



**AIRPORTS AUTHORITY OF INDIA
DABH Airport, Indore**

Request for Proposal (RFP)

**For
Advertising Rights Concession to Design,
Develop, Operate and Market the Advertising
Opportunity in the Entire Airport Estate at DABH
Airport, Indore**

JUNE - 2018

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E-Tendering guidelines to the bidders

1. E-Tendering Participation Requirements : Interested vendors willing to participate through e-tendering process are required to register themselves on the portal <http://etenders.gov.in> following the process given below :
 - 1.1. Click on the link “**New bidder**”. Apply for Access authentication User name and Password. The system generated user identification (UID) followed by Password is essential for downloading and participating in E-tender. The tender document is uploaded by AAI using digital signatures. However, digital signature is not required for downloading of tender document. The portal can be **viewed through guest user (ID)** for getting tender details & other information at portal.
 - 1.2. Vendors who are already registered with the portal can use their existing User ID & Password to log into the portal.
 - 1.3. There is no registration fee applicable. However, bidder(s) shall have to pay RFP processing fees through electronic payment mode.
 - 1.4. (i) For any technical assistant with regard to the functioning of the portal the bidders as well as AAI users may establish contact according to the escalation matrix as mentioned below:

Sl.No	Timing between 0800 : 1900 hrs	Help Desk No.	Escalation Matrix	Email address
1.	0800 hrs to 1900hrs			esap1@aai.aero
2.	Help Desk Team	011-24626632 08510096161	Instant support	
3.	Mr. Rajender Kumar Boora	08800093361	After four hours of issue	rkboora@aai.aero
4.	Mr. Sanjeev Kumar	011 24632950 Extn: 3523		etendersupport@aai.aero
3.	S. Ravichandran	09444243604	After 8 hours of issue	src@aai.aero
4.	Venu .T	08137073167	After 24 hours of issue	tvenu@aai.aero
5.	General Manager IT		After 24 hours of issue	gmit@aai.aero

(ii) The above mentioned help desk numbers are intended only for queries related to the issue on e-tendering portal and help needed on the operation of the portal. For queries related to the tenders published on the portal, bidders are advised to contact concerned Bid Manager from AAI.

- 1.5.** Digital Certificates: Vendors are required to obtain digital certificate of Class III from authority duly certified from Govt. of India. (Please see www.cca.gov.in)
- 1.6.** Bidders training support system: Detailed information in this regard have been provided to the bidders at the portal <http://etenders.gov.in>
- 1.7.** Training support system for registered bidders is given inside the portal and visible to the registered bidders only.

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DISCLAIMER

The information contained in this Request for Proposal document (the “**RFP**”) or subsequently provided to Bidder(s), whether in documentary form, by or on behalf of the Authority is provided to Bidder(s) on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

This RFP is neither an agreement nor an offer by the Authority but an invitation to the prospective Bidders or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in the formulation of their Proposal for Selection pursuant to this RFP (the “**Proposal**”). This RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Concession. Such assumptions, assessments and statements do not purport to contain all the information that each Bidders may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in this RFP 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 RFP and obtain independent advice from appropriate sources.

Information provided in this RFP 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. The Authority accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

The Authority, 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 RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way with pre-qualification of Bidders for participation in the Bidding Process.

The Authority 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 RFP.

The Authority 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 RFP.

The issue of this RFP does not imply that the Authority is bound to select and short-list pre-qualified Proposals for Bid Stage or to appoint the Selected Bidder or Concessionaire, as the case may be, for the Concession and the Authority reserves the right to reject all or any of the Proposals without assigning any reasons whatsoever.

The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Proposal including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Authority or any other costs incurred in connection with or relating to its Proposal. All such costs and expenses will remain with the Bidder and the Authority shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by an Bidder in preparation for submission of the Proposal, 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 RFP and ensure accuracy thereof. The Authority or its employees 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 the Authority including termination, debar, forfeiture of Bid Security and/or Security Deposit. The Bidder shall also indemnify the Authority and its employees from actions arising out of this RFP.

DEFINITIONS AND INTERPRETATIONS

In this RFP, the following expressions shall have the meaning stated herein:

“Access Date” shall mean The date on which the Concessionaire is handed over physical possession of the approved location (after completion of the contractual formalities like acceptance of LOIA, submission of security deposit, signing of agreement etc) within the incubation period. In case the agency fails to take over the approved sites within 60 days of LOIA, the 61st day from LOIA shall be deemed to be the access date.

A handing over/taking over report to be signed by the concessionaire with AAI on or before the commencement date.

“Access to Concessioned Premises” The concessionaire and its bonafide representatives, employees, agents, business associates will be accorded access to the concessioned premises for carrying out all activities related to its business at all times subject to adherence of security requirements as set out by AAI/BCAS from time to time.

“Addendum” shall mean any written amendment to this RFP, from time to time issued by Authority in accordance with Clause-2.11 hereof.

“Advertisement” would mean display of advertisement material by any medium of the choice of the Concessionaire without any distinction of being illuminated or non illuminated including advertisement by means of pictures, printed material, digital/laser and/or electronic medium, outdoor hoardings, product showcasing and any other form that are not objectionable or prohibited by Applicable Law subject to approval of AAI

“Advertisement Display” would mean a specially fabricated display structure able to either carry a static/ moving/multiple imaging advertisement/ information/ corporate communication display with or without advertisement impact study accessories/ devices, held and fixed in a manner as per fixing/hoisting arrangement approved by AAI, and would also include “Product/Services Showcasing/Display” and would mean a specially fabricated structure or an earmarked area to be used for showcasing any type of products, vehicles, services with or without human interface at locations specifically approved in the “Location Layout Plan” by AAI

“Advertisement Display Area” shall mean the Actual Advertisement Area[i.e. (Length X Breadth/Height)/(Circumference X Breadth/Height) or as the case may be irrespective of number of images displayed through a single advertisement structure excluding the mounting frames/facilities necessary for its hoisting/fixing/fabrication in-situ. However in case where the advertisement is carried out by occupying the floor space the actual floor space occupied would be the unit of charge of Advertisement Area provided the height of the display is not exceeded by ten (10) feet.

