

CIVIL AVIATION AUTHORITY OF NEPAL

**CORPORATE DIRECTORATE
BABARMAHAL, KATHMANDU**

BID DOCUMENT

FOR

**OPERATION AND MANAGEMENT OF AIR CARGO COMPLEX
AT
TRIBHUVAN INTERNATIONAL AIRPORT
Bid Notice No- ICB-1/Corporate/2071/72**

VOLUME -2/2 - FINANCIAL PROPOSAL

**Project Name - Operation And Management Of Air Cargo
Complex At TIA
Kathmandu, Nepal**

2015

BID SUBMITTED BY

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SECTION 1

Form No. 1

BID FORM

BID FOR THE OPERATION AND MANAGEMENT OF ACC AT TIA IN KATHMANDU

(Note: Bidders are required to fill out all blank spaces in this Form of Bid, and bid amount (payment schedule) forms

To,
Corporate Directorate
Civil Aviation Authority of Nepal (CAAN)
Head Office, Babarmahal, Kathmandu, Nepal

Sir,

1. Having examined the Instruction to Bidders, General Conditions of Contract, Contract Award Forms, Specification of Work and Services, Bid Data and Amount, Schedules of Drawings, Site Visit including inspection of the existing Air Cargo Complex (ACC) assets and addenda for the above named works, we the undersigned offer to operate, manage and hand-over the ACC at Tribhuvan International Airport (TIA) in Kathmandu in conformity with the General Conditions of Contract, Bid Data and Amount for the total lease amount for ten (10) year lease period of Nepalese Rupees
(In words
.....)
payable to CAAN, TIACAO on monthly basis as per the proposed payment schedule.
2. If our Bid is accepted, we shall register Foreign Company/Joint Venture Company / Firm in Nepal and sign the Contract Agreement within thirty five (35) days from the issuance date / receipt date of Letter of Acceptance (LOA) issued by CAAN, and commence the proposed operation and management of ACC within 30 days after the signing of the Contract Agreement as per the Implementation Schedule discussed in Section 2.6 of the Bid Document for Technical proposal.
3. If our Bid is accepted, we shall, when signing the Contract Agreement, obtain the Bank Guarantee issued by any class A commercial bank(s) in Nepal for Performance Bond as stated in ITB 1.39 of Technical Proposal and Clause 2.12.2 of General Conditions of Contract of this Bid Document for Financial Proposal.
4. We agree to abide by this bid Validity for a period of **120 days** from the date of initial bid opening or any extended period requested by the Employer and it shall remain binding upon us and may be accepted at any time before the expiration of that period or after the expiration of the period until withdrawn by us.

5. Until and unless a formal agreement is prepared and executed, this Bid, together with your written acceptance thereof shall constitute a binding contract between us, but without prejudice to your right to withdraw such acceptance.

6. We understand you may accept or reject any bid without assigning any reason.

Dated this.....Day of.....

Signature.....

Authorized Person's Name.....

Duly authorized to sign Bid on behalf of.....

Address.....

Stamp of the Firm

SECTION 2

GENERAL CONDITIONS OF CONTRACT

ARTICLE 1 DEFINITION AND INTERPRETATION

2.1.1 Definitions

In this Contract, the following words and expressions shall have the meanings hereby assigned to them, except where the context otherwise requires:

1. Air Cargo Complex - means the following (i) The main building encompassing the bonded warehouse, (ii) other auxiliary buildings, (iii) cargo build-up apron, (iv) car park, (v) open grass area inclusive of drainage, etc. inside the airside adjacent to ACC towards south and (vii) open grass area west of main building and car park enclosed by the chain-link fence.
2. “Applicable Laws” means all laws, promulgated or brought into force and effect by Government of Nepal including regulations and rules made there- under, and judgments, decrees, injunctions, writs and orders of any court of records, as may be in force and effect during the currency of this Agreement.
3. “Applicable Permits” means all clearances, permits, authorizations, consents and approvals under or pursuant to Applicable Laws, required to be obtained and maintained by the Firm, in order to operate and manage ACC and to provide Facility in course of development, operation and management of ACC.
4. “Bid Data” means the proposed charges for handling of export and import of air cargo commodities in ACC of TIA.
5. “Bid Amount” means the total amount proposed to be paid to CAAN, TIACAO by the selected bidder for ten (10) years, the total duration of the contract, stating the breakdown of annual lease amount to be paid for every year.
6. “Change In Law,” means the occurrence in any relevant law of any of the following after the date of this Contract:
 - a) the enactment of any new Nepal Law;
 - b) the repeal and amendment of any existing Nepal law;
 - c) the commencement of Nepal law which has not entered into effect until the date of this contract;
 - d) a change in the interpretation or application of any Nepal law by a court of records as compared to such interpretation or application by a court of records prior to the date of this Contract;
 - e) any change in the rates of the Taxes.
7. “Charge” means the fee chargeable for using the Facility in ACC at TIA in accordance with the Fee Notification approved by CAAN.

8. "Commencement Date" means the date on which the physical possession of ACC (the Project Site) is delivered by CAAN, TIACAO to the Firm, which shall not be later than 30 days from the date of this Contract.
9. "Contract" means this Contract including the Forms as stated in the Agreement hereto, and any amendments thereto made in accordance with the provisions of this Agreement.
10. "Contract documents" means the Form of Contract, Conditions of Contract, specification, Drawings, Schedule of Rates and Charges, if any, Tender, Letter of Acceptance and all attachments to the Conditions of Contracts.
11. "Discount Rate" means interest rate of commercial banks and has been considered at 10% in the evaluation of this project bid.
12. "Dispute" shall have the meaning ascribed thereto in Article 13.
13. "Dispute Resolution Procedure" means the procedure for resolution of dispute set forth in Article 13.
14. "OM" means operate and manage the ACC or operation and management of the ACC including but not limited to functions of maintenance, collection and retention of fees and performance of other services incidental thereto.
15. "Drawings" means all the drawings of ACC and shall include "as built" drawings of the Project.
16. "Emergency" means a condition or situation that is likely to endanger the security of the individual on or about the Project including users thereof, which poses an immediate threat of material damage to any of the Project Assets.
17. "Employer" means the Civil Aviation Authority of Nepal (CAAN), Head Office Babarmahal, Kathmandu.
18. "Fee" means the fee chargeable for using the ACC Facility in accordance with the Fee Notification. It is based on the rates approved by TIACAO as per CAAN Airport Service Charge Regulation, 2067 and any other law of Nepal. The user charges as prescribed in Appendix 'A' of the Technical Proposal may have an increment in every three years subject to the approval by CAAN. The Firm shall publicise it periodically and make it transparent.
19. "Fee Notification" means the notification published by the Government in Nepal Gazette, in exercise of the powers conferred by the relevant provision of Act, and the rules framed there under, authorizing the levy and collection of the Fee by the Firm in accordance with the provisions of this Contract and includes a revised Fee Notification, if any.
20. "Firm" means the party to the Contract that has leased the ACC for OM for the agreed contract period and this term shall include any company or individual.

