

No. 4571A/FD/US(FIN)-I/2022

Government of Puducherry  
Finance Department

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Puducherry, dt. 22/04/2022

**OFFICE MEMORANDUM**

**Sub:** Model Arbitration Clause for inclusion in Contract Agreements by the Departments/Societies/Autonomous Bodies/Corporations, etc.

**Ref:** O.M. No. 4571/FD/US(FIN)-I/2022, dated 21/04/2022

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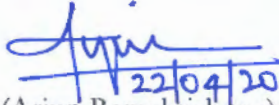
In supersession of the O.M. cited under reference, it is hereby directed that the Administrative Departments / Societies / Autonomous Bodies / Boards / Corporations / PSUs, etc., shall henceforth strictly incorporate a separate chapter on Arbitration, as per the Model - I (enclosed), in any Contract Agreement signed by them.

2. This shall apply to all tenders floated by the Departments / Societies / Autonomous Bodies / Boards / Corporations / PSUs, etc. from the date of issue of this O.M.

3. In respect of the existing Contract Agreements already signed by Departments / Societies / Autonomous Bodies / Boards / Corporations / PSUs, etc., a Supplementary Arbitration Agreement, as per the Model II (enclosed), may be signed, subject to the existence of an enabling clause to this extent in the Main Contract Agreement, and the consent of the Contracting Parties to the signing of the Supplementary Arbitration Agreement. Such consent of the Contracting Parties may be obtained through persuasion. The Supplementary Arbitration Agreement shall from the date of its signing form part and parcel of the Main Contract Agreement.

4. The suggested Arbitration Clause and Supplementary Agreement have been duly vetted by the Law Department, Govt. of Puducherry.

//By Order//

  
(Arjun Ramakrishnan)  
Under Secretary (Finance)

Enclosed: As stated.

- All Secretaries to Government/All Secretariat Departments
- All Heads of Directorates/Offices
- All Heads of Public Sector Undertakings/Autonomous Bodies/Societies/Boards/Corporations

Copy to:

The P.S. to the Chief Secretary

## Chapter.....: Arbitration

[as a separate chapter in the contract agreement itself]

The parties agree that any mutual dispute with regards to terms of this Contract shall be handled through Arbitration, as per the following terms, between them:

- (I) THAT, the parties agree that any dispute or difference whatsoever arising between the parties out of/under or in connection with or relating to the construction, meaning, scope, operation, or effect of the contract or the validity or the breach thereof shall be referred to a Sole Arbitrator as appointed under clause (IV) hereinbelow, and that the award made in pursuance thereof shall be binding on the parties;
- (II) AND THAT, the parties agree that in respect of those matters, as are not defined in the terms and conditions of the main contract, or in this Arbitration Agreement, the same shall be decided and settled by the Sole Arbitrator in accordance with the Arbitration and Conciliation Act, 1996 and the amendments thereof as in operation on the date of execution of the Contract;
- (III) AND THAT, the parties agree that the place of Arbitration shall be at Pondicherry in the Union Territory of Puducherry;
- (IV) AND THAT, whenever the parties decide to resort to Arbitration for dispute resolution, the Secretary to the Government of Puducherry.....[Name of concerned Department] shall be the authority to appoint the Sole Arbitrator from amongst a panel of Arbitrators maintained by the Government of Puducherry, and such appointment shall be binding on both the parties:

Provided that before requesting the Secretary.....[Name of concerned Department] for appointing an Arbitrator, the parties shall make a sincere attempt to resolve their dispute, within a time period of 3 months, through mutual conciliation, and if so felt necessary by the parties under the supervisory guidance of the Secretary.....[Name of concerned Department];

- (V) AND THAT, all costs relating to the Arbitration proceedings, shall be borne equally by both the parties;
- (VI) AND THAT, the parties agree that the language for making all submissions and evidence will be presented in ENGLISH during the proceedings;
- (VII) AND THAT, it is agreed between the parties that they shall extend their fullest support and co-operation to the Sole Arbitrator and not seek adjournment of the Arbitration proceedings, without explaining the reasons therefor, in writing, in advance, for seeking of such adjournment, and further that there shall not be more than two such adjournments granted, even when there exists a valid reason for seeking such adjournment. And it is further agreed that the parties should cooperate in completing the arbitration process and the broader dispute resolution within 6 months or at most with an extension, on mutual consent, of another 6 months;

- (VIII) AND THAT, it is agreed by the parties hereto that, in so far as there is an arbitral award for payment of money, the Sole Arbitrator may include in the sum for which the award is made, interest at the RBI repo rate, as on the date on which the cause of action arose, plus 2%, on the whole, or any part of the money, for the whole or any part of the period, between the date on which the cause of action arose and the date on which the award is made:

Provided that, on the sum so directed to be paid by an arbitral award, there shall be no interest payable for three months commencing from the date of award, but thereafter, interest shall be payable at RBI repo rate plus 4% for such period of delay, till the date of payment;

- (IX) The Arbitrator shall record, in writing, the arguments of the two parties on each of the points of dispute and pass a speaking order thereon.

## Supplementary Arbitration Agreement

[as a supplementary agreement annexed to the main contract agreement]

This Deed of Agreement made on the ..... day of ....., 2022, BETWEEN the President of India represented by Shri. .... (Name) S/O. ...., the ..... (Designation), .....(Office),.....(Place),

BEING THE PARTY OF THE FIRST PART:

AND

M/s. ....(Firm name) represented by Shri.....(Name of the Contractor), S/o....., having an office at....., (Place) BEING THE PARTY OF THE SECOND PART:

WHEREAS, the Party of the FIRST PART has agreed with the Party of the SECOND PART to abide by the Terms and Conditions of this ARBITRATION AGREEMENT:

AND NOW, THEREFORE, this INDENTURE WITNESSETH and the parties hereto have agreed as follows:

- (I) THAT, the parties hereto have entered into a Contract on .....[Date of signing the main contract] for.....[Name of Project/ work] and are bound by the terms and conditions as stipulated in the said Contract including the 'Clauses of the Contract' as appended to the said contract;
- (II) AND THAT, this AGREEMENT shall form part and parcel of the said contract executed on the .....day of....., [Month][Year];
- (III) AND THAT, the parties agree that any dispute or difference whatsoever arising between the parties out of/ under or in connection with or relating to the construction, meaning, scope, operation, or effect of the contract or the validity or the breach thereof shall be referred to a Sole Arbitrator as appointed under clause (VI) hereinbelow, and that the award made in pursuance thereof shall be binding on the parties;
- (IV) AND THAT, the parties agree that in respect of those matters, as are not defined in the terms and conditions of the main contract, or in this Arbitration Agreement, the same shall be decided and settled by the Sole Arbitrator in accordance with the Arbitration and Conciliation Act, 1996 and the amendments thereof as in operation on the date of execution of the Contract;
- (V) AND THAT, the parties agree that the place of Arbitration shall be at Pondicherry in the Union Territory of Puducherry;

- (VI) AND THAT, whenever the parties decide to resort to Arbitration for dispute resolution, the Secretary to the Government of Puducherry .....[Name of concerned Department] shall be the authority to appoint the Sole Arbitrator from amongst a panel of Arbitrators maintained by the Government of Puducherry, and such appointment shall be binding on both the parties:

Provided that before requesting the Secretary,.....[Name of concerned Department] for appointing an Arbitrator, the parties shall make a sincere attempt to resolve their dispute, within a time period of 3 months, through mutual conciliation, and if so felt necessary by the parties under the supervisory guidance of the Secretary.....[Name of concerned Department];

- (VII) AND THAT, all costs relating to the Arbitration proceedings, shall be borne equally by both the parties;
- (VIII) AND THAT, the parties agree that the language for making all submissions and evidence will be presented in ENGLISH during the proceedings;
- (IX) AND THAT, it is agreed between the parties that they shall extend their fullest support and co-operation to the Sole Arbitrator and not seek adjournment of the Arbitration proceedings, without explaining the reasons therefor, in writing, in advance, for seeking of such adjournment, and further that there shall not be more than two such adjournments granted, even when there exists a valid reason for seeking such adjournment. And it is further agreed that the parties should cooperate in completing the arbitration process and the broader dispute resolution within 6 months or at most with an extension, on mutual consent, of another 6 months;
- (X) AND THAT, it is agreed by the parties hereto that, in so far as there is an arbitral award for payment of money, the Sole Arbitrator may include in the sum for which the award is made, interest at the RBI repo rate, as on the date on which the cause of action arose, plus 2%, on the whole, or any part of the money, for the whole or any part of the period, between the date on which the cause of action arose and the date on which the award is made:

Provided that, on the sum so directed to be paid by an arbitral award, there shall be no interest payable for three months commencing from the date of award, but thereafter, interest shall be payable at RBI repo rate plus 4% for such period of delay, till the date of payment;

- (XI) The Arbitrator shall record, in writing, the arguments of the two parties on each of the points of dispute and pass a speaking order thereon.
- (XII) AND THAT, in so far as Arbitration is concerned, the terms and conditions of this supplementary Arbitration Agreement shall prevail over anything to the contrary that may be spelt out in the main contract as referred to in clause (I) above.

IN WITNESS WHEREOF, Shri....., for and on behalf of the President of India **being the party of the FIRST PART** AND the Contractor, Shri/ Ms..... of M/s..... for and on behalf of the **Party of the SECOND PART** above named, have set their hands on the date as aforementioned.

(PARTY OF THE FIRST PART)

(PARTY OF THE SECOND PART)

WITNESSES:

1.

2.

WITNESSES:

1.

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