“Advertising Rights Concession” would mean “Exclusive Advertisement Rights” and cover all types of indoor and outdoor advertising/brand promotion media, such as Bill Boards, Gantries, Back Lit Static Displays, Stunners, Display Windows, Digital/Laser Floor/Ceiling graphics, Product/Services Showcasing with or Without Human Interface, Vehicle & Refitted Vehicle Displays with or without Human Interface, Multiple Imaging, Electronic & Digital Displays (e.g. Video Wall & Close Circuit Flight Information Televisions), Display on LCD /LED TV , Time & Temperature Displays, Ball Balloons, Shoe Shining Machines, Multi Screen Moving Displays, Conveyor Belt Advertisements, Pillar Wraps, Special Brand Promotion, Drop Downs/ Banners/ Decorations on special events, Mobile/Laptop chargers, Sponsorship/Advertising on Security Trays, Queue Managers and any future advertising innovations etc.

“Airport” shall mean the entire Airport Estate located at INDORE and would include all its present and future terminal buildings, land, buildings, roads, car parks, equipments facilities and systems.

“Airport Branding Area” shall mean a specifically reserved advertisement area to be used for Authority Branding/ Social Messages/Information dissipation purposes. This Advertisement Area would be in addition and will not at any time exceed five percent (05%) of the Assigned Advertisement Area licensed to the concessionaire. The provision of these Advertisement Display structures however will be the responsibility of the Concessionaire at his cost in consultation and with approval of Authority. However the costs related with exhibition of information on these displays would be borne by Authority. (Refer Clause 5.2.5)

“Airport Users” shall mean any person using or involved in activities at, or in connection with or in relation to the Airport, including without limitation, staff of the Airport and airlines operating at the Airport, the passengers and flight crew members of airline.

“Alternative Location” shall mean the particular Advertisement location offered/sought for relocating/substituting the original location as per approved layout plan within the limitations of Location layout Plan approval protocol.

AAI will adopt flexible approach wherever possible while finalizing location lay out plan and the concessionaire will have the right to choose the best locations from the available area identified in the location lay out plan.

“Annual escalation of License fee” will be as follows:

“(i) The following principles shall be followed while working out the escalation

(a) The rates of recurring payments shall be escalated every year from the first day of the month from first billing date.

(b) The base date for working out such escalation shall be the first day post completion of gestation period.

(ii) The escalation shall be worked out as per the formula given below:-

$$Rn1 = (CPI1 - CPI0) / CPI0$$

$$Rn2 = (Pax1 - Pax0) / Pax0$$

$$Rn = (0.2 Rn1 + 0.8 Rn2) * 100\%$$

Rn: Escalated rate/Revised rate which shall be applicable in the year which is to follow after the completion of n years since the first day of the month after the Bid opening month.

R: Rate quoted by the licensee at the time of bid.

CPII: The monthly consumer price index (All India CPI- General Index(Urban) for Delhi center as issued by The Central Statistics office (CSO), Ministry of Statistics and programme Implementation (Govt. of India), latest series shall be applicable. The monthly index applicable shall be the annual average of CPI starting from 1 year prior to the date on which the escalation is being calculated to the last available CPII at the time of escalation of rate.

PaxI: The annual passenger traffic for respective airports is issued by Airport Authority of India shall be applicable. The annual traffic date starting from 1 year prior to the date on which the escalation is being calculated shall be applicable

CPIo: The monthly Consumer price index (ALL India CPI-General Index(Urban) for Delhi central as issued by The Central Statistics Office (CSI), Ministry of Statistics and program Implementation (Govt. of India), latest series shall be applicable. The monthly Index applicable shall be the annual average of CPI starting from 1 year prior to receipt of bid to the last available CPII at the time of receipt of bid.

Paxo: The annual passenger traffic for respective airports as issued by Airports Authority OF India shall be applicable. The annual traffic data starting from 1 year prior to the date of receipt of bid shall be applicable

iii). Rate of Escalation (Rn) will be calculated per annum as per sample calculation given below. However, for practical purpose Rn will be calculated from the last available CPII at the time of escalation of rate. No reduction in the applicable current rate shall however be allowed in case the revised rate falls below the rate existing at the time when escalation is calculated for rate. (i.e. if Rn+1 is worked out less than Rn, the rate Rn will continue to be applicable).

iv). Rate of Escalation (Rn) will be calculated on the basis of the abovementioned formulae. However, the lower limit (floor) of 10% and upper limit (cap) of 20% shall be applicable on the escalation rate. The calculated rate will be rounded to the closest 0.5%. for example, if the calculated Rn=14.37% , a rate of 14.5% shall be used to calculate annual escalation."

"Applicable Laws" means all applicable laws for the time being in force and effect as of the date hereof and which may be promulgated or brought into force and effect hereinafter in India 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 there under, 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 any statutory authority, including any notification issued by the Reserve Bank of India or of any Governmental Authorities, as may be in force and effect during the subsistence of the Agreements.

"Applicable Permits" means all clearances, licenses, permits, authorizations, no objection certificates, consents, approvals and exemptions required to be obtained or maintained under Applicable Laws in connection with the development, operation and maintenance of the Concessions, for or in respect of the Concession Agreement including but not limited to the approvals from Airport Health Officer, Airport Security and all other approvals as may be required to execute, give effect to, and perform the Agreement and the approvals and consents required from Authority or any other Governmental Authority pursuant to this RFP or the

Agreement, including any third party approvals as may be required by the Concessionaire.

"Assigned Advertisement Area" shall mean the composite Advertisement Area which has been approved to be used for Advertisement purposes as per Approved Location Layout Plan.

"Associate" Associate company in relation to another company means accompany in which that other company has a significant influence, but which is not a subsidiary company of the company having such influence and includes a joint venture company as per Companies act 2013

Explanation: For the purpose of this clause “significant influence means control of at least twenty percent of total share capital or of business decisions”

“**Authority**” shall mean the Airports Authority of India constituted under Airports Authority of India Act, 1994, including any amendment /re-enactment thereof.

“**BCAS**” means Bureau of Civil Aviation Security and its branch offices having jurisdiction over airport of concession.

“**Bid Process**” shall mean the bidding and selection process as detailed in this RFP.

“**Bidder**” shall mean a sole entity or a Consortium of entities, submitting a proposal pursuant to this RFP.

“**Business Incubation Period**” shall mean a period of sixty (60) days from the date of issuance of Letter of Intent to Award the Concession to the Selected Bidder. (Refer Clause 4.2.1 and 5.1.2). The selected bidder will be under obligation during this period to complete all formalities and meet other obligations as will be specified in the LOIA by Authority.

“**Chartered Accountant**” shall mean a person practicing in India or a firm where of all the partners are practicing in India as Chartered Accountant(s) within the meaning of the Chartered Accountants Act, 1949.