21. "Fiscal Year" means the financial year commencing from 1st Shrawan (on or about 16th July) of any calendar year and ending on end of Ashad (on or about 15th July) of the next calendar year.
22. "Force Majeure Event" Shall have meaning ascribed thereto in Article 10.
23. "Government Agency" means Government of Nepal, or governmental department, commission, Board, body, bureau, agency, authority, instrumentality, court or other judicial, quasi - judicial or administrative body, central, state, or local, having jurisdiction over the Firm, the Project assets or any portion thereof, or the performance of all or any of the services or obligations of the Firm under or pursuant to this Agreement.
24. "Government" means the Government of Nepal
25. "Implementation Period" means the period beginning from the Commencement Date and ending of the Contract.
26. "Lease Amount" means the total amount (for 10 years) to be paid to the Employer for the OM of ACC by the Firm.
27. "Lenders" means financial institutions, banks, funds, trust or trustees of the holders of debentures or other securities their successors and assigns, who provide financial assistance to the employer/ firm under any of the Financial Documents.
28. "Local Currency" or "NPR" or NRs or Rs. means the Nepalese Rupee.
29. "Material Adverse Effect" means material adverse effect on (a) the ability of the Firm to observe and perform any of its rights and obligations under and in accordance with the provisions of this Contract and / or (b) the legality, validity, binding nature or enforceability of this Contract.
30. "Material Breach" means a breach by either Party of any of its obligations under this Contract which has/likely to have a Material Adverse Effect on the Project and which such Party shall have failed to cure within the Cure Period.
31. "Monitoring Committee" means a committee formed pursuant to Article 5.
32. "Net Present Value" of total leased amount means present value of lease amount for ten (10) year period.
33. "Operation Period" means the period from the date of Contract for commencement of OM of ACC and ending at the expiry of the Contract Period.
34. "Parties" means the parties to this Agreement collectively and "Party" shall mean "either of the Parties to this Agreement Individually.
35. "Performance Bond" means the Bond to be deposited by the Firm as per Technical Proposal clause 1.39.

36. "Present Value" means value of amount discounted at 10% discount rate.
37. "Project" means this project of operation and management of the ACC
38. "Project Asset" means all physical and other assets relating and forming part of the Project including but not limited to (i) rights over the Project Site in the form of license, right of way or otherwise, (ii) tangible assets such as building and civil works including embankments, pavements, road surface, drainage works, lighting facilities, equipment for the ground handling of cargo, electrical works for the Project, telephone and other communication system and equipment for the Project, (iii) Project Facility on the project site, (iv) the rights of the firm under any Project Agreements, (v) financial assets, such as security deposits for electricity supply, telephone and other utilities, etc. (vi) insurance proceeds subject to Lenders' right thereto and (vii) Applicable Permits and authorizations relating to or in respect of the Project.
39. "Project Completion" shall have the meaning of completion of this Agreement.
40. "Project Facility" means collectively the facilities at the project site constructed, built, installed, erected or provided by the Employer or the Firm.
41. "Project site" means the real estate particulars whereof are set out, on which the Project is to be implemented and the Project Facilities is to be provided in accordance with this Agreement.
42. NRs or "Rs." Or "Rupees" refers to the lawful currency of Nepal.
43. "Specification of Work and Services" means the specification and standards relating to the quality, capacity and other operational requirements that the Firm has to undertake during implementation of the Project.
44. "Statutory Auditors" means a reputed firm of Chartered Accountants duly licensed to practice in Nepal acting as statutory auditors of the Firm.
45. "Termination" means termination of this Agreement hereunder pursuant to a Termination Notice or otherwise in accordance with the provision of this Agreement but shall not, unless the context otherwise require, include the expiry of this Agreement due to expiry of the Agreement period in normal course.
46. "Termination Date" means the date on which the Termination occurs, which shall be the date on which Termination Notice has been delivered or deemed to have been delivered by a party issuing the same to the other party in accordance with the provisions of this Agreement.
47. "Termination Notice" means a communication in writing by a Party to the other Party regarding Termination in accordance with the applicable provisions of this Agreement.

48. "Third Party" means any person or entity other than the Parties to this Contract;
and
49. "Total Project Cost" means total fixed assets investment and working capital.

2.1.2 Interpretation

In this Agreement, unless the context otherwise requires,

- 1) any reference to statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as modification or re-enactment or consolidation applies or is capable of applying to any transactions entered into hereunder;
- 2) reference to Nepal law shall include the laws, acts, ordinances, rules regulations, guidelines or bylaws, and court precedents, which have the force of law in any part of Nepal;
- 3) the words denoting singular shall include plural and vice versa, and individual shall include partnerships, firms, companies, corporations, joint ventures, trusts, association, organizations or other entities (whether or not having a separate legal entity);
- 4) the headings are for convenience of reference only and shall not be used in, and shall not affect, the constructions or interpretation of this Agreement in any way;
- 5) terms and words beginning with capital letters are as defined in this Agreement including the Schedules;
- 6) the words "include" and "including" are to be constructed with limitation;
- 7) any reference to "any period of time" shall mean a reference to that according to Nepal Standard Time;
- 8) any reference to "day" shall mean a reference to a Gregorian calendar day;
- 9) any reference to this "Contract" form as integral part of this Contract and shall be in full force and effect as though they were expressly set out in the body of this Contract;
- 10) the schedule to this Contract form an integral part of this Contract and shall be in full force and effect as though they were expressly set out in the body of this Contract;
- 11) any reference at any time to any Contract, deed, instrument, license or document of any description shall be constructed as reference to that contract, deed, instrument, license to other document as amended, varied, supplemented, modification or suspended at the time of such reference;

- 12) references to recitals, Articles, sub-articles, clauses, or Schedule in this Contract shall, except where the context otherwise requires, be deemed to be references to recitals, Articles, sub-Articles, clauses and Schedule of or to this Contract;
- 13) any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Agreement from or by any Party or the CAAN representative shall be valid and effectual only if it is in writing under the hands of duly authorized representative of such Party or the CAAN representative, as the case may be, and not otherwise;
- 14) any reference to any period commencing “from” a specified day or date and “till” or “until” a specified day or date shall include both such days or dates;
- 15) the damages payable by either Party to the other of them as set forth in this Contract, whether on per Diem basis or otherwise, are mutually agreed genuine pre-estimated loss and incurred by the Party entitled to receive the same and are not by way of penalty for liquidated damages;
- 16) unless otherwise expressly provided in this Contract, any documentation required to be provided or furnishing by the Firm to the Employer/ Monitoring Committee and or the Employer's representative shall be provided free of cost and in three copies and if the Employer/ Monitoring Committee and or the Employers representative is required to return any such documentation with their comments and / or approval, they shall be entitled to retain two copies thereof;
- 17) If any provision or conditions of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract;
- 18) Except as expressly stated to the contrary elsewhere herein, in computing the number of days for the purpose of the Contract all days shall be counted, including Saturdays and legal holidays, provided, however, that if the final day of any period shall fall on Saturday, or legal holiday, then the final day shall be deemed to be the next day which is not a Saturday or legal holiday;
- 19) Except where provided otherwise in the contract, for the purpose of the Contract, all references to currency shall mean the Local Currency.

2.1.3 Arithmetic Conventions

1. Lease amount calculation shall be rounded off to nearest rupee.
2. In case of ambiguities or discrepancies within this Contract, the following shall apply:
 - i) between two Articles of this Contract, the provisions of specific Articles relevant to the issue under consideration shall prevail over those in other Articles;
 - ii) between the Articles and the Schedules, the Articles shall prevail;
 - iii) between the dimension scaled from the Drawing and its specific written dimension, the later shall prevail;

- iv) between any values written in numerals and that in words, the later shall prevail.

ARTICLE 2

PROJECT SITE

2.2.1 Project Site and Contract Period

The project site, i.e; ACC, with the associated assets (physical and equipment) of ACC, shall be under lease for the agreed contract period of ten (10) years and shall automatically be handed over to the Employer at the end of the contract period as per conditions mentioned in the Agreement.

