

CONSTRUCTION OF NSIC OFFICE BUILDING
AT PLOT NO. 7/7 & 7/8, BLOCK-CP,
SECTOR-V, SALT LAKE, KOLKATA



ISO 9001:2008

The National Small Industries Corporation Ltd.
(A Government of India Enterprise)

REQUEST FOR PROPOSAL (RFP)

FOR

***Appointment of Executing Agency (EA) For Project
Development, Monitoring and Control for the
Construction of NSIC Office Building at Plot no. 7/7 &
7/8, Block-CP, Sector-V, Salt Lake, Kolkata***

September, 2011

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SECTION - 1

LETTER OF INVITATION (LOI)

No. SIC/HO/Admn-W/ROK/6/3(I)/2011-12

Dated: 19.09.2011

To:

M/s -----

Sub: **Appointment of Executing Agency (EA) for the Construction of NSIC Office Building at Plot no. 7/7 & 7/8, Block-CP, Sector-V, Salt Lake, Kolkata**

Sir,

1. The National Small Industries Corporation Ltd. (NSIC), A Government of India Enterprise, proposes to construct an Office Building at the prime location in the Sector-V of Salt Lake, Kolkata.
2. NSIC intends to appoint an Executing Agency (EA) of repute with sufficient resources and experience for Project Development, Monitoring and Control for the Construction of NSIC Office Building a state-of-the art four storeyed building with covered area of approx. 1201.76 sqm. The EA is expected to complete the project on Deposit Work basis conforming to highest quality standards and shall adhere to time and cost management systems, within stipulated time frame and allocated budget for the project.
3. A reputed and experienced Public Sector Enterprise having proven track record of successful project implementation will be selected under Cost Based Selection (CBS) and procedures described in this Request for Proposal (RFP) in various sections.
4. Separate Technical and Financial bids as per Information to Bidders and other sections of RFP are to be submitted by the Bidders with their offer.
5. The complete RFP document is enclosed herewith. Any further corrigendum/ addendum to this RFP document shall be made available on our website www.nsic.co.in . It is, therefore, requested that the bidders may regularly visit the website for checking any corrigendum/ addendum to this document.
6. The bidders will be required to make a detailed presentation before the evaluation committee of the owner, of their organizational strengths/weaknesses, methodology for execution of the work and any other measures being adopted by them for economizing the project cost etc. The bidders shall give soft and hard copy of the presentation to evaluation committee. The date, time, venue and time allocated for presentation shall be informed to each bidder.

7. NSIC will inform all the bidders the marks secured by them in technical evaluation. In order to qualify for opening of the price bid the bidder is required to secure minimum 750 marks out of total 1000 marks. Price bids of the bidders who fail to qualify will be returned unopened after completion of the final selection process i.e. after the award of work. NSIC's decision in respect of the evaluation of the bids shall be final and binding on all bidders.
8. The owner reserves the right to reject any or all the bids without assigning any reason whatsoever.

The last date for submission of the RFP Documents is **03.10.2011** up to **15.00 hrs** (IST). The bids would be opened on **03.10.2011** at **15.30 hrs**. in the presence of the representatives of the bidders, if any.

The bids or any queries or clarification on the RFP document, shall be submitted on the following address:

General Manager (Works)
The National Small Industries Corporation Ltd.
'NSIC Bhawan', Okhla Industrial Estate
New Delhi - 110 020, INDIA
Tele Fax: 011-26920911
Email: gmw@nsic.co.in

Yours faithfully,

(Navin Chopra)
General Manager (Works)

Encl: As above

SECTION-2

INFORMATION TO THE BIDDERS

2.1. INTRODUCTION

The National Small Industries Corporation Ltd (NSIC), A Government of India Enterprise, henceforth called as "OWNER" proposes to construct a Multistoried NSIC Office Building at the Plot No. 7/7 & 7/8, Block-CP in the prime location of Sector-V, Salt Lake, Kolkata.

NSIC intends to appoint an Executing Agency (EA) of repute with sufficient resources and experience for Project Development, Monitoring and Control for the Construction of "NSIC Office Building" a state of the art four storeyed building with covered area of approx. 1201.76 sqm. The EA is expected to complete the project on Deposit Work basis conforming highest quality standards and shall adhere to time and cost management systems, within stipulated time frame and allocated budget for the project.

2.2. THE PROJECT

2.2.1 Salient features of the proposed project are given as under:

a) Requirements:

Project Development, Monitoring and Control for the Construction of "NSIC Office Building", a state of the art building at Plot No. 7/7 & 7/8, Block-CP, Sector-V, Salt Lake, Kolkata.

b) Proposed Building:

i) The proposed Building would be a modern structure combining aesthetics with utility. The Building will be provided with air-conditioning system and should be designed, keeping in view the requirement of IS: 1893 (latest) designs of buildings for earthquake forces (including micro-zoning), environmental concerns & solar lighting for outdoor lighting, adequate parking, easy circulation and flexibility in terms of space utilization, 100% power back up and adequate fire detection & fighting measures.

ii) No of storey : 4 (Ground + 3 storey)

iii) Covered Area : 1201.76 sqm (Ground to 3rd Floor)

c) Other requirements:

- i) NSIC intends to get its office building constructed on the allotted plot as per the building drawing already approved by the local municipal authority. The said building drawing has been approved by Bidhanagar Municipality on 20.02.2007 as a four storeyed building (Ground +3 upper floors) with a ground coverage of 300.44 sqm. and total covered area (all floors) of 1201.76 sqm. The said drawing has been further revalidated upto 19.02.2012 by Nabadiganta Industrial Township Authority. The EA shall also obtain revalidation of the above building drawings for a reasonable time to enable completion of construction as per approved drawings, if required, after ascertaining from the concerned local authority. It will be responsibility of the EA to get any other essential approval from any statutory authority including but not limited to Fire Department, Water Supply & Sanitation Department, Local Electricity Board etc.
- ii) A single storeyed structure having dimensions 5m x 5m (approx.) has to be demolished and its area will be utilized for the proposed project.
- iii) The EA shall also provide professional, objective and impartial advice and at all times hold the owner's interests paramount, without any consideration for future work, and strictly avoid conflicts with other assignments or their own corporate interests.
- iv) The covered area mentioned above will remain same in the event of any change due to building norms/ owners requirement.

d) Land Area

-	Area of Plot Allotted to NSIC on which construction to be undertaken	:	10.43 cottah (698.97 sqm approx.)
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2.3. GENERAL INFORMATION

2.3.1. A brief description of the Assignment and its objectives are given in the enclosed Data Sheet and the Terms of Reference (Refer Section 2 and Section 5 respectively).

2.3.2. The bidder should submit the execution schedule with completion period not exceeding 18 months.

2.3.3. The bids should be submitted along with the earnest money deposit of Rs. 20,000/- through D.D drawn in favour of "The National Small Industries Corporation Ltd" payable at New Delhi. The EMD of the successful bidder will be refunded without any interest after submission of the Bank Guarantee towards performance security. EMD of the other bidders will be refunded after award of work without any interest.

- 2.3.4. The owner named in the "Data Sheet" will select an Agency, in accordance with the method of selection indicated in the data sheet.
- 2.3.5. The bidders are invited to submit a Technical and a Financial Bid as specified in the Data Sheet for consulting services required for the Assignment named in the Data Sheet. The Bids will be the basis for selection, contract negotiations and ultimately signing of a contract with the selected Agency.
- 2.3.6. To obtain first hand information on the requirement of the project and on the local conditions, bidders are encouraged to pay a visit to the project locations before submitting a proposal. Bidders must familiarize themselves with the local conditions and requirement of the Project and take them into account while preparing the bid.
- 2.3.7. Costs of preparing the bids and of negotiating the contract, including visits to the owner and the project area, are not reimbursable as a direct cost of the assignment.
- 2.3.8. It is owner's policy that the Bidders under contract observe the highest standard of ethics during the selection and execution of such contracts. In pursuance of this policy, the Owner;
- a. Defines, for the purposes of this provision, the terms set forth below:
 - i. "Corrupt practices" means the offering, giving, receiving, or soliciting of anything of value to influence the action of an official in the selection process or in contract execution; and
 - ii. "Fraudulent practices" means a misrepresentation of facts in order to influence a selection process or the execution of a contract to the detriment of the Client and includes collusive practices among Bidders (prior to or after submission of proposals) designed to establish prices at artificial, noncompetitive levels and to deprive the owner of the benefits of free and open competition.
 - b. Will reject a proposal for award if it determines that the agency recommended for award has engaged in corrupt or fraudulent and unlawful practices in competing for the contract in question.
 - c. Will declare the bidder not eligible, either indefinitely or for a stated period of time to be awarded a contract if it at any time determines that the agency has engaged in corrupt or fraudulent practices in competing for or in executing, a contract.

2.4. CLARIFICATION AND AMENDMENT OF RFP DOCUMENTS

- 2.4.1. Bidders requiring clarifications, if any, on the Documents must notify the owner, in writing, not later than 7 days before the proposal submission date. Requests for clarification in writing must be sent to the Owner's Address indicated in the Data Sheet. Any further corrigendum/ addendum to this RFP document shall be made available on our website www.nsic.co.in . It is, therefore, requested that

the bidders may regularly visit the website for checking any corrigendum/addendum to this document.

2.4.2. At any time before the submission of bids, the owner may, for any reason, whether at its own initiative or in response to a clarification requested by any bidder, modify the Documents by amendment. The amendment will be notified to the bidders through our website www.nsic.co.in and the same will be binding on them.

2.5. PREPARATION OF BID

Bidders are requested to submit the sealed **Technical and Financial Bids separately in two envelopes**. The Bid shall be written in English language or Bilingual.

2.5.1. Technical Bid

i. Bidders are expected to examine all terms & conditions and instructions including the terms of documents, failing which it will be presumed that the bidders are making the bids after having full knowledge of all terms & conditions and instructions and they are participating in the bids at their own risk and may result in rejection of their Bids.

ii. During preparation of the technical bid, bidders must give particular attention to the following:

a) A good working knowledge of English Language is also essential for key professional staff on this assignment.

b) All reports must be in English Language or Bilingual.

c) The bidder has to carry out his own assessment for the requirement of the key personnel and support staff for the scope of work mentioned in the TOR.

2.5.2. The technical bid shall include but be not limited to the following:

i. Bidder's Organisation Structure and Relevant Experience (including details of past experience and project sheets).

ii. Description of Methodology and Work Plan for performing the assignment.

iii. Details of equipment (if any), and software proposed to be used for the project.

iv. Any additional information requested in data sheet.

2.5.3. The Technical bid must not include any financial information.

2.5.4. Financial Bid

- i. The financial bid should include all costs associated with the assignment. The format for the financial bid is given in Section-4. **The contract shall be finalised on the basis of a fixed percentage of the Actual Cost of work (Refer Section-5: Terms of Reference) as agency charges.**
- ii. In case there are more than one bidder quoting the same agency charges in the financial bid, Bidder with the higher marks among them in the technical evaluation will be considered for award of work.
- iii. The financial bids shall be prepared to cover the tasks mentioned in the TOR and also the tasks required to be carried out in order to meet the objectives.
- iv. The Financial bid shall **EXCLUDE** the applicable service taxes and any other Govt. Levy.
- v. Bidder should quote in figures as well as in words percentage rates bided for. Special care shall be taken to write percentage rates in figures as well as in words. Where there is a discrepancy between the amounts in figure and in words, the amount in words shall prevail.

2.6 BID SUBMISSION

The "EA" submission should be focused to the project requirements as per the TOR details. The methodology to be submitted should address to the project requirements. All specific issues for which references have been made in the various paragraphs of the TOR should be addressed effectively. General nature descriptions should be avoided.

2.7 SUBMISSION OF BIDS

- 2.7.1 Bidders must submit the bids in duplicate, one original and one copy of bid as indicated in the Data Sheet. Bids will be sealed in an outer envelope, which will bear the address and information indicated in the Data Sheet. The envelope must be clearly marked:

**DO NOT OPEN, EXCEPT IN PRESENCE OF THE
EVALUATION COMMITTEE**

- i) This outer envelope will contain two separate sealed envelopes, one clearly marked '**Technical Bid**' and the other clearly marked '**Financial Bid**'.
 - ii) The **technical and financial bid** must be prepared in indelible ink and must be signed by the authorized representative of the Bidder. The letter of authorization/Power of attorney must be enclosed with each of the bids. The person or persons signing the proposal must initial all pages of the technical and financial proposals.
- 2.7.2 There should be no overwriting or cutting in the bids submitted by the bidder. The overwriting or cutting if any should be properly initialed by the authorized

representative of the bidder. It should preferably bear the stamp of the bidder.

2.7.3 The completed technical and financial bids must be submitted on or before the time and date stated in the Data Sheet.

2.7.4 The bid must be valid for the number of days stated in the Data Sheet from the closing date. The Client will make its best effort to complete negotiations at the location stated in the Data Sheet within this period.

2.8 BID EVALUATION

A two-stage procedure will be adopted in evaluating the bids:

- i) Technical evaluation
- ii) Financial evaluation

2.8.1 Evaluation of Technical Bid

Technical evaluation will be carried out prior to opening the **financial bids**. The evaluation committee appointed by the owner will carry out evaluation in the manner given and as per criteria/point system specified in the Data Sheet.

- (i) The total marks allocated for technical evaluation are 1000. Minimum qualifying marks to be scored by bidder are 750.
- (ii) The financial bids of those bidders who secure marks above the minimum qualifying marks in the technical evaluation will only be opened.

2.8.2 Opening and Evaluation of Financial Bids

- i) After the evaluation of technical bid is completed, the owner shall notify those Bidders whose bids did not meet the minimum qualifying mark or were considered non-responsive to the RFP and Terms of Reference, indicating that their Financial bids will be returned unopened after completion of the final selection process i.e. after the award of work. The owner shall simultaneously notify the Bidders who have secured the minimum qualifying mark, indicating the date and time set for opening the Financial Proposals. The notification may be sent by registered letter, telefax, and E-mail or by courier.
- ii) The Financial bids shall be opened in the presence of the Bidder's representatives who choose to attend. The name of the bidder and the agency charges shall be read loudly and recorded when the financial bids are opened.
- iii) In order to allow comparison on a common basis, each Financial Bid will be carefully scrutinized in accordance with the procedure outlined in Clause 2.8 (ii) above. The score for each Financial Bid will be computed as follows:

$$S_f = 500 \times \frac{F_m}{F}$$

Where:

S_f is the financial score of the Financial Bid being evaluated;

F_m is the lowest priced Financial Bid;

F is the Financial Bid under consideration.

The bidder quoting the lowest agency charges will receive the maximum score of 500 marks. Bidder quoting lowest agency charges will be invited for contract negotiations.

2.9 AWARD OF CONTRACT

The Contract will be awarded to the Bidder quoting the lowest agency charges in the financial bid. In case there are more than one bidder quoting the same agency charges in the financial bid, Bidder with the higher marks among them in the technical evaluation will be considered for award of work. After award of work to the selected Bidder, the owner will return the Financial Bids of those Bidders who did not pass the technical evaluation.

2.10 CONFIDENTIALITY

Information relating to evaluation of proposals and recommendations concerning awards will not be disclosed to the Bidders who submitted the bids.