“**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.

“**Concession Agreement**” shall mean the agreement to be entered into between the Authority and the Selected Bidder (in case of consortium it will be **SPV**) as per the draft format set out in **Appendix-III** to this RFP.

“**Concession Fee**” Concession fee (License fee) for the first concession year shall be quote offered by the successful bidder for the tendered display area (i.e.; Quoted rate per sqft per month multiplied by total advertisement display area in the RFP/tender.).For subsequent concession years, the concession fee shall always be as per clause 10.2.3 of RFP.

“**Concession Fee Commencement Date**” shall mean the 61st day in respect of all tendered sites i.e. at the expiry of the Gestation Period of 60 days, reckoned from the Access date or a later date if notified by Authority. However in the event of

concessionaire commencing commercial exploitation of the approved advertisement locations as a sample marketing exercise, the concession fee shall be charged on Pro Rata basis.

For any sample marketing during the gestation period the licensee has to obtain prior approval from AAI in writing before such display at approved location.

Further during the gestation period if the licensee displays its own name, contact number, email, website etc. to make awareness towards being authorized advertisement agency at the airport as a self-marketing promotion such display during gestation period will not attract any concession fee.

However this partial utilization of the Assigned Area during the Gestation Period as Sample Marketing would not shift or affect the formal Concession Fee Commencement date.

“Concession Fee Holiday Period” would mean a period whereby the Airport Operations are suspended for Security/Operational/Civil Unrest/

Natural Calamities or any other requirements. The “Concessionaire” defined herein would be entitled to proportionate rebate in the payment of concession fee.

“Concession Period” shall mean, a period of Ten (10) years commencing from the Concession Fee Commencement Date, unless terminated earlier in accordance with the terms and conditions of the Concession Agreement.

“Concessioned Premises” would mean the premises where the advertising displays as per approved location layout plan are installed /positioned.

“Concession Year” shall mean each successive twelve months period during the concession term.

“Concessionaire” shall mean the Selected Bidder, who executes the Exclusive Advertisement Rights Concession Agreement with the Authority.

“Conflict of Interest” shall have the meaning as ascribed to the term in Clause 2.2.1(c).

“Consortium” shall mean a group of two or more entities, not exceeding three, coming together to submit a Proposal.

“Denial of Access to the Concessioned Premises” shall mean a situation whereby the concessionaire is continuously denied access to the concessional premises by Authority (Other than Security Requirements) on any grounds for more

than **7 days** (AAI Working Days), the entire period of denial of access would be construed as denial to conduct the concessional business and qualify for proportionate rebate of Concession Fee.

However such rebate would be permissible only if there is written document/communication by AAI towards such denial with reasons thereof.

“Displaced Location” shall mean an originally approved location ordered to be relocated at an Alternate location by Authority to meet its requirements. In such an event the Concessionaire would be entitled to a notice period of one month (30 days) and a Resurrection period of Thirty (30) days as already defined herein after the date of communication of approval of Alternate Location.

Further the agency has to submit the alternate location plan within 7 days of such notice and AAI will approve or suggest alternate sites within the 30 days of issue of notice. In case of non-agreement between the parties towards alternate location, the decision of AAI shall be final and binding upon the concessionaire. In such an event resurrection period would be deemed to be commenced from 31st day of notice. Such non-agreement will not attract any rebate other than permissible during resurrection period.

“Earnest Money Deposit ()” shall mean a specified amount to be deposited by each Bidder with Authority in accordance with Clause 2.20.

“Electricity Charges” shall mean the charges for the actual usage of electricity at the rate as applicable and as may be notified by the Authority from time to time, payable by the Concessionaire to Authority or any other agency appointed by Authority in this regard.

“Financial Proposal” shall mean the binding and final financial offer to be submitted by each Bidder online in the AAI E tender portal only. The quote in physical form as a document need not be submitted along with technical bid documents.

“Gestation Period” means the period commencing on the “Access Date” and expiring on the 60th day thereof.

“Government of India (GOI)” shall mean the Government of India and any agency, authority (including regulatory authority), department, inspectorate, ministry or statutory person (whether autonomous or not) under the control and direction of GOI.

“Governmental Authority” shall mean any government authority, statutory authority, government department, ministry, secretariat, agency, commission, board, tribunal or court or other law making body/ entity having or purporting to have jurisdiction on the parties to the Agreements, including the GOI or any other regulatory authority appointed by GOI having jurisdiction in relation to the subject

matter of the Agreements under

Applicable Law, the Bureau of Civil Aviation Security, the Central Industrial Security Force, and shall where appropriate include Authority.

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

“**Indoor Advertising Location**” shall mean an approved advertising location which is situated inside of an operational passenger terminal.

“**Interactivity**” is the dialog that occurs between a human being (or possibly another live creature) and a computer program.

“**Joint Bidding Agreement**” shall have the meaning ascribed to the term in Clause 2.2.5(f).

“**Lead Member**” in respect of a Bidder where the Bidder is a Consortium, shall mean such entity, which is named and identified as such in the Proposal and as described in clause 2.2.5(c).

“**Letter of Intent to Award**” or “**LOIA**” shall mean the written communication issued by Authority to the Selected Bidder intimating the acceptance of its Financial Proposal for award of the Advertisement Rights Concession in response to the RFP

“**Location Layout Plan**” shall mean the detailed location plan of positioning of advertisement displays in the Airport, its size and associated arrangements as submitted by the concessionaire based on its current business prospective and approved by Authority.(Authority will identify 1-2 places for product/promotional display inside terminal .For eg: car display) The concessionaire will have the option to seek rationalization of the originally approved location layout plan during the currency of the concession depending upon the dynamism and requirements of the market on yearly basis not exceeding 25% of the already approved lay out plan area.

“**Location Layout Plan Approval Protocol**” shall mean the methodology and limitations for approving the “Location Layout Plan” by Authority. However the Location Layout Plan submitted by the Concessionaire may be ordered to be altered/modified/substituted to suit the AAI requirements as expeditiously as possible but not later than **15 (FIFTEEN) working** days after the concessionaire has complied with the Authority directed alterations. However AAI decision shall be final and binding up on the concessionaire.

“Minimum Lock In Period” shall mean a period equivalent to fifty percent(50%) of the Concession Term commencing on the Concession Fee Commencement Date. (Refer Clause 5.3.1).

