

DRAFT DEED OF AGREEMENT

THIS AGREEMENT made this day of Two thousand between State Bank of India, a Corporation incorporated under the State Bank of India Act,1955 and having its Local Head Office at Guwahati, Dispur, G.S. Road, Guwahati-781006, Assam (herein after called 'the Employer or Bank or SBI' which expression shall include the successors and assigns) of the one part and M/S..... having its office at (hereinafter called 'the Architect' which expression shall include the partners and also the partners from time to time as also their respective heirs, legal representatives, administrators and assigns) of the other part.

Whereas the Employer intends to construct it'sat..... and whereas the firm as Architects for the said (Hereinafter called the 'said works') and whereas the Employer is desirous of appointing the said Architects as Architects for the said work by their letter No.dated (Hereinafter called the 'said works') and whereas the Architects have accepted the said appointment by their letter No. dated Now, therefore, this agreement witnessed that the said M/S.are hereby appointed Architects for above referred to on the following terms and conditions:

1. Architect's Services:

The Architects shall render the following services in connection with and in reference to the said works:

- a) Taking the Employer's instructions, preparing sketch designs with alternative schemes (including carrying out necessary revisions till the sketch designs are finally approved by the Employer), making approximate project cost estimates i.e. block estimate based on sq. meter area * rate per sq. meter and preparing reports on merits of the scheme, highlighting the points
- b) After approval of the plans by the Bank, preparing details drawings, making design calculations and drawings water supply and electrical services and also for any special installations like air-conditioning, telephone, public address system, computer installations, interior decoration/site preparation work etc., meticulously working out technical specifications, bills of quantities and detailed cost estimates after briefing and discussing the amenities and finishes being proposed broadly with the Employer. While the Architects would be given full scope to make suggestions in the best interest of the said works, the Architects shall amend/change the same suitably if so desired by the Employer. The Architects shall be responsible for inclusion of each and every item of the works specifications required for completion of the project and the correctness of the quantities so as to ensure that variations are not beyond 5% on either side between on the actual quantities and the estimated quantities in exceptional /rate cases. The Architects shall get all these detailed drawings and cost estimates approved by the Employer after making necessary changes/amendments etc. if so, desired by the Employer.
- c) Drawing up detailed tender documents for the various trader, complete with the Articles of the agreement, special conditions, conditions of contracts, specifications, drawings, schedules of quantities, the SBI's standard PVA clauses, lists of various tests to be conducted by the contractors or got done through laboratories for materials, works site etc., theoretical/standard cement consumption for various items of works, various insurance covers required, time and progress charts and any other material necessary for completing the tender documents and getting them approved by the Employer.
- d) Preparing select list of contractors i.e. short listing of contractors after scrutinizing the applications received in response to the press notice for pre-qualification of contractors and inspection of some of the works done by them with the approval of the Employer, inviting the tenders for various trades, preparing comparative statements and submitting the assessment reports and recommendations thereon to the Employer, assist the Employer to conduct negotiations with the tenders where necessary and after the Employer's decision on the tenders, preparing contract documents and getting those executed by the concerned contractors.

It is clearly understood that the Architects shall employ services of their own Project Management Consultants/site engineer within their fees for day to day supervision and ensuring that the said works are being executed as per the plans and designs and specifications prepared by the Architects and provided for in the contract agreement with the selected /appointed contractors for various disciplines of the said works, monitoring of the project, checking the materials/works, getting various tests for materials and works done, correct measurements of the works, initial scrutiny of the contractors bills at site for final recommendations by the Architect after Test checking or cross checking of measurements of works at site if and wherever felt necessary on receipt of the bills from the site duly scrutinized and verified from their PMC/site engineer, checking the contractor's bills, issuing certificates for Conditions of Engagement:

- a) The Architects shall submit to the Employer the sketch plans, detailed plans, cost estimates, tender documents etc. within the period stipulated including project details in the schedule hereto annexed.

