INTERIOR DESIGNER CONSULTANT AGREEMENT

BETWEEN

BHARATIYA MAHILA BANK

And

Architect's Name.....
Address.....

_____, 2014-15

This Agreement for fit out works is executed at New Delhi on this ..... day of _____2014-15 by and between

Bharatiya Mahila Bank Ltd, a company incorporated and registered under the provisions of the Companies Act, 1956, having its registered office at 9th Floor, IFCI Tower, 61 Nehru Place, New Delhi-110019 represented herein by its authorized signatory, **DGM Branch Expansion**, hereinafter referred to as **"BANK"** (which expression wherever the context permits, be deemed to include its successors, legal representatives and assigns) of the FIRST PART

And

M/s .....**, ARCHITECT/CONSULTANT** having its registered office at ……. Represented herein by its authorized signatory, ..., hereinafter referred to as **"ARCHITECT/CONSULTANT"** (which expression wherever the context permits, be deemed to include its successors, legal representatives and assigns) of the **SECOND PART**

The Bank and the Consultant are collectively referred to as "**Parties**" and individually as "**Party.**"

WHEREAS:

A. The Bank is a public sector bank that focuses on providing banking facilities primarily to women and promotes their economic development empowerment ("**Business**").

B. The Bank is desirous of engaging the services of an agency for planning, designing layouts and supervising interior works in the Branches (hereinafter referred to as the "**Project**") more particularly set out in Schedule II hereto.

C. The Consultant has represented that it has the requisite expertise, experience and resources to undertake and complete to the Bank's satisfaction the Project described in this Agreement.

D. The Bank, on the basis of the above representation of the Consultant, has agreed to engage the services of the Consultant to perform the duties hereinafter mentioned in respect to interior design and other associated services for the Project and the Consultant has agreed to accept the appointment on the terms and conditions as set forth below.

NOW THEREFORE THIS AGREEMENT WITNESSETH AND IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS

Article – 1
Appointment

The Bank hereby appoints and the Consultant hereby accepts the appointment as Consultant to do and perform and execute the jobs and assignment related to the Project hereinafter provided.

The Bank shall in relation to each of the Branches, issue a letter in the form and manner as provided in

Schedule I to the Consultant ("**Work Order**"). Such Work Orders shall form integral part of this Agreement.

If at any time after the commencement of the work the Bank for any reason whatsoever does not require the whole or part or parts thereof as specified in the Request for Proposal to be carried out, the Bank shall give notice in writing of the fact to the Consultant who shall not claim for any compensation or fees whatsoever on account of any profit which he did not derive in consequence of the full amount of the Work not having been carried out. Nor shall have any claim for compensation by reason of any alterations having been made in the original specifications, drawing, designs and instructions that shall involve curtailment of the Work originally contemplated.

Article - 2
Consultant's Responsibilities

1. Consultant accepts the relationship of trust and confidence established between him and the Bank by this Agreement. Consultant agrees to furnish the Services set forth herein in Schedule II, attached hereto and incorporated by reference, and agrees to furnish efficient business administration and superintendence, and to use its best efforts to provide the Services in the best and soundest way and in the most expeditions and economical manner with the interest of the Bank.

2. The Consultant shall be responsible for furnishing the design and all necessary detailed drawings and specifications for the construction of the Project. The scope of the "Project" or "work" is more particularly set out in Schedule II, attached hereto and incorporated by reference.

3. The Consultant shall develop a design and construction phase schedule and get it approved by the Bank. The Consultant will assist the Bank in securing all permits / approvals necessary for the construction of the Project.

4. The Consultant shall keep such full and detailed Contract Documents and records, available for inspection at the site office during business hours.

Article - 3
Associated Services

1. All portions of the Work that the Consultant does not perform with his own forces shall be performed under Associated Services.

2. "**Associated Services**" is a person or entity who has a contractual obligation towards the Consultant to perform any work in connection with the Project.

3. No contractual relationship shall exist between the Bank and any Associated Services. The Consultant shall be responsible for the management of the Associated Services in the performance of their work as well as for all works and services provided or performed by such person or entity. The Consultant shall be responsible to the Bank for acts or omissions of parties or entities performing portions of the Project for or on behalf of the Consultant or any of its Associated Services and / or subcontractors.

Article – 4

Contract Time Schedule

1. The term of this Agreement is from the date of this Agreement till March 31, 2015.

2. The work to be performed under this Agreement shall be commenced and shall be completed on such dates as may be indicated in the Work Order in relation to each Premise. This shall be known as completion of the Project, which date shall be confirmed by a certificate of completion signed by the Bank and the Consultant, in relation to each such Premise.

3. It is hereby agreed by the Consultant that it shall ensure due performance of its obligations and the execution of the Project within the timelines set out herein and agrees that time is the essence of this Agreement and forms the basis of this Agreement.

4. The Consultant undertakes that the Bank can begin to occupy the Branches for the purpose for which it is intended upon completion of the Project.

Article - 5
Consultant's Fee

1. The Bank agrees to pay the Consultant the Total Fee in accordance with this Agreement and the relevant Work Orders.

2. The Total Fee that shall be payable by the Bank to the Consultant shall consist of the Consultancy Fee and the Branch Fee.

3. The Consultancy Fee shall be payable by the Bank to the Consultant in a manner and in accordance with milestones and payment schedule as provided in Article 6 below. The Bank shall not be liable to pay any additional Consultancy Fee in the event, the Actual Branch Value is greater than the Estimated Branch Value. However, the Bank shall pay the Consultant the Consultancy Fee based on the Actual Branch Value, in the event Actual Branch Value is lesser than the Estimated Branch Value.

4. It is hereby agreed between the Parties, that the Branch Fee is payable to the Consultant only on completion of the relevant branch office to the satisfaction of the Bank. The Bank reserves the right to withhold the payment of the Total Fee in full or part, in the event any part of the Project is incomplete or not completed to the satisfaction of the Bank.