“Month” shall mean a Gregorian calendar month and for all calculation purposes would be considered to constitute thirty (30) days.

“Nodal Office” would mean the Department of Commercial at airport of concession.

“Notice of Dissatisfaction” shall mean a written notice of thirty (30) days served in writing by Authority/Concessionaire on the other, specifically highlighting the instances which bring out specifically the deficient discharge of obligations (Events of default) as provided in the “Concession Agreement” and especially the instance (s) of Unsatisfactory Performance as defined herein.

“Notice of Termination of Concession Agreement”

Authority as well as the Concessionaire will have the option to terminate the Concession Agreement after expiry of Notice of Dissatisfaction period of thirty (30) days by giving a further Notice in writing of Notice of Termination of One Hundred and twenty (120) days at any time during the currency of the concession agreement, but after having completed the minimum lock in period equivalent to fifty percent (50%) of the Concession Term. However Authority will be entitled to issue such Notice of Termination of one hundred and twenty (120) days even during the Minimum Lock in Period also in the event of Unsatisfactory Performance only as defined herein, if the concessionaire has not made amends after expiry of thirty (30) days notice period of Notice of Dissatisfaction.

“Occupancy Status Report” would mean a report on the status of the physical percentage of Assigned Advertisement area which could be commercially sold by the concessionaire in a quarter of a Concession year. The Concessionaire would be under an obligation to submit such report to Authority on a Quarterly basis.

“Original Location” would mean the Advertisement Location as physically handed over as per the first approved Location Layout Plan.

“Outdoor Advertisement Locations” shall mean an approved advertising location which is located outside the operational passenger terminal buildings.

“Outstanding Dues” shall have the meaning ascribed to the term in Clause2.2.1(d).

“Passenger Data” shall mean the passenger data provided by Authority as per **Appendix-II** to this RFP.

“Passenger Terminal” shall mean, wherefrom the passenger movements are operated/handled by the Authority.

“Proposal” shall mean the Technical and Financial Proposal to be submitted by each Bidder pursuant to this Request for Proposal (RFP) in the forms provided hereto.

“Proposal Due Date” shall have the meaning ascribed to the term in Clause -2.14.

“Proposal Validity Period” shall have the meaning ascribed to the term in Clause-2.17 of this RFP.

“Qualified Bidder(s)” shall mean the Bidder(s) who, after evaluation of their Technical Proposal as per Clause-3.3.4, stand qualified and eligible for opening and evaluation of their Financial Proposals.

“Rationalization Rights” of the concessionaire shall mean that the Concessionaire can seek rationalization of the originally approved Location Layout Plan once in a Year within the limitations of the Location Layout plan protocol subject to submission of a comprehensively revised Location Layout Plan after every such exercise. The concessionaire would be under obligation to co operate and co ordinate with Authority for undertaking a physical verification exercise in the first quarter of every concession year.

“Resurrection Period” shall mean a period of **Thirty (30) days** from the date of communication of approval of an Alternate Location in respect of a Displaced or Withdrawn Location and would be a Concession Fee Holiday Period on Proportionate basis in respect of the affected locations only

“Request For Proposals or RFP” shall have the meaning ascribed to the term in Clause 1.2.1.

“Sample Marketing” shall mean putting to use for display of Advertisement/Brand Promotion of some of the Advertisement Area out of the Assigned Advertisement Area as per Approved Location Layout Plan by the Concessionaire during the Gestation period either to its prospective clients or for Self Branding as the case may be. (Refer Clause 5.15.3).

For any sample marketing during the gestation period the licensee has to obtain prior approval from AAI in writing before such display at approved location.

Further during the gestation period if the licensee displays its own name, contact number, email, website etc. to make awareness towards being authorized advertisement agency at the airport as a self-marketing promotion such display during gestation period will not attract any concession fee. However this partial utilization of the Assigned Area during the Gestation Period as Sample Marketing would not shift or affect the formal Concession Fee Commencement date.

“Security Deposit” shall mean, the interest free security deposit to be furnished and maintained by the Concessionaire to Authority, at all times during the Concession Term, in the manner as set out herein and in the Agreement.

“Selection Process” shall mean the selection process detailed in Section 3 of the RFP.

“Selected Bidder” shall mean the first highest bidder who has quoted the highest amount after opening of the Financial Proposals and has been selected by the Authority pursuant to the selection process detailed in Section 3 of the RFP.

“Service Area” shall mean any storage area/office space/back office etc. including a remote warehouse, located at the Airport to which Authority may allow access to the Concessionaire for implementing the Concession on payment of Space Rental, Common Area Maintenance Charges, Electricity and Utility Charges as may be applicable from time to time during the currency of the Concession

“Space Rent” shall mean, with respect to a Terminal, the amount so notified by the Authority as per the extant guidelines to this effect to be the rent payable by the Airport Users for use of the Service Area within / outside such Terminal.

“Special Purpose Vehicle (SPV)” shall mean a company constituted by the Selected Bidder under the (Indian) Companies Act, 2013 for the purpose of executing the Concession Agreement with the Authority

“Taxes” means applicable national, local or foreign tax on gross income, gross receipts, sales, use, ad valorem, value-added, capital gains, transfer, withholding tax; duties of custom and excise, stamp duty or other taxes, fees, assessments or charges of any kind whatsoever, together with any interest and any fines, penalties, additions to tax or additional amount with respect thereto and "Taxation" or "Tax" shall have a corresponding meaning.

“Technical Proposal” shall mean the technical proposal to be submitted by each Bidder as part of the Proposal in the forms specifically provided in compliance with this RFP.

“Threshold Eligibility Criteria” shall mean the minimum eligibility criteria as prescribed in Clause 2.2.2 hereof, to be satisfied by Bidder (in case of the Consortium, the Lead Member) and / or its Associates, to be eligible to be a Qualified Bidder in terms hereof.

“Unsatisfactory Performance” shall mean **Events of default under the license agreement** and **also include** the continued failure of the Concessionaire to pay the Concession Fee resulting in Outstanding Dues exceeding fifty percent (50%) value of the Security Deposit maintained with Authority. Such a situation would entitle Authority to issue a Notice of Dissatisfaction as defined herein.

“Utility Charges” shall mean the charges for the usage of electricity, water, sewerage, data, voice communication and other analogous utilities at the Advertisement Area.

“Withdrawn Location” shall mean an originally approved location which has been caused to be withdrawn by Authority and for which Authority is not able to offer an Alternate Location within the limitations of Location Layout Approval Protocol. Such a withdrawal must precede a one month (30 days) notice and on expiry of the notice would qualify for proportionate concession fee holiday.

