



AAI CARGO LOGISTICS & ALLIED SERVICES COMPANY LIMITED

CHQ DELHI

Ebid No- *[Insert Details]*

Tender Document

for

**“SELECTION OF LICENSEE FOR DEVELOPMENT OF A NEW
CARGO TERMINAL AT KOLKATA AIRPORT ON DESIGN, BUILD,
FINANCE, OPERATE AND TRANSFER BASIS”**

Acknowledgement:

This document has been purchased on the express understanding that it will be used only for the sole purpose of participating in the Bidding Process for the selection of a Licensee for Development of a New Cargo Terminal at Kolkata Airport on DBFOT basis and must not be used for any other purpose. This document must not be passed to a third party except professional advisers assisting with the submission of bids. The document shall not be reproduced or communicated, in whole or in part, and its contents shall not be distributed in written or oral form without written permission from the issuing authority.

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DISCLAIMER

The information contained in this Tender Document or subsequently provided to Bidder(s), in documentary form, by or on behalf of AAICLAS or any of its employers or advisors is provided to Bidder(s) on the terms and conditions set out in this Tender Document and such other terms and conditions subject to which such information is provided.

This Tender Document is neither an agreement nor an offer by AAICLAS but an invitation to the prospective Bidders or any other person. The purpose of this Tender Document is to provide interested parties with information that may be useful to them in the formulation of their Bid pursuant to this Tender Document. This Tender Document includes statements, which may reflect various assumptions and assessments arrived at by AAICLAS in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This Tender Document may not be appropriate for all persons, and it is not possible for AAICLAS, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this Tender Document. The assumptions, assessments, statements and information contained in this Tender Document may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own assessment, due diligence and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this Tender Document and obtain independent advice from appropriate sources.

Information provided in this Tender Document to the Bidder(s) is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. AAICLAS accepts no responsibility for the accuracy or otherwise for any interpretation or opinion of the law expressed herein.

AAICLAS, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Bidder, under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this Tender Document or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the Tender Document and any assessment, assumption, statement or information contained therein or deemed to form part of this Tender Document or arising in any way for participation in the Bidding Process.

AAICLAS also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this Tender Document.

AAICLAS may, in its absolute discretion but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this Tender Document.

The issue of this Tender Document does not imply that AAICLAS is bound to select Bidder or to appoint the Selected Bidder or Licensee, as the case may be, for the Project and AAICLAS reserves the right to reject all or any of the Bids without assigning any reasons whatsoever.

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The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by AAICLAS, or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder and AAICLAS shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by the Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bidding Process.

The Bidder shall be wholly responsible for any statements/documents/ records, etc. submitted pursuant to this Tender Document and ensure accuracy thereof. AAICLAS or its employees or its advisors shall accept no responsibility or liability for any deficiency that may be made by the Bidder. Any false declaration made by the Bidder shall invite action as may be decided by AAICLAS including termination, debarring, forfeiture of Bid Security and/or Performance Security. The Bidder shall also indemnify AAICLAS, its employees and its advisors from actions arising out of this Tender Document.

1. DEFINITIONS

In this Tender Document, unless the context otherwise requires, the following words, expressions and abbreviations shall have the following meanings:

“**AAI**” shall have the meaning as defined in Clause 2.1.1.1 of this Tender Document;

“**AAICLAS**” or “**Authority**” shall have the meaning as defined in Clause 2.1.1.1 of this Tender Document;

“**AAICLAS Designate**” or “**Authorised Representative**” means AAICLAS authorised entity or person designated/authorised by AAICLAS;

“**Accounting Year**” means the financial year commencing from the 1st (first) day of April of a calendar year and ending on 31st (thirty first) day of March of the next calendar year, provided that, for the purposes of the 1st (first) Accounting Year, such period shall commence from the date of the COD or Commencement Date, whichever is earlier and end on the immediate following 31st (thirty first) of March and for the last Accounting Year of the License Period, such period shall commence from 1st (first) day of April and shall end on the last day of the License Period;

“**Additional Extension**” shall have the meaning assigned to it in Clause 2.2.5.5 of this Tender Document;

“**Affected Party**” shall have the meaning as set out in Clause 19.1 of this Tender Document;

“**Affiliate**” shall mean, in relation to the Selected Bidder/Licensee (as the case may be), a person who Controls, is Controlled by, or is under the common Control with such Selected Bidder/Licensee (as the case may be);

“**Agreement**” shall mean the agreement to be signed between AAICLAS and the Selected Bidder pursuant to the Bidding Process;

“**Airport**” shall mean Kolkata Airport;

“**Applicable Laws**” shall mean the laws and any other instruments having the force of law in India as they may be issued and in force from time to time or such other territorial jurisdiction outside India, by any authority, including governmental authority, including any revisions, amendments or re-enactments including without limitation statutes, rules, regulations, bye-laws, policies made thereunder, judgments, decrees, injunctions, writs, orders issued by any court of record or other requirement or official directive of any governmental authority or any person acting under authority of any governmental authority or statutory authority including any notification issued by the Reserve Bank of India or of any governmental authorities, as may be in force or effect during the subsistence of the Tender Document and the Agreement signed between the Parties thereafter;

“**Applicable Permits**” means all clearances, licenses, permits, authorizations, no objection certificates, consents, Approvals (as hereinafter defined) and exemptions required to be obtained or maintained under Applicable Laws in connection with providing Cargo Services in the

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premises of Cargo Terminals, for or in respect of the license including but not limited to the approvals from, airport security and all other approvals as may be required to execute, give effect to, and perform the services and the approvals and consents required from AAICLAS or any other governmental authority pursuant to this Tender Document, including any third party approvals as may be required;

“**Approvals**” shall mean all authorizations, consents, approvals, including any statutory approvals, notifications and permissions and any license, clearances such as environmental clearance, permit, ruling, exemption or other authorization of whatsoever nature which is required to be obtained under Applicable Laws for or in respect of this Tender Document, and all other approvals as may be required to execute, give effect to, and perform the service provider rights including but not limited to the approvals from Airport authorities and the approvals and consents required from AAICLAS or any other authority (such as BCAS, DGCA, etc.) pursuant to this Tender Document, including any third party approvals as may be required by the Selected Entity for the purpose of undertaking activities under the Tender Document. The Selected Entity shall obtain all Applicable Permits relevant to carry out construction activities at the Cargo Terminal including Height NOC, structural stability certificate from independent agency. The Selected Entity shall be solely responsible for complying with all Applicable Laws in connection with the Cargo Terminals and in relation to the execution of the works for construction activities at Cargo Terminals.

“**Air Carrier**” means any air transport enterprise offering a service for the carriage of passengers, baggage or cargo by air, which requires Cargo Services at the Airport;

“**Annual License Fee**” shall have meaning as ascribed in Clause 2.3.6.5 of the Tender Document;

“**AAICLAS Event of Default**” shall have the meaning as set out in Clause 20.4.1 of this Tender Document;

“**Balancing Payment**” shall have the meaning as set out in Clause 12.5.1 of this Tender Document;

“**Bank**” means a Nationalized /Scheduled commercial Banks as per Reserve Bank of India guidelines. No Bank Guarantee shall be acceptable from Cooperative Banks (even scheduled)/Societies/Payment Banks/Gramin Bank or by means of FDR.

“**BCAS**” means the Bureau of Civil Aviation Security or any substitute or assign thereof;

“**Bid**” shall have meaning as defined in Clause 2.1.3.2 of this Tender Document;

“**Bid Due Date**” shall have meaning as defined in Clause 2.1.1.10 of this Tender Document;

“**Bid Damages**” shall have meaning as defined in Clause 2.2.2.1 (v) of this Tender Document;

“**Bid Security**” shall have meaning as defined in Clause 2.1.3.6 of this Tender Document;

“**Bid Validity Period**” shall have meaning as defined in Clause 2.1.3.5 this Tender Document;

“**Bidders**” shall mean any entity which has submitted a Bid pursuant to this Tender Document

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and as defined in Clause 2.2.2.1 of this Tender Document. For the avoidance of doubt, Bidders who are eligible under the extant laws including but not limited to applicable orders issued by the Central Government (including Order Nos. F/No.6/18/2019-PPD by Ministry of Finance, Department of Expenditure, Public Procurement Division dated 23.07.2020 as amended from time to time) shall be allowed to participate in this Tender process;

“**Bidding Documents**” shall have meaning as defined in Clause 2.1.1.10 this Tender Document;

“**Bidding Process**” shall have meaning as ascribed to it in Clause 2.1.3.1 of this Tender Document;

“**Book Value**” of the fixed assets shall mean the residual value/depreciated value etc. declared in the income tax returns/ Government filings;

“**Business Plan**” shall mean the business plan submitted by the Selected Bidder as per the terms and conditions set out in the Tender Document and is incorporated herein by reference in Schedule- II;

“**Cargo Terminal**” or “**New Cargo Terminal**” means shall mean the newly developed cargo terminal to be developed by the Licensee in accordance with the terms and conditions set out this Tender Document.

“**Change in Law**” shall have the meaning as set out in Clause 24.1.1 of this Tender Document;

“**Change in Ownership**” means a transfer of the direct and/or indirect legal or beneficial ownership of any shares, or securities convertible into shares, that causes the aggregate holding:

- (a) of each of the member(s) of the Consortium whose experience has been evaluated for Technical Capacity and/ or Financial Capacity in the total equity to change until a period of 5 (five) years from the COD.

“**Change of Scope**” shall have the meaning as set forth in Clause 18.1.1 of this Tender Document;

“**Change of Scope Notice**” shall have the meaning as set forth in Clause 18.2.1 of this Tender Document;

“**Change of Scope Order**” shall have the meaning as set forth in Clause 18.2.3 of this Tender Document;

“**Commencement Date**” for the New Cargo Terminal shall mean within 18 (eighteen) months from Effective Date;

“**Commercial Operation Date**” or “**COD**” shall be means the date of commencement of operations at the New Cargo Terminals by the Licensee ;

“**Companies Act**” shall mean the (Indian) Companies Act, 2013, any amendments or re-enactments thereto or any other legislation governing the incorporation and existence of companies in India;

“**Conflict of Interest**” shall have meaning as defined in Clause 2.2.2.1 (v) of this Tender

Document;

“**Confidential Information**” shall mean any and all information (whether oral, written, electronic or in any other form) in relation to a party regardless of whether it is disclosed prior to or following the execution of the Agreement (including, without limitation, any and all business secrets, business information, business plans, financial and pricing information, project specifications, intellectual property, projections, know-how, drawings, designs, trade secrets, sales volume, technical, production, operational, marketing or sales information and other data, reports, memoranda, notes or information derived or generated from such information or which otherwise contains or reflects such information) regardless of whether or not it is specifically identified as being “confidential”, disclosed hereunder and terms of the Agreement and shall not include any information, which:

1. is independently developed by a Receiving Party without reference to the Confidential Information of Disclosing Party and prior to such information having been disclosed or made available pursuant to this Agreement; or
2. is, at the time of disclosure, readily available to the public through no fault of the Receiving Party, provided however that where any part of such information is readily available to the public but a compilation of information which includes such part is not so available then such compilation shall be treated as Confidential Information hereunder; or
3. was rightfully in the Receiving Party’s possession prior to the disclosure of such Confidential Information to the said Receiving Party by, or on behalf of, the Disclosing Party;

“**Control**” shall mean with respect to a company, corporation or limited liability partnership the ownership, directly or indirectly, of more than 50% (fifty percent) of the economic or voting rights of such person, or with respect to a person which is not a company, corporation or limited liability partnership, the power to direct the management and policies of such person;

“**Consortium**” shall have meaning as defined in Clause 2.2.2.1 (i) of this Tender Document;

“**Construction Period**” shall mean the period from the Date of Handover up to the COD within which period the Licensee shall design, build, finance, develop, the New Cargo Terminal, including obtaining all relevant Approvals, in accordance with the Construction Schedule submitted to the Authority and set out in Schedule II;

“**Construction Schedule**” shall mean the construction schedule submitted by the Licensee under Schedule II;

“**Cure Period**” means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Party responsible for such breach or default and shall commence from the date on which a notice is delivered by one Party to the other Party asking the latter to cure the breach or default specified in such notice; and not relieve any Party from liability to pay Damages or compensation under the provisions of this Agreement or under the Applicable Laws.

“**Customs**” shall mean Central Board of Indirect Taxes and Customs, Department of Finance,

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Ministry of Finance, Government of India or equivalent authority as may be amended, supplemented, replaced from time to time.

“**Damages**” shall be as per Article 11 of this Tender Document;

“**Date of Handover**” of the site shall be date of handover of the land parcel to the Licensee;

“**Defects**” shall have the meaning as set out in Clause 16.1.1 of this Tender Document;

“**Designated GOI Agency**” means a department or other entity under the control of GOI and assigned statutory functions, such as customs control, immigration control, quarantine, air traffic control, Airport security, health, etc., at the Airport;

“**Disclosing Party**” shall mean the Party providing its Confidential Information;

“**Disputed Invoice and Statement**” shall have the meaning set out in Clause 12.5.4 of this Tender Document;

“**DBFOT**” shall mean Design, Build, Finance, Operate and Transfer;

“**Effective Date**” shall mean the date of execution of the Agreement or 30 (thirty) days from Letter of Award, whichever is earlier;

“**Encumbrances**” means, in relation to the Project, any encumbrances such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations, and shall include any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Cargo Terminal, where applicable herein;

“**Event of Default**” shall have the meaning set forth in Clause 20.1 of this Tender Document.

“**Financial Bid**” shall have meaning as ascribed to it in Clause 2.1.3.2 of this Tender Document;

“**Financial Capacity**” shall have meaning as ascribed to it in Clause 2.3.2 (B) of this Tender Document;

“**Fixed Assets**” shall mean the building on the Project site, or anything permanently fastened to the Project site.

“**FY**” shall mean Financial Year;

“**Government Instrumentality**” means any department, division or sub-division of the Government of India and includes any commission, board, authority, agency or municipal and other local authority or statutory body, including panchayat under the control of the Government of India or the State Government, as the case may be, and having jurisdiction over all or any part of the Airport or the performance of all or any of the services or obligations of the Concessionaire under or pursuant to this Agreement;

“**Good Industry Practice**” shall mean the exercise of that degree of skill, diligence and prudence which would reasonably and ordinarily be expected from a skilled and experienced service

provider engaged in similar type of undertakings and (in the case of Selected Entity), applying the standard generally adopted by international service providers (including those specified by the IATA and/or ICAO) in the design, construction, testing, commissioning, maintenance, management and operation of the Cargo Terminals insofar as it is not inconsistent with Applicable Laws.

“**Gross Revenue**” means all pre-Tax gross revenues earned by the Licensee, at any time from the Effective Date up to the transfer date, but shall exclude the following:

- (i) any insurance proceeds received by the Licensee relating to (i) third party liability insurance paid or to be paid to the person whose claim(s) constitute(s) the risk or liability insured against; and (ii) any form of physical damage of assets, and the Licensee has incurred or will incur an expenditure greater than or equal to such proceeds received for repair, reinstatement or otherwise replacement, promptly and diligently of such assets;
- (ii) any monies received by the Licensee, for or on behalf of any Government Instrumentality, as an authorized agent of such Government Instrumentality; and

It is expressly clarified that:

- a. insurance proceeds referred to in exclusion (i) above, shall not include any exclusion of insurance proceeds received for loss of revenues and/or business interruption;
- b. monies referred to in exclusion (ii) above, shall be excluded only if the same has been credited or will be credited by the Licensee to the relevant Government Instrumentality promptly and diligently and any fine, penalty or other amounts of similar nature that may accrue as a result of non-payment or delayed payment of such monies under the Applicable Laws, will not be excluded;
- c. Gross Revenue will be computed on an annual basis for an Accounting Year, in accordance with the Indian generally accepted accounting principles, as applicable on March 31, 2024;
- d. in case of any dispute, discrepancy, ambiguity, doubt or otherwise, relating to the computation and/or meaning of Gross Revenue, the decision of AAICLAS, at its sole discretion, shall be final;

“**Independent Agency**” shall mean the consulting engineering firm appointed by Licensee, that shall monitor the Project progress and periodically submit data on the progress/ status of the construction works, financial progress and other requisite details;

“**IEM**” shall have the meaning ascribed to it in Clause 2.2.6.6 of this Tender Document;

“**INR**” or “**Rs.**” shall mean Indian Rupee being the lawful currency of Republic of India;

“**Joint Bidding Agreement**” shall have meaning as ascribed to in Clause 2.3.4.1(g) of this Tender Document;

“**Kolkata Airport**” shall have meaning as ascribed to it in Clause 2.1.2.2 of this Tender Document;

“**Lead Member**” shall have the meaning as ascribed to it in Clause 2.3.4.1 of this Tender Document;

“**Lease Rental**” shall mean the amount payable by the Licensee to AAICLAS to use and occupy the Cargo Terminal;

“**Letter of Award**” or “**LOA**” shall mean the LOIA which will be deemed to be a LOA after obtaining security clearance in accordance with the terms and conditions set out in this Tender Document;

“**Letter of Intent to Award**” or “**LOIA**” shall mean the written letter of offer as issued by AAICLAS to the Selected Bidder intimating the acceptance of the Selected Bidder for the award of the right to execute the Agreement, subject to the fulfillment of conditions of award and such other conditions as set out under the Letter of Intent to Award;

“**Licensee**” shall have meaning as ascribed in Clause 2.1.1.4 of this Tender Document;

“**Licensee Event of Default**” shall have meaning set forth in Clause 20.2.1 of this Tender Document;

“**License**” shall mean the non-exclusive right and License awarded to the Licensee for the development, maintenance and operation of New Cargo Terminal at Kolkata Airport;

“**License Period**” shall mean a period of Twenty (20) years or until 31 March 2047, whichever is earlier, starting from COD or Commencement Date, whichever is earlier, which may be extended for a further period of ten (10) years at AAICLAS’ discretion, subject to approval from AAI, on a competitive basis with “First Right of Refusal” to Selected Entity provided that the performance, quality and efficiency of the Cargo Services provider by the Selected Entity are satisfactory and in compliance with the Minimum Service Standards stipulated by AAICLAS in this Tender Document.

It is expressly agreed between the Parties that upon expiration or termination of the Agreement, AAICLAS will acquire all rights, titles and interests in and relation to the New Cargo Terminal that were granted to the Selected Entity, and the Selected Entity shall, within the timelines prescribed by AAICLAS remove all personnel, moveable assets under its control and ownership, from the Airport.

“**Location**” shall mean the Project location;

“**Member**” means a member of a Consortium;

“**Material Adverse Effect**” means a material adverse effect of any act or event on the ability of either Party to perform any of its obligations under and in accordance with the provisions of this Agreement and which act or event causes a material financial burden or loss to either Party;

“**Minimum Service Standards**” shall mean the minimum service levels required to be achieved and maintained by Selected Entity in connection with the provision of Cargo Services as prescribed by AAICLAS in the Clause 10.3 of this Tender Document;

“**Minimum Turnover**” shall mean the minimum turnover requirement that a Bidder is required to fulfill in order to qualify the Financial Capacity as set out in Clause 2.3.2 (B) of this Tender Document;

“**Net Worth**” shall mean the aggregate value of the paid-up share capital and all reserves created out of profits and security premium account and debit or credit balance of profit and loss account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write-back of depreciation and amalgamation;

“**No Dues Certificate**” shall have the meaning as ascribed to it in Clause 2.2.2.1 (vii) a.1) of this Tender Document;

“**Outstanding Dues**” shall have the meaning as ascribed to it in Clause 2.2.2.1 (vii) of this Tender Document;

“**Performance Security**” shall have meaning as ascribed to it in Clause 9.1.1 of this Tender Document;

“**Project**” shall have meaning as ascribed to it in Clause 2.1.1.3 of this Tender Document;

“**Project Agreements**” shall mean and include the Agreement, and any other material agreements or contracts that may be entered into by the Licensee with any person in connection with matters relating to, arising out of or incidental to the Project.

“**Qualified Bidder**” shall have meaning as set out in Clause 2.1.1.4 of this Tender Document;

“**Receiving Party**” shall mean the Party receiving the Confidential Information;

“**Revenue Share**” shall mean 10% of the Gross Revenue;

“**Scheduled Bank**” shall mean a bank as defined under Section 2 of the Reserve Bank of India Act, 1934, excluding any co-operative or gramin bank;

“**Security Deposit**” means the interest free and refundable security deposit to be furnished to AAICLAS in accordance with the terms of this Tender Document;

“**Selected Bidder**” or “**Selected Entity**” means the Qualified Bidder who shall be awarded the Project as per the terms and conditions set out in this Tender Document;

“**Services**” or “**Cargo Services**” shall mean means the services to be provided to the Users as detailed in Schedule I scope of work, excluding the physical handling of the cargo between the facility and the Air Carrier;

“**Special Purpose Vehicle**” or “**SPV**” shall have meaning as ascribed to it in Clause 2.3.4.1 of this Tender Document;

“**Statutory Auditor**” means the entity that audits and certifies the annual accounts of the entity;

“**Subject Person**” shall have the meaning assigned to it in Clause 2.2.2.1 (v)(aa) of this Tender

Document;

“**Technical Bid**” shall have meaning as ascribed to it in Clause 2.1.3.2 of this Tender Document;

“**Taxes**” means any Indian taxes including stamp duty, registration charges, property tax, municipality tax or any other tax arising on the site, excise duties, customs duties, GST, value added tax, service tax, sales tax, local taxes, cess and any impost or surcharge of like nature (whether Central, State or local) on the goods, materials, equipment and services incorporated in and forming part of the Airport charged, levied or imposed by any Government Instrumentality during the subsistence of the Agreement, but excluding any interest, penalties and other sums in relation thereto imposed on any account whatsoever. Taxes shall not include taxes on corporate income;

“**Technical Capacity**” shall have meaning as ascribed to it in Clause 2.3.2 (A) of this Tender Document;

“**Tender Fee**” shall have the meaning ascribed to it in Clause 2.1.3.4 of this Tender Document;

“**Termination**” means the expiry or termination of the Agreement;

“**Termination Notice**” means the communication issued in accordance with the Agreement by one Party to the other Party terminating the Agreement;

“**Threshold Eligibility Criteria**” shall have meaning as defined in Clause 2.3.1.1 of this Tender Document;

“**Users**” shall mean the Air Carriers, shippers, freight forwards and all such entities who avail of the Cargo Services at the Airport;

“**Utility Charges**” shall mean the charges payable by the Licensee to AAICLAS for consumption of Utility Services, for cost of providing facilities for provision of Utility Services by AAICLAS, for maintenance of infrastructure for provision of Utility Services, and for administration costs.

“**Utility Services**” means any information communication technology services, sewage and waste disposal services, electric power cable, telephone cable, or other cable or apparatus used in any communications, security, lighting, traffic control, traffic aids, or other similar system, any pipe used in for the supply of water, gas, storm water drainage, or sewage and waste disposal, together with any duct for such cable or pipe and any apparatus or works ancillary to such cable, apparatus, pipe or duct, whether permanent or temporary and whether provided by AAICLAS or otherwise.

The words and expressions beginning with capital letters and defined in this Tender Document shall, unless repugnant to the context, have the meaning ascribed thereto herein.

In this Tender Document, unless the context otherwise requires, the words importing singular shall include plural and *vice versa*.

2. NOTICE INVITING E-BID (NIEB)

AAICLAS hereby invites, through this Tender Document, the interested Bidders to Develop and Operate a New Cargo Terminal at Kolkata Airport on DBFOT basis i.e., the Project as set forth in detail in this Tender Document and Schedule I hereto.

- I. E-Bid is hereby invited for the “Selection of a Licensee for Development of a New Cargo Terminal at Kolkata Airport on DBFOT basis”:

Name of the Project	License Period	Bid Security	Tender Fee
Selection of a Licensee for Development of a New Cargo Terminal at Kolkata Airport on DBFOT basis	20 (Twenty) years from the COD or Commencement Date, whichever is earlier, no later than 31 March 2047, with Right of First Refusal in the last year of the License period	INR 1,48,00,000	INR 50,000

Note:

- I.1. The Annual License Fee pursuant to Clause 2.3.6.5 of this Tender Document shall be the sole parameter for selection of Selected Bidder.
- I.2. The Annual License Fee pursuant to Clause 2.3.6.5 of this Tender Document shall be fixed for the License Period in accordance with the terms and conditions set out in the Tender Document.
- I.3. Further, the Selected Bidder shall pay for the consumption of electricity and any other utility used for the Project during construction as becomes due and payable and in accordance with the terms and conditions set forth in the Tender Document and the directions of AAICLAS, if any. The charges for these utilities will be paid in accordance with the rates as fixed by AAICLAS from time to time. AAI/AAICLAS shall provide utility during construction on availability basis only and will not be responsible for meeting the requirements of the Selected Bidder.
- I.4. The Selected Bidder shall be responsible for obtaining the Utility Services during the License Period.
- I.5. The Selected Bidder shall deposit and maintain with AAICLAS the Security Deposit for the entire License Period. The Security Deposit shall be a sum equivalent to INR 58 crores (Indian rupees Fifty Eight crores).
- I.6. The Selected Bidder shall pay all applicable Government Taxes including GST presently at the rate of 18% (eighteen percent) or at the rates declared by Government of India or State

Government from time to time.

- II.** License Period: Twenty (20) years or until 31 March 2047, whichever is earlier, starting from the COD or Commencement Date, whichever is earlier, which may be extended in the last year of the License Period for a further period of ten (10) years at AAICLAS' discretion, subject to approval from AAI, through a competitive bidding process. The existing Licensee will have the Right of First Refusal (within 10% of highest bid) provided that the performance, quality and efficiency of the Cargo Services provider by the Selected Entity are satisfactory and in compliance with the Minimum Service Standards stipulated by AAICLAS in the Tender Document.
- III.** The prospective Bidders are requested to go through the Bid conditions and visit the Airport to assess the feasibility of business / undergo proper diligence study and thereafter may submit the Bid.
- IV.** The prospective Bidders are required not to give any conditional bid and adhere to the terms and conditions indicated in the Bid Tender Documents provided by AAICLAS. Conditional bids would be summarily rejected.
- V.** The following are the broad timelines to be followed:

Particulars	Timelines
Issuance of LOA	To be intimated
Formation of SPV	Within 30 days from Letter of Award
Security clearance	Within 120 days from issuance of LOIA
Signing of Agreement	Within 30 days from Letter of Award
Commercial Operation Date	No later than 18 months from Effective Date

Non-adherence of above timeline by the Selected Bidder will result in cancellation of LOIA/LOA/ Agreement at sole discretion of AAICLAS unless extended by AAICLAS, failing which AAICLAS shall have the right to forfeit the Bid Security.

VI. Handing Over of Site:

- a) The site will be handed over on an "as is where is basis" to the Selected Bidder upon fulfillment of conditions of award within the stipulated time as described in this Tender Document.
- b) If the Licensee fails to complete the conditions of the award which are prerequisite for handing over of site, actual handing over of sites shall only be done after completion of all conditions of award in accordance this Tender Document.
- c) The Licensee hereby agrees and acknowledges that it shall not have the right to sell, sub-lease, alienate, charge, hypothecate or otherwise encumber the site and/or the Fixed Assets/ land/ buildings owned by AAICLAS and leased to the Licensee.

E-Tendering Guidelines to Bidders

E-Tendering participation requirements: Interested Bidders willing to participate through e-tendering process are required to register themselves in the GOI Central Public Procurement Portal www.etenders.gov.in

For special Instructions to the Bidders for the e-submission of the bids online through e-Procurement Portal follow hyperlink given below:
<https://etenders.gov.in/eprocure/app?page=HelpForContractors&service=page>

Bidders manual kit available for download at the hyperlink given below:
<https://etenders.gov.in/eprocure/app?page=BiddersManualKit&service=page>

For any technical assistance with regard to the functioning of the portal, the Bidders may contact the Help desk according to escalation matrix given below:

CPPP under GePNIC, Help Desk Services

For any technical related queries, please call the Helpdesk at 24 x 7 Help Desk Numbers: 0120-4200462, 0120-4001002

Note- Bidders are requested to kindly mention the URL of the Portal and Tender Id in the subject while emailing any issue along with the Contact details. For any issues/ clarifications relating to the tender(s) published, kindly contact the respective Tender inviting authority.

Tel: 0120-4200462, 0120-4001002

Mobile: +91 8826246593

E-Mail: support-eproc@nic.in

For any Policy related matter / clarifications, please contact Department of Expenditure, Ministry of Finance.

E-Mail: cphp-doe@nic.in

For any Issues / Clarifications relating to the publishing and submission of AAICLAS tender(s)

- a. In order to facilitate the vendors / Bidders as well as internal users from AAICLAS, Helpdesk services have been launched between 0800-2000 hours for the CPPP under GePNIC <https://etenders.gov.in>. The help desk services shall be available on all working days (Except Sunday and Gazetted Holiday) between 0800-2000 hours and shall assist Users on issues related to the use of Central Public Procurement Portal (CPPP).
- b. Before submitting queries, Bidders are requested to follow the instructions given in “**Guidelines to Bidders**” and get their computer system configured according to the recommended settings as specified in the portal at “**System Settings for CPPP**”.

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In case of any issues faced, the escalation matrix is as mentioned below:

Bid Manager: Sh. Sandeep Aggarwal
Regional Manager (NR), AAICLAS
AAICLAS Complex, Delhi flying Club Road
Safdarjung Airport
New Delhi 110003
Email: saggarwal@aai.aero
Contact No.: 011-24667728

*** The helpdesk services shall remain closed on government notified Gazetted holidays. For any technical help related to CPP Portal (e-Tender) the Bidder may contact to the following AAICLAS help desk numbers on all working days only between**

- 1000 hrs to 1800 hrs (Mon-Fri)-
011-24632950, Ext-3512 (Six Lines), E-Mail:- eprochelp@aai.aero
 - 0930 hrs to 18.00 hrs (Mon-Fri)-
011-24632950Ext-3523, E-Mail:- etendersupport@aai.aero; sanjeevkumar@aai.aero
 - 0930 hrs to 1800 hrs (Mon-Fri)-
011-24657900, E-Mail:- gmitqh@aai.aero
1. The above-mentioned help desk numbers are intended only for queries related to the issues on e-procurement portal and help needed on the operation of the portal.
 2. For queries related to the tenders published on the portal, Bidders are advised to contact Bid Manager as mentioned.

2.1. INTRODUCTION

2.1.1. Background

- 2.1.1.1. AAI Cargo Logistics and Allied Services Company Ltd. (“**AAICLAS**”) was incorporated on 11th August 2016 under the Companies Act, 2013 as a wholly owned subsidiary of Airports Authority of India (“**AAI**”). AAICLAS is India’s major air cargo terminal operator, with its pan India presence at more than 50 airports handling of international cargo and domestic air cargo etc. AAICLAS also manages in-line baggage handling system at AAI Airports. AAICLAS accounts for more than half of the air cargo annual handling capacity in India. It is also mentioned that India’s domestic air transport market is among the fastest growing in the world. The domestic air freight sector in India has grown at a CAGR of about 7% pre-covid. AAICLAS facilitates the trade by adding more domestic terminals pan India. Currently, AAICLAS has domestic terminal facilities at 33 airports in India, and additionally, AAICLAS has taken special regulatory (BCAS) permissions to handle cargo through the domestic passenger terminal at 15 airports, to facilitate the trade. Additionally, AAICLAS is planning to create domestic air cargo handling facilities at more than 20 airports in the upcoming years, Notably, AAICLAS is also in the process of digitization of air cargo terminals. Domestic air cargo handling by AAICLAS almost regained its momentum after the fall during the COVID19 pandemic phases I & II. In the FY 2021-22, AAICLAS has handled more than 8 lakh MT of air cargo pan India.
- 2.1.1.2. Considering the growth potential of air transport, the potential of domestic air cargo movement too was recognized. The opportunity in domestic air sector was expanding with the growth in clients like auto manufacturers, e-commerce operators, engineering and fashion industry as Indian economy was growing fast and aviation was growing in double digits. Business was becoming very competitive, it required their parcels and merchandise such as auto parts, samples, valuables, reagents & perishables etc. across India, urgently day in and day out. Introduction of new airlines, more aircraft frequencies, new sectors and station provided much larger belly capacity. It provided much larger canvas to exploit the potential of domestic air cargo to achieve faster transportation of such time sensitive products to their destinations.
- 2.1.1.3. To continue its endeavor of ensuring highest standard of services, AAICLAS has decided to undertake international competitive bidding process for the selection of a Licensee for Development of a New Cargo Terminal at Kolkata Airport on DBFOT basis (the “**Project**”) in accordance with the procedure set out herein for selecting an entity for the implementation of the Project.
- 2.1.1.4. AAICLAS intends to qualify and short-list eligible Bidders (the “**Qualified Bidders**”) who have the Technical and Financial Capacity as specified in Clause 2.2.2.2 and Clause 2.3.2 of the Tender Document. The Financial Bid of only the Qualified Bidders will be opened for evaluation in accordance with this Tender Document. The Selected Bidder shall incorporate a special purpose vehicle (SPV) under the (Indian) Companies Act, 2013 (the “**Licensee**”) or undertakes to incorporate as such within 30 (thirty) days of the issuance of the LOIA for implementing the Project, as applicable, as per the provision of Clause 2.3.4

of this Tender Document. The Licensee shall be responsible for implementing the Project in accordance with the agreement to be entered between the Licensee and AAICLAS (the “**Agreement**”) in the form provided as part of the Bidding Documents pursuant hereto.

- 2.1.1.5. AAICLAS, in consultation with AAI, shall provide land of approximately 13.41 acres for domestic and international cargo operations. It shall also provide an area of 2.23 acres for parking at a separate location. AAI shall also provide an operational area for transshipment as per the requirement of the Licensee, subject to a cap of 3.88 acres. AAICLAS/AAI shall not be obligated to refund or recover for amount arising due to discrepancy in the measured area up to +/- 1%.
- 2.1.1.6. AAICLAS shall grant and authorise the Licensee for development of a New Cargo Terminal at Kolkata Airport on DBFOT basis in accordance with the provisions of this Tender Document.
- 2.1.1.7. AAICLAS intends to invite proposal from suitable Bidders to select an entity for awarding the Project, through an international competitive Bidding Process in accordance with the procedure set out herein.
- 2.1.1.8. **NON-EXCLUSIVITY**

The grant of the Project to the Selected Bidder shall be on a non-exclusive basis, to provide services at Kolkata Airport. The Bidders agree and acknowledge that at any time during the License Period, the airport operator/ AAI/ AAICLAS may enter into separate agreements with any other party for providing services at Kolkata Airport. It is understood and agreed that nothing in this Tender Document is to be construed to grant or authorize the granting of an exclusive right to the Licensee of Kolkata Airport.

The Selected Bidder shall be required, *inter alia*, to provide the services at Kolkata Airport in accordance with the technical specifications and Minimum Service Standards as detailed in Clause 10.3 read with Schedule IV of this Tender Document.

- 2.1.1.9. AAICLAS will provide the existing infrastructure on an “*as is where is*” basis to the Selected Bidder. AAICLAS cannot guarantee that all space requirements of the Selected Bidder can be accommodated at the Airport.
- 2.1.1.10. AAICLAS shall receive Bids pursuant to this Tender Document in accordance with the terms set forth herein as modified, altered, amended and clarified from time to time by AAICLAS (collectively the “**Bidding Documents**”), and all Bids shall be prepared and submitted in accordance with such terms on or before the date specified in Clause 2.1.4.1 of this Tender Document for submission of Bids (“**Bid Due Date**”).

2.1.2. Airport Background

- 2.1.2.1 Bidders shall note that the requirements as set-out in this Article are not exhaustive and the Bidders shall be required to do a detailed study, analysis and assessment and provide a detailed solution so as to ensure all requirements and qualities catering to the business, technical, support and operations requirements that newly created cargo facilities should cater to, are met.
- 2.1.2.2 The cargo terminal at Netaji Subhash Chandra Bose International Airport, Kolkata (“**Kolkata Airport**”) was commissioned on 5th October 1975. It has got facilities for processing imports, export, international courier, transshipment cargo, unaccompanied baggage, bonded trucking, perishable cargo and domestic cargo handling. The Bidders are also encouraged to visit Kolkata Airport and familiarize themselves with the Project. The Bidder shall make a formal request in writing to AAICLAS, seeking permission for visiting Kolkata Airport at least 5 (five) days prior to the day on which the Bidder intends to undertake such a visit. Upon receipt of the Bidder’s aforesaid request, AAICLAS may, in its sole discretion and subject to fulfillment of the requisite protocols, allot a specific date and timeslot to the Bidder in this regard.

2.1.3. Brief description of Bidding Process

- 2.1.3.1. AAICLAS has adopted a single stage electronic Bidding Process for selection of the Selected Bidder for award of the Project, comprising of Technical Capacity and Financial Capacity (collectively referred to as the “**Bidding Process**”), to be submitted in accordance with Clause 2.3.2 of this Article.
- 2.1.3.2. The Bidders are being called upon to submit their Technical Capacity and Financial Capacity details (“**Technical Bid**”) and financial quote in the format specified on the CPPP (“**Financial Bid**”). (Technical Bid and Financial Bid shall collectively referred as “**Bid**”) in accordance with the terms specified in this Article and other documents provided by AAICLAS.
- 2.1.3.3. Upon completion of evaluation of Financial Bids, the Qualified Bidders will finally be ranked in ascending order.
- 2.1.3.4. **Tender Fee**

The Bidder shall pay a non-refundable fee of INR 50,000/- inclusive of applicable taxes (if any) (“**Tender Fee**”) against the Bidding Documents. The Tender Fee is to be submitted through NEFT/RTGS only in the below mentioned bank A/c details:

ACCOUNT No.	Bank Name	IFSC Code	ACCOUNT NAME
000705044092	ICICI Bank	ICIC0000007	AAI CARGO LOGISTICS & ALLIED SERVICES COMPANY LTD

- (i) The Bidders shall ensure that the net credit in AAICLAS’ s account shall be for an amount equal to the Tender Fee inclusive of GST and applicable taxes (if any). Any applicable

bank charges shall be borne by the Bidder.

- (ii) AAICLAS shall not be responsible or liable for any delay in the credit of such payment made by the Bidder. Bid without payment of Tender Fee will not be accepted.

2.1.3.5. The Bid shall be valid for a period 180 (one hundred eighty) days from the Bid Due Date (“**Bid Validity Period**”).

2.1.3.6. The Bidder is required to deposit, along with its Bid, a Bid Security of INR 1,48,00,000 (“**Bid Security**”), refundable no later than 60 (sixty) days from the Financial Bid opening date, except in the case of the Selected Bidder whose Bid Security shall be converted to Performance Security under the Agreement. Bidders to submit Bid Security through NEFT/RTGS only in the below mentioned bank A/c details:

ACCOUNT No.	Bank Name	IFSC Code	ACCOUNT NAME
000705044092	ICICI Bank	ICIC0000007	AAI CARGO LOGISTICS & ALLIED SERVICES COMPANY LTD

In this case, refund of Bid Security as per terms and conditions of this Article shall be sent to the respective source account from where Bid security was received.