2.2.2 Use of the Project Site (ACC Premises and Assets)

The Firm shall not, without prior written consent or approval of the Employer, use the Project Site for any purpose other than the Project/ the Project Facility and purposes incidental thereto as permitted under this Agreement or as may otherwise be approved by the Employer.

2.2.3 Information about the Project Site

The information about the Project is provided by the Employer in good faith and with due regards to the matters for which such information is required by the Firm. The Employer agrees to provide to the Firm, upon a reasonable request, any further information relating to the Project Site, which the Employer may now possess or may hereafter come to possess. Subject to this the Employer makes no representation and gives no warranty to the Firm in respect of the condition of the Project Site

2.2.4 Environmental Clearance

The Employer confirms that the Project/Project Site has been granted clearances relating to environmental protection and conservation. The Firm shall however, apply for and obtain any other applicable Permits related to environmental matters that may be necessary or required for the Project under any Applicable Laws.

ARTICLE 3

CHARGE RATE AND LEASE AMOUNT

2.3.1 Charge Rates

The Firm shall levy the charges for handling of air cargo and other services to the customers as approved by the Employer. The rates and charges shall review on the three yearly basis in general. The Employer will proceed firm's proposal on change in rates for its approval. Rate of inflation in the country and charge rates in the SAARC Region may be taken as reference for this purpose.

2.3.2 Lease Amount

The selected bidder shall be liable for monthly advance payment to Employer, amount based upon the agreed annual lease amount as per the lease payment schedule and contract agreement. An interest rate on the lease amount shall be charged, if the lease amount is not paid by the 7th day of each month. The lease amount shall have to be paid along with interest at ten (10) percent per annum plus two percent from the due date till payment.

2.3.3 Repatriation

Foreign currency exchange and the repatriation shall be permitted, but done under the jurisdiction of the Nepal Law.

ARTICLE 4

OBLIGATIONS

2.4.1 General Obligations of the Firm

The selected Firm shall, at its own cost and expense, perform the following:

1. Operate the ACC according to the Business plan, Organization, Operation and Maintenance Manuals, Security Manual, Traffic Management and Environment Plans.
2. Operate the ACC within the limitation of design of its construction and in accordance with agreed operation and maintenance standard.
3. Mobilize necessary resources and make the ACC fully operational within 30 days of signing the contract. The lease amount shall be applicable from the date of operation of ACC by the lessee or thirty days after the date of signing the Contract, whichever is earlier.
4. Timely payment of all sums of money due under this lease contract.

5. Investigate and study various system, procedures and manuals useful for OM of ACC in accordance with the provisions of the Contract Agreement. And then develop system, procedures, rules and manuals required for effective and efficient operation and management of ACC and submit to Employer for approval as and when stated in the Proposal.
6. Obtain all applicable Permits in conformity with the applicable Laws and be in compliance with thereof at all times during the Contract period.
7. Procure and maintain in full force and effect, as necessary, appropriate proprietary rights, licenses, agreements and permissions for materials, methods, processes and systems used in or incorporated into this Project
8. Ensure that each purchase agreement made by the Firm for procurement of assets and services to be used in ACC shall be duly notified to the Employer.
9. Provide reports on regular basis (monthly, annually and three yearly) to the Employer along with a copy to Monitoring Committee during the operation period of OM of ACC in accordance with the Agreement.
10. Ensure to maintain harmony and good relations among the personnel employed during the Contract period.
11. Take all reasonable precautions for the prevention of accidents within the project site and provide all reasonable assistance and emergency medical aid to accident victims.
12. With the written approval of the Employer, the firm may develop facilities in the project site for the better service to the users.
13. With the written approval of Employer, the Firm may call for bid either locally or as a global tender for subletting the services or equipment procurement. The firm shall provide to Employer one copy each of any agreement made with the private parties. However, the Firm will not be immune from its obligations and responsibilities even after subletting.
14. The Firm may import equipment, machinery, tools, light vehicles and heavy vehicles as required for the Project. Prior to procurement, utilization plan of those machinery and equipments shall be notified to the Employer.
15. The firm shall carry out the Project Facilities or implementation of the Project as mentioned in this Agreement in accordance with the highest standards of professional and ethical competence and integrity and shall observe sound management practices, and employ appropriate advanced technology and safe methods. The firm shall always act, in respect of any matter relating under this Agreement, as faithful to the Employer and shall at all times support and safeguard the Employer.

2.4.2 General Obligations of the Employer

The general obligations of the Employer shall be as follows:

1. Handover the physical assets (excluding vehicles), warehouse equipment and other assets of ACC to the Firm within 30 days from the date of the signing of the Agreement.
2. Ensure that the lessee, by paying Lease amount and performing and carrying out its duties under this lease agreement shall be entitled to the continuous and uninterrupted possession use and enjoyment of the assets and operation of the services.
3. Provide necessary assistance to the Firm in acquiring permits for import of equipment, other necessary materials etc that are necessary for the Project as and when required.
4. Proceed or Grant in a timely manner all such approvals, permissions and authorizations, which the Firm may require, from the Employer in connection with the implementation of the Project.
5. Upon the written request from the Firm, the Employer shall recommend for visas, residence permits and travel documents for international experts and staff to be engaged in the OM of ACC. Prior to applying for permits, these international experts and staff necessity has to be approved by the Employer.
6. Exclusivity

No other party / agency / airline / will be permitted by Employer to enter into similar international air cargo bonded warehousing / handling business for self or others at TIA or the protection of business interest of the Firm (ACC operator) until the Monitoring Committee reports that the capacity of ACC is inadequate to service the flow of air cargo and that additional facility is needed to be developed and contracted out separately.

2.4.3 Rights and Duties

1. It is the right of the Firm to survey and inspect the Assets located in ACC before taking the possession of the Assets and be satisfied as to condition of such Assets. It is the duty of CAAN to allow reasonable time and let the Lessee inspect the condition of the Assets under this Contract.

There will be no discrimination or denial for the use of the Assets or the facilities to any persons whosoever willing to use and enjoy the benefits of such Assets and the facilities in the ACC unless and otherwise such person.

- (i) refuses to pay designated charge/fees for the use of the Assets or the facility, and/or
 - (ii) refuse to comply with the rule and regulations associated with the use of the Assets and or the facility.
2. It is the duty of the Firm to take adequate measures for the safety and security of all personnel who are allowed to enter in the premises, consignments there-in, and the Assets in the ACC and keep the facility clean and hygienically safe in accordance with the proposed Business plan, Operation and Maintenance Standard, Security Manual, Traffic Management and Environment Improvement Plan.
 3. Similarly, the Lessee has to take appropriate measures to protect the assets and the facility and the surrounding environment with proper disposal of any chemical, petroleum products or any other such harmful waste accumulated in the premises. It will be Firm's responsibility to store properly those hazardous materials separately and thereby to dispose refuses, and garbage products of the ACC properly.
 4. Concerned unit of CAAN Head Office and or TIACAO will have a right to inspect the Leased Assets and facility periodically and give necessary instruction for betterment.

ARITCLE 5

MONITORING COMMITTEE

2.5.1 Monitoring Committee

There shall be a Monitoring Committee to ensure the productive operation of ACC and to monitor the OM of ACC as per the Agreement and give recommendation (s) along with their implementation schedule where relevant. The Committee shall consist of the following and others as assigned by the Director General of CAAN:

- | | |
|---|--------------------|
| (a) General Manager, TIA Civil Aviation Office | - Chairman |
| (b) Chief, Customs Administrator at TIA, Customs Office | - Member |
| (c) Chief, TIA Nepal Police Office | - Member |
| (d) Representative, CAAN Head Office | - Member |
| (e) Chief Executive Officer of the Firm/Operator of ACC | -Member |
| (f) President, Nepal Freight Forwarders Association | - Member |
| (g) President, Nepal Courier Association | - Member |
| (h) Chief, Air Cargo Service
Division, TIACAO | - Member Secretary |

[Note: Invitees can be allowed to participate in the meetings as may be required.]

The Committee shall develop and implement its own "Directives" in order to fulfill its responsibilities.

The Committee may form Sub-committee(s) as and when necessary in order to get assistance in fulfilling its responsibilities. The members of the Sub-committee shall be as decided by the Monitoring Committee and may be other than its members as per the need.

ARTICLE 6

INSURANCE, TAXES AND DUTIES

2.6.1 Insurance

The Firm shall at its cost and expense at all time purchase and maintain during the Project period such insurance policy as are necessary, including but not limited to the following:

- 1) Comprehensive third party liability insurance including injury and death of the personnel and customers engaged in ACC or receiving services of ACC.
- 2) The Project Assets shall be fully insured in the name of CAAN, TIACAO as the beneficiary against loss or damage whatever cause arising.
- 3) Any material or physical damage, loss or injury which may occur to any property, including that of the Employer or to any person, including any employee, by or arising out of the execution of the work or in carrying out the Contract.
- 4) Destruction of the Project facility at replacement value
- 5) Damage or destruction and loss of Assets and employees due to Force Majeure Events (such as fire, earthquake etc.)

Such insurance shall be effected with a registered insurer of Nepal and in terms approved by the Employer, which (approval) shall not be unreasonably withheld, and the Firm shall, whenever required, produce to the Employer the policies (or appropriate endorsements, certifications, or other satisfactory evidence of insurance) or policy of insurance and the receipts for payment of the current premium.

2.6.2 Taxes

- (a) The Firm shall be responsible for payment of all taxes, stamp duties, license fees, insurance premiums and any other such levies imposed by laws of Nepal related to the use and operation of the Assets to this contract.
- (b) Income Tax
 - (i) Corporate Income Tax rates applicable for the Project shall be as per the prevailing Act and other relevant laws of Nepal.

- (ii) Any dividends received by the company(s) or individuals shall be liable for dividend taxes as per other prevailing laws of Nepal
- (c) Value Added Tax (VAT)

All VAT applicable materials; equipment, procured either locally or imported, etc shall be liable for VAT as per the prevailing law of Nepal.

2.6.3 Duties

The Firm may import any equipment necessary for the Project. The customs duties and other surcharges for such equipment shall be applicable as per the prevailing laws of Nepal

ARTICLE 7

LIABILITY AND INDEMNITY

2.7.1 Default of the Employer

The Firm shall fully indemnify, hold harmless and defend the Employer including its staff and its successors and assigns from and against any and all claims, proceedings, penalties, liabilities, damages, costs and expenses arising out of or related to any violation arising out of a breach by the Firm of any of its obligations under the agreement except to the extent that any such claim has arisen due to default on the part of the Employer.

2.7.2 Default of the Firm

The Employer shall indemnify, defend and hold the Firm harmless against any and all proceeding, actions and third party claims arising out of a breach by the Employer of any of its obligations under the agreement, except to the extent that any such claim has arisen due to default on the part of the Firm

ARTICLE 8

EVENTS OF DEFAULT AND TERMINATION

2.8.1 Events of Default

Event of Default means the Firm's Event of Default or the Employer's Event of Default or both as the context may admit or require.

2.8.2 Firm's Event of Default

Any of the following events shall constitute an event of default by the Firm (Firm's Event of Default) unless such event has occurred as a result of the Employer's Event of Default or a Force Majeure Event:

- i) The Firm fails to commence the OM activities within 30 days from the commencement date, as specified in the contract.
- ii) Any representation made or warrants given by the Firm under the Agreement is found to be false or misleading.
- iii) The firm's failure to perform of its obligation(s) pursuant to this Contract.
- iv) The firm fails to comply with a decision/directives issued by the Monitoring Committee.
- v) The Firm suspends or abandons the operations of the project without the prior consent of the Employer.
- vi) The Firm has delayed any payment to the Employer that has fallen due under the Agreement and if such delays exceed 15 (fifteen) days.
- vii) If the firm otherwise is in default of any term of the Agreement.
- viii) If the Firm becomes insolvent or bankrupt or enters into any agreements with its creditors for relief of debt or takes advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary.
- ix) A default has occurred under any of the Financing Documents and any of the Lenders has recalled its financial assistance and demanded payment of the amounts outstanding under the Financing Documents or any of them as appropriate.

2.8.3 Employer's Event of Default

The following events shall constitute events of default by the Employer unless such event has occurred as a result of Firm Event of Default or a Force Majeure Event.

- i) The Employer is in breach of any of its obligations under the Agreement and such breach has not been cured within 15 days from the date of written notice by the Firm
- ii) The Employer repudiates the Agreement or otherwise evidences an intention not to be bound by the Agreement.
- iii) Any representation made or warranties given by the Employer under the Agreement is found to be false or misleading

2.8.4 Termination due to Event of Default

a) Termination for Firm Event of Default

If one or more of the events specified, herein before (Firm event of default) shall have happened and be continuing, then the Employer, by a preliminary notice, specifying the intentions to terminate the Agreement, and if no such event of default is remedied within 60 days, then the Employer may terminate the Agreement provided further that,

- i) if the default is not cured within 15 (Fifteen) days of the Preliminary Notice, the Employer shall be entitled to en-cash the Performance Security with a notice to the Firm (Encashment Notice),
- ii) If the default is not cured within (15) days of the Encashment Notice and a fresh Performance Bond is not furnished within next 30 days in accordance with Article 2.12.2, Employer shall, subject to the provision of agreement, be entitled to issue the Termination Notice.
- iii) In case the default is cured as stipulated herein above, the due amount for the lease period shall be deducted from the encashment of Performance Bond and balance shall be refunded to the Firm.

The following shall apply in respect of cure of any of the defaults and or breaches of this Agreement.

- i) The Cure Period provided in this Agreement shall not relieve the Firm from liability of damage caused by its breach or default,
- ii) The Cure Period shall not in any way be extended by the period of suspension under this Agreement,
- iii) If the cure of any breach by the Firm requires any reasonable action by Firm that must be approved by the Employer hereunder the applicable Cure Period shall be extended by the period taken by the Employer to accord the required approval.

Upon Termination by the Employer on account of occurrence of Firm Event of Default during the Operation Period, the Employer shall negotiate with the Firm for an amicable settlement in lieu of the take-over of the fixed assets, such as building(s), equipment, considered essential for the smooth operation of ACC, etc. by the Employer for which additional investment has already been made by the Firm.

b) Termination for the Employer Events of Default

The Firm may, upon the occurrence and continuation of any of the Employer Event of Default, terminate this Agreement by issuing Termination Notice to the Employer.

Upon Termination of this Agreement by the Firm due to the Employer Event of Default, the Firm shall negotiate with the Employer for an amicable settlement in lieu of the handover of the fixed assets, such as, building(s), equipment, considered essential for the smooth operation of ACC, etc. by the Employer for which additional investment has already been made by the Firm.

CAAN may be ready to pay the residual value of such investments deducting the depreciation as per Income Tax law of Nepal.

2.8.5 Rights of the Employer on Termination

Upon Termination of this Agreement for any reason whatsoever, the Employer shall have the power and authority to

- i) take possession and control of Project Assets forthwith;
- ii) prohibit the Firm and any person claiming through or under the Firm from entering into the Project Assets or any part thereof;
- iii) step in and succeed upon election by the Employer without the necessity of any further action by the Firm to the interests of the Firm under such of the Project Agreements as the Employer may in its discretion deem appropriate with effect from the date of communication of such election to the counter party to the relative Project Agreements. Provided any sums claimed by such counter party as being due and owing for work and service performed or accruing on account of any act, omission or event prior to such date of election shall and shall always constitute debt between the Firm and such counter party and the Employer shall in no way or manner be liable or responsible for such sums.

2.8.6 Settlement upon Termination

Upon termination of this Contract by either party pursuant to Article 8, on "Events of Default and Termination",

- a) The Firm shall pay to the employer all rent and outstanding on the date of termination and any all other amounts owed to the Employer.
- b) Any sum, to which Firm may be entitled, is duly certified by the Statutory Auditors,
- c) The due, if any, shall be paid or repaid within ninety (90) days from the date of amicable settlement. If either party fails to pay payment where the payments are to be made upon termination in full within the date as said above, the amount remaining unpaid shall be paid along with 10% interest per annum plus two percent from the Termination Date till payment

2.8.7 Mode of Settlement

Notwithstanding any instructions to the contrary issued or any dispute raised by the Firm, the fulfilment of obligation(s) by the Employer to the Firm, if any, or, the Termination Payment, if any and all other payments, if any, that would become

payable by Employer under any of the provisions of this Agreement and the amicable settlement reached between the Employer and Firm, shall, so long as the Book Value of additional fixed assets investment by the firm is being shown in the accounts book, to the extent of such payment, constitute a valid discharge to Employer of its obligations towards the Firm with regard to the Termination.

Notwithstanding anything to the contrary contained in this Agreement, any Termination pursuant to the provisions of this Agreement shall be without prejudice to accrued rights of either Party including its right to claim and recover money damages and other rights and remedies which it may have in the law of contract. All rights and obligations of either Party under this Agreement, and the amicable settlement reached between the Employer and the Firm, including without limitation of Termination payment, if any, shall survive the Termination of this Agreement to the extent such survival is necessary for giving effect to such rights and obligations.

ARTICLE 9

CHANGE OF SCOPE

2.9.1 Change of Scope

The Employer may, notwithstanding anything to the contrary contained in this Agreement, require provision of such addition/deletion to the works and services on or about the Project, which are beyond the scope of the Project as contemplated by this Contract (“Change of Scope”). All such changes shall be made by an order (the “Change of Scope Order”) issued in accordance with the procedure set forth in Article 2.9.2

2.9.2 Procedure for Change of Scope

- (a) As per the necessity and the requirement for smooth operation of cargo handling, there is need for additional assets. With mutual consent between the Employer and the Firm, such adjustment can be made by the Firm if the additional cost shall be within a range of 10% of the respective asset of ACC, in the Project Period.
- (b) If the modification needs to be performed by addition of permanent of temporary structures such as expansion of the ACC building or others and the additional cost exceeds 10% of the respective asset value, then prior approval of the Employer is required. This will require the submission of a detailed proposal study by the Firm, which shall be subjected to discussion and negotiation between the Employer and the Firm. Additional lease amount shall be determined as per the terms and condition set out in the Supplementary Agreement between the Employer and the Firm.

2.9.3 Amendment and Variation

- (a) The parties agree that, if necessary, the terms and conditions of this Contract may be varied or amended by any subsequent Contract as mutually agreed between the two parties.
- (b) The parties acknowledges that they each will use their best endeavors and act in good faith with the other party to resolve the difference of any kind arising out of any terms and conditions of this Lease (including but not limited to amending the terms and conditions of this Lease) which directly impairs the ability of either party to operate as a successful and profitable business.

ARTICLE 10

FORCE MAJEURE

2.10.1 Force Majeure Event (Failure to Perform)

- A. The Agreement shall be inoperative, subject to sub – clause B and C of this Clause, on the occurrence of any one of following events which are beyond the control of the Firm and such event or an event result in a grave threat or a major prejudice upon and / or disables the Firm from observing its obligations under this agreement.
 - (i) Natural calamities, such as and way of example, fire, earthquake, landslide, flood or inundation, hurricane, storm or other natural or physical disaster or political events, such as and by way of example, civil disturbance, riot, insurrection, civil war, terrorist attacks, etc. or
 - (ii) That this agreement or provision of this agreement at any time for any reason proves to be impossible for the Firm duly and promptly to perform or observe any of its obligation or undertakings, hereunder or thereunder.
- B. On the occurrence of any one of the events aforementioned, the Firm shall promptly (within 15 days) inform CAAN, TIACAO along with remedial action (s) taken or proposed to be taken by the Firm in connection therewith.

Further, CAAN, TIACAO on the receipt of the aforementioned information shall promptly inform the Monitoring Committee and commence joint consultation with Firm in order to devise a course of action to combat the exigency.

- C. (i) The default under this clause shall be deemed to have occurred at a time 45 days after the occurrence of any one of the events aforementioned within which time, no agreement between the parties as to the course of action to combat the exigency is reached.

- (ii) If the parties in their joint consultations have agreed to a course of action within 45 days CAAN, TIACAO may extend the time period, as directed by the Monitoring Committee subsequent to deliberations pursuant to sub – clause B above, which may be required for the implementation of the course of action jointly agreed upon.
- (iii) During the period as prescribed in this clause A above, the lease amount payable by Firm may be waived or reduced as recommended by the Monitoring Committee and approved by CAAN.

2.10.2 Resolution of Dispute

In the event that the Parties are unable to agree in good faith about the occurrence or existence of a Force Majeure Event, such Dispute shall be finally settled in accordance with the Dispute Resolution Procedure, provided under [Article 13](#). However, that the burden of proof as to the occurrence or existence of such Force Majeure Event shall be upon the Party claiming relief and / or excuse in account of such Force Majeure event.

2.10.3 Liability for other Losses, Damages etc.

Until and except as expressly provided in [this Article 10](#), neither Party hereto 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 to [this Article 10](#).

2.10.4 Duty to Report

The Affected Party shall discharge the following obligation in relation to reporting the occurrence of a Force Major Event to the other Party.

- (a) The Affected Party shall not claim any relief for or in respect of a Force Majeure Event unless it shall have notified the other Party in writing of the occurrence of the Force Majeure Event as soon as reasonably practicable and in any event within 7 (seven) days after the Affected Party knew or ought reasonably to have known, of its occurrence and the probable material affect that the Force Majeure Event is likely to have on the performance of its obligations under this Agreement.
- (b) Any notice pursuant to [this Article 10](#) shall include full particulars of:
 - (i) The nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Article 10 with evidence in support thereof,
 - (ii) 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 Agreement,
 - (iii) The measures which the Affected Party is taking, or proposes to take, to alleviate the impact of such Force Majeure Event; and

- (iv) Any other information relevant to the Affected Party's claim.
- (c) For so long as the Affected Party continues to claim to be affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) written reports containing information as required by this [Article 2.10](#) and such other information as the other Party may reasonably request the Affected Party to provide.

2.10.5 Excuse from Performance of Obligations

If the Affected Party is rendered wholly or partially unable to perform its obligations under this Agreement 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 written notice to that effect and shall promptly resume performance of its obligations hereunder.

ARTICLE 11

CHANGE IN LAW

2.11.1 Change in Law

If, as a result of Change in Law, the Firm suffers a decrease in gross annual revenue by more than 30%, then the Employer may consider the lease amount for that year as deemed appropriate.

2.11.2 Extension of Lease Period

The Monitoring Committee shall, upon being notified by the Firm of the Change in Law and the proposed amendments to this Agreement, assess the change in the financial position as a result of such Change of Law and determine the extension to the Lease Period so as to put the Firm in the same financial positions it would have occupied had there been no such Change of Law and recommend the same to the Employer. The Employer shall, within 30 days of receipt of such recommendation, extend the Lease Period by such period as has been recommended by the Monitoring Committee.

ARTICLE 12

MISCELLANEOUS

2.12.1 Drawings

The Employer shall provide, on request, all the drawings of the buildings, civil, electrical and other utilities to the Bidders, selected for implementing OM of TIA at Kathmandu during preparation of the Bid.

2.12.2 Performance Bond

Within Fifteen (15) days of receipt of the notification of award from the CAAN, successful bidder shall furnish to the CAAN performance bond as per the format of CAAN, issued from a commercial bank or financial institution, validation of whole contract period having the 10 percent amount shall be deposition in the CAAN. The Performance Bond must be guaranteed by Class A commercial Bank of Nepal *in case the bond is issued by foreign bank.*

2.12.3 Representation

- (i) The Employer has all necessary power, authority and capacity to enter into this Agreement and to perform its obligation under this Agreement.
- (ii) The Firm has all necessary power, authority and capacity to enter into this Agreement and to carry out its obligations under this Agreement.

2.12.4 Contractual Ethics

No fees, gratuities, rebate, gifts, commission or other payments, other than those shown in the proposal or the Agreement, have been given or received in connection with the selection process or in the Agreement execution.

2.12.5 Notices

Any notice or request required or permitted to be given or made pursuant to this Agreement shall be in writing and in the English language. Such notice or request shall be deemed to be duly given or made when it shall have been delivered by hand, email, mail or facsimile to the party to which it is required to be given or made at such party's address specified in writing to the party giving such notice or making such request.

Address of the Employer:

**Corporate Directorate ,
Civil Aviation authority of Nepal,
Head Office Babarmahal, Kathmandu, Nepal
Phone no:– 977-1-4262416, 4262923,
Email :- censatm@mos.com
Fax :- 977-1-4262516**

A party may change its address for notice hereunder by giving the other party notice of such change pursuant to this clause.

2.12.6 Contract Agreement

This Contract Agreement may be executed in two counterparts, each of which when executed and delivered shall constitute an original of this Contract.

In witness whereof the parties hereto, acting through their representatives duly authorized, have caused this contract agreement to be signed in their respective names as of the day and year first above written.

Civil Aviation authority of Nepal (CAAN), Head Office, Babarmahal, Kathmandu, Nepal

By _____

Authorized Representative

Firm _____

By _____

Authorize Representative

Witnesses

Civil Aviation authority of Nepal (CAAN), Head Office, Babarmahal, Kathmandu, Nepal

By _____

Firm _____

By _____

2.12.7 Entire Agreement

This Agreement and agreements and matters referred to herein constitute the entire Agreement between the parties and supersede and cancel all prior representations, negotiation, undertakings, letters, acceptance, agreements, understanding and communication whether verbal or written between the parties hereto or their agents, with respect to or in connection with the subject matter of this Project agreement and no agreement or understanding varying the terms and conditions hereof shall be binding on either party hereto unless in written form and duly signed by authorized representatives of both parties. In the event of any inconsistencies between this Agreement and any of the attachments or other documents referred to herein, the provisions of this agreement shall prevail. By this reference such attachments are made an integral part of this Agreement.

2.12.8 Assignment

The Firm agree that it will not assign this Agreement nor any interest or rights or benefits or obligations in it, either in whole or in part, whether by operation of law or otherwise, without the prior written consent of the Employer to others. Any attempted assignment or delegation without the Employer's written consent will be void and of no effect. Subject to the foregoing, the interest, rights, and liabilities of the parties under this Agreement will bind and inure to the benefit of the parties' respective successors and permitted assigns.

2.12.9 Notarization

Notarization of all or some of the documents of the winning bidder by Notary Public or concerned Embassy / diplomatic entity in Nepal may be required by the Employer, if need be.

2.12.10 Management of Staff / Labour

The Firm (Lessee) shall make the Employer free from ensuring the continuity of the job of the workforce (regular staff, labourers, etc.) at the end of the contract period.

ARTICLE 13

DISPUTE RESOLUTION

2.13.1 Amicable Settlement

If any dispute or difference shall at any time arise out of or in connection with this Agreement, the Parties shall promptly and in good faith negotiate with a view to its amicable resolution and settlement.

2.13.2 Arbitration

In the event no amicable resolution or settlement is reached within a period of thirty (30) calendar days after receipt by one party of the other party's request, such disputes and/or differences shall be settled by panel of three Arbitrators, each Party shall appoint one arbitrator and the appointed arbitrators shall appoint a third arbitrator who shall act as the presiding arbitrator. The award given by the arbitrators' tribunal shall be final and binding upon the parties hereto. The arbitration proceedings shall be held in Kathmandu, Nepal.

2.13.3 Rules of Arbitration

Except as stated herein, arbitration proceeding shall be conduct in accordance with the rules of the United Nations Commission on International Trade Law (UNICTRAL) as in force on the effective date of this Contract, unless the Parties agree to adopt the proceeding in accordance with rules of arbitration under the Arbitration laws of Nepal and any modification thereto.

2.13.4 Dispute & Performance

The existence of any dispute or differences or the initiation or continuation of the arbitration proceeding shall not postpone or delay the performance by the parties of their respective obligation pursuant to this Agreement.

2.13.5 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of Nepal.

SECTION – 3

CARGO DATA, FORECAST, BIDDERS'S REQUIREMENT and BID LESSEE AMOUNT

3.1 Cargo Data

3.1.1 Cargo Data from TIACAO

(a) Cargo Data only goods

Year	Export Cargo (MT)	Import Cargo (MT)
2008	7,568	6,317
2009	7,922	7,426
2010	6,922	7,100
2011	6,249	7,236
2012	7,799	6,430
2013	10,056	7,442

(b) On Aircraft and Passenger Movement (Intl)

Both Aircraft and Passenger movement (international) show a very healthy trend of growth since last 5 years. Altogether 25 International Airlines currently operate scheduled flights at TIA.

3.1.2 Warehouse rates, Cargo and Income Data as per NTWMCL are as

follows:

(a) Rates being applied currently by NTWMCL

[Note: Rs 1.00 =100 Pice]

(1) Export

(1.1) General Goods (Per Consignment)

(a)	Upto 50 Kg	-	Rs. 70.00
(b)	From 51 Kg upto 500 Kg	-	Rs. 140.00
(c)	From 500 Kg upto 1000 Kg	-	Rs. 220.00
(d)	Over 1000 Kg	-	Rs. 280.00

(1.2) Demurrage Charge

(a)	First seven (7) days	- Free
(b)	From eight (8) days to thirty (30) days	- 40 Pice Per day / kg
(c)	From thirty one (31) days to sixty (60) days	- 80 Pice Per day/ kg
(d)	Over sixty (60) days	- Rs. 1.20 Per day / kg

(1.3) Valuable goods -Rs. 280 Per Consignment

(2) Import

(2.1) General Goods

(2.1.1) Warehouse Charge per day per Kg

(a)	Warehouse charge upto seven (7) days	-	3 Pice
(b)	Handling Charge (governmental and personal effects)- Rs. 43.00 per packet or 80 pice per Kg whichever is higher.		

(2.1.2) Demurrage Charge

(a)	Upto first seven (7) days	-Free
(b)	From eight (8) days to thirty (30) days	-40 Pice day / kg
(c)	From thirty one (31) days to sixty (60) days	-80 Pice day / kg
(d)	Over sixty (60) days	-Rs. 1.20 day / kg

(2.2) Courier Charge

Tentative Estimate of Income form Air cargo Complex

As per Technical Proposal Appendix-H

Document Parcel and Dip. Mail Rs. 10 per pkts.

Others Rs. 43 per pkts or 80 Paise per kgs whichever is higher.

2.2.1 Rates being applied for Cargo Handling is much lower than those quoted in CAAN Airport Service Charge Regulation, 2067. See Appendix-A.]

3.1.3 As per Nepal Rastra Bank Data

(a) Foreign Trade

Data on "Foreign Trade" of Nepal, as per Nepal Rastra Bank, for the last seven (7) years are as follows:

(Rs in million)

Particulars	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11
Total Exports	58,705.7	60,234.1	59,383.1	59,266.5	67,697.5	60,824.0	64,560.4
To India	38,916.9	40,714.7	41,728.8	38,555.7	41,005.9	39,993.7	43,346.0
To Other Countries	19,788.8	19,519.4	17,654.3	20,710.8	26,691.6	20,830.3	21,214.4
Total Imports	149,473.6	173,780.3	194,694.6	221,937.7	284,469.6	374,335.2	394,901.2
From India	88,675.5	107,143.1	115,872.3	142,376.5	162,437.6	217,114.3	261,631.2
From Other Countries	60,798.1	66,637.2	78,822.3	79,561.2	122,032.0	157,220.9	133,270.0

Note :- Fiscal years 2011/12 and 2012/13 data on "Foreign Trade" of Nepal, as per Nepal Rastra Bank, if necessary, shall be received from Nepal Rastra Bank.

- (b) Some other generic Facts of Nepal
- (i) Merchandise exports of the government increased by 14.1 per cent to Rs. 48.56 billion during the first eight month of the fiscal year 2068/69.
- (ii) Exports to India went up by 14.5 per cent during the eight months compared to an increase of 10.1 percent in the corresponding period the previous year.
- (iii) Exports to other countries also went up by 13.5 percent. Last year they had fallen by 1.7 percent in the corresponding period.
- (iv) Export of woolen carpets, readymade garments, pashmina, Nepalese paper and paper products and tanned skin, among others, increased to other countries.
- (v) During the eight months of the FY 2068/69, merchandise imports increased by 16.6 percent to Rs. 295.24 billion. Such imports had increased by 1.2 percent to Rs. 253.13 billion in the corresponding period last year.
- (vi) Imports from India increased by 12.0 percent during the review period compared to a growth of 24.7 percent in the corresponding period last year. Likewise, imports from other countries increased by 26.3 percent compared to a decline by 27.2 percent in the corresponding period last year.
- (vii) Carpet export increased by 44.5% to Rs 3,36,58,00,000.00 in the first six months of FY 2068/69 corresponding to same period of the previous period.
- (viii) Total import of Nepal is approximately six times higher than the total export. First six months of FY 2068/69 saw the import of Rs. 2,54,950 million worth goods while the export was only Rs 42,590 million worth goods.

Note :- Fiscal two years 2011/12 and 2012/13 data on "Some other generic Facts of Nepal " as per Nepal Rastra Bank.

3.2 Forecast

By virtue of the data in clause 3.1 above,

- (i) It is hypothetically expected that export cargo will annually increase and import cargo also will annually increase. The total volume/quantity of cargo is expected to reach to the tune of

- 37,000 MT by 2023AD.
- (ii) When the rates as presented in Appendix A is applied, the gross income is expected to increase by many folds. Bidders are to note this point seriously.

Year	Export Cargo (MT)	Import Cargo (MT)
2008	7,568	6,317
2009	7,922	7,426
2010	6,922	7,100
2011	6,249	7,236
2012	7,799	6,430
2013	10,056	7,444

3.3 Bidder's Requirement

3.3.1 The bidder is required to furnish the following data for evaluation:

1. Lease amount per year for ten (10) year period,
2. Net Present Value of lease amount @ 10% Discount Rate and
3. Proposed further commodity-wise breakdown of ACC storage Charge / Fee per kg, if any, remaining within the limits prescribed in Appendix 'A' of Financial Proposal Document.

3.3.2 The bidder shall support the Business Plan with the following data remaining within the limits prescribed in CAAN Airport Service Charge Regulation, 2067 on "Cargo Handling Services Charges". (See Appendix 'A' of Technical Proposal.)

A. Proposed ACC Handling / Storage Charge / Fee (Export)

S.No.	ACC Storage Charge/Kg.	Com. Goods	Valuable	Perishables	Dangerous Goods	Courier shipment	Others	Remarks
1	Free Time (24 hours)							
2.	2 nd -31 st day							
3.	32 nd -61 st day							
4.	61 st day onwards.							

5.	Loading/Unloading /Kg. (complete cycle within ACC / warehouse)							
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B. Proposed ACC Handling / Storage Charge / Fee (Import)

S.No.	ACC Storage Charge/Kg.	Com. Goods	Valuable	Perishables	Dangerous Goods	Courier shipment	Others	Remarks
1	Free Time (5 Days)							
2.	6 th – 35 th Day)							
3.	36 th -65 th Days.							
4.	65 th day onwards							
5.	Loading/Unloading /Kg. (complete cycle within warehouse)							
6.	Loading/Unloading /Kg. (complete cycle outside warehouse)							

C. Proposed Annexure

1. Estimation of Additional Fixed Assets Investment
2. Projection of Capacity utilization for a period of ten (10) years
3. Estimation of Working Capital Requirement
4. Source of Financing
5. Estimation of Annual Operating Cost for a period of ten (10) years
6. Income projection for a period of ten (10) years
7. Projected Income Statement for a period of ten (10) years
8. Cash Flow Projection for a period of ten (10) years
9. Projected Balance sheet for a period of ten (10) years
10. Financial Ratios for a period of ten (10) years.

3.4 Investment as per CAAN Document

The existing fixed assets investment in Air Cargo Complex is estimated at Rs.1,084.67 million and additional investment required for fixed assets is estimated at Rs.160 million as detailed in Appendix B of *Technical Proposal*.

BID / LEASE AMOUNT

Minimum Lease Amount to Bid for the first three years shall be NRs. 6,98,90,394.50 per year with ten (10) % increment in lease amount for every other consecutive three years period until the termination of the Contract.

The bidder shall submit the bid rates for lease amount payment to CAAN, TIACAO from the day of the start of OM of ACC at TIA in the format as shown below:

TABLE 3: PAYMENT SCHEDULE OF BID AMOUNT

S.No.	Year	Monthly lease amount in NRs.	Annual lease amount in NRs.	Discount Factor * @ 10% Discount Rate	Net Present Value in NRs.
			(3) x 12		(4) x (5)
(1)	(2)	(3)	(4)	(5)	(6)
1	First Year			0.9498	
2	Second Year			0.8634	
3	Third Year			0.7849	
4	Fourth Year			0.7136	
5	Fifth Year			0.6487	
6	Sixth Year			0.5897	
7	Seventh Year			0.5361	
8	Eighth Year			0.4874	
9	Ninth Year			0.4431	
10	Tenth Year			0.4028	
	Total Amount				
	Total Lease Amount in words	Nepalese Rupees			
	Total Net Present Value in words	Nepalese Rupees			

Note: *Discount Factor is based on average of initial and end of each year

SECTION – 4

CONTRACT AWARD FORMS

Form No. 3

LETTER OF ACCEPTANCE

To

Description of works:

Operation and Management of Air Cargo Complex (ACC) at TIA in Kathmandu.

Sirs,

- 1. After careful examination and evaluation of Technical and Financial Proposals of all bids submitted for the Operation and Management (OM) of ACC at TIA in Kathmandu for ten (10) years period, CAAN is pleased to inform you that your Firm has been selected and your bid for the total lease amount of NRs. _____ for ten (10) years period has been accepted.**
2. You are requested to acknowledge the receipt of LOA without delay and sign Contract Agreement at the Employers Address within Thirty-five (35) days from the date of your acknowledgement. Sample copy of the contract Agreement is attached herewith.
3. Failure to acknowledge this LOA and /or signing of the Contract Agreement within the stipulated time shall be considered as “Non-Acceptance” and CAAN shall have the right to negotiate with the other Bidder (s).

Dated thisDay of

Authorized Signature.....

Name of CAAN representative.....

**Corporate Directorate ,
Civil Aviation authority of Nepal,
Head Office Babarmahal, Kathmandu,Nepal**

Civil Aviation Authority of Nepal
Head Office Babarmahal, Kathmandu, Nepal.

Form No. 4

SAMPLE FORM OF CONTRACT AGREEMENT

THIS CONTRACT AGREEMENT made this _____ day of _____(Month) _____ (Year) at _____ between **Corporate Directorate, Civil Aviation authority of Nepal (CAAN)**, Head Office Babarmahal, Kathmandu. an (hereinafter called "the Employer") and M/S _____ Limited, registered as a joint venture company as per the Nepalese Law having its registered office at _____ herein referred to as the "Lessee",

WHEREAS, CAAN is keen to implement a project envisaging Operation and Management (OM) of Air Cargo Complex (ACC) at Tribhuvan International Airport (TIA) in Kathmandu (herein after referred to as "the Project") with private sector participation under lease agreement,

WHEREAS, Air Cargo Complex shall eventually have to be transferred to the Employer (**Civil Aviation authority of Nepal**) after the lease period,

WHEREAS, the Firm of International and Local firms as joint venture company has been duly registered at Department of Industry / and Office of the Company Registrar in Nepal in accordance with law of Nepal,

It is agreed between the Employer and the Firm for the Lease Agreement for the Development, Operation and Management of ACC at TIA.

NOW THIS CONTRACT AGREEMENT WITNESSED AS FOLLOWS:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract herein referred to,
2. The following Documents shall be deemed and read and construed as part of this Agreement. The Agreement and the following documents are hereinafter referred to as "the Contract"
 - (a) Letter of Acceptance
 - (b) Proposals (Technical and Financial) of the Bidder
 - (c) Conditions of Contract Agreement
 - (d) Specification of Work and Service
 - (e) Drawings
 - (f) Bid Data
 - (g) Bid / Lease Amount
 - (h) Schedules of Technical information,

3. In consideration of the payments to be made to the Owner by the Lessee, here-in-after mentioned "the Firm", the Firm hereby covenants with the Employer to commence the OM activities within 30 days from the date of signing this Agreement,
4. The Lessee hereby covenants to pay to the Owner the annual lease amount as mentioned in the schedules of the Bid items and Bid Amount on three (3) monthly advance payment basis within first 7 (seven) days of each quarter (3 months) period.
5. The agreed charge rates are attached herewith.

In Witness whereof the parties hereto have caused this Agreement to be executed on the day and year above written.

Signed, Sealed and Delivered by the said

in the presence of:

Binding Signature of Employer

Binding Signature of the Bidder

Witness from CAAN (Employer)

1. _____
2. _____

Witness from Firm (Lessee)

1. _____
2. _____

**FORM OF PERFORMANCE BOND
(Specimen)**

**Corporate Directorate,
Civil Aviation authority of Nepal,
Head Office, Babarmahal, Kathmandu, Nepal**

WHEREAS(Name of the Firm) hereinafter called the “Bidder” has submitted his Bid dated(Date) to **Operate and Manage ACC at TIA in Kathmandu** herein after called “ the Bid”,

AND WHEREAS it has been stipulated by you in the said Bid that the Firm shall furnish the Employer with a Performance Bond (Bank Guarantee) from the International bank, which should be issued by a commercial Bank (s) in Nepal duly authorized by Nepal Rastra Bank for the sum specified therein as security for compliance with his obligations in accordance with the Bid,

AND WHEREAS we have agreed to give the Firm such a Bank Guarantee,

NOW THEREFORE We hereby affirm that we are the Guarantor and responsible to you, on behalf of the Firm, up to a total of _____ (amount of Guarantee in words), such sum being payable in the type in which the Lease Amount is payable, and we undertake to pay you, upon your written demand and without cavil or argument. Any sum or sums within the limits of _____(amount of Guarantee) as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Bid before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Bid or any of the Works to be performed there under or any of the Contract Documents which may be made between you and the Firm shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition or modification.

This guarantee shall be valid for _____ (time period as mentioned in the Conditions of Contract) from the date of signing of the Agreement. It is understood that we (The Bank) shall extend this guarantee for the time period as mentioned in the Conditions of Contract.

Signature and seal of the Guarantor

.....
Designation

Address

Date

Name of the Bank

Form No. 6

FORM OF BID BOND (BANK GUARANTEE)

WHEREAS (Name of the Bidding firm),
Here-in-after called the “Bidder” has submitted his bid dated (Date) for the **Development Operation and Management of ACC at TIA in Kathmandu** here-in-after called “the Bid”.

KNOW ALL MEN by those prudent that We.....
(Name of Bank) of(Name of Country)
having our registered office at herein after called “ the Bank” are bound unto **Civil Aviation Authority of Nepal, Babarmahal, Kathmandu** (here-in-after called “CAAN”) in the sum of
for which payment well and truly to be made to the said CAAN the Bank binds himself, his successors and assigns by these presents.
This guarantee is valid from (Date) to (Date).

SEALED with the Company Seal of the said Bank this day of
..... 2015.

THE CONDITION of this obligation are:

1. If the Bidder withdraws his bid during the period of bid validity specified in the Form of Bid, or
2. If the Bidder dose not accept the correction of arithmetical errors of his Bid price in accordance with the instruction to Bidders: or
3. If the Bidder having been notified of the acceptance of his Bid by the CAAN, TIACAO during the period of Bid validity:
 - a) fails or refuses to execute the Form of Agreement in accordance with the instructions to Bidders if required : or
 - b) fails or refuses to furnish the Performance Bond, in accordance with the instructions to Bidders.

We undertake to pay to the CAAN up to the above amount upon receipt of his first written demand, without the CAAN having to substantiate his demand, provided that in his demand the CAAN will note that the amount claimed by him is due to him owing to the occurrence of one or both of the two conditions specifying the occurred condition or conditions.

This Guarantee will remain in force up to and including the date 6 Months after the deadline for submission of bids as such deadline is stated in the instructions to Bidders or as it may be extended by the CAAN, notice of which extension(s) to the bank is hereby waived. Any demand in respect of this Guarantee should reach the Bank not later than the above date.