DATA SHEET

INFORMATION TO BIDDERS

Reference

A.1 The name of the Client is: The National Small Industries Corporation Ltd.
(A Government of India Enterprise)
NSIC Bhawan, Okhla Industrial Estate
New Delhi - 110 020, INDIA
Tele Fax: 011-26920911
Website: <http://www.nsic.co.in>

The method of selection is: Cost Based Selection (CBS)

A.2 Objectives and Description of the Project

The National Small Industries Corporation Ltd (NSIC) proposes to construct a Multistoried Office Building at the Plot No. 7/7 & 7/8, Block-CP in the prime location of Sector-V, Salt Lake, Kolkata.

NSIC intends to appoint an Executing Agency (EA) of repute with sufficient resources and experience for Project Development, Monitoring and Control for the Construction of NSIC Office Building a state of the art four storeyed building with covered area of approx. 1201.76 sqm. The EA is expected to complete the project on Deposit Work basis conforming highest quality standards and shall adhere to time and cost management systems, within stipulated time frame and allocated budget for the project.

The detailed descriptions of services are mentioned in the Terms of Reference (Section-5).

A.3 THE Project

Salient features of the proposed project are given as under:

a) Requirements:

Project Development, Monitoring and Control for the Construction of "NSIC Office Building", a state of the art building at Plot No. 7/7 & 7/8, Block-CP, Sector-V, Salt Lake, Kolkata.

b) Proposed Building:

iii) The proposed Building would be a modern structure combining aesthetics with utility. The Building will be provided with air-conditioning system and

should be designed, keeping in view the requirement of IS: 1893 (latest) designs of buildings for earthquake forces (including micro-zoning), environmental concerns, solar lighting for outdoor lighting, adequate parking, easy circulation and flexibility in terms of space utilization, 100% power back up and adequate fire detection & fighting measures.

ii) No of storey : 4 (Ground + 3 storey)

iii) Covered Area : 1201.76 sqm (Ground to 3rd Floor)

c) Other requirements:

i) NSIC intends to get its office building constructed on the allotted plot as per the building drawing already approved by the local municipal authority. The said building drawing has been approved by Bidhanagar Municipality on 20.02.2007 as a four storeyed building (Ground +3 upper floors) with a ground coverage of 300.44 sqm. and total covered area (all floors) of 1201.76 sqm. The said drawing has been further revalidated upto 19.02.2012 by Nabadiganta Industrial Township Authority. The EA shall also obtain revalidation of the above building drawings for a reasonable time to enable completion of construction as per approved drawings, if required, after ascertaining from the concerned local authority. It will be responsibility of the EA to get any other essential approval from any statutory authority including but not limited to Fire Department, Water Supply & Sanitation Department, Local Electricity Board etc.

ii) A single storeyed structure having dimensions 5m x 5m (approx.) has to be demolished and its area will be utilized for the proposed project.

iii) The EA shall also provide professional, objective and impartial advice and at all times hold the owner's interests paramount, without any consideration for future work, and strictly avoid conflicts with other assignments or their own corporate interests.

iv) The covered area mentioned above will remain same in the event of any change due to building norms/ owners requirement.

d) Land Area

- Area of Plot Allotted to NSIC : 10.43 cottah
on which construction to be (698.97 sqm approx.)
undertaken

- B.1 Bidders requiring clarifications, if any, on the Documents must notify the owner, in writing, not later than 7 days before the proposal submission date. Any request for clarification in writing or by E-Mail/telefax must be sent to the Owner's Address indicated in the Data Sheet. Any further corrigendum/ addendum to this RFP document shall be made available on our website www.nsic.co.in. It is, therefore, requested that the bidders may regularly visit the website for checking any corrigendum/ addendum to this document.
The requests for clarifications may be addressed to:

General Manager (Works)

The National Small Industries Corporation Ltd.
'NSIC Bhawan', Okhla Industrial Estate
New Delhi - 110 020, INDIA
Tele Fax: 011-26920911
Email: gmw@nsic.co.in

- C.1 **Bids should be submitted in English**
- C.2 **The Bidder to state all costs in Indian Rupees.**
- C.3 **The bidder should submit the execution schedule and completion period not exceeding 18 months.**
- C.4 The bids should be submitted along with the earnest money deposit of Rs. 20,000/- through D.D drawn in favour of "The National Small Industries Corporation Ltd" payable at New Delhi. The EMD of the successful bidder will be refunded after submission of the Bank Guarantee towards Performance Security. EMD of the other bidders will be refunded after award of work without any interest.
- D.1 **Bidders must submit:**
- | | |
|---------------|----------------------------------|
| Technical Bid | : One original and one copy only |
| Financial Bid | : One original and one copy only |
- D.2 **The Bids submission is to:**
- The information on the outer envelope should also include:
- Appointment of Executing Agency (EA) for Project Development, Monitoring and Control for the Construction of NSIC Office Building at Plot No. 7/7 & 7/8, Block-CP, Sector-V, Kolkata.***
- D.3 Bids must be submitted not later than the following date and time:
03.10.2011 till **15.00 hrs.**

D.4 Bid Validity:

The Bids shall be valid for 120 days from the last date of submission.

E.1 The address to submit the Bids to owner is

General Manager (Works)

The National Small Industries Corporation Ltd.
'NSIC Bhawan', Okhla Industrial Estate
New Delhi - 110 020, INDIA
Tele Fax: 011-26920911
Email: gmw@nsic.co.in

F.1 Assigned Weightage

The proposals received by NSIC in response to RFP shall be evaluated in two stages as under:

Sl. No.	Particulars	Criteria
1.	Technical Proposal	Minimum points to be achieved for qualifying is 75%. (750/1000)
2.	Financial Proposal	Selection by CBS method

F.2

Evaluation Criteria for Technical Bid

Sl. No.	Category	Total Marks	Maximum Marks	Annexure
1.	<i>Experience in construction Management Services and Company Profile</i>	600		
	a) Experience in executing similar Building Projects		200	Annexure -3.1
	b) Number of Key Tech. Personnel to be deployed for the project		100	Annexure -3.2
	c) Cost overrun of projects during the last 5 years		50	Annexure -3.3
	d) Time overrun of projects during the last 5 years		50	Annexure -3.4
	e) Details of projects abandoned during the last 5 years		100	Annexure -3.5
	f) Details of Projects under Arbitration during the last 5 years	100	Annexure -3.6	
2.	<i>Technical Credentials</i>	150		
	a) ISO Certification for Services		50	Annexure -3.7
	b) QA/QC system		50	Annexure -3.8
	c) Performance Certificates	50	Annexure -3.9	
3.	<i>Financial Details</i>	200		
	a) Turnover of consultancy work in projects during the last 5 years		50	Annexure-3.10
	b) Net worth as on 31.3.11		50	Annexure-3.11
	c) Cash Accruals during last 5 years		50	Annexure-3.12
	d) Profit and loss during the last 5 years	50	Annexure-3.13	
4.	<i>Technical Presentation</i>	50	50	
5.	Sub total (1+2+3+4)		1000	
6.	Price Bid	500	500	Annexure -4.1
	Grand Total (5+6)	1500	1500	

Note: Similar building project shall mean handling of construction of a multistoried Building projects (Institutional/Commercial except residential) on Deposit Work/PMC basis completed during the last 5 years.

F.3 **The currency for price is:** Indian Rupees

F.4 **The address for negotiation is:**

General Manager (Works)

The National Small Industries Corporation Ltd.

'NSIC Bhawan', Okhla Industrial Estate

New Delhi - 110 020, INDIA

Tele Fax: 011-26920911

Email: gmw@nsic.co.in

SECTION - 3

TECHNICAL PROPOSAL (STANDARD FORMS)

ANNEXURE -3.1: EXPERIENCE IN HANDLING OF BUILDING CONSTRUCTION PROJECT IN LAST 5 YEARS

Max. Marks = 200

S.No.	Cost of Project (In Rs.)	No. of Projects	Marks obtained
1	Above Rs. 6.5 Crores		
2	Above Rs. 4.8 Crores but less than Rs.6.5 crore		
3	Upto Rs.4.8 crores		

CRITERIA FOR AWARD OF MARKS IS GIVEN HEREUNDER: -

S.No.	Value of Project (In Rs.)	No. of Projects	Marks
1	Above Rs. 6.5 Crores	Each	100
2	Above Rs. 4.8 Crores but less than Rs.6.5 crore	Each	50
3	Upto Rs.4.8 crores	Each	Nil

*Note: -Maximum 2 nos. of completed projects of highest value of similar nature during the last 5 years shall be considered for evaluation.
- If two projects of value more than Rs.6.5 crores are completed than 200 marks will be given.*

DETAILS OF THE QUALIFYING PROJECTS SHOULD BE PROVIDED IN THE FOLLOWING FORMAT :

Project Name:		Location:	
Name & Address of Client:			
Start Date	Completion Date	Approx. Value of contract:	
Narrative Description of Project :			

Authorized Signatory :

Company:

ANNEXURE -3.2:: Number of Key Technical personnel to be deployed on the project

Max. Marks = 100

Sr No.	Specialist/ Position	Nos.
1)	Team Leader: Located at Work Site A qualified Civil Engineer from a recognized university with a minimum of 15 years or more experience in Construction of buildings and allied works with minimum 5 years experience as Team leader or similar position.	1 No.
2)	Construction Engineer (Civil): Located at Work Site A qualified Civil Engineer from a recognized university with a minimum of 5 years experience in Construction Projects.	1 No
3)	Construction Engineer (Electrical): Located at Work Site A qualified Electrical Engineer from a recognized university with a minimum of 5 years experience in Construction Projects.	1 No.
4)	Planning Engineer (Civil/ Mechanical/Electrical): Located at Work Site of EA as may be required. A qualified Civil/ Mechanical/ Electrical Engineer from a recognized university with a minimum of 7 years experience in Construction Projects.	1 No.
5)	Architect: Located at Work Site of EA as may be required. A qualified Architect from a recognized university having a minimum of 10 years experience in Building Designs	1 No
	Total	5 Nos

Note: -

Bio-Data of key Technical personnel may be enclosed

- Marks will be awarded to the bidders on the basis of total experience (in years) in the following manner:

S. No	Discipline	Experience				Marks			
		>15 years	>10-15 years	>5-10 years	<5 years	>15 years - 30 marks	>10-15 years- 20 marks	>5 -10 years-10 marks	<5 years- 0 marks
1.	Team Leader	>15 years	>10-15 years	>5-10 years	<5 years	>15 years - 30 marks	>10-15 years- 20 marks	>5 -10 years-10 marks	<5 years- 0 marks
2.	Architect	>10 years	>5-10 years	>3-5 years	<3 years	>10 years - 20 marks	>5-10 years- 15 marks	>3 - 5 years- 10 marks	<3 years- 0 marks
3.	Const. Engineer (Civil)	>5 years	>3-5 years	>1-3 years	<1 years	>5years- 30 marks	>3-5 years- 21 marks	>1-3 years- 15marks	<1 years- 0 marks
4.	Const. Engineer (Elect.)	>5years	>3-5 years	>2-3 years	<2 years	>5years- 10 marks	>3-5 years- 7 marks	>2 - 3 years- 5marks	<2 years- 0 marks
5.	Planning Engineer	>7years	>4-7 years	>2-4 years	<2 years	>7years- 10 marks	>4-7 years- 7 marks	>2 - 4 years- 5marks	<2 years- 0 marks

Authorized Signatory:

Company:

**ANNEXURE-3.3:: DETAILS OF COST OVERRUN OF SIMILAR PROJECTS (IF ANY)
DURING THE LAST 5 YEARS**

Max. Marks = 50

(In Rs)

Sr. No.	Name of the project & location	Name of the client	Description of work	Cost of the project		Reason of cost overrun	
				As per contract	Actual	Attributable to Agency (A)	Attributable to others (B)
1.							
2.							
3.							

CRITERIA FOR AWARD OF MARKS IS GIVEN AS UNDER: -

If there is any cost over run due to reasons attributable to agency (A) : nil

If there is no cost over run due to reasons attributable to agency

Or

If there is any cost over run due to reasons not attributable to agency

(B) : 50 marks

(The above statement should be supported by certificate from Authorised signatory and correspondence corroborating reasons for the cost overrun in the project given above)

Authorized Signatory :

Company:

**ANNEXURE-3.4:: DETAILS OF TIME OVERRUN OF SIMILAR PROJECTS (IF ANY)
DURING THE LAST 5 YEARS**

Max. Marks = 50

Sr. No.	Name of the project & location	Name of the client	Description of work	Time of completion of project			Reason of time overrun	
				Stipulated date of start of work	Stipulated date of completion	Actual date of completion	Attributable to Agency (A)	Attributable to others (B)

CRITERIA FOR AWARD OF MARKS IS GIVEN AS UNDER: -

If there is any time over run due to reasons attributable to agency (A) : nil

If there is no time over run due to reasons attributable to agency

Or

If there is any time over run due to reasons not attributable to agency

(B) : 50 marks

(The above statement should be supported by certificate from Authorised signatory and correspondence corroborating reasons for the cost overrun in the project given above)

Authorized Signatory :

Company:

ANNEXURE -3.5:: DETAILS OF PROJECTS ABANDONED (IF ANY) DURING THE LAST 5 YEARS

Max. Marks = 100

Sr. no	Name of the project & location	Name of the client	Description of work	Cost of the project (Rs in Cr)	Reasons for abandoning the project	
					Attributable to Agency (1)	Attributable to other (2)
1.						
2.						
3.						
4.						

Criteria for award of marks is given as under:

If there is any project abandoned due to reasons attributable to agency (A): nil

If there is no project abandoned due to reasons attributable to agency

Or

If there is any project abandoned due to reasons not attributable to agency

} **(B) : 100 marks**

(The above statement should be supported by certificate from Authorised signatory and correspondence corroborating reasons for the cost overrun in the project given above)

Authorized Signatory :

Company:

ANNEXURE-3.6:: DETAILS OF PROJECTS UNDER ARBITRATION (IF ANY) IN THE LAST 5 YEARS

Max. Marks = 100

S.No.	Name of the project & location	Name of the client	Description of work	Cost of the project (Rs in Cr.)	Reasons for Arbitration	
					Attributable to Agency (A)	Attributable to other (B)
1.						
2.						
3.						
4.						

Criteria for award of marks is given as under:

If there is any project under arbitration due to reasons attributable to agency (A): nil

If there is no project under arbitration due to reasons attributable to agency

Or

If there is any project under arbitration due to reasons not attributable to agency

} (B) : 100 marks

(The above statement should be supported by certificate from Authorised signatory and correspondence corroborating reasons for the cost overrun in the project given above)

Authorized Signatory :

Company:

ANNEXURE-3.7:: ISO CERTIFICATION
(W.R.T. DEPOSIT WORK PROJECTS/ SERVICES)

Max. Marks = 50

<i>ISO Certification</i>	<i>Max. Marks</i>	<i>Marks obtained</i>
Certified	50	
Not Certified	0	
	Total Marks	

Note: Attach the copy of ISO Certification with validity.