5. The Consultant will complete all necessary work set forth in Schedule II, in accordance with the Work Orders.

6. Included in the Total Fee are the following:Salaries or other compensation of the Consultant's employees at the principal office and branch offices doing work in relation to the Project.

   6.1. Cost of any computer-aided drafting or design services.
   6.2. General operating expenses of the Consultant's principal and branch offices and the field office, but only to the extent related to the Project.

6.3. Any part of the Consultant's capital expenses and interest on the Consultant's capital employed for the Project.

6.4. Overhead or previously approved general expenses of any kind related to the Project.

6.5. Fee incurred by the Consultant in relation to any third party engaged by the Consultant, to carry the Work.

7. It is hereby clarified that any fees, expenses or costs incurred by the Consultant in relation to any third party appointed by the Consultant shall be borne exclusively by the Consultant. However, such costs shall be reimbursed to the Consultant by the Bank, if such costs were incurred with prior written consent of the Bank.

8. The Consultant shall pay and be responsible for payment of all taxes (except for service tax), duties, levies, fees or charges in respect of the work as required for the assignment.

9. The Total Fee shall be subject to tax deducted at source at the applicable rate, for which the Bank shall furnish the relevant TDS certificates to the Consultant at the end of the financial year.

Article - 6
Payments to the Consultant

Payments for each of the Work Letter issued to the Consultant shall be made by the Bank to the Consultant as follows:

SR. NO	**Description**	**Percentage of the Consultancy Fee (excluding Service Tax)**
1	After approval of sketch designs and preliminary cost estimates.	50.00%
2	Preparation of necessary drawings and obtaining sanction of the relevant municipal corporation and/ or local authorities and other concerned authorities wherever applicable and submission of priced schedule of quantities and detailed estimates with rate analysis.	
3	Preparation of pre-qualification documents, detailed tender documents, detailed working drawings, inviting tenders and submitting report/ recommendations on the tenders received for award of the job.	

4	Remaining 50% payment (of the completion cost) of the total amount payable on certification of final bills, completion drawings in soft copies and 3 set of hard copies submission of all documents and drawings within 30 days of the receipt of clear invoice	**50.00%**

The Consultant shall keep such full and detailed accounts as are necessary for proper financial management under this Agreement. The Consultant shall maintain a complete set of all books and records prepared or used by the Consultant with respect to the Project. The Consultant's records supporting its performance and billings under this Agreement shall be current, complete and accurate and maintained according to GAAP throughout the term of this Agreement and for a period of 1 year thereafter or longer where required by law. The Bank shall be afforded access to all the Consultant records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda and similar data relating to this Agreement.

Article - 7

Warranties and Representations

The Consultant warrants and represents to the Bank that:

1. The Consultant possesses the technical know-how, trained personnel, all other capabilities and the practical experience required for the performance of the services herein using the highest professional standards and in a fully satisfactory way to the Bank.

2. The Consultant acknowledges that he, prior to submittal of his offer to the Bank, visited, perused the Branches and its surroundings and satisfied himself for presenting the offer.

3. The Consultant shall exercise all reasonable skill and diligence in the performance of the services hereunder and shall discharge all his responsibilities conforming to the recognised international professional standards.

4. The Work shall be performed to the highest professional standards and basis and in accordance with the scope of work.

5. All stages of the Project, along with requisite activities at each stage, shall be completed by the Consultant as per the stipulated timelines after the necessary approval have been given by the Bank. The works throughout the stipulated period of this Agreement shall be carried out with diligence.

6. All the plans, tracings, drawings, designs, calculations, sketches, models, reports, specifications, computer assisted design documents, results of programs, computer discs, diskettes or tapes, charts, photographs, other data compilations, reports (whether in draft or completed) and other documents and the contents of any of them used by or provided by the Consultant in the course of the provision of the services under the Project shall be original in nature and do not infringe or

contribute to infringement of any patent rights, design trademarks or name or other protected or similar rights.

7. Immediately following substantial completion of the Project, the Consultant shall confirm and certify in writing to the Bank that the Project has been executed in accordance with the laws and that none of the substances and materials not permitted by the regulations has been specified for use or used in the construction of those parts of the Project to which the services relate.

8. **Defect Liability Period**:

8.1. For the purpose of this agreement this period shall be a period of 12 calendar months commencing from the completion date during which time the Bank shall bring into the notice of the Consultant, the defects in material, workman-ship, design implementation or a combination of all or any, and the latter will be bound to rectify these defects promptly to the satisfaction of the Bank.

8.2. The Consultant further warrants that the Project work shall be free from material defects / defects not intrinsic in the design or materials required in the Contract Documents.

9. **Completion Date**:
Completion Date is that date which signifies the accomplishment of that stage, in execution of works when:

9.1. The work contracted for are complete in a workman like manner which do not prevent the Branches from being reasonably fit for occupation and effective use by the Bank;

9.2. All debris, waste materials, construction materials, equipment are cleared from the Branches;

9.3. The contractors, sub-contractors and vendors have left the Branches;

9.4. The Branches is inspected or deemed to have been inspected by the Bank at an agreed time interval after the events set out in Sections 1, 2 and 3 above happening or later if the inspection is satisfactorily completed under any existing statute; and

9.5. Exclusive possession is handed over to Bank, ready for possession and use.

10. **Final Completion:**

The Consultant shall notify the Bank when it considers completion of the Works at the relevant Branch has been achieved. The Bank shall promptly conduct an inspection to determine whether the Works in relation to such branch has been completed. The Bank shall promptly compile a list of items to be completed. The Consultant shall promptly complete all items on the list and complete a walk through with Bank following completion of these items. The Works shall not be considered as completed until the Bank certifies in writing that they have been completed. Within 12 days of the completion of Work, the Consultant shall give notice of such completion to the Bank and the Bank shall inspect the Work and if there is no defect in the Work, shall furnish the Consultant with certificate of completion.