The Architects shall exercise all reasonable skill, care and diligence in the discharge of duties hereby covenanted to be performed by them and shall exercise such general superintendence and inspection in regard to the said works as may be necessary to ensure that the work being executed by the contractors under day to day supervision of the PMC/ Site Engineer is in accordance with the working drawings and the finishes etc. as provided for by them. In the event of their finding out/observing any deviations there from, they shall immediately bring it to the notice of the Contractors at the site and write to the contractors for the same. Simultaneously, copies of all such correspondence with the contractors shall be sent to the Employer by the architect periodically. The Architect shall be responsible for getting implemented/executed the project work through the appointed contractors as per the detailed drawings prepared and submitted to them by the architects and as per the provisions made in the accepted tender/s. The Architect shall be authorized by the Bank to talk/instruct/write directly to the representatives of the selected contractors during the progress of day to day work as long as those pertain to specifications, quality, measurements, drawings, progress of works etc. as provided in the respective contractors' contract agreement.

The Architect will have right to stop bad/defective work or the work which is not as per the tender item/drawings. The Architect will have right to ask the contractors to remove/ demolish disapproved/rejected materials/works. The Architects' overall responsibility will continue during the defect liability period to see that the Architect is persuaded to get the defects, if any, removed by the contractors and they shall give a 'No Objection Certificate' at the end of the defect liability period of twelve months from the date of virtual completion of the said work to the contractors.

- b) During the preliminary stage, the Architects shall visit the site, collect all the relevant data, take site particulars, ascertain local authority's building bye-laws, prevailing prices for building materials and labour wages etc. and forward the same to the Employer also. The Architects shall arrange, if required, for preparing a surveyed site plan and submit their report to the Employer.
- c) The Architects shall prepare a comprehensive- programme of work with the contractors, and arrange to have the work completed in an expeditious manner and in accordance with the programme drawn up. For this purpose, the Architects shall attend the weekly/fortnightly joint meetings of the Employer, the Architects, contractors and prepare jointly the minutes of discussion/instructions at such meetings with a view to co-ordinate the work of the various contractors and avoids delays.

The following shall constitute the joint Project Committee (hereinafter referred to as JPC) for assessing and reviewing the progress of the work on the project and to issue instructions or directions from time to time for being observed and followed by the Architects and other Consultants/Contractor engaged in the execution of the project.

- i. The Circle Head & Asstt. Vice President(Civil), SBI, who shall be the Chairman of the Committee.
- ii. SBIIMS Engineers (Civil and Electrical) in charge of the project
- iii. One SBI Engineer as may be nominated by the AGM (Premises & Estate).
- iv. Concerned partner of the Architects and their Resident Architect/Engineer members. Project Manager and or Resident Engineer-in-charge of project of the Architect Member and secretary respectively.
- iv) The Secretary of the Committee may, convene the meetings of the SBI, Architects and the concerned contractors/consultants at such regular intervals or frequently as may be instructed by the Chairman of the JPC and shall record and circulate to all concerned the decisions of the JPC for implementation/information as may be applicable. It is clarified that day to day supervision, programming of the works and coordination of various activities, quality control, measuring and recording the actual quantity of work, their correctness, ensuring that the work is being executed as per tender specifications and drawings, pointing out of any discrepancy therein forthwith the Architect to enable the later to give necessary clarifications/instructions to the contractors and the architects will oversee all these activities and follow up with the various contractors through their Resident Architect/site engineer at site to ensure timely and quality work as provided in the agreement.
- d) The Architects shall not make any deviation, alteration, omission from the approved design/plans without the written consent of the Employer. The Architects shall not also undertake, execute or carry out any variations or extra items of works in excess of Rs.25, 000/- (Rupees Ten Thousand only) or such amount as the employer may expressly authorize by separate letter. All variations and extra items allowed within the discretion of the Architects as well as costing Rs. 2,500/- and above or the amount authorized shall be referred to the Employer together with the reasons for making such deviations and by furnishing an analysis of the extra cost involved thereby. All orders given to the contractors by the Architects for any authorized deviations shall be issued within a fortnight from the date of issue of instructions for deviations but after getting the Employer's approval. The Architects shall on no account permit the contractors to include cost of variations or extra items of work in the running bill or certify the payments for such variations or extra items till the rates therefore are accepted by the Employer. In case of any additions or variations above Rs. 25,000/- are carried out without the prior approval of the Employer, the Employer shall not be liable to pay the contractors for

such additions and variations and the Architects shall also not be entitled as a right to claim fees for such additional or deviated items of works.