2.1.3.7. The Bid Security and Tender Fee in any other form except as provided for in this Article, shall not be accepted.

2.1.3.8. The Bidders are instructed to examine the Project in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for award of the Project.

2.1.3.9. The Bid Security submitted by the Selected Bidder shall be retained as Performance Security as set out in Article 9 of this Tender Document. The Performance Security shall be provided as a security for the performance of the Selected Bidder’s obligations as per Article 9 of this Tender Document and may be enforced by AAICLAS in the manner as more particularly set out under therein.

2.1.3.10. Any queries or request for additional information concerning this Tender Document shall be submitted through CPPP only (<http://etenders.gov.in/eprocure/app>). Any correspondence through E-MAIL or BY POST shall be summarily rejected and will not be accepted for any reasons, whatsoever.

2.1.4. Schedule of the Bidding Process:

2.1.4.1 AAICLAS shall endeavor to adhere to the Bid process schedule, as prescribed below. However, all scheduled dates indicated in the Bid process schedule are subject to change at the sole discretion of AAICLAS, without the requirement of any prior notice to the Bidders.

S. No.	Details	Date
1.	RFP Published date	21 August 2024
2.	Pre-bid conference	11 September 2024
3.	Last date for submission of queries related to E-Bid (if any), on NIC CPP Portal only	17 September 2024
4.	AAICLAS response to queries latest by	27 September 2024
5.	Bid submission closing date (Bid Due date)	07 October 2024
6.	Technical Bid opening date	08 October 2024
7.	Financial Bid opening date	To be intimated later

2.1.5. Pre – Bid Conference

Pre-bid conference of the Bidders shall be convened at AAICLAS Headquarters, New Delhi as per the following schedule:

Date	Time	Venue
11 September 2024	14:30 HRS	AAICLAS Complex, Delhi flying Club Road, Safdarjung Airport New Delhi 110003

2.2. INSTRUCTIONS TO BIDDERS

2.2.1. General terms of Bidding

- 2.2.1.1 No Bidder shall submit more than 1 (one) Bid for the Project. A Bidder bidding individually or as a Member of a Consortium shall not be entitled to submit another bid for the Project either individually or as a Member of any other Consortium, as the case may be.
- 2.2.1.2 The Technical Bid, including materials evidencing the Technical Capacity and Financial Capacity, should be furnished online in Cover – I in the formats prescribed in this Tender Document. The Financial Bid should only be provided on CPPP in the format as specified therein (format provided for reference under Appendix IX (B)), clearly indicating the amount in both figures and words, in Indian Rupees, and signed by the Bidder's authorised signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account. In the event the Financial Bid or any information regarding the same is submitted as part of the Technical Bid or through any other means of communication not permitted under this Clause 2.2.1.2, AAICLAS reserves the right to reject such Bid. No Financial Bid shall be submitted in a currency other than Indian National Rupees (INR).
- 2.2.1.3 The Bidders shall submit their respective Bids online only at the CPPP at <https://etenders.gov.in/eprocure/app>. Any Bid submitted in physical form shall be rejected by AAICLAS. For the purpose of submission of the Bid online, a Bidder shall first register itself on the CPPP.

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- 2.2.1.4 Any condition or qualification or any other stipulation contained in the Bid shall render the Bid liable to rejection as a non-responsive Bid.
- 2.2.1.5 Non-compliance with the instruction contained in the Article shall render the Bid liable to be rejected.
- 2.2.1.6 This Tender Document has been issued only to the Bidders and shall not be transferred to anyone at any point of time during the Bidding Process.

2.2.2. Eligibility of Bidders

2.2.2.1 For determining the eligibility of bidders (“**Bidders**”) for their selection hereunder, the following shall apply:

- (i) The Bidder may be a single entity (which may be a natural person, private entity, government-owned entity) or the “**Consortium**” (a group of at maximum of two entities), coming together to implement the Project.

However, no Bidder applying individually or as a Member of a Consortium, as the case may be, can be a Member of another Bidder. The term ‘Bidder’ used herein would apply to both a single entity and a Consortium.

- (ii) The Bidder shall be eligible to participate under the extant laws including but not limited to applicable orders issued by the Central Government (including Order No. F/No.6/18/2019-PPD, Order No. P- 45021/112/2020-PP (BE-II) (E-43780) and Order No. F.No. 7/10/2021-PPD (1) Ministry of Finance, Ministry of Commerce and Industry, Department of Expenditure, Public Procurement Division dated 23 July 2020, 24 August 2020, 23 February 2023 and as per amendments from time to time). The Bidder, who have beneficial ownership in countries which share land border with India and intend to participate in public procurement in India have to get registered with the competent authority.
- (iii) For getting registered with the competent authority the Bidder needs to apply for ”Registration” and for “Security Clearance” in the format provided in above mentioned orders. Only those Bidders who have been registered with the competent authority will be allowed to participate in this process.
- (iv) A Bidder may be a natural person, private entity, government owned entity or any combination of them with a formal intent to enter into an Agreement to form a Consortium. A Consortium shall be eligible for consideration subject to the conditions set out in Clause 2.3.5 of this Tender Document.
- (v) The Bidder shall not have a conflict of interest (the “**Conflict of Interest**”) that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, AAICLAS shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be. The Bidder acknowledges and agrees that such forfeiture and appropriation of the Bid Security or

Performance Security (as the case may be) is reasonable and represents the mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by AAICLAS and not by way of penalty for, *inter alia*, the time, cost and effort of AAICLAS, including consideration of such Bidder's proposal ("**Bid Damages**"). The Bidder acknowledges and agrees that such forfeiture and appropriation of the Bid Security or Performance Security (as the case may be) is without prejudice to any other right or remedy that may be available to AAICLAS under the Bidding Documents and/or the Agreement or otherwise. Without limiting the generality of the above, the Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:

- a.1) The Bidder, its Member or Affiliate (or any constituent thereof) and any other Bidder, its Member or any Affiliate thereof (or any constituent thereof) have common Controlling shareholders or other ownership interest;

Provided that this disqualification shall not apply in cases where the direct or indirect shareholding of the Bidder, its Member or an Affiliate thereof or any shareholder thereof having a shareholding of more than 20% (twenty per cent) of the paid up and subscribed share capital of such Bidder, or Affiliate, as the case may be in the other Bidder, its Member or Affiliate is less than 20 % (twenty per cent) of the aggregate issued subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund, AAI, Govt. of India or a public financial institution referred to in Section 2 (72) of the Companies Act, 2013.

For the purposes of this Clause 2.2.2.1(v), indirect shareholding held through one or more intermediate persons shall be computed as follows:

- (aa) where any intermediary is controlled by a person through management Control or otherwise, the entire shareholding held by such Controlled intermediary in any other person ("**Subject Person**") shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and
- (bb) subject always to sub-clause (aa) above, where a person does not exercise Control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause if the shareholding of such person in the intermediary is less than 26% (twenty six per cent) of the aggregate issued subscribed and paid up equity shareholding of such intermediary; or
- b.1) A constituent of such Bidder is also a constituent of another Bidder; or
- c.1) Such Bidder, its Member or any Affiliate thereof receives or has received or has

- entered into an agreement to receive, any direct or indirect subsidy, grant, License loan or subordinated debt from any other Bidder, its Member or any Affiliate thereof or has provided or has entered into any agreement to provide any such subsidy, grant, concessional loan or subordinated debt to any other Bidder or any Affiliate thereof; or
- d.1) Such Bidder has the same legal representative for purposes of the Bid as any other Bidder; or
- e.1) Such Bidder, or any Affiliate thereof, has a relationship with another Bidder, or any Affiliate thereof, directly or indirectly or through common third party/ parties, that puts either or both of them in a position to have access to each other's information about, or to influence the Bid of either or each other; or
- f.1) Such Bidder, or any Affiliate thereof has participated as a consultant to AAICLAS in the preparation of any documents, design or technical specifications of the Project.

Explanation:

In case a Bidder is a Consortium, then the term Bidder as used in this Clause 2.2.2.1, shall include each Member of such Consortium and the term Affiliate with respect to a Bidder shall include an Affiliate of each Member of that Consortium.

Note: Regarding Conflict of Interest, AAICLAS shall place reliance upon the declaration to be submitted by the Bidder in the form of acceptance of AAICLAS' s Tender Document conditions/ other documents forming part of Technical Bids.

- g.1) In the event, the declaration submitted by the Bidder towards there being no Conflict of Interest, is found incorrect/false, such incorrect declaration would be treated as submission of false/incorrect document and it would amount to material misrepresentation made by the Bidder. In such event, punitive actions shall be taken by AAICLAS as per provision of this Tender Document.
- (vi) The Bidder shall be liable for disqualification and forfeiture of Bid Security if any legal, financial or technical adviser of AAICLAS in relation to this Project is engaged by the Bidder, its Members or any Affiliate thereof, as the case may be, in any manner for matters related to or incidental to the Project during the Bidding Process or subsequent to the (a) issue of the LOIA/LOA or (b) execution of the Agreement. In the event, any such adviser is engaged by the Selected Bidder after issue of the LOIA or execution of the Agreement for matters related or incidental to the Project, then notwithstanding anything to the contrary contained herein or in the LOIA or the Agreement and without prejudice to any other right or remedy of AAICLAS, including the forfeiture and appropriation of the Bid Security or Performance Security, as the case may be, which AAICLAS may have thereunder or otherwise, the LOIA or the Agreement, as the case

may be, shall be liable to be terminated without AAICLAS being liable in any manner whatsoever to the Selected Bidder for the same. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, its Member or Affiliate in the past, but its assignment expired or was terminated prior to the Bid Due Date. Nor will this disqualification apply where such an adviser is engaged after 3 (three) year from the Commercial Operation Date.

- (vii) If the Bidder or its Member or its Affiliates (whose experience is used for Technical and Financial Capacity) is an existing or past Licensees or licensees of AAI and/or AAICLAS intending to participate in response to Tender Document, then the Bidder or its Member or its Affiliates (whose experience is used for Technical and Financial Capacity) shall not have any amounts including interest outstanding and payable to AAI and/or AAICLAS (“**Outstanding Dues**”) for the period up to 30th June 2024 in respect of all the units of AAICLAS (where the participating tenderer is operating Licenses/licenses or had operated Licenses /licenses) as on Bid submission date.

In addition, if the Bidder is a private or public limited company, partnership firm or sole proprietor and any of the directors/partners/sole proprietor of such company is also a director of any other company or partner of such company or a sole proprietor having established business with AAICLAS and has outstanding dues payable to AAICLAS, then the Bidder shall not be eligible to participate in the Bidding Process.

- a.1) Bidders are required to pay all Outstanding Dues (until 30th June 2024) on or before the Bid Due Date. In confirmation of the aforesaid, the Bidder shall submit a No Dues Certificate and undertaking in the format set forth in **Annexure 6 (B)** issued by respective airport where the Bidder/ Member / Affiliate is / was providing services (“**No Dues Certificate**”). A Bid without the No Dues Certificate shall be rejected by AAICLAS as non-responsive. For avoidance of doubt, any disputed amount which is referred for dispute resolution/arbitration by AAICLAS shall not be considered as Outstanding Dues.
- b.1) During the intervening period i.e., after the submission of Tender Document and before finalization of award, if any amount is found as outstanding against the Selected Bidder, the Selected Bidder shall clear such dues (undisputed ones) before award of the License. For this purpose, all the Bidders shall submit an undertaking as per **Annexure 6 (C)** along with such bid, that in case, the Bidder emerges Selected Bidder, it shall clear all such dues before the award of License.
- c.1) In the event of specific order/judgement from the Judicial Court/Arbitral Tribunal staying/withholding the realization of certain dues, the adherence of the above condition will be exempted and regulated in accordance with specific orders.
- d.1) The No Dues Certificate may be obtained from the respective Airport. The

decision of AAICLAS in respect of Outstanding Dues shall be final and binding on the Bidder.

- (viii) The Bidder shall not be eligible to submit the Bid under the Bidding Documents and may be disqualified if:
- a.1) Its Member or its Affiliates, its directors or key personnel has been barred or blacklisted by any government agency or authority in India, the government of the jurisdiction of the Bidder or the Affiliates where they are incorporated or the jurisdiction of their principal place of business, any international financial institution such as the World Bank Group, Asian Development Bank, African Development Bank, Inter-American Development Bank, Asian Infrastructure Investment Bank, etc., or the United Nations or any of its agencies; or
 - b.1) it or its directors have been convicted of any offence in India or abroad in any of the preceding 3 (three) years from Bid Due Date.
- (ix) There is no pending, active or previous legal action that prevents the Bidder from submitting the Bid and executing the Agreement or fulfilling the conditions on the Project.
- (x) The Bidder should, in the preceding 3 (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated by any public entity for breach by such Bidder or Affiliate. The Bidder, including its Affiliate shall not be entitled to submit another Bid.

2.2.2.2 To be eligible for shortlisting, the Bidder shall fulfill the following conditions of eligibility:

- (A) **Technical Capacity:** The Bidder will be required to demonstrate that it meets the Technical Criteria as per Clause 2.3.2 (A) of this Tender Document.
- (B) **Financial Capacity:** The Bidder will be required to demonstrate that it has the required Minimum Turnover and Net Worth, as may be applicable, as per Clause 2.3.2 (B) of this Tender Document. The Bidder shall provide a certificate from the Statutory Auditor stating the Turnover of the Bidder for FY 2020-21, FY 2021-22 and FY 2022-23 and Net Worth as at the end of financial year FY 2022-23. For the avoidance of doubt, the financial year shall, for the purposes of a Bid hereunder, mean the accounting year followed by the Bidder in the course of its normal business.

2.2.2.3 In computing the Technical Capacity and Financial Capacity of the Bidder under Clause 2.2.2.2 and Clause 2.3.1 of this Tender Document, the Technical Capacity and the Financial Capacity of their respective Affiliates would also be eligible hereunder.

2.2.3. Site visit and verification of information

Bidders are encouraged to submit their respective Bids after visiting the Airport and ascertaining for themselves the site conditions, traffic inflow, location, surroundings, climate, availability of power, water and other utilities for installation of equipment and operation, access to site, handling and storage of materials, Applicable Laws and regulations, and any other matter considered relevant by them.

Each Bidder should, therefore, conduct its own assessment, due diligence and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments and information contained in this Tender Document.

The following are the contact details of the representative for Kolkata Airport site visit:

Regional Manager (NR), AAICLAS
AAICLAS Complex, Delhi flying Club Road
Safdarjung Airport
New Delhi 110003
Email: saggarwal@aai.aero
Contact No.: 011-24667728

2.2.4. Acknowledgement by Bidder

2.2.4.1 It shall be deemed that by submitting the Bid, the Bidder has:

- (i) made a complete and careful examination of the Tender Document;
- (ii) received all relevant information requested from AAICLAS;
- (iii) acknowledged and accepted the risk(s) of inadequacy, error or mistake in the information provided in the Bidding Tender Documents or furnished by or on behalf of AAICLAS relating to any of the matters referred to in Clause 2.2.4 above;
- (iv) satisfied itself about all matters, things and information including matters referred to in Clause 2.2.4 hereinabove necessary and required for submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations thereunder;
- (v) acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in Clause 2.2.4 hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from AAICLAS, or a ground for termination of the Agreement by the Selected Bidder;
- (vi) acknowledged that it does not have a Conflict of Interest; and

(vii) agreed to be bound by the undertakings provided by it under and in terms hereof.

2.2.4.2 AAICLAS shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the Tender Document , the Bidding Documents or the Bidding Process, including any error or mistake therein or in any information or data given by AAICLAS.

2.2.5. Right to accept or reject any or all Bids

2.2.5.1 Notwithstanding anything contained in this Article, AAICLAS reserves the right to accept or reject any Bid and to annul the Bidding Process and reject all Bids, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof. In the event that AAICLAS rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.

2.2.5.2 Without prejudice to the Clause 2.2.5.1 above, AAICLAS reserves the right to reject any Bid if:

- (i) At any time, a material misrepresentation is made or uncovered, or
- (ii) The Bidder does not provide, within the time specified by AAICLAS, the supplemental information sought by AAICLAS for evaluation of the Bid;

Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium and each Member may be disqualified / rejected. If such disqualification/ rejection occurs after the Bids have been opened and the Selected Bidder gets disqualified/ rejected, then AAICLAS reserves the right to take any such measure as may be deemed fit in the sole discretion of AAICLAS, including annulment of the Bidding Process.

2.2.5.3 In case it is found during the evaluation or at any time before execution of the Agreement or after its execution and during the period of subsistence thereof, that one or more of the pre-qualification conditions have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, or concealed any information the Bidder shall be disqualified forthwith if not yet appointed as the Licensee either by issue of the LOIA/LOA or entering into of the Agreement, and if the Selected Bidder has already been issued the LOIA/LOA or has entered into the Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this Article, be liable to be terminated, by a communication in writing by AAICLAS to the Selected Bidder or the Licensee , as the case may be, without AAICLAS being liable in any manner whatsoever to the Selected Bidder or Licensee . In such an event, AAICLAS shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to AAICLAS under the Bidding Documents and/ or the Agreement, or under Applicable Laws.

2.2.5.4 AAICLAS reserves the right to verify all statements, information and documents submitted

by the Bidder in response to the Tender Document. Any such verification or lack of such verification by AAICLAS shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of AAICLAS thereunder.

- 2.2.5.5 The Selected Bidder shall procure all Applicable Permits and security clearances under the Applicable Laws, within 120 (one hundred and twenty) days from the date of issuance of LOIA. Selected Bidder shall apply for security clearance through e-Sahaj (<https://esahaj.gov.in/esahajmoca/>). In case, the Selected Bidder fails to obtain the applicable security clearance within 120 (one hundred and twenty) days from the LOIA, AAICLAS, at its discretion, reserves the right to extend the period up to an additional period of 90 (ninety) days (“**Additional Extension**”) for obtaining the applicable security clearance, provided, the Selected Bidder has submitted all the required documents within 10 (ten) days of the issue of LOIA or the timeline as stipulated in the LOIA, and provides reasonable justification for not being able to obtain such security clearances for reasons beyond its control. In the event, the Selected Bidder fails to procure security clearance even after such Additional Extension, AAICLAS may annul the Bidding Process and invite fresh bids. AAICLAS also reserves the right to forfeit the Performance Security of the Selected Bidder who is unable to obtain the necessary security clearances even after such Additional Extension.

It is the responsibility of the Selected Bidder to obtain at its own costs, all Applicable Permits and clearances from the respective authorities within the time prescribed by AAICLAS.

2.2.6. Clarifications

- 2.2.6.1 Bidders requiring any clarification(s) on the Tender Document may notify AAICLAS through CPPP only (<http://etenders.gov.in/eprocure/app>). They should send in their queries before the date specified in the schedule of the Bidding Process. AAICLAS shall endeavor to respond to the queries within the period specified therein. AAICLAS will publish all the queries and its responses thereto on CPPP only (<http://etenders.gov.in/eprocure/app>) for the benefit of all the Bidders of the Tender Document without identifying the source of queries.
- 2.2.6.2 AAICLAS shall endeavor to respond to the questions raised or clarifications sought by the Bidders. However, AAICLAS reserves the right not to respond to any question(s) or provide any clarification(s), in its sole discretion, and nothing in this clause shall be taken or read as compelling or requiring AAICLAS to respond to any question(s) or to provide any clarification(s).
- 2.2.6.3 AAICLAS may also on its own motion, if deemed necessary, issue interpretation(s) and clarification(s) to all Bidders. All clarifications and interpretations issued by AAICLAS shall be deemed to be part of the Bidding Documents. Verbal clarification(s) and information given by AAICLAS or its employees or representatives shall not in any way or manner be binding on AAICLAS and shall not alter the terms of the Tender Document.
- 2.2.6.4 To facilitate evaluation of Bids, AAICLAS may, at its sole discretion, seek clarification(s)

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through shortfall at eCPPP portal from any Bidder regarding its Bid. Such clarification(s) shall be provided within the time specified by AAICLAS for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be through – CPPP (<http://etenders.gov.in/eprocure/app>) only.

- 2.2.6.5 If the Bidder does not provide clarification(s) sought by AAICLAS under Clause 2.2.6.4 and Clause 2.3.3.3 of this Tender Document within the prescribed time, its Bid shall be liable to be rejected in accordance with the provisions of Clause 2.2.5 of this Tender Document.

In case the Bid is not rejected, AAICLAS may proceed to evaluate the Bid by construing the particulars requiring clarification(s) to the best of its understanding, and the Bidder shall be barred from subsequently questioning such interpretation of AAICLAS.

- 2.2.6.6 AAICLAS has appointed an Independent External Monitor (“IEM”) for the purpose of monitoring the Bidding Process as well as execution of the Agreement for compliance with the principles specified in the Integrity Pact. The co-ordinates of the IEM are as under:

(1) Shri Thanglura Darlong
541, Delhi Apartment, Plot No. 15C,
Sector-22, Dwarka, New Delhi-110077
Mobile No.7042825094
Email- thangluradarlong@yahoo.com

(2) Shri Sarvagya Kumar Srivastava
370, Asiad Village Complex, Siri Fort, New Delhi-110049
Mobile No.-9810704614
Email- sarvagyas@hotmail.com

2.2.7. Amendment of Tender Document

- 2.2.7.1 At any time prior to the Bid Due Date, AAICLAS may, for any reason, whether at its own initiative or in response to clarification(s) requested by the Bidder, modify the Tender Document by the issuance of addenda.

- 2.2.7.2 Any Addendum thus issued will be posted only on CPPP. All Addendum shall be the part of the Tender Document.

- 2.2.7.3 In order to afford the Bidders a reasonable time for taking an addendum into account, or for any other reason, AAICLAS may, in its sole discretion, extend the Bid Due Date.

2.2.8. Language

The Bid and all related correspondence and documents in relation to the Bidding Process shall be in English. Supporting documents and printed literature furnished by the Bidder with the Bid may be in any other language provided that they are accompanied by translations in English, duly authenticated and certified by the Bidder. Supporting

documents, which are not translated into English, may not be considered in evaluation of the Bid. For the purpose of interpretation and evaluation of the Bid, the English language translation shall prevail.

2.2.9. Format and signing of Bid

2.2.9.1 The Bidder shall provide all the information sought under this Article. AAICLAS will evaluate only those Bids that are received in the required formats and complete in all respects. Incomplete and/or conditional Bids shall be liable to rejection.

2.2.9.2 All Bids should be submitted only through CPPP (<http://etenders.gov.in/eprocure/app>). For the purpose of submission of the Bid online, a Bidder shall first register itself on the CPPP.

2.2.9.3 The following conditions shall be adhered to while submitting the Bid:

- (i) The Bid Documents shall be digitally signed by the Bidder or person(s) duly authorized by the Bidder, at all times while uploading the Bid Documents, to bind the Bidder to the terms and conditions of the Agreement. The later authorization shall be indicated by scanned copy of written power of attorney accompanying the Bid. All the documents of the Bid that are to be uploaded shall be digitally signed by the person authorized to sign the Bid;
- (ii) **Bidders shall ensure that DSC should be issued in the name of the Authorized Signatory as per Power of Attorney only and same shall be used for submission of Bid.** Failing from this will make the Bid unresponsive and Bid shall be rejected by AAICLAS;
- (iii) Information provided by the Bidder must apply to the Bidder;
- (iv) In responding to the Tender Document, Bidders should demonstrate their eligibility in accordance with Clause 2.3.2 of this Tender Document;
- (v) Except as specifically provided in this Article, no supplementary material will be entertained by AAICLAS, and that evaluation will be carried out only on the basis of Bidding Documents received by the closing time for the Bids as specified in schedule of the Bidding Process. Bidders will ordinarily not be asked to provide additional material information or documents subsequent to the date of submission, and unsolicited material if submitted will be summarily rejected. For the avoidance of doubt, AAICLAS reserves the right to seek clarifications under and in accordance with Clause 2.3.3.3.

2.2.10. Submission of Bids

2.2.10.1 The Bidder shall submit the Bid in the format specified at Appendix and Annexures, together with the documents specified in Clause 2.2.10.2. All correspondence relating to this Article should be through the online CPPP (<http://etenders.gov.in/eprocure/app>) only.

2.2.10.2 The Bidder shall upload the complete and legible scanned copies of the following documents, as also mentioned in Appendix XVI in pdf format in “Cover-1” at the CPPP:

- (a) **Appendix I:** Acceptance Letter (Unconditional Acceptance Letter) along with annexures and supporting documents;
 - (aa) **Annexure 1:** Details of the Bidder;
 - (bb) **Annexure 2:** Details of Eligible Project;
 - (cc) **Annexure 3:** Certificate from the Statutory Auditor regarding Technical capacity;
 - (dd) **Annexure 4 (A) and 4 (B):** Financial Capacity of the Bidder;
 - (ee) **Annexure 5:** Certificate from Statutory Auditor regarding Affiliate;
 - (ff) **Annexure 6 (A):** Undertaking with information on contracts with AAICLAS;
 - (gg) **Annexure 6 (B):** Format of outstanding dues/ no dues certificate;
 - (hh) **Annexure 6 (C):** Format of undertaking for clearing all dues before issuance of LOIA;
 - (ii) **Annexure 7:** Integrity Pact;
 - (jj) **Annexure 8:** Undertaking on Total Responsibility;
 - (kk) **Annexure 9:** Undertaking on Conflict of Interest
- (b) **Appendix II:** Statement of Legal Capacity on the letterhead;
- (c) **Appendix III:** Duly notarized/legalized Power of Attorney for signing the Bid;
- (d) **Appendix IV:** Power of Attorney for Lead Member of Consortium¹ (if applicable);
- (e) **Appendix V:** Joint Bidding Agreement (applicable in case of Consortium);
- (f) **Appendix VI:** List of near relatives employed in AAICLAS;
- (g) **Appendix VII:** Document of incorporation;
- (h) **Appendix VIII:** Copy of Memorandum and Articles of Association, if the Bidder is a body corporate, and if a partnership then a copy of its partnership deed;
- (i) **Appendix IX (A):** Format of Financial Bid;
- (j) **Appendix IX (B):** Format of BOQ;
- (k) **Appendix X:** Duly audited financial statements of the Bidder for financial years; viz., FY 2020-21, FY 2021-22 and FY 2022-23;
- (l) **Appendix XI:** Letter of Undertaking;
- (m) **Appendix XII:** Affidavit;

¹ Further, in case of Consortium, each Member shall provide separate Power of Attorney, authorizing their respective signatories having authority to issue Power of Attorney to the Lead Member of the Consortium

- (n) **Appendix XIII: Declaration;**
 - (o) **Appendix XIII(A): Undertaking regarding debarment/ blacklisting/ restraintment**
 - (p) **Appendix XIV: Copy of the Tender Document signed by the Authorised Signatory;**
 - (q) **Appendix XV: Letter of Undertaking;**
 - (r) **Appendix XVI: Submission of Checklist.**
- 2.2.10.3 The Bidder shall submit the Financial Bid separately in the format uploaded on CPP Portal (format provided for reference under Appendix IX (A) and Appendix IX (B)).
- 2.2.10.4 The Bid Security shall be paid through NEFT/RTGS only in the below mentioned bank A/c details, failing which the Bid shall be rejected:

ACCOUNT No.	Bank Name	IFSC Code	ACCOUNT NAME
000705044092	ICICI Bank	ICIC0000007	AAI CARGO LOGISTICS & ALLIED SERVICES COMPANY LTD

- 2.2.10.5 Following documents shall be submitted by Selected Bidder on demand by AAICLAS in original before issuance of LOIA, failing which the Bid shall be rejected, Bid Security will be forfeited, and the agency will be debarred for 1 (one) year.:
- (a) Acceptance Letter - (Unconditional Acceptance Letter) Appendix I;
 - (b) Power of Attorney as required under as per format at Appendix III and Appendix IV;
 - (c) Joint Bidding Agreement in the format at Appendix V;
 - (d) Integrity pact in the format at Annexure 7 of Appendix I;
 - (e) Affidavit as per format at Appendix XII;
 - (f) Statement of Legal Capacity as per format at Appendix II.

2.2.11. Bid Due Date

- 2.2.11.1 The Bid shall be uploaded by the Bidders on the CPPP on or before date and time mentioned in schedule of the Bidding Process for the Bid Due Date.
- 2.2.11.2 Bids shall only be submitted through the CPPP. Bidders are advised to submit the Bids through online portal well in advance to avoid network problems. AAICLAS shall not be responsible for any inability for submission of Bids within the Bid Due Date due to such technical problems/errors.
- 2.2.11.3 Bids submitted by hand, post, fax, telex, telegram or e-mail shall not be entertained and shall be rejected.
- 2.2.11.4 AAICLAS may, in its sole discretion, extend the Bid Due Date by issuing an addendum in accordance with Clause 2.2.7 of this Tender Document uniformly for all Bidders.
- 2.2.11.5 Bids received by AAICLAS after the specified time on the Bid Due Date shall not be eligible

for consideration and shall be summarily rejected.

- 2.2.11.6 In case a bidder has deposited Bid Security and Tender Fee but did not participate in the tender process i.e. the bidder has not submitted his bid on CPPP and his name is not appearing in the bids submitted list, then on request of such party, amount paid towards Bid Security deposited by the party may be refunded after deduction of 10% of Bid Security amount. However, the Tender Fee shall not be refunded in this case.

2.2.12. Modifications/ substitution/ withdrawal of Bids

- 2.2.12.1. No Bid shall be modified, substituted or withdrawn by the Bidder after Bid Due Date.
- 2.2.12.2. Any alteration/ modification in the Bid or additional information supplied subsequent to the Bid Due Date, unless the same has been expressly sought for by AAICLAS, shall be disregarded.

2.2.13. Opening and Evaluation of Bids

- 2.2.13.1 AAICLAS shall open the Bids at the date and time specified in the schedule of the Bidding Process.
- 2.2.13.1 AAICLAS will subsequently examine and evaluate Bid in accordance with the provisions set out in Clause 2.3 of this Tender Document.
- 2.2.13.2 Bids for which a notice of withdrawal has been submitted in accordance with Clause 2.2.12 of this Article shall not be opened.
- 2.2.13.3 Bidders are instructed that qualification of Bidders shall be at the sole discretion of AAICLAS. Bidders will be deemed to have understood and agreed that no explanation or justification on any aspect of the Bidding Process or selection will be given. The selection in terms of the Bidding Process shall be undertaken in terms of the applicable guidelines of the Central Government including those in relation to public procurement.
- 2.2.13.4 Any information contained in the Bid shall not in any way be construed as binding on AAICLAS, its agents, officials, successors or assigns, but shall be binding against the Bidder if the Project is subsequently awarded to it on the basis of such information.
- 2.2.13.5 AAICLAS reserves the right not to proceed with the Bidding Process at any time without notice or liability and to reject any or all Bid(s) without assigning any reasons. The Tender Fee shall be non-refundable in all circumstances.

If any information furnished by the Bidder is found to be incomplete, or contained in formats other than those specified herein, AAICLAS may, in its sole discretion, exclude the relevant information/document from further evaluation. In the event the Bidder furnishes false information or where any information is found to be amounting to a material representation, the Bid is liable to be rejected at any stage, in accordance with the provisions set forth in Clause 2.2.5 of this Tender Document and AAICLAS is free to take any other action as it deems fit.

2.2.14. Details of Technical Capacity and Financial Capacity

- 2.2.14.1 The Bidder should furnish the details of Technical Capacity and Financial Capacity. The Bidder is solely responsible for the accuracy of the details/ documents furnished.
- 2.2.14.2 The Bidders must provide the necessary information relating to Technical Capacity as per format at Annexure 2 and Annexure 3 of Appendix I.
- 2.2.14.3 The Bidder should furnish the required information and evidence in support of its claim of Financial Capacity, as per format at Annexures 4 (A), 4 (B) and 5 of Appendix I.
- 2.2.14.4 The Bidders must submit the No Dues Certificate and undertakings as per format at Annexures 6 (A), 6 (B) and 6 (C) of Appendix I.
- 2.2.14.5 The Bidder must furnish an Integrity Pact as per format at Annexure 7 of Appendix I.

2.2.15. Financial information for purposes of evaluation

The Bid must be accompanied by the financial statements/certificates duly certified by the Statutory Auditor.

2.2.16. Confidentiality

Information relating to the examination, clarification, evaluation, and recommendation for the Qualified Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising AAICLAS in relation to or matters arising out of or concerning the Bidding Process. AAICLAS will treat all information, submitted as part of Bid, in confidence and will require all those who have access to such material to treat the same in confidence. AAICLAS may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/or AAICLAS or as may be required by law or in connection with any legal process.

2.2.17. Test of Responsiveness

- 2.2.17.1 Prior to evaluation of Bids, AAICLAS shall determine whether each Bid is responsive to the requirements of the Tender Document. The Bid shall be considered responsive only if:
- (i) It is received as per format at Appendix-I, including Annexures;
 - (ii) It is received by the Bid Due Date including any extension thereof pursuant to Clause 2.2.11 of this Tender Document;
 - (iii) It is accompanied by the Power of Attorney as per format in Appendix-III however in case of a Consortium, it has to be accompanied by the Power of Attorney as per format in Appendix-IV and each Member of Consortium shall provide separate Power of Attorney as per format in Appendix III, authorizing their respective signatories having authority to issue Power of Attorney to the Lead Member of the

Consortium;

- (iv) It contains all the information and documents (complete in all respects) as requested in this Article;
- (v) It contains information in the same formats as those specified in this Article;
- (vi) It contains certificates substantially in the formats specified at Appendix- I and Annexures therein;
- (vii) It is accompanied by the Bid Security as specified in Clause 2.1.3.6 and 2.1.3.7 of this Tender Document;
- (viii) It is accompanied with Undertaking and No Dues Certificate (as per Annexures 6 (A), 6 (B), and 6 (C)) along with its Bid on or before the Bid Due Date;
- (ix) It is accompanied by the Joint Bidding Agreement (for Consortium), specific to the License, as specified in **Appendix V** in this Tender Document;
- (x) It is accompanied by the Integrity Pact, and Undertaking on Total Responsibility in the format specified at Annexure 7 and Annexure 8 respectively of Appendix I;
- (xi) It is accompanied by the Statement of legal capacity as per format in Appendix II and List of near relatives employed at AAICLAS as per format in Appendix VI;
- (xii) It is accompanied by the Affidavit as per format in Appendix XII.
- (xiii) It does not contain any condition or qualification;
- (xiv) It is not non-responsive in terms hereof.

2.2.17.2 AAICLAS reserves the right to reject any Bid which is non-responsive and no request for alteration, modification, substitution, or withdrawal shall be entertained by AAICLAS in respect of such Bid. Provided, however, that AAICLAS may, in its discretion, allow the Bidder to rectify any infirmities or omissions if the same does not constitute a material modification of the Bid.

2.2.18. Qualification and notification

Upon completion of evaluation of Technical Bid, AAICLAS would announce a list of Qualified Bidders who will be eligible for opening of their Financial Bid. At the same time, AAICLAS shall not be bound to notify the other Bidders that they have not been qualified. AAICLAS will not entertain any query or clarification from Bidders who fail to qualify.

2.2.19. Proprietary data

All documents and other information supplied by AAICLAS or submitted by the Bidder (including any information submitted by any Member) to AAICLAS shall remain or become the property of AAICLAS. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. AAICLAS will not return any Bid or any information provided along therewith.

2.2.20. Correspondence with the Bidder

Save and except as provided in this Tender Document, AAICLAS shall not entertain any correspondence with any Bidder in relation to the acceptance or rejection of any Bid.

2.2.21. Bid Security

- 2.2.21.1 The Bidder shall furnish as part of its Bid, a Bid Security referred to in Clause 2.1.3.6 hereinabove.
- 2.2.21.2 AAICLAS shall not be liable to pay any interest on the Bid Security so made and the same shall be interest free.
- 2.2.21.3 Any Bid not accompanied by the Bid Security shall be summarily rejected by AAICLAS as non-responsive.
- 2.2.21.4 Save and except as provided in Clauses 2.1.3.6 above, the Bid Security of unsuccessful Bidders will be returned by AAICLAS, without any interest, as promptly as possible on acceptance of the Bid of the Selected Bidder or when the Bidding Process is cancelled by AAICLAS, and in any case within 60 (sixty) days from the Financial Bid opening date. Where Bid Security has been paid online through CPPP, the refund thereof shall be in the source account (account from which payment is received) of the unsuccessful Bidder(s).
- 2.2.21.5 The Selected Bidder's Bid Security will be retained, upon the Licensee signing the Agreement as part of the Performance Security in accordance with the provisions thereof.
- 2.2.21.6 AAICLAS shall be entitled to forfeit and appropriate the Bid Security as Bid Damages, inter alia, in any of the events specified in Clause 2.2.21.7 herein below. The Bidder, by submitting its Bid pursuant to this Tender Document, shall be deemed to have acknowledged and confirmed that AAICLAS will suffer loss and damage on account of withdrawal of its Bid or for any other default by the Bidder during the Bid validity Period as specified in this Article. No relaxation of any kind on Bid Security shall be given to any Bidder.
- 2.2.21.7 The Bid Security shall be forfeited as Damages without prejudice to any other right or remedy that may be available to AAICLAS under the Bidding Documents and/ or under the Agreement, or otherwise,
- a) a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Clause 2.4 of this Tender Document;
 - b) a Bidder withdraws its Bid during the period of Bid validity as specified in this Article and as extended by mutual consent of the respective Bidder(s) and AAICLAS;
 - c) the Selected Bidder fails within the specified time limit –
 - i. to execute and return the duplicate copy of LOIA for the Project; or
 - ii. to execute the Agreement for the Project; or

- iii. if there is a Conflict of Interest as under Clause 2.2.2.1(v) ; or
- iv. in case pre-qualification conditions have not been met or Bidder has made material misinterpretation or given materially incorrect/ false information.

d) the Selected Bidder, having signed the Agreement, commits any breach thereof.

2.3. CRITERIA FOR EVALUATION

2.3.1. Evaluation parameters

2.3.1.1 The Bidder's eligibility shall be established by the following parameters (“**Threshold Eligibility Criteria**”):

- (a) Technical Capacity; and
- (b) Financial Capacity.

2.3.1.2 Only those Bidders who fulfill the Threshold Eligibility Criteria submitted through Technical Bid specified in Clause 2.3.2 of this Tender Document and in accordance with Annexures hereto, shall qualify for short-listing under Clause 2.3 of this Tender Document. The Bids of the Bidders who do not meet the Threshold Eligibility Criteria shall be rejected/disqualified.

2.3.1.3 In computing the Technical Capacity and Financial Capacity of the Bidder under Clause 2.2.2.2 and Clause 2.3.1 of this Tender Document, the Technical Capacity and the Financial Capacity of their respective Affiliates would also be eligible hereunder.