Neither final payment nor any remaining retained percentage shall become due until the Consultant submits:

10.1. An undertaking that indebtedness connected with the Project and the Services for which the Bank or the Bank's property might be responsible or encumbered (less amounts withheld by Bank) have been paid or otherwise satisfied,

10.2. Consent of surety, if any, to final payment and, if required by the Bank, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract Documents, to the extent and in such form as may be designated by the Bank.

11. **Tests:** The Consultant shall schedule all required tests, approvals and inspections of the Project or portions thereof at appropriate times so as not to delay the progress of the Work or other work related to the Project. The Consultant shall give proper notice to all required parties of such tests, approvals and inspections.

12. If the Consultant knows or reasonably should know, as a competent and experienced general contractor that any of the Project is required to be inspected or approved by any public authority, or if the Contract Documents require that any of the Project be so inspected or approved, then the Consultant shall cause such inspection or approval to be performed. No inspection performed or failed to be performed by the Bank hereunder shall be a waiver of any of the Consultant's obligations hereunder, or be construed as an approval or acceptance of the Project or any part thereof.

13. **Notice of Delays:** In the event delays to the Project are encountered for any reason, the Consultant shall provide prompt written notice to the Bank of the cause of such delays after Consultant first recognizes the delay.

14. **Penalties for Delays:** If such a delay is caused by purely due to the established lapses from the Consultant's side, the Bank may claim Liquidated Damages to the tune of **1.00%** of the Actual Branch Value from the final payments of the Consultant. The penalty can only be claimed on the basic Branch Value excluding the VAT and the Service Tax components. However, the Bank cannot hold the Consultant responsible for the delays provided the delays are caused due to the reasons like Force Majeure, delayed interim payments, third party delays in delivery, imported goods delivery delays due to transport or customs clearances and likewise.

15. **Estimated Branch Value:** Further, it is mutually agreed between the Bank and the Consultant that:

15.1. No variation from the Estimated Branch Value (as defined below) would be acceptable unless otherwise pre-approved by the Bank in writing or if the Bank has requested in writing to the Consultant to make changes in the Works.

15.2. In the event of any differences between the Estimated Branch Value and the Actual Branch Value, the Consultant, shall provide in writing to the Bank, reasons for such differences.

15.3. Notwithstanding anything in this Agreement or any other Contract Document, the Bank reserves the right to withhold the last installment of the Consultancy Fee or any other payments that may be payable to the Interior Designer under this Agreement, till such

time that it is satisfied with the reason provided by the Consultant under clause 15.2 above.

15.4. The Bank shall bear any cost overruns if the Bank orders changes in the Work in writing to the Consultant. All such changes in the Work shall be formalized in a change order and approved in writing by the Bank prior to the start of any Work pursuant to such change order. Any such requests for changes in the Work shall be processed in accordance with this Article and shall be part of the fees agreed herein.

15.5. Notwithstanding anything to the contrary in Article 6 above, the Consultant shall provide the Bank with a proposal covering the additional work and/or the work to be deleted. This proposal will be itemized for the various components of work and segregated by labor, material, and equipment in a detailed format satisfactory to the Bank. The Bank will require itemized change orders on all change order proposals from the Consultant, associated services, and sub-subcontractors regardless of tier. Details to be submitted will include detailed line item estimates showing detailed materials quantity take-offs, material prices by item and related labor hour pricing information and extensions (by line item or by drawing as applicable).

Article – 8
Submission to Regulatory Authorities

1. The Consultant shall be responsible for obtaining all necessary approvals, and shall prepare all requisite documentation for submissions required in respect of licenses, permits, authorizations or otherwise, as may be required for the execution of the Project. The Consultant shall attend all meetings with the concerned authority and provide all clarifications and make modifications as required in relation to the documents submitted for such licenses, permits and authorizations.

2. The Consultant shall bring to the attention of the Bank all notices required under the law to be given to any authority and pay to such authority, or to any public office all fees that may be properly chargeable in respect of the Project, and lodge the receipts with the Bank for reimbursement to Consultant.

Article – 9
Ownership of Documents and Copyright

1. The Consultant specifically confirms and acknowledges that the designs, documents and drawings being prepared to meet the requirements of Bank would be its own independent work and shall be solely responsible for implementing the same as per the Project.

2. The Consultant is preparing the designs, documents and drawings to the Bank for valuable consideration payable under this Agreement. The ownership, intellectual property rights and copyrights ("**IPR**") in respect of all the designs, documents and drawings as well as in any articles, models and works prepared by it by any process or means, whether manual, mechanical, separate or combined, in performance of its obligations under this Agreement, shall always vest with the Bank. The Consultant hereby agrees and undertakes that it shall not claim any right or interest in the IPR vesting, in present or in future, in the Bank.

3. The Consultant shall use only legal and licensed software and shall deliver to the Bank all drawings, plans, calculations and other works made by the Consultant in connection with this Agreement at the end of the Project. These drawings should include mechanical, electrical, plumbing, furniture, finishes, networking and any other drawings/requests from the Bank's

project manager / Bank or government authorities.

4. The Consultant hereby absolutely assigns any and all rights it may be deemed to have by law or otherwise in and to the ownership of said designs, documents and drawings as well as in any articles, models and works prepared by it contemplated hereunder, or any of its subcontractors for the Project to the Bank, whether or not the Project covered thereby is executed. The Bank grants the Consultant a license to use the drawings and documents solely for the Project

5. The Consultant further acknowledges that it shall sign disclaimer notices, affidavits and/or any other document as may be required by the Bank for purposes of getting the said IPR registered under the relevant provisions of law in its name.