Authorized Signatory :

Company:

ANNEXURE -3.8:: QA/QC SYSTEM

Max. Marks = 50

CRITERIA FOR AWARD OF MARKS ARE GIVEN AS UNDER:

<i>QA/QC system</i>	<i>Max. Marks</i>
System followed	50
Not followed	0

Note: Provide copy of the QA/QC manual

Authorized Signatory :

Company:

ANNEXURE -3.9:: PERFORMANCE CERTIFICATES

Max. Marks = 50

CRITERIA FOR AWARD OF MARKS ARE GIVEN AS UNDER:

S.No.	Details of Building Projects*	No of project	Marks
1	Performance certificate in r/o executing similar Building Projects of Highest value	2	50
2	Performance certificate in r/o executing similar Building Projects of Highest value	1	25
3	Performance certificate in r/o executing similar Building Projects of Highest value	0	Nil

* Performance certificates of Two similar completed project of highest value indicated in Annexure 3.1 for technical evaluation will only be considered for awarding the marks

Note: Copies of the certificate may please be enclosed

Authorized Signatory :

Company:

ANNEXURE -3.10:: TURNOVER DURING THE LAST 5 YEARS

Max. Marks = 50

<i>Turnover* in Cr. of Rs.</i>	<i>Marks</i>
More than Rs.150 Cr.	50
More than Rs.100 Cr. and less than Rs.150Cr.	20
Less than Rs.100 Cr.	0

*Turnover means the actual value of consultancy fee of works executed on Deposit Work/ PMC basis during the financial year.

Note: Attach certified copies of audited balance sheet for the last 5 years.

Authorized Signatory :

Company:

ANNEXURE -3.11:: NET WORTH AS ON 31/3/2011

Maximum Marks= 50

CRITERIA FOR AWARD OF MARKS ARE GIVEN AS UNDER:

S.No.	Net worth	Marks
1.	Highest	50
2.	Second highest	40
3.	Third highest	30
4.	Fourth highest	20
5.	Fifth highest	15
6.	Negative Net Worth	0

Authorized Signatory:

Company:

ANNEXURE -3.12:: CASH ACCRUALS DURING THE LAST FIVE YEARS.

Maximum Marks= 50

CRITERIA FOR AWARD OF MARKS IS GIVEN AS UNDER:

S.No.	Cash accruals	Marks
1.	Highest	50
2.	Second highest	40
3.	Third highest	30
4.	Fourth highest	20
5.	Fifth highest	10
6.	Negative cash accruals	0

Authorized Signatory :

Company:

ANNEXURE -3.13:: PROFIT & LOSS DURING THE LAST FIVE YEARS.

Maximum Marks= 50

CRITERIA FOR AWARD OF MARKS ARE GIVEN AS UNDER: -

S.No.	Profit/Loss	Marks
1.	Highest Profit	50
2.	Second highest Profit	40
3.	Third highest Profit	30
4.	Fourth highest Profit	20
5.	Fifth highest	10
6.	Loss	0

Authorized Signatory :

Company:

ANNEXURE-3.14:: DETAILS OF PERSONNEL AVAILABLE WITH THE ORGANIZATION

S. No.	Man Power Strength in the area	No of Personnel available with the Organization
1.	Architect	
2.	Design Office	
3.	Planning Engineer	
4.	Tendering Expert	
4.	Construction Site	
5.	Quality control/ Assurance	
6.	Finance/ Accounts	
Total		

Note: Above details are required for information. No marks will be awarded

Authorized Signatory :

Company

ANNEXURE-3.15:: ACTIVITY (WORKS) SCHEDULE

A) ACTIVITY SCHEDULE

Sr. No.	Name of Activity	Month wise Program (in form of Bar Chart)																		Total Months
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	

B) COMPLETION AND SUBMISSION OF REPORTS

Sr. No.	Reports	Programme
1.	Monthly Reports	
2.	Quarterly Reports	
3.	Completion Report	

Note: Above details are required for information. No marks will be awarded

Authorized Signatory :

Company

SECTION - 4

FINANCIAL PROPOSAL (STANDARD FORMS)

ANNEXURE - 4.1:: FINANCIAL PROPOSAL

To:

Date:

General Manager (Works)

The National Small Industries Corporation Ltd.
'NSIC Bhawan', Okhla Industrial Estate
New Delhi - 110 020, INDIA

Sub: **Appointment of Executing Agency (EA) for Project Development, Monitoring and Control for the Construction of NSIC Office Building on Deposit Work Basis at Plot No. 7/7 & 7/8, Block-CP, Sector-V, Salt Lake, Kolkata**

Dear Sir,

In response to RFP document for the above work, we hereby quote our Agency Charges as under:

Sr. No.	Description	Agency Charges Excluding Service Tax and any other Govt Levy. (As percentage of Project Cost)	
		In Figures	In Words
1	Construction of NSIC Office Building at Plot No. 7/7 & 7/8, Block -CP, Sector-V, Salt Lake, Kolkata on Deposit Work Basis on Depository Concept.		

Authorized Signatory:

Company:

SECTION - 5

TERMS OF REFERENCE

Appointment of Executing Agency (EA) for Project Development, Monitoring and Control for the Construction of NSIC Office Building on Deposit Work Basis at Plot No. 7/7 & 7/8, Block-CP, Sector-V, Salt Lake, Kolkata

TERMS OF REFERENCE (TOR)

1.0 THE PROJECT

1.1 General Information

The National Small Industries Corporation Ltd (NSIC) proposes to construct a Multistoried Office Building at the Plot No. 7/7 & 7/8, Block-CP in the prime location of Sector-V, Salt Lake, Kolkata.

NSIC intends to appoint an Executing Agency (EA) of repute with sufficient resources and experience for Project Development, Monitoring and Control for the Construction of NSIC Office Building a state of the art four storeyed building with covered area of approx. 1201.76 sqm. The EA is expected to complete the project on Deposit Work basis conforming highest quality standards and shall adhere to time and cost management systems, within stipulated time frame and allocated budget for the project.

1.2 Requirements

Project Development, Monitoring and Control for the Construction of "NSIC Office Building", at Plot No. 7/7 & 7/8, Block-CP, Sector-V, Kolkata.

Salient features of the proposed project are given as under:

a) Requirements:

Project Development, Monitoring and Control for the Construction of "NSIC Office Building", a state of the art building at Plot No. 7/7 & 7/8, Block-CP, Sector-V, Salt Lake, Kolkata.

b) Proposed Building:

- i) The proposed Building would be a modern structure combining aesthetics with utility. The Building will be provided with air-conditioning system and should be designed, keeping in view the requirement of IS: 1893 (latest) designs of buildings for earthquake forces (including micro-zoning), environmental concerns, solar lighting for outdoor lighting, adequate

parking, easy circulation and flexibility in terms of space utilization, 100% power back up and adequate fire detection & fighting measures.

- ii) No of storey : 4 (Ground + 3 storey)

- iii) Covered Area : 1201.76 sqm (Ground to 3rd Floor)

c) Other requirements:

- i) NSIC intends to get its office building constructed on the allotted plot as per the building drawing already approved by the local municipal authority. The said building drawing has been approved by Bidhanagar Municipality on 20.02.2007 as a four storeyed building (Ground +3 upper floors) with a ground coverage of 300.44 sqm. and total covered area (all floors) of 1201.76 sqm. The said drawing has been further revalidated upto 19.02.2012 by Nabadiganta Industrial Township Authority. The EA shall also obtain revalidation of the above building drawings for a reasonable time to enable completion of construction as per approved drawings, if required, after ascertaining from the concerned local authority. It will be responsibility of the EA to get any other essential approval from any statutory authority including but not limited to Fire Department, Water Supply & Sanitation Department, Local Electricity Board etc.

- ii) A single storeyed RCC framed structure having dimensions 5m x 5m (approx.) has to be demolished and its area will also be utilized for the proposed project.

- iii) The EA shall also provide professional, objective and impartial advice and at all times hold the owner's interests paramount, without any consideration for future work, and strictly avoid conflicts with other assignments or their own corporate interests.

- iv) The covered area mentioned above will remain same in the event of any change due to building norms/ owners requirement.

d) Land Area

- Area of Plot Allotted to NSIC : 10.43 cottah
on which construction to be (698.97 sqm approx.)
undertaken

1.3 SCOPE & OBJECTIVES OF THE WORK

The main scope of the work includes:

- a. Execution of the Project on Deposit Work basis.
- b. Work Programme : which shall distinguish clearly between the phases of :

- i) Pre-Contract work Phase
 - 1. Project Planning & Design.
 - 2. Preparation of Detailed Specification, Bill of quantities and detailed estimate, contract documents, invitation of tenders.
 - 3. Selection for contractors/suppliers/specialized agencies on Fixed Rate Contract basis.
- ii) Construction Phase
 - 1. Project Management
- iii) Defects Correction Phase

For each phase, the program shall include an organization chart, an activity Bar Chart and a staffing schedule, consistent with the construction contract/information enclosed as a part of RFP document.

1.4 TERMS OF REFERENCE

1.4.1 DEFINITIONS

Unless the context otherwise requires, the following terms wherever used in this document have following meanings:

- (i) 'Approval' means approval in writing by the designated officer(s) of the "Owner" for that purpose.
- (ii) "EA" means the "Executing Agency" appointed for the job.
- (iii) "Applicable Law" means the provision of Indian Laws and any other instruments having the force of law in India as they may be issued and in force from time to time.
- (iv) "Owner" means the "The National Small Industries Corporation Limited".
- (v) "Competent Authority" means the CMD, NSIC.
- (vi) "Agreement" means an agreement executed by the Parties, together with all documents/Appendices attached hereto.
- (vii) "Contractor(s)/Supplier(s)/Vendor(s)" means any person or entity who are employed by Executing Agency for execution of the "Project" on behalf of the owner.
- (viii) Corrupt practice means the offering, giving, receiving soliciting of anything of value to influence the action of a public official in the Agreement execution.
- (ix) "Government" means the Government of India.

- (x) "Personnel" means persons hired/deployed by the Executing Agency (EA) as employees of Executing Agency and assigned to the performance of the Services or any part thereof.
- (xi) "Party" means the Owner or the Executing Agency (EA), as the case may be, and "Parties" means both of them.
- (xii) "Third party" means any person or entity other than the Owner and the Executing Agency, whose services are availed or required for the said project.
- (xiii) "Assignment" means the work to be performed by the Executing Agency (EA) for the purpose of the project as per the Description of requirement given.

1.4.2 GENERAL

- (i) These Terms of Reference shall be governed and construed in accordance with the Indian Laws.
- (ii) The "EA" shall be paid agency charges, plus Service Tax and applicable Govt levies (if any) of the "Actual Cost" of works for execution of the Project on Deposit Work Basis.

2.0 THE EXPRESSION "ACTUAL COST OF WORK" SHALL INCLUDE THE FOLLOWING:

- 2.1 Bonafide payments released by "EA" to the Contractor (s)/ Suppliers/Vendors or any specialized agency as agreed upon in the tender including any amount paid/payable to the contractors towards extra/substituted/deviated items/quantities arising on account of any changes/additional work required for the project as finalized by EA with the approval of Owner for the Construction of the building and services, internal and external electrification and development of land (Soft/Hard Landscaping) etc. inclusive of all applicable taxes (i.e. VAT, Works Contract Tax, Service Tax and any other Govt. levies etc).
- 2.2 All costs of materials acquired for the project and used on the work, either directly or through the Contractors (s)/Vendor(s) including insurance, storage charges, cartage and any other incidental charges connected with such materials but excluding the material not incorporated or not handed over to the "Owner".
- 2.3 Expenditure incurred by "EA" on the following will be reimbursed to "EA" duly supported by Bills. However, Agency charges on such expenditure will not be eligible for payment.
 - 2.3.1 Actual expenditure incurred on testing of materials required for quality control of works not attributable and recoverable from the Contractors.

- 2.3.2 Legitimate expenses in getting approvals of any type from statutory authorities.
- 2.4 Any amount paid / payable to the Contractor towards his claims not accepted by the EA but decided in favour of the Contractor by an Arbitrator or Court of Law. The amount will however exclude the elements of Award of the Arbitrator / Court of Law on items which are finally attributed to Gross negligence of the EA.

3.0 THE ACTUAL COST OF WORK SHALL NOT INCLUDE:

- 3.1 Cost of land.
- 3.2 Any work undertaken by the "Owner" for which no inputs/ services have been provided by "EA".
- 3.3 Cost paid by the "Owner" to local government or any other statutory body (ies) for any built services provided for the work (including but not exclusively items such as electric connection, transformers, and water supply, access road if provided by such authorities).

4.0 RESPONSIBILITIES OF THE "EA"

- 4.1 The responsibilities of the "EA" shall include preliminary survey, preparation of architectural drawings, soil investigation, survey and supplying all structural designs, structural drawings good for construction, estimates and bills of quantities, details of phasing of building and rendering advice. "EA" will also submit comprehensive planning schedule for project management within one month of signing of agreement.
- 4.2 In furtherance to the award of work and in order to comply with the terms and conditions of this Terms of Reference, the "EA" may engage the consultants for the purpose of drawing up of the architectural plans of the project as also the finalization of the designs, drawings and specifications along with detailed estimates of the project based on the prevalent cost i.e. cost of the materials, labour wages and construction equipment, soil investigation, survey etc. and all such expenses shall be borne by "EA", which is not reimbursable by the Owner .
- 4.3 "EA" will submit architectural drawings as per the owner's direction and after getting written approval of the same from the owner, "EA" will prepare drawings, specifications, BOQ and detailed estimate based on the CPWD Schedule of Rates with updated cost indices. "EA" will submit the detailed estimate in accordance to approved conceptual plan to the Owner for approval. The "EA" will prepare structural designs considering the prevailing BIS codes and relevant engineering practices. Responsibility for correctness/ accuracy of design and drawings will rest with "EA". The "EA" shall ensure that the specifications to be followed for the work shall be generally in line with the standard CPWD specification and latest BIS

specification and codes of practices as corrected up to the date of signing of the agreement. These estimates shall be taken as indicative cost.

- 4.4 "EA" shall forthwith take possession of the site from the "Owner" and shall nominate a team leader for executing the project, who shall be a responsible and experienced engineer. "EA" shall inform the name of the engineer at the time of submission of the estimate.
- 4.5 "EA" after having taken possession of the site/ premises will forthwith and immediately start the planning for demolition of the existing room (5m x 5m). In this connection, before dismantling the existing structure and subsequent auction of usable materials (by the contractor appointed by EA on behalf of the owner) earmarked for demolition, "EA" will prepare the valuation of the said structure which is to be demolished for site clearance for approval of the "Owner". Amount received from the auction of the scrap material (subject to procedure being followed) by "EA" will be deposited in cash credit account no. 0602008700010460 of the "Owner" maintained at Punjab National Bank, Okhla Industrial Estate branch Delhi under intimation to the "Owner".
- 4.6 "EA" shall be responsible to get water, sewer and electricity connection to the building, as per clause 3.3 above.
- 4.7 "EA" shall give in writing the budgeted cash flow of the funds required in proportion to the work to be done during the year as required by the "Owner" from time to time. Otherwise "Owner" will not be responsible for delay in payment.
- 4.8 In case it is anticipated that the quantity (ies) of any items will under go substantial variations due to change in design/specifications of any item due to site conditions or by any decision of the "Owner", The EA shall immediately bring the same to the notice of the owner and obtain written approval from the owner thereof. "EA" shall also furnish full details and justifications supported by reasons for anticipated excess of quantities and expenditure thereof on works over the initial estimate given above.
- 4.9 However, during execution of the work if the anticipated cost exceeds the detailed estimate, depending upon any change in the constituents and their cost based on which the original estimate was prepared. "EA" shall submit revised estimates to the "Owner" and obtain its prior written approval of the revised estimate before incurring further expenses.
- 4.10 "EA" shall obtain approval of the local bodies or statutory bodies for the Construction as contemplated in this "Terms of Reference", if required. However, the "Owner" shall help the "EA" to the extent of writing letters to local bodies regarding getting such approvals.