- e) During the progress of work, the Architects' representative at site shall remain in daily touch with their site engineer and ascertain in from them whether any excesses over sanctioned cost is anticipated and/or has already occurred. The Architects shall immediately report the same to the Employer with adequate justification for the same and obtain Employer's approval thereto. Also, as and when required, the Architects shall also prepare a revised cost estimate for Employer's approval.
- f) The Architects shall engage (within fees mentioned in clause 4 & 5 below) a qualified graduate Resident Architect/Civil Engineer with not less than 10 years experience for co-ordination and overall supervision on the site on day to day basis during the execution of the works subject to clarifications given above.
- g) The Architects shall, within the fees mentioned in clause 5 below, engage a qualified;
 - (i) Architect Consultants/ Civil Engineer, (ii) Electrical Consultants / Engineers, (iii) Consultants for special installations like air-conditioning, interior works etc. to assist them in their works. The remuneration, fees of Resident Architect and his required assistants/ Consultants/ Engineers appointed under clause (f) shall be paid by the Architects who shall also be responsible for all the work, actions, omissions, etc. of any such Resident Architect and his assistants/Consultants/Engineers.
- h) Scrutiny/recommendations/ certifications of the contractors' running bills by the architects and payments by the Bank. The Architect shall certify the running bills of the contractors within 5 working days from the date of receipt of the same from the contractors. To avoid delays in payments of running bills of the contractors, the joint measurements of the executed works by the Architects and contractors are required to be recorded from time to time by them soon after execution as also arithmetic calculations etc. are also required to be done soon thereafter and except for summary of quantities under various items of the works, the measurement of work should stand updated so that the recommendations from the Architect on each such running bill can reach within 5 days to the Employer. The Architects are supposed to satisfy themselves about the disputed/rejected works and the works not sanctioned by the Bank are not included, the quantities are not in excess of the tender quantities unless justified suitably to the satisfaction of the Employer, the rates allowed are more than the reasonable in case of partly done / substituted / extra items and not more than tendered rates in case of completed tender items, various recoveries/deductions from the bills are properly effected, deductions for up to-date actual payments effected by the Bank / tax deductions made / other recoveries made up to the last running bill in case of each contractor by the Employer are ascertained from the Employer and are given effect in the running bill in hand so as to minimize further corrections at the Employer's end, various insurance covers are arranged by the contractors before giving certificate for payments of the bills by the Employer to the contractors. The architect should satisfy themselves through their Resident Architect that there is no duplication of the measurements and recording of the work done is under proper tender items. To avoid delays in verification on this account, the Resident Architect or his assistant at the site may remain associated with the concerned contractors at the time of joint measurements to satisfy himself about what work is being measured and under that tender items.
- i) SBI shall include in all contracts which may be entered into with the contractors such clauses as would provide for the payment to SBI by the contractors of adequate damages for losses or delay on their part in carrying out the terms of the said contract and the architects shall take all necessary precautions and perform all their duties before and during the progress of the work to bring about completion of the work as may be entrusted to them including determining claims of the contractors due to fault or delay caused by the firm or their staff, on which question the decision of SBI, is final and binding, will have to be made good by the architects, subject to the total liability of the firm on this account being limited to an amount equal to 10% of the total payable fees.
- j) If the work of construction of any one or more of the civil engineering works or other works therein be substantially interrupted by force majeure or by reasons of any orders in writing issued by SBI stopping or suspending the work of construction on grounds other than bad/ unsound work or installation and / or defective supervision or lack of supervision or by reason of any undue or unreasonable delay on the part of SBI in the matter of approving of the work done or in the matter of giving such sanction or instruction as may be necessary for the future progress of the work, the firm shall not be liable in any way for the consequent delay in the completion of such work. SBI may require the firm to go out for discharge of any of their duties enumerated in this agreement without any extra fees. In such case, the firm shall, except in case of visit to site/laboratories / quarries / shops within the Guwahati City, be entitled to traveling and daily allowance permissible as under:
 - i. Senior Directors / Partners and Senior Consultants:

Actual traveling charge (permitted by Air/Two tire A/C Sleeper class for train journey), lodging plus boarding together not exceeding @ Rs. 2500.00, plus taxes per day per person after producing necessary bills/receipts in support of their claims.
 - ii. Other Engineers/ Architects/ Employees:

Actual traveling charges (permitted by First Class train fare), lodging & boarding charges together not exceed @ Rs. 1500.00 plus taxes-per-day per person after producing necessary bills / receipts in support of their claims.

- k) Whenever the work is examined by the Chief Technical Examiner of the Central Vigilance Commission and if he brings to the notice of the Bank any defective or substandard work or any irregular/ excessive payments the Architects shall take necessary action to get the defect rectified and / or recover the irregular payments. They may bring such matters in writing to the notice of the concerned contractors by putting the correspondence/ their letters and advising the contractors to take immediate action to get the matter set right and report back to the Architects for compliance. The Architects shall assist the Employer to send suitable reply to the Chief Technical examiner's queries in shortest possible time. In case of any disputes with the contractor (s) or disputes arising out of the said project execution as well in the matter of arbitration (either initiated by the contractors or the Bank) pertaining to this project, the Architects shall assist the Employer from time to time by drafting suitable replies in consultation with the legal advisers and protect the interest of the Employer.
- l) The Architects shall, on the completion of the work, supply to the Employer free of cost two copies of not less than 1:100 scale drawings (one of which shall be in AUTOCAD format), two complete sets of drawings of interior works and two sets of drawings sufficiently showing the main lines of water and drainage pipes, electrical installation and other essential services and also an inventory of all fittings and fixtures in the building. The Architects shall, if so required by the Employer, supply extra copies of all such drawings.

2. Termination of Agreement

- a) The agreement herein may be terminated at any time by either party by giving a written notice of two months to the other party. Even after the termination of their employment, the Architects shall remain liable and shall be responsible for the certification / approval of any bills submitted by the contractors at any time in respect of the work executed before the termination of the Architects appointment and consequences thereof on account of any excess / wrong payment, if any, certified / recommended by the Architects for payments to the contractors.
- b) If the Architects shall close their business or the company, partnership firm stands dissolved due to provisions, if any, in partnership agreement of the firm in the event of death of one or more partners or become incapacitated from acting as such Architects, then the Agreement shall stand terminated.
- c) (i) If the Architects fail to adhere to the time schedule stipulated in the schedule hereto annexure or the extended time which may be granted by the Employer in his sole discretion. Or
(ii) In case there is any change in the constitution of the firm of the architects for any reason whatsoever, the employer shall be entitled to terminate this agreement without giving notice and entrust the work to some other Architects.
- d) In case of termination under sub-clause (a), (b) or (c) above, the Architects shall not be entitled to fees or compensation except the fees payable to them for the work actually done and as per the provisions in this agreement. In such cases the decision of the Employer as to what is the work actually done and what is the amount of the fees due to the Architects on the basis of actual work and as per the provisions in this agreement shall be final and binding on the Architects.
- e) In case of the termination under sub-clause (a), (b) or (c) above, the Employer may make use of all or any drawings, estimates or other documents prepared by the Architects.

3. Transfer of Interests:

- (i) The Architects shall not assign, sublet or transfer their interest in this agreement, without the prior written consent of the employer.
 - i) Whether the firm is partnership firm or a company, no change in the constitution of such partnership or no change in the constitution of Board of Directors of the Company shall be made without the prior approval of SBI.

4. Scale of Charges for Architects Fee :

- a) The Employer shall pay to the Architects as remuneration for the services rendered by the Architects in relation to the said works, and in particular for the services herein before mentioned, fees calculated at the rate of accepted %(percent) the cost of the work. No deduction shall be made from the Architect's bill/fees on account of any delay in the work due to reasons not attributable to the Architect.
- b) No fee is payable on the cost of equipment for air-conditioning, lifts, computers etc., supply of which is directly arranged by the Employer.
- c) The Architects shall be paid fees referred to above in the manner laid down in clause 5 below, in respect of the preparation of plans, drawing up of estimates, specifications, pre-qualifications of contractors, calling of tenders etc. up to the stage the work is done by them on the value of works estimated by them initially or based on value of

approved tender for works. However, the Employer shall be entitled to adjustments subsequently based on actual cost of executed works so that the total fee payable to the Architects does not exceed the aggregate of the percentages referred to in sub-clause 2.(a) above on the value of the actual executed works including variations due to increase or decrease in the scope of the work authorized by the Employer. The Employer shall have the liberty to omit, postpone or not to execute any work and the Architects shall not be entitled to any compensation or damages for such omission, postponement, or non-execution of the work, except the fees which have become payable to them for the services actually rendered by them.

5. Methods of Payment of Architect's Fee :

Sr. No.	Services to be recorded	Subject to clarifications under col Fees payments	Up to stage total cumulative fees payments	Remarks/ Clarifications
1	2	3	4	5
1(a)	After completion of sketch plans, Architectural design and model, if any, and their approval by the Bank.	1/16 th (6.25%) of the total agreed % of fees on total cost of related work.	1/16 th (6.25%) of the total agreed % of fees on total cost of related work.	The sketch plans include the detailed department-wise final layout plans for all floors and Blocks.
b)	After completion of working drawings & detailed estimates to the satisfaction of the Bank including Architectural & structural drawing & all drawings pertaining to the various specialist services & their approval by the appropriate authority & Pre-qualifications of all related contractors.	1/8 th (12.5%) of the total% of fees on total cost of related work.	3/16 th (18.75%) Of the total % of fees on total cost of related work.	
(c)	After preparation of contract documents including tenders, issue of tender notices in respect of all traces, submission of recommendations to the Bank and execution of the contract documents for various trades.	1/16 th (6.25%) of the total% of fees on total cost of related work.	1/4 th (25%) of the total fees on total cost of related work.	
(d1)	During the progress of work and in proportion to the value of the said works as certified from time to time and paid by the Bank.	1/2 th (50%) of the total% of fees on total cost of related work.	3/4 th (75%) of the total fees on total fees on total cost of	
(d2)	On final completion of the project & closing of accounts.	1/8 th (12.5%) of the total% of fees on total cost of related work.	7/8 th (87.5%) Of the total fees on total cost of related work.	

(d3)	After the ACF issue “No objection certificate” for the refund of contractors’ retention money on expiry of Defects liability period of the various contractors and/ or attending to the CTE’s / CVO’s observations, if any, from time to time till its final disposal and award of arbitration, if any, whichever is later.	1/8 th (12.5%) of the total % of fees on total cost of related work.	100% of the total fees on total cost of related work.	The final payments under d1, d2 & d3 stages shall be made in accordance with and on the basis provided in the clauses 5 herein.
(e)	In case, this agreement is terminated, fees shall be paid to the architects for the actual services rendered as per stages referred to in this clause and subject to other provisions about recoveries etc., as provided for elsewhere in this agreement.			

6. Visit to the Site:

In addition to the stationed qualified Resident Architect and one or two of his assistants as the Architects may consider necessary to support him, the Architects as stipulated by the Employer or their representatives shall visit the site whenever required(Maximum 6 times) and their consultants shall visit the site periodically and as frequently as works require and inspect and supervise the construction to ensure and themselves satisfy that the works are being executed as designed and planned by them and approved by the Employer and general quality of the work and finishes etc. are good. For this, no charges shall be payable by the Employer, but travelling charges shall be payable to them including daily allowances as mentioned in para 2 (l) above for project site situated outside Guwahati City.

7. Delays, Responsibility & Recoveries from fees:

- a) If the work after appointment of the contractors get delayed and the appointed contractors disagree to bear liquidated damages levied for the same as per the provisions in the agreements between the Bank and the contractors on a ground that they did not receive detailed architectural / structural drawings and of any further clarifications from the architects, the architects shall be liable to make good the losses to the Bank to an extent of the amount of liquidated damages disagreed by the contractors. Similarly, if the works done as per the architects’ earlier given architectural / structural drawings are required to be altered / demolished because of mistakes at the architects / their consultants’ the architects shall be liable to bear the cost of the work required to be so altered / removed (including removal / alternation cost) unless the contractors agree to forgo the cost of said work. In the event the Architects fail to discharge their duties diligently and delays are caused due to their negligence or if they do not cooperate, due to which the work is not completed within the time frame, they shall be liable to make good suffered by the Bank without prejudiced to the Bank’s right to terminate the agreement and pay such fees, which is at discretion of the Bank, required to be paid at the time of termination.

- b) While the Architect will be in-charge of the site in regard to implementation of the project as designed, planned and put to tender in time bound schedule through the appointed contractors, the architects shall also closely follow-up and keep the account of the progress made and arrange to solve the bottlenecks, if any, and clarify the doubts / details, if any required by the contractors through their Resident Architect and his assistants at site. If necessary, they should write to the contractors under advice to the Bank about time lag in the works and suggest improvements / course of action.

- c) It is agreed by the Employer and the Architects that the total recoveries /payments on account of delays / mistakes except in case of structural failure at architects’ end and any other account from the architects fees shall not exceed 15% of their total fees for the entire project including interior decoration work etc. To protect their interest, the architects shall keep the matter on record and shall maintain file / register with the acknowledgements etc. for issue of drawings, clarifications / instructions given to the contractors / Bank in writing. However, in the event of any damage / loss caused to the Bank on account of structural failure due to defective structural design by the Architects and / or their structural consultants, the Architects shall be liable to make good fully such damages / loss to the Bank without any upper limit.

8. Arbitration:

- i. Any dispute and items of disagreement arising between the Architects and the contractor shall be referred to the Chief General Manager or in his absence; the General Manager of SBI and his decision on those matters will be final and binding on the Architects .
- ii. If any dispute, difference, or question shall at any time arise between the Architect’s and the Employer as to the interpretation of this agreement or concerning anything herein contained or arising out of this agreement except that stated in (i) above or as to the rights, liabilities and duties of the said parties hereunder, or as to the execution of the said works except in respect of the matters for which it is provided herein, that the decision of the Employer is final and binding, the same shall be referred to the Arbitration and arbitrator is to be appointed by the employer.
- iii. The work under the contract shall, however, continue during the Arbitration proceedings. No payment due or payable to the Architects shall be with-held on account of such proceedings except the disputed payment of fees on account of other provisions in this agreement.
- iv. The Arbitrator shall be deemed to have entered on the reference on the date he issues notice to both the parties fixing the date of the first hearing.
- v. The Arbitrator may from time to time, with the consent of the parties, enlarge the time for making and publishing the award.
- vi. The Arbitrator shall give a separate award in respect of each dispute or difference referred to him. The Arbitrator shall decide each dispute in accordance with the terms of the contract and give a reasoned award. The venue of Arbitration shall be such place as may be fixed by the Arbitrator in his sole discretion.
- vii. The fees, if any, of the Arbitrator shall, if required to be paid before the award is made and published, be paid half and half by each of the parties. The costs of the reference and of the award including the fees, if any of the Arbitrator, who may direct to and by whom and in what manner, such costs or any part thereof shall be paid may fix or settle the amount of costs to be paid.
- viii. The award of the Arbitrator shall be final and binding on both the parties.
- ix. Subject to aforesaid, the provisions of the Arbitrator Act 1940 or any statutory, modification or reenactment thereof and the rules made there under, and for the time being to force, shall apply to the arbitration proceedings under this clause.

This agreement executed the day and year first written above.

In witness of this agreement, the parties hereto have subscribed their respective hands hereto and / or a duplicate hereof on the day and the year herein above first mentioned.

Signed and delivered by within named M/s-----by the hand of its Partners for and on behalf of the Architects in the presence of

- 1.
- 2.

Signed and delivered for and on behalf of the State Bank of India by

- 1.
- 2.