6. **The Consultant undertakes that it shall not use the said scheme, design, document, drawing or any model or art-work prepared by it in connection with any other work being taken up or may be taken up at any time in future for any other person.**

Article - 10
Confidentiality

1. The Consultant hereby unconditionally agrees that neither the Consultant nor its employees nor any Associated Services or sub-contractor nor anyone else related/associated with it, at any time during the currency of this Agreement or at any time thereafter, will not use, misuse, duplicate divulge or part with, directly or indirectly in writing or verbally, for consideration or otherwise any information, trade secrets, process of construction, details of contractors, technical information, calculations, know-how or any other information confidential or otherwise concerning the Branches or interior and other works carried out in the Branches or affairs of the Bank, which may have come to the knowledge of the Consultant at any point of time during its association/ agreement with the Bank.

2. The Consultant nor its employees nor any of sub-contractor nor anyone else related/associated with it shall not communicate or transmit or reveal any information relating to the designs, drawings, documents, procedures, lists, manuals, bulletin, forms that belong to the Bank that may come their hands by virtue of this Agreement, to any third party without the prior written consent of the Bank and binds itself to keep them strictly confidential. Further, the Consultant agrees that the provisions of this Agreement are strictly confidential and will not be revealed or divulged to any third party without the prior written consent of the Bank

Article – 11
Relationship between Parties

1) The relationship between the Bank and the Consultant shall be that of principal and principal and not principal and agent or employer and employee or partnership and the Bank shall not be liable for the acts of the Consultant or for any amounts due and payable by the Consultant to any third party nor shall the Consultant have any authority to bind the Bank in any way. None of the employees of the Consultant shall be deemed to be employees of the Bank. The Consultant shall remain liable towards its employees for compliance of all employee related laws and hereby indemnifies the Bank in this regard.

2) The Consultant acknowledges that it, and not the Bank, shall be liable for any claim or dispute that may arise from or in respect of all personnel directly or indirectly employed by Consultant for performance of its obligations under this Agreement. The Consultant shall comply with or cause to be complied with the provisions of Contract Labor (Regulation and Abolition) Act, 1970 and other legislations made by the State and Central Governments from time to time in regard to payment of wages, wage period, deductions from wages, recovery of wages not paid and deductions unauthorisedly made, maintenance of wages cards, publication of scale of wages, Employer's contribution under the State Insurance Scheme and other terms of employment, inspections and submissions of periodical returns and all other matters of like nature.

3) The Consultant further acknowledges that if at any time any liability or obligation (financial or otherwise) is imposed upon the Bank under the provisions of any legislation enactment and / or schemes, rules, regulations or bye-laws made thereunder, in respect of any personnel directly or indirectly engaged by the Consultant as aforesaid, the Consultant shall without demur reimburse the Bank on demand made to this effect, any amount paid or financial liability suffered or incurred by the Bank under or by the virtue of such provisions. The Bank is entitled to adjust any amount paid or incurred by the Bank against such sums paid to the Consultant and to deduct the same from the fees such sums.

4) On successful completion of Project under this Agreement or on termination of the Agreement, the Consultant shall issue directions to its employees/ personnel and sub-contractors and/or their employees etc. to stop entering the Branches and remove any equipment installed by it at the said Branches and also clear all the bills. If any amount remained outstanding or payable, the Bank shall be within its right to make payment thereof and deduct the same from fee payable to the Consultant under this Agreement.

Article – 12
Damage to the Branches

1. While carrying out any works under this Agreement by the Consultant shall not tamper with any part of the Branches including the building structure, electrical, water supply and drainage systems for any reason whatsoever without the prior permission from the owner of the Branch/developer of the building in writing.

2. The Consultant undertakes and confirms that if any damage is caused to the building structure or property of the Bank, and/or the Branches the Consultant shall compensate the loss so suffered by the Bank.

Article – 13
Force Majeure

1) Except as herein expressively provided to the contrary, neither Party to this Agreement will be liable for any failure of or delay in the performance of its obligations or the exercise of its rights hereunder or for any loss or damage (including indirect or consequential damages) therefore, if such performance or exercise is delayed in whole or in part by reason of Force Majeure.

2) Examples of Force Majeure include, without limitation, acts of nature, perils of the sea, shipwrecks, fires, floods, atmospheric disturbances, storms, cyclones, earthquakes, epidemics,

acts of god, wars, riots or any other occurrences beyond the control of the party affected by such occurrences and which by the exercise of reasonable diligence, said party is unable to expect, prevent or provide against.

3) The Party affected by reason of Force Majeure from the proper performance of the Project shall notify the other Party in writing within 7 days from such occurrence of the circumstances constituting the Force Majeure and of the obligation or performance which is thereby delayed or prevented.

4) Any effects from fluctuations in national and international economies are specifically excluded from this Article.

5) Either Party may treat this Agreement as terminated should the Force Majeure Events continue for a period exceeding 15 days or such other period as Parties may mutually agree upon.

Article – 14

Dispute Resolution and Arbitration

1) If any dispute or difference of any kind whatsoever shall arise between the Bank and the Consultant in connection with or arising out of the Agreement or the execution of the works, then the Parties shall attempt to resolve it amicably good faith negotiations. If the disputes are not resolved within 60 days, either party shall be entitled to refer the dispute to arbitration to be conducted in accordance with the Arbitration & Conciliation Act, 1996 and the rules framed thereunder.

2) The tribunal shall be comprised of three (3) arbitrators, out of which both parties will appoint one arbitrator each and the two arbitrators together shall appoint the third arbitrator who shall be the presiding arbitrator. The seat of arbitration shall be New Delhi, India and the language of the proceedings will be English. The award of the arbitral tribunal shall be final and binding on parties. Nothing shall preclude either party from seeking interim relief from a court having jurisdiction to grant the same.

3) Unless otherwise agreed in writing, the Consultant shall carry on the Project and maintain the schedule as set out in the respective Work Letter during any arbitration proceedings if deemed fit by the Bank.