- 4.11 "EA" shall prepare the Notice Inviting Tender (NIT) for the purpose of inviting tenders from the contractor(s).
- 4.12 "EA" shall follow the standard CPWD contract forms for item rate tenders/ percentage rate tenders and CPWD general Conditions of Contract with suitable modifications approved by the Competent Authority of the "EA". If any other contract form is to be followed, the same shall be discussed with the "Owner" and got approved in principle in writing before its issue
- 4.13 The "EA" shall be responsible for the structural safety of construction, proper workmanship. It will be the responsibility of "EA" to ensure that the work is executed strictly in accordance with the approved technical specifications and adopting effective quality control measures for the same.
- 4.14 "EA" shall follow proper purchase procedure for award of various works and shall comply with CVC guidelines and circulars issued time to time in this regard. "EA" shall invite tenders after due publicity by releasing the advertisement in the leading National News-papers, on behalf of Owner. However, no additional cost shall be paid to the "EA" for releasing the Notice Inviting Tenders. Owner shall nominate two representatives to be a part of the tender committee constituted by E.A. The representatives of the owner will attend proceedings of the tender committee at appropriate stage for finalization of the tenders and recommendations thereof. All details of accepted tenders shall be furnished by the "EA" to the "Owner".
- 4.15 "EA" shall award the work(s) to the contractor(s) within the approved estimates with the approval of the "Owner" on firm rate contract basis (without any escalation) including all services. Simultaneously the process for placing orders for long delivery items such as lifts, D.G sets, Distribution Panels etc. shall be commenced by "EA". The contractor/vendor/ supplier shall submit the bills to EA, raised in the name of "Name of Executing Agency"-A/c National Small Industries Corporation Ltd., NSIC Office Building Project, Salt Lake, Kolkata.
- 4.16 "EA" will make its best endeavor to reduce the cost of construction by any change/ substitution of specifications, construction methodology, value engineering or any innovative or economical design. Such reduction in the cost of construction shall be made with the prior written approval of the "Owner" without affecting/ prejudicing or endangering in any way the safety or security of the building.
- 4.17 The "E.A." shall perform the services and carry out their obligation hereunder with all due diligence, efficiency and economy in accordance with generally accepted professional techniques and practices and shall observe sound management practices and employ appropriate advance technology and safe and effective equipment, machinery, materials and methods. The "E.A." shall always act, in respect of any matter relating to

this document, or to the services, as faithful advisor to the "owner", and shall at all times support and safeguard the "owner's" interests in any dealing with contractors or third parties.

- 4.18 Before commencement of the works the "EA" shall ensure that the necessary insurance covers of the works, property, persons or any persons as per law are taken in time by the contractor/sub contractor/suppliers/vendors till the project is handed over to the owner.

The "EA" shall indemnify the "Owner" from any claims or damages or losses whatsoever on the above account.

- 4.19 "EA" shall deduct 5% from every bill raised by contractor(s) for execution of works as Retention Money. The said Retention Money shall be retained in the deposit bank account maintained by EA and shall disclose the amount in the statement of Account submitted to the owner. The Retention Money shall become due and payable to contractor(s) after 12 months from completion of all works under the scope of contract or expiry of the defect liability period or validity of agreement whichever is later. However the contractor may substitute the 50% of retention money by bank guarantee after the completion of the work.

- 4.20 "EA" shall be solely responsible for obtaining the required Labour License as "Principal Employer" in its name from the Labour Department for all the contractor(s) to be deployed by them for the proposed construction work.

4.21 QUALITY CONTROL AND QUALITY ASSURANCE

- 4.21.1 "EA" shall ensure that the quality of work is executed as per specified specifications and norms such as CPWD specifications with updated correction slips, BIS codes, other specifications of Manufacturers/suppliers as specified for the project. The "Owner" however, shall be at liberty to specify the quality and standard of materials to be used in the construction work and the "EA" is bound by such direction. "EA" shall ensure routine testing in respect of cement, reinforcement/structural steel, Coarse & fine aggregates, cube tests of concrete, and other building materials/ hardware is carried out by the contractor(s)/supplier(s) as per BIS/CPWD specifications in recognized laboratory/institution and obtain copies of the test results and maintain a proper record which can be inspected by the owner

- 4.21.2 Technical cell of "EA" shall also carry out periodic inspection/technical examination to ensure that the work carried out is of the specified quality and maintain proper record of test result and reports for inspection by the Owner.

- 4.21.3 The "Owner" shall however, be at liberty to appoint their advisor/consultant/technical person for coordination, to advise and oversee the project and his advice shall be followed by "EA".

- 4.21.4 The owner reserves the right to get the work technically checked/examined by its own officers or by an independent Govt./private agency.
- 4.21.5 The work will also be subject to the technical audit by the office of the Chief Technical Examiner (CTE) and it will be responsibility of "EA" to comply with all requirements. "EA" will be solely responsible for any queries/ clarifications required by CTE with regard to quality of work and purchase procedure followed by "EA".

4.22 PAYMENTS/DEPOSIT

- i) The "Owner" shall make the payments/deposits to "EA" by transfer of funds in a bank account (Bank & branch to be specified by the owner) to be opened by the "EA" in the name of "*name of executing agency - A/c. The National Small Industries Corporation Ltd., NSIC Office Building Project, Salt Lake, Kolkata,*" for purpose of construction of NSIC Office Building at Plot No. 7/7 & 7/8, Block -CP, Sector-V, Salt Lake, Kolkata.
- ii) "EA" will however ensure that the amount deposited in the bank as per above clause in the name of "EA" along with the interest accrued thereon shall be utilized only for the purpose of construction of this project.
- iii) In case it is observed that the amount deposited (along with the interest accrued thereon) by the Owner has been diverted to other works, and or any other purpose, further payment shall not be released by the Owner, until the quantum of work executed is brought/completed in proportion to the extent of payments already released.
- iv) An initial deposit up to 10% (ten percent only) of the already approved preliminary estimated cost of the project will be deposited against written submission of advice of EA against furnishing of unconditional Bank Guarantee (BG) issued by any Nationalized Bank. However, the subsequent funds will be transferred against the duly certified running bills raised by the "EA" on the "Owner" as per actual work executed at site. The final bill, however, shall be adjusted only after completion of the work in all respect duly certified by "EA". The "Owner" shall have full powers to verify the entries recorded in Measurement Books. The said BG submitted by the "EA" shall be kept renewed till the completion & handing over of the project.
- v) The Owner shall ensure that sufficient balance in the designated account is maintained subject to regular and timely submission of running/ final bills by the "EA", so that work does not suffer on account of funds. The release of funds shall be as per the duly certified running/ final bills raised by "EA".
- vi) The "EA" shall submit monthly Statement of Accounts supported by certified paid bills of Contractors / specialized agencies/suppliers/vendors for adjustment from

the funds deposited with the "EA". However, the owner reserves the right to get the same checked/audited by its own officers or an independent Govt./Private agency.

- vii) Agency charges payable to EA shall be paid directly by Owner and the same will not be adjusted from funds deposited with EA subject to deduction of retention money as per clause 5.3 within 3 (three) weeks after raising of bills by EA.
- viii) The schedule for accrual of the Agency Charges payable to "EA" is given as under: -
 - a) 5% on submission of comprehensive planning schedule for project management within 30 days of the signing of the agreement.
 - b) 10% on submission of architectural drawings, structural drawings, specifications and detailed cost estimates.
 - c) Balance 85% will be released after adjustment of the agency charges paid as above (a) to (b) commensurate with the value of work executed.
 - e) The payment at stage (a) and (b) shall be based initially on preliminary estimate. The payment at stage (c) shall be based on gross value of the certified work.

4.23 TIME OF COMPLETION

4.23.1 The "EA" shall submit the execution schedule with a completion period not exceeding 18 months.

4.23.2 The time shall be the essence of the contract, "EA" shall get the entire work completed in all respect by deployed contractors for and on behalf of the Owner which will also include the time required for demolishing/ dismantling of the existing structure i.e. one single storeyed RCC structure (size -5m x 5m), within agreed execution schedule as referred in clause 4.23.1 above and handover the project in finished condition to the Owner from the date of the start of the work which shall be reckoned after 15 days from the date of handing over the site by the "Owner" to "EA" or date of signing of the agreement, whichever is later. If there is a delay in approval by the statutory authorities (including but not limited to Fire Department, Water Supply & Sanitation Department, Local Electricity Board etc., as applicable) beyond the agreed construction schedule, the contract period will be extended accordingly.

4.23.3 In case of delay, which may occur due to the reasons beyond the control of "EA", "EA" would approach the "Owner" with full details for extension of time limit for completion of the works. "Owner" reserves its right to take the appropriate decision on the merit of the case for Extension of Time (EOT).

4.23.4 On completion of the project the EA shall:

- i) Submit a final statement (for the complete project) along with original final bills of the contactors/suppliers/vendors etc. audited by a Chartered Accountant for settlement, and refund the excess deposit (if any) received by "EA", "Owner" reserves the right to get the work and payments made and audited by its own officers or an independent government/ private Agency. After adjustment of the entire amount deposited by the owner, any balance left in the designated bank account shall be paid to the Owner. Thereafter, the designated bank account will be closed with the approval of the Owner.
 - ii) "EA" shall submit to the "Owner" all original guarantee/ warranty papers related to the specialized work such as anti-termite works, water-proofing works, electrical and electronics equipment installed in the building etc. executed/ installed in respect of the project. "EA" should also ensure that the guarantee/ warranty papers are transferred in the name of "Owner" if the period of cover is beyond the defect liability period.
 - iv) On completion of the work, "EA" shall ensure to clear away and remove from the site all constructional plant, surplus materials, rubbish and temporary works of every kind and leave the whole site and works clean and in perfect condition to the satisfaction of the "Owner". The "EA" will vacate the field office within two months of handing over of the project to "Owner" otherwise market rent @ 200% per month of the prevailing rate in the area will be charged from "EA". However the Owner shall provide an office to EA during defect liability period.
 - v) The "EA" shall hand over the project complete in all respect to the authorized representative of the Owner through its Authorized representative. The handing over document should be signed by both the representatives.
 - v) Submit one Soft /five Hard Copies and one RTF of "As built drawings" with final executed bills of quantities along with copies of detailed measurements.
 - vi) Obtain the completion /occupancy certificate from the concerned authority (ies) as per requirement and submit a completion report in duplicate with one Soft /five Hard Copies and one RTF and maintenance schedules to the "Owner".
- 4.24 "EA" shall waive and agree not to Claim any lien against the work or the property on which it is performed. "EA" shall obligate its contractors and Vendors not to claim any such lien. "EA" and its contractors and vendors shall pay or cause to be paid when due, all bills for labour, materials, equipments or Services connected with the work, and shall not claim any lien or permit any lien to be asserted or claimed maintained against the project or any funds or Land involved in the project.

4.25 If any lien or encumbrance is asserted or claimed maintained in violation of clauses mentioned in RFP document/ Agreement, "EA" shall promptly proceed to have it removed. If "EA" fails to remove any such lien or

encumbrance, then "Owner" may, but without obligation to do so, do everything necessary to have the lien or encumbrance removed, and "EA" shall pay all costs including legal fee incurred by "Owner" in connection therewith.

- 4.26 EA" shall ensure that the title to all materials and supplies/delivered by contractor, together with all improvements and appurtenances constructed or placed by contractor, is free from any claims, lien, security, interest or charges.

4.27 INSURANCE:

Before commencement of the works the "EA" shall ensure all that the necessary insurance covers of the works, property, persons or any persons as per law are taken in time by the contractors/sub-contractors and labour contractors. The "EA" shall indemnify the "Owner" from any claims whatsoever on the above account.

4.28 DAMAGE TO PERSONS OR PROPERTY:

- 4.28.1 "EA" shall ensure by inserting suitable clauses in the works contract that (except and in so far as this Terms of Reference provides otherwise) the "Owner" get indemnified 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 the construction of the project or in relation thereto.
- 4.28.2 "EA" shall ensure by inserting suitable clauses in the works contract the observance of all Labour, Industrial, Provident Fund, Gratuity and other laws applicable in the matter and shall get the "Owner" indemnified against the liability or damages or losses arising on observance of any such laws.

5.0 RIGHTS AND RESPONSIBILITIES OF THE "OWNER"

- 5.1 The owner shall deposit in the deposit account opened as per clause 4.22 (i) and 4.22 (iv) above, equivalent to 10% (Ten percent) as an initial deposit of the approved preliminary estimated cost of the project after written submission of the "EA" against furnishing of unconditional Bank Guarantee issued by any Nationalized Bank. However, the subsequent funds will be transferred in accordance with the clause No. 4.22 (iv) and against submission of statement of accounts for amount paid to contractor(s)/ suppliers / vendors / specialized agency etc. from the funds deposited with EA for execution of the project supported by trial balance for the month, copies of certified paid bills and statement of bank account and other relevant documents in support of payment made by EA in that month, subject to conditions mentioned in the clause 4.22 (iv).

- 5.2 The "EA" shall submit monthly statement of account in the format approved by "Owner" supported by duly checked and certified copies of paid Running Account Bills (RAB) of Contractors and original bills of specialized agencies/suppliers/vendors and in case of pre-final and final bills of the contractor(s) original certified paid bills will be submitted to the 'Owner' along with statement of accounts for adjustment. All bills pertaining to the above project in the name of "*name of executing agency - A/c National Small Industries Corporation Ltd., NSIC Office Building Project, Salt Lake, Kolkata*" to be submitted to owner for adjustment from the funds deposited with the "EA". However, the owner reserves the right to get the same checked/audited by its own officers or an independent Govt./Private agency.
- 5.3 The "Owner" shall withhold 5% of the amount from every invoice / bill of agency charges claimed by E.A., as Retention Money. Whenever, the deduction against retention money reaches a limit of Rs 4.00 lakhs (Rupees four lakhs only) the Owner may release the same against submission of Bank Guarantee (Performa of the same to be got approved from the Owner) of an equivalent amount by the "EA". 50 % of the total Retention Money shall be released to E.A. on the completion of all works under the scope of contract after completion and handing over the complete building in all respects and balance 50% (in the form of bank guarantee) of total retention money shall be released on completion of the defect liability period as per clause 11.0 or extended validity of agreement which ever is later.
- 5.4 If in the interest of work, any items or materials are required to be procured much in advance, any extra amount required for the purpose shall be decided by the "Owner" in consultation with "EA" and paid in addition to deposit amount. The "Owner" shall endeavor to release all such amounts within 30 (thirty) days.
- 5.5 The Owner will furnish layout plan of the existing structures, if any, and services, if any, in the area where new Works are proposed.
- 5.6 The Owner will nominate a suitable Officer as the Coordinating Officer who shall perform the duties.
- 5.7 The Owner will hand over vacant possession of land / Site to the EA. The EA will also take responsibility for demolition / disposal of existing buildings / structures. Works Contract shall not be awarded by the EA for and on behalf of the Owner till the site is available free of all encroachments.
- 5.8 The Owner will assist the EA in obtaining approvals from Local Bodies for the Works and shifting / relocating existing utilities as necessary. The Owner will also assist the EA in obtaining the necessary clearance from the Agencies / Departments / Local Bodies concerned for the occupation of the Completed Works.

- 5.9 The Owner will communicate their decisions whenever referred to, within 15 working days of such a request from the EA.
- 5.10 The Owner shall pay the Agency charges to the EA, in line with the agreed payment schedule.
- 5.11 The Owner shall not be responsible for any liability arising out of EA's contractual obligations with the EA's architects, personnel, Sub-EAs, licensors, collaborators, vendors and subordinates who are engaged by the EA and whose remuneration / fees are paid by the EA from his Agency charges.
- 5.12 The Owner shall promptly take over the Works / Project facilities within 15 days from the date of certified completion in all aspects. If for any reason, the Owner is unable to comply with the above requirements within the period mentioned above, the EA shall allow the Owner to have a further period of another 15 days for the taking over of the works. If the Owner fails to take over even within the extended period, the EA shall become eligible to claim extra fees as may be mutually agreed between the Parties.

6.0 Taxes

EA shall deduct Income Tax or any other tax from the Contractor's bills/Suppliers bills as per statutory obligation and arrange to deposit the recovered amount with the concerned Tax Authority. Owner will have no responsibility either for recovery of tax or deposit the tax with the concerned authorities and for issuance of tax deduction certificate for such deposit of taxes, duties etc. EA shall also keep the owner indemnified from any consequences whatsoever which may arise due to delay/non payment of the same and the Owner will not bear any expenditure whatsoever on this account. However, Owner shall deduct TDS from the agency charges payable to EA as per Income Tax Act, Rules and Regulations.

7.0 LIQUIDATED DAMAGES

- 7.1 "EA" shall be liable to complete the work within stipulated period as mentioned in this document subject to condition stipulated in Para 4.21.
- 7.2 In case of delay due to default on part of deployed Contractors, the "Executing Agency" shall ensure recovery of compensation (not amounting to penalty) on behalf of Owner at the rate of not exceeding 1 % (One percent only) of the total cost of the contract per week of delay subject to maximum of 10% (Ten percent) of the total actual cost of the project or such smaller amount as may be fixed by the "Owner".

- 7.3 Any compensation levied by "EA" due to non-fulfillment of any clause of the Agreement by the contractor or any such recovery from the contractor/suppliers/vendors for bad work or for any other reason whatsoever shall also be passed on to the "Owner".
- 7.4 In case of delay due to default by EA against specific activities required to be executed by the EA (other than the actual work by Contractor), EA shall be liable to pay the Owner compensation (not amounting to penalty) at the rate of not exceeding 1 % (one percent only) of the total fee of the EA as per contract per week of delay subject to maximum of 10% (Ten percent) of the total Fee or such smaller amount as may be fixed by the "Owner".
- 7.5 EA shall insert a suitable clause in the agreement with the Contractors that if contractor is able to complete the work before expiry of the stipulated period, the owner may give an incentive to the contractor to the maximum of 0.1% (zero point one percent) of the completed cost of the work per week subject to a maximum of 0.25% (zero point two five percent) of the completed work as per clause No.2.0.

8.0 Termination

The agreement may be terminated by the either party due to following reasons:-

- a) If the "Owner" fails to pay any amount due, other than the disputed amount to Executing Agency pursuant to the Agreement within forty five (45) days after receiving written notice from the "EA" that such payment is overdue.
- b) If the Owner / EA fail to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 13 hereof.
- c) EA shall refund to Owner the unutilized amount lying in the Bank Account and the amounts unaccounted for at the time of termination of agreement.
- d) If, as a result of Force Majeure, the EA / Owner fails to perform a material portion of the assignment for a period of not less than 30 (thirty) days.
- e) In case there is any change in the Constitution of the EA, the details will be promptly communicated to the Owner. In case the Owner is of the opinion that this will affect the Performance of the EAs under this Agreement, the Owner shall be entitled to terminate this Agreement after giving due notice and entrust the work to some other Agency.
- f) If the "EA" fail to remedy a failure in the performance of their obligations within thirty (30) days of receipt of such notice within such further period as the Owner may have subsequently approved in writing. However, all plans, drawings, specifications, designs, report and other documents prepared by the E.A. in performing the project shall become and remain the property of the owner including the equipment and materials, if any, purchased by the E.A. with funds

provided by the owner shall be handed over to the Owner by the E.A. in working condition.

- g) If the "EA" become insolvent or bankrupt or enter into any agreement with their creditors for relief or debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;
- h) In case the funds deposited by the "Owner" are diverted to other works or for any other purpose.
- i) If the "EA" in the judgment of the "Owner" has engaged in corrupt or fraudulent practices in completing for or in executing the Agreement.
- j) In case of delay in execution of works for reasons attributable to "EA", after assigning reasons in writing and by giving thirty days notice to "EA".

In case of the Termination the EA shall not be entitled to claim any fees or compensation except of the fees payable to them for the work actually done. The amount of fees so payable shall be decided by the Owner and same shall be conclusive & final.

9.0 Confidentiality:

The Executing Agency, the contractors or consultants and the personnel of either of them shall not, either during the currency of agreement or within two (2) years after the expiration of this agreement, disclose any proprietary or confidential information relating to the project, this agreement or the owner's business or operations without the prior written consent of the owner

10.0 FORCE MAJEURE

10.1 Definition

- a) For the purpose of this Agreement, "Force Majeure" means an event which is beyond the reasonable control of party, and which makes a party's performance of its obligations hereunder impossible or so impractical as reasonably impossible in the circumstances and includes, act of God or the public enemy expropriation or confiscation of facilities by Government Authorities or in compliance with any order or request of any Government Authorities but is not limited to, war, riots, rebellion, sabotage, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action.
- b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party's Sub Consultants or agent or employees nor (ii) any event which a diligent party could reasonably have been expected to both (A) take into account at the time of the conclusion of Agreement and (B) avoid or overcome in the carrying out of its obligations hereunder:

- c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

10.2 Measures to be taken

- a) A Party affected by an event of Force Majeure shall take all reasonable measures to remove such Party's inability to fulfill its obligations hereunder with a minimum of delay.
- b) A Party affected by an event of Force Majeure shall notify the other party of such event as soon as possible, and in any event not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event and shall similarly give notice of the restoration of normal conditions as soon as possible.
- c) The parties shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

10.3 Consultation

Not later than thirty (30 days) after the "EA", as a result of an event of Force Majeure, have become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.

10.4 Extension of Time

Any period within which a Party shall, pursuant to this Agreement, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

11.0 DEFECT LIABILITY PERIOD

- 11.1 The "EA" shall ensure rectification of any defect (s) in the building including installations like lifts, fire detection/ fighting equipment, DG sets etc. within the defect liability period, which shall be for a period of 12 months from the date of completion certificate issued by the EA to contractor(s)/ supplier(s)/ vendor(s) etc.
- 11.2 Any defects discovered and brought to the notice of the "Owner" during the period aforesaid shall be got rectified by "EA" through contractors. In the event of failure on the part of EA to rectify the defects, the same may without prejudice to the any other rights available under the provision of the law be, be rectified by the owner for on behalf of "EA" and at the cost and expenses of the "EA" , after a notice thereof to "EA"
- 11.3 "EA" shall be fully responsible to defend any suits or arbitration cases arising out of the project/ work between "EA" and its contractor(s)/ suppliers. Settling the Claims/disputes, if any, made by the Works Contractors, keeping the Owner

advised of the same. Where there is disagreement between the Executing Agency and the Works Contractor, such disputes shall be referred for Arbitration by an Arbitrator as provided for in the Works Contract between the Executing Agency acting for on behalf of the Owner as Agent. All amounts payable to the Contractor on his claims decided by the Executing Agency with the approval of the Owner and agreed to by the Contractor will be charged to the Cost of works. In cases where the Contractor resorts to settling his claims through an Arbitrator, the Executing Agency will fight the Arbitration case for and on behalf of the Owner. All claims in favour of the Contractor as per Arbitration Award, other than those attributable to gross negligence of the Executing Agency, will be chargeable to Cost of Works.

Any amount becoming payable to the "EA" on account of counter claim, as a result of the arbitrator's award in respect of arbitration between the EA and the contractor, shall be passed to the Owner.

12.0 NOTICE

Any notice to be given hereunder will be sent by registered post at the last known registered or head office address of the "EA" and shall be deemed to have been served at the time at which the letter would be delivered in the ordinary course of post.

13.0 ARBITRATION

In the event of any dispute or differences relating to the interpretation and application of the provisions of the contract, such disputes or differences shall be referred by either party for arbitration of one of the Arbitrators in the Departments of Public Enterprises to be nominated by the Secretary to the Government of India in charge of the Bureau of Public Enterprises. The Arbitration Act 1996 shall not be applicable to the arbitration under this 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 further references for setting aside or revision of the award to the Law Secretary, Department of Legal Affairs, Ministry of Law & Justice, Govt. of India. Upon such reference the disputes shall be decided by the Law Secretary or 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 intimated by the Arbitrator.

14.0 REPORTS

The "EA" will prepare and submit the following reports to owner on the format prepared by the Executing Agency and as approved by owner (except for commencement report)

SI No.	Report	Frequency	Due Date/Time	No. of Copies
1.	Commencement Report	One time	Within 15 days after commencement of services.	10
2.	Monthly Progress Report	Every month	10 th of the month	10
3.	Quarterly Progress Report	Every quarter	Within 10 days of commencement of following quarter	10
4.	Completion Report	One time	Within 15 days of completion of services/contract.	10

14.1 Commencement Report

The Commencement Report shall contain the details of all meetings held with the "Owner" and the "EA" and the decisions taken therein, the resources mobilized by the "EA" as well as the Executing Agency's perception in the monitoring and control of the project planning / design / construction activities.

14.2 Progress Reports

The monthly and quarterly Progress Reports shall contain details of all meetings, decisions taken therein, mobilization of resources (Executing Agency and the contractor), Detailed compliance report of each activity, progress and the projected progress for the forthcoming periods. The Report shall clearly bring out the delays, if any reasons for such delay(s) and the effective steps taken towards the corrective measures.

14.3 Final Completion Report

The "EA" will prepare a comprehensive final completion report of the planning, designing, construction monitoring and control after completion of the work. The report shall incorporate summary of the method of supervision performed, problems encountered and solutions undertaken thereon and recommendations for future projects of similar nature to be undertaken by the Owner.

15.0 PERFORMANCE SECURITY

The "EA" shall be required to submit an acceptable Bank Guarantee for an amount equivalent to 5% (five percent only) of the accepted Agency Charges towards Performance Security within 10 days of signing the Agreement. The accepting agency charges will be calculated on the basis of preliminary estimated cost of the project worked out as per CPWD plinth area rate -2007 (Revised-2010) with updated cost index. However, in the event the estimated cost of the project worked out as

per clause No. 4.3 is higher than the preliminary estimated cost, the EA shall submit an additional bank guarantee for balance amount equivalent to differences in the estimated cost as mentioned above. The performance security shall be refunded to EA after completion of defect liability period or extended agreement period which ever is later

The "EA" shall insert suitable conditions in the works contract in appointment of contractors to ensure that contractors/vendors should provide performance guarantee(s) to the Executing Agency for 5% of the value of work/supply orders awarded/placed on the contractors/vendor/supplier and specialized agency (ies) etc. engaged for the execution of project within 10 days from the date of the placement of the work/supply orders. The copy of the same shall be submitted to the owner. The validity of the Bank Guarantee(s) shall cover the entire duration of the Agreement period plus the defect liability period and extended agreement period. The "EA" as well as Owner shall approve the format of the Bank Guarantee (s). The Bank Guarantee(s) shall be released after satisfactory completion of the defect liability period or extended agreement period which ever is later. If the bank guarantee is invoked, the amount shall be transferred in account of the Owner under intimation to the Owner.

16.0 PROJECT REVIEW

- 16.1 The "Owner" shall constitute a Review Committee including representative of EA to review the quarterly progress of the activities of the deployed contractors.
- 16.2 The Owner shall constitute a review Committee to review the quarterly progress of the activities of "EA". The Review Committee will assess the performance of the "EA" and the various activities under the Firm/Fixed Rate Construction Agreements and suggest corrective measures, if required.

FORMATS OF AGREEMENT & BGS

PERFORMA OF AGREEMENT

This Agreement (hereinafter called the "Agreement") is made on this _____ day of _____ 2011.

BETWEEN

The NATIONAL SMALL INDUSTRIES CORPORATION LIMITED, A Govt. of India Enterprise and a Govt. Company within the provision of Companies Act-1956 having its registered office at "NSIC Bhawan" Okhla Industrial Estate, New Delhi-110020 (Hereinafter called the "Owner), on the one part,

AND

"Name of Executing agency", incorporated under the provisions of Companies Act-1956 having its registered office at (hereinafter called the "Executing Agency" (EA) on the other part.

WHEREAS

a) The Owner intends to construct a "NSIC Office Building" at Plot No. 7/7 & 7/8, Block-CP, Sector-V, Salt Lake, Kolkata as defined in this Agreement (hereinafter called the "Project").

b) The Owner has appointed M/s. "Name of Executing agency" as the Executing Agency for Project Development, Monitoring and Control for the construction of "NSIC Office Building" on Deposit work basis at Plot No. 7/7 & 7/8, Block-CP, Sector-V, Salt Lake, Kolkata vide letter of award no: Dated Annexed as Annexure-1 .

c) The Executing Agency (EA), having represented to the Owner vide their letter No. : Datedthat they have the required professional skills, personnel and technical resources have agreed to take up the assignment on the terms and conditions mentioned in the Request for Proposal (RFP) document annexed as Annexure "II" and Terms & Conditions set forth in the Agreement. (Hereinafter called the "Assignment")

NOW THEREFORE the Parties hereby agree as follows: -

CONDITIONS OF AGREEMENT

1. GENERAL PROVISIONS

1.1 Definitions

Unless the context otherwise requires, the following terms wherever used in this Agreement have following meanings:

- a) "Applicable Law" means the provision of Indian Laws and any other instruments having the force of law in India as they may be issued and in force from time to time.
- b) "Owner" means the "The National Small Industries Corporation Limited".
- c) "Competent Authority" mean the CMD, NSIC.
- d) "Executing Agency" (EA) means "Name of Executing agency with address".
- e) "Agreement" means an agreement executed by the Parties, together with all documents/Appendices attached hereto.
- f) "Contractor(s)/Suppliers/Vendors" means any person or entity who are employed by Executing Agency for execution of the "Project" on behalf of the owner.
- g) Corrupt practice means the offering, giving, receiving a soliciting of anything of value to influence the action of a public official in the Agreement execution.
- h) "Government" means the Government of India.
- i) "Personnel" means persons hired/deployed by the Executing Agency (EA) as employees of Executing Agency and assigned to the performance of the Services or any part thereof.
- j) "Party" means the Owner or the Executing Agency (EA), as the case may be, and "Parties" means both of them.
- k) "Assignment" means the work to be performed by the Executing Agency (EA) pursuant to this Agreement for the purpose of the project as per the Description of requirement given in Clause No.3.2 hereto;
- l) "Starting Date" means the date referred to in Clause 2.3 hereof,
- m) "Third party" means any person or entity other than the Owner and the Executing Agency, whose services are availed or required for the said project.

1.2 Relations between the Parties

Nothing contained/referred herein shall be construed as establishing a relation of master and servant or of agent and principal, and as employee and employer between the Owner and the Executing Agency. The Executing Agency, subject to this Agreement, shall engage/deploy the personnel in order to complete the said project and the personnel engaged/deployed by the said Executing Agency shall be employee of the Executing Agency and not the employee of the Owner in any

manner and the owner shall not be in any way be liable for any kind of responsibility/liability including statutory liability for the said personnel and for the Executing Agency.

1.3 Law Governing Agreement

The Agreement, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Laws of the Government of India.

1.4 Language

This Agreement has been executed in English language, which shall be the binding and controlling language for all matters relating to the meaning of interpretation of this Agreement.

1.5 Headings

The headings shall not limit, alter or affect the meaning of this Agreement.

1.6 Notices

1.6.1 Any notice, request or consent required or permitted to be given or made pursuant to this Agreement shall be in writing. Any such notice, request or consent shall deem to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, telex, telegram or facsimile to such Party at the addresses specified as under:

For the Owner:

Attention: General Manager (Works)
The National Small Industries Corpn. Ltd.,
"NSIC Bhawan: Okhla Industrial Estate,
New Delhi - 110020.

Fax: (011)-26920911

Telephone: (011)-26920911

For the Executing Agency:

Attention:
.....
.....

Telefax :

Phone:

1.6.2 Notice will be deemed to be effective as follows:

a) In the case of personal delivery or registered mail, on delivery;

- b) In the case of facsimiles (24) hours following confirmed transmission.

1.7 Location

The Assignment shall be performed at such locations as are specified in Annexure-III hereto and, where the location of a particular task is not so specified at such locations, in Plot No. 7/7 & 7/8, Block-CP, Sector-V, Salt Lake, Kolkata, as the Owner may approve.

1.8 Authorized Representatives

Any action required or permitted to be taken and any document required or permitted to be executed under the Agreement by the Owner or the Executing Agency to be taken or executed by the officials as under:

For the Owner	:	General Manager (Works) or a designated / authorized officer of NSIC
For the Executing Agency	:

2.0 COMMENCEMENT, COMPLETION, MODIFICATION & TERMINATION OF AGREEMENT

2.1 Effectiveness of Agreements

This Agreement shall come into force and effect on the date of signing of the Agreement.

2.2 The Termination of Agreement for failure to become effective

If this Agreement has not become effective within 45 days by starting the work from date hereof and the owner may, by not less than 15 days serve written notice to the Executing Agency, declare this Agreement is cancelled and the Executing Agency shall be liable for the delay in executing the work and loss caused to the owner.

2.3 Date of Start of Work

The Executing Agency shall begin carrying out the services not later than 15 days from the date of signing the agreement or on such date as the Parties may agree in writing.

2.4 Expiration of Agreement

Unless extended by mutual consent of both the Owner and the EA, this Agreement will be valid for a extended period of 60 days beyond the date when the Defects Liability Period for the Works Contract will expire. Before the expiry of the Time limit specified above, the EA shall arrange for the following to the extent they are under the control of the EA.

- i) Finalization of accounts and closing Works Contracts and furnishing 4 copies of finalized Accounts along with 4 copies of "As Built" drawings.
- ii) Handing over to the Owner Guarantee Bond for Specialized Works and Insurance Policies on Works if any.
- iii) Settlement of Claims from the Works Contractor.

2.5 Termination

The agreement may be terminated by the either party due to following reasons:-

- a) If the "Owner" fails to pay any amount due, other than the disputed amount to Executing Agency pursuant to the Agreement within forty five (45) days after receiving written notice from the "EA" that such payment is overdue.
- b) If the Owner / EA fail to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 17 hereof;
- c) EA shall refund to Owner the unutilized amount lying in the Bank Account and the amounts unaccounted for at the time of termination of agreement.
- d) If, as a result of Force Majeure, the EA / Owner fails to perform a material portion of the assignment for a period of not less than 30 (thirty) days.
- e) In case there is any change in the Constitution of the EA, the details will be promptly communicated to the Owner. In case the Owner is of the opinion that this will affect the Performance of the EAs under this Agreement, the Owner shall be entitled to terminate this Agreement after giving due notice and entrust the work to some other Agency.
- f) If the "EA" fail to remedy a failure in the performance of their obligations within thirty (30) days of receipt of such notice within such further period as the Owner may have subsequently approved in writing. However, all plans, drawings, specifications, designs, report and other documents prepared by the E.A. in performing the project shall become and remain the property of the owner including the equipment and materials, if any, purchased by the E.A. with funds provided by the owner shall be handed over to the Owner by the E.A. in working condition.
- g) If the "EA" become insolvent or bankrupt or enter into any agreement with their creditors for relief or debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;
- h) In case the funds deposited by the "Owner" are diverted to other works or for any other purpose.
- i) If the "EA" in the judgment of the "Owner" has engaged in corrupt or fraudulent practices in completing for or in executing the Agreement.

- j) In case of delay in execution of works for reasons attributable to "EA", after assigning reasons in writing and by giving thirty days notice to "EA".

In case of the Termination the EA shall not be entitled to claim any fees or compensation except of the fees payable to them for the work actually done. The amount of fees so payable shall be decided by the Owner and same shall be conclusive & final..

2.6 Confidentiality:

The Executing Agency, the contractors or consultants and the personnel of either of them shall not, either during the currency of agreement or within two (2) years after the expiration of this agreement, disclose any proprietary or confidential information relating to the project, this agreement or the owner's business or operations without the prior written consent of the owner

2.7 Accounting, Inspection and Auditing

The Executing Agency shall keep accurate and systematic account and records of the assignment, in accordance with accepted accounting principles and in such form and details as clearly identified all relevant time charges and cost, and the basis thereof. The owner or its designated representatives periodically and up to one year from the expiration or termination of this agreement, shall have full right to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the owner.

3.0 THE PROJECT

3.1 General Information

The Owner proposes to construct a Multistoried - "NSIC Office Building" with an objective to provide office space on lease /license basis to the small industries/ service industries at the Plot No. 7/7 & 7/8, Block-CP in the prime location of Sector-V, Salt Lake, Kolkata.

"Owner" has appointed M/s "Name of Executing agency" as Executing Agency (EA) for the Construction of "NSIC Office Building" a state of the art Four-storeyed building with covered area of approx. 1201.76 sqm. The EA is expected to complete the project on Deposit Work basis conforming highest quality standards and shall adhere to time and cost management systems, within stipulated time frame and allocated budget for the project.

3.2 Requirements

a) Requirements:

Project Development, Monitoring and Control for the Construction of "NSIC Office Building", a state of the art building at Plot No. 7/7 & 7/8, Block-CP, Sector-V, Salt Lake, Kolkata.

b) Proposed Building:

- i) The proposed Building would be a modern structure combining aesthetics with utility. The Building will be provided with air-conditioning system and should be designed, keeping in view the requirement of IS: 1893 (latest) designs of buildings for earthquake forces (including micro-zoning), environmental concerns, solar lighting for outdoor lighting, adequate parking, easy circulation and flexibility in terms of space utilization, 100% power back up and adequate fire detection & fighting measures.
- ii) No of storey : 4 (Ground + 3 storey)
- iii) Covered Area : 1201.76 sqm (Ground to 3rd Floor)

c) Other requirements:

- i) NSIC intends to get its office building constructed on the allotted plot as per the building drawing already approved by the local municipal authority. The said building drawing has been approved by Bidhanagar Municipality on 20.02.2007 as a four storeyed building (Ground +3 upper floors) with a ground coverage of 300.44 sqm. and total covered area (all floors) of 1201.76 sqm. The said drawing has been further revalidated upto 19.02.2012 by Nabadiganta Industrial Township Authority. The EA shall also obtain revalidation of the above building drawings for a reasonable time to enable completion of construction as per approved drawings, if required, after ascertaining from the concerned local authority. It will be responsibility of the EA to get any other essential approval from any statutory authority including but not limited to Fire Department, Water Supply & Sanitation Department, Local Electricity Board etc.
- ii) A single storeyed structure having dimensions 5m x 5m (approx.) has to be demolished and its area will be utilized for the proposed project.
- iii) The EA shall also provide professional, objective and impartial advice and at all times hold the owner's interests paramount, without any consideration for future work, and strictly avoid conflicts with other assignments or their own corporate interests.
- iv) The covered area mentioned above will remain same in the event of any change due to building norms/ owners requirement.

d) Land Area

- Area of Plot Allotted to NSIC : 10.43 cottah
on which construction to be (698.97 sqm approx.)
undertaken

4.0 **THE EXPRESSION “ACTUAL COST OF WORK” SHALL INCLUDE THE FOLLOWING:**

4.1 Bonafide payments released by “EA” to the Contractor (s)/ Suppliers/Vendors or any specialized agency as agreed upon in the tender including any amount paid/payable to the contractors towards extra/substituted/deviated items/quantities arising on account of any changes/additional work required for the project as finalized by EA with the approval of Owner for the Construction of the building and services, internal and external electrification and development of land (Soft/Hard Landscaping) etc. inclusive of all applicable taxes (i.e. VAT, Works Contract Tax, Service Tax and any other Govt. levies etc).

4.2 All costs of materials acquired for the project and used on the work, either directly or through the Contractors (s)/Vendor(s) including insurance, storage charges, cartage and any other incidental charges connected with such materials but excluding the material not incorporated or not handed over to the “Owner”.

4.3 Expenditure incurred by “EA” on the following will be reimbursed to “EA” duly supported by Bills. However, Agency charges on such expenditure will not be eligible for payment.

4.3.1 Actual expenditure incurred on testing of materials required for quality control of works not attributable and recoverable from the Contractors.

4.3.2 Legitimate expenses in getting approvals of any type from statutory authorities.

4.4 Any amount paid / payable to the Contractor towards his claims not accepted by the EA but decided in favour of the Contractor by an Arbitrator or Court of Law. The amount will however exclude the elements of Award of the Arbitrator / Court of Law on items which are finally attributed to Gross negligence of the EA.

5.0 **THE ACTUAL COST OF WORK SHALL NOT INCLUDE**

5.1 Cost of land.

5.2 Any work undertaken by the “Owner” for which no inputs/ services have been provided by “EA”.

5.3 Cost paid by the “Owner” to local government or any other statutory body (ies) for any built in services provided for the work (including but not exclusively items such as electric connection, transformers, and water supply, access road if provided by such authorities).

6.0 Agency Charges

The "EA" shall be paid agency charges @ (..... percent only) of the actual cost of project plus Service Tax and applicable Govt. levies (if any) as defined in clause 4.0 for execution of the Project on Deposit Work Basis.

7.0 RESPONSIBILITIES OF THE "EA"

- 7.1 The responsibilities of the "EA" shall include preliminary survey, preparation of architectural drawings, soil investigation, survey and supplying all drawings, designs, estimates and bills of quantities, details of phasing of building and rendering advice. "EA" will also submit comprehensive planning schedule for project management within one month of signing of agreement.
- 7.2 In furtherance to the award of work and in order to comply with the terms and conditions of this Terms of Reference, the "EA" may engage the consultants for the purpose of drawing up of the architectural plans of the project as also the finalization of the designs, drawings and specifications along with detailed estimates of the project based on the prevalent cost i.e. cost of the materials, labour wages and construction equipment, soil investigation, survey etc. and all such expenses shall be borne by "EA", which is not reimbursable by the Owner.
- 7.3 "EA" will submit architectural drawings as per the owner's direction and after getting written approval of the same from the owner, "EA" will prepare drawings, specifications, BOQ and detailed estimate based on the CPWD Schedule of Rates with updated cost indices. "EA" will submit the detailed estimate in accordance to approved conceptual plan to the Owner for approval. The "EA" will prepare structural designs considering the prevailing BIS codes and relevant engineering practices. Responsibility for correctness/ accuracy of design and drawings will rest with "EA". The "EA" shall ensure that the specifications to be followed for the work shall be generally in line with the standard CPWD specification and latest BIS specification and codes of practices as corrected up to the date of signing of the agreement. These estimates shall be taken as indicative cost.
- 7.4 "EA" shall forthwith take possession of the site from the "Owner" and shall nominate a team leader for executing the project, who shall be a responsible and experienced engineer. "EA" shall inform the name of the engineer at the time of submission of the estimate.
- 7.5 "EA" after having taken possession of the site/ premises will forthwith and immediately start the planning for demolition of the existing room (5m x 5m). In this connection, before dismantling the existing structure and subsequent auction of usable materials (by the contractor appointed by EA on behalf of the owner) earmarked for demolition "EA" will prepare the valuation of the said structure which is to be demolished for site clearance for approval of the "Owner". Amount received from the auction of the scrap material (subject to procedure being followed) by "EA" will be deposited in cash credit account no. 0602008700010460 of the "Owner" maintained at Punjab National Bank, Okhla Industrial Estate branch Delhi under intimation to the "Owner".
- 7.6 "EA" shall be responsible to get water, sewer and electricity connection to the building, as per clause 5.3 above.

- 7.7 "EA" shall give in writing the budgeted cash flow of the funds required in proportion to the work to be done during the year as required by the "Owner" from time to time. Otherwise "Owner" will not be responsible for delay in payment.
- 7.8 In case it is anticipated that the quantity (ies) of any items will under go substantial variations due to change in design/specifications of any item due to site conditions or by any decision of the "Owner", The EA shall immediately bring the same to the notice of the owner and obtain written approval from the owner thereof. "EA" shall also furnish full details and justifications supported by reasons for anticipated excess of quantities and expenditure thereof on works over the initial estimate given above.
- 7.9 However, during execution of the work if the anticipated cost exceeds the detailed estimate, depending upon any change in the constituents and their cost based on which the original estimate was prepared. "EA" shall submit revised estimates to the "Owner" and obtain its prior written approval of the revised estimate before incurring further expenses.
- 7.10 "EA" shall obtain approval of the local bodies or statutory bodies for the Construction as contemplated in this "Terms of Reference". However, the "Owner" shall help the "EA" to the extent of writing letters to local bodies regarding getting such approvals.
- 7.11 "EA" shall prepare the Notice Inviting Tender (NIT) for the purpose of inviting tenders from the contractor(s).
- 7.12 "EA" shall follow the standard CPWD contract forms for item rate tenders/ percentage rate tenders and CPWD general Conditions of Contract with suitable modifications approved by the Competent Authority of the "EA". If any other contract form is to be followed, the same shall be discussed with the "Owner" and got approved in principle in writing before its issue
- 7.13 The "EA" shall be responsible for the structural safety of construction, proper workmanship. It will be the responsibility of "EA" to ensure that the work is executed strictly in accordance with the approved technical specifications and adopting effective quality control measures for the same.
- 7.14 "EA" shall follow proper purchase procedure for award of various works and shall comply with CVC guidelines and circulars issued time to time in this regard. "EA" shall invite tenders after due publicity by releasing the advertisement in the leading National News-papers, on behalf of Owner. However, no additional cost shall be paid to the "EA" for releasing the Notice Inviting Tenders. Owner shall nominate two representatives to be a part of the tender committee constituted by E.A. The representatives of the owner will attend proceedings of the tender committee at appropriate stage for finalization of the tenders and recommendations thereof. All details of accepted tenders shall be furnished by the "EA" to the "Owner".
- 7.15 "EA" shall award the work(s) to the contractor(s) within the approved estimates with the approval of the "Owner" on firm rate contract basis (without any escalation) including all services. Simultaneously the process for placing orders for long delivery items such as lifts, D.G sets, Distribution Panels etc. shall be commenced by "EA". The contractor/vendor/ supplier shall submit the bills to EA, raised in the

- name of "Name of Executing Agency" -A/c National Small Industries Corporation Ltd., NSIC Office Building Project, Salt Lake, Kolkata.
- 7.16 "EA" will make its best endeavor to reduce the cost of construction by any change/ substitution of specifications, construction methodology, value engineering or any innovative or economical design. Such reduction in the cost of construction shall be made with the prior written approval of the "Owner" without affecting/ prejudicing or endangering in any way the safety or security of the building.
- 7.17 The "E.A." shall perform the services and carry out their obligation hereunder with all due diligence, efficiency and economy in accordance with generally accepted professional techniques and practices and shall observe sound management practices and employ appropriate advance technology and safe and effective equipment, machinery, materials and methods. The "E.A." shall always act, in respect of any matter relating to this document, or to the services, as faithful advisor to the "owner", and shall at all times support and safeguard the "owner's" interests in any dealing with contractors or third parties.
- 7.18 Before commencement of the works the "EA" shall ensure that the necessary insurance covers of the works, property, persons or any persons as per law are taken in time by the contractor/sub contractor/suppliers/vendors till the project is handed over to the owner. The "EA" shall indemnify the "Owner" from any claims or damages or losses whatsoever on the above account.
- 7.19 "EA" shall deduct 5% from every bill raised by contractor(s) for execution of works as Retention Money. The said Retention Money shall be retained in the deposit bank account maintained by EA and shall disclose the amount in the statement of Account submitted to the owner. The Retention Money shall become due and payable to contractor(s) after 12 months from completion of all works under the scope of contract or expiry of the defect liability period or validity of agreement whichever is later. However the contractor may substitute the 50% of retention money by bank guarantee after the completion of the work.
- 7.20 "EA" shall be solely responsible for obtaining the required Labour License as "Principal Employer" in its name from the Labour Department for all the contractor(s) to be de deployed by them for the proposed construction work.

8.0 PAYMENTS/DEPOSIT

- i) The "Owner" shall make the payments/deposits to "EA" by transfer of funds in a bank account to be opened by the "EA" as per the direction of owner in the name of "Name of Executing agency" - A/c National Small Industries Corporation Ltd., NSIC Office Building Project, Salt Lake, Kolkata" for purpose of construction of NSIC Office Building at Plot No. 7/7 & 7/8, Block-CP, Sector-V, Salt Lake, Kolkata.

- ii) EA" will however ensure that the amount deposited in the bank as per above clause in the name of "EA" along with the interest accrued thereon shall be utilized only for the purpose of construction of this project.
- iii) In case it is observed that the amount deposited (along with the interest accrued thereon) by the Owner has been diverted to other works, and or any other purpose, further payment shall not be released by the Owner, until the quantum of work executed is brought/completed in proportion to the extent of payments already released.
- iv) An initial deposit up to 10% (ten percent only) of the already approved preliminary estimated cost of the project will be deposited against written submission of advice of EA against furnishing of unconditional Bank Guarantee (BG) issued by any Nationalized Bank. However, the subsequent funds will be transferred against the duly certified running bills raised by the "EA" on the "Owner" as per actual work executed at site. The final bill, however, shall be adjusted only after completion of the work in all respect duly certified by "EA". The "Owner" shall have full powers to verify the entries recorded in Measurement Books. The said BG submitted by the "EA" shall be kept renewed till the completion of the project.
- v) The Owner shall ensure that sufficient balance in the designated account is maintained subject to regular and timely submission of running/ final bills by the "EA", so that work does not suffer on account of funds. The release of funds shall be as per the duly certified running/ final bills raised by "EA".
- vi) The "EA" shall submit monthly Statement of Accounts supported by certified paid bills of Contractors / specialized agencies/suppliers/vendors for adjustment from the funds deposited with the "EA". However, the owner reserves the right to get the same checked/audited by its own officers or an independent Govt./Private agency.
- vii) Agency charges payable to EA shall be paid directly by Owner and the same will not be adjusted from funds deposited with EA subject to deduction of retention money as per clause 10 (iii) within 3 (three) weeks after raising of bills by EA.
- viii) The schedule for accrual of the Agency Charges payable to "EA" is given as under:-
 - a) 5% on submission of comprehensive planning schedule for project management within 30 days of the signing of the agreement.
 - b) 10% on submission of architectural drawings, structural drawings, specifications and detailed cost estimates.

- c) Balance 85% will be released after adjustment of the agency charges paid as above (a) to (b) commensurate with the value of work executed.
- d) The payment at stage (a) and (b) shall be based initially on preliminary estimate. The payment at stage (c) shall be based on gross value of the certified work.

9.0 QUALITY CONTROL AND QUALITY ASSURANCE

- 9.1 "EA" shall ensure that the quality of work is executed as per specified specifications and norms such as CPWD specifications with updated correction slips, BIS codes, other specifications of Manufacturers/suppliers as specified for the project. The "Owner" however, shall be at liberty to specify the quality and standard of materials to be used in the construction work and the "EA" is bound by such direction. "EA" shall ensure routine testing in respect of cement, reinforcement/structural steel, Coarse & fine aggregates, cube tests of concrete, and other building materials/ hardware is carried out by the Contractors (s)/supplier(s) as per BIS/CPWD specifications in recognized laboratory/institution and obtain copies of the test results and maintain a proper record which can be inspected by the owner.
- 9.2 Technical cell of "EA" shall also carry out periodic inspection/technical examination to ensure that the work carried out is of the specified quality and maintain proper record of test result and reports for inspection by the Owner.
- 9.3 The "Owner" shall however, be at liberty to appoint their advisor/consultant/technical person for coordination, to advise and oversee the project and his advice shall be followed by "EA".
- 9.4 The owner reserves the right to get the work technically checked / examined by its own officers or by an independent Govt./private agency.
- 9.5 The work will also be subject to the technical audit by the office of the Chief Technical Examiner (CTE) and it will be responsibility of "EA" to comply with all requirements. "EA" will be solely responsible for any queries/clarifications required by CTE with regard to quality of work and purchase procedure followed by "EA".

10.0 RIGHTS AND RESPONSIBILITIES OF THE "OWNER"

- i) The owner shall deposit in the deposit account opened as per clause 8(i) and 8 (iv) above, equivalent to 10% (Ten percent) as an initial deposit of the approved preliminary estimated cost of the project after written submission of the "EA" against furnishing of unconditional Bank Guarantee issued by any Nationalized Bank. However, the subsequent funds will be transferred in accordance with the clause No. 8 (iv) and against submission of statement of accounts for amount paid to contractor(s)/ suppliers / venders / specialized agency etc. from the funds deposited with EA for execution of the project supported by trial balance for the month, copies of certified paid bills and statement of

bank account and other relevant documents in support of payment made by EA in that month, subject to conditions mentioned in the clause 8 (iv).

- ii) The "EA" shall submit monthly statement of account in the format approved by "Owner" supported by duly checked and certified copies of paid Running Account Bills (RAB) of Contractors and original bills of specialized agencies/suppliers/vendors and in case of pre-final and final bills of the contractor(s) original certified paid bills will be submitted to the 'Owner along with statement of accounts for adjustment. All bills pertaining to the above project in the name of "Name of Executing agency - A/c National Small Industries Corporation Ltd., NSIC Office Building Project, Salt Lake, Kolkata" to be submitted to owner for adjustment from the funds deposited with the "EA". However, the owner reserves the right to get the same checked/audited by its own officers or an independent Govt./Private agency.
- iii) The "Owner" shall withhold 5% of the amount from every invoice / bill of agency charges claimed by E.A., as Retention Money. Whenever, the deduction against retention money reaches a limit of Rs 4.00 lakhs (Rupees four lakhs only) the Owner may release the same against submission of Bank Guarantee (Performa of the same to be got approved from the Owner) of an equivalent amount by the "EA". 50% of the total Retention Money shall be released to E.A. on the completion of all works under the scope of contract after completion and handing over the complete building in all respects and balance 50% (in the form of bank guarantee) of total retention money shall be released on completion of the defect liability period as per clause 16.0 or extended validity of agreement as per clause 2.4 here in before which ever is later.
- iv) If in the interest of work, any items or materials are required to be procured much in advance, any extra amount required for the purpose shall be decided by the "Owner" in consultation with "EA" and paid in addition to deposit amount. The "Owner" shall endeavor to release all such amounts within 30 (thirty) days.

- 10.1 The Owner will furnish layout plan of the existing structures, if any, and services, if any, in the area where new Works are proposed.
- 10.2 The Owner will nominate a suitable Officer as the Coordinating Officer who shall perform the duties.
- 10.3 The Owner will hand over vacant possession of land / Site to the EA. The EA will also take responsibility for demolition / disposal of existing buildings / structures. Works Contract shall not be awarded by the EA for and on behalf of the Owner till the site is available free of all encroachments.
- 10.4 The Owner will assist the EA in obtaining from Local Bodies approvals for the Works and shifting / relocating existing utilities as necessary. The Owner will also assist the EA in obtaining the necessary clearance from the Agencies /

Departments / Local Bodies concerned for the occupation of the Completed Works.

- 10.5 The Owner will communicate their decisions whenever referred to, within 7 working days of such a request from the EA.
- 10.6 The Owner shall pay the Agency charges to the EA, in line with the agreed payment schedule.
- 10.7 The Owner shall not be responsible for any liability arising out of EA's contractual obligations with the EA's architects, personnel, Sub-EAs, licensors, collaborators, vendors and subordinates who are engaged by the EA and whose remuneration / fees are paid by the EA from his Agency charges.
- 10.8 The Owner shall promptly take over the Works / Project facilities within 30 days from the date of certified completion in all aspects. If for any reason, the Owner is unable to comply with the above requirements within the period mentioned above, the EA shall allow the Owner to have a further period of another 15 days for the taking over of the works. If the Owner fails to take over even within the extended period, the EA shall become eligible to claim extra fees as may be mutually agreed between the Parties.

11.0 Taxes

EA shall deduct Income Tax or any other tax from the Contractor's bills/Suppliers bills as per statutory obligation and arrange to deposit the recovered amount with the concerned Tax Authority. Owner will have no responsibility either for recovery of tax or deposit the tax with the concerned authorities and for issuance of tax deduction certificate for such deposit of taxes, duties etc. EA shall also keep the owner indemnified from any consequences whatsoever which may arise due to delay/non payment of the same and the Owner will not bear any expenditure whatsoever on this account. However, Owner shall deduct TDS from the agency charges payable to EA as per Income Tax Act, Rules and Regulations.

12.0 TIME OF COMPLETION

- 12.1 The "EA" shall submit the execution schedule with a completion period not exceeding 18 Months.
- 12.2 The time shall be the essence of the Agreement. "EA" shall get the entire work completed in all respects by deployed contractors for and on behalf of the owner within the execution schedule as referred in clause 12.1 of this agreement and handover the project in finished condition to the Owner. The date of the start of the work shall be reckoned after 15 days from the date of handing over the site by the "Owner" to "EA" or date of signing of the agreement, whichever is later. If there is a delay in approval by the statutory authorities (including but not limited to Fire Department, Water Supply & Sanitation Department, Local Electricity Board etc., as applicable) beyond the agreed construction schedule, the contract period

will be extended accordingly.

12.3 In case of delay which may occur due to the reasons beyond the control of EA, EA would approach the Owner with full details of Extension of Time limit for completion of works. Owner reserves it's right to take appropriate decision on merit of the case Extension of Time (EOT).

12.4 On completion of the project the EA shall:

- i) Submit a final statement (for the complete project) along with original final bills of contractors/suppliers/vendors etc. audited by a Chartered Accountant for settlement and refund the excess deposit (if any) received by "EA", "Owner" reserves the right to get the work and payments made and audited by its own officers or an independent government/ private Agency. After adjustment of the entire amount deposited by the owner, any balance left in the designated bank account shall be paid to owner. Thereafter, the designated bank account will be closed with the approval of the owner.
- ii) "EA" shall submit to the "Owner" all original guarantee/ warrantee papers related to the specialized work such as anti-termites works, water-proofing works, electrical and electronics equipment installed in the building etc. executed/ installed in respect of the project. "EA" should also ensure that the guarantee/ warrantee papers are transferred in the name of "Owner" if the period of cover is beyond the defect liability period.
- iii) On completion of the work, "EA" shall ensure to clear away and remove from the site all constructional plant, surplus materials, rubbish and temporary works of every kind and leave the whole site and works clean and in a perfect condition to the satisfaction of the "Owner". The "EA" will vacate the field office within two months of handing over of the project to "Owner, otherwise market rent @ 200% per month of the prevailing rate in the area will be charged from "EA". However the Owner shall provide an office to EA during defects liability period.
- iv) The "EA" shall hand over the project complete in all respect to the authorized representative of the Owner through its Authorized representative as referred in clause 1.8. The handing over document should be signed by both the representatives.
- v) Submit one Soft, four Hard Copies and one RTF of 'as built drawings' with final bills, executed bills of quantities along with copies of detailed measurements.
- vi) Obtain the completion /occupancy certificate from the concerned authority (ies) as per requirement and submit a completion report in duplicate with one soft and four hard copies and maintenance schedules to the "Owner" along with C.D.

- 12.5 "EA" shall waive and agree to not to Claim any lien against the work or the property on which it is performed. "EA" shall obligate its Contractors and Vendors not to claim any such lien. "EA" and its Contractors and vendors shall pay or cause to be paid when due, all bills for labour, materials, equipments or Services connected with the work, and shall not claim any lien or permit any lien to be asserted or claimed maintained against the project or any funds or Land involved in the project.
- 12.6 If any lien or encumbrance is asserted or claimed maintained in violation of the Clauses mentioned in this agreement, "EA" shall promptly proceed to have it removed. If "EA" fails to remove any such lien or encumbrance, then "Owner" may, but without obligation to do so, do everything necessary to have the lien or encumbrance removed, and "EA" shall pay all costs including legal fee incurred by "Owner" in connection therewith.
- 12.7 "EA" shall ensure that the title to all materials and supplies/delivered by Contractor, together with all improvements and appurtenances constructed or placed by Contractor, is free from any claims, lien, security, interest or charges.

13.00 DAMAGE TO PERSONS OR PROPERTY:

- 13.1 "EA" shall ensure by inserting suitable clauses in works contract that (except and in so far as this Agreement provides otherwise) the Owner get indemnified 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 the construction of the project or in relation thereto.
- 13.2 "EA" shall ensure by inserting suitable clauses in works contract the observance of all Labour, Industrial, Provident Fund, Gratuity and other laws applicable in the matter and shall get the "Owner" indemnified against the liability or damages or losses arising on observance of any such laws.