“Year” means a period of 12 Months.

2. Interpretation

- (a) Reference to Clauses, Sections, or Annexure is reference to Clauses, Sections, Recitals and Annexure of this RFP.
- (b) For the purpose of this RFP, where the context so admits, the singular shall be deemed to include the plural and vice-versa.
- (c) Except where the context requires otherwise, references to statutory provisions shall be construed as references to those provisions as respectively amended or re-enacted or as their application is modified by other provisions (whether before or after the date hereof) from time to time.
- (d) The Appendix of this RFP shall form an integral part of the RFP and shall be read along with the RFP.
- (e) The descriptive headings of Articles and Sections are inserted solely for convenience of reference and are not intended as complete or accurate descriptions of content thereof and shall not be used to interpret the provisions of this RFP.
- (f) In case any date/day mentioned in this RFP happens to be a holiday in Authority, the next working day will be reckoned to be the date/day originally intended to be the date/day.

Chapter One (01) INTRODUCTION

1. General Information

1.1.1

The Airports Authority of India (the "Authority") is engaged in the development, operation and maintenance of airport in India and as part of this endeavour, the Authority has undertaken the construction of new Terminals for domestic and international passenger traffic at INDORE Airport, which is located in the State of Kerala. In order to maintain and upgrade the passenger facilities for the Airport Users, Authority intends to grant Advertisement Rights at the INDORE Airport Estate including the passenger terminals and city side traffic circulation areas and approach roads by resorting to a competitive bidding process for selection of a Bidder to whom the Advertising Rights Concession may be awarded. Brief particulars of the Concession are as follows:

Name of the Concession	Term of concession	Assigned Area for Advertising concession	Type of concession
<p>Exclusive Advertisement Rights" and cover all types of indoor and outdoor advertising/brand promotion media, such as Bill Boards, Gantries, Back Lit Static Displays, Stunners, Display Windows, Flag post, Traffic Signages, Digital/Laser Floor/Ceiling graphics, Product/Services Showcasing with or Without Human Interface, Vehicle & Refitted Vehicle Displays with or without Human Interface, Multiple Imaging, Electronic & Digital Displays (e.g. Video Wall & Close Circuit Flight Information Television), LCD/LED TV Displays Time & Temperature Displays, Ball Balloons, Shoe Shining Machines, Multi Screen Moving Displays, Conveyor Belt Advertisements, Pillar Wraps, Special Brand Promotion Drop Downs/ Banners/ Decorations on special events, Mobile/Laptop Chargers/Sponsorship/Advertising on Security Trays, Queue Managers, Planters and any future advertising innovations etc. In brief all direct and surrogate activities concerning brand promotion of any company/organization/person or persons/ product/ service would encompass Advertising Rights".</p> <p><i>However special exclusions notified by Authority in the RFP (Clause 5.2.5 Negative List) would not form part of this "Advertisement Rights".</i></p> <p><i>Note: Advertisement like Mobile/Laptop charges/Q managers/Security tray etc. will be as per Clause 1.2.8.</i></p>	<p>10 (Ten Years)</p>	<p>6000 Sq.ft</p> <p>(3500 Sq.ft inside & 2500 Sq.ft outside Terminal Building)</p>	<p>On Payment of Monthly Concession Fee</p> <p>Concession fee (License fee) for the first concession year shall be quote offered by the successful bidder for the tendered display area (ie; Quoted rate per sq.ft per month multiplied by total advertisement display area in the RFP/tender.).</p> <p>The minimum rate per sq.ft.p.m. for the First concession year shall be no less than Rs.550/- (Rupees Five hundred fifty only) per sq.ft.p.m.</p> <p>The currency of Financial bid shall be Indian Rupees. No bid shall be submitted in a currency other than Indian Rupee (INR.)</p> <p>The bidder shall quote rate per sq.ft offered by them in the e-portal.</p>

1.2 RFP In Brief

- 1.2.1** This RFP is being issued for the determination of the Selected Bidder, who shall be granted the Concession as per the terms of the Concession Agreement.
- 1.2.2** This RFP sets out the requirements that must be satisfied by the Bidders in order to participate in the competitive Bidding Process and the selection process to determine the Selected Bidder to whom the Concession shall be granted.
- 1.2.3** The Concession Agreement sets forth the detailed terms and conditions for grant of the Concession to the Selected Bidder, including the scope of the Concessionaire's rights and obligations.
- 1.2.4** The statements and explanations contained in this RFP are intended to provide a better understanding to the Bidders about the subject matter of this RFP and should not be construed or interpreted as limiting in any way or manner the scope of rights and obligations of the Selected Bidder set forth in the Concession Agreement or Authority's rights to amend, alter, change, supplement or clarify the scope of the Concession to be awarded pursuant to this RFP or the terms thereof or herein contained. Consequently, any omissions, conflicts or contradictions in the Bidding Documents including this RFP are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by Authority.
- 1.2.5** The Bidding Documents include the draft Concession Agreement and any addenda issued subsequent to this RFP Document will be deemed to form part of the Bidding Documents.
- 1.2.6** Authority shall receive Proposals pursuant to this RFP in accordance with the terms set forth herewith and other documents which may be provided by Authority as modifications, alterations, amendments and clarifications from time to time by (collectively called the "**Bidding Documents**"). All Proposals shall be prepared and submitted in accordance with such terms on or before the date specified in Clause 1.6 (the "**Proposal Due Date**").
- 1.2.7** Authority, at its absolute discretion, reserves the right to modify any proposed terms and conditions set out in this RFP as deemed necessary by it, including but not limited to cancelling/ withdrawing the RFP, to meet its objectives and principles as set out in the RFP.

1.2.8 The successful bidder has to enter into Service level agreement (SLA) with authority for mandatorily providing Mobile/Laptop Charges/Q Mangers/Security Tray etc. as per the requirement of the Airport concerned and decided by the authority. In addition to this Authority will also have the right to install LCD/LED TV for display of News/Entertainment Channels/Passenger information's etc. for the requirement of passenger facilitation through respective service providers if required.