Article – 15

Termination

1). Subject to the provisions of this clause, the Agreement shall remain in force and effect as on and from the execution of this Agreement until the date of Final Completion of the Project.

2). Without prejudice to any of the rights and remedies of the Parties:

2.1 If the Consultant:

i). suspends the performance of the services under the Project for a period of 7 days or more (except due to any event of Force Majeure); or

ii) Fails to complete any stage of work within the time frame specified in this Agreement; or

iii). commits any breach of its duties or obligations under this Agreement, the Bank may give to the Consultant notice in writing specifying the default and requiring its remedy; and in either case, if, within seven (7) days of receipt of a notice to cure the said breach / default, the Consultant fails to commence and satisfactorily continue correction of the default set forth in the notice to cure, the Bank may notify the Consultant that it intends to terminate this Agreement for default / said breach absent appropriate corrective action within fourteen additional days. After the expiration of the additional fourteen (14) day period, the Bank may terminate this Agreement by written notice absent appropriate corrective action. Termination for said breach / default is in addition to any other remedies available to Bank.

3). If the Bank's cost arising out of the Consultant's failure to cure, including the cost of completing the work and reasonable attorney fees, exceeds the projected costs, the Interior Contractor shall be liable to the Bank for such excess costs. If the Bank's costs are less than the completed work, Bank's liability to the Consultant shall be limited to reimbursement to the Consultant of that portion of the unpaid work which is earned, due and payable to Contractor as of the Date of the termination.

4). Either Party may terminate this Agreement by giving a written notice terminating the Agreement if Force Majeure continues beyond 15 days.

5). The Bank may, at any time, and with fifteen (15) days written notice, terminate the Contract for the Bank's convenience and without cause.

6). Upon receipt of written notice from the Bank of termination, the Consultant shall:

1.1. Cease operations as directed by the Bank in the notice;

1.2. Take actions necessary, or that the Bank may direct, for the protection and preservation of the Work; and

1.3. Except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

7). In case of such termination for the Bank's convenience, the Consultant shall be entitled to receive payment for Work executed as of the termination date.

8). Upon any termination under Section 2 and 3 above, the Consultant shall be deemed to have waived all claims against Bank for profits, loss or damage on or with respect to the uncompleted Project. The Consultant shall indemnify, defend, protect and hold owner of the Branches and the Bank harmless against any liability, claim, damage, loss, cost (including reasonable attorneys' fees) or penalty which may be threatened or may in fact arise during the period of any failure of. The Consultant to perform its contractual duties here under.

8.1). The Consultant shall indemnify and keep the Bank indemnified against all losses, damages, costs, expenses, proceedings, liabilities, claims, costs and expenses of whatever nature which may result or which the Bank may suffer, incur or sustain arising in any manner whatsoever out of any act, omissions, misconduct, neglect or default of the Consultant or its agents or employees or representatives in respect of the Branches / Project or for breach of any of the terms of this agreement or in any manner whatsoever.

8.2). The Bank shall not be liable in any manner including for any pure economic loss, loss of profit, loss of business, depletion of goodwill, in each case whether direct or indirect or consequential or any claims for consequential loss compensation whatsoever which, arise out of or in connection this agreement or in any manner whatsoever.

9). If the Agreement is terminated as a result of a breach of this Agreement by the Consultant, the Bank shall not be obligated to pay any further sum or fees to the Consultant until the Consultant has assessed the amount of loss, damage, damages, costs and interest the Bank is entitled to as a result of the Consultant's failure to remedy the default or the breach of this Agreement. If the amount of the loss, damages, cost and interest is more than the amount of the sum or fees owing to the Consultant, the total of the loss, damage, cost and interest shall be a debt due from the Consultant to the Bank, which debt shall be paid by the Consultant within 10 days of any request made by the Bank to the Consultant for payment. In addition, the Bank shall be entitled to claim and recover from Consultant all such extra amounts that the Bank may have to spend due to such termination and engagement of third party to complete the Project

10). The liabilities and obligations of both Parties shall cease on expiry or earlier termination of this Agreement but without prejudice to the then accrued rights or remedies of either Party.

Article – 16
Set off

1 All damages, costs, charges, expenses, debts or sums for which the Consultant is liable to the Bank under any provision of the Agreement may be deducted or set off by the Bank from monies due to the Consultant under this Agreement and the Bank shall have the power to recover or set off any balance not so deducted from monies due to the Consultant under any other contract between the Bank and the Consultant.

2 All damages, costs, charges, expenses, debts or sums for which the Consultant is liable to the Bank under any provision of any other contract between the Consultant and the Bank may be deducted or set off by the Bank from monies due to the Consultant under the Agreement.

Article - 17
Indemnity

1 The Consultant hereby agrees to hold the Bank and its officials harmless and to indemnify and defend them, jointly and severally, against any and all losses, claims, actions, damages, liabilities judgments, penalties or other expenses (collectively, "**Claims**") that may arise out of or in consequence of the (i) conduct of the Consultant and/or any of its personnel including but not limited to its employees, Associated Services, sub-contractors or (ii) non-performance of any

obligations to be performed by the Consultant, and/or its employees, Associated Services, sub-contractors under this Agreement or (iii) construction and maintenance of works, (including but not limited to loss or damage to the property and/ or injury or death/disablement of employee, servants or agents of any Associated Services and/ or sub-contractor(s) and/or Bank) or (iv) failure to comply with applicable law .

Article - 18
Governing Law

1. This Agreement shall be governed and interpreted in accordance with the laws of India and courts of New Delhi, India shall have exclusive jurisdiction.

Article - 19
Stamp duty

1. The Consultant shall be solely liable for payment of stamp duty and all costs incidental thereto in respect of this Agreement

Article - 20
General Provisions

1. This Agreement sets forth the entire understanding and agreement of the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, arrangements and understandings thereof.