2.3.2. Technical Bid Document

To be eligible for qualifying under the Technical Bid, the Bidder shall fulfill the following conditions of eligibility:

(A) Technical Capacity:

For demonstrating Technical Capacity and experience (“**Technical Capacity**”), the Bidder must satisfy all of the following criteria:

S.No.	Criteria	Documentary proof to be submitted
1.	The Bidder should have at least 1 (one) year of cargo handling/management experience in the previous financial years, viz., FY2016-17 to FY2022-23 with minimum annual cargo handled/managed volume of 60,000 (Sixty thousand) metric ton from a single project	Experience certificate from Statutory Auditor as per format specified in Annexure 3

Projects undertaken in accordance to the provisions of Clause 2.3.2 (A), would qualify as eligible projects (“**Eligible Project**”). For determination of Technical Capacity of the Bidder, in case any services have been jointly executed by the Bidder (as part of any Consortium), minimum annual volume

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in accordance to the provisions of Clause 2.3.2 (A) shall be considered only to the extent of its share in the Consortium. The bidder should substantiate its claim for the share in works and/or services done by providing a certificate issued from a Statutory Auditor.

Certificate from the Bidder's Statutory Auditor must be furnished as per the format given in Annexure 3 of this Tender Document for each Eligible Project.

In the case of Consortium, the certificates shall be submitted for each Member of the Consortium who have at least 26% (twenty-six per cent) equity share in Consortium and whose credentials are being relied upon to meet the Technical Capacity.

(B) Financial Capacity:

For demonstrating financial capacity (“**Financial Capacity**”) the Bidder shall satisfy the following criteria:

S.No.	Criteria	Documentary proof to be submitted
1.	The Minimum Turnover of the Bidder, in any 1 (one) of financial years, viz., FY 2020-21, FY 2021-22, and FY 2022-23, shall be at least INR 150 crore (Indian rupees one hundred and fifty crore). <u>Note:</u> At least 50% of the qualifying minimum turnover should be from the relevant business (cargo handling/.management) for which experience has been claimed	Statutory Auditor's certificate, of the Bidder as per Annexure 4 (A)
2.	The Bidder should have Net Worth of INR 35 cr in FY 2022-23	Statutory Auditor's certificate of the Bidder as per Annexure 4 (B)

Note:

- (a) Any Bidder submitting Bid for the Project must meet Financial Capacity criteria as indicated above.
- (b) The Minimum Turnover, and Net Worth of the Bidder shall be in Indian Rupees. No statement for the same shall be submitted in a currency other than Indian Rupees (INR). For conversion of US Dollars to Rupees, the rate of conversion shall be Indian Rupees 83.43 (Eighty Three Rupees and Forty Three paise) to a US Dollar. In case of any other currency, the same shall first be converted to US Dollars as on the date 60 (sixty) days prior to the Bid Due Date, and the amount so derived in US Dollars shall be converted into Rupees at the aforesaid rate. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date.
- (c) The Bidder shall furnish in its Technical Bid, certificate(s) from its Statutory Auditors certifying the Financial Capacity criteria as per Annexure 4 (A) and Annexure 4 (B)

In case of Consortium:

- (d) the audited balance sheets shall be submitted for each Member of the Consortium whose credentials are being relied upon to meet the Financial Capacity as per required in Appendix X. For ample clarity, the weighted average of the turnover of all the Members of the Consortium who have at least 26% (twenty-six per cent) equity share in Consortium shall be considered for examining financial eligibility.
- (e) Experience for any activity relating to an Eligible Project shall not be claimed by more than 1 (one) Member of the Consortium. In other words, no double counting by a Consortium in respect of the same experience shall be permitted in any manner whatsoever.
- (f) Each member of the Consortium shall have positive Net Worth in FY 2022-23.
- (g) The combined Financial capacity (Turnover and Net worth) of the Bidder shall be computed as the weighted sum of Financial capacity of each member of the Consortium as their proposed equity stake (%) in the Consortium.
- (h) **Unique Document Identification Number (UDIN) for documents provided against Financial Capacity shall be provided in the certificate issued by Statutory Auditor (as applicable).**

2.3.3. Evaluation of Technical Bid

- 2.3.3.1 AAICLAS shall determine whether each Technical Bid is in compliance with the requirements of the Article.
- 2.3.3.2 Such Technical Bid(s), which are not in compliance with the requirements of the Article, shall be rejected forthwith and no request for alteration, modification, substitution or withdrawal shall be entertained by AAICLAS in respect of such Technical Bids).
- 2.3.3.3 AAICLAS reserves the right to seek clarification(s) from any Bidder regarding its Technical Bid. Such clarification(s) shall be provided within the time specified by AAICLAS for this purpose. Any request for clarification(s) and all clarifications(s) in response thereto shall be through CPPP (<http://etenders.gov.in/eprocure/app>) only. If the Bidder does not furnish the clarification(s) within the prescribed time, the Bid shall be liable to be rejected. In the case Bid is not rejected, AAICLAS may proceed to evaluate the Bid by construing the particulars requiring the clarification to the best of its understanding, and the Bidder shall be barred from subsequently questioning such interpretation of AAICLAS.
- 2.3.3.4 Upon completion of evaluation of Technical Bid, AAICLAS would announce a list of Qualified Bidders, whose Technical Bid have been found to be responsive and in compliance with the requirements of the Article.
- 2.3.3.5 AAICLAS reserves the right to verify all statements, information and documents submitted by the Bidder in response to this Tender Document. Any such verification or the lack of such verification by AAICLAS to undertake such verification shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of AAICLAS there.

2.3.4. Requirements of the Single Bidder or Consortium

2.3.4.1 Where the Bidder is a single entity, it shall be required to form an appropriate Special Purpose Vehicle, incorporated under the Indian Companies Act, 2013 (the “**SPV**”), to execute the Agreement and implement the Project. In case the Bidder is a Consortium, it shall, in addition to forming an SPV, comply with the following additional requirements:

- (a) Number of Members in a Consortium shall not exceed 2(two);
- (b) Subject to the provisions of sub-clause (a) above, the Bid should contain the information required for each Member of the Consortium. Members of the Consortium shall nominate one Member as the lead member (the “**Lead Member**”), who shall have an equity share holding of at least 51% (fifty-one per cent) of the paid up and subscribed equity of the SPV. The nomination(s) shall be supported by a Power of Attorney, as prescribed in Appendix IV executed on non-judicial stamp paper of appropriate value and duly notarized by a notary public, signed by all the other Members of the Consortium;
- (c) Undertake that members shall hold and maintain equity shareholding in the same proportion as the proposed equity shareholding during Bid submission for a period of five (5) years from the COD;
- (d) The Bid should include a brief description of the roles and responsibilities of individual Members, particularly with reference to technical and financial obligations;
- (e) An individual Bidder cannot at the same time be Member of a Consortium applying for the Tender Document. Further, a Member of a particular Bidder Consortium cannot be Member of any other Bidder Consortium applying for Tender Document;
- (f) the Members of a Consortium shall form an appropriate SPV to execute the Project, if awarded to the Consortium;
- (g) Members of the Consortium shall enter into a binding Joint Bidding Agreement, substantially in the form specified at Appendix V (the “**Joint Bidding Agreement**”), for the purpose of submitting a Bid. The Joint Bidding Agreement, to be submitted along with the Bid, shall, *inter alia*:
 - (i) convey the intent to form an SPV with shareholding/ ownership equity commitment(s) in accordance with this Article, which would enter into the Agreement and subsequently perform all the obligations of the Licensee in terms of this Tender Document, in case the Project is awarded to the Consortium;
 - (ii) clearly outline the proposed roles and responsibilities, if any, of each Member;
 - (iii) Undertake that members of the Consortium shall hold and maintain equity shareholding in the same proportion as the proposed equity shareholding during Bid submission until a period of 5 (five) years from COD;

- (iv) include a statement to the effect that all Members of the Consortium shall be liable jointly and severally for all obligations for the entire License Period; and
- (v) except as provided under this Tender Document and the Bidding Documents, there shall not be any amendment to the Joint Bidding Agreement without the prior written consent of AAICLAS.

2.3.4.2 Any entity which has been barred by the Central/ State Government, or any entity controlled by it, from participating in any project, and the bar subsists as on the date of Bid, would not be eligible to submit a Bid, either individually or as Member of a Consortium.

2.3.4.3 A Bidder including any Consortium Member or Affiliate should, in the last 3 (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Bidder or Member, as the case may be, nor has been expelled from any project or contract by any public entity for breach of contract by such Bidder or Member nor have had any contract terminated by any public entity for breach by such Bidder or Consortium Member or Affiliate. Provided, however, that where a Bidder claims that its disqualification arising on account of any cause or event specified in Clause 2.3.4.3 is such that it does not reflect (a) any malfeasance on its part in relation to such cause or event; (b) any willful default or patent breach of the material terms of the relevant contract; (c) any fraud, deceit or misrepresentation in relation to such contract; or (d) any rescinding or abandoning of such contract, it may make a representation to this effect to AAICLAS for seeking a waiver from the disqualification hereunder and AAICLAS may, in its sole discretion and for reasons to be recorded in writing, grant such waiver if it is satisfied with the grounds of such representation and is further satisfied that such waiver is not in any manner likely to cause a material adverse impact on the Bidding Process or on the implementation of the Project.

2.3.4.4 While qualification is open to persons from any country, the following provisions shall apply:

- (a) where, on the date of the Bid, more than 25% (twenty five percent) of the aggregate issued, subscribed and paid up equity share capital in a Bidder or its Member is held by persons resident outside India or where a Bidder or its Member is controlled by persons resident outside India; or
- (b) if at any subsequent stage after the date of the Bid, there is an acquisition of more than 25% (twenty five percent) of the aggregate issued, subscribed and paid up equity share capital or Control, by persons resident outside India, in or of the Bidder or its Member;

then the qualification of such Bidder or in the event described in subclause
- (c) above, the continued qualification of the Bidder shall be subject to approval of AAICLAS from national security and public interest perspective. The decision of AAICLAS in this regard shall be final, conclusive and binding on the Bidder.

The holding or acquisition of equity or Control, as above, shall include direct or indirect holding/ acquisition, including by transfer, of the direct or indirect legal or beneficial

ownership or Control, by persons acting for themselves or in concert and in determining such holding or acquisition, AAICLAS shall be guided by the principles, precedents and definitions contained in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, or any substitute thereof, as in force on the date of such acquisition.

The Bidder shall promptly inform AAICLAS of any change in the shareholding, as above, and failure to do so shall render the Bidder liable for disqualification from the Bidding Process.

2.3.5. Change in Ownership

2.3.5.1 By submitting the Bid, the Bidder acknowledges and undertakes that the Lead Member of the Consortium and the Member other than the Lead Member of the Consortium, whose Technical and/or Financial Capacity is considered for the purpose of qualification and shortlisting herein, shall have equity shareholding in the SPV as that proposed during bid submission until a period of 5 (five) years from COD. For the avoidance of doubt, the provisions of this Clause 2.3.5.1 shall apply only when the Bidder is a Consortium.

2.3.5.2 By submitting the Bid, the Bidder shall also be deemed to have acknowledged and agreed that in the event of a change in Control of a Member or an Affiliate whose Technical Capacity and/or Financial Capacity was taken into consideration for the purposes of technical qualification under and in accordance with the Tender Document, the Bidder shall inform AAICLAS forthwith along with all relevant particulars about the same and AAICLAS may, in its sole discretion, disqualify the Bidder or withdraw the LOIA from the Selected Bidder, as the case may be. In such an event, notwithstanding anything to the contrary contained in this Tender Document, AAICLAS shall forfeit and appropriate the Bid Security as compensation in the form of damages and not penalty, payable to AAICLAS for, *inter alia*, time, cost and effort of AAICLAS, without prejudice to any other right or remedy that may be available to AAICLAS hereunder or otherwise. In the event such change in Control occurs after signing of the Agreement, it would, notwithstanding anything to the contrary contained in the Tender Document, be deemed to be a breach of the Agreement, and the same shall be liable to be terminated without AAICLAS being liable in any manner whatsoever to the Licensee. In such an event, notwithstanding anything to the contrary contained in the Tender Document, AAICLAS shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to AAICLAS under the Bidding Tender Documents and/ or this Tender Document or otherwise.

2.3.6. Financial Bid Document

2.3.6.1 In consideration of AAICLAS granting the Licensee the license to use and occupy the land for the Cargo Terminal and parking area, Licensee shall pay AAICLAS from the Commencement Date a consideration of Lease Rental of INR 9210 (Indian Rupees Nine thousand Two hundred and ten) per square meter per annum.

2.3.6.2 In consideration of AAI granting the Licensee the license to use and occupy the land for the

transshipment operations, Licensee shall pay AAI from the Commencement Date a consideration of Lease Rental of INR 6910² (Indian Rupees Six thousand Nine Hundred and Ten) per square meter per annum for the utilized land.

- 2.3.6.3 The Lease Rental rates are applicable from 01.04.2025 for a period of three years with 15% escalation every 3 years.
- 2.3.6.4 Each Licensee operating at the Airport(s) is required to calculate Revenue Share (“**Revenue Share**”) as 10% of the “Gross Revenue” from all users.
- 2.3.6.5 The Bidder is required to quote an “Annual License Fee” as the financial bid (“**Financial Bid**”) as per the format provided in Appendix IX (B). Annual License Fee will be subject to 5% year-on-year escalation.
- 2.3.6.6 Quoted Annual License Fee shall be subject to a minimum quote of INR 1 cr (Indian Rupees One Crore)
- 2.3.6.7 The Bidder is required to quote Annual License Fee over and above Lease rental and Revenue Share.
- 2.3.6.8 The Financial Bid shall be furnished in the format as set out under Appendix IX (B) in a MS excel – ‘BOQ’ file which shall be uploaded on the CPP portal clearly indicating the amount in both figures and words and upto 2 (two) decimal points. For example, amount shall be quoted as 10.12 instead of 10 or 10.1. Further, in the event of any difference between figures and words, the amount indicated in words shall prevail.
- 2.3.6.9 The Bidders shall submit its Financial Bid as per the format set out in Appendix IX (B) uploaded on the CPP Portal.
- (i) The Bidders shall download the BOQ and shall upload the duly filled file with the Financial Bid. It may be noted that only duly submitted Bids shall be evaluated and Bids just saved but not submitted, shall not be part of the evaluation process.
 - (ii) The Financial Bid of the Bidding Documents is for pricing only.
 - (iii) Conditional Bid shall be liable to rejection. Notwithstanding anything contained in this Article, the price quoted in the Financial Bid shall be firm and fixed in accordance with the terms and conditions set out in the Tender Document) throughout the License Period.
 - (iv) Bidder shall provide an all-inclusive financial quote including all other levies, taxes, etc. but excluding GST.
 - (v) The Financial Bid shall be evaluated on the basis of highest Annual License Fee as provided in Appendix IX (B).
 - (vi) The Bidder shall submit the Financial Bid separately in the format uploaded on CPP

² The lease rental for transshipment differs as it is within operational area

Portal (format provided for reference under Appendix IX (B)).

2.3.7. Process of Financial Evaluation

- 2.3.7.1 After opening of Financial Bid, Qualified Bidder with the highest quoted Annual License Fee will be selected subject to fulfillment of conditions within this Tender Document.

2.3.8. Issuance of LOIA

- 2.3.8.1 Upon completion of the Financial Bid and selection of the Selected Bidder, LOIA shall be issued, in duplicate, by AAICLAS to the Selected Bidder and the Selected Bidder shall, within 7 (seven) days of the receipt of the LOIA, sign and return the duplicate copy of the LOIA in acknowledgement thereof. In the event, the duplicate copy of the LOIA duly signed by the Selected Bidder is not received by the stipulated date, AAICLAS may, unless it consents to extension of time for submission thereof, appropriate the Bid Security as Bid Damages on account of failure of the Selected Bidder to acknowledge the LOIA.

- 2.3.8.2 After acknowledgement of the LOIA as aforesaid by the Selected Bidder, it shall cause the Selected Bidder to execute the Agreement within the period prescribed in the schedule of the Bidding Process. The Selected Bidder shall not be entitled to seek any deviation, modification or amendment in the Tender Document.

The issue of a LOIA by AAICLAS accepting the Bid and the acceptance of the LOIA by the Selected Bidder shall create binding obligations upon the Selected Bidder to fulfil the conditions as specified in this Article and the LOIA, including the execution of the Agreement in the prescribed format and within the prescribed time, all to the satisfaction of AAICLAS. The LOIA will be handed to the Selected Bidder or emailed or posted to the Selected Bidder's address as given in the Bid and such handing or emailing or posting shall be deemed good service of such a notice. The LOIA will be deemed to be a LOA after obtaining Security Clearance.

2.4. FRAUD AND CORRUPT PRACTICES

- 2.4.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of LOIA/LOA and during the subsistence of the Agreement. Notwithstanding anything to the contrary contained herein, AAICLAS may reject the Bid without being liable in any manner whatsoever to the Bidder if it determines that the Bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an event, AAICLAS shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Bid Damages, without prejudice to any other right or remedy that may be available to AAICLAS under the Bidding Documents and/ or this Tender Document, or otherwise.

- 2.4.1.1 Without prejudice to the rights of AAICLAS under Clause 2.4.1 hereinabove, if the Bidder is found by AAICLAS to have directly or indirectly or through an agent, engaged or indulged in any Corrupt Practice, Fraudulent Practice, Coercive Practice, Undesirable Practice or restrictive practice during the Bidding Process, or after the issue

of the LOIA or the execution of the Agreement, such Bidder or Licensee shall be liable to be terminated by a communication in writing by AAICLAS to such Bidder or Licensee (as the case may be) without AAICLAS being liable in any manner whatsoever to the Bidder or Licensee. In such an event, AAICLAS shall forfeit and appropriate the Bid Security or the Performance Security, as the case may be, and debar such Bidder or Licensee from any tender or RFP issued by AAICLAS for any period not succeeding subject to minimum of 3 (three) years, as the case may be without prejudice to any other right or remedy that may be available to AAICLAS in this regard.

2.4.2 For the purposes of this Clause 2.4, the following terms shall have the meaning hereinafter respectively assigned to them:

- (a) **“Corrupt Practice”** means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to, or employing, or engaging in any manner whatsoever, directly or indirectly, any official of AAICLAS who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the LOIA or has dealt with matters concerning the Agreement or arising therefrom, before or after the execution thereof, at any time prior to the expiry of 2 (two) years from the date such official resigns or retires from or otherwise ceases to be in the service of AAICLAS, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as permitted under sub Clause (vi) of Clause 2.2.1.1, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOIA/LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOIA/LOA or the Agreement, who at any time has been or is a legal, financial or technical adviser of AAICLAS in relation to any matter concerning the Project;
- (b) **“Fraudulent Practice”** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;
- (c) **“Coercive Practice”** means impairing or harming or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bidding Process;
- (d) **“Undesirable Practice”** means (i) establishing contact with any person connected with or employed or engaged by AAICLAS with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and
- (e) **“Restrictive Practice”** means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

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2.5. PRE-BID CONFERENCE

- 2.5.1 A pre-bid conference of the Bidders shall be convened at AAICLAS Headquarters, New Delhi on the designated date, and time as specified in the schedule of the Bidding Process.
- 2.5.2 During the course of the pre-bid conference, the Bidders will be free to seek clarification(s) and make suggestions for consideration of AAICLAS. AAICLAS shall endeavor to provide clarification(s) and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent Bidding Process. Details regarding the date and timing of pre-bid conference are provided in Clause 2.1.5.

2.6. MISCELLANEOUS

- 2.6.1 The Bidding Process shall be governed by, and construed in accordance with, the Laws of India and the courts at New Delhi shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Bidding Process.
- 2.6.2 AAICLAS, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;
- (a) suspend and/or cancel the Bidding Process and/or amend and/or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
 - (b) consult with any Bidder in order to receive clarification or further information;
 - (c) shortlist or not to shortlist any Bidder and/or to consult with any Bidder in order to receive clarification or further information;
 - (d) retain any information and/or evidence submitted to AAICLAS by or on behalf of, and/or in relation to any Bidder; and/or
 - (e) independently verify, disqualify, reject and/or accept any and all submissions or other information and/or evidence submitted by or on behalf of any Bidder.
- 2.6.3 It shall be deemed that by submitting the Bid, the Bidder agrees and releases AAICLAS, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder and the Bidding Documents, pursuant hereto, and/ or in connection with the Bidding Process, to the fullest extent permitted by Applicable Law, and waives any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.

2.7. INSTRUCTION FOR ONLINE BID SUBMISSION

The Bidders are required to submit soft copies of their bids electronically on the CPP Portal, using valid Digital Signature Certificates. The instructions given below are meant to assist the bidders in registering on the CPP Portal, prepare their bids in accordance with the requirements and submitting their bids

online on the CPP Portal. More information useful for submitting online bids on the CPP Portal may be obtained at <https://etenders.gov.in/eprocure/app>.

2.7.1. REGISTRATION

Bidders are required to enroll in the e-Procurement module of the Central Public Procurement Portal (URL: <https://etenders.gov.in/eprocure/app>) by clicking on the link “Online bidder Enrolment” on the CPP Portal which is free of charge.

As part of the enrolment process, the Bidders will be required to choose a unique username and assign a password for their accounts.

Bidders are advised to register their valid email address and mobile numbers as part of the registration process. These would be used for any communication from the CPP Portal.

Upon enrolment, the Bidders will be required to register their valid Digital Signature Certificate (Class II or Class III Certificates with signing key usage) issued by any Certifying Authority recognized by CCA India (e.g. Sify / nCode/ eMudhra etc.), with their profile.

Only one valid DSC should be registered by a Bidder. Please note that Bidders are responsible to ensure that they do not lend their DSCs to others, which may lead to misuse.

The Bidder shall then log in to the site through the secured log-in by entering their user ID / password and the password of the DSC / e-Token.

2.7.2. SEARCHING FOR TENDERS

There are various search options built-in in the CPP Portal, to facilitate Bidders’ search for active Bids using several parameters. These parameters could include Tender ID, Organization Name, Location, Date, Value, etc. There is also an option of advanced search for Bids, wherein the bidders may combine a number of search parameters such as Organization Name, Form of Contract, Location, Date, Other keywords etc. to search for a tender published on the CPP Portal.

Once the Bidders have selected the Bids they are interested in, they may download the required documents / tender schedules. These Bids can be moved to the respective ‘My Tenders / My Bids’ folder. This would enable the CPP Portal to intimate the Bidders through SMS / e-mail in case of any corrigendum issued to the document. The Bidder should make a note of unique Tender ID assigned to each tender, in case they want to obtain any clarification / help from the Helpdesk.

2.7.3. PREPARATION OF BIDS

The Bidder should, of its own accord, take into account any corrigendum published on the Tender Document before submitting their Bids. Please go through this Tender Document carefully to understand the documents required to be submitted as part of the Bid. Please note the number of covers in which the Bid Documents have to be submitted, the number of documents - including the names and content of each of the document that need to be submitted. Any deviations from these may lead to rejection of the Bid.

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The Bidder, in advance, should get ready the bid documents to be submitted as indicated in the Tender Document / schedule and generally, in PDF / XLS / RAR / DWF/JPG formats. Bid Tender Documents may be scanned with 100 dpi with black and white option which helps in reducing size of the scanned document.

To avoid additional time and effort required to upload the same set of standard documents which are required to be submitted as a part of every bid, a provision to upload such standard documents (e.g. PAN card copy, annual reports, auditor certificates etc.) has been provided to the bidders. Bidders can use 'My Space' or 'Other Important Documents' area available to them to upload such documents. These documents may be directly submitted from the 'My Space' area while submitting a Bid, and need not be uploaded again and again. This will lead to a reduction in the time required for Bid submission process.

The Bidder should log into the site well in advance for Bid submission so that they can upload the bid on time i.e. at or before the Bid submission time. Bidder will be responsible for any delay due to other reasons. The Bidder has to digitally sign and upload the required bid documents one by one as indicated in the Tender Document.

The Bidder should prepare the Tender fee & Bid Security as per the instructions specified in the Tender Document.

Bidders are requested to note that they should necessarily submit their financial bids in the format provided and no other format is acceptable. If the price bid has been given as a standard BOQ format with this Tender Document, then the same is to be downloaded and to be filled in by all the bidders. Bidders are required to download the BOQ file (which is an excel file), open it and fill in the white colored (unprotected) cells with their respective financial quotes. No other cells should be changed. Once the details have been completed, the bidder should save the filled in file and submit it online, without changing the file name. If the BOQ file is found to be modified by the Bidder, the Bid will be rejected.

The server time (which is displayed on the Bidders' dashboard) will be considered as the standard time for referencing the deadlines for submission of the Bids by the Bidders, opening of Bids etc. The Bidders should follow this time during Bid submission.

All the documents being submitted by the Bidders would be encrypted using PKI encryption techniques to ensure the secrecy of the data. The data entered cannot be viewed by unauthorized persons until the time of Bid opening. The confidentiality of the Bids is maintained using the secured Socket Layer 128-bit encryption technology. Data storage encryption of sensitive fields is done. Any Bid D that is uploaded to the server is subjected to symmetric encryption using a system generated symmetric key. Further this key is subjected to asymmetric encryption using buyers/bid opener's public keys. Overall, the uploaded Tender Documents become readable only after the tender is opened by the authorized bid openers.

The uploaded Tender Documents become readable only after the Tender is opened by the authorized Bid openers.

Upon the successful and timely submission of Bids (i.e. after Clicking 'Freeze Bid Submission' in the

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portal), the portal will give a successful Bid submission message & a Bid summary will be displayed with the Bid no. and the date & time of submission of the Bid and all other relevant details.

The Bid summary has to be printed and kept as an acknowledgement of the submission of the Bid. This acknowledgement may be used as an entry pass for any Bid opening meetings.

2.7.4. PASSWORD MAINTENANCE

The length of the password should be between 8 to 32 characters

The password should contain any English lowercase and uppercase (a-z and A-Z) characters.

The password must contain at least one number between 0-9.

The password must contain at least one special character from these [! @ # \$ ^ * _ ~] Sample password: Admin123\$, India2000#, etc.

2.7.5. ABOUT DSC

Digital Signature Certificates (DSC) are the digital equivalent (i.e. electronic format) of physical paper certificates.

Just as physical documents are signed manually, electronic documents, for example e- forms, are required to be signed digitally using a DSC. Transactions that are done through the internet, if signed using a DSC become legally valid.

Bidders are required to procure Class 2 or 3 signing certificates only. Only Class 2 or 3 certificates are valid for e-tendering purpose.

The Certifying Authorities are authorized to issue a DSC with a validity of one (or) two years. The maximum period for which the DSC may be issued is 2 (two) years. On the expiry of the term, the DSC may be revalidated by paying the required fees.

Digital Signatures are legally admissible in a court of law, as provided under the provisions of the Indian Evidence Act, 1872.

DSC is not required for companies but for individuals. For example- the director or the authorized signatory signing on behalf of a company requires a DSC.

Each user logs in to the tender site through the secured log in by giving the user id/ password allotted during registration & then by giving the password of the DSC. The DSC password will get locked if the wrong password is given many times successively.

2.7.6. DSC PROVIDERS FOR PRIVATE FIRMS

A licensed Certifying Authority (CA) issues digital signature certificates. Certifying Authority (CA) is an authority that has been granted a license to issue a digital signature certificate under Section 24 of the Information Technology Act 2000.

Vendors such as TCS (www.tcs-ca.tcs.co.in), Sify, MTNL, nCode (dsc@ncodesolutions.com), e-Mudhra (www.e-mudhra.com) issue DSCs for Bidders. The time taken by Certifying Authorities to issue a DSC may vary from three to seven days.

2.7.7. SYSTEM REQUIREMENTS

Windows XP with latest service pack Loaded IE 7.0 or above Loaded JRE 1.6 or above Antivirus Software with latest definition. Internet connectivity Scanner to scan the documents if required Printer and PDF Creator.

2.7.8. ASSISTANCE TO BIDDERS

Any queries relating to the Tender Document and the terms and conditions contained therein should be addressed to the Bid inviting authority for the tender or the relevant contact person indicated in the tender.

Any queries relating to the process of online bid submission or queries relating to CPP Portal in general may be directed to the 24x7 CPP Portal Helpdesk. For any Technical queries related to operation of the Central Public Procurement Portal Contact:

Tel: The 24 x 7 Toll Free Telephonic Help Desk Number 1800 3070 2232. Other Tel: 0120-

4200462, 0120-4001002. E-Mail: cppp-nic@nic.in ; cppp-nic@nic.in

For any further technical assistance with regard to functioning of CPP portal the bidder may also contact on the following AAICLAS help desk numbers on all working days only between:

- 1000 hrs to 1800 hrs (Mon-Fri)-
011-24632950, Ext-3512 (Six Lines), E-Mail: -epochelp@aai.aero
- 0930 hrs to 18.00 hrs (Mon-Fri)-
011-24632950Ext-3523,E-Mail:- etendersupport@aai.aero sanjeevkumar@aai.aero
- 0930 hrs to 1800 hrs (Mon-Fri)-
011-24657900, E-Mail: - gmitichq@aai.aero

3. SCOPE OF WORK

3.1. SCOPE OF PROJECT

The scope of the Project (the “Scope of the Project”) shall be as per of the Tender Document.

4. OBLIGATIONS OF THE LICENSEE

4.1. GENERAL OBLIGATIONS

- 4.1.1 The Licensee shall at its cost and expense observe, fulfil, comply with and perform all its obligations set out in the Tender Document or arising hereunder.
- 4.1.2 The Licensee shall comply with all Applicable Laws during the performance of its obligations under the Tender Document.
- 4.1.3 The Licensee shall engage only such subcontractors who satisfy the eligibility requirement in terms of Applicable Laws including the guidelines issued vide Order No. F/No.6/18/2019- PPD by Ministry of Finance, Department of Expenditure, Public Procurement Division dated 23.07.2020 and as amended from time to time.
- 4.1.4 The Licensee shall, at all times during the subsistence of the Project, comply with all the conditions stipulated in the Applicable Permits, necessary for performance of its obligations under this Tender Document.
- 4.1.5 Subject to Clause 4.1.1, 4.1.2, and 4.1.3, the Licensee shall discharge its obligations in accordance with Good Industry Practices and as a reasonable and prudent person.
- 4.1.6 Save and except as expressly provided in this Tender Document, the Licensee shall, at all times during the subsistence of the Agreement, pay all Taxes and all other statutory charges, dues, assessments or outgoings payable in respect of the Location, Services, and other services, or in respect of the materials stored therein, which may be levied by any Government Instrumentality.
- 4.1.7 The Licensee shall, at its own cost and expense, in addition to and not in derogation of its obligations elsewhere set out in this Tender Document:
- 4.1.7.1 make, or cause to be made necessary applications to the relevant Government Instrumentalities with such particulars and details, as may be required for obtaining all Applicable Permits and obtain and keep in force and effect such Applicable Permits in conformity with the Applicable Laws;
 - 4.1.7.2 procure, as required the appropriate proprietary rights, licenses, agreements and permissions for materials, methods, processes and systems used or required for the Project;
 - 4.1.7.3 make reasonable efforts to maintain harmony and good industrial relations among the personnel employed by it or its sub-contractors in connection with the performance of its obligations under this Tender Document;
 - 4.1.7.4 ensure and procure that its subcontractors comply with all Applicable Permits and Applicable Laws including all applicable labour laws such as the Employees' Provident Fund and Miscellaneous Provisions Act, 1952, Employees' State Insurance Act, 1948 etc. in the performance by them of any of the Licensee's obligations under this Tender

Document as applicable;

- 4.1.7.5 ensure that the Users have non-discriminatory access for use of the Services in accordance with the provisions of this Agreement, Applicable Laws and Applicable Permits;
 - 4.1.7.6 ensure that Users are treated with due courtesy and consideration and provided with ready access to services and information;
 - 4.1.7.7 undertake not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Tender Document or Applicable Laws;
 - 4.1.7.8 cooperate with and facilitate AAICLAS in the implementation and operation of the Service in accordance with the provisions of this Tender Document.
 - 4.1.7.9 use the Cargo Terminal for the sole purpose of providing the Services are designed and developed in accordance with Good Industry Practices, standards and specifications and operated to international standards in line with the image of the Cargo Terminal as envisaged by AAICLAS and any reasonable and legal instructions issued by AAICLAS in this regard.
 - 4.1.7.10 handover the Location(s) to AAICLAS upon Termination of the Agreement, in accordance with the provisions hereof or as and when required / instructed by AAICLAS.
 - 4.1.7.11 ensure that any/all development at the Project will be in compliance with the conditions as laid out in the environmental and forest clearance or any other clearance issued for the Project.
 - 4.1.7.12 be responsible for any costs arising from customs authorities and security agencies including but not limited to provision of bond, bank guarantee, security officers, penalties, fines, and other costs.
 - 4.1.7.13 conduct regular civil/electrical maintenance as per the good engineering practices and ensure that the building/assets remain in proper condition throughout the term of the Agreement.
- 4.1.8 The Licensee shall, only upon written instructions by AAICLAS, withdraw Services (fully or partially) to any specific User as instructed by AAICLAS.

4.2. SUBMISSION OF DRAWINGS

- 4.2.1 The Licensee shall, in accordance with the Business Plan, prior to construction of the New Cargo Terminal, submit to AAICLAS, schematic drawings of the New Cargo Terminal, the construction plan, and Construction Schedule. The design and construction plans shall take into consideration all existing encumbrances such as underground cables/pipes, etc. at the Location and the Licensee shall relocate or remove the same at its own cost after obtaining due approval from AAICLAS. The

schematic drawings of the New Cargo Terminal shall thereafter, in consultation with the stakeholders, be further detailed out and such detailed drawings shall be submitted to AAICLAS.

- 4.2.2 For the purpose of the above Clause 4.2.1, the Licensee shall carry out a detailed survey of the Location allocated for the construction of New Cargo Terminal to the Licensee undertaking any construction activities. For the avoidance of doubt, such detailed survey shall include, *inter alia*, soil testing, landfill evacuation testing as well as any other activities required for undertaking any construction activities at the Location.

4.3. CONSTRUCTION OF PROJECT

- 4.3.1 The Licensee, in accordance with the Business Plan as provided under Schedule II (Business Plan) and the drawing submitted to AAICLAS under Clause 4.2 above, shall carry out and complete the construction works of the New Cargo Terminal.
- 4.3.2 The Licensee agrees and acknowledges that, the Licensee shall comply with the Construction Schedule as set out in Schedule II (Business Plan) and ensure that the New Cargo Terminal is operational no later than the Commencement Date.
- 4.3.3 The Licensee shall, at all times, comply with Applicable Laws and recommendations by AAICLAS pertaining to the construction of the New Cargo Terminal.

4.4. ENTRY INTO COMMERCIAL SERVICE

- 4.4.1 The Licensee shall send a written intimation to AAICLAS of the proposed achievement of the completion of the construction works.
- 4.4.2 the Licensee shall, at its own cost hire an Independent Agency to certify that the construction works undertaken by the Licensee are in accordance with the terms and conditions as set out in this Tender Document. In the event there are any defects identified by the Independent Agency, the Licensee shall remedy such defects prior to the Commercial Operation Date. The Independent Agency shall again inspect the defects to ensure that all defects have been cured by the Licensee prior to the Independent Agency providing its confirmation that the construction works have been undertaken in accordance with the terms and conditions as set out in this Tender Document.
- 4.4.3 The Parties further agree and acknowledge that AAICLAS may, in its sole discretion, undertake the works of the Independent Agency relating to acceptance of construction works.
- 4.4.4 The construction of the New Cargo Terminal shall be deemed to be completed when the certification from the Independent Agency is issued.

4.5. UTILITY SERVICES (Power/Water), UTILITY CHARGES AND SOLID WASTE DISPOSAL

- 4.5.1 The AAICLAS shall endeavour to make available the Utility Services temporarily to the construction site, during Construction Period only on availability basis. In the event of any disruption to the Utility Services, the Licensee shall make alternate provisions for Utility Services till such

Utility Services are restored by AAICLAS. For the avoidance of doubt, AAICLAS shall not be liable to the Licensee for such disruption or interruption of the Utility Services.

- 4.5.2 The Licensee agrees and undertakes that it shall be responsible for obtaining the Utility Services during the License Period. The Licensee will have to construct its own powerhouse and other necessary infrastructure in the allotted land by AAICLAS and obtain utility services/connections from the concerned authorities.
- 4.5.3 The Licensee shall be liable to pay/reimburse the Utility Charges for consumption of Utility Services provided by AAICLAS at the construction site of the New Cargo Terminals from the Date of Handover. The Licensee shall pay to AAICLAS or the concerned service providing authority (as may be communicated by AAICLAS from time to time) the necessary charges as informed by AAICLAS from time to time, towards such temporary Utility services. The charges for usage of Utility Services provided by AAI/AAICLAS shall be paid by the Licensee within 10 (ten) days from the date on which the invoice for such usage is raised by AAI/AAICLAS.
- 4.5.4 The Licensee shall comply with the solid waste disposal plan, as set out by AAICLAS from time to time. The Parties hereby agree that the Licensee shall pay to AAICLAS, the cost of using the solid waste disposal plant/ equipment. For the avoidance of doubt, the Licensee shall mandatorily use only the solid waste disposal plant/ equipment provided by AAICLAS.

4.6. OBLIGATIONS RELATING TO PROJECT AGREEMENTS

- 4.6.1 It is expressly agreed that the Licensee shall, at all times during the License Period, be responsible and liable for all its obligations under this Tender Document notwithstanding anything contained in any to other agreement and no default under any agreement shall excuse the Licensee from its obligation or liability hereunder.
- 4.6.2 The Licensee shall submit to AAICLAS the drafts of all Project Agreements, or any amendments or replacements thereto, for its review and comments, and AAICLAS shall have the right but not the obligation to undertake such review and provide its comments, if any, to the Licensee within 15 (fifteen) days of receipt of such drafts. Within 7 (seven) days of the execution of any Project Agreement or amendment thereto, the Licensee shall submit to AAICLAS a true copy thereof, duly attested by a Director of the Licensee, for its record. For avoidance of doubt, it is agreed that the review and comments hereunder shall be limited to ensuring compliance with the terms of the Tender Document. It is further agreed that any failure or omission of AAICLAS to review and/or comment hereunder shall not be construed or deemed as acceptance of any such agreement or document by AAICLAS. No review and/or observation of AAICLAS and/or its failure to review and/or convey its observations on any document shall relieve the Licensee of its obligations and liabilities under this Tender Document in any manner nor shall AAICLAS be liable for the same in any manner whatsoever.
- 4.6.3 The Licensee shall not make any addition, replacement or amendments to any of the Financing Agreement without the prior written consent of AAICLAS if such addition, replacement or amendment has, or may have, the effect of imposing or increasing any financial liability or obligation on AAICLAS, and in the event that any replacement or amendment is made without such consent,

the Licensee shall not enforce such replacement or amendment nor permit enforcement thereof against AAICLAS. For the avoidance of doubt, AAICLAS acknowledges and agrees that it shall not unreasonably withhold its consent for restructuring or rescheduling of the debt of the Licensee.

