the EPIL, 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 EPIL, suitable extension of time may be granted by ITBP for which EPIL will make a request to ITBP.

9.2 In case there are some hindrance which comes to the notice of EPIL and are to be attended by ITBP, 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 EPIL, the same shall also be intimated and recorded within 15 days of the occurrence of the hindrance.

9.3 EPIL will provide compensation clauses in their contract with contractors as per CPWD norms. For any delay attributable to the EPIL {including those by the contractor engaged by the EPIL} compensation shall be made to the ITBP/MHA, Govt. of India by the EPIL @0.5% of the total project cost per week of delay, subject to a maximum of 10% of total project cost.
10. INSURANCE

EPIL shall incorporate necessary clause(s) in the tender document for contract between EPIL 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 ITBP

11.1 The ITBP shall not be responsible or accountable to EPIL for the employees, agents, technicians and labourer employed by EPIL who shall work on the project site and its premises and EPIL 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 ITBP and the technicians, employees, engineers, architects, labourers and contractors and such personnel shall not be the employees of the ITBP and ITBP shall not be liable in any way (employer–employees relationship, legal and financial) to such personnel who shall be exclusive liability and responsibility of EPIL.

12. DAMAGE TO PERSONS AND PROPERTY

The EPIL shall (except and in so far as this agreement provides otherwise) indemnify and keep indemnified the ITBP 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. ITBP will not be responsible in this regard.

13. THIRD PARTY INSURANCE

Before commencing the execution of the work the EPIL 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
EPIIL shall not be held responsible for the delays/stoppage of work due to force majeure conditions like natural calamities, war, etc. and for losses suffered if any, by ITBP on this account. EPIIL shall also not be able in any way to bear such losses and no compensation of any kind whatsoever will be payable by EPIIL to ITBP. Suitable force majeure clause shall be incorporated in all the agreements entered into by EPIIL with the contractors/agencies.

15. SECURITY DEPOSIT

Retention Money/Security Deposit as per the CPWD manual will be retained by EPIIL from the contractors; the amount so retained will be released only after rectification of the defects pointed out by ITBP during the defect liability period and after specific approval of ITBP.

16 DEFECTS LIABILITY PERIOD

This period shall be one year from the date of completion of works. During this period EPIIL Ltd shall get the defects rectified without any cost to ITBP. For the item water proofing roof treatment, EPIIL 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 EPIIL.

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 EPIIL without any prejudice shall cancel the contract as a whole or only such work order or items of work in default from the contract. EPIIL 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 EPIIL from the contractor with no liability towards ITBP.

b) Special Powers of Determination:
The work wholly or partly can be foreclosed, at any time, after acceptance of the contract (by EPIIL) for any reason, whatsoever, by the ITBP, without assigning any reason or payment of any compensation, whatsoever. The ITBP shall give notice in writing to the effect to EPIIL who shall have no claim to any payment of compensation or otherwise, whatsoever, on account of any profit or

[Signatures]
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. EPIL 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 ITBP) for any expenses sustained on account of labour, tools & plants and materials collected but not utilized on the works, verified by the ITBP.

19. TERMS OF PAYMENT

19.1 The Agency Charges will be @ 7% of the actual cost of work subject to maximum sanctioned cost 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 On the specific request of the EPIL, mobilisation advance, as per CPWD system, can be considered. Such advance would be payable to the EPIL by the ITBP which shall be limited to a maximum of 10% of the estimated cost put to tender or the tendered value, whichever is less at 10% simple interest, to be given on a specific request from the EPIL, as per para 32.5 of the CPWD Works Manual. The mobilization advance shall be against a Bank guarantee of a Scheduled Bank for the full amount of the advance. The advance shall be released in not less than two instalments. The interest on advance shall be calculated from the date of payment to the date of recovery, both days inclusive. 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 EPIL.

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:-

“1........................................, 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 ITBP to EPIL or vice versa through on electronic transfer of funds and not by way of cheques/DD/other instruments.

19.6 It shall be the endeavor of the ITBP to ensure that the payment of bills of the EPIL 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:**

EPIL shall submit following monthly reports, the format for which will be provided by the ITBP to EPIL:

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 ITBP.

21. **COMPLETION AND TAKING OVER:**

As soon as the project is finally completed, EPIL shall in turn inform the ITBP, 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, EPIL shall submit a detail account of the job showing package wise payments drawn from ITBP, payments made to their sub contractors, work contract tax recovered 7% departmental charges levied as admissible for EPIL, expenditure on account of contingency, savings/excess expenditure if any, to the ITBP within a month, duly authenticated by their Accounts Branch. Any savings in the job shall be refunded to the ITBP / MHA.

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

24. EPIL shall obtain necessary clearances and get the drawings approved from the local civic authorities.

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

EPIL 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 /ITBP or his authorized representative shall be carried out by EPIL at their own cost. ITBP shall not pay any extra amount for such type of liabilities.

**Special Conditions for Steel**

EPIL to ensure that their contractor/contractors shall procure TMT bars of Fe415/Fe415D/Fe500/Fe500D/Fe550/Fe550D grade (the grade to procured is to be specified) from primary steel producers such as SAIL, Tata Steel Ltd., RINL, Jindal Steel & Power Ltd. and JSW Steel Ltd. or any other producer as approved by CPWD who are using iron ore as the basic raw material/input and having crude steel capacity of 2.0 Million tonnes per annum and above. Further, in this regard, guidelines as per CPWD manual para 27.2 be followed

**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

Signature
Name
Design
ITBP

In presence of witness

Signature
Name
Design

For and on behalf of EPIL

Signature
Name
Design
EPIL

In presence of witness

Signature
Name
Design

Sign. by ITBP representative
Sign. by EPIL representative
## STANDARD SCHEDULE OF CONTRACT PERIODS FOR BUILDING WORKS

<table>
<thead>
<tr>
<th>S.No</th>
<th>Number of storeys</th>
<th>Time Period (Months)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Upto 4 storeys</td>
<td>8 to 12</td>
</tr>
<tr>
<td>2</td>
<td>Beyond 4 and upto 6 storeys</td>
<td>12 to 15</td>
</tr>
<tr>
<td>3</td>
<td>Beyond 6 storeys</td>
<td>16 to 21</td>
</tr>
</tbody>
</table>

(Note:- Basement may be treated equivalent to one storey)

Time may be varied suitably due to following factors:

i. Rainy season and inundated conditions

ii. Depth of subsoil water

iii. Special features of the building

iv. Scattered/ concentrated works

v. Congested site

vi. Type of foundation

vii. Urgency/ Importance of the work

viii. Extent of Mechanization involved

ix. Logistics available in area.