2. Neither Party may assign this Agreement or delegate any of its rights or obligations, in whole or in part, without the other party's written consent. Any attempt to assign this agreement without such consent shall be null and void.

3. Any notice required or permitted to be given under this Agreement shall be in writing, and may be given by delivering or mailing by registered mail, postage prepaid or by facsimile, e-mail or other graphically reproduced form of telecommunication.

4. No promise, agreement, representation purported modification to this Agreement shall be of any force or effect between the parties unless in writing and signed by both parties.

5. Both Parties shall execute this Agreement in accordance with acknowledged business practices and good faith. Such obligation shall extend to include all activities rendered as part of the Agreement requirements under generally accepted business practices**.**

6. The failure on the part of either Party to this Agreement to exercise its rights hereunder shall not be deemed to, or operate as, a waiver, a release, or relinquishment of any rights or powers conferred under this Agreement.

7. No acts, omissions, reviews, approvals or other actions hereunder by Consultant shall function to isolate any party from liability to Bank, Consultant or any other party.

8. The Consultant agrees not to make any use of the Bank's brand, name, trading styles, logos,

headed notepaper, trademarks, service marks or any other intellectual property in any manner whatsoever without the prior written consent of the Bank.

9. Any and all amendments or modifications to this Agreement must be written and signed by the Parties.

Article - 21
Copies of Agreement

This Agreement may be signed in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

Article - 22
Assignment

No right or liabilities under this agreement shall be assigned by the Consultant without the prior written consent of the Bank.

Article - 23
Limitation of liability

Save and except as provided in herein, neither Party shall be liable to the other for any lost revenue, lost profits or other incidental or consequential damages based on any breach or default under this Agreement.

Article - 24
Survival

In the event of the termination of this Agreement in whole or in part, the Clause 10 (*Confidentiality*), Clause 17 (*Indemnity*) and Clause 23 (*Limitation of liability*) shall survive and continue in effect and shall ensure to the benefit of and be binding upon both parties, their successors and assigns.

Article - 25
Severability

Each of the restriction is separate and severable from other. Any provision which is invalid or unenforceable, shall be ineffective to the extent of such invalidity or unenforceable, without affecting in any way the remaining provision hereof.

Article - 26
Further Assurances

Each party agrees to execute, acknowledge and deliver such further instruments and to do all further similar acts as may be necessary to carry out the purposes and intent of this Agreement.

Article - 27
Notices

1. For any purposes under this Agreement (including that of any judicial service), each Party elects its domicile according to clause 27(2) below.

2. Unless otherwise provided for in this Agreement, all communications or notices required or permitted under this Agreement shall be in writing and in English language and shall be deemed to have been duly and validly given in the case they are delivered by hand, given or made by letter return receipt, overnight courier, fax or email to the addresses, fax numbers or email addresses below:

If to the Bank:
Address:9th Floor, 61, IFCI Tower, Nehru Place, New Delhi - 110019
Attn of: ….....
Fax: 011-26282184
Telephone: ….....
Email: ….....

If to Consultant:
Address: M/s .....
.....
.....
Attn of: .....
Fax: ….....
Telephone: ....
Email: .....
or to any other address and/or fax number and/or email address as each of the parties may from time to time communicate to the other party by a written notice of 5 days.

3. Any notice served, or document delivered to the addresses, fax numbers or email addresses above shall be effective at the date of receipt, the latter being the date in which the notice or document is hand delivered, or the date set out in the return receipt, the courier receipt, the transmission fax report or the email delivery receipt, as appropriate.

4. Unless otherwise provided for in this agreement, any operative communication between the parties on a day-by-day basis in relation to the services to be provided hereunder may be via e-mail to the addresses of the authorised representatives of any party and the same shall be deemed to be duly and effectively made.

5. Any amendment and/or supplement to this agreement effected by fax or by email, shall be confirmed by letter.

6. The Consultant would provide Bank with prompt written notice of any change in its name, ownership, or form of organization. The Consultant would also provide the Bank with prompt written notice of the occurrence of any event, which could jeopardize or materially impact its ability to perform its obligation under this agreement in a timely manner.

Article - 28
Good faith and practice

Notwithstanding anything contained in this Agreement, the Consultant shall conduct its obligations as an agent in good faith and exercise reasonable care as per good industry practice and for removal of doubt the degree of care shall in no way less than what it is required as if it were a principle. While

acting as an agent the Consultant shall be responsible to the Bank for all acts of negligence, and for consequences emanating from lack of exercise of reasonable care. The Consultant is bound to supervise the proper execution of contracts entered by it on behalf of the Bank as its agent.

Article - 28
Conflict of interest

The Consultant shall strictly avoid conflicts with other assignments/jobs or their own corporate interest and shall disclose to the Bank all actual and potential conflicts that exist, arise or may arise in the course of performing the services after it becomes aware of that conflict.

Article - 29
No partnership

Nothing in this Agreement shall be construed as constituting a partnership or joint venture between the parties.

Article - 30
Non-exclusivity

The Bank shall have the right to avail services from other Consultant will not confer any exclusive rights to the Consultant for services rendered or to be rendered.

Articles 31
Definitions and Interpretation

1. Definitions :-

Wherever used in this Agreement or any schedule hereto, unless the context otherwise requires, the following capitalised terms have the following meanings:

"**Actual Branch Value**" shall mean all actual costs incurred by the Bank in relation to completion of the all works in relation to the relevant Branch till such time exclusive possession of the Branch is handed over to the Bank.

"**Agreement**" shall mean this agreement dated …..... executed between the Bank and Consultant.

"**Associated Services**" shall have the same meaning as assigned to such term in Article 3 of this Agreement.

"**Branches**" shall have the meaning as assigned to such term in this Agreement.

"**Branch Fee**" means the fee payable by the Bank to the Consultant in relation to the supervisory services, certifying contractors' bills till the Works are completed and issuance of a final completion certificate by the Bank on the completion of such branch.

"**Consultancy Fee**" shall mean such fees that shall be payable by the Bank to the Consultant in accordance with Article 6 of this Agreement and shall be a 3 % of Estimated Branch Value, as might be indicated in the relevant Work Order.

"**Contract Documents**" shall mean this Agreement, the Work Orders, the Proposal and the RFP.

"**Estimated Branch Value**" shall mean the estimated costs to be incurred in relation to the Works of a branch of the Bank and as indicated to the Bank by the Consultant.

"**Force Majeure**" shall have the meaning as assigned to such term in Article 13 of this Agreement.

"**IPR**" shall have the meaning as assigned to such term in Article 9 of this Agreement.

"**Project**" shall have the meaning as assigned to such term in this Agreement.
"**Services**" means services as defined in Schedule II of this Agreement.

"**Term**" shall mean the term of this agreement, i.e. starting from the date of this Agreement and upto March 31, 2014.

"**Work**" shall include the work to be done as specified in the Services, including, but not limited to planning and supervising interior works of branches of the Bank.

1. **Interpretation**

(a) A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns.

(b) The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.

(c) A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.

(d) Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

(e) Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

(f) A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

(g) A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.

(h) A reference to **writing** or **written** includes faxes and e-mails.

(i) Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.

(j) A reference to "this Agreement" or to any other agreement or document referred to in this Agreement is a reference to this Agreement or such other document or agreement as varied

or novated (in each case, other than in breach of the provisions of this Agreement) from time to time.

(k) References to clauses and Schedules are to the clauses and Schedules of this Agreement and references to paragraphs are to paragraphs of the relevant Schedule.

(l) Any words following the terms **including**, **include**, **in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

IN WITNESS THEREOF the duly authorized and appointed representatives of the parties set their hand on this Date of Signing.

The First Party	**The Second Party**
Bharatiya Mahila Bank Bank	_____ Consultant
---------- Signed by **Name:** Designation:	---------- Signed by **Name:** Designation
Signing on, Date:	Signing on, Date:
Witness - 1	**Witness - 2**
---------- Name: Address:	---------- Name: Address:
Telephone no: Email:	Telephone no: Email:

Schedule I

Form of Intimation of Work in relation to the Branches

To

.....

.....

.....

Sub: Interior designing and Supervision of work at our branch located at ….....

We refer to the Consultant agreement dated …..... executed between us and the M/s …..... ("**Agreement**"). We are pleased to inform that you have been awarded the job of architectural consultancy including joint measurement of the premises for carpet area certification (if required), framing estimates, preparation of layout plans, tender documents, preparation of comparative charts/ statements, supervision & monitoring aimed at timely completion with quality, related correspondence, contractors billing, including the construction of the strong room, if envisaged, with its certification as per RBI guidelines etc. for the following branch;

S. No.	Branch and Address	Estimated Branch Value
1	**Address of the Site:**	-

Kindly take note that the work assigned to you requires time-bound completion; hence you are advised to submit the required layouts, estimates and tender documents, not necessarily in that order, as per schedule mentioned above. You are, therefore, requested to visit the designated site immediately after receipt of this letter.

Please also note that complete job profile may require civil works by landlord/contractor, interior

furnishing, electrical work, installation and commissioning of ACs / LAN cabling, installation of security equipment etc. by different contractors/ agencies. You are required to plan the entire job in such a manner that proper co-ordination amongst the agencies is maintained and one agencies job does not create conflict / obstacle in another's agencies performance.

Please return the duplicate of this letter, duly signed and stamped, in token of your unequivocal acceptance of terms and conditions as enumerated hereinabove. Capitalised terms used herein but not defined shall have the same meaning as assigned to such term in the Agreement.

On behalf of the Bank;

Authorised Signatory

ACKNOWLEDGED AND CONFIRMED

Authorised Signatory
Date:

Schedule II *Scope of Work*

Scope of works as Consultants:

The scope of work for the Interior Designer Consultant/ Firm includes the following:

1. Design and Documentation:

a) To inspect the site so as to ascertain the proposal of the work as per the requirement of the Bank and also to finalize the required provisions in the proposal.

b) To prepare design drawings, presentations and preliminary estimates based on our detailed requirement, including all the required changes and amendments,

c) To prepare detailed specifications of the Electrical accessories/works so as to comply the relevant IS Standards/local guidelines. To prepare tender/quotation document and taking approval from the Bank.

d) All soft and hard copies of the drawings, presentations, estimates, tender/quotation documents and all original copies of the approval for this project will be submitted to us as soon as prepared or obtained.

e) Soft copies of the As-built drawings along with 3 sets of the hard copies shall be submitted to us prior to or along with your final invoice.

f). Planning, preparing layout plans, elevations, sections and perspectives along with computer generated 3-D images and providing the Bank with architectural drawings, preparing preliminary as well as detailed working drawings, specifications, bill of quantities, preliminary & detailed estimates for:

- Interior works of the Bank branches
- Internal electrical works, fixtures & installations
- Air-conditioning and ducting

Any other services / systems as may be found necessary for functional requirement of the branches.

g). Preparing pre-qualification documents, detailed tender documents, complete with articles of agreement, special conditions, conditions of contract, specifications, bill of quantities etc. for appointment of contractors for furniture & furnishings, fixtures, paint and panel works, electrical works, air conditioning works etc with the approval of the Bank. Also assisting the Bank in finalizing the appointment of contractors.

2. Nominated Consultants

a). All required Consultants will be appointed by you in consultation with us. During the execution stage no change of consultant will be permitted without our prior approval, in case where such approvals are given, proper release

letter will have to be submitted after paying all dues to consultants, failing which bank will pay such dues to the consultant/s directly and recover the same from the fees payable to you.

b) You shall not authorize any deviations or substitutions in the work without working out the financial implication, if any, to the contractor and without obtaining prior approval of the Bank.

3. Approvals

The scope shall also include obtaining statutory permissions of all nature from Municipal authorities & statutory authorities and fulfilling the conditions stipulated by them.

4. Execution

a) To prepare detailed working drawings, execution drawings, tender/quotation documents and detailed project schedules.

b) Prepare Budgetary Estimates covering the cost of all major head of Work, contingencies etc. for approval of the Bank.

c) Prepare a project plan for execution of the work including activity chart and timelines to ensure that the Work is completed in shortest possible time. The project plan needs to be approved by the Bank.

d) Inviting tenders for all trades and submitting assessment reports thereon, together with recommendations specifying abnormally high and low rated items. Preparing contract documents and getting them executed by the concerned contractors. (All commercial conditions shall be evaluated in financial terms instead of merely stating whether a condition may be accepted or not. When conditions are not susceptible to evaluation, the alternative procedure of calling all the tenderers for negotiation and asking them to submit a final bid based on the terms and conditions acceptable to the Bank may be adopted.)

e) Assuming full responsibility for supervision and proper execution of all work by general and specialist contractors who are engaged in connection with the work including control over quantities during the execution to restrict variation, if any, to the minimum.

f) Supervising the civil works, undertaken by the property owners i.e construction of Strong Room and ATM room etc..

5. Payment

a). Certify interim and final payments as required, carry out periodic supervision, submit weekly progress report and hold weekly progress meetings on site/and/or at our offices to monitor and complete the project

in the best professional manner within the stipulated time and cost. It is clearly advised that notwithstanding assignment for execution hereby consented to the right of the bank to modify, terminate and bring to an end the execution hereby assigned at any state or at any time shall be permanent.

b) Interim payments to the contractors will be certified within one week from the date of receipt of the contractor bills and final bill will be certified within a fifteen days from the date of receipt of the contractor bill. In case, there are any genuine delays in this process, on account payment may be recommended within one week of receipt of the bill in consultation with the Bank. Bank's decision in such cases will be final and binding. Bank will try to honor your certificate but not bound by it.

c). Interior Designer Consultant/ Firm shall assume full responsibility for all measurements certified by them.

d). The Interior Designer Consultant/ Firm shall be wholly and solely responsible for the successful completion of the work within the specified timelines and in all respects consistent with safety and functional suitability from the inception upto the handing over for occupation to the Bank.

e). On completion, the Interior Designer Consultant/ Firm shall submit all originals of completed drawings to the Bank including a brief report on the Project. One soft copy in CD of the completed drawings shall also be submitted.

f). The Interior Designer Consultant/ Firm shall assist the Bank in all arbitration proceedings between the contractors and the Bank and also defend the Bank in such proceedings.

6. Cost Control and compliance with the IBA and CVC guidelines

<u>The sequence and the method will be as under:</u>

Submission of the detailed estimate and two bid systems Tender/quotation Document for our approval '

Invitation of the tender/quotation will be as per the prevailing practice of the Bank, This shall through calling quotations from Civil Contractors/ empanelled furnishers. Tenders/quotations will be received by us and will be opened in your presence along with our representatives.

Invitation of Tenders/quotations analysis should accompany your recommendation for the selection of Contractor/s with a confirmation that the same contractor/s has/have submitted their tender/quotations in accordance with the terms & conditions and the specification of the Tender/quotations and will be able to execute the work within the scheduled time and the cost which is the essence of this work. Similarly, if any or all are rejected, proper justifications shall be provided by you for their rejection.

Awarding of the work will be on the **lowest quote basis (L1)**.

All payment certificates will be issued by you only after thorough checking of the bills and measurement on site except in case of on account payments if agreed with us in advance.

All final certificates will be submitted along with the defect liability undertakings, warranties /guarantees from respective contractors and suppliers.

7. Contractual and Legal

a) Between M/s Creative Visions and Bank

You will enter into legal agreement with the Bank if required by the Bank. For any further clarification regarding the scope of the services to be rendered by you if that have not been covered above, relevant guidelines laid down by the Council of Architecture or Indian Institute of Architects will be relied upon. All disputes with you if not resolved mutually, will be subject to Arbitration as per Arbitration Act prevailing during the validity of the contract. Bank will monitor your performance on the jobs assigned to you. In the process if Bank finds that you have failed to exercise due diligence which may cause any uncalled for exposure. In terms, of Cost, Time or Legal action or undue delay in the completion of the project, Bank will be entitled to terminate your engagement on completion of any stage or stages of work so assigned without being bound to give reason therefore. This project as also all or any-other projects assigned to you. In addition, depending on the gravity and severity of the case, Bank may put you on a holiday list for a specific or indefinite period. In such cases, Bank will assess your performance, settle your dues by way of payrnents or recoveries as it may deem appropriate. In all such cases, where there is already a breach of contract, payment terms stipulated in Annexure A will not apply.

The scope of service and assignment described above is general but is not exhaustive i.e. does not mention the entire incidental services required to be carried out for complete execution of the Work. The services shall be provided all in accordance with true intent and meaning, regardless of whether the same may or may not be particularly described, provided that the same can be reasonably inferred there from. There may be several incidental services & assignments, which are not mentioned herein but will be necessary to complete the Work in all respects. All such incidental services/assignments thereof which are not mentioned herein but are necessary to complete the Work shall be deemed to have been included in the rate quoted by the Interior Designer Consultant/Firm. Nothing extra shall be payable beyond the rate quoted by the Interior Designer Consultant/ Firm.

Bank can curtail the scope of your work or part of the work proposed in the tender/quotations as per the requirement of the Bank. And in such cases your fee shall be calculated on the basis of the revised cost of the work.

b) Dispute with the other agencies involved in the project

You will render all the necessary assistance, including handing over of some or all documents pertaining to the project in case any legal or Arbitration proceedings take place between the bank and any of the contractors or suppliers not involving you.