- 4.6.4 The Licensee shall ensure that except the Project Agreements in which AAICLAS or any of the Government Instrumentality is a party thereof, each of the Project Agreements contains provisions that entitle AAICLAS to step into such Agreement, in its sole discretion, in substitution of the Licensee in the event of Termination. It is expressly agreed that in the event AAICLAS does not exercise such rights of substitution within a period of not exceeding 90 (ninety) days from the transfer date, the Project Agreements shall be deemed to cease to be in force and effect on the transfer date without any liability whatsoever on AAICLAS and the covenant shall expressly provide for such eventuality. The Licensee expressly agrees to include the covenant in all its Project Agreements and undertakes that it shall, in respect of each of the Project Agreements, procure and deliver to AAICLAS an acknowledgement and undertaking, in a form acceptable to AAICLAS, from the counter party(s) of each of the Project Agreements, whereunder such counter party(s) shall acknowledge and accept the Covenant and undertake to be bound by the same and not seek any relief or remedy whatsoever from AAICLAS in the event of Termination.

4.7. OBLIGATIONS RELATING TO CHANGE IN OWNERSHIP

- 4.7.1 The Licensee shall not undertake or permit any Change in Ownership until a period of 5 (five) years from COD. The Licensee further agrees and undertakes that any Change in Ownership shall be in compliance with Applicable Laws including but not limited to the guidelines issued vide Order No. F/No.6/18/2019-PPD by Ministry of Finance, Department of Expenditure, Public Procurement Division dated 23 July 2020 and rules for foreign direct investment in India.

- 4.7.2 Notwithstanding anything to the contrary contained in this Tender Document, the Licensee agrees and acknowledges that:

- i. all acquisitions of equity by an acquirer, either by itself or with any person acting in concert, directly or indirectly, including by transfer of the direct or indirect legal or beneficial ownership or Control of any equity, in aggregate of 15% (fifteen percent) or more of the total equity of the Licensee; or
- ii. acquisition of any Control directly or indirectly of the Board of Directors of the Licensee by any person either by itself or together with any person or persons acting in concert with it;

shall constitute a Change in Ownership requiring prior approval of AAICLAS from public interest perspective and Designated GOI Agency from national security perspective only. The decision of AAICLAS and the Designated GOI Agency in this behalf, shall be final, conclusive, and binding on the Licensee, and the Licensee undertakes that it shall not give effect to any such acquisition of equity or Control of the Board of Directors of the Licensee without such prior approval of AAICLAS. Approval of the Designated GOI Agency and AAICLAS hereunder shall be limited to national security and public interest perspective respectively only, and AAICLAS shall endeavour to convey its decision thereon expeditiously. AAICLAS shall not be liable in any manner on account of grant, delay or otherwise of such approval and that such approval, delay, denial or otherwise

thereof shall not in any manner absolve, the Licensee from any liability or obligation under this Tender Document.

For the purposes of this Clause 4.7.2:

- (i) the expression “acquirer”, “control” and “person acting in concert” has the meaning ascribed thereto in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeover) Regulations, 2011 or any statutory re-enactment thereof as in force as on the date of acquisition of equity, or the control of the Board of Directors, as the case may be, of the Licensee;
- (ii) the indirect transfer or control of legal or beneficial ownership of equity shall mean transfer of the direct or indirect beneficial ownership or control of any company or companies whether in India or abroad which results in the acquirer acquiring control over the shares or voting rights of shares of the Licensee; and
- (iii) power to appoint, whether by contract or by virtue of Control or acquisition of shares of any company holding directly or through one or more companies (whether situated in India or abroad) the equity of the Licensee, not less than half of the directors on the Board of Directors of the Licensee or of any company, directly or indirectly whether situate in India or abroad, having ultimate control of 15% (fifteen percent) or more of the equity of the Licensee shall constitute acquisition of control, directly or indirectly, of the Board of Directors of the Licensee .

4.8. EMPLOYMENT OF FOREIGN NATIONALS

The Licensee acknowledges, agrees and undertakes that employment of foreign personnel by the Licensee and/ or its contractors and their sub-contractors shall be subject to guidelines issued by Order No. F/No.6/18/2019-PPD by Ministry of Finance, Department of Expenditure, Public Procurement Division dated 23 July 2020 (including any amendments, clarifications etc.) and grant of requisite regulatory permits and approvals including employment/ residential visas and work permits, if any required, and Airport entry permits and the obligation to apply for and obtain the same shall and will always be of Licensee and, notwithstanding anything to the contrary contained in this Tender Document, refusal of or inability to obtain any such permits and approvals by Licensee or any of its contractors or sub-contractors shall not constitute Force Majeure Event, and shall not in any manner excuse Licensee from the performance and discharge of its obligations and liabilities under this Tender Document.

4.9. EMPLOYMENT OF TRAINED PERSONNEL

- 4.9.1 The Licensee shall ensure that the personnel engaged by it in the performance of its obligations under the Tender Document are carried out by trained and competent personnel as may be required for the performance of its obligations under the Tender Document.
- 4.9.2 The Licensee agrees and undertakes to furnish a report to AAICLAS, which shall include the below mentioned details of its employees/ personnel engaged for the Project:

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- (a) Name,
- (b) Permanent Address;
- (c) Correspondence Address:
- (d) Specimen signatures or thumb impressions and photographs;
- (e) Copy of Aadhar/ Passport;
- (f) Past work experience;
- (g) Police verification/security clearance.

In addition, for each of the above employees and personnel engaged, the Licensee shall submit an undertaking that all such employees are under the payroll of the Licensee. Further, the Licensee shall also submit the details of the provident fund account number and yearly returns filed by the Licensee for such employees and personnel engaged. AAICLAS reserves its right to audit such details at any time and frequency as it may deem appropriate.

- 4.9.3 The Licensee shall ensure that the personnel engaged by it is competent, professional and possesses the requisite qualifications and experience appropriate to the task they are required to perform under this Tender Document. The Licensee shall ensure that the Services are performed through the efforts of its personnel, in accordance with the terms hereof and to the satisfaction of AAICLAS. Nothing in this Tender Document relieves the Licensee from its liabilities or obligations under the Tender Document to perform the Services in accordance with AAICLAS' direction and requirements and as stated in the Tender Document and the performance, non-compliance, breach or other loss and damage resulting either directly or indirectly by or on account of the Licensee or its employees, staff and personnel.
- 4.9.4 The Licensee further agrees and undertakes to comply with all Applicable Laws in relation to any personnel engaged by it for the Project.

4.10. OBLIGATIONS RELATING TO SECURITY CLEARANCE

Notwithstanding anything to the contrary contained in the Tender Document, the engagement of employees, staff and personnel of the Licensee and of its contractors and subcontractors shall always be subject to security clearance by the Designated GOI Agency as may be required under Applicable Laws, and only persons having a valid security clearance shall be permitted on the Location. It is agreed that refusal of or inability to obtain any such permits and approvals by the Licensee or any of its contractors or sub-contractors shall not constitute a Force Majeure Event, and shall not in any manner excuse the Licensee from the performance and discharge of its obligations and liabilities under the Tender Document.

4.11. OBLIGATIONS RELATING TO NON-DISCRIMINATORY SERVICES

Subject to the Applicable Permits, the Licensee shall provide the Services on a common user basis and

provide non-discriminatory access to all Users in accordance with the provisions of the Tender Document and shall refrain from adopting any unfair or discriminatory practice against any User or potential user thereof.

4.12. PROHIBITIONS

- 4.12.1 The Licensee shall not damage or break any part of any of the Cargo Terminal's premises such as the walls, beams, columns, ceiling and floor or suffer or permit the same to be done except for carrying out needful repairs as approved by AAICLAS and not to interfere or permit any interference to be made with the electrical wirings or fittings at the Cargo Terminal.
- 4.12.2 The Licensee shall not place any furniture or objects/partitions that may obstruct access to electrical distribution boards, ventilation ducts and rooms and fire hydrants/ fire extinguishers.
- 4.12.3 The Licensee shall not install or suffer to be installed in the Cargo Terminal any electrical lamp equipment or appliance which is likely to overload the electrical wiring or cabling of the Airport or to cause radio interference.
- 4.12.4 The Licensee shall not erect or put up any flag staff, wireless poles, TV antenna or other structures or installations except with the previous permission in writing, of AAICLAS and only in accordance with the conditions and in such manner as AAICLAS may direct.
- 4.12.5 The Licensee shall not engage itself, its employees or agents or through any other person in any form of touting or disparagement of the goods/services of other such providers/contractors of AAICLAS.
- 4.12.6 The Licensee shall not do or permit anything which may be or become a nuisance, annoyance, inconvenience or disturbance to AAICLAS or to any of AAICLAS' Licensee or Licensees or occupiers of any adjoining or neighboring premises or visitors to the Cargo Terminal.
- 4.12.7 The Licensee ensures that all debris, unused construction material and other waste materials at all times and from time to time, shall be disposed at a space designated by AAICLAS. In addition, the Licensee shall ensure that cleanliness is maintained in and around the Newly created cargo facilities site, so as to avoid the presence of birds and animals which may interfere with the operation and safety of the Cargo Terminal.
- 4.12.8 The Licensee agrees and undertakes to maintain cleanliness and hygiene at the Cargo Terminal in the manner as may be specified by AAICLAS from time to time.
- 4.12.9 The Licensee shall at all times comply with all BCAS guidelines as may be applicable to its operations at the Airport. The Licensee acknowledges that in case any of the Location falls under the security hold area of the Airport then it shall comply with the BCAS guidelines that classify certain items such as weapons, explosives, steel or metallic knife etc. as prohibited items which no person is allowed to carry to the security hold area. The Parties agree that Licensee would require to carry tool kits, occasionally to address urgent repairs and to ensure seamless performance of the Services under this Agreement subject to the compliance of applicable procedures at the Cargo Terminal.

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- 4.12.10 The Licensee shall not store at any time explosives, petroleum, spirit or other highly inflammable substance and noxious or objectionable smokes, fumes, gases, vapors or odors at the Cargo Terminal.
- 4.12.11 The Licensee shall not enter into a collective association with any concessionaire or licensee of AAICLAS, for any purpose whatsoever, and AAICLAS shall not be bound to recognize such association.
- 4.12.12 The Licensee hereby agrees and acknowledges that it shall not have the right to sell, sub-lease, alienate, charge, hypothecate or otherwise encumber the site and/or the Fixed Assets/land/buildings handed over to it by AAICLAS and leased to the Licensee for the purpose of this Project.
- 4.12.13 The Licensee shall ensure that the Services shall:
- (1) Conform to the Applicable Laws and regulatory framework and shall not offend the morality, decency and religious susceptibilities of public;
 - (2) Not deride any race, caste, colour, creed or nationality;
 - (3) Not incite crime, disorder, violence, breach of law or glorify violence or obscenity in any manner;
 - (4) Not directed toward any religious or political end; and
 - (5) Comply with the standards and provisions of applicable IATA /or other governing rules, regulations and procedure.

5. OBLIGATIONS OF AAICLAS

5.1. OBLIGATIONS OF AAICLAS

AAICLAS shall, at its own cost and expense undertake, comply with and perform all its obligations set out in this Tender Document or arising hereunder.

5.2. HANDOVER OF LOCATION

AAICLAS shall handover area of 15.64 acres of the Project Location (refer to Schedule VI: Kolkata cargo complex masterplan) for construction of the New Cargo Terminal including vehicle parking on “as is where is” basis on or before the Date of Handover for the purpose of undertaking the Scope of Work as set out in the Tender Document under Schedule I.

5.3. AAICLAS TO PROVIDE SUPPORT

AAICLAS agrees to provide support to Licensee and undertakes to observe, comply with and perform, subject to and in accordance with the provisions of this Tender Document and the Applicable Laws, the following:

- (a) Upon written request from the Licensee, and subject to Licensee complying with Applicable Laws, provide all reasonable support and assistance to Licensee in procuring Applicable Permits required from any Government Instrumentality in cases, where the intervention of AAICLAS is proper and necessary, for implementation and operation of the Service;
- (b) Upon written request, from Licensee, assist Licensee in obtaining access to all necessary infrastructure facilities and utilities, including water and electricity;
- (c) Not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Tender Document;
- (d) Support, cooperate and facilitate Licensee in the implementation and operation of the Services in accordance with the provisions of this Tender Document;
- (e) Upon written request from the Licensee and subject to the provisions of Clause 4.8, provide reasonable assistance to the Licensee and any expatriate personnel of the Licensee or its contractors to obtain applicable visas and work permits for discharging their respective obligations under this Tender Document and the Project Agreements;

6. HANDING OVER OF PROJECT LOCATIONS

6.1. ACCESS TO PROJECT LOCATION

- 6.1.1 AAICLAS hereby grants the Licensee a non-exclusive right to provide Services within the Airport for the entire duration of the License Period, in order to undertake and discharge its rights and obligations pursuant to the Tender Document.
- 6.1.2 The Licensee agrees and undertakes to plan and thereafter implement the Project in such a way so that the transition of Services from the incumbent licensee/ concessionaire to Licensee shall be seamless and should not affect the Services at the Cargo Terminal.
- 6.1.3 Upon receipt of Security Deposit, in accordance with Clause I.5 of Article 2, AAICLAS shall provide the Licensee access to the Cargo Terminal Location. For the avoidance of doubt, upon issuance of LOIA and subject to necessary security clearances, AAICLAS shall provide the Licensee and/or its designated persons, entry to the Cargo Terminal Location for the limited purpose of constructing and operating the New Cargo Terminal and carry out diligence. During such entry, AAICLAS shall endeavor to provide necessary support and cooperation to the Licensee and its designated persons for acquiring the knowledge necessary for planning and implementation of Services at the Airport.
- 6.1.4 The Licensee agrees that the Locations shall only be used for provision of Services and for no other purposes, and use of the Locations for any other purpose shall require prior written approval of AAICLAS, and approval shall be at the sole discretion of AAICLAS and which may be subject to payment of fees as may be prescribed by AAICLAS.
- 6.1.5 It is clarified that neither the Agreement nor the access rights in relation to the Locations shall create any tenancy rights or any other right, title or interest of any kind or nature whatsoever in favour of the Licensee other than the permissive right of use, hereby granted in respect of the Agreement.
- 6.1.6 AAICLAS shall be in possession and in full charge and control of the Locations at all times and AAICLAS shall at all times have free and unobstructed access to the Locations.
- 6.1.7 The Licensee agrees that it shall not assign, transfer, mortgage, charge, sub-let, deal with, subcontract, sub-license or otherwise grant rights under the Tender Document or all or any of its obligations or liabilities under the Tender Document. The Licensee shall not sub-lease the Location, except for sub-leasing office space to airline/freight forwarders.
- 6.1.8 The Licensee shall not cause or permit any person, firm or company (other than if required under any Applicable Laws by any department of Government of India or Government of West Bengal) at any time to use (except for the purpose of its construction) the whole or part of the Cargo Terminals or exercise any of the rights in the Tender Document.
- 6.1.9 The Licensee agrees and acknowledges that prior to the execution of the Agreement, it has made a complete and careful examination and an independent evaluation of the Location and has determined the nature and extent of the difficulties, costs, risks and hazards that are likely to arise or may be faced by it at the Location as well as in the course of the performance of its obligations under this

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Tender Document and has found the same to its entire satisfaction. The Licensee further acknowledges that except as may be particularly set out hereunder, the Licensee does not rely on any representations made by AAICLAS, at any time whatsoever, and that Licensee has made its own independent evaluations for entering into the Agreement. The Licensee further acknowledges and agrees that AAICLAS has neither guaranteed nor guarantees, in any manner express or implied, the scope of the business at the Location and the Licensee shall not have any right (and hereby waives any such rights) to bring any claim against, or recover any compensation or other amount from AAICLAS and AAICLAS has made no representation as to the suitability of the Cargo Terminal or profitability of the same.

6.2. LOCATION TO BE FREE FROM ENCUMBRANCES AND ENCROACHMENT

- 6.2.1 The Location shall be made available by AAICLAS to Licensee pursuant hereto, free from all Encumbrances and occupations and without Licensee being required to make any payment to the AAICLAS on account of any costs, compensation, expenses and charges for the use of such Location for the duration of the License Period, except insofar as otherwise expressly provided in this Tender Document. For the avoidance of doubt, it is agreed that existing access to Location, easements, privileges, liberties and appurtenances to the Location shall not be deemed to be Encumbrances.
- 6.2.2 During the License Period, the Licensee shall not place or create nor permit any other person or entity claiming through or under the License to place or create any Encumbrance or security interest over all or any part of the Location.

6.3. ACCESS TO AAICLAS AND INDEPENDENT AUDITOR

- 6.3.1 The access granted by the Agreement to the Licensee shall always be subject to existing rights of access of AAI/AAICLAS and Licensee shall perform its obligations in a manner that Location at the Cargo Terminal are open for access and inspection at all times during the License Period.
- 6.3.2 The access to the Location granted to Licensee hereunder shall always be subject to the right of access of the AAI/AAICLAS Designate and the Independent Agency and their employees and agents for inspection, viewing and exercise of their right and performance of their obligation under this Tender Document.

7. REPRESENTATIONS AND WARRANTIES

7.1. REPRESENTATIONS AND WARRANTIES OF LICENSEE

7.1.1 The Licensee represents and warrants to AAICLAS that:

- (a) it is duly recognised and validly existing under the laws of the country it has been incorporated in;
- (b) it has full power and authority to execute; deliver and perform its obligations under this Tender Document and to carry out the Services contemplated hereby;
- (c) it has taken all necessary corporate and other actions under Applicable Laws to authorize the execution and delivery of the Tender Document and to validly exercise its right and perform its obligation;
- (d) it has the financial standing and capacity to undertake the License at the Cargo Terminal in accordance with terms of this Tender Document;
- (e) it has the power and the authority that would be required to enter into Agreement and the requisite experience, the technical know-how and the financial wherewithal required to successfully execute the terms of the Agreement and to perform Services sought by AAICLAS under this Tender Document;
- (f) the Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof; and its obligation under the Agreement will be legally valid, binding and enforceable obligations against it in accordance with the terms thereof.
- (g) it is subject to laws of India and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of the Tender Document or matters arising thereunder including any obligation, liability or responsibility thereof;
- (h) the execution, delivery and performance of the Agreement will not conflict with, result in the breach of, constitute a default under or accelerate performance required by any of the terms of Licensee's memorandum and articles of association or any Applicable Laws or any covenant, agreement, understanding, decree or order to which it is a party or by which it or any of its properties or assets are bound by or affected;
- (i) there are no actions, suits, proceedings or investigations pending or to Licensee's knowledge threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may constitute Licensee Event of Default or which individually or in the aggregate may result in Material Adverse Effect;
- (j) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Authority which may result in Material Adverse Effect and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under the Tender

Document;

- (k) it has complied with all Applicable Laws and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have Material Adverse Effect;
- (l) no representation or warranty by Licensee contained herein or in any other document furnished by it to AAICLAS or to any Government Instrumentality in relation to Applicable Permits contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;
- (m) no bribe or illegal gratification has been paid or will be paid in cash or kind by or on behalf of Licensee to any person by way of fees, commission or otherwise for entering into the Agreement or for influencing or attempting to influence any officer or employee of AAICLAS or its nominated agencies in connection therewith;
- (n) all undertakings and obligations of the Licensee arising from this Tender Document or otherwise shall be binding on the Licensee as if they form part of the Agreement;
- (o) it shall ensure that all assets/ components including but not limited to equipment, software, licenses, processes, documents, etc. installed, developed, procured, deployed and created during the License Period are duly maintained and suitably updated, upgraded, replaced with regard to contemporary requirements;
- (p) it shall use such assets of AAICLAS as AAICLAS may permit for the sole purpose of execution of its obligations under the terms of the Tender Document. It shall, however, have no claim to any right, title, lien or other interest in such property, and any possession of property for any duration whatsoever shall not create any right in equity or otherwise, merely by fact of such use or possession during or after the License Period thereof;
- (q) Without prejudice to any express provision contained in this Tender Document, the Licensee acknowledges that prior to the execution of the Agreement, Licensee has after a complete and careful examination made an independent evaluation of the Location, requirements, and commercial viability of the Services, and the information provided to it by AAICLAS and has determined to its satisfaction the nature and extent of risks and hazards as are likely to arise or may be faced by Licensee in the course of performance of its obligations hereunder.

7.2. REPRESENTATIONS AND WARRANTIES OF AAICLAS

7.2.1 AAICLAS represents and warrants to Licensee that:

- (a) it is duly incorporated, validly existing and in good standing under the laws of India; and has full power and authority to execute, deliver and perform its obligations under the Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary under the Applicable Laws to execute the Agreement, exercise its rights and perform its obligations, under this Tender Document.

- (b) there are no actions, suits, proceedings or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Tender Document or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligation under this Tender Document.
- (c) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Instrumentality which may result in Material Adverse Effect on the ability to perform its obligation under this Tender Document.
- (d) it has the financial standing and capacity to perform its obligation under this Tender Document,
- (e) it has taken all necessary actions under Applicable Laws and its constitutional document to authorize the execution, delivery, and performance of this Tender Document and
- (f) the Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms thereof.

7.3. OBLIGATIONS TO NOTIFY CHANGE

In the event that any of the representations or warranties made/ given by a Party cease to be true or stands changed, the Party who had made such representation or given such warranty shall promptly notify the other of the same. Such notification shall not have the effect of remedying any breach of the representation or warranty that has been found to be untrue or incorrect nor shall it adversely affect or waive any obligation of either Party under the Agreement.

8. INDEPENDENT EVALUATION BY LICENSEE

8.1. DISCLAIMER BY AAICLAS

- 8.1.1 The Licensee acknowledges that prior to the execution of the Agreement, the Licensee has, after a complete and careful examination, made an independent evaluation of the scope of the Project and the Services, Cargo Terminal, local conditions, and all information provided by AAICLAS and has determined to its satisfaction the accuracy or otherwise thereof. Save as provided in Clause 7.2, AAICLAS makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy and/ or completeness of the information provided by it and Licensee confirms that it shall have no claim whatsoever against AAICLAS in this regard.
- 8.1.2 The Licensee acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth in Clause 8.1.1 above and hereby acknowledges and agrees that AAICLAS shall not be liable for the same in any manner whatsoever to Licensee or any person claiming through or under any of them.
- 8.1.3 The Parties agree that any mistake or error in or relating to any of the matters set forth in Clause 8.1.1 above shall not vitiate the Agreement or render it voidable.
- 8.1.4 In the event that either Party becomes aware of any mistake or error relating to any of the matters set forth in Clause 8.1.1 above, that Party shall immediately notify the other Party, specifying the mistake or error, provided, however, that a failure on part of AAICLAS to give any notice pursuant to this Clause 8.1.4 shall not prejudice the disclaimer of AAICLAS contained in Clause 8.1.1 and shall not in any manner shift to AAICLAS any risks assumed by the Licensee pursuant to the Agreement.
- 8.1.5 Except as otherwise provided in the Agreement, all risks relating to the Project shall be borne by the Licensee and AAICLAS shall not be liable in any manner for such risks or the consequences thereof.

9. PERFORMANCE SECURITY

9.1. PERFORMANCE SECURITY

9.1.1 The Bid Security submitted by the Licensee shall be retained by AAICLAS after the issuance of LOIA to the Licensee and along with Security Deposit submitted as per Clause I.5 of Article 2 shall be considered as a Performance Security by the Licensee for the performance of its obligations in relation to the Project (“**Performance Security**”).

9.2. APPROPRIATION OF PERFORMANCE SECURITY

9.2.1 Upon occurrence of a Licensee’s Event of Default, AAICLAS shall, be entitled to appropriate from the relevant Performance Security, the amounts due to it for and in respect of such Licensee’s Event of Default.

9.2.2 Upon such appropriation from the Performance Security, the Licensee shall, within 15 (fifteen) days thereof, replenish, in case of partial appropriation, to the original level of the Performance Securities, and in case of appropriation of the entire Performance Security provide a fresh Performance Security, as the case may be, failing which AAICLAS shall be entitled to terminate the Agreement in accordance with Article 21.

9.2.3 Upon such replenishment or furnishing of a fresh Performance Security, the Licensee shall be entitled to an additional Cure Period of 7 (seven) days for remedying the Licensee’s Event of Default, and in the event of the Licensee not curing its default within such Cure Period, AAICLAS shall be entitled to appropriate such Performance Security as Damages, and to terminate the Agreement in accordance with Article 21 of this Tender Document.

9.3. RELEASE OF PERFORMANCE SECURITIES

9.3.1 The Performance Security shall remain in force and effect until 180 (One hundred and Eighty) days from the completion of the License Period provided, however, that the Performance Security shall not be released if the Licensee is in breach of any terms and conditions of this Tender Document. In case the Licensee is required to withdraw from the Cargo Terminal in accordance with terms of this Agreement, the Performance Security shall be released within 180 (One hundred Eighty) days of the Licensee vacating the Cargo Terminal provided that the Performance Security shall not be released if the Licensee is in breach of any terms and conditions of the Tender Document.

9.3.2 Upon request made by the Licensee for the release of the Performance Security along with the particulars which establish satisfaction of the requirements specified under this Clause 9.3, AAICLAS shall release the Performance Security forthwith.

9.4. SET-OFF CLAUSE

In the event of a default or breach in payment of Lease Rental, Annual License Fee, or Revenue Share or interest amount or any other amount due with the Licensee of whatever nature as per the provision of this Agreement, AAICLAS is hereby authorized to adjust, such amount from time to

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time to the fullest extent, with prior notice of 7 (Seven) days to the Licensee, by set off and apply any or all amount at any time held with AAICLAS as Performance Security or any other amount as part of this contract or from any other expired/closed/terminated contracts of the Licensee with AAICLAS. This is without prejudice to any rights and remedies available with AAICLAS to recover the dues from the Licensee as prescribed by Law.

Explanation 1:- For the purposes of this Tender Document, set off means adjustment of any outstanding due(s) of the Licensee, with any amount in form of Performance Security or otherwise, held by AAICLAS in relation to any other agreement, at any AAICLAS airport/airport premises.

Explanation 2:- Outstanding dues shall mean and include any amount accrued/due against the Licensee under this or any other agreement at the airport premises.

10. MONITORING OF OPERATION AND PERFORMANCE

10.1. SERVICE'S MONITORING

10.1.1 The Licensee shall set up tools, dashboards for real time monitoring of Services consisting of operations database, communications layer and visual system that link various systems of the Services together. The Licensee must provide all operations and performance related data for the Services including but not limited to the data related to objective service quality requirement and parameters defining key performance indicators (KPIs) and any other such information, as may be required by AAICLAS pursuant to this Tender Document. Service monitoring database shall generate daily, monthly, and annual reports as per the requirements of this Tender Document. Service monitoring database should also be capable to provide historical, real-time data to assist in strategic decision making as well as to help the Licensee for various compliance requirements. The Licensee shall provide Service monitoring/reporting tool access to AAICLAS for periodic review and generation of reports, as required by AAICLAS.

10.1.2 Reporting procedures

- (a) KPI reporting should be done using an automated tool that should provide reports on a real time basis and, monthly basis, as decided by AAICLAS;
- (b) KPI reporting should be based on automated logs;
- (c) Well-defined processes should be implemented for those KPI that require manual intervention for measurement and reporting. In such cases, the KPI measurement methodology should be discussed and agreed upon with AAICLAS;
- (d) The KPI performance reports in an agreed upon format should be made available on-line;
- (e) The reports will include “actual versus target” KPI performance, a variance analysis and discussion of appropriate issues or significant events;
- (f) KPI reports will be distributed to authorized management personnel as directed by AAICLAS.

10.2. STATUS REPORTS

10.2.1 At all times during the License Period, the Licensee shall, no later than 7 (seven) days after the close of each month, furnish to AAICLAS a monthly report, in a form acceptable to AAICLAS, stating in reasonable detail services compliance or otherwise the safety requirements and the details of the occurrence of any event, and shall promptly give such other relevant information as may be required by AAICLAS. In particular, such a report shall separately identify and state in reasonable detail the defects and deficiencies that require rectification.

10.3. MINIMUM SERVICE STANDARDS

10.3.1 The quality standards of the New Cargo Terminal to be provided by the Licensee shall primarily be governed by the Minimum Service Standards as set out in Schedule IV) of the Tender

Document. For the avoidance of doubt, it is hereby clarified that AAICLAS shall have the discretion to determine and revise the Minimum Service Standards based on the needs of its customers in accordance with the IATA and/ or ICAO requirements and standards, and the Licensee shall ensure compliance with such revised Minimum Service Standards.

10.3.2 Notwithstanding anything to the contrary contained herein, the Licensee shall adhere to the Minimum Service Standards as prescribed by AAICLAS, from time to time, for ensuring that the overall quality of the Project is maintained.

10.3.3 AAICLAS will monitor the performance of the Licensee in order to ensure compliance with the Minimum Service Standard as per the provisions of the Agreement. For the avoidance of doubt, in the event the Licensee fails to comply with the Minimum Service Standards for provisioning of the New Cargo Terminal at the Airport, the Licensee shall be liable to pay liquidated damages to AAICLAS in accordance with the provisions of this Tender Document.

10.4. MONITORING AND TRACKING OF QUALITY STANDARDS

10.4.1 The Parties agree that during the Term of the Agreement, the operation and maintenance of the New Cargo Terminal shall be monitored by AAICLAS. In order to monitor and review the actual Minimum Service Level Standards of the Licensee against the key performance indicators as set out in Schedule IV, AAICLAS shall conduct review meetings on a quarterly basis. The Parties agree and acknowledge that AAICLAS, at its own cost, shall have the right to appoint an auditor to carry out semi-annual reviews of the performance of the Licensee.

10.4.2 The Licensee shall be required to provide the requisite data of its daily operations as well as the monthly reporting figures (including detailed monthly, quarterly, and annual audited financial statements), as may be required by AAICLAS, at the end of each Financial Year.

10.4.3 It will be mandatory for the Licensee to report the cases of missed incidents/accidents on the ground, for review of activities/targets in this area of work by AAICLAS to ensure that the Licensee is in compliance with the Minimum Service Standards.

10.5. NON-COMPLIANCE

The actual Minimum Service Levels Standards of the Licensee shall be reviewed by AAICLAS, and the Licensee shall be duly notified of any failure to fulfil the Minimum Service Standards as prescribed above. The Licensee shall be deemed to be in default if it fails to address and remedy the failure to meet the Minimum Service Standards within the timelines as prescribed below of notification of such breach. Notwithstanding the provisions of Clause 11.1 (*Liquidated Damages for Defaults of the Licensee*), in the event of the Licensee's non-compliance of the Minimum Service Standards:

- (a) AAICLAS shall notify the Licensee of the non-compliance within 2 (two) days from the event of such non-compliance;
- (b) The Licensee shall remedy the non-compliance within 28 (twenty-eight) days from the issuance by AAICLAS of such notice of non-compliance;

- (c) If within 28 (twenty-eight) days from such notice mentioned above, the Licensee fails to remedy the default, AAICLAS shall levy Service Level Credits at the rate of 0.1% (zero point one percent) of the Performance Security, per breach per day, which shall be subject to a maximum value of 20% (twenty percent) of the Performance Security (“**Service Level Credit**”) per breach per annum. For the avoidance of doubt, the Service Level Credit at any given point of time during the Term of the Agreement shall not exceed 20% (twenty percent) of the Performance Security per annum;
- (d) If within 38 (thirty-eight) days from such notice as set out in Clause 10.5 (a) above, the Licensee still fails to remedy the default, such non-compliance shall be treated as an event of default under Article 20 (*Events of Default*) of the Tender Document; and
- (e) A shorter earlier remedial period shall be mutually agreed between the Licensee and AAICLAS in case of a health, safety or security related concern, that would require a remedy with immediate effect to protect any loss of life or damage to property. For avoidance of doubt, such shorter remedial period shall not exceed 7 (seven) days as far as practicable. AAICLAS shall also be entitled to utilize and make deductions from the Licensee’s Performance Security in events where AAICLAS is threatened with an imposition of penalty by any regulatory authority in relation to Licensee’s violation of Applicable Laws or any regulations, and Licensee fails to obtain any protective order, stay or relief against such demand.

11.DAMAGES

The Licensee acknowledges and undertakes that it shall timely perform its obligation set out in this Tender Document for the successful implementation/completion of the Project.

11.1. LIQUIDATED DAMAGES FOR DEFAULTS BY THE LICENSEE

In case the Licensee fails to comply with its obligations under the Tender Document or commits any breach thereof or fails to perform its function in accordance with the terms of the Tender Document, AAICLAS may at its sole discretion, in addition to any other available remedy, be entitled to levy and the Licensee shall be liable to pay, liquidated damages of 0.1% (zero point one per cent) per day of Performance Security, for each infraction, subject to a maximum of 20% (Twenty per cent) per annum, post which AAICLAS, at its sole discretion, may terminate the Agreement.

11.2. DAMAGES FOR NON-ADHERENCE TO MINIMUM SERVICE STANDARDS

11.2.1. The Licensee shall ensure and procure compliance of Minimum Service Standards post acceptance by AAICLAS as specified in Schedule IV of this Tender Document. If the Licensee fails to achieve the Minimum Service Standards, the Licensee shall pay to AAICLAS, a sum equal to 0.1% per day for the value of the Performance Security, subject to a maximum of 20% (Twenty per cent) per annum, for such default and not as penalty, without prejudice to AAICLAS' other remedies available under the Tender Document.

11.2.2. The amount of cumulative Damages liable to be paid by the Licensee due to breach of Minimum Service Standards as per Clause 10.3, shall not be more than 5% (five) percent of cumulative Revenue Share for the Cargo Terminal in any month, beyond which it shall be treated as Event of Default pursuant to Clause 20.2.1.

11.2.3. AAICLAS may, without prejudice to its right to recover the Damages, deduct the amount of such Damages from any amount due or becoming due to the Licensee or from any securities/ guarantees/ charges payable to the Licensee under the Tender Document.

11.2.4. The payment or deduction of such Damages shall not:

- (a) relieve the Licensee from its obligation to complete the Project; or
- (b) negate the liability of the legal consequences on account of such delay; or
- (c) remedy the Defects in the Project or any part thereof; or
- (d) relieve the Licensee from any other of its duties, obligations, responsibilities and liabilities under the Tender Document.

11.2.5. The Parties agree and acknowledge that the payment for Damages for delay are genuine pre-estimation of Damages and do not constitute as a penalty.

11.2.6. The payment of Damages for delay under this Clause is in addition to any other remedies that may be available to AAICLAS under the Tender Document or under Applicable Law for the time being in force.

12. PAYMENTS

12.1 PAYMENTS TO AAICLAS

The Licensee, as the case may be, shall make the following payments to AAICLAS at the designated bank account of AAICLAS as set out below:

S.No.	Payment terms	Payment schedule
1	Annual License Fee: From the COD or Commencement Date, whichever is earlier, the Licensee shall pay in advance to AAICLAS the quoted Annual License Fee, subject to 5% year on year escalation.	Annual License Fee shall be paid annually within 10 days of commencement of the Accounting Year.
2	Lease Rental: In consideration of AAICLAS granting the Licensee the license to use and occupy the land for the Cargo Services and Parking Area, Licensee shall pay AAICLAS from the Commencement Date or COD, whichever is earlier, an annual consideration of INR 9210 per square meter. In consideration of AAI granting the Licensee the license to use and occupy the land for the Transshipment Services, Licensee shall pay AAI from the Commencement of operations an annual consideration of INR 6910 per square meter. The lease rental rates are applicable from 01.04.2025 for a period of three years with 15% escalation every 3 years. The Licensee shall be entitled to a 50% waiver on the Lease Rental if the COD is prior to the Commencement Date until the Commencement Date as specified in this Tender Document. For avoidance of doubt, the Licensee shall pay 100% of the Lease Rental from the Commencement Date as specified in this Tender Document.	The Lease Rental shall be paid to AAICLAS each month within 10 days from the commencement of the month. For the purposes of the 1st (first) month, such period shall commence from the date of the COD or Commencement date, whichever is earlier.
3	Revenue share: From the COD, the Licensee shall pay to AAICLAS monthly Revenue Share equivalent to 10% of Gross Revenue	The Revenue share shall be paid monthly in advance of Twelve equal instalments based on the projected Gross Revenue for the relevant Accounting Year within 10 days of commencement of the month. For

S.No.	Payment terms	Payment schedule
		the purposes of the 1st (first) month such period shall commence from the date of the COD.
4	Security Deposit: The Licensee shall deposit and maintain with AAICLAS the Security Deposit for the entire Tenure of the Agreement. The Security Deposit shall be sum equivalent to INR 58 crores.	The Security Deposit shall be paid to AAICLAS within 30 (thirty) days from issue of Letter of Award

12.2 INVOICING AND SETTLEMENT

- 12.2.1 Pursuant to Clause 12.2, the Licensee shall make payment to AAICLAS as per the payment schedule in Clause 12.1. AAICLAS shall provide the GST invoice, however non-submission of GST invoice shall not be a ground for delay in payments beyond the timelines as prescribed in Clause 12.1. Invoices shall be shared by e-mail or any other mode of service that AAICLAS deems fit.
- 12.2.2 The Licensee shall make payment of Annual license fee, Revenue Share fee, lease rental, and any other charges, through NEFT/RTGS only as per Clause 12.2.6. No other form of payment shall be accepted.
- 12.2.3 If the Licensee fails to pay as per the provisions provided herein, the Licensee shall be liable to pay interest at a rate of 12% (Twelve percent) per annum from the due date for delay period of up to 30 (thirty) days and if delay is for more than 30 (thirty) days, then interest at the rate of 18% (eighteen percent) per annum shall be charged from the due date, for entire delay period as per AAI Policy, without prejudice to AAICLAS' other rights and remedies.
- 12.2.4 No invoice for additional work/charge order on account of change order will be submitted by the Licensee unless the said additional work /change order has been authorized/approved by AAICLAS in writing.
- 12.2.5 The Licensee shall be solely responsible to make payment to its personnel, subcontractors, government agencies, and third parties.
- 12.2.6 The Licensee shall make all the payments to AAICLAS as per payment terms provided in Clause 12.1 as well as any other payment arising other than those mentioned in Clause 12.1 by way of NEFT/RTGS to the below mentioned bank A/c:

ACCOUNT No.	Bank Name	IFSC Code	ACCOUNT NAME
000705044092	ICICI Bank	ICIC0000007	AAI CARGO LOGISTICS & ALLIED SERVICES COMPANY LTD

12.3 TAXES AND DEDUCTIONS

- 12.3.1 Save and except as otherwise provided for herein or as agreed between the Parties in writing, AAICLAS shall not be required to make any payments in respect of the Project, obligations and scope of work mentioned in the Tender Document other than those covered in the Tender Document.
- 12.3.2 In an event, the Licensee fails to submit returns/pay Taxes on time as stipulated under the Indian Income Tax Act, 1961 and consequently any interest or penalty is imposed by the Indian Income Tax authority, the Licensee shall pay the same and indemnify AAICLAS from any claims, losses, damages, etc. arising out of such deficiency/ omission/ default.
- 12.3.3 The Licensee shall pay all rates, assessments, on goings and other taxes as leviable on the Licensee as applicable.

12.4 MONTHLY STATEMENT

- 12.4.1 The Licensee shall, with effect from the COD, furnish to AAICLAS, within 7 (seven) days of completion of each month, a statement (“**Monthly Statement**”) of the traffic data including scheduled and non-scheduled aircraft movements and cargo tonnage.
- 12.4.2 Such information/ data shall be compiled and furnished forthwith by the Licensee to AAICLAS in the format, as applicable, required under the Applicable Laws, or as may be acceptable to AAICLAS along with all other details, as may be reasonably requested by AAICLAS.

12.5 QUARTERLY RECONCILIATION

- 12.5.1 Every quarter the balancing payment (reflecting amounts which are due and payable as adjustment or otherwise, or as Damages which are not paid, or not recovered from the Performance Security under the Tender Document) (the “**Balancing Payment**”) shall be calculated by AAICLAS who shall deliver its calculation and statement to the Licensee within 10 (ten) days of the end of each quarter. Each such statement shall have attachments reasonably supporting evidence of all amounts claimed.
- 12.5.2 On receipt of Balancing Payment statement by AAICLAS under Clause 12.5.1, the Licensee shall within 20 (twenty) days either (a) accept or (b) provide recalculations according to it. Both Parties shall maintain sufficient records to enable verification of all the statements. Failure by the Licensee to comment on any AAICLAS’ statement within the above 20 (twenty) day period shall be deemed to constitute approval.
- 12.5.3 If AAICLAS does not submit its calculation of the Balancing Payment within 10 (ten) days of the end of any quarter, the Licensee shall be entitled to submit such calculation, together with attachments reasonably supporting evidence of all amounts claimed, and in such event where AAICLAS requires to pay any Balancing Payment AAICLAS shall not be liable to pay any interest whatsoever.
- 12.5.4 In the event there is any discrepancy in the invoice or Balancing Payment statement, either Party

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can inform the other party of such discrepancy in the invoice within 7 (seven) days of the receipt of the invoice and / or Balancing Payment statement and such invoices and or statements shall be treated as disputed invoice and / or statements (“**Disputed Invoice and Statement**”). The Parties shall co-operate in good faith and take all the necessary initiative to settle any Disputed Invoice and Statement within 30 (thirty) days from receipt of information about the Disputed Invoice and Statement.

- 12.5.5 Any deficiencies in the Revenue Share payable by the Licensee, based on the actual Gross Revenue calculated for the Licensee at the end of each quarter and at the end of each relevant financial year shall be paid by the Licensee within 10 days of the submission of the consolidated audited financial statement of Selected Entity to AAICLAS. In the event the Revenue Share paid to AAICLAS is more than the actual Revenue Share calculated for the Licensee, any excess amount in this regard shall be adjusted with the next payment payable by the Licensee to AAICLAS.

13. SAFETY REQUIREMENTS

13.1 DUTY TO COMPLY

The Licensee shall comply with the provisions of this Tender Document, Applicable Laws and Applicable Permits and conform to Good Industry Practice for securing the safety of the Users.

13.2 SAFETY COSTS

All costs and expenses arising out of or relating to safety and hygiene requirements shall be borne by the Licensee to the extent such costs and expenses form part of the works and services included in the Services.

13.3 CONSTRUCTION COMPLIANCE

- 13.3.1 The Licensee, at its own cost, shall undertake periodic testing of the building structure of the New Cargo Terminal by an agency approved by AAICLAS. Such testing shall be conducted every 4 (four) years or upon the occurrence of any event, as determined by AAICLAS, which may impact the structural stability and integrity of the building structure of the New Cargo Terminal. The test reports shall be submitted to AAICLAS within 2 (two) days from the conclusion of testing. Any adverse findings in the test report shall be addressed by the Licensee within 28 (twenty-eight) days time from report submission to AAICLAS. AAICLAS may not provide any intermediate approvals during the construction but shall have the right but not obligation to provide comments/approvals for various reports required to be submitted including but not limited to construction plan.
- 13.3.2 The sewage treatment plant and diesel generator set shall be tested every 4 (four) years. The test reports shall be submitted to AAICLAS within 2 (two) days from the conclusion of testing. Any adverse findings in the test report shall be addressed by AAICLAS within 1 (one) month time from report submission to AAICLAS. In the event such rectification is not completed within the said timelines, AAICLAS shall have the right to levy liquidated damages as set out in Clause 11.1 (Liquidated Damages for Defaults by the Licensee) of the Tender Document.
- 13.3.3 AAICLAS shall, at its own cost, have the right to undertake similar test of the New Cargo Terminal at any time during the Term. In the event of any adverse findings, AAICLAS shall recover the cost of such tests from the Licensee as well as direct the Licensee to take remedial actions. In the event, the Licensee fails to take remedial actions within the timelines prescribed by AAICLAS, then AAICLAS shall undertake such remedial actions on its own. The Licensee shall be solely responsible for all costs, expenses, etc. incurred by AAICLAS for undertaking such remedial actions.

13.4 AIRSIDE SAFETY

The Licensee shall comply with the following:

- 13.4.1 Provide sufficient parking space for trolleys and tractors is allocated in coordination with airside operations, as per existing AAICLAS policies; and

- 13.4.2 Not hold empty/ filled trolleys and/or cargo beyond the stipulated time that is published in Airside Safety Regulations during flight operations on apron parking stands.

13.5 FIRE SAFETY REGULATIONS AND REQUIREMENTS

The Licensee shall:

- 13.5.1 adhere to all fire and life safety requirements at the construction of New Cargo Terminal in accordance with National Building Code of India, relevant Indian BIS standards, West Bengal State Fire Services Rules, National Fire Protection Association standards and other Applicable Laws;
- 13.5.2 Install and maintain fire protection systems (including portable fire extinguishers) as per National Building Code, 2016 and relevant Indian BIS standards. Such installation and maintenance shall not impair any fire and life safety system including fire alarm system (FAS), fire protection system (FPS) or emergency exit/ evacuation route at the Airport.
- 13.5.3 Formulate written fire and emergency plan for the New Cargo Terminal for ensuring effective response and crises management during potential emergency. The plan shall be produced upon request by AAICLAS, aircraft rescue and firefighting department as well as internal or external auditors.
- 13.5.4 Provide full cooperation to the fire prevention officer or inspecting official on the periodic and random fire and life safety audits and shall comply with observations made during the audit within stipulated timeframe as per audit report; and
- 13.5.5 Prohibited substances found on/ in the Cargo Terminal shall be confiscated and destroyed by AAICLAS and the cost thereof or such charges as AAICLAS shall impose from time to time, shall be borne by Licensee and paid within 15 (fifteen) days from the date of written notice from AAICLAS.
- 13.5.6 Any non-compliance of fire safety requirements, procedures or measures as may be notified by AAICLAS shall be rectified by Licensee within 30 (thirty) days from the date of such notification. After the 30 (thirty) days period, AAICLAS shall carry out an inspection of the Cargo Terminal.
- 13.5.7 If there are any outstanding deficiencies or deficiencies not rectified to the satisfaction of AAICLAS, as observed during the inspection and where these deficiencies are material, AAICLAS shall give the Licensee a further 15 (fifteen) days from the date of inspection to rectify the same before a further inspection is held. If the deficiency remains, Licensee's business shall be suspended without compensation and the Licensee would be given another 15 (fifteen) days before action is taken to terminate this Agreement in accordance with Article 21 of this Tender Document. Where AAICLAS finds that the deficiencies are minor, and the Licensee fails to rectify these after 14 (fourteen) days' notice to do so, AAICLAS shall take all steps necessary to rectify the same immediately thereafter and the Licensee shall bear all costs, expenses, or such charges as AAICLAS shall impose from time to time, incurred by AAICLAS.

13.6 CRISIS MANAGEMENT AND OPERATIONAL CONTINUITY

The Licensee shall:

- 13.6.1 be responsible for managing any disasters in relation to dangerous goods and chemical, biological, radioactive and nuclear occurred within the premises of the Cargo Terminal. The Licensee shall arrange the logistic support.
- 13.6.2 ensure periodic conduct of emergency exercises, taking lead role and involving other airport stakeholders, as well as complete active participation in the full-scale emergency exercises and other mock drills initiated by the airport operator.
- 13.6.3 ensure weekly reporting of the dangerous goods movement to and from the Cargo Terminal to the enterprise risk and corporate resilience team for crisis response and mitigation planning purpose.
- 13.6.4 report to the enterprise risk and corporate resilience team any real-time incident of dangerous goods response/ chemical, biological, radiological and nuclear incident immediately upon the occurrence of such event.
- 13.6.5 comply, in addition to the Applicable Laws, also comply with all safety and crisis management requirements in line with the Airport Crisis Management Manual and shall develop their own emergency response plans specifically for the following scenarios (but not limited to) and ensure periodic exercises:
 - a) Dangerous goods response plan;
 - b) Chemical, biological, radiological and nuclear response plans;
 - c) Building evacuation plans;
 - d) Business continuity plan in line with that of the Airport; and
 - e) Enterprise risk library and mitigation plans in line with that of the Airport.

14. INTELLECTUAL PROPERTY

14.1 LICENSEE TO OBTAIN ALL NECESSARY RIGHTS

The Licensee shall, at its own cost, obtain and provide to AAICLAS (where necessary in AAICLAS's name), all necessary rights and licenses to Intellectual Property, or any part thereof, used or to be used by or on behalf of the Licensee in performing its obligations under the Tender Document.

Notwithstanding anything contained in this Tender Document, the Licensee shall not, without prior consent of AAICLAS, use AAICLAS's name, logo or Intellectual Property.

14.2 INFRINGEMENT OF RIGHTS

The Licensee shall ensure that any, drawings, models or other instructions supplied by it, shall not infringe any rights with respect to Intellectual Property of third parties. Should claims nevertheless be made against AAICLAS in respect of Intellectual Property rights arising out of or in any way related to the performance of this Tender Document by the Licensee, the Licensee shall keep AAICLAS against whom such claim has been made, indemnified against the cost of such claims, including any legal costs in connection therewith.

The Licensee shall in accordance with Clause 14.4, indemnify and hold AAICLAS harmless against and from any claims alleging an infringement of Intellectual Property which is or was a result of any Services performed by the Licensee:

- (a) for a purpose other than that indicated by, or reasonably to be inferred from, the Agreement or;
- (b) in conjunction with anything not performed by AAICLAS, unless such use was disclosed to AAICLAS prior to the Effective Date or is stated in the Agreement.

14.3 INTELLECTUAL PROPERTY WARRANTY

14.3.1 The Licensee represents and warrants that:

- (a) it has all rights and licenses necessary to grant AAICLAS the licenses to be granted in accordance with this Article 14.
- (b) any use of Intellectual Property developed or created by the Licensee, its Affiliates or its sub-contractors during the License Period, by or on behalf of the Authority, shall not infringe the intellectual property of any third party or Applicable Law; and
- (c) no royalties or other payments are due or payable by AAICLAS to the Licensee or any other person in respect of any Intellectual Property developed or created by the Licensee, its Affiliates or its sub-contractors during the License Period.

14.4 INTELLECTUAL PROPERTY INDEMNITY

14.4.1 The Licensee shall indemnify and hold harmless AAICLAS and Licensee's personnel against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of whatsoever nature, including attorney's fees and expenses, which AAICLAS may suffer as a result of any infringement or alleged infringement of any Intellectual Property registered or otherwise existing at the date of the Agreement by reason of: (a) the execution of the Licensee; or (b) any document, specification, or other material provided or designed by or on behalf of the Licensee.

14.4.2 The Licensee shall further indemnify AAICLAS from and against all claims, liability, loss, damage, costs and expenses arising out of any claim that the Intellectual Property or any use of the Intellectual Property by or on behalf of the Licensee which infringes the Intellectual Property of a third party.

Should any such claim or settlement arising from the Licensee's infringement of Intellectual Property, materially impair the Licensee's performance of its obligations under this Agreement or Authority's right to use the Services (either impairment an "**IP Impairment**"), the Licensee shall rectify such IP Impairment, at its own costs and at its option:

- (a) replace the infringing portion of the services with a non-infringing part; or
- (b) modify the infringing portion of the services so that it ceases to be infringing; or
- (c) secure for the benefit of the AAICLAS such licenses as may be required to obviate the need for replacement or modification of the services.

14.4.3 If any proceedings are brought or any claim is made against the AAICLAS arising out of the matters referred to in this Article 14, AAICLAS shall promptly provide the Licensee a notice thereof, and the Licensee shall, at its own expense and in AAICLAS's name, conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

If the Licensee fails to notify AAICLAS within 28 (twenty-eight) days or such lesser period as per the claim received by AAICLAS, after receipt of such notice that it intends to conduct any such proceedings or claim, then AAICLAS shall have the right to conduct the same on its own behalf. Unless, the Licensee has so failed to notify AAICLAS within the 28 (twenty-eight) days period, AAICLAS shall make no admission that may be prejudicial to the defense of any such proceedings or claim.

AAICLAS shall, at the Licensee's request, afford all available assistance to the Licensee in conducting such proceedings or claim, and shall be reimbursed by the Licensee for all reasonable expenses incurred in doing so.

15. INSURANCE

15.1 INSURANCE COVER

- 15.1.1 The Licensee agrees and acknowledges that all risk of loss, damage, destruction, theft or interference with the possession, use or operation of the equipment, from any cause whatsoever shall be solely be at its costs and expenses.
- 15.1.2 The Licensee shall affect and maintain at all times at its own cost following insurances and other additional insurances as specified
- a. Aviation liability insurance covering all liabilities arising from Tender Document's aviation operations;
 - b. AVN 52 coverage;
 - c. Workmen compensation insurance; and
 - d. Other general insurance coverage and fire policy for property, ground support equipment, furniture, tools and other assets.
- 15.1.3 The Licensee shall at all times, during the License Period, arrange and maintain at its own costs, adequate and appropriate insurance and as per the Applicable Laws, other related facilities and liabilities including but not limited to cyber security threat, theft and burglary (“**Insurance Cover**”). The Licensee shall ensure that each policy taken out pursuant to this Clause 15.1, shall be increased from time to time to such amounts as would be effected in accordance with Good Industry Practice and as may be reasonably required, taking into account, amongst other things, market availability in respect of risks, liabilities and amounts of insurance. The Licensee shall ensure that it has adequate/ mandatory third- party insurance at all times to cover the liabilities towards the Users for any physical loss or such amount as may be specified by AAICLAS, from time to time.
- 15.1.4 If the Licensee fails to effect and keep in force all insurances for which it is responsible pursuant hereto, AAICLAS shall have the option to either keep in force any such insurances, and pay such premia and recover the costs thereof from the Licensee along with Damages for a sum equivalent to the Performance Security.

15.2 EVIDENCE OF INSURANCE COVER

- 15.2.1 Within 15 (fifteen) days of obtaining any Insurance Cover, the Licensee shall furnish to AAICLAS, notarized true copies of the certificate(s) of insurance, copies of Insurance Cover(s) and premia payment receipts in respect of such insurance, and no such insurance shall be cancelled, modified, or allowed to expire or lapse until the expiration of at least 45 (forty-five) days after notice of such proposed cancellation, modification or non-renewal has been delivered by the Licensee to AAICLAS.
- 15.2.2 The Licensee shall ensure that AAICLAS is named as the loss payee in all policies of insurances taken by the Licensee and that the insurer shall pay the proceeds of insurance as prescribed by

AAICLAS. The Licensee, at the request of AAICLAS, shall provide to AAICLAS, the copies of all insurance policies obtained by the Licensee. The Licensee shall from time to time promptly pay any insurance premium due, keep the insurance policies in force and valid. The Licensee shall not cancel, modify or allow to expire or lapse any insurances until the expiration of at least 45 (forty-five) days' notice of such cancellation, modification or non-renewal has been provided by the Licensee to AAICLAS. The Licensee shall comply with the terms and conditions of the insurances and the procedures for claims notification and administration there under and shall do nothing nor omit to do anything which might render the insurances avoidable.

- 15.2.3 The Licensee, at its own cost and expense, at all times obtain and maintain all clearances and Applicable Permits including security clearances and investment clearance, registrations, Licenses and permits (including immigration, temporary residence, work and exit permits along with security clearance for its employees), which are required by Applicable Law for performing the Services at the Cargo Terminal. The Licensee agrees that AAICLAS shall assist the Licensee on best effort basis for obtaining such clearances and approvals.

15.3 WAIVER OF SUBROGATION

All insurance policies in respect of the insurance obtained by the Licensee pursuant to this Article 15 shall include a waiver of any and all rights of subrogation or recovery of the insurers thereunder against, *inter alia*, AAICLAS, and its assigns, successors, undertakings and their subsidiaries, affiliates, employees, insurers, underwriters, and of any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy or in any way connected with any loss, liability or obligation covered by such policies of insurance.

15.4 LICENSEE'S WAIVER

The Licensee hereby further releases, assigns and waives any and all rights of subrogation or recovery against, *inter alia*, AAICLAS and its assigns, undertakings and their subsidiaries, affiliates, employees, successors, insurers and underwriters, which the Licensee may otherwise have or acquire in or from or in any way connected with any loss, liability or obligation covered by policies of insurance maintained or required to be maintained by the Licensee pursuant to this Agreement (other than third party liability insurance policies) or because of deductible clauses in or inadequacy of limits of any such policies of insurance.

16. WARRANTY

16.1 WARRANTY

- 16.1.1 The Licensee warrants that it shall repair or rectify all the defects and deficiencies observed by the AAICLAS or Independent Agency arising in the Project. The Licensee shall be liable to remedy or compensate AAICLAS for the remedy of any Defect, and deficiency arising in the execution of the Project or breach in any obligations under the Tender Document (collectively called “**Defects**”) throughout the License Period.

16.2 DELAY IN REMEDYING DEFECTS

- 16.2.1 If the Licensee fails to commence and proceed diligently with the remedy of any Defect within 72 (seventy two) hours of receipt of notification thereof from AAICLAS / User and is unable to correct all Defects/deficiencies for which it is responsible within 15 (fifteen) days or within such reasonable time period specified by AAICLAS in its notice, AAICLAS may proceed to remedy such Defect(s) at the Licensee’s expense and risk provided that it notifies the Licensee of its intention to do so. The actual costs so incurred by AAICLAS shall be charged separately to the Licensee. Disputed matters arising under this Clause 16.2 shall be resolved by the Parties in accordance with the provisions set out in the Agreement. This shall not extinguish the Licensee’s liability under the terms and conditions of the Agreement. Further, in such events the Licensee shall make adequate provision at the Cargo Terminal so as to meet the Minimum Service Standards provisions under Schedule IV.
- 16.2.2 If Defect arising in the Project causes serious loss or damage which can be prevented by immediate action, such Defects, may be corrected by AAICLAS or a third party designated by AAICLAS, at the actual cost to the Licensee, without giving prior notice to the Licensee. Upon notification of such action by AAICLAS, the Licensee shall assist wherever possible in undertaking the necessary corrections.

17.ACCESS TO THE BOOKS OF ACCOUNTS, AUDIT, DATA, AND RECORDS

17.1 OPERATIONAL AND PERFORMANCE AUDITS

17.1.1 AAICLAS reserves the right to inspect and monitor/assess the progress of the Project at any time during the course of the Agreement, after providing due notice to the Licensee. AAICLAS may demand and upon such demand being made, AAICLAS shall be provided with such document, data, material or any other information which it may require by the Licensee, to enable it to assess the progress of the Project.

Further, AAICLAS may also conduct non-scheduled audits at its own discretion if it reasonably believes that such non-scheduled audits are necessary as a result of an act of fraud by the Licensee, a security violation, breach of confidentiality obligations, number of equipment packages deployed at Cargo Terminal or adherence to Service quality by the Licensee, provided that the requirement for such an audit is to be notified in writing to the Licensee within a reasonable period of time prior to such audit.

17.1.2 AAICLAS shall also have the right to conduct, either itself or through another agency as it may deem fit, an audit to monitor the performance by the Licensee of its obligations/functions in accordance with the standards committed to or required by AAICLAS and the Licensee undertakes to cooperate with and provide to AAICLAS/ any other agency appointed by AAICLAS, all documents and other details as may be required by them for this purpose. To the extent reasonably possible, AAICLAS shall endeavour not to appoint a competitor of Licensee as an auditor. Any deviations or contravention, identified as a result of such audit/assessment, would need to be rectified by the Licensee, failing which AAICLAS may, without prejudice to any other rights that it may have issue a notice. Cost of acquisition of deliverables by the Licensee and other sub-contractors is out of the purview of audit/inspections.

17.1.3 Within 15 (fifteen) days of a written notice by AAICLAS, the Licensee shall provide to AAICLAS, and its consultants, advisors, representatives and agents full and free access to the originals of and/or as requested, copies of all such Information as AAICLAS may require from time to time.

17.1.4 The Licensee shall maintain separate books of account recording its income and expenditure etc. for the Cargo Terminal in accordance with Applicable Law. The Licensee shall provide to AAICLAS, 2 (two) copies of its detailed annual financial statements including balance sheet, cash flow statements and profit and loss account along with report thereon by its Statutory Auditors, as soon as reasonably available and in any event, the Licensee shall submit the annual audited accounts within 180 (one hundred and eighty) days of the end of the Accounting Year.

17.2 AUDIT RIGHTS

17.2.1 AAICLAS and/or its nominated agency shall have the right to audit and inspect suppliers, agents, subcontractors and third-party facilities provisioned documents, records, procedures and systems relating to the provision of the services but only to the extent that they relate to the operational and performance related provision of the services, as shall be reasonably necessary to verify:

- a) The actual level of performance of the services is the same as specified in this Tender

Document;

- b) That the Licensee has complied with the relevant technical standards, and has adequate internal controls in place;
- c) The compliance of the Licensee with any other obligation under the Tender Document;
- d) such other information as AAICLAS may reasonably require.

17.2.2 AAICLAS shall bear the cost of any audits and inspections. The Licensee shall bear all costs for all reasonable assistance and information provided under the Tender Document.

17.3 INFORMATION TECHNOLOGY SYSTEMS AND DATA SHARING

The Licensee shall:

17.3.1 provide to AAICLAS, at no cost, all data and information pertaining to Cargo Services at the New Cargo Terminals that are required by AAICLAS in accordance with the format and timeline as provided by AAICLAS.

17.3.2 Ensure that the procedures, equipment and IT systems employed are modern and state of the art.

17.4 RECORDS

Subject to compliance with all Applicable Laws, the Licensee shall keep full records in respect of bills, vouchers, invoices and all supporting documents regarding the License granted under this Tender Document. The Licensee shall make them available for inspection on reasonable notice and during normal business hours to AAICLAS for the purpose of verification by AAICLAS of the Licensee's compliance with the terms and conditions hereof and shall furnish copies thereof to AAICLAS (at Licensee's cost) of called for.

18.CHANGE OF SCOPE

18.1 CHANGE OF SCOPE

- 18.1.1 Any addition to or omission from the obligations forming part of the Scope of the Project shall be considered as change of scope (“**Change of Scope**”). Any Change of Scope shall be made in accordance with the provisions of this Article 18.
- 18.1.2 If AAICLAS determines at any time that a Change of Scope is necessary for smooth and efficient operation of the Cargo Terminal, it shall by notice in writing, instruct the Licensee to consider such Change of Scope. The Licensee shall, within 30 (thirty) days of receipt of such notice, either accept such Change of Scope with modifications, if any, and initiate proceedings in accordance with this Article 18 or inform AAICLAS in writing of its reasons for not accepting such Change of Scope.
- 18.1.3 Any works or Services which are performed as a Change of Scope in accordance with this Article 18 shall form part of the Project Scope and the provisions of the Agreement shall apply *mutatis mutandis* to such works or Services.

18.2 PROCEDURE FOR CHANGE OF SCOPE

- 18.2.1 In the event, AAICLAS determines that a Change of Scope is necessary, it shall issue to the Licensee a notice specifying in reasonable detail the works and services contemplated thereunder (“**Change of Scope Notice**”).
- 18.2.2 Upon receipt of a Change of Scope Notice, the Licensee shall, with due diligence, provide to AAICLAS such information as is necessary, together with preliminary Documentation in support of the impact, if any, which the Change of Scope is likely to have on the Revenue Share, if the additional work or services are required to be carried out during the License Period.
- 18.2.3 Upon receipt of information set forth in Clause 18.2.2, if AAICLAS decides to proceed with the Change of Scope, it shall convey its preferred option to the Licensee, and the Parties shall, thereupon make good faith efforts to agree upon the manner of the implementation of the Change of Scope. Upon reaching an agreement, AAICLAS shall issue an order (“**Change of Scope Order**”) requiring the Licensee to proceed with the performance thereof. In the event, the Parties are unable to agree, AAICLAS may, by issuing a Change of Scope Order, require the Licensee to proceed with the performance thereof pending resolution of the Dispute.

19.FORCE MAJEURE

19.1 FORCE MAJEURE

As used in the Tender Document, the expression “**Force Majeure**” or “**Force Majeure Event**” shall mean occurrence in India of any or all of Event as defined in Clauses 19.2, 19.3, and 19.4 respectively, if it affects the performance by the Party claiming the benefit of Force Majeure (the “**Affected Party**”) of its obligations under the Tender Document and which act or event (a) is beyond the reasonable control of the Affected Party, and (b) the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, and (c) has Material Adverse Effect on the Affected Party.

19.2 NON-POLITICAL EVENT

A Non-Political Event shall mean one or more of the following acts or events:

- (a) act of God, epidemic, pandemic including COVID-19, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionising radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the site);
- (b) strikes or boycotts (other than those involving the Licensee, sub-contractors or their respective employees/representatives, or attributable to any act or omission of any of them) interrupting supplies and Services to the Project for a continuous period of 24 (twenty-four) hours and an aggregate period exceeding 7 (seven) days in an Accounting Year, and not being an Indirect Political Event set forth in Clause 19.3;
- (c) any judgement or order of any court of competent jurisdiction or statutory authority made against the Licensee in any proceedings for reasons other than (i) failure of the Licensee to comply with any Applicable Laws or Applicable Permits, or (ii) on account of breach of any Applicable Laws or Applicable Permits or (iii) enforcement of this Tender Document, or (iv) exercise of any of its rights under this Agreement by AAICLAS; or (v) breach of its obligations by the Licensee;
- (d) the discovery of geological conditions, toxic contamination or archaeological remains at the Cargo Terminal that could not reasonably have been expected to be discovered through a site inspection; or
- (e) any event or circumstances of a nature analogous to any of the foregoing.

19.3 INDIRECT POLITICAL EVENT

An Indirect Political Event shall mean one or more of the following acts or events:

- (a) an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;
- (b) any political or economic upheaval, disturbance, movement, struggle or similar occurrence

which could not have been anticipated or foreseen by a prudent person and which causes the operations, management or development of the Project to be financially unviable or otherwise not feasible;

- (c) industry-wide or State-wide strikes or industrial action for a continuous period of 24 (twenty-four) hours and exceeding an aggregate period of 7 (seven) days in an Accounting Year;
- (d) any civil commotion, boycott or political agitation for an aggregate period exceeding 7 (seven) days in an Accounting Year;
- (e) any Indirect Political Event that causes a Non-Political Event; or
- (f) any event or circumstances of a nature analogous to any of the foregoing.

19.4 POLITICAL EVENT

A Political Event shall mean one or more of the following acts or events by or on account of any Government Instrumentality:

- (a) change in Law, only if consequences thereof cannot be dealt with under and in accordance with the provisions of Article 24;
- (b) compulsory acquisition in national interest or expropriation of any services or rights of the Licensee or any of its contractors;
- (c) unlawful or unauthorised or without jurisdiction revocation of, or refusal to renew or grant without valid cause, any clearance, license, permit, authorisation, no objection certificate, consent, approval or exemption required by the Licensee or any of its contractors to perform their respective obligations under this Agreement; provided that such delay, modification, denial, refusal or revocation did not result from the Licensee's or any of its contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, license, authorisation, no objection certificate, exemption, consent, approval or permit;
- (d) any event or circumstance of a nature analogous to any of the foregoing.

Provided further that none of the following matters or their consequences shall be capable of or causing Force Majeure:

- (i) failure or inability to make any payment; or
- (ii) the effect of market conditions unless such market conditions were themselves caused by or were a result of a Force Majeure event; or
- (iii) strikes or labour disputes of any kind or collective bargaining agreements, by/of Licensee, resulting in a delay or stoppage of work (other than strikes, labour disputes on a nationwide basis); or
- (iv) economic hardship.

19.5 DUTY TO REPORT FORCE MAJEURE EVENT

19.5.1 Upon occurrence of a Force Majeure Event, the Affected Party shall by a written notice report such occurrence to the other Party forthwith. Any notice pursuant hereto shall include full particulars of:

- (a) the nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Article 19 with evidence in support thereof;
- (b) the estimated duration and the effect or probable effect which such Force Majeure Event is having or will have on the Affected Party's performance of its obligations under this Tender Document;
- (c) the measures which the Affected Party is taking or proposes to take for alleviating the impact of such Force Majeure Event; and
- (d) any other information relevant to the Affected Party's claim.

19.5.2 The Affected Party shall not be entitled to any relief for or in respect of a Force Majeure Event unless it shall have notified in writing the other Party of the occurrence of the Force Majeure Event as soon as reasonably practicable, and in any event not later than 7 (seven) days after the Affected Party knew, or ought reasonably to have known, of its occurrence, and shall have given particulars of the probable material effect that the Force Majeure Event is likely to have on the performance of its obligations under the Tender Document.

19.5.3 For so long as the Affected Party continues to claim to be materially affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) reports containing information as required by Clause 19.5.1, and such other information as the other Party may reasonably request the Affected Party to provide.

19.6 EFFECT OF FORCE MAJEURE EVENT

19.6.1 Upon the occurrence of any Force Majeure Event prior to the COD is achieved, the period set forth for the COD shall be extended by a period equal in length to the duration of the Force Majeure Event.

19.6.2 The Affected Party shall make all reasonable efforts to mitigate or limit damage to the other Party arising out of or as a result of the existence or occurrence of such Force Majeure Event and to cure the same with due diligence.

19.6.3 It is agreed by the Parties that when the Affected Party is able to resume performance of its obligations under the Tender Document, it shall give to the other Party notice to that effect and shall promptly resume performance of its obligations hereunder.

19.6.4 At any time, if any Force Majeure Event occurs after COD, whereupon the Licensee is directed by AAICLAS to suspend the Services thereof during the subsistence of such Force Majeure Event, the License Period shall be extended by a period, equal in length to the period during

which the Licensee was prevented from collection of cargo charges/fees on account thereof.

19.7 ALLOCATION OF COSTS ARISING OUT OF FORCE MAJEURE

- 19.7.1 Upon occurrence of any Force Majeure Event prior to the COD, the Parties shall bear their respective costs and neither Party shall be required to pay to the other Party any costs thereof.
- 19.7.2 Save and except as expressly provided in this Article 19, neither Party shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant hereto.

19.8 TERMINATION NOTICE FOR FORCE MAJEURE EVENT

If a Force Majeure Event subsists for a period of 180 (one hundred and eighty) days or more within a continuous period of 365 (three hundred and sixty five) days, either Party may in its discretion terminate this Agreement by issuing a Termination Notice to the other Party without being liable in any manner whatsoever, save as provided in this Article 19, and upon issue of such Termination Notice, this Agreement shall, notwithstanding anything to the contrary contained herein, stand terminated forthwith, provided that before issuing such Termination Notice, the Party intending to issue the Termination Notice shall inform the other Party of such intention and grant 15 (fifteen) days' time to make a representation, and may after the expiry of such 15 (fifteen) days period, whether or not it is in receipt of such representation, in its sole discretion issue the Termination Notice.

19.9 DISPUTE RESOLUTION

In the event that the Parties are unable to agree in good faith about the occurrence or existence of a Force Majeure Event, the same shall be dealt in terms of Article 23 of this Tender Document.

19.10 EXCUSE FROM PERFORMANCE OF OBLIGATIONS

- 19.10.1 If the Affected Party is rendered wholly or partially unable to perform its obligations under this Tender Document because of a Force Majeure Event, it shall be excused from performance of such of its obligations to the extent it is unable to perform on account of such Force Majeure Event; provided that:
- (a) the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;
 - (b) the Affected Party shall make all reasonable efforts to mitigate or limit damage to the other Party arising out of or as a result of the existence or occurrence of such Force Majeure Event and to cure the same with due diligence; and
 - (c) when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party notice to that effect and shall promptly resume performance of its obligations hereunder.

20. EVENTS OF DEFAULT

20.1 EVENTS OF DEFAULT

Event of Default (“**Event of Default**”) means Licensee Event of Default or AAICLAS Event of Default or both as the context may admit or require.

20.2 LICENSEE EVENTS OF DEFAULT

20.2.1 Save as otherwise provided in the Tender Document, in the event that any of the defaults specified below shall have occurred, and Licensee fails to cure the default within the Cure Period set forth below, or where no Cure Period is specified, then within a Cure Period of 60 (sixty) days, Licensee shall be deemed to be in default of the Agreement (“**Licensee Event of Default**”), unless the default has occurred solely as a result of any breach of this Agreement by AAICLAS or due to Force Majeure. The defaults referred to herein shall include:

- (a) the Performance Security has been appropriated in accordance with Clause 9.2, and the Licensee fails to replenish or provide fresh Performance Security and/or Additional Performance Security within a Cure Period of 15 (fifteen) days;
- (b) subsequent to the replenishment of furnishing of fresh Performance Security in accordance with Clause 9.2, the Licensee fails to cure the Licensee’s default, as the case may be, for which whole or part of the Performance Security was appropriated within a Cure Period of 15 (fifteen) days;
- (c) failure of Licensee to achieve COD in terms of Clause 4.3.2, including a Cure Period of 12 (twelve) weeks;
- (d) failure of Licensee in relation to rectifying the defect / deficiencies within the prescribed time period as set out Clause 16.2, including a Cure Period of 10 (ten) weeks;
- (e) failure of the Licensee to maintain the Minimum Service Standards in accordance with Clause 10.3;
- (f) the Licensee has failed to make any payment including monthly Revenue Share, monthly lease rental, Annual License fee to AAICLAS within the period specified in the Tender Document;
- (g) any representation or warranty of Licensee herein contained is found to be materially false or misleading or Licensee is at any time in breach of such representation or warranty by the Licensee;
- (h) failure of Licensee to maintain Insurance Cover(s) in accordance with the requirements;
- (j) the Licensee abandons or manifests intention to abandon the provision of the cargo service, prior to the expiry of the License Period;
- (k) failure by Licensee to perform/operate and maintain the Services in accordance with the Applicable Laws, Applicable Permits and as per the provisions of the Tender Document;

- (l) suspension by the Licensee of the performance of its obligations under this Agreement for a period exceeding 3 (three) consecutive days (except during the subsistence of an event of Force Majeure);
- (m) cancellation, Termination or a breach by the Licensee of any Approvals required to carry out operations of the Services for the reasons solely attributable to the Licensee;
- (n) a Change in Ownership or any other change has occurred in breach of the provisions of Clause 4.7.1 or Clause 2.3.4.1 (c);
- (o) the Licensee is adjudged bankrupt or insolvent, or if a trustee or receiver is appointed for Licensee or for the whole or material part of its assets that has a material bearing on the Agreement;
- (p) failure to fulfil any obligation for which Termination has been specified in this Tender Document;
- (q) The Licensee submits to AAICLAS any statement which has a material effect on AAICLAS's rights, obligations or interests and which is false in material particulars;
- (r) the Licensee submits to AAICLAS any statement, notice or other document, in written or electronic form, which has a material effect on AAICLAS's rights, obligations or interests and which is false in material particulars;
- (s) the Licensee commits a default in complying with any other provision of this Tender Document if such default causes a Material Adverse Effect on AAICLAS;

20.2.2 Where there has been an occurrence of such Event of Defaults, *inter alia*, as stated above, AAICLAS shall issue a notice of default to the Licensee, setting out specific defaults / deviances / omissions and providing a period of up to 15 (fifteen) days to enable the Licensee to remedy the default/ deviances / omissions committed;

20.2.3 Where despite the issuance of a default notice to the Licensee by AAICLAS, the Licensee fails to remedy the default to the reasonable satisfaction of AAICLAS, AAICLAS may, where it deems fit, issue to the Licensee another default notice or proceed to adopt such remedies as may be available to AAICLAS including but not limited to the remedies provided in Clause 20.3 below.

20.3 CONSEQUENCES FOR EVENT OF DEFAULT

Where an Event of Default subsists or remains uncured even after expiry of provided Cure Period as mentioned in Clause 20.2, AAICLAS shall be entitled to at its sole discretion:

20.3.1 Impose any such reasonable obligations and conditions and issue any clarifications as may be necessary to, *inter alia*, ensure smooth continuation of the Services and the Project which the Licensee shall be obliged to comply with. The Licensee shall in addition take all available steps to minimize loss resulting from such Event of Default.

20.3.2 Invoke the Performance Security furnished hereunder, enforce indemnity provisions, recover such other costs/losses and other amounts from the Licensee which may have resulted from such default and pursue such other rights and/or remedies that may be available to AAICLAS under Applicable Laws.

20.4 AAICLAS EVENTS OF DEFAULT

20.4.1 In the event that AAICLAS repudiates the Agreement or otherwise takes any action that amounts to or manifests an irrevocable intention not to be bound by this Tender Document, and AAICLAS fails to cure such default within a Cure Period of 60 (sixty) days, AAICLAS shall be deemed to be in default (the “**AAICLAS Event of Default**”) unless such default has occurred as a result of any breach of this Tender Document by Licensee or due to Force Majeure.

21. TERMINATION

21.1 TERMINATION FOR LICENSEE'S EVENT OF DEFAULT

AAICLAS may, terminate the Agreement (in whole or in part) by giving the Licensee a prior and written notice of maximum up to 12 (Twelve) months, indicating its intention to terminate where AAICLAS is of the opinion that there has been such Event of Default on the part of the Licensee which has not been cured within the Cure period provided under Clause 21.2 and in accordance to Schedule III (Exit Management Plan).

21.2 TERMINATION FOR CONVENIENCE

21.2.1 AAICLAS may, by written notice of maximum up to 12 (Twelve) months sent to the Licensee, terminate the Agreement, in whole or in part at any time for its convenience. The notice of Termination shall specify that Termination is for the Authority's convenience, the extent to which performance of Services under the Agreement is terminated, and the date upon which such Termination becomes effective. The Authority may, at its sole discretion, relax or absolve the Licensee from following the timelines and/or service levels related to the part of the Agreement which is being terminated.

21.2.2 The Agreement may be terminated by the Licensee by giving 12 (twelve) months' notice in writing, provided that the date on which the notice is received by AAICLAS will be the commencement of the notice period. In relation to such termination, then the Performance Security of amount, as per the details below, shall be forfeited as damages:

Table 1: Termination payment by Licensee in the event of Termination for Convenience by Licensee

S. No.	If Termination occurs	Total Performance Security equivalent in percentage to be forfeited
(i)	<50 % of License Period	25%
(ii)	between 50% to 75% of the License Period	15%
(iii)	>75% to <100% of the License Period	05%

Further, in the event the Licensee does not provide Services under the Agreement upto 50% (fifty percent) of the License Period then the Licensee shall be debarred for 1 (one) year from the date of issuance of orders.

21.3 TERMINATION BY EFFLUX OF TIME

Unless terminated earlier in accordance with the provisions of this Article 21 (except this Clause 21.3), the Agreement shall terminate upon the expiry of the License Period.

21.4 TERMINATION BY FORCE MAJEURE

AAICLAS or Licensee may terminate this Agreement in accordance with Clause 19.8.

21.5 TERMINATION DUE TO AAICLAS'S EVENT OF DEFAULT

If an Event of Default occurs as set out in Clause 20.4, the Licensee may, terminate the Agreement by giving AAICLAS a prior and written notice of 12 (twelve) months indicating its intention to terminate the Agreement.

21.6 TERMINATION FOR REGULATORY/LEGISLATIVE OR SUPERVISORY REQUIREMENTS

If any provision of law or legislation of India makes it mandatory to stop/prohibit the continuation of the services at the Airport or otherwise, then the services at such Airport shall be deemed to be closed from the date of such enactment. The Licensee hereby agrees and acknowledges that no compensation shall be payable by AAICLAS in case of occurrence of such an event.

21.7 CONSEQUENCES OF TERMINATION OF THE AGREEMENT

- 21.7.1 In the event of expiry of the License Period or Termination of the Agreement due to any cause whatsoever, the Licensee shall comply with the Exit Management Plan (“**Exit Management Plan/ Schedule**”) set out as **Schedule III** of this Tender Document (and as revised from time to time).
- 21.7.2 Nothing herein shall restrict the right of AAICLAS to invoke the Performance Security furnished hereunder and pursue such other rights and/or remedies that may be available to AAICLAS under the Tender Document and/or the Applicable Laws.
- 21.7.3 Any payments i.e., balancing payment under this Clause shall be payable only after the Licensee has complied with and completed the transition and exit management as per the Exit Management Plan to the satisfaction of AAICLAS.
- 21.7.4 Save and except as otherwise expressly provided herein, AAICLAS shall not be liable to compensate the Licensee in any manner whatsoever in the event of earlier termination of the License for any reason whatsoever.
- 21.7.5 The Licensee shall, within a period of 15 (fifteen) days from the Termination of the Agreement hand over the Location in the Airport in relation to which the Agreement has been terminated in good and substantial repair and condition (fair wear and tear excepted). The Licensee shall deliver to AAICLAS's possession of the Location, including all buildings, structures, installations, fittings and fixtures thereon and/or where applicable, assign all rights and contracts to and in favour of AAICLAS with no cost implications in accordance with the terms of the Agreement. The Licensee shall remove all of the Licensee's materials, belongings, etc. (except fixed assets) from such Airport at Licensee's own cost, failing which AAICLAS shall acquire the rights of such moveable assets and may remove Licensee's materials and other materials and sell the same to utilize the proceeds recover the costs of removal and towards payment of any outstanding amounts due to Licensee.
- 21.7.6 Notwithstanding anything contrary, it is agreed that the Lease Rent and other charges including Taxes, shall continue till the time Licensee is occupying or holding the possession of the Site.

21.8 TERMINATION PAYMENT

21.8.1 In the event of termination of the Agreement, AAICLAS shall pay the following amount to the Licensee:

Table 2: Termination payment by AAICLAS

S. No.	If Termination occurs	Total amount to be paid equivalent to percentage of Book Value of the fixed assets*
1	Before issue of completion certificate of building as per clause 4.4.4	Nil
2	After issue of completion certificate of building as per clause 4.4.4 before COD	50%
3	In year 1 of License Period	47.5%
4	In year 2 of License Period	45.0%
5	In year 3 of License Period	42.5%
6	In year 4 of License Period	40.0%
7	In year 5 of License Period	37.5%
8	In year 6 of License Period	35.0%
9	In year 7 of License Period	32.5%
10	In year 8 of License Period	30.0%
11	In year 9 of License Period	27.5%
12	In year 10 of License Period	25.0%
13	In year 11 of License Period	22.5%
14	In year 12 of License Period	20.0%
15	In year 13 of License Period	17.5%
16	In year 14 of License Period	15.0%
17	In year 15 of License Period	12.5%
18	In year 16 of License Period	10.0%
19	In year 17 of License Period	7.5%
20	In year 18 of License Period	5.0%
21	In year 19 of License Period	2.5%
22	In year 20 of License Period	0%

*Fixed assets consist of immovable assets like buildings, firefighting systems, CCTV, electrical installations, storage racks, etc. It excludes moveable assets like furniture, security equipment, X-BIS, DFMD, HHMD, ETD, cargo equipment, trolleys, tractors, vehicles, forklifts, etc.

For avoidance of doubt, in case the Licensee makes an investment of INR 100 crore in the fixed assets during the construction phase and makes an additional investment of INR 50 crore in Year 10 of License Period. Assuming a 5% straight line depreciation, termination payment by AAICLAS shall be calculated as below:

Table 3: Illustrative calculation of amount payable by AAICLAS in the event of termination/exit

Termination/Exit Year	Gross Book Value of Fixed Assets (INR cr) (A)	Depreciated Value (B=A-depreciation)	Percentage of Book Value of the fixed assets* payable by AAICLAS (C)	Amount Payable by AAICLAS (INR cr) (D=BXC)
Year 1 of License Period	100	95	50%	47.5
Year 5 of License Period	100	75	37.5%	28.1
Year 11 of License Period	100 + 50	45 + 47.5	22.5%	20.8
Year 20 of License Period	100 + 50	0 + 25	0%	0

21.9 SURVIVAL OF RIGHTS

Notwithstanding anything to the contrary contained in this Tender Document, any Termination pursuant to the provisions of the Tender Document shall be without prejudice to the accrued rights of AAICLAS including its claim to recover money, damages and other rights and remedies, which it may have in law or contract. All rights and obligations of AAICLAS under the Tender Document shall survive the Termination to the extent such survival is necessary for giving effects to such rights and obligations.

22.LIABILITY AND INDEMNITY

22.1 GENERAL INDEMNITY

22.1.1 The Licensee hereby agrees to indemnify, defend, save and hold harmless AAICLAS, its associates, and its respective directors, officers, employees, and agents (“**Indemnified Persons**”) from and against any and all suits, proceedings, actions, demands and claims from third parties for any loss, damage, cost and expense of whatever kind and nature, whether arising out of any breach by the Licensee of any of its obligations under the Agreement or any related agreement or on account of any defect or deficiency in the performance of the obligations by the Licensee or from any negligence of the Licensee under contract or tort, or on the ground of fraud or negligence, or on any other ground whatsoever, except to the extent that any such suits, proceedings, actions, demands and claims have arisen due to any willful negligent act or omission, or breach or default of this Tender Document on the part of the Indemnified Persons.

22.1.2 AAICLAS shall indemnify, defend, save and hold harmless the Licensee against any and all suits, proceedings, actions, demands and claims from third parties for any loss, damage, cost and expense of whatever kind and nature arising out of breach by AAICLAS of any of its obligations under the Agreement or any related agreement, which materially and adversely affect the performance by the Licensee of its obligations under the Agreement, save and except that where any such claim, suit, proceeding, action, and/or demand has arisen due to a negligent act or omission, or breach of any of its obligations under any provision of this Tender Document or any related agreement and/or breach of statutory duty on the part of the Licensee, its subsidiaries, affiliates, contractors, servants or agents, the same shall be the liability of the Licensee.

22.2 INDEMNITY BY THE LICENSEE

22.2.1 Without limiting the generality of Article 22, the Licensee shall fully indemnify, hold harmless and defend AAICLAS and the Government Indemnified Persons from and against any and all loss and/or damages arising out of or with respect to:

- (a) failure of the Licensee to comply with Applicable Laws and Applicable Permits;
- (b) payment of Taxes required to be made by the Licensee in respect of the income or other Taxes of the Licensee’s contractors, suppliers and representatives; or
- (c) non-payment of amounts due as a result of materials or services furnished to the Licensee or any of its contractors which are payable by the Licensee or any of its contractors.

22.3 NOTICE AND CONTEST OF CLAIMS

22.3.1 In the event that either Party receives a claim or demand from a third party in respect of which it is entitled to the benefit of an indemnity under this Article 22 (“**Indemnified Party**”), it shall notify the other Party (“**Indemnifying Party**”) within 15 (fifteen) days of receipt of the claim or demand and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim or demand, it may conduct the proceedings in the name of the Indemnified Party, subject to the Indemnified Party being secured against any costs involved, to its reasonable satisfaction.

22.4 DEFENCE OF CLAIMS

22.4.1 The Indemnified Party has the right, but not the obligation, to contest, defend and litigate any claim, action, suit or proceeding by any third party alleged or asserted against such Party in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified hereunder, and reasonable costs and expenses thereof shall be indemnified by the Indemnifying Party. If the Indemnifying Party acknowledges in writing its obligation to indemnify the Indemnified Party in respect of loss to the full extent provided by this Article 22, the Indemnifying Party shall be entitled, at its option, to assume and control the defence of such claim, action, suit or proceeding, liabilities, payments and obligations at its expense and through the counsel of its choice in the name of the Indemnified Party, if so required, provided it gives prompt notice of its intention to do so to the Indemnified Party and reimburses the Indemnified Party for the reasonable cost and expenses incurred by the Indemnified Party prior to the assumption by the Indemnifying Party of such defence. The Indemnifying Party shall not be entitled to settle or compromise any claim, demand, action, suit or proceeding without the prior written consent of the Indemnified Party, unless the Indemnifying Party provides such security to the Indemnified Party as shall be reasonably required by the Indemnified Party to secure the loss to be indemnified hereunder to the extent so compromised or settled.

22.4.2 If the Indemnifying Party has exercised its rights under Clause 22.3, the Indemnified Party shall not be entitled to settle or compromise any claim, action, suit or proceeding without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

22.4.3 If the Indemnifying Party exercises its rights under Clause 22.3, the Indemnified Party shall nevertheless have the right to employ its own counsel, and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party, when and as incurred, unless:

- (a) the employment of counsel by such party has been authorised in writing by the Indemnifying Party;
- (b) the Indemnified Party shall have reasonably concluded that there may be a conflict of interest between the Indemnifying Party and the Indemnified Party in the conduct of the defence of such action;

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- (c) the Indemnifying Party shall not, in fact, have employed independent counsel reasonably satisfactory to the Indemnified Party, to assume the defence of such action and shall have been so notified by the Indemnified Party; or
- (d) the Indemnified Party shall have reasonably concluded and specifically notified the Indemnifying Party either:
- i. that there may be specific defences available to it which are different from or additional to those available to the Indemnifying Party; or
 - ii. that such claim, action, suit or proceeding involves or could have a material adverse effect upon it beyond the scope of this Agreement:

Provided that if Sub-Clauses (b), (c) or (d) of this Clause 22.4.3 shall be applicable, the counsel for the Indemnified Party has the right to direct the defence of such claim, demand, action, suit or proceeding on behalf of the Indemnified Party, and the reasonable fees and disbursements of such counsel for the indemnified party shall have the right to direct the defence of claim, demand, action, suit, or proceedings on behalf of the Indemnified Party, and the reasonable fees and disbursements of such counsel shall constitute legal or other expenses hereunder.

22.5 NO CONSEQUENTIAL CLAIMS

Notwithstanding anything to the contrary contained in this Article 22, the indemnities herein provided shall not include any claim or recovery in respect of any cost, expense, loss or damage of an indirect, incidental or consequential nature, including loss of profit, except as expressly provided in this Tender Document.

22.6 SURVIVAL ON TERMINATION

The provision of this Article 22 shall survive Termination.

23. GOVERNING LAW AND DISPUTE RESOLUTION

- 23.1 The Agreement shall be governed by, and construed in accordance with, the Laws of India and the courts at New Delhi shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Agreement.
- 23.2 All disputes or differences which may arise out of or in connection with or incidental to the Agreement including any dispute or difference regarding the interpretation of terms and conditions of any clause(s) thereof shall be dealt with as provided hereinafter:
- 23.2.1. Through Mediation: All dispute(s), at the first instance, shall be referred to the Mediation Committee of Independent Experts (MCIE) or individual mediator for mediation as per AAI Mediation Policy and applicable laws. All cost of mediation, shall be borne equally by the Parties. In case either Party withdraws from the mediation or the dispute(s) is not resolved within 120 (one twenty) days of reference to the mediation, then the aggrieved party may invoke arbitration through sub para (ii) within 30 (thirty) days from the date of receipt of partial settlement agreement or failure report.
- 23.2.2. Adjudication through Arbitration: In case no final settlement has been arrived at between the parties after mediation or partially settled as per clause 23.2.1 above, the unresolved dispute(s), on invocation by the aggrieved party shall be referred for adjudication by arbitration.
- a) When the amount involved is above 25 crores, adjudication shall be made by arbitral tribunal comprising of 03 arbitrators. Each party to appoint one arbitrator and the two appointed arbitrators shall appoint the presiding arbitrator.
 - b) When the amount involved is Rs. 25 Crores and below shall be referred to a sole arbitrator to be appointed by Chairman/Member, AAI, after obtaining consent of the other Party, as per format at Schedule V.

Unless the Agreement has already been repudiated or terminated, the parties shall, in every case, continue to proceed to perform their respective obligations under the Agreement.

Arbitration proceedings shall be conducted in accordance with the provisions of the Arbitration and Conciliation Act, 1996, as amended from time to time.

Fee payable to the arbitrator(s) shall be as per Schedule IV of the Arbitration & Conciliation Act, 1996 and shall be borne by both the Parties equally.

No dispute shall be referred for resolution under this clause through arbitration in matters for which eviction & recovery procedure is provided under Chapter-VA of the Airports Authority of India Act, 1994.

24.CHANGE IN LAW

24.1 CHANGE IN LAW

24.1.1 “**Change in Law**” means the occurrence of any of the following after the date of Bid:

- (a) the enactment of any new Indian law;
- (b) the repeal, modification or re-enactment of any existing Indian law;
- (c) the commencement of any Indian law which has not entered into effect until the date of Bid;
- (d) a change in the interpretation or application of any Indian law by a judgement of a court of record which has become final, conclusive and binding, as compared to such interpretation or application by a court of record prior to the date of Bid; or

any change in the rates of any of the Taxes that have a direct effect on the Project.

24.1.2 Any Change in Law shall not be a ground for any alteration or amendment to any term hereof or of any rights and obligations flowing from the Agreement in favour of the Licensee. The rights and obligations hereunder shall not be prejudiced by any Change in Law.

24.2 **[Intentionally left blank]**

25.MISCELLANEOUS

25.1 SURVIVAL

The Parties agree and acknowledge that the provisions of Articles 7, 9, 19, 21, 22, 23, 25 shall survive the expiration and Termination of the Agreement by efflux of time or otherwise.

25.2 AMENDMENTS, WAIVERS AND CONSENTS

25.2.1 AMENDMENTS

Any provision of this Tender Document may be amended, supplemented or modified only by an agreement in writing signed by the Parties.

25.2.2 WAIVERS AND CONSENTS

- (a) No waiver, including partial or conditional waiver by either Party, of any of the terms of this Tender Document shall be effective unless made in writing and no waiver of any particular term shall be deemed to be a waiver of any other term.
- (b) AAICLAS reserves the right to give or withhold (except where otherwise specified herein) all approval, consent, expression of satisfaction, expression of acceptability or the like without giving any reasons therefore and, if given, may be given upon and subject to such terms as AAICLAS may think fit.
- (c) Any such waiver or consent may be given subject to any conditions thought fit by the person(s) giving it and shall be effective only in the instance and for the purpose for which it is given.

25.3 ENTIRE AGREEMENT

The Agreement executed between the Parties shall constitute the entire agreement between the Parties with respect to the subject matter of the Agreement and supersedes any prior written or oral communication/agreement between them with respect to such subject matter.

25.4 PARTIAL INVALIDITY

25.4.1 If at any time any provision of this Tender Document is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction as per clause 25.1, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction will, in any way, be affected or impaired and the legality, validity and enforceability of the remainder of this Tender Document shall not be affected.

25.4.2 The Parties may negotiate in good faith with a view to agreeing one or more provisions which may be substituted for any such invalid, illegal or unenforceable provision and which are satisfactory to the Parties and produce as nearly as is practicable in all the circumstances the appropriate balance of the commercial interests of the Parties.

25.5 NO PARTNERSHIP

Neither the Agreement nor any other agreement or arrangement of which it forms neither part, nor the performance by the Parties of their respective obligations under any such agreement or arrangement, shall constitute a partnership between the Parties. No Party shall have any authority (unless expressly conferred in writing by virtue of the Agreement or otherwise and not revoked) to bind any other Party as its agent or otherwise.

25.6 NOTICES

Any Notice required under the terms of the Agreement shall (unless otherwise agreed) be in writing and shall be delivered in person or sent by speed post or electronic mail as appropriate, properly posted and fully prepaid in an envelope addressed to the respective Parties, or can be sent by facsimile as follows:

To AAICLAS: [●]

To Licensee: [●]

Each communication on the Agreement shall include the name of the Project and the reference number of the Agreement in subject and the communication shall include clause number of the Agreement to which the communication refers to.

25.7 GOVERNING LANGUAGE

The language that governs the interpretation of this Tender Document is the English language. All notices required to be given by either Party to the other and all other communications and documentation which is in any way relevant to the Agreement and which is relevant to the execution, implementation and Termination of the Agreement, including but not restricted to any Dispute resolution proceedings, shall be in the English or Hindi language.

25.8 CONFIDENTIALITY

25.8.1 All written information labelled as proprietary or confidential that is disclosed by either Party to the other Party shall remain the sole property of the disclosing Party. Each Party agrees that it shall not disclose, use, modify, copy, reproduce or otherwise divulge such Confidential Information other than to fulfil its obligations under the Agreement. The prohibitions contained in this Clause 25.8.1 shall not apply to information:

- a) already lawfully known to or independently developed by the receiving Party, or
- b) disclosed in published materials without any breach of confidentiality by the receiving Party, or
- c) generally known to the public, or
- d) lawfully obtained from any third party, or

- e) which are required to be disclosed pursuant to the requirements of law, regulations or rules of an applicable stock exchange.

25.8.2 The Parties agree that they will hold in confidence the terms and conditions of the Tender Document, all information, documentation etc. of a confidential or proprietary nature which comes to their knowledge in the course of the Agreement and will not disclose to any third party or use Confidential Information or any part thereof without the other Party's prior written consent provided that Confidential Information may be disclosed to any governmental or regulatory authority requiring such disclosure under law, regulations or rules of an applicable stock exchange.

25.9 SOVEREIGN IMMUNITY

The Licensee hereby unconditionally and irrevocably:

- (a) agree that the execution, delivery and performance by it of the Agreement constitutes private and commercial acts and not public or governmental acts;
- (b) agrees that any proceedings brought against it or its assets by any Party in relation to the Agreement or any transaction contemplated by the Agreement, no immunity, sovereign or otherwise, from such proceedings, execution, attachment or other legal process shall be claimed by or on behalf of itself or with respect to any of its assets; and
- (c) waives any such right of immunity, sovereign or otherwise which it or its assets now has or may acquire and / or enjoy in the future in respect of any proceedings brought under or in relation to the Agreement.

25.10 ASSIGNMENT

- (a) The Licensee shall not assign the Agreement or any right or obligation arising under or pursuant to it or any benefit or interest herein or create or permit to subsist any security over the Agreement or any right or obligation arising under or pursuant to it or any benefit or interest in it, except as permitted by and with prior written approval of AAICLAS.
- (b) The Licensee shall not delegate any of its rights and obligations under the Agreement, provided to any third party.
- (c) Notwithstanding anything to the contrary contained in this Tender Document, AAICLAS may, after giving 60 (sixty) days' notice to the Licensee, assign and/or transfer any of its rights and benefits and/or obligations under this Agreement to an assignee who is, in the reasonable opinion of AAICLAS, capable of fulfilling all of AAICLAS's then outstanding obligations under this Tender Document.

25.11 SECURITY CLEARANCE

The Licensee or any of its shareholders, shall not by any act of omission or commission,

jeopardize the security clearance obtained from the Government of India, and the Licensee and the shareholders of the Licensee shall ensure that the necessary and requisite security clearance is maintained at all times.

25.12 NOVATION

25.12.1 During the License Period, if AAI revokes the right to operate and maintain the Cargo Terminal from AAICLAS, then the Agreement shall novate in favor of AAI. From and after the date of transfer/novation, AAICLAS shall be released of all liabilities and obligations under this Tender Document.

25.12.2 The right and obligations under or pursuant to all contracts and other arrangements entered into in accordance with the provisions of this Tender Document between AAICLAS and Licensee shall be vest with AAI.

25.13 COUNTERPARTS

The Agreement may be executed in two counterparts, each of which, when executed and delivered, shall constitute an original of the Agreement.

26. TAXES AND STAMP DUTY

The Licensee shall, solely, bear all Taxes, stamp duty and registration fees and any other rates and taxes arising out of or in connection with the goods and/or services provided under the terms of this Tender Document.

SCHEDULE I: Details of the Project Scope

- a. The Licensee shall develop a New Cargo Terminal with cold storage capabilities;
- b. The Licensee shall develop a cargo with a total handling capacity of at least 2,00,000 (two lakh) metric ton with expansion at 80% (eighty percent) saturation;
- c. Cargo vehicles parking area shall be managed and operated by the Licensee to ensure streamlined operations. The Licensee shall ensure that there is adequate parking for heavy and light cargo vehicles, non-cargo vehicles, and AAICLAS/AAI personnel. The Licensee to provide free parking space to AAI/AAICLAS staff for bona fide use of staff;
- d. The Licensee shall ensure commencement of operations of the Cargo Terminal by no later than Commencement Date;
- e. The Licensee shall in accordance with Good Industry Practice, Business Plan and Applicable Laws and as contemplated in the Tender Document; manage, operate, and maintain the Cargo Terminals in competitive, efficient and economic manner;
- f. The Licensee shall be operate the Cargo Terminal and provide the Cargo Services at any time on a 24-hour basis in compliance to the prescribed standards by IATA/ICAO requirements and to the Minimum Service Standards prescribed by AAICLAS in this Tender Document.
- g. The Licensee shall be responsible for obtaining all Applicable Permits, environmental clearance, operational readiness certificates, etc. required for commencement of operations at the Cargo Terminal.
- h. The Licensee shall at all times provide the following services at the Cargo Terminal:
 - (i) Cargo Services for inbound, outbound and transit cargo
 - (ii) Document handling services
 - (iii) Customs procedures
 - (iv) Irregularity handling
 - (v) Post office mail
 - (vi) Other value-added services such as packaging, labelling, etc.
- i. The Licensee shall be responsible for the security and safety of the Cargo Terminal.
- j. The Licensee shall be responsible for equipment maintenance which include, but not limited to, maintenance of electrical, mechanical and control equipment, preparation of maintenance schedules, etc.
- k. The Licensee shall conform to and levy the cargo handling fees for the Cargo Services in accordance with the approved rates by AERA and will be liable for all the charges arising due to non-compliance. The Licensee shall not levy any charge for providing only entry to Air Freight Station cargo.
- l. The Licensee shall at its cost undertake upgradation of systems, equipment and processes.
- m. The Licensee shall provide long term office space for freight forwarders and airlines in the Cargo Terminal respectively. For avoidance of doubt, cargo handling for the airlines and freight

forwarders shall be done by the Licensee.

- n. The Licensee shall integrate or link any new facility, equipment or service, deployed by AAI or AAICLAS anywhere in the Airport in the future, to the process flow of the Cargo Terminals.
- o. The Licensee shall share with AAICLAS, the user agreements entered into by the Licensee with the users of the Cargo Terminal.
- p. The Licensee shall operate and enter into user agreements in an equitable manner and not refuse services to any user.
- q. The Licensee shall ensure provision of adequate public amenities (F&B, photocopy facility, internet facility, Toilets, etc.)
- r. AAICLAS may in its discretion and at its own cost, conduct an audit of the accounts or service standards of the Licensee. The Licensee undertakes to co-operate with AAICLAS and its agents in the conduct of the audit, and for such purpose to provide access to the officials of AAICLAS or its agents, to allow AAICLAS or its agents to inspect and have access, at any time, to the books of accounts, audited/unaudited statements, the gross cost/itemized cost reports/statements, audit rolls maintained by the Licensee receipts generated at the electronic point of sale terminals as maintained by the Licensee and any other information as maybe required by AAICLAS or its auditors for the purpose of such audit.

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SCHEDULE II: Business Plan

To be provided by the bidders

SCHEDULE III: Exit Management Plan

1. PURPOSE

- (i) This Schedule sets out the provisions which will apply 12 (twelve) months prior to expiry of the License Period or from the Effective Date of Termination of the Agreement. In the case of Termination of any part of the Agreement or Services, the provisions of this Schedule shall, *mutatis mutandis*, apply to the part of Agreement or Services terminated.
- (ii) In this Schedule, the term '**Replacement Licensee**' shall mean any third party that AAICLAS or its nominated agencies appoint to replace the Licensee upon expiry of the License Period or earlier Termination of the Agreement to undertake the services or part thereof;
- (iii) The Licensee shall ensure that its Members, respective associated entities and the Licensee to carry out their respective obligations set out in this Exit Management Schedule.
- (iv) The Licensee will pass on to AAICLAS and/or to the Replacement Licensee, the subsisting rights in any licensed products on terms not less favourable to AAICLAS/ the Replacement Licensee, than that enjoyed by the Licensee.
- (v) The right to operate shall be transferred back to AAICLAS/ Replacement Licensee.
- (vi) In case of the Agreement being terminated by AAICLAS, AAICLAS reserves the right to ask the Licensee to continue providing the Services for a period of 12(twelve) months after Termination Notice are issued and the Licensee shall be obliged to provide such Services for such period without any impediment in the quality of SLAs.

2. COOPERATION AND PROVISION OF INFORMATION

- (i) During the exit management period:
 - a) The Licensee will allow AAICLAS or its nominated agency access to information reasonably required to define the then current mode of operation associated with the provision of the Services to enable AAICLAS to assess the existing services being delivered;
 - b) The Licensee, on reasonable request by AAICLAS, shall promptly provide access to and copies (hard and soft copies as deemed necessary by AAICLAS) of all information held or controlled by the Licensee which it has prepared or maintained in accordance with this Agreement relating to any material aspect of the Services (whether provided by the previous Licensee or the Licensee). AAICLAS shall be entitled to copy of all such information. Such information shall include details pertaining to the Services rendered and other performance data. The Licensee shall permit AAICLAS and/or its nominated agencies to have reasonable access to the employees engaged for providing services and facilities as reasonably required by

AAICLAS to understand the methods of delivery of the services employed by the Licensee and to assist appropriate knowledge transfer.

- (ii) During the exit management period, the Replacement Licensee shall submit periodic reports on the progress of the transition with AAICLAS and the Licensee. The Licensee shall ensure that any issues and gaps highlighted in such reports shall be resolved to the satisfaction of AAICLAS.

3. CONFIDENTIAL INFORMATION, SECURITY AND DATA

- (i) The Licensee will promptly on the commencement of the exit management period supply to AAICLAS or its nominated agency the following:
 - a) information relating to the current works rendered and customer in relation to the works;
 - b) Documentation relating to Project's Intellectual Property Rights;
 - c) all current and updated data as is reasonably required for purposes of AAICLAS or its nominated agencies transitioning the works to its Replacement Licensee in a readily available format nominated by AAICLAS and/or its nominated agency;
 - d) all other information (including but not limited to documents, records and agreements) relating to the Services reasonably necessary to enable the AAI or its nominated agencies, or its Replacement Licensee to carry out due diligence in order to transition the provision of the Services to AAICLAS or its nominated agencies, or its Replacement Licensee (as the case may be).
- (ii) Before the expiry of the exit management period, the Licensee shall deliver to AAICLAS or its nominated agency all new or up-dated materials from the categories set out above (or any other information and data requested by AAICLAS) and shall not retain any copies thereof, except that the Licensee may be permitted to retain one copy of such materials for archival purposes only as approved by AAICLAS.
- (iii) On completion of the exit management period, the Licensee shall delete all confidential information and data from the Licensee's system, upon approval from AAICLAS and shall provide a certificate to AAICLAS stating the completion of deletion of all such data and information.

4. EMPLOYEES

Promptly, on reasonable request at any time during the exit management period, the Licensee shall, subject to Applicable Laws, restraints and regulations (including in particular those relating to privacy) provide to AAICLAS or its nominated agency a list of all employees (with job titles and contact information) of the Licensee and its sub-contractor dedicated to providing the works at the commencement of the exit management period.

5. TRANSFER OF CERTAIN AGREEMENTS

On request by AAICLAS or its nominated agency the Licensee shall effect such assignments, transfers, licenses and sub-licenses as AAICLAS may require in favour of AAICLAS or its nominated agencies or its Replacement Licensee in relation to any equipment lease, maintenance or service provision agreement between the Licensee and third party lessors, Licensee's, and which are related to the works and reasonably necessary for the carrying out of replacement works by AAICLAS or its nominated agency or its Replacement Licensee.

6. GENERAL OBLIGATIONS OF THE LICENSEE

- (i) The Licensee shall provide all such information as may reasonably be necessary to effect as seamless handover as practicable in the circumstances to AAICLAS or its nominated agency or its Replacement Licensee and which the Licensee has in its possession or control at any time during the exit management period.
- (ii) For the purposes of this Schedule, anything in the possession or control of any Licensee, associated entity, or sub-contractor is deemed to be in the possession or control of the Licensee.
- (iii) The Licensee shall commit adequate resources to comply with its obligations under this Exit Management Schedule.
- (iv) AAICLAS/Replacement Licensee shall have the right to purchase the Licensee's moveable assets at book value. Should the AAICLAS/Replacement Licensee choose not to exercise the Right, the Licensee shall at the end of the exit management period remove all of its moveable assets.

7. EXIT MANAGEMENT PLAN

- (i) The Licensee shall provide to AAICLAS or its nominated agency with a recommended exit management plan ("**Exit Management Plan**") which shall deal with at least the following aspects of exit management in relation to the Agreement as a whole and in relation to the various phases of the Project:
 - (a) a detailed program of the transfer process that could be used in conjunction with a Replacement Licensee including details of the means to be used to ensure continuing provision of the works and services throughout the transfer process or until the cessation of the works and services and of the management structure to be used during the transfer;
 - (b) plans for the communication with such of the Licensee's staff, suppliers, customers and any related third party as are necessary to avoid any material detrimental impact on AAICLAS's operations as a result of undertaking the transfer;
 - (c) (if applicable) proposed arrangements for the segregation of the Licensee's networks from the networks employed by AAICLAS and identification of

-
- specific security tasks necessary at Termination;
- (d) Plans for provision of contingent support to AAICLAS, and Replacement Licensee for a reasonable period after transfer.
 - (ii) Exit Management Plan shall be presented by the Licensee to and approved by AAICLAS or its nominated agencies.
 - (iii) In case the existing Licensee refuses to abide by the Exit Management Plan as specified in Schedule III, then such Licensee shall lose its right of first refusal (ROFR).
 - (iv) The terms of payment as stated in Article 15 include the costs of the Licensee complying with its obligations under this Schedule.
 - (v) In the event of Termination of the Agreement/ Services or any part thereof, or 12 (twelve) months prior to expiry of the License Period, each Party shall comply with the Exit Management Plan envisaged in this Schedule.
 - (vi) During the exit management period, the Licensee shall use its best efforts to deliver the works and services.
 - (vii) Payments during the Exit Management period shall be made in accordance with payment terms relating to Article 14 and the express provisions of the Agreement.

SCHEDULE IV: Minimum Service Standards

1. The Licensee shall ensure compliance with the Minimum Service Standards prescribed by AAICLAS as detailed below. AAICLAS shall have the right to reasonably amend the requirement of such Minimum Service Standards from time to time and the Licensee shall ensure compliance with such amended Minimum Service Standards as directed by the Airport.

In order to monitor and review the actual service level standards of Licensee against the key performance indicators listed above, AAICLAS shall conduct review meetings periodically. The actual service levels of Licensee shall be reviewed, and the Licensee shall be duly notified of any failure to fulfil the Minimum Service Standards as prescribed above. AAICLAS and the Licensee shall also review and revise the list of KPIs and respective thresholds as applicable at the said review meetings.

2. The list of Key Performance Indicators that shall be used by AAICLAS to monitor the performance of Licensee are listed below.

Functional Area	Performance Measure	Minimum Performance Standard	Target %	Definition
Landside	Truck Queuing time	20 mins	98%	Time from docking to load/unload and exit
	Export cargo reception	15 mins	98%	Time from unloading to sending to export section
	Import cargo release	15 mins	98%	Time taken for import cargo to be brought from custom clearance to docking station
	Empty ULD/pallet/Baggage Trolley release post breakdown activity	15 mins	98%	Time to load and unload ULD/pallet/trolley and release it
In terminal (Import handling)	Cargo Breakdown/Segregation- General/courier/express/ Ecommerce	PAX flight: ATA + 3 hours Freighter: ATA + 5 hours Express/urgent cargo- ATA + 1.5 hours	98%	Time to breakdown cargo of different categories (Actual time of Arrival +3 hours and so on)
	Cargo Breakdown- Perishable	ATA + 1.5 hours	98%	
	Cargo Breakdown- Transfer cargo	ATA + 5 hours	98%	
In terminal (Export)	Export cargo close out time- Bulk	PAX flight: ETD – 2.5	98%	Time for cargo units of different

Handling)		hours Freighter: ETD - 4 hours		categories to be ready for loading into aircraft (2.5 hours before ETD)
	Export cargo close out time- Express	PAX flight: ETD – 1 hours Freighter: ETD – 1 hours	98%	
	Export cargo close out time- Perishable	PAX flight: ETD – 1.5 hours Freighter: ETD – 1.5 hours	98%	
In terminal (General)	Mishandling of cargo	1.5 times in 10,000 shipments	98%	# of mishandling instances
	Equipment uptime	99.5% of equipment available time	98%	% availability of equipment
	Flight delay due to late positioning of cargo	1 delay per 10,000 flights	98%	# of flights delayed due to late positioning of cargo
	Conduct online survey with customers and employees	Yearly once with the users and employees	98%	# of survey to understand customer and employee needs, challenges
	Exit examination of truck	100% of the time to ensure no “customs constraint cargo” and “unauthorized cargo” leave	98%	% of total exit trucks examined to ensure no “customs constraint cargo” and “unauthorized cargo” leave
Documentation			98%	
	Consignee notification for collection	At the beginning of morning shift	98%	All the consignee to be notified to collect (mainly for import)
	DGD/NOTOC	100% accuracy	98%	Dangerous goods declaration accuracy
	Other post flight documents accuracy	98% accuracy	98%	Any other post flight documents accuracy such as
	Outbound flight manifest readiness	ETD -1 hour	98%	The flight manifest that includes details on, cargo, and weight and balance calculations should be ready 1 hour

				before ETD
Security	Pilferage	Licensee to ensure zero tolerance to pilferage	100%	There should be no instances of pilferage
	Regulatory/Legal breach resulting in a deficiency notice or legal penalty	0 Deficiency notice for security breaches	100%	No security incident to lead to deficiency notice
		0 Customs violations	100%	No custom violations
		0 Non-compliance with regulatory screening requirements	100%	100% adherence to regulatory screening requirements

3. AAICLAS reserves the right to audit the Licensee or direct the Licensee to conduct or undergo audit to gauge the service level standards during various audit such as and not limited to audit carried out by AAICLAS, audit carried out by users, audit carried out by internal or external party, etc.

SCHEDULE V: Format Consent Letter

To,
The CEO,
AAICLAS,

SUB: Request for appointment of arbitrator under Clause 23.2.2 (b) of the ___ ___ Agreement dated for ___ _

Sir/Madam,

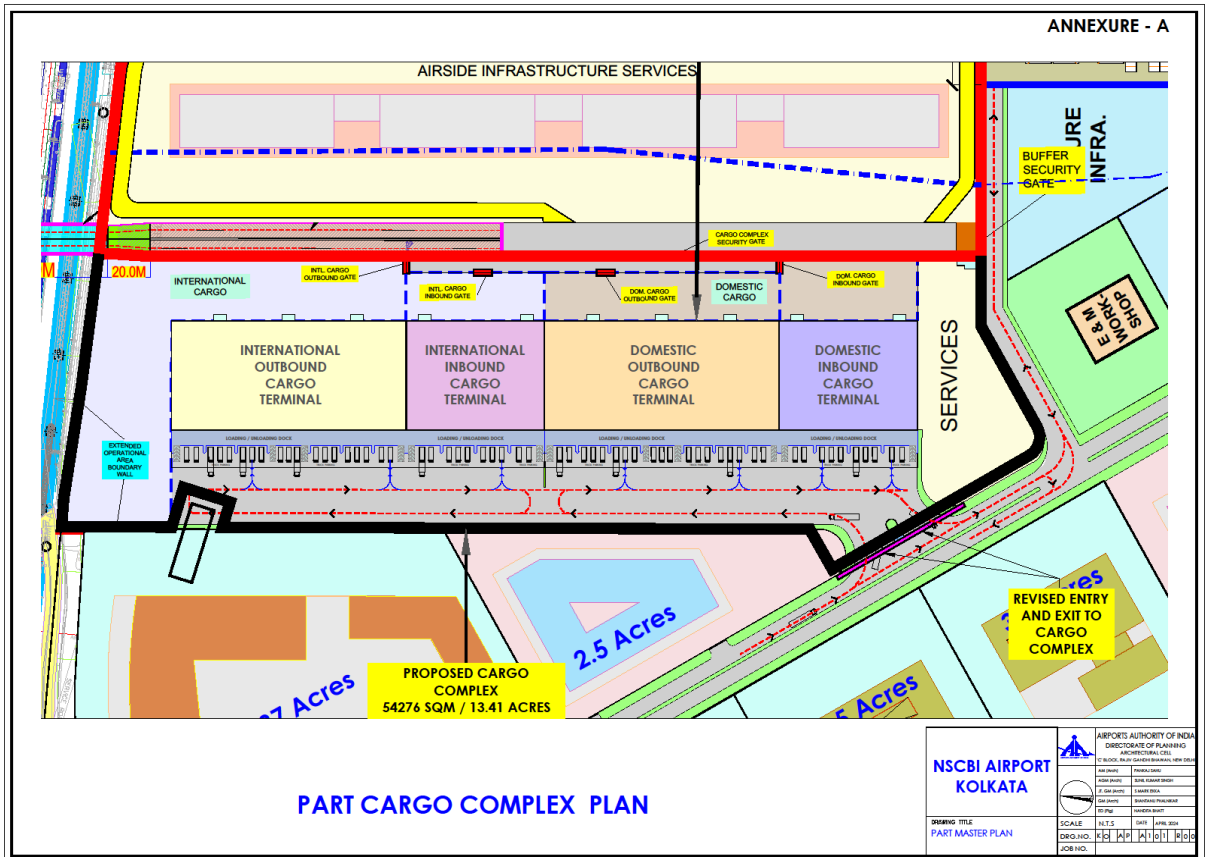
1. We state that ___ ___ ___ (contractor/agency) was awarded work/ concession of at ___ - ___ - ___'Airport/ (other location) of AAICLAS through Award Letter dated ___ _
2. Dispute related to ___ ___ arose between us (contractor/agency) and AAICLAS.
3. On (date), dispute was referred to Mediation as per AAI Mediation Policy and any settlement on the following claims/disputes was not reached between the parties:
 - (i)
 - (ii)
 - (iii)
4. A concise statement along with claim in respect of each of such disputes is attached herewith.
5. In view of the above, we invoke arbitration under clause of the ___ ___ ___ agreement between us and AAI and as per proviso to Section-12(5) of the Arbitration & Conciliation Act, 1996, we hereby agree and request the CEO/Chairman/Member/Regional Executive Director AAI/AAICLAS to appoint arbitrator from AAI/AAICLAS 's panel of arbitrators.
6. I/ We also give my/ our consent for appointing any of an arbitrator from AAI/AAICLAS's approved panel of arbitrators, as per paragraph-5 above.

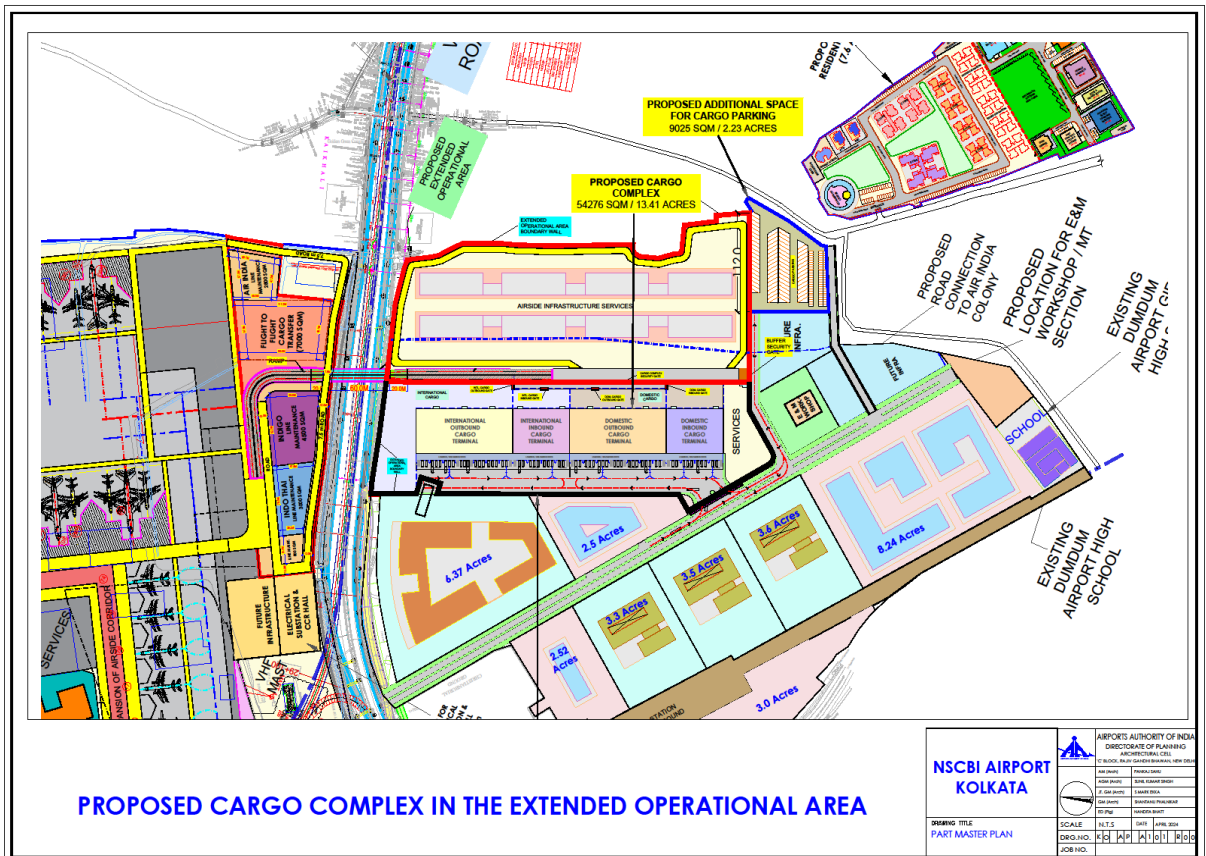
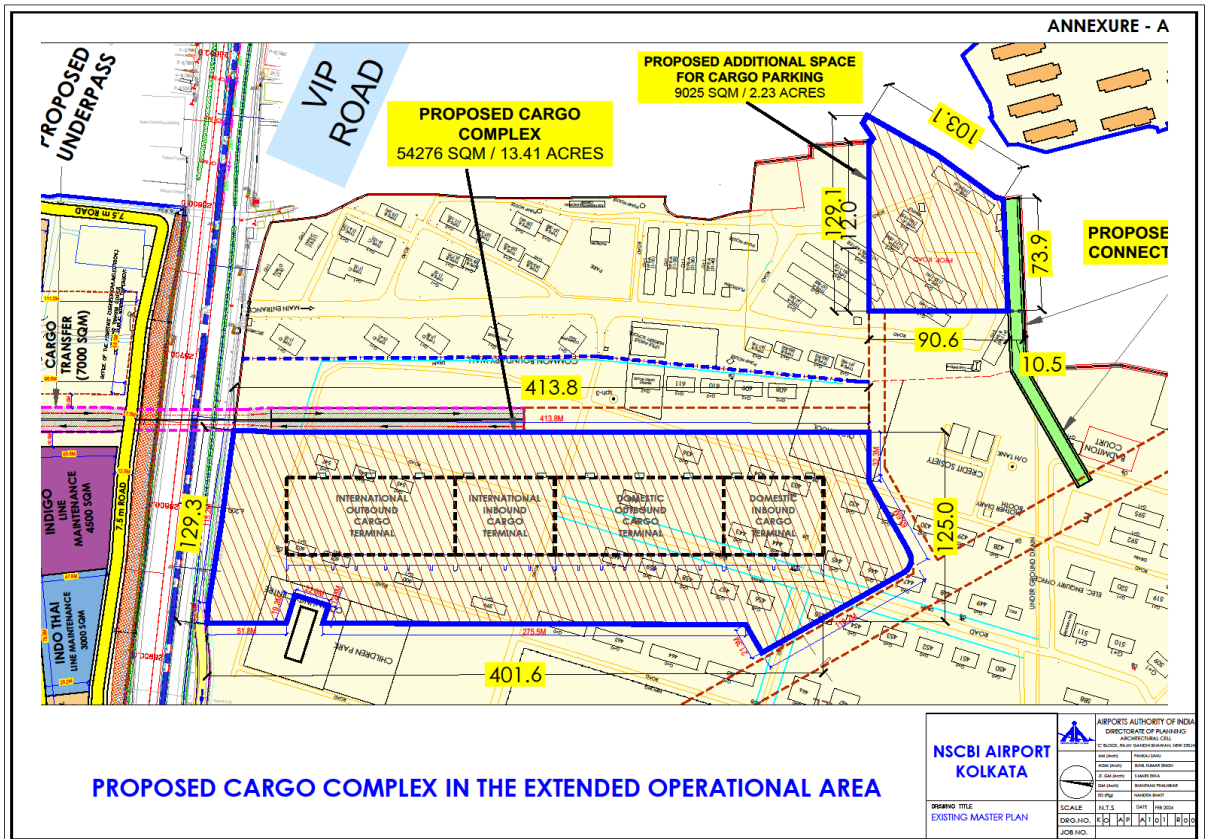
Thanking you,

Authorized signatory of

Encl: As above

SCHEDULE VI: Kolkata cargo complex masterplan





APPENDIX I

ACCEPTANCE LETTER

(Unconditional Acceptance Letter)

On the Letter head of Bidder or (Refer Clause 2.2.10.2 of Tender Document)

To,

Regional Manager (NR), AAICLAS
AAICLAS Complex, Delhi flying Club Road
Safdarjung Airport
New Delhi 110003

Sub: Bid for Project for [...] [*Insert Name of the Project*]

Dear Sir,

The Tender Documents for the “[*Insert Name of Project*]” have been provided to me/us by AAICLAS and:

1. I/We hereby certify that I/We have inspected the sites and read the entire terms and conditions of the Tender Document made available to me/us which shall form part of the Agreement and I/We shall abide by the conditions/Clauses contained therein.
2. We are enclosing and submitting here with our original Proposal, along with the information and documents as per the requirements of the Tender Document, for your evaluation and consideration.
3. I/We hereby unconditionally accept the tender conditions of AAICLAS’ s Tender Documents in its entirety for the Project.
4. The contents of Clause 2.2.9.1 of Tender Document have been noted wherein it is clarified that AAICLAS reserves the rights to reject the conditional Bids without assigning any reason thereto.
5. I/ We hereby undertake that, all information provided in the Bid and in its Appendices is true and correct.
6. I/We shall make available to AAICLAS any additional information it may find necessary or require to clarify, supplement or authenticate the Bid within such time as may be prescribed by AAICLAS.
7. I/We acknowledge the right of AAICLAS to reject our Bid without assigning

any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.

8. I/We certify that I/we or any of my/our constituents or my/our predecessor entity in the preceding 3 (three) years have neither failed to perform on any contract, as evidenced by imposition of a penalty or a judicial pronouncement or arbitration award, nor been expelled from any contract nor have had any contract terminated for breach on our partner have I/ we or any of my/our constituents or my/our predecessor entity defaulted in complying with any statutory requirements.
9. I/ We hereby declare that:
 - a. I / We have examined and have no reservations to the Tender Document, including the addendum (if any) issued by AAICLAS.
 - b. I /We have not directly or indirectly or through any agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 2.4.2 of Tender Document, in respect of any RFP or request for proposal or tender document issued by or any agreement entered into with AAI or any other public sector enterprise or any government, Central or State; and
 - c. I / We hereby certify that I / we have taken steps to ensure that, in conformity with the provisions of Clauses 2.4.1 and 2.4.2 of Tender Document, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
 - d. I/ We do not have any conflict of interest in accordance with Clause 2.2.2.1 of Tender Document.
10. I/We declare that we satisfy and meet the requirements as specified in the Tender Document and eligible to submit a Bid in accordance with the terms of this Tender Document.
11. I / We hereby irrevocably waive any right which we may have at any stage at law or howsoever otherwise arising or accruing to challenge or question any decision taken by AAICLAS in connection with the selection of the Bidder, or in connection with the Tender Document process itself, in respect of the award of above mentioned License and the terms and implementation thereof.
12. I / We understand that, except to the extent as expressly set forth in the Agreement, I/we shall have no claim, right or title arising out of any documents or information provided to us by AAICLAS or in respect of any matter arising out of or concerning or relating to the Tender Document process including the award of work.

13. I / We confirm having submitted the Tender Fee of INR 50,000 to AAICLAS in accordance with the Tender Document.
14. I / We confirm having submitted the Bid Security of INR 1,48,00,000 to AAICLAS in accordance with the Tender Document.
15. I / We agree and understand that the Bid is subject to the provisions of the Tender Document. In no case, I / We shall have any claim or right of whatsoever nature if the contract is not awarded to me / us or our Bid is not opened.
16. I / We agree and undertake to abide by all the terms and conditions of the Tender Document.
17. I/We believe that I/We satisfy the turnover criteria and meet all the requirements as specified in the Tender Document and am/are qualified to submit a Bid.
18. I/We acknowledge that our Consortium/ proposed Consortium is qualified on the basis of Technical Capacity and Financial Capacity of all of its members. We further agree and acknowledge that the aforesaid obligation shall be in addition to the obligations contained in the Project in respect of Change in Control and joint and several liability.
19. I/We acknowledge and agree that in the event of a change in Control of an Affiliate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of short-listing and pre-qualification under and in accordance with the Tender Document, I/We shall inform AAICLAS forthwith along with all relevant particulars and AAICLAS may, in its sole discretion, disqualify our Consortium from the Bid Process or withdraw the Letter of Award, as the case may be. I/We further acknowledge and agree that in the event such change in Control occurs after signing of the Agreement, it would, notwithstanding anything to the contrary contained in the Agreement, be deemed a breach thereof, and the Project shall be liable to be terminated without being AAICLAS liable to us in any manner whatsoever.
20. I/We certify that in regard to matters other than security and integrity of the country, I/We or any of my/our Affiliates have not been convicted by a court of law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on my/our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
21. I/We further certify that in regard to matters relating to security and integrity of the country, any of my/our Affiliates have not been charge- sheeted by any agency of the GoI or convicted by a court of law.
22. I/We further certify that no investigation by a regulatory authority or AAICLAS

is pending either against me/us or against our Affiliates or against our CEO or any of our directors/ managers/ employees.

23. I/We declare that I/We have not paid and shall not pay any bribe to any officer of AAICLAS for awarding this Project at any stage during its execution or at the time of payment of bills and further, if any officer of AAICLAS asks for bribe/gratification, I shall immediately report it to the appropriate authority in AAICLAS.
24. I/We further certify that I/We or any of my/our Affiliates are not barred or blacklisted by any government agency or authority in India, the government of the jurisdiction of the Bidder or Affiliates where they are incorporated or the jurisdiction of their principal place of business, from participating in any project, any international financial institution such as the World Bank Group, Asian Development Bank, African Development Bank, Inter-American Development Bank, Asian Infrastructure Investment Bank, etc., or the United Nations or any of its agencies the Central Government/ State Government or any entity controlled by it, from participating in any project, and no bar subsists as on the date of the Bid.
25. I/We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification as per this Tender Document, we shall intimate AAICLAS of the same immediately.
26. I/We agree that if at any stage, any information/documents submitted by me/us are found to be false, I/We shall be liable for debarment from tendering in AAICLAS, apart from any other appropriate/legal action, as the case maybe.
27. The Statement of Legal Capacity as per format provided in the Tender Document, and duly signed, is enclosed. The Power of Attorney for signing of Bid as per format provided in Tender Document is also enclosed.
28. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by AAICLAS in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.
29. In the event of me/ us being declared as the Selected Bidder, I/we agree to enter into Agreement in accordance with the Tender Document that shall be provided to me/ us prior to the Bid Due Date. I/We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
30. The documents accompanying the Bid, as specified in Clause 2.2.10.2 of Tender Document , have been submitted by uploading the scanned copies on CPPP.

31. I/We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, I/we shall have any claim or right of whatsoever nature if the Project is not awarded to me/us or our Bid is not opened or rejected.
32. The Financial Bid has been quoted by me/us after taking into consideration all the terms and conditions stated in the Tender Document, our own estimates of costs and traffic and after a careful assessment of the site of the Kolkata Airport and all the conditions that may affect the Services and implementation of the Project.
33. I/ We agree and undertake to abide by all the terms and conditions of the Tender Document.
34. I/ We shall keep our Bid offer valid for 180 (one hundred and eighty) days from the Bid Due Date specified in the Tender Document.
35. I/ We hereby submit the Bid as per Appendix-I for undertaking the aforesaid Project in accordance with the Bidding Documents and Tender Document
36. In witness thereof, I/ we submit this Bid under and in accordance with the terms of the Tender Document.

Dated thisDay of, 20_.

Yours faithfully.

(Signature, Name and Designation of the Authorized Signatory)

Place:

Name and seal of the Bidder

ANNEXURE 1: DETAILS OF BIDDER

1.
 - (a) Name:
 - (b) Country of incorporation:
 - (c) Address of the corporate headquarters and its branch office(s), if any, in India:
 - (d) Date of incorporation and/ or commencement of business:
 - (e) PAN Number and GST Registration Certificate (as applicable)
2. Brief description of the Bidder/Members including details of its main lines of business (please provide details of the airports/ cities/ countries the Bidder is operational):
3. Details of individual(s) who will serve as the point of contact/ communication for AAICLAS:
 - (a) Name: Mr. Sandeep Aggarwal
 - (b) Designation: Regional Manager (NR), AAICLAS
 - (c) Company: AAICLAS
 - (d) Address: AAICLAS Complex, Delhi Flying Club Road, Safdarjung Airport, New Delhi 110003
 - (e) Telephone Number: 011-24667728
 - (f) E-Mail Address: saggarwal@aai.aero
4. Particulars of the Authorized Signatory of the Bidder/Member:
 - (a) Name:
 - (b) Designation:
 - (c) Address:
 - (d) Phone Number:
 - (e) Fax Number:
5. In case of a Consortium:
 - (a) the information above should be provided for all the Members of the Consortium
 - (b) A copy of the Joint Bidding Agreement as envisaged in Clause 2.3.4.1 of

Tender Document should be attached to the Bid.

6. Information regarding the role of each Member should be provided as per table below:

S. No.	Name of Member	Role {Refer Clause 2.3.4.1 (e)}	Percentage of equity in the Consortium {Refer Clauses 2.3.4.1 (a), (c) & (f)}
1			
2			
3			

7. Details as provided below need to be confirmed by Bidder/ each Member of the Consortium.

Name of Bidder/Member

S. No.	Criteria	Yes	No
1.	Has the Bidder/Member of the Consortium/its Affiliate been barred by the Central/State Government, or any entity Controlled by it, from participating in any License/project?		
2.	If the answer to 1 is yes, does the bar subsist as on the date of this Bid?		
3.	Has the Bidder/Member of the Consortium/its Affiliate paid liquidated damages of more than 5% of the contract value in a contract due to delay or has been penalized due to any other reason in relation to execution of a contract, in the last 3 (three) years?		
4.	Has the Bidder/Member of the Consortium/its Affiliate been barred or blacklisted by any government agency or authority in India, the government of the jurisdiction of the Bidder where they are incorporated or the jurisdiction of their principal place of business, any international financial institution such as the World Bank Group, Inter-American Development Bank, Asian Infrastructure Investment Bank, etc. or the United Nations or any of its agencies, from participating in any project.		

8. A statement by the Bidder and each of the Members of its Consortium (where applicable) or any of their Affiliates disclosing material non-performance or

contractual non-compliance in past projects/licenses, contractual disputes and litigation/arbitration in the past three years as below (attach extra sheets, if necessary):

9. Staff Strength of Bidder

- (a) Organizational structure of the Company:
- (b) Number of staff:

10. Management Capability of Bidder

Information (including individual resume on the working experience, qualifications and achievements) on the Company's management team/Operation team.

Date:

(Signature, Name and Designation of the Authorized Signatory)

Place:

Name and seal of the Bidder

ANNEXURE 2: DETAILS Of ELIGIBLE PROJECT

(Refer to Clauses 2.2.2.2 and 2.3.2(A) of Tender Document)

Project Code:

Member Code:

Item	Particulars of the Project	Entity for which the project was undertaken	Name and location where Works provided	Yearly cargo throughput (Year and Total cargo throughput)	Date of commencement of project / contract ³	Date of completion of project/ contract ⁴	Equity shareholding (with period during which equity was held)	Whether credit is being taken for the Eligible Project of an Affiliate (Yes/No) If, yes provide details of the same.
Refer Instructions	5				6		7	9
A. Project experience of Bidder								
Clause 2.3.2 A Technical Capacity.1								

³ Or ongoing Projects

⁴ Or ongoing Projects

Privileged & Confidential
Not for external circulation

Item	Particulars of the Project	Entity for which the project was undertaken	Name and location where Works provided	Yearly cargo throughput (Year and Total cargo throughput)	Date of commencement of project / contract ⁵	Date of completion of project/ contract ⁶	Equity shareholding (with period during which equity was held)	Whether credit is being taken for the Eligible Project of an Affiliate (Yes/No) If, yes provide details of the same.
Refer Instructions	5				6		7	9
Clause 2.3.2 (A) Technical Capacity								
Clause 2.3.2 (A) Technical Capacity								

Instructions:

- Bidders are expected to provide information in respect of each Eligible Project in this Annexure. The projects cited must comply with the eligibility criteria specified in Clauses 2.2.2.2, 2.3.2 (A) of Tender Document. Bidders should also refer to the instructions below.

⁵ Or ongoing Projects

⁶ Or ongoing Projects

-
2. For a single entity Bidder, the Project Codes would be a, b, c, d etc.
 3. A separate sheet should be filled for each Eligible Project.
 4. Member code shall indicate NA (for Not Applicable) in case of a single entity Bidder. In case the Eligible Project relates to an Affiliate of the Bidder write 'Affiliate' along with Member code.
 5. Details of activities performed for each Eligible Project.
 6. The date of commissioning of the project, upon completion, should be indicated. In the case of projects under implementation project, the likely date of completion or commissioning, as the case may be, shall be indicated.
 7. The equity shareholding of the Bidder, in the company owning or implementing the project needs to be given.
 8. Certificate from the Bidder's Statutory Auditor substantially as per format in Annexure 3 for each Eligible Project.
 9. In the event that credit is being taken for the Eligible Project of an Affiliate, the Bidder should also provide a certificate from Statutory Auditor substantially as per the format in Annexure 5.
 10. It may be noted that in the absence of any detail in the above certificates, the information would be considered inadequate and could lead to exclusion of the relevant project.

ANNEXURE 3: CERTIFICATE FROM THE STATUTORY AUDITOR ELIGIBLE PROJECT⁷

{Based on its books of accounts and other published information authenticated by it}* , this is to certify that the _____ (name of the Bidder/ Member / Affiliate) has experience of handling/management minimum annual cargo volume of 60,000 metric ton in a single project in any 1 (one) FY in the financial years. viz. FY 2016-17 to FY 2022-23 (End date / still providing). Refer to note in Clause 2.3.2 B

Name of the audit firm / client:

Seal of the audit firm / stamp of client:

(Signature, name and designation of the authorised signatory). Date:

⁷ In jurisdictions that do not have Statutory Auditors, the firm of auditors which audits the annual accounts of the Bidder or its Affiliate may provide the certificates required under this Tender Document. In case the certificate is issued by the Statutory Auditor, the certificate shall include wordings in curly brackets, and in the certificate is issued by the firm of auditors, the certificate shall start from “This is to certify”.

ANNEXURE 4 (A): FINANCIAL CAPACITY OF THE BIDDER

(Refer to Clauses 2.3.2 (B) of Tender Document)

[On the letterhead of the Statutory Auditor of the Bidder/ Member/ Affiliate]⁸

UDIN:

MINIMUM TURNOVER OF THE BIDDER

Subject: Submission of Bid for the Project for Selection of a Licensee for Development of a New Cargo Terminal at Kolkata Airport on DBFOT basis.

Based on the books of accounts and other published information authenticated by it, this is to certify that [*] (insert name of the Bidder/ Member / Affiliate)⁹ is having Minimum Turnover, as per table below for the financial years, FY 2020-21, FY 2021-22 and FY 2022-23. At least 50% of the qualifying minimum turnover is from the relevant business for which experience has been claimed.

Bidder type ¹⁰	Member Code	Gross Turnover (In INR Crore) ¹¹		
		FY 2020-21	FY 2021-22	FY 2022-23
Single entity Bidder				
Consortium Member 1				
Consortium Member 2				
Total				

The Bidder shall provide a Statutory Auditor's certificate specifying the Minimum Turnover of the Bidder. The Bidder shall also provide the name and address of its bankers.

⁸ In jurisdictions that do not have Statutory Auditors, the firm of auditors which audits the annual accounts of the Bidder or its Affiliate may provide the certificates required under this Tender Document. In case the certificate is issued by the Statutory Auditor, the certificate shall include wordings in curly brackets, and in the certificate is issued by the firm of auditors, the certificate shall start from "This is to certify".

⁹ In case credit is claimed for an Affiliate, necessary evidence to establish the relationship of the Bidder with such Affiliate, in Annexure 5 shall be provided.

¹⁰ A Bidder consisting of a single entity should fill in details as per the row titled single entity Bidder.

¹¹ For conversion of US Dollars to Rupees, the rate of conversion shall be Indian Rupees 83.43 (Eighty Three Rupees and Forty Three paise) to a US Dollar. In case of any other currency, the same shall first be converted to US Dollars as on the date 60 (sixty) days prior to the Bid Due Date, and the amount so derived in US Dollars shall be converted into Rupees at the aforesaid rate. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date.

** In case of Consortium the audited balance sheet shall be submitted by each Member of the Consortium whose credentials are being relied upon to meet the Financial Capacity.

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Not for external circulation



(Signature of Authorized Signatory) Name of Authorized Signatory:

Designation of Authorized Signatory:

Registration/Membership Number of Authorized Signatory:

Date:

Place:

Name of the statutory audit firm:

Seal of the statutory audit firm:

Registration Number:

ANNEXURE 4 (B): FINANCIAL CAPACITY OF THE BIDDER

(Refer to Clauses 2.3.2 (B) of Tender Document)

[On the letterhead of the Statutory Auditor of the Bidder/ Member/Affiliate]¹²

UDIN:

NET WORTH OF THE BIDDER

Subject: Submission of Bid for the Project for Selection of a Licensee for Development of a New Cargo Terminal at Kolkata Airport on DBFOT Basis.

Based on the books of accounts and other published information authenticated by it, this is to certify that [*] (*insert name of the Bidder/ Member / Affiliate*)¹³ is having Net worth as defined in the Tender Document as per table below for the financial year [*].

Bidder type¹⁴	Member Code	Net worth (In INR Crore) ¹⁵ FY 2022-23
Single entity Bidder		
Consortium Member 1		
Consortium Member 2		
Total		

¹² In jurisdictions that do not have Statutory Auditors, the firm of auditors which audits the annual accounts of the Bidder or its Affiliate may provide the certificates required under this Tender Document. In case the certificate is issued by the Statutory Auditor, the certificate shall include wordings in curly brackets, and in the certificate is issued by the firm of auditors, the certificate shall start from “This is to certify”.

¹³ In case credit is claimed for an Affiliate, necessary evidence to establish the relationship of the Bidder with such Affiliate, in Annexure 5 shall be provided.

¹⁴ A Bidder consisting of a single entity should fill in details as per the row titled single entity Bidder.

¹⁵ For conversion of US Dollars to Rupees, the rate of conversion shall be Indian Rupees 83.43 (Eighty Three Rupees and Forty Three paise) to a US Dollar. In case of any other currency, the same shall first be converted to US Dollars as on the date 60 (sixty) days prior to the Bid Due Date, and the amount so derived in US Dollars shall be converted into Rupees at the aforesaid rate. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date.

**In case of Consortium the audited balance sheet shall be submitted by each Member of the Consortium whose credentials are being relied upon to meet the Financial Capacity.

(Signature of Authorized Signatory)

Name of Authorized Signatory:

Designation of Authorized Signatory:

Registration/Membership Number of Authorized Signatory:

Date:

Place:

Name of the statutory audit firm:

Seal of the statutory audit firm:

Registration Number:

ANNEXURE 5: CERTIFICATE FROM STATUTORY AUDITOR

*[On the letterhead of the Statutory Auditor of each entity through whom Technical Capacity/
Financial Capacity is being claimed]¹⁶*

UDIN:

Certificate from Statutory Auditor regarding Affiliate[§]

Based on the authenticated record of the Company, this is to certify that more than 50% (fifty percent) of the subscribed and paid up voting equity of (*name of the Affiliate*) is held, directly or indirectly[£], by (*name of Bidder / Member*). By virtue of the aforesaid shareholding, the latter exercises Control over the former, who is an Affiliate in terms of definition of Affiliate in the Tender Document.

A brief description of the said equity held, directly or indirectly, is given below:

{Describe the shareholding of the Bidder / Member in the Affiliate. In the event the Affiliate is under common Control with the Bidder / Member, the relationship may be suitably described and similarly certified herein}

[§] In the event the Bidder/Member is claiming to be an Affiliate based on the powers of to direct the management and policies of a Person, which is not a company, corporation or LLP, this certificate may be suitably modified and copies of relevant documents may be referred to.

[£] In the case of indirect shareholding, the intervening companies in the chain of ownership should also be Affiliates, i.e., the shareholding in each such company should be more than 50% (fifty percent) in order to establish that the chain of Control is not broken.

Name of the audit firm:

Seal of the audit firm:

(Signature, name and designation of the authorised signatory)

Date:

¹⁶ In jurisdictions that do not have Statutory Auditors, the firm of auditors which audits the annual accounts of the Bidder or its Affiliate may provide the certificates required under this Tender Document. In case the certificate is issued by the Statutory Auditor, the certificate shall include wordings in curly brackets, and in the certificate is issued by the firm of auditors, the certificate shall start from “This is to certify”.

**ANNEXURE 6 (A): UNDERTAKING WITH INFORMATION ON CONTRACTS WITH
AAICLAS**

I/We hereby declare that we are having/had the following contracts with Kolkata Airport where facility provided/engagement with/services provided by AAICLAS through a direct contract or through a contract with Airlines or any other party (in any capacity whatsoever and not being limited to as a role of a Licensee or license at AAICLAS.

S.No.	Airport Name	Facility / Contract	Contract Period	
			From	To

(In case of no contracts in AAICLAS, indicate NIL)

Date:

Signature:

Name:

Designation:

Address:

Place:

Seal of the Bidder/Bidder's Affiliate/Lead Member:

ANNEXURE 6 (B): FORMAT OF NO DUES CERTIFICATE FOR AAICLAS CONTRACTS

(To be obtained from the respective AAI Airports) (To be submitted as part of the Bid Submissions)

“No Dues Certificate”

1. Bidder Name :
2. Date of Issuance of Certificate :
3. Name of Contract :
4. Agreement No. (if applicable) :
5. Stipulated Date of Start of Contract :
6. Actual Date of Start :
7. Date of Completion / Termination :
8. Amount of SD available with validity period:
9. Name of Airport :

Amount of Outstanding Dues upto: 30 June 2024 (Disputed and un-disputed amounts to be shown separately)

S. No.	Items	Disputed Amount (INR)	Undisputed Amount (INR)	Remarks
1.	License Fee			
2.	Space Rent			
3.	Interest			
4.	Any Other Item			
	Total			

Details of any arbitration/litigation :

Signature: [•]

Name of the Nodal Officer: [•]

Designation: [•]

Email id: [•]

Contact Number: [•]

Note: A separate certificate has to be produced in respect of each contract.

**ANNEXURE 6 (C): FORMAT OF UNDERTAKING FOR CLEARING ALL DUES BEFORE
ISSUANCE OF LOIA**

(To be submitted as part of the Bid Submissions)

(SELF-DECLARATION OF THE BIDDER TO BE SUBMITTED ON COMPANY LETTER HEAD)

I/We hereby declare and confirm that we shall clear before issue of LOIA all undisputed outstanding dues for intervening period i.e., from [*Insert relevant date*] to the last billing period before finalization of award, if I/we are the selected bidder as per terms and conditions of this Tender Document.

Date:

Signature:

Name:

Designation:

Address:

Place:

Seal of the Bidder/Bidder's Affiliate/Lead
Member:

[Insert relevant contact details]

ANNEXURE 7: INTEGRITY PACT

This Pact made this day of between AAI Cargo Logistics and Allied Services Company Ltd, incorporated on 11th August 2016 under the Companies Act, 2013 as a wholly owned subsidiary of Airports Authority of India (“AAI”) and having its Corporate Office at AAICLAS Complex, Delhi Flying Club Road, Safdarjung Airport, New Delhi 110003, hereinafter called “AAICLAS” (which term shall unless excluded by or is repugnant to the context, be deemed to include its Chairman, or Member, CEO, Airport Directors ,officers, or any of them specified by the Chairman in this behalf, and shall also include its successors and assigns) of the one part

AND

_____ represented by *[name and address]* of the other part, hereinafter called the “Bidder/Licensee” (which term shall unless excluded by or is repugnant to the context be deemed to include its heirs, representatives, successors and assigns of the Bidder/ Licensee)

WHEREAS AAICLAS intends to award, under laid down organizational procedures, tender/ contract for----- . AAICLAS, while discharging its functions on business principles, values proper compliance with all relevant laws and regulations, and the principles of natural justice, ethics, equity, fairness and transparency in its relations with the Bidders/ Licensees.

WHEREAS AAICLAS is desirous to make its business mechanism more transparent, thus to ensure strict adherence of the aforesaid objectives/goals, AAICLAS hereby adopts the instrument developed by the renowned international non-governmental organization “Transparency International” (TI) headquartered in Berlin (Germany). AAICLAS will appoint an Independent External Monitor (I E M) who will monitor the Bidding Process and the execution of the contract for compliance with the principles mentioned above.

AND WHEREAS the Bidder is submitting a Bid (Bid ID : _____) to AAICLAS for _____ in response to the Request for Proposal dated _____ and having reference no. _____. Contractor is signing the contract for execution of _____.

NOW, therefore,

To avoid all forms of corruption by following a system that is fair, transparent and free from any influence/prejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:

Enabling AAICLAS to obtain the desired said stores/equipment/execution of services at a competitive price in conformity with the defined specifications by avoiding the high cost and the distortionary impact of corruption on public procurement, and

Enabling AAICLAS to abstain from bribing or indulging in any corrupt practice in order to secure

the contract by providing assurance to them that their competitors will also abstain from bribing and other corrupt practices and AAICLAS will commit to prevent corruption, in any form, by its officials by following transparent procedures.

The parties hereto hereby agree to enter into this Integrity Pact and agree as follows:

1. Commitments of AAICLAS;

- 1.1 AAICLAS undertakes that no official of AAICLAS, connected directly or indirectly with the contract, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favor or any material or immaterial benefit or any other advantage from the Bidder, either for themselves or for any person, organization or third party related to the contract in exchange for an advantage in the Bidding Process, Bid evaluation, contracting or implementation process related to the contract.
- 1.2 AAICLAS will, during the pre-contract stage, treat all Bidders alike, and will provide to all Bidders the same information and will not provide any such information to any particular Bidder which could afford an advantage to that particular Bidder in comparison to other Bidders.
- 1.3 All the officials of AAICLAS will report to the appropriate authority office any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.
2. In case any such preceding misconduct on the part of such official(s) is reported by the Bidder to AAICLAS with full and verifiable facts and the same is prima facie found to be correct by AAICLAS, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by AAICLAS and such a person shall be debarred from further dealings related to the contract process. In such a case while an enquiry is being conducted by AAICLAS the proceedings under the Project would not be stalled.

3. Commitments of Bidder/ Licensee.

The Bidder/ Licensee commits itself to take all measures necessary to prevent corrupt practice, unfair means and illegal activities during any stage of its Bid or during any pre-contract or post-contract stage in order to secure the contract or in furtherance to secure it and in particular commit itself to the following: -

- 3.1 The Bidder/Licensee will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favor, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of AAICLAS, connected directly or indirectly with the Bidding Process, or to any person, organization or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.
- 3.2 (i) The Bidder/ Licensee further undertakes that it has not given, offered or promised to give, directly or indirectly any bribe, gift, consideration, reward, favor, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of AAICLAS or otherwise in procuring the contract or forbearing to do or having done any act in relation to the obtaining or execution of the contract or any other contract with AAICLAS

- for showing or forbearing to show favor or disfavor to any person in relation to the contract or any other contract with AAICLAS.
- 3.2(ii) The Bidder / Licensee has not entered and will not enter with other bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specification, certifications, subsidiary contracts, submission or non-submission of Bids or any actions to restrict competitiveness or to introduce cartelization in the Bidding Process.
- 3.3 The Bidder/ Licensee shall, when presenting his Bid, disclose the name and address of agents and representatives and Indian Bidders shall disclose their foreign principals or Affiliates.
- 3.4 The Bidder/ Licensee shall when presenting his Bid disclose any and all the payments he has made or, is committed to or intends to make to agents/brokers or any other intermediary, in connection with this Bid/contract.
- 3.5 The Bidder/ Licensee further confirms and declares to AAICLAS that the Bidder is the original manufacturer/integrator/ authorized government sponsored export entity of the stores and has not engaged any individual or firm or company whether Indian or foreign to intercede, facilitate or in any way to recommend to AAICLAS or any of its functionaries, whether officially or unofficially to the award of the contract to the Bidder, nor has any amount been paid, promised or intended to be paid to any such individual, firm or company in respect of any such intercession, facilitation or recommendation.
- 3.6 The Bidder/ Licensee, either while presenting the Bid or during pre-contract negotiations or before signing the contract, shall disclose any payments he has made, is committed to or intends to make to officials of AAICLAS or their family members, agents, brokers or any other intermediaries in connection with the contract and the details of services agreed upon for such payments.
- 3.7 The Bidder/ Licensee will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the Bidding Process, Bid Evaluation, contracting and implementation of the contract.
- 3.8 The Bidder/ Licensee will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.
- 3.9 The Bidder/ Licensee shall not use improperly, for purposes of competition or personal gain, or pass on to others, any information provided by AAICLAS as part of the business relationship, regarding plans, Technical Bid and business details, including information contained in any electronic data carrier. The Bidder/ Licensee also undertakes to exercise due and adequate care lest any such information is divulged.
- 3.10 The Bidder/ Licensee will inform to the Independent External Monitor.
- i) If he receives demand for an illegal/undue payment/benefit.
 - ii) If he comes to know of any unethical or illegal payment/benefit.

- iii) If he makes any payment to any AAICLAS' s Affiliate(s)
- 3.11 The Bidder/ Licensee commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts.
- 3.12 The Bidder/ Licensee shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.
- 3.13 If the Bidder/ Licensee or any employee of the Bidder/ Licensee or any person acting on behalf of the Bidder/ Licensee, either directly or indirectly, is a relative of any of the officers of AAICLAS , or alternatively, if any relative of an officer of AAICLAS has financial interest/stake in the Bidder's/ Licensee's firm, the same shall be disclosed by the Bidder/ Licensee at the time filing of Tender Document. The term 'relative' for this purpose would be as defined in Section 2 (77) of the Companies Act 2013.
- 3.14 The Bidder/ Licensee shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of AAICLAS.
- 3.15 That if the Bidder/ Licensee, during Bidding Process or before the award of the contract or during execution of the contract/ work has committed a transgression in violation of Clause 2 or in any other form such as to put his reliability or credibility as Bidder/Contractor into question, AAICLAS is entitled to disqualify him from the Bidding Process or to terminate the contract for such reason and to debar the Bidder from participating in future Bidding processes.

4. Previous Transgression

- 4.1 The Bidder/ Licensee declares that no previous transgression occurred in the last 3 (three years) immediately before signing of this Integrity Pact, with any other company in any country in respect of any corrupt practices envisaged hereunder or with any Public Sector Enterprise in India or any Government Department in India that could justify Bidders' exclusion from the Bidding Process.
- 4.2 The Bidder/ Licensee agrees that if it makes incorrect statement on this subject, he can be disqualified from the Bidding Process or the contract, if already awarded, can be terminated for such reason and he may be considered for debarment for future tender/contract processes.
- 4.3 That the Bidder/ Licensee undertakes to get this Pact signed by the sub- contractor (s) and Affiliate (s) whose value of the work contribution exceeds Rs 0.5 Crores (Rupees zero point five crores) and to submit the same to AAICLAS along-with the Bidding Documents/ contract before contract signing.
- 4.4 That sub-contractor(s)/ Affiliate(s) engaged by the Contractor, with the approval of AAICLAS after signing of the contract, and whose value of the work contribution exceeds Rs 0.5 Crores. (Rupees zero point five crores) will be required to sign this Pact by the Contractor, and the same will be submitted to AAICLAS before doing/ performing any act/ function by such sub- contractor(s)/ Affiliate(s) in relation to the contract/ work.
- 4.5 That AAICLAS will disqualify from the Bidding Process all Bidder(s) who do not sign this Pact or violate its provisions or fails to get this Pact signed in terms of Clause 4.3 or 4.4 above.

- 4.6 That if the Bidder (s)/ Licensee (s) does/ do not sign this Pact or violate its provisions or fails to get this Pact signed in terms of the provisions of this Tender Document. AAICLAS will terminate the contract and initiate appropriate action against such Bidder(s)/ Licensee(s).

5. Tender Fee, Bid Security

While submitting the Bid, the Bidder shall deposit Tender Fee and Bid Security which is as per terms and conditions and details given in Bidding Documents sold to the Bidders.

6. Sanctions for Violations/Disqualification from Bidding process and exclusion from future Contracts.

- 6.1 Any breach of the aforesaid provisions by the Bidder or anyone employed by it or acting on its behalf (whether with or without the knowledge of the Bidder) shall entitle AAICLAS to take all or any one of the following actions, wherever required: -

- (i) To immediately call off the pre-contract negotiations without assigning any reason or giving any compensation to the Bidder. However, the proceedings with the other Bidder(s) would continue.
- (ii) To immediately cancel the contract, if already signed, without giving any compensation to the Bidder.
- (iii) If AAICLAS has disqualified / debarred the Bidder from the Bidding Process prior to the award under Clause 2 or 3 or 4, AAICLAS is entitled to forfeit the Tender Fee/Bid Security
- (iv) To recover all sums already paid by AAICLAS, and in case of an Indian Bidder with interest thereon at 2% higher than the prevailing Prime Lending Rate of State Bank of India, while in case of a Bidder from a country other than India with interest thereon at 2% (two percent) higher than the LIBOR. If any outstanding payment is due to the Bidder from AAICLAS in connection with any other contract or any other stores, such outstanding payment could also be utilized to recover the aforesaid sum and interest.
- (v) To appropriate Bid Security, if furnished by the Bidder, in order to recover the payments, already made by the Buyer, along with interest.
- (vi) To cancel all or any other contracts with the Bidder. The Bidder shall be liable to pay compensation for any loss or damage to AAICLAS resulting from such cancellation/rescission and AAICLAS shall be entitled to deduct the amount so payable from the money(s) due to the Bidder.
- (vii) To debar the Bidder from participating in future bidding processes for a minimum period of 3 (three) years, which may be further extended at the discretion of AAICLAS.
- (viii) To recover all sums paid in violation of this Pact by Bidder(s) to any middleman or agent or broker with a view to securing the contract.
- (ix) In case where irrevocable letters of credit have been received in respect of any contract signed by AAICLAS with the Bidder, the same shall not be opened.

- (x) Forfeiture of Bid Security in case of a decision by the Buyer to forfeit the same without assigning any reason for imposing sanction for violation of this Pact.
- (xi) That if AAICLAS have terminated the contract under Clause 2 or 3 or 4 or if AAICLAS is entitled to terminate the contract under Clause 2 or 3 or 4, AAICLAS shall be entitled to demand and recover from the contractor damages equivalent to 5% (five percent) of the contract value or the amount equivalent to Performance Security, whichever is higher.
- (xii) That the Bidder / Licensee agrees and undertakes to pay the said amount without protest or demur subject only to condition that if the Bidder/ Licensee can prove and establish to the satisfaction of AAICLAS that the disqualification / debarment of the bidder from the Tender process or the termination of the contract after award of the contract has caused no damage to AAICLAS.
- 6.2 AAICLAS will be entitled to take all or any of the actions mentioned at para 6.1 (i) to (xii) of this Pact also on the Commission by the Bidder or any one employed by it or acting on its behalf (whether with or without the knowledge of the Bidder), of an offence as defined in Chapter IX of the Indian Penal code, 1860 or Prevention of Corruption Act, 1988 or any other statute enacted for prevention of corruption.
- 6.3 That if the Bidder/ Licensee applies to AAICLAS for premature revocation of the debarment and proves to the satisfaction of AAICLAS that he has installed a suitable and effective corruption prevention system and also restored/recouped the damage, if any, caused by him, AAICLAS may, if thinks lit, revoke the debarment prematurely considering the facts and circumstances of the case, and the documents/evidence adduced by the Bidder/Contractor for first time default.
- 6.4 That a transgression is considered to have occurred if AAICLAS is fully satisfied with the available documents and evidence submitted along with Independent External Monitor's ("**Monitor**") recommendations/suggestions that no reasonable doubt is possible in the matter.
- 6.5 The decision of AAICLAS to the effect that a breach of the provisions of this Pact has been committed by the Bidder shall be final and conclusive on the Bidder. However, the Bidder can approach the Independent External Monitor(s) appointed for the purpose of this Pact.
- 7. Allegations against Bidders/ Licensee/ Subcontractors/Associates:**
- That if AAICLAS receives any information of conduct of a Bidder/ Licensee or sub-contractor or of an employee or a representative or an Affiliates of a Bidder, Contractor or Sub- Contractor which constitute corruption, or if AAICLAS has substantive suspicion in this regard, AAICLAS will inform the Vigilance Department for appropriate action.
- 8. Independent External Monitor(s)**
- 8.1. That AAICLAS has appointed competent and credible Monitor for this Pact.
- 8.2 The task of the Monitor is to review independently and objectively, whether and

to what extent the parties comply with the obligations under this Pact. He will also enquire into any complaint alleging transgression of any provision of this Pact made by the Bidder, Contractor or AAICLAS.

- 8.3 That the Monitor is not subject to any instructions by the representatives of the parties and would perform his functions neutrally and independently. He will report to the Chairperson of the Board of AAICLAS.
- 8.4 That the Bidder / Licensee accepts that the Monitor has the right to access without restriction all project documentation of AAICLAS including that provided by the Bidder/ Licensee. The Bidder/ Licensee will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation including minutes of meeting. The same is applicable to sub - contractors and Affiliates. The Monitor is under obligation to treat the information and documents of AAICLAS and Bidder/ Licensee / sub-contractors/ Affiliates with confidentiality.
- 8.5. That as soon as the Monitor notices, or believes to notice, a violation of this Pact, he will inform the management of AAICLAS and request the management to discontinue or heal the violation, or to take other relevant action. The Monitor can in this regard submit his recommendations/suggestions. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.
- 8.6 That AAICLAS will provide the Monitor with sufficient information about all meetings among the parties related to the project provided such meetings could have an impact on the contractual relations between AAICLAS and the Bidder/ Licensee. The parties offer the Monitor the option to participate in such meetings.
- 8.7 That the Monitor will submit a written report to the Chairperson of the Board of AAICLAS within 2 (two) weeks from the date of reference or intimation to him by AAICLAS and, should the occasion arise, submit proposals for correcting problematic situations.
- 8.8 That if the Monitor has reported to the Chairperson of the Board a substantiated suspicion of an offence under relevant Anti-Corruption Laws of India and the Chairperson has not, within reasonable time, taken visible action to proceed against such offence or reported it to the Vigilance Department, the Monitor may also transmit this information directly to the Central Vigilance Commissioner, Government of India.
- 8.9 The word 'Monitor' would include singular and plural.

9. Facilitation of Investigation

In case of any allegation of violation of any provisions of this Pact or payment of commission, AAICLAS or its agencies shall be entitled to examine all the documents

including the Books of Accounts of the Bidder and the Bidder shall provide necessary information and documents in English and shall extend all possible help for the purpose of such Examination.

10. Law and Place of Jurisdiction

That this Pact is subject to Indian Law. The place of performance jurisdiction is the Corporate Headquarter / the Regional Headquarter / office of AAICLAS, as applicable.

11. Other Legal Actions

- 11.1 That the changes and supplements as well as termination notices need to be made in writing.
- 11.2 That if the Bidder / Licensee is a partnership or a consortium, this Pact must be signed by all the partners and consortium members or their authorized representatives.
- 11.3 The person signing Integrity Pact shall not approach the Courts while representing the matters to IEMs and he/she shall await their decision in the matter.

12. Pact duration (Validity)

- 12.1 That this Pact comes into force when both the parties have signed it. It expires for the Contractor 12 (twelve) months after the final payment under the respective contract, and for all other Bidders 3 (three) months after the contract is awarded.
- 12.2 That if any claim is made /lodged during this period, the same shall be binding and continue to be valid despite the lapse of this Pact as specified herein before, unless it is discharged/determined by Chairman of AAICLAS.
- 12.3 That should one or several provisions of this Pact turn out to be invalid; the remainder of this Pact shall remain valid. In this case, the parties will strive to come to an agreement to their original intentions.

13. Company Code of Conduct

Bidders are also advised to have a company code of conduct (clearly rejecting the use of bribe and other unethical behavior) and a compliance program for the implementation of the code of conduct throughout the company.

- 14. The parties hereby sign this Integrity Pact at _____ on

Buyer	BIDDER
Name of the Officer	Authorised Signatory
Designation	Witness
Deptt. / Ministry / PSU	1.
Witness	
1.	
	2 .
2 .	

ANNEXURE 8: UNDERTAKING ON TOTAL RESPONSIBILITY

<To be printed on the letterhead>

This is to certify that we [*name of the Bidder*] undertake the total responsibility for the defect free operation of the proposed Project as per the requirement of the Tender Document at all times.

Yours sincerely,

<Date>

<On behalf of Bidder Name>

Authorized Signature [In full and initials]:

Name and Designation of Signatory:

Name of Firm:

Address:

Seal/Stamp of Bidder:

ANNEXURE 9: UNDERTAKING ON CONFLICT OF INTEREST

(TO BE SUBMITTED AFTER OPENING OF TECHNICAL BID THROUGH E-PORTAL ON DEMAND OF AAICLAS)

To,

CEO,

AAI Cargo Logistics and Allied Services Company Limited

Sub-

Dear Sir,

We hereby confirm and undertake that there is no conflict of Interest existing as on bid submission date <date to be entered>, between us and any of the remaining bidders namely<Name to be disclosed by AAICLAS >, under any of the provision of the Tender Document dated<date to be entered>.

Yours sincerely,

<Date>

<On behalf of Bidder Name>

Authorized Signature [In full and initials]:

Name and Designation of Signatory:

Name of Firm:

Address:

Seal/Stamp of Bidder:

APPENDIX II

STATEMENT OF LEGAL CAPACITY

(To be forwarded on the letterhead of the Bidder/each Member of the Consortium)

Ref.

Date:

To,

Regional Manager (NR), AAICLAS
AAICLAS Complex, Delhi flying Club Road
Safdarjung Airport
New Delhi 110003

Dear Sir,

We hereby confirm that we satisfy the terms and conditions laid out in the Bidding Document.

We have agreed that(insert individual's name) will act as our representative and has been duly authorized to submit the Tender Document. Further, the authorized signatory is vested with requisite powers to furnish such letter and authenticate the same.

Thanking you, Yours faithfully,

(Signature, name and designation of the authorized signatory)

For and on behalf of.....

APPENDIX III

POWER OF ATTORNEY FOR SIGNING OF BID¹⁷

(on non-judicial stamp paper of Rs.100/- and duly notarized)

Know all men by these presents, We (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorize Mr/ Ms (name), Son/ daughter / wife of and presently residing at , who is presently employed with us and holding the position of , as our true and lawful attorney (hereinafter referred to as the “**Attorney**”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Bid for the Project in relation to Bidding Process for the Selection of a Licensee for Development of a New Cargo Terminal at Kolkata Airport on DBFOT basis (the “**Project**”) proposed by AAI Cargo Logistics and Allied Services Company Limited (“**AAICLAS**”) including but not limited to signing and submission of all Bids, and other documents and writings, participate in pre-bid conference(s) and other conferences and providing information/ responses to AAICLAS, representing us in all matters before the AAICLAS, signing and execution of all contracts including the Agreement and undertakings consequent to acceptance of our Bid, and generally dealing with AAICLAS in all matters in connection with or relating to or arising out of our Bid for the said Project and/ or upon award thereof to us and/or till the entering into of the Agreement with AAICLAS.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE, , THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THISDAY OF..... 20__.

¹⁷ To be provided by Single Bidder / all Member of Consortium as the case may be

For:

Witnesses:

(Signature, name, designation and address) (Notarized/Legalized)

1.

2.

Accepted: (Signature)

(Name, Title and Address of the Attorney)

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *The Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ Power of Attorney in favor of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legalization Convention 1961 are not required to be legalized by the Indian Embassy if it carries a conforming Apostille certificate.*

APPENDIX IV

POWER OF ATTORNEY FOR LEAD MEMBER OF CONSORTIUM

(on non-judicial stamp paper of Rs.100/- and duly notarized)

(Refer Clause 2.3.4.1(b))

Whereas AAI Cargo Logistics and Allied Services Company Limited has invited bids for the Project in accordance with the terms and conditions of the Request for Proposal and other connected documents in respect of the Project, and

Whereas, it is necessary for the Members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium's bid for the Project and its execution.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We, _____ having our registered office at _____, M/s. __, having our registered office at _____, and M/s. _____, having our registered office at _____, {insert the respective names and addresses of the registered office} (hereinafter collectively referred to as the "Principals") do hereby irrevocably designate, nominate, constitute, appoint and authorize M/s _____, having its registered office at _____, being one of the Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the "Attorney") and hereby irrevocably authorize the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the Bidding Process and, in the event the Consortium is awarded the Licensee, during the execution of the Project, and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the submission of its Bid for the Project, including but not limited to signing and submission of all applications, Bids and other documents and writings, participate in bidders' meetings and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the bid of the Consortium and generally to represent the Consortium in all its dealings with AAI Cargo Logistics and Allied Services Company Limited, and/ or any other authority agency or any person, in all matters in connection with or relating to or arising out of the Consortium's bid for the Project and/ or upon award thereof till the Licensee entered into with AAI Cargo Logistics and Allied Services Company Limited AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us/ Consortium.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED
THIS POWER OF ATTORNEY ON THIS DAY OF 20**.

For _____

Privileged & Confidential
Not for external circulation



(signature) (Name & Title)

For _____

(signature) (Name & Title)

For _____ (Name & Title)

(Executants)

(To be executed by all the Members of the Consortium) Witnesses:

[Notarised]

1.

2

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *The Bidder should submit for verification the extract of the charter documents and Tender Documents such as a resolution/Power of Attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- *Power of Attorney should be executed on a non-judicial stamp paper of appropriate value as relevant to the place of execution (if required under Applicable Laws).*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney is being issued.*

APPENDIX V

JOINT BIDDING AGREEMENT

(Refer Clause 2.3.4.1 (g) of Tender Document)
(on non-judicial stamp paper of Rs.100/- and duly notarized in case of Consortium)

THIS JOINT BIDDING AGREEMENT (“Agreement”) is entered into on this day of
..... 20...

AMONGST

{....., a company incorporated under the} and having its registered office at
..... (hereinafter referred to as the “First Part” which expression shall, unless repugnant to the
context include its successors and permitted assigns)

AND

{....., a company incorporated under the} and having its registered office at
..... (hereinafter referred to as the “Second Part” which expression shall, unless
repugnant to the context include its successors and permitted assigns)

The above-mentioned parties of the FIRST and SECOND are collectively referred to as the
“Parties” and each is individually referred to as a “Party”.

WHEREAS,

AAI Cargo Logistics and Allied Services Company Limited (hereinafter referred to as the
“AAICLAS”) which expression shall, unless repugnant to the context or meaning thereof, include
its successors and permitted assigns) has invited bids (the “Bids”) by its Request for Proposal No.
..... dated _____ (the “Tender Document”) for the Project at the Kolkata Airport;

The Parties are interested in jointly bidding for the Project as Members of a Consortium and in
accordance with the terms and conditions of the Tender Document and other Bidding Documents in
respect of the Project; and

It is a necessary condition under the Tender Document that the Members of the Consortium shall
enter into a Joint Bidding Agreement and furnish a copy thereof with the Bid.

NOW IT IS HEREBY AGREED as follows:

2. Definitions and Interpretations

In this Agreement, the capitalised terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the Bidding Documents.

3. Consortium

- 3.1 The Parties do hereby irrevocably constitute a consortium (the “**Consortium**”) for the purposes of jointly participating in the Bidding Process for the Project.
- 3.2 The Parties hereby undertake to participate in the Bidding Process only through this Consortium and not individually and/ or through any other Consortium constituted for this Project, either directly or indirectly or through any of their Affiliates.

4. Covenants

The Parties hereby undertake that in the event the Consortium is declared the Selected Bidder and awarded the Project, it shall incorporate a Special Purpose Vehicle (the “**Licensee**”) under the Companies Act, 2013 for entering into an Agreement with AAICLAS for performing all its obligations as the Licensee in terms of the Agreement for the Project.

5. Role of the Parties

The Parties hereby undertake that Party of the First Party shall be the Lead Member and shall have the Power of Attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding Process when all the obligations of the Consortium shall become effective. The obligations of each Member with respect to the Project are set out below:

[•]

[•]

6. Joint and Several Liability

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the Tender Document.

7. Shareholding in the SPV

- 7.1 The Parties agree that the proportion of shareholding among the Parties in the SPV shall be as follows:
First Party:
Second Party:
- 7.2 The proportion of shareholding among Parties in the SPV shall remain unchanged from the proportion in the Consortium whose experience and credential were considered for the purpose of qualification and short-listing of Bidders for the Project in terms of the Tender Document until a period of 05 (five) years from COD.

8. Representation of the Parties

Each Party represents to the other Parties as of the date of this Joint Bidding Agreement that:

- a) Such Party is duly organised, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Joint Bidding Agreement;
- b) The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or AAICLAS action and a copy of the extract of the charter documents and board resolution/ Power of Attorney in favour of the person executing this Joint Bidding Agreement for the delegation of power and authority to execute this Joint Bidding Agreement on behalf of the Member is annexed to this Joint Bidding Agreement, and will not, to the best of its knowledge;
 - (1) require any consent or approval not already obtained;
 - (2) violate any Applicable Law presently in effect and having applicability to it;
 - (3) violate the memorandum and articles of association, by-laws or other applicable organizational documents thereof;
 - (4) violate any clearance, permit, License, grant, license or other Governmental authorization, approval, judgement, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
 - (5) create or impose any liens, mortgages, pledges, claims, security interests, charges or encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Joint Bidding Agreement;
- c) this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and
- d) there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Affiliate is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfillment of its obligations under the Tender Document.

9. Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect for the entire duration of the License Period, in case the Project is awarded to the Consortium. However, in case the Consortium is either not prequalified for the Project or does not get selected for award of the Project, the Agreement will stand terminated in case the Bidder is not pre-

qualified or upon return of the Bid Security by AAICLAS to the Bidder, as the case may be.

10. Miscellaneous

10.1 This Joint Bidding Agreement shall be governed by laws of India.

10.2 The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of AAICLAS.

IN WITNESS WHEREOF THE PARTIES ABOVE NAMED HAVE EXECUTED AND DELIVERED

THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED

For and on behalf of
LEAD MEMBER by:
(Signature)

(Name)
(Designation)
(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of
SECOND PART
(Signature)

(Name)
(Designation)
(Address)

Notes:

The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.

Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution / Power of Attorney in favour of the person executing this Agreement for the delegation of Power and AAICLAS to execute this Agreement on behalf of the Member.

For a Joint Bidding Agreement executed and issued overseas, the document shall be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed.

APPENDIX VI

LIST OF NEAR RELATIVES EMPLOYED IN AAI CARGO LOGISTICS AND ALLIED SERVICES COMPANY LIMITED

S.No.	Name of the employee	Designation	Relationship with tenderer(s)	Place of Posting

SIGNATURE OF BIDDER NB:

1. In case of NIL report, Performa must be filled with NIL report and submitted duly signed by the Authorized Signatory.
2. In case the above space is not adequate, the details should be filled in additional sheets duly signed by Authorized signatory may be attached.

APPENDIX VII

DOCUMENT OF INCORPORATION

APPENDIX VIII

CHARTER DOCUMENTS

(certified true copies of its constitutional documents)

APPENDIX IX (A)

FINANCIAL BID

INSTRUCTIONS FOR FILING PRICE SCHEDULE AS PER APPENDIX IX (B) ON AAICLAS CPP PORTAL ONLY

1. SUBMISSION OF FINANCIAL BID

- 1.1 Bidders shall complete the Financial Bid online as per the guidelines provided on the Central Public Procurement Portal. **Financial Bid shall strictly be as per Appendix IX (B), no other format shall be accepted or else the Bid shall be liable to rejection.** Further, it's clarified that, there should not be any mention of the Price Bid / Financial Bid in the Technical Bid or Cover I.
- 1.2 Price shall be quoted as per the Financial Bid.
- 1.3 The price Bid of the Bidding Documents is for pricing alone. No condition whatsoever shall be stipulated in this part. If any conditions are stipulated in the price quoted, the Bid is liable to rejection.
- 1.4 The Bidder shall confirm that Annual License Fee shall be firm.
- 1.5 All Bidder shall provide their financial quote in Indian National Rupees (INR).
- 1.6 Selected Bidder shall make his own arrangement for obtaining custom clearance, road permits/entry passes for transporting the system to at Kolkata Airports, however, AAICLAS will provide the requisite documents for obtaining road permits i.e. authorization letter etc. Nothing extra/additional shall be paid by AAICLAS.
- 1.7 Quoted prices shall be exclusive of GST.

Bids, in which any of the particulars and prescribed information is missing or are incomplete, in any respect and/or prescribed conditions are not fulfilled, may be considered non-responsive and are liable to be rejected.

APPENDIX IX (B)

PRICE BID TO BE REFERRED ON CPP E-PROCUREMENT PORTAL

Only for reference purposes. The Bid to be submitted in the MS Excel – BOQ file as provided in e-tender portal

Quote should be provided in INR only

S.No.	Item description	Total Amount in figures (excluding GST) Rs.	Total Amount in words (excluding GST) Rs.
1		2	3
1.	Annual License Fee of bidder for selection of a Licensee for development of a New Cargo Terminal at Kolkata airport on Design, Build, Finance, Operate and Transfer basis (As per clause 2.3.6.5)		
Total in figures			
Quoted rate in words			

Payments to AAICLAS and schedule as per clause 12.1:

S.No.	Payment terms	Payment schedule
1.	Annual License Fee: From the COD or Commencement Date, whichever is earlier, the Selected Entity shall pay in advance to AAICLAS the quoted Annual License Fee, subject to 5% year on year escalation.	Annual License Fee shall be paid annually within 10 days of commencement of the Accounting Year.
2.	Lease Rental: In consideration of AAICLAS granting the Selected Entity the license to use and occupy the land for the Cargo Services and Parking Area, Selected Entity shall pay AAICLAS from the Commencement of operations an annual consideration of INR 9210 per square meter. In consideration of AAI granting the Selected Entity the license to use and occupy the land for the Transshipment Services, Selected Entity shall pay AAI from the Commencement of operations an annual consideration of INR 6910 per square meter. The lease rental rates are applicable from 01.04.2025 for a period of three years with 15% escalation every 3 years.	The Lease Rental shall be paid to AAICLAS each month within 10 days from the commencement of the month. For the purposes of the 1st (first) month, such period shall commence from the date of the COD or Commencement date, whichever is earlier.

S.No.	Payment terms	Payment schedule
	The Selected entity shall be entitled to a 50% waiver on the Lease Rental if the COD is prior to the Commencement Date until the Commencement Date as specified in this Tender Document. For avoidance of doubt, the Selected Entity shall pay 100% of the Lease Rental from the Commencement Date as specified in this Tender Document.	
3.	Revenue share: From the COD or Commencement Date, whichever is earlier, the Selected Entity shall pay to AAICLAS annual Revenue Share equivalent to 10% of Gross Revenue	The Revenue share shall be paid monthly in advance of Twelve equal instalments based on the projected Gross Revenue for the relevant Accounting Year within 10 days of commencement of the month. For the purposes of the 1st (first) month such period shall commence from the date of the COD.
4.	Security Deposit: The Selected Entity shall deposit and maintain with AAICLAS the Security Deposit for the entire Tenure of the Agreement . The Security Deposit shall be a sum equivalent to INR 58 crores.	The Security Deposit shall be paid to AAICLAS within 30 (thirty) days from issue of Letter of Award

All payments (Annual License Fee, Lease rental, Revenue share, Security deposit, and any other payment) to AAICLAS to be made via NEFT/RTGS only in the below mentioned bank A/c details:

ACCOUNT No.	Bank Name	IFSC Code	ACCOUNT NAME
000705044092	ICICI Bank	ICIC0000007	AAI CARGO LOGISTICS & ALLIED SERVICES COMPANY LTD

APPENDIX X

FINANCIAL STATEMENTS FOR THREE FINANCIAL YEARS

FY 2020-21, FY 2021-22, FY 2022-23 (Duly audited balance sheet and profit and loss account)

APPENDIX XI

LETTER OF UNDERTAKING

[SELF-DECLARATION OF THE BIDDER THAT THE FURNISHED INFORMATION FOR EXPERIENCE IS TRUE, TO BE SUBMITTED ON COMPANY LETTER HEAD]

Sir,

I, _____, on behalf of _____ do hereby affirm and declare that the information provided for claiming the relevant experience for the bid and the documents provided is true and correct to the best of my knowledge and belief and nothing material has been concealed therein.

I understand that concealment of facts and giving false information is a punishable offence and the agency _____ can be barred and legal action may be taken as per the relevant provisions of law.

Yours faithfully,

Signature of the Bidder/Lead

APPENDIX XII

FORMAT OF AFFIDAVIT

(To be executed by Bidder (all Members of the Consortium, in the case of a Consortium) on stamp paper of Rs. 100/- and duly notarized)

I,S/o....., Authorized Signatory for M/s do hereby solemnly affirm and declare as under:

1. I/ We acknowledge that AAICLAS will be relying on the information provided in the Bid and the documents accompanying such Bid for selection for the aforesaid Project, and We certify that all information provided in the Bid and in Appendix I to XVI are true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such Bid are true copies of their respective originals.
2. I/ We shall make available to AAICLAS any additional information it may find necessary or require to supplement or authenticate the Bid.
3. I/We acknowledge the right of AAICLAS to reject our Bid without assigning any reason(s) or otherwise and hereby waive, to the fullest extent permitted by Applicable Law, our right to challenge the same on any account whatsoever.
4. I/ We certify that in the last 3 (three) years, We or any of our Affiliates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.
5. I/ We declare that:
 - (a) I/ We have examined and have no reservations to the Bidding Document, including any addendum issued by AAICLAS;
 - (b) I/ We do not have any conflict of interest in accordance with Clause 2.2.2.1(v) and Clause 2.2.2.1 (vi), and I/ We shall comply with 2.2.2.1 (viii), 2.2.2.1 (ix) and 2.2.2.1 (x) mentioned in the Tender Document;
 - (c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 2.4.2 of Tender Document, in respect of any tender or request for proposal issued by or any agreement entered into with AAICLAS or any other public sector enterprise or any Government, Central or State.

- (d) I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of Clause 2.4 of Tender Document no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
- (e) The undertakings given by us along with the Bid in response to the Tender Document for the Project are true and correct as on the date of making the Bid and I/ We shall continue to abide by them.
- (f) I/ We declare that there is no pending, active or previous legal action that prevents me/ us from submitting the Bid and executing the License Agreement or fulfilling the conditions of the Project.
6. I/ We declare that we/ any Member of the Consortium shall not simultaneously submit the Bid as an individual entity and as a Member of Consortium. In case, I/We do not abide by the same, our/my Bid shall be liable for rejection by AAICLAS.
7. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the License, without incurring any liability to the Bidders, in accordance with Clause 2.6.2 of Tender Document.
8. I/ We believe that I/We satisfy the turnover criteria and meet all the requirements as specified in the Tender Document and am/ are qualified to submit a Bid.
9. I/ We certify that in regard to matters other than security and integrity of the country, We or any of our/ their Affiliates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
10. I/ We further certify that in regard to matters relating to security and integrity of the country, we or any of our Affiliates have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
11. I/We further certify that no investigation by a regulatory authority is pending either against us or against our/ its Affiliates or against our CEO or any of our directors/ managers/ employees.
12. I/We further certify that we or any of our Affiliates are not barred by the Central Government/ State Government or any entity controlled by it, from participating in any project, and no bar subsists as on the date of the Bid.
13. I/We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification as per this Tender Document, we shall intimate AAICLAS of the same immediately.
14. I/ We acknowledge and agree that in the event of a change in control of an Affiliate, whose Eligibility Criteria would be taken into consideration for the purposes of short- listing and selection under and in accordance with the Tender Document, I/We shall inform AAICLAS forthwith along with all relevant particulars and AAICLAS may, in its sole discretion, disqualify us/ our Consortium or withdraw the Letter of Intent to Award, as the case may be. I/We further

- acknowledge and agree that in the event such change in control occurs after signing of the Agreement, it would, notwithstanding anything to the contrary contained in the Agreement, be deemed a breach thereof, and the Agreement shall be liable to be terminated without AAICLAS being liable to us in any manner whatsoever.
15. The Statement of Legal Capacity as per format provided in the Tender Documents, and duly signed, is enclosed. The power of attorney for signing of Bid and the power of attorney for Lead Member of Consortium, as per format provided in Tender Document are also enclosed.
16. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by AAICLAS in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.
17. I/We have read the clause regarding restrictions on procurement from a Bidder of a country which shares a land border with India; We certify that we are not from such a country or, if from such a country, have been registered with the competent authority. We hereby certify that we fulfill all requirements in this regard and are eligible to be considered.
18. In the event of me/us being declared as the Selected Bidder, I/we agree to enter into a Agreement in accordance with the draft that shall be provided to me/ us prior to the Bid Due Date. I/We agree not to seek any changes in the aforesaid Tender Document and agree to abide by the same.
19. I/ We have studied the Bidding Documents carefully and also surveyed the site at Kolkata Airport. We understand that we shall have no claim, right or title arising out of any documents or information provided to us by AAICLAS or in respect of any matter arising out of or relating to the Bidding Process including the award of Project.
20. I/We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, I/We shall have any claim or right of whatsoever nature if the Project is not awarded to me/us or our Bid is not opened or rejected.
21. The amount quoted by me in the Financial Proposal has been quoted by me/us after taking into consideration all the terms and conditions stated in the Bidding Documents, our own estimates of costs and traffic and after a careful assessment of the site and all the conditions that may affect the Project and implementation of the Project.
22. I/ We agree and undertake to abide by all the terms and conditions of the Tender Document.

**DEPONENT
VERIFICATION**

I,....., the above name deponent do hereby verify that the contents of the aforesaid paragraphs 1 to 25 are true and correct to the best of my/our knowledge and belief and nothing is concealed there from.

Verified at thisthe day of..... 20

DEPONENT

Notes:

- 1. The mode of execution of the Affidavit should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- 2. Wherever required, the Bidder should submit for verification the extract of the charter documents and Tender Documents such as a board or shareholders' resolution/ power of attorney in favor of the person executing this Affidavit for the delegation of power hereunder on behalf of the Bidder.*
- 3. For an Affidavit executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Affidavit is being issued. However, the Affidavit provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Apostille certificate.*

APPENDIX XIII

DECLARATION

(On letterhead of the Bidder/Lead Member)

I _____ <Name,
Designation & Company Name with Address>, do hereby solemnly affirm and state as follows:

1. I/We are having/had the following contracts with Kolkata Airport where facility provided/engagement with/services provided by AAICLAS:

S.No.	Airport Name	Facility / Contract	Dues (disputed & Undisputed)	Details of Security Deposit	Contract Period	
					From	To

(In case of no contracts, indicate NIL)

2. I/We are not debarred / blacklisted by CBI or AAI or AAICLAS undertakings/ Departments like Railways, Defense or any other department of Government of India or State Government. (In case if you have been debarred / blacklisted, submit all the details).
3. I/We have not faced/are not facing any action under PPE Act with AAICLAS. (In case if you have faced/are facing action under PPE Act with AAI, submit all the details).
4. I/We have never been ordered by a Court of Law to pay the outstanding dues to AAICLAS at any of airports (In case if you have been ordered by Court of Law, submit all the details).
5. I/ We declare that none of the Directors/Partners/ Sole Proprietor of our company is also a Director of any other company or partner of a concern or a Sole Proprietor having established business with AAICLAS and has dues with AAICLAS (In case if you fall under anyone of the above category, please furnish all such relevant details).
6. I/We do not have any conflict of interest as detailed in clause 2.2.2.1 of general terms and conditions of Tender Document.
7. I/We hereby declare and confirm that we shall clear before issue of LOIA all undisputed

outstanding dues for intervening period i.e. from [*Insert relevant date*] to the last billing period before finalization of award, if I/we are the selected bidder as per terms and conditions of this Tender Document.

8. I/ We declare that “No raid/seizure/search has been carried out and/or pending by a Regulatory Authority or AAICLAS in respect of the license granted by AAI in any of the airport premises either against me and/or any member of the consortium or against our/its Affiliates or against any of the Directors/Managers/Employees” (In case if raids/seizure/search conducted, please furnish all such relevant details).
9. I/We certify that all information/documents furnished by our firm is true & correct and in the event at any stage, the information/documents is found to be incorrect/untrue or found violated, then we shall be liable for debarment from tendering in AAICLAS without giving any notice or reason therefore or summarily reject the bid or terminate the Agreement, without prejudice to any other rights or remedy including the forfeiture of the full said Bid Security absolutely.

All the facts stated above are true and correct to the best of my knowledge, belief and information.

Date:

Signature:

Name:

Designation:

Address:

Place:

Seal of the Bidder/Lead Member:

APPENDIX XIII(A)

UNDERTAKING REGARDING DEBARMENT/BLACKLISTING/RESTRAINTMENT

(On letterhead of the Bidder/Lead Member)

I/We _____ (name and post of authorized signatory) on behalf of _____ of _____ (Name of firm) do here by solemnly affirm and declare as follows:

- (i) Our firm is not restrained/ debarred/ blacklisted by Airports Authority of India (AAI)/ Ministry of Civil Aviation (MoCA)/ Dept. of Expenditure (DoE), Ministry of Finance and the debarment/ blacklisting/ restraintment is not in force as on last date of opening of tender.
- (ii) None of Proprietor/ Partners/ Board Members/ Directors of M/s..... (Name of firm) has remained Proprietor/ Partner/ Board Member/ Director in any firm which stands debarred/ blacklisted/ restrained by AAI/ MoCA/ DE and the debarment/ blacklisting/ restraintment is not in force as on last date of opening of tender.
- (iii) Our firm understands that if our firm either debarred before the date of opening of tender or debarred before the date of contract by AAI/ MoCA/ DoE (Debarment applicable for all Ministries/ Debarments), our bid is liable to rejected at that stage.
- (iv) Our firm understands that at any stage, if above statements are found to be false, our firm shall be liable for debarment from bidding in AAI, apart from any other appropriate contractual legal action including debarment/ blacklisting/ restraintment, termination of the contract etc. as deemed fit.

Date: [Signature and name of the authorized signatory of the firm]

APPENDIX XIV

COPY OF THE TENDER DOCUMENT SIGNED BY AUTHORISED SIGNATORY

APPENDIX XV

UNDERTAKING TO BE SUBMITTED ON THE LETTERHEAD OF THE LEAD BIDDER

To,

Regional Manager (NR), AAICLAS
AAICLAS Complex, Delhi flying Club Road
Safdarjung Airport
New Delhi 110003

Dear Sir

We have read the Orders issued by Ministry of Finance (Public Procurement 1, Public Procurement 2, Public Procurement 3; F. No. 6/18/2019-PPD and Public Procurement 4; F.No. 7/10/2021-PPD (1) issued on 23rd July 2020, 24 July 2020 and 23rd February 2023) regarding restrictions on procurement from a bidder of a country which shares a land border with India; We certify that, M/S... and all our consortium members are not from such a country or, if from such a country or, has been registered with the competent authority. I hereby certify that M/S....., and all our consortium members fulfills all requirements in this regard and is eligible to be considered.

Regards

Name & Signature of Authorized Signatory Designation

Name and Seal of the Bidder / Lead Member Date:

Place:

APPENDIX XVI

SUBMISSION CHECKLIST

The Bidders are advised to arrange the submissions/documents in the following order. Each page of the Bid is to be serially numbered, signed and stamped by the authorized signatory of the Bidder.

No.	Document Name	To be notarized	To be provided on stamp paper of INR 100/-	Original to be submitted (Yes / No)	Status of Submission
1.	Appendix I: Acceptance Letter	No	No	No	
2.	Annex 1 – Details of Bidder	No	No	No	
3.	Annex 2 – Details of Eligible Project	No	No	No	
4.	Annex 3– Certificate from the Statutory Auditor	No	No	No	
5.	Annex 4 (A), 4 (B) and 4 (C) – Financial Capacity of the Bidder	No	No	No	
6.	Annex 5– Certificate from Statutory Auditor regarding Affiliate	No	No	No	
7.	Annex 6 (A) 6 (B) and 6 (C)	No	No	No	
8.	Annex 7 – Integrity Pact	No	No	No	
9.	Annex 8 - Undertaking on Total Responsibility	No	No	No	
10.	Statement of Legal Capacity as per format at Appendix II	No	No	No	
11.	Power of Attorney for signing the Bid as per the format at Appendix III	Yes	Yes	No	
12.	In case of Consortium, Power of Attorney for the Lead Member of the Consortium as per the format at Appendix IV along with Joint Bidding Agreement as per the format at Appendix V	Yes	Yes	No	
13.	List of near relatives employed in AAICLAS , in the format at Appendix VI	No	No	No	
14.	Document of Incorporation as Appendix VII	Yes	No	No	

No.	Document Name	To be notarized	To be provided on stamp paper of INR 100/-	Original to be submitted (Yes / No)	Status of Submission
15.	Charter Documents - certified true copies of its constitutional documents as Appendix VIII	Yes	No	No	
16.	Financial Bid in the format at Appendix IX (A) in MS excel – (online on CPPP)	No	No	No	
17.	BOQ in the format at Appendix IX (B)	No	No	No	
18.	Duly audited balance sheet and profit and loss account for FY 2020-21, FY 2021-22, and FY 2022-23 as Appendix X.	No	No	No	
19.	Letter of Undertaking as Appendix XI	No	No	No	
20.	Affidavit as per the format at Appendix XII	Yes	Yes	No	
21.	Declaration as per the format at Appendix XIII	No	No	No	
22.	Undertaking regarding debarment/ blacklisting/ restraintment as per the format at Appendix XIII(A)	No	No	No	
22.	Copy of the Tender Document shall be digitally signed by the Authorised Signatory as per Appendix XIV	No	No	No	
23.	Letter of Undertaking as Appendix XV	No	No	No	
24.	Checklist of Submissions as per format at Appendix XVI	No	No	No	

Date/Place:

Signature:

Name:

Designation:

Seal of the Bidder