

## Memorandum of Understanding

This Memorandum of Understanding (“**Memorandum**”) is made on this 17th day of October, 2016

Between

**Ministry of Urban Development (for the Swachh Bharat Mission), Govt. of India**, Nirman Bhawan New Delhi 110011, here in after referred to as “**MoUD**”;

and

**Department of Local Government, Govt. of Punjab**, Chandigarh hereinafter referred to as the “**Govt of Punjab**”;

and

**Bharti Foundation**, an Indian Trust created in the year 2000 by the registration of a Deed of Trust (Registration number – 19906), having its office at Bharti Foundation, Bharti Crescent, 1 Nelson Mandela Road, Vasant Kunj, Phase II, New Delhi - 110070, acting through its Chief Executive Officer Mr. Vijay Chadda, hereinafter referred to as “**Bharti Foundation**”;

and

**SJVN Ltd.** (a Joint venture of Govt of India and Govt of Himachal Pradesh), SJVN Corporate Office Complex, Shanan, Shimla (HP), PIN-171006 (hereinafter referred to as “**SJVN**”).

WHEREAS, MoUD, Govt of Punjab, Bharti Foundation, and SJVN Ltd, shall hereinafter be collectively referred to as the “**Parties**” and severally as “**Party**”;

WHEREAS the Parties have mutually discussed certain modalities relating to the project of **constructing Individual Household Latrine structures (IHHLs) in urban towns/areas of Ludhiana District** (the “**Project**”);

AND WHEREAS the Parties have decided to enter into this Memorandum for purposes of recording their mutual agreement and understanding in relation to certain aspects of the Project.

**NOW THEREFORE, THIS MEMORANDUM WITNESSETH AS UNDER:**




### **Part I: Project Execution Framework.**

#### **1.1 Purpose of Project:**

The Parties agree to work towards the implementation of the Project and to construct and provide IHHLs to the beneficiaries identified by the Govt. of Punjab. It is further agreed that the provision of various support services and facilities for each IHHL, including but not limited to connecting each IHHL to the sewage disposal system, and the provision of water supply for each IHHL is not included in the Project and will be independently undertaken by the Govt. of Punjab.

#### **1.2 Project Period:**

The period during which work on the Project will be undertaken (“**Project Period**”) will commence from the day of release of the full grant/advance payment for the Project cost (of mutually agreed amounts) by



each of MoUD and SJVN for the Project, and will complete in accordance with the mutually agreed timelines. The precise duration of the Project Period will be agreed between the Parties and will be reviewed based on actual progress achieved after three months of the commencement of the Project. This agreed time period may be further extended basis mutual consent of the Parties.

### 1.3 Project Area.

The geographic area of the project to provide IHHLs will be the mutually agreed Urban Towns/ Areas of Ludhiana District (the "Project Area").

### 1.4 Project Cost.

The Project cost will be calculated and agreed on the basis of the no of IHHLs to be constructed in the Project Area and the rate finalized by Parties. Based on current specification of IHHL, approximate cost of construction is Rs. 20000/- per IHHL. At present 17049 IHHL has been identified for construction in urban areas.

### 1.5 Division of Work and Responsibilities:

Following is the broad division of work and responsibilities of each Party in relation to the Project:

❖ **Swachh Bharat Mission – Ministry of Urban Development, Government of India:**

Provision of Rs 4,000 per IHHL towards the Project cost in accordance with SBM (U) guidelines, to the Department of Local Government, Government of Punjab for IHHL Construction..

❖ **Department of Local Government, Govt. of Punjab:**

Provision of Rs 1,333 per IHHL, and clubbing the same with the monies provided by Swachh Bharat Mission – Ministry of Urban Development, Government of India. Govt of Punjab shall, thereafter, transfer the funds (Rs 5,333 per IHHL) in the form of advance payment to Bharti Foundation for IHHL Construction. Govt. of Punjab will provide the list of eligible beneficiaries in whose house IHHLs will be constructed by the agencies selected by Bharti Foundation. As set out in clause 1.1 above, the Govt. of Punjab will also ensure that all the IHHLs are connected to the sewage system and water supply system.

❖ **Bharti Foundation**

- i. Selection of suitable vendors to execute the Project within the agreed Project Period.
- ii. Provision of 50 % of the Project cost as payment to the vendors. Payments by Bharti Foundation will be made against bills furnished by the vendors for work completed by such vendors.
- iii. Bharti Foundation will ensure that IHHLs are constructed as per mutually agreed specifications and as per the list provided by Govt of Punjab. In case, it is found that an IHHL already exists in the house of a beneficiary, Bharti Foundation will not construct the IHHL and will inform the same to the Govt of Punjab.
- iv. Assist the officers and representatives of MoUD, Govt of Punjab and SJVN Ltd to visit and inspect the Project locations.
- v. Bharti Foundation will share the progress report of the Project in the agreed format and time intervals, with the authorized representatives of MoUD, Govt of Punjab and SJVN Ltd.





❖ **SJVN Ltd**

SJVN Ltd will provide 25% of total Project cost as advance payment to Bharti Foundation.

**2. Cooperation between the Parties.**

The parties have agreed to co-operate with each other in a spirit of mutual faith and understanding to achieve the object of this Memorandum.

**3. Termination, consequence of termination.**

3.1 In the event of a material breach of the terms and conditions of the Memorandum by a Party (the "Defaulting Party"), the other Parties (each a "Non-defaulting Party") may terminate this Memorandum by giving fifteen (15) days prior written notice to the other Parties in case the Defaulting Party is unable to cure/remedy the material breach within one (1) month of being informed of the material breach by a Non-defaulting Party.

3.2 Upon termination of the Memorandum, all advance payments that have been received by the vendors which have been earmarked for Project activities that have not yet been commenced as on the date of termination of the Memorandum shall be refunded by the vendors to Bharti Foundation which in turn will refund it to MoUD, Govt of Punjab and SJVN in equal proportion within thirty (30) days of termination of the Memorandum.

**4. Governing Law and Jurisdiction**

4.1 This Memorandum shall be construed and governed according to the laws of India. In the event of any dispute or difference in relation to the Memorandum, the Parties will discuss and try to resolve the dispute/difference in a spirit of good faith and mutual understanding within a reasonable period.

4.2 The courts at Delhi shall have exclusive jurisdiction over all disputes and matters arising out of and/or concerning this Memorandum.

**5. Confidentiality**

(a) Each Party shall maintain in strict confidence the terms of this Memorandum and any Confidential Information it receives in connection with this Memorandum and/or the Project.

(b) The term "Confidential Information" means any information received by a Party (or its affiliates, advisors or employees) in relation to the Memorandum and/or Project which is not ordinarily available to the public. Confidential Information however does not include any information which (i) at the time of disclosure is generally available to and known by the public (other than as a result of an unpermitted disclosure made directly or indirectly by a Party); (ii) was available to a Party on a non-confidential basis from another source (provided that such source is not or was not bound by a confidentiality agreement with a Party or had any other duty of confidentiality to a Party); or (iii) has been independently acquired or developed without violating any of the obligations under this Memorandum.

(c) Nothing in this clause precludes a Party receiving Confidential Information from disclosing such Confidential Information to its officers, directors, advisors, auditors or counsel on a strict need-to-know basis in relation to the Project.

*AMB*

**6. Notice**

*Handwritten signatures*

*Handwritten signature*

Any notice, claim or demand in connection with this Memorandum shall be given in writing to the relevant Party via first class registered post or hand delivery at the address stated in this Memorandum (or such other address as it shall previously have notified the other party).

**7. Indirect, incidental and/or consequential damages.**

In no event shall a Party be liable to any other party for any indirect, incidental and/or consequential damages resulting from any breach of this Memorandum even if the breaching Party has been advised of the possibility of the occurrence of such damages.

**8. Entire agreement.**

This Memorandum is the product of all the Parties hereto, and constitutes the entire agreement between such Parties pertaining to the subject matter hereof, and merges all prior negotiations and drafts of the Parties so far with regard to the purpose contemplated herein. Any and all other written or oral agreements existing between the Parties hereto regarding the purpose are expressly canceled.

**9. Failure to enforce.**

A failure or neglect by either Party to enforce or exercise (in whole or in part) at any time any of the provisions of this Memorandum shall not be construed or be deemed to be a waiver of its rights hereunder nor in any way affect the validity of the whole or any part of this Memorandum nor prejudice such Party's rights to take subsequent action.

**10. Counterparts.**

This Memorandum may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

**11. Assignment.**

The terms and conditions of this Memorandum shall inure to the benefit of and be binding upon the respective successors and assigns of the Parties, provided that neither Party shall assign this Memorandum to a third party without the prior written consent of the other Party.

**12. Severability.**

If one or more provisions of this Memorandum are held to be unenforceable under applicable law, the Parties agree to renegotiate such provision in good faith. In the event that the Parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (a) such provision shall be excluded from this Memorandum, (b) the balance of the Memorandum shall be interpreted as if such provision were so excluded, and (c) the balance of the Memorandum shall be enforceable in accordance with its terms.



**13. Amendment and waivers.**

Any term of this Memorandum may be amended with the written consent of the Parties and no waiver shall be effective unless in writing by the all the Parties. Any amendment or waiver affected in accordance with this clause shall be binding upon the Parties and their respective successors and assigns. Each Party hereby irrevocably waives and agrees not to plead or claim any immunity (sovereign or otherwise) that it has or hereafter may acquire from any legal action, suit or proceeding, from jurisdiction of any court or from any legal process in respect of its obligations under this Memorandum.

**14. Independent contractors.**

This Memorandum does not create a joint venture, partnership, co-ownership or other formal business relationship or entity of any kind, or an obligation to form any such relationship or entity. Each Party shall act as an independent contractor and not as an agent of the other Party and neither shall have the authority to bind the other.

**15. Force Majeure.**

A Party will not be responsible for any failure to or delay in carrying out any of its duties or obligations under the Memorandum to the extent such failure or delay is caused by Force Majeure. "Force Majeure" means an event beyond the Party's reasonable control that causes a delay or failure in performance of the affected Party, including without limitation, Act of God, governmental decree, civil or military authority, government requirement, war or the engagement of hostilities, embargo, terrorist act, epidemics, flood, earthquake, fire, explosion, unavoidable accidents, meteor strikes, inability to secure materials or transportation facilities, civil commotion or riot, civil disturbances, and strikes.

IN WITNESS WHEREOF, the Parties have executed this Memorandum of Understanding

**Ministry of Urban Development, Govt. of India**  
Signature [Signature] 17.10.16  
Name and Designation  
**Saurabh Jain**  
Director, Swachh Bharat Mission  
MOUD, Govt. of India.  
**Department of Local Government, Govt. of Punjab**  
Signature [Signature] 17/10/16  
Name and Designation  
**Parneet Sharma,**  
Assistant, Nodal officer  
Dept of Local Govt. Punjab

**Bharti Foundation**  
Signature [Signature]  
Name and Designation  
**VIJAY CHADDA**  
CEO

**SJVN Ltd.**  
Signature [Signature]  
Name and Designation  
**D.P. Kaushal**  
Addt. G.M - RER&CSR.

Witnesses:  
1. [Signature] 17.10  
(J.B. Ravinder)  
MOUD.

2. [Signature] 17/10  
(G.S. Sandey)  
Sr. Legal Adviser,  
SJVN Ltd.