14.0 LIQUIDATED DAMAGES

- 14.1 "EA" shall be liable to complete the work within stipulated period as mentioned in this agreement subject to condition stipulated in Para 12.0 of the agreement.
- 14.2 In case of delay due to default on part of deployed Contractors, the "Executing Agency" shall ensure recovery of compensation (not amounting to penalty) on behalf of Owner at the rate of not exceeding 1 % (One percent only) of the total cost of the contract per week of delay subject to maximum of 10% (Ten percent) of the total actual cost of the project or such smaller amount as may be fixed by the "Owner".
- 14.3 Any compensation levied by "EA" due to non-fulfillment of any clause of the Agreement by the contractor or any such recovery from the

contractor/suppliers/vendors for bad work or for any other reason whatsoever shall also be passed on to the "Owner".

- 14.4 In case of delay due to default by EA against specific activities required to be executed by the EA (other than the actual work by Contractor), EA shall be liable to pay the Owner compensation (not amounting to penalty) at the rate of not exceeding 1% (one percent only) of the total fee of the EA as per contract per week of delay subject to maximum of 10% (Ten percent) of the total Fee or such smaller amount as may be fixed by the "Owner".
- 14.5 EA shall insert a suitable clause in the agreement with the Contractors that if contractor is able to complete the work before expiry of the stipulated period, the owner may give an incentive to the contractor to the maximum of 0.1% (zero point one percent) of the completed cost of the work per week subject to a maximum of 0.25% (zero point two five percent) of the completed work as per clause No.4.0.

15.0 Force Majeure

15.1 Definition

- a) For the purpose of this Agreement, "Force Majeure" means an event which is beyond the reasonable control of party, and which makes a party's performance of its obligations hereunder impossible or so impractical as reasonably impossible in the circumstances and includes, act of God or the public enemy expropriation or confiscation of facilities by Government Authorities or in compliance with any order or request of any Government Authorities but is not limited to, war, riots, rebellion, sabotage, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action.
- b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party's Sub Consultants or agent or employees nor (ii) any event which a diligent party could reasonably have been expected to both (A) take into account at the time of the conclusion of this Agreement and (B) avoid or overcome in the carrying out of its obligations hereunder:
- c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

15.2 Measures to be taken

- a) A Party affected by an event of Force Majeure shall take all reasonable measures to remove such Party's inability to fulfill its obligations hereunder with a minimum of delay.
- b) A Party affected by an event of Force Majeure shall notify the other party of such event as soon as possible, and in any event not later than fourteen (14) days following the occurrence of such event, providing evidence of the

nature and cause of such event and shall similarly give notice of the restoration of normal conditions as soon as possible.

- c) The parties shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

15.3 Consultation

Not later than thirty (30 days) after the "EA", as a result of an event of Force Majeure, have become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.

15.4 Extension of Time

Any period within which a Party shall, pursuant to this Agreement, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

16.00 DEFECT LIABILITY PERIOD

- 16.1 The "EA" shall ensure rectification of any defect (s) in the building including installations like lifts, fire detection/ fighting equipment, DG sets etc. within the defect liability period, which shall be for a period of 12 months from the date of completion certificate issued by the EA to contractor(s)/ suppliers/vendors etc.

- 16.2 Any defects discovered and brought to the notice of the "Owner" during the period aforesaid shall be got rectified by "EA" through contractors. In the event of failure on the part of EA to rectify the defects, the same may without prejudice to the any other rights available under the provision of the law be, be rectified by the owner for on behalf of "EA" and at the cost and expenses of the "EA" , after a notice thereof to "EA"

- 16.3 "EA" shall be fully responsible to defend any suits or arbitration cases arising out of the project/ work between "EA" and its contractor(s)/ suppliers. Settling the Claims/disputes, if any, made by the Works Contractors, keeping the Owner advised of the same. Where there is disagreement between the Executing Agency and the Works Contractor, such disputes shall be referred for Arbitration by an Arbitrator as provided for in the Works Contract between the Executing Agency acting for on behalf of the Owner as Agent. All amounts payable to the Contractor on his claims decided by the Executing Agency with the approval of the Owner and agreed to by the Contractor will be charged to the Cost of works. In cases where the Contractor resorts to settling his claims through an Arbitrator, the Executing Agency will fight the Arbitration case for and on behalf of the Owner. All claims in favour of the Contractor as per Arbitration Award, other than those attributable to gross negligence of the Executing Agency, will be chargeable to Cost of Works.

Any amount becoming payable to the to the “EA” on account of counter claim, as a result of the arbitrator’s award in respect of arbitration between the EA and the contractor, shall be passed to the Owner.

17.0 ARBITRATION

In the event of any dispute or differences relating to the interpretation and application of the provisions of the Agreement, such disputes or differences shall be referred by either party for arbitration of one of the Arbitrators in the Departments of Public Enterprises to be nominated by the Secretary to the Government of India in charge of the Bureau of Public Enterprises. The Arbitration Act 1996 shall not be applicable to the arbitration under this clause. The award of the of the arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make a further references for setting aside or revision of the award to the Law Secretary, Department of Legal Affairs, Ministry of Law & Justice, Govt. of India. Upon such reference the disputes shall be decided by the Law Secretary OR 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 intimated by the Arbitrator.

18.0 REPORTS

The “EA” will prepare and submit the following reports to owner on the format prepared by the EA and as approved by “owner” (except for commencement report)

Sl No.	Report	Frequency	Due Date/Time	No. of Copies
1.	Commencement Report	One time	Within 15 days after commencement of services.	10
2.	Monthly Progress Report	Every month	10 th of the month	10
3.	Quarterly Progress Report	Every quarter	Within 10 days of commencement of following quarter	10
4.	Completion Report	One time	Within 15 days of completion of services/Agreement.	10

18.1 Commencement Report

The Commencement Report shall contain the details of all meetings held with the "Owner" and the "EA" and the decisions taken therein, the resources mobilized by the "EA" as well as the Executing Agency's perception in the monitoring and control of the project planning / design / construction activities.

18.2 Progress Reports

The monthly and quarterly Progress Reports shall contain details of all meetings, decisions taken therein, mobilization of resources (Executing Agency' and the contractor), Detailed compliance report of each activity, progress and the projected progress for the forthcoming periods. The Report shall clearly bring out the delays, if any reasons for such delay(s) and the effective steps taken towards the corrective measures.

18.3 Final Completion Report

The "EA" will prepare a comprehensive final completion report of the planning, designing, construction monitoring and control after completion of the work. The report shall incorporate summary of the method of supervision performed, problems encountered and solutions undertaken thereon and recommendations for future projects of similar nature to be undertaken by the Owner.

19.0 PERFORMANCE SECURITY

The "EA" shall be required to submit an acceptable Bank Guarantee for an amount equivalent to 5% (five percent only) of the accepted Agency Charges towards Performance Security within 10 days of signing the Agreement. The accepting agency charges will be calculated on the basis of preliminary estimated cost of the project worked out as per CPWD plinth area rates-2007 (Re-print-2010) with updated cost index. However, in the event the estimated cost of the project worked out as per clause No. 7.3 of this Agreement is higher than the preliminary estimated cost, the EA shall submit an additional bank guarantee for balance amount equivalent to differences in the estimated cost as mentioned above. The performance security shall be refunded to EA after completion of defect liability period or extended agreement period which ever is later

The "EA" shall insert suitable conditions in the works contract in appointment of contractors to ensure that contractors/vendors should provide performance guarantee(s) to the Executing Agency for 5% of the value of work/supply orders awarded/placed on the contractors/vendor/supplier and specialized agency (ies) etc. engaged for the execution of project within 10 days from the date of the placement of the work/supply orders. The copy of the same shall be submitted to the owner. The validity of the Bank Guarantee(s) shall cover the entire duration of the Agreement period plus the defect liability period and extended agreement period. The "EA" as well as Owner shall approve the format of the Bank Guarantee (s). The Bank Guarantee(s) shall be released after satisfactory completion of the defect liability period or extended agreement period which

ever is later. If the bank guarantee is invoked, the amount shall be transferred in account of the Owner under intimation to the Owner.

20.0 PROJECT REVIEW

20.1 The "Owner" shall constitute a Review Committee including representative of EA to review the quarterly progress of the activities of the deployed contractors.

20.2 The Owner shall constitute a review Committee to review the quarterly progress of the activities of "EA". The Review Committee will assess the performance of the "EA" and the various activities under the Firm/Fixed Rate Construction Agreements and suggest corrective measures, if required.

21.0 AMENDMENTS TO AGREEMENT

Any amendments or modifications to this Agreement must be in writing and shall be signed by both parties.

Notwithstanding anything contrary to the terms & conditions mentioned above will supersede the similar terms & conditions mentioned in the RFP document.

IN WITNESS WHEREOF, the parties have hereunder signed this AGREEMENT the date first written

For National Small Industries
Corporation Ltd.

For "Name of Executing agency"

Witnesses

Witnesses

1. -----

1. -----

2. -----

2. -----

PROFORMA OF PERFORMANCE BANK GUARANTEE

In consideration of the Owner having agreed under the terms and conditions of agreement dated made between National Small Industries Corporation Ltd. (the Owner) and (hereinafter called the said "Executing Agency") for the work of Construction of "NSIC Office Building" at Plot No. 7/7 & 7/8, Block -CP, Sector-V, Salt Lake, Kolkata. (herein after called the said "agreement") the Executing Agency having agreed to production of a irrevocable bank guarantee for Rs. (Rupees Only) as a Performance Bank Guarantee for compliance of his obligations in accordance with the terms and conditions in the said agreement,

1. We (hereinafter referred to as " the Bank")
(indicate the Name of the Bank)
hereby undertake to pay to the NSIC Ltd.(the Owner) an amount not exceeding Rs.....(Rupeesonly) on demand by the Owner.
2. We (indicate the Name of the Bank) do hereby undertake to pay the amounts due and payable under this guarantee without any demur, merely on a demand from NSIC (the Owner) stating that the amount claimed is required to meet the recoveries due or likely to be due from the said Executing Agency. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs..... (Rupeesonly).
3. We, the said Bank further undertake to pay to the Owner any money so demanded notwithstanding any dispute or disputes raised by the Executing Agency in any suit or proceeding pending before any court or Tribunal relating there to, our liabilities under this present being absolute and unequivocal. The payment so made by us under this guarantee shall be a valid discharge of our liability for payment there under and the Executing Agency shall have no claim against us for making such payment.
4. We(indicate the Name of the Bank) further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said agreement and that it shall continue to be enforceable till all dues of the Owner or by virtue of the said agreement have been fully paid and its claims satisfied or discharged on behalf of the Owner certified that the terms and conditions of the said agreement have been fully and properly carried out by the said Executing Agency accordingly discharges this guarantee.
5. We(indicate the Name of the Bank) further agree with the Owner that the Owner shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said agreement or to extend time of performance by the said Executing Agency from time to time or to postpone for any time or from time to time any of the powers exercisable by the Owner against the said Executing Agency and to forbear or enforce any of the terms and conditions relating to the said agreement and we shall not be relieved from our liability by reason of any such

variation, or extension being granted to the said Executing Agency or for any forbearance, act of omission on the part of the Owner or any indulgence by the Owner to the said Executing Agency or by any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us.

6. This guarantee will not be discharged due to the change in the constitution of the Bank or the Executing Agency .
7. We(indicate the name of the Bank) lastly undertake not to revoke this guarantee except with the previous consent of the Owner in writing.
8. Notwithstanding anything contained herein:
 - i) Our liability under this bank guarantee shall not exceed Rs..... (Rupees.....only)
 - ii) This Bank guarantee shall be valid upto and unless extended by owner.
 - iii) We are liable to pay the guarantee amount or any part there under this Bank Guarantee only and only if owner serve upon us in written claim or demand on us before (date of expiry of guarantee)

Dated the day of 201..... for (indicate the name of the Bank)".

PROFORMA OF BANK GUARANTEE FOR INITIAL DEPOSIT

In consideration of the Owner having agreed under the terms and conditions of agreement dated _____ 2007 made between National Small Industries Corporation Ltd. (the Owner) and _____ (hereinafter called the said "Executing Agency") for Construction of NSIC Office Building at Plot No. 7/7 & 7/8, Sector-V, Salt Lake, Kolkata (hereinafter called the said "agreement") the Executing Agency having agreed to production of irrevocable Bank Guarantee for Rs. _____ (Rupees _____ only) as a initial deposit Bank Guarantee for compliance of his obligations in accordance with the terms and conditions in the said agreement.

1. We _____ (hereinafter referred to as " the Bank")
(indicate the Name of the Bank)
hereby undertake to pay to The National Small Industries Corporation Ltd. (Owner) an amount not exceeding Rs. _____ (Rupees _____ only).
2. We _____ (indicate the Name of the Bank) do hereby undertake to pay the amounts due and payable under this guarantee without any demur, merely on a demand from The National Small Industries Corporation Ltd. (the Owner) stating that the amount claimed is required to meet the recoveries due or likely to be due from the said Executing Agency. Any such demand made by The National Small Industries Corporation Ltd. (the Owner) on the bank shall be conclusive and final as regards the amount due and payable by the bank under this guarantee not exceeding Rs. _____ (Rupees _____ only).
3. We, _____ (indicate the Name of the Bank) further undertake to pay to the Owner any money so demanded notwithstanding any dispute or disputes raised by the Executing Agency in any suit or proceeding pending before any court or Tribunal relating thereto, our liabilities under this present being absolute and unequivocal. The payment so made by us under this guarantee shall be a valid discharge of our liability for payment there under and the Executing Agency shall have no claim against us for making such payment.
4. We, _____ (indicate the Name of the Bank) further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken against the initial deposit as per para 10 (i) of the said agreement and that it shall continue to be enforceable till all dues of the Owner or by virtue of the said agreement have been fully paid and its claims satisfied or discharged on behalf of the Owner certified that the terms and conditions of the said agreement have been fully and properly carried out by the said Executing Agency accordingly discharges this guarantee.
5. We, _____ (indicate the Name of the Bank) further agree with the Owner that the Owner shall have the fullest liberty without our consent and without affecting in any manner our

obligations hereunder to vary any of the terms and conditions of the said agreement or to extend time of performance by the said Executing Agency from time to time or to postpone for any time or from time to time any of the powers exercisable by the Owner against the said Executing Agency and to forbear or enforce any of the terms and conditions relating to the said agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Executing Agency or for any forbearance, act of omission on the part of the Owner or any indulgence by the Owner to the said Executing Agency or by any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us.

6 This guarantee will not be discharged due to the change in the constitution of the Bank or Executing Agency.

7 We, _____ (indicate the Name of the Bank) lastly undertake not to revoke this guarantee except with the previous consent of the Owner in writing.

8. Notwithstanding anything contained herein :

- i) Our liability under this bank guarantee shall not exceed Rs. _____ (Rs. _____ only)
- ii) This Bank Guarantee shall be valid upto _____ and unless extended by owner.
- iii) We are liable to pay the amount or any part there as per claim of owner under this Bank Guarantee only and only if owner serve upon us in written claim or demand on us before _____ (date of expiry of guarantee).

Dated the day of for
_____ (indicate the Name of the Bank).