1.3 Sale of RFP Document

1.3.1 The RFP document may be purchased from the E-tendering website of the Authority (<http://etenders.gov.in>). The portal can also be visited through the website of Authority (<http://www.aai.aero>), where a link as "E-Tender" has been provided on the Home page for this purpose. Prior to making a Proposal, the Bidder shall pay to the Authority a sum of **Rs. 15,000/- (Rs. Fifteen thousand only) as cost of the RFP document**, which is non-refundable. The cost of RFP document is to be deposited i.e. in the form of Demand Draft drawn in favor of Airport Director, Airports Authority of India, INDORE Airport from any Nationalized/Scheduled Bank and scanned copy of the DD is to be uploaded along with technical bid document. Demand draft should be submitted on or before the date of submission as mentioned in the RFP.

1.4 Validity of the Proposal

1.4.1 The Proposal shall be valid for a period of not less than 180 days, extendable by another 90 days, if so desired by the Authority, from the Proposal Due Date (the "PDD").

1.5 Brief Description of Selection Process

1.5.1 The Authority has adopted a single stage selection process "**Selection Process**") in evaluating the Proposals, comprising Technical and Financial Proposals to be submitted together through The online E-tendering website of the Authority (<http://etenders.gov.in>). After receipt of Proposals, a technical evaluation will be carried out as specified in Clause 3.3. Based on this technical evaluation, a short-list of Technically Qualified Bidders shall be prepared as specified in Clause 3.3.4. Thereafter, the evaluation of Financial Proposals submitted by only the Technically Qualified Bidders will be carried out as specified in Clause 3.4. Financial Proposals will finally be ranked and the Bidder proposing the highest Financial Proposal shall be selected for award of LOIA (the "**Selected Bidder**"). If the bidder proposing the highest financial proposal, withdraws its bids or does not sign the concession agreement for any reason, the authority shall cancel the entire RFP process and go for revised bidding.

1.5.2 The Authority reserves its right to grant the Concession to the Selected Bidder.

- 1.5.3** A Bidder is required to deposit, along with its Proposal, an Earnest Money Deposit (EMD) equivalent to **INR 11,88,000/-** (Indian Rupees Eleven lakhs Eighty Eight thousand only). EMD shall be submitted (off line) i.e. in the form of Demand Draft drawn in favour of Airport Director, Airports Authority of India, INDORE Airport from any Nationalized Bank/Scheduled Bank and scanned copy of the DD should be uploaded along with technical bid documents. EMD should be submitted on or before the last date of submission as mention in the RFP. The refund and forfeiture of the EMDs shall be as per Clause 2.20 of the RFP.
- 1.5.4** Any condition or qualification or any other stipulation by the Participating Bidder contained in the Proposal shall render the Proposal liable to rejection out rightly as a non-responsive Proposal.
- 1.5.5** Bidders are advised to examine in greater detail and to carry out such studies as may be required to be carried out by them for submitting their respective Proposals for award of the Concession including implementation thereof at their exclusive cost. **Authority would** extend all assistance in that respect.

1.6 Schedule of Selection Process

1.7

Sl.No.	Activity	Scheduled Dates & Time
1.	Download of e-tender document from e-tender portal	From 12.06.2018 to 11.07.2018 upto 1500hrs.
2.	Physical inspection of proposed to be concessioned premises by potential bidders with prior intimation to authority	Any working days between 13.06.2018 to 22.06.2018 from 1100 hrs to 1600 hrs. All necessary co-ordination in this regard shall be extended by AAI to the prospective bidders.
3.	Raising of queries by the applicants/bidders in writing to AAI.	By 27.06.2018 (15 th day) upto 1500 hrs. The queries should be submitted through collaboration folder under CPP portal only. Queries submitted through any other mode shall not be considered/ entertained and will not be considered for answering.
4.	Pre- bid meeting of the potential bidders	On 03.07.2018 (21 st day) at 1100 hrs in the Office of Airport Director, AAI, INDORE Airport.

5.	Reply of queries by AAI	By 06.07.2018 on the web portal.
6.	Online submission of bids/Proposal(s) (Technical as well as Financial) on e-tender portal	Upto 11.07.2018 by 1500 hrs.
7.	Opening of Technical Bids (proposals (online only)	On 12.07.2018 at 1500 hrs.
8.	Opening of Financial bids/proposal(s) (on line only)	Date & Time of opening of Financial Bids shall be intimated separately / subsequently only to the technically qualified bidders.

1.7 Communications

- 1.7.1 Any queries or request for additional information concerning this RFP shall be submitted only through the online Procurement Portal (<http://etenders.gov.in>). No other form of communication (including electronic mails and letter mails) will be entertained or responded to. The communications shall clearly bear the following identification /title:

Queries/ Request for Additional Information: RFP for Advertisement Rights Concession at INDORE Airport.

Chapter two (02)

INSTRUCTIONS TO BIDDERS

A. GENERAL

2.1 Scope of Proposal

2.1.1 The Authority wishes to receive Proposals to short-list technically experienced and capable Bidders.

2.1.2 The Financial Proposals of Technically Qualified Bidders would be evaluated to select the Highest Bidder for implementing the Concession.

2.2 Eligibility of Bidders

2.2.1 For determining the eligibility of Bidders for their short-listing hereunder, the following shall apply:

a) The Bidder may be a single entity, or a group of entities (the “**Consortium**”), coming together to implement the Concession. However, no entity submitting a Proposal individually or as a member of a Consortium, as the case may be, can be a member of another Bidder.

b) A Bidder may be a natural person, a legal entity or any combination of them with a formal intent to enter into an agreement or under an existing agreement to form a Consortium. A Consortium shall be eligible for consideration subject to the conditions set out in RFP.

c) A Bidder shall not have a conflict of interest that affects the Bidding Process and if found to have a Conflict of Interest shall be disqualified. A Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:

(i) the Bidder, its Member or Associate (or any constituent thereof) and any other Bidder, its Member or any Associate 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 a Bidder, its Member or an Associate thereof (or any shareholder thereof having a shareholding of more than 20 per cent of the paid up and subscribed share capital of such Bidder, Member or Associate, as the case may be) in the other Bidder, its Member or Associate is less than 20 per cent of the 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, Airport Authority of India or a public financial institution referred to in the Companies Act,2013. For the purposes of

this Clause 2.2.1(c), 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 (the "**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 (bb) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary; or
- (ii) a constituent of such Bidder is also a constituent of another Bidder; or
- (iii) such Bidder, or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, or any Associate thereof or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member or any Associate thereof; or
- (iv) such Bidder has the same legal representative for purposes of this Proposal as any other Bidder; or
- (v) such Bidder, or any Associate thereof has a relationship with another Bidder, or any Associate thereof, directly or through common third party/ parties, that puts either or both of them in a position to have access to each others' information about, or to influence the Proposal of either or each other; or
- (vi) such Bidder, or any Associate thereof has participated as a consultant to Authority in the preparation of any documents, design or technical specifications of the Concession.
- (d) A Bidder shall be liable for disqualification for submission of its Proposal on the Proposal Due Date if such Bidder or its Associate(s) have any amounts including interest outstanding and payable to Authority (the "**Outstanding Dues**") in respect of Commercial licenses held at airports fully controlled and operated by AAI as on the date of publication of RFP. The existing commercial concessionaires of Authority intending to participate in response to this RFP should have "NIL" Undisputed Outstanding Dues at all the Units of Authority where the participating party's having current /past Concessions up to previous

month excluding the month of publication of this RFP.

The term "as up to previous month excluding the month of publication of the RFP/Fresh Tender" would mean as follows:

For Example if the RFP/Tender is published on any date in the month of June 2018 the participating existing concessionaire of Authority would need to ensure "Nil" Outstanding balance in respect of Undisputed Amounts as up to the month of May 2018.

However the disputed amounts which are referred for Conciliation/Arbitration shall not be considered as Outstanding Dues provided the bidder has furnished an additional Bank Guarantee equivalent to 50% of the value of the disputed amounts in addition to the contract directed Security Deposit already available with Authority. The Contract directed and additional bank guarantees will have to be kept valid till the expiry of the contract/finalization of the Conciliation/Arbitration process respectively.

Provided further, that In the event of an order from a Judicial Court/Arbitral Tribunal staying/withholding the realization of certain dues the adherence to the above conditions will be exempted and regulated in accordance with those orders.

In this respect, the Bidder shall produce and submit a No Outstanding Dues Certificate from the Authority with the Proposal. The Applicant should also submit the details of contracts held (Current and Past), if any, at all AAI controlled airports, in the format as set forth in **Annexure-4 of Form-I**. The decision of the Authority in respect of Outstanding Dues shall be final and binding on the Bidder.

- (e) A Bidder shall be liable for disqualification, if any legal, financial or technical adviser of the Authority in relation to the Concession is engaged by the Bidder, its Member or any Associate thereof, as the case may be, in any manner for matters related to or incidental to the Concession. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, its Member or Associate in the past but its assignment expired or was terminated 6 (six) months prior to the date of issue of this RFP. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of execution of the Concession Agreement.
- (f) 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 bidding, would not be eligible to submit a proposal, either individually or as member of a Consortium.

2.2.2 To be eligible for being a Selected Bidder, a Bidder shall fulfil the following

conditions of eligibility ("**Threshold Eligibility Criteria**"):

(A) Technical Capacity: For demonstrating technical capacity and experience ("Technical Capacity") the Bidder shall satisfy each of the following criteria, as on the date of issue of RFP:-

- (i) The bidder (in case of consortium the Lead Member) must have Minimum three (03) years' experience in the last five (05) financial years (April-March) as an advertisement rights concessionaire at an airport/mass transit systems i.e. metro rails/ railway establishment under Indian railways, Shopping mall, City Municipal Corporations etc.
- (ii) There is no pending, active, or previous legal action that prevents the Applicant from submitting the Bid, executing the Concession Agreement or fulfilling the conditions of the Concession.

The Above information must be supported with the following Declarations/ Documentary Evidence /Certificate from the Chartered accountant of the Bidders:

- (iii)** The Bidder/Lead member must file a Self-Declaration indicating the three years out of the preceding five financial years in respect of which it intends to claim Technical eligibility in accordance with Clause 2.2.2 (A)(i) of the RFP.
- (iv)** The Bidder/Lead Member must submit Self Attested Scanned Copies of Award Letters from the respective Principals on the strength of which it intends to claim Technical eligibility in accordance with Clause 2.2.2 (A)(i) of the RFP;

(v) The Bidder must submit a certificate from its Chartered accountant clearly certifying the percentage of Gross Sales Turnover achieved during each of the preceding five financial years from business in respect of which the Technical Experience is being Claimed and other businesses so as to enable Authority to evaluate whether the bidder/lead member has satisfied the condition laid down at Clause 2.2.2 B (I) (a) and (b) of this RFP.

(vi) In case of a Consortium, separate sheets are to be furnished in respect of each Member of the Consortium

(B) Financial Capacity: For demonstrating financial capacity the Bidder shall satisfy the following criteria:-

(I) Turnover Criteria:

- (a) A participating bidder would be deemed to have met the threshold eligibility criteria norms in respect of Financial Capacity (Turnover Criteria), if it has achieved an annual gross turnover of **Rs. Rs. 3,96,00,000/-** (Rupees Three Crores Ninety Six lacs) ie; equivalent to the annual Minimum Reserve License Fee (Rate /Sqft/pm X Total Tender Area X 12) in three of the previous Five years for which the experience is claimed by the agency.
- (b) Provided further that at least fifty percent (50%) of the qualifying turnover as claimed at (a) above must pertain to the business, on the strength of which the technical capacity eligibility is being claimed.
- (c) The turnover details being submitted as specified at (a) and (b) above must be duly certified by the Chartered Accountant of the participating bidder or the lead member in case of a consortium.

II. Outstanding Dues Criteria:

In order to meet the Financial Capacity eligibility condition, if the bidder is an existing licensee of AAI, it should be meeting the criteria outlined at Clause 2.2.1 (d) above as a response to this RFP and submit scanned self attested copies of the latest and relevant Outstanding Dues Certificates with the Technical Proposal.

2.2.3 The Bidders shall enclose with its Proposal, to be submitted as per the format at **Form-I**, complete with its Annexures, the Certificate(s) from its Chartered Accountant or the concerned Principals stating the number of years of experience in operating the Advertising Business as specified at [Clause 2.2.2 (A) I] above.

2.2.4 The Bidder should submit a Power of Attorney as per the format at **Form-III**, authorizing the signatory of the Proposal to commit the Bidder (or to submit the bid). Additionally, in the case of a Consortium, the Members should submit a Power of Attorney in favour of the Lead Member as per format at **Form-IV**.

2.2.5 In case the Bidder is a Consortium, it shall, comply with the following additional requirements:

- (a) Number of members in a consortium shall not exceed three (03);
- (b) Subject to the provisions of sub-clause (a) above, the Proposal should contain the information required for each member of the Consortium;
- (c) Members of the Consortium shall nominate one member as the lead member (the "**Lead Member**"). The nomination(s) shall be supported by a Power of Attorney, as per the format at **Form-III**, signed by all the other members of the Consortium.
- (d) An individual Bidder cannot at the same time be member of a Consortium applying for the Concession. Further, a member of a particular bidding Consortium cannot be member of any other bidding Consortium applying for the Concession;
- (e) Members of the Consortium shall enter into a substantially binding Joint Bidding Agreement, in the form specified at **Form-V** (the "**Joint Bidding Agreement**"), for the purpose of submitting a Proposal for the Concession. The Joint Bidding Agreement, to be submitted along with the Proposal, shall, *interalia*:
 - (i) Convey the intent to perform all the obligations of the Concessionaire in terms of the Concession Agreement, in case the concession is awarded to the Consortium; and
 - (ii) Include a statement to the effect that all members of the Consortium (who submitted the Proposal) shall be liable jointly and severally for all obligations of the Concessionaire in relation to the Concession in accordance with the Concession Agreement.
- (f) Except as provided under this RFP, and the Bidding Documents, there shall not be any amendment to the Joint Bidding Agreement without the prior written consent of the Authority.

2.3 General Terms of Bidding

2.3.1 No Bidder shall submit more than one Proposal for the Concession.

2.3.2 Bidders should attach clearly marked and referenced continuation sheets in the event that the space provided in the prescribed forms in the Annexes is insufficient.

- 2.3.3** Information supplied by a Bidder (or other constituent Member if the Bidder is Consortium) must apply to the Bidder or, Member named in the Proposal and not, unless specifically requested, to other associated companies or firms.
- 2.3.4** Any condition or qualification or any other stipulation contained in the Proposal shall render the Proposal liable to rejection as a non-responsive Proposal.
- 2.3.5** The documents including this RFP, and all attached documents, provided by Authority, are and shall remain or become the property of Authority and are transmitted to the Bidders solely for the purpose of preparation and submission of a Proposal in accordance with terms hereunder. 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 Proposal. The provisions of this Clause 2.3.5 shall also apply *mutatis mutandis* to Proposals and all other documents submitted by the Bidders, and Authority will not return to the Bidders any Proposal, document or any information provided along therewith.

Financial Proposal” shall mean the binding and final financial offer to be submitted by each Bidder online in the AAI E tender portal only. The quote in physical form as a document need not be submitted along with technical bid documents. For the purposes of evaluation of the Financial Proposals and deciding the Selected Bidder, the financial quote offered to the Authority in the First Concession Year shall be the sole parameter for identification of the Highest Bidder.

- 2.3.6** A Bidder including any Consortium Member or Associate 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, Consortium Member or Associate thereof, 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, member of a Consortium or Associate thereof.
- 2.3.8** This RFP is not transferable.
- 2.3.9** Any award of Concession pursuant to this RFP shall be subject to the terms of Bidding Documents.

2.4 Change in composition of the Consortium

Change in the composition of a Consortium will not be permitted by the Authority during the currency of the Concession.

2.5 Cost of Bidding

The Bidders shall be responsible for all of the costs associated with the preparation of their Proposals and their participation in the Bidding Process. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Selection Process.

2.6 Site visit and verification of information

Bidders are encouraged (or advised) to submit their respective Proposals after fully familiarizing the Airport Environment and the Advertisement Opportunity available and ascertaining for themselves the actual on ground conditions, passenger volumes, location, surroundings, availability of power, water and other utilities, access to the proposed Concession premises, handling and storage of materials, weather data, applicable laws and regulations specially the BCAS and Security Agencies requirements, and any other matter considered relevant by them. Each Applicant 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 RFP.

2.7 Acknowledgement by the Bidder

2.7.1 It shall be deemed that by submitting a Proposal, the Bidder has:

- (a)** Made a complete and careful examination of the RFP and Bidding documents;
- (b)** Received all relevant information requested from the Authority;
- (c)** Accepted the risk of inadequacy, error or mistake in the information provided in the RFP and Bidding Documents or furnished by or on behalf of the Authority relating to any of the matters referred to in Clause 2.6 above; and
- (d)** Satisfied itself about all matters, things and information including matters referred to in Clause 2.6 hereinabove necessary and required for submitting an informed Proposal, execution of the Concession in accordance with the RFP and Bidding Documents and performance of all of its obligations there under.
- (e)** Acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the RFP and Bidding Documents or ignorance of any of the matters referred to in Clause 2.6 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 Authority, or a ground for termination of the Concession Agreement by the Selected Bidder;

- (f) Acknowledged & represented that it does not have a Conflict of Interest; and
- (g) Agreed to be bound by the undertakings provided by it under and in terms hereof.

2.7.2 The Authority 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 RFP or the Bidding Process, including any error or mistake therein or in any information or data given by the Authority.

2.8 Right to accept and reject any or all Proposals

2.8.1 Authority reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFP or the Bidding Documents and the Bidder shall, when so required by Authority, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification, by Authority shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of Authority there under.

2.8.2 Notwithstanding anything contained in this RFP, the Authority reserves the right to accept or reject any Proposal and to annul the Bidding Process and reject all Proposals, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons therefore.

2.8.3 Authority reserves the right to reject any Proposal and appropriate the Earnest Money Deposit (EMD) if:

- (a) At any time, a material misrepresentation is made or uncovered, or
- (b) The Bidder does not provide, within the time specified by Authority, the supplemental information/documents sought by the Authority for evaluation of the Proposal.

If such disqualification/ rejection occurs after the Proposals have been opened and the Highest Bidder gets disqualified/rejected, the Authority reserves the right to take any such measure as may be deemed fit in its sole discretion, including annulment of the Bidding Process.

If the Bidder is a Consortium, then the entire Consortium may be disqualified / rejected.

2.8.4 In case it is found during the evaluation or at any time before signing of the Concession Agreement or after its execution and during the period of subsistence thereof, **that one or more of the eligibility conditions have not been met by the Bidder**, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Concessionaire either by issue of the LOIA or entering into of the Concession Agreement, and if the Selected Bidder has already been issued the LOIA or has entered into the Concession Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by Authority to the Selected Bidder. In such an event, Authority shall be entitled to forfeit and appropriate the Earnest Money Deposit or terminate the Concession Agreement as the case may be, as Damages, without prejudice to any other right or remedy that may be available to Authority under RFP, the Bidding Documents, and/ or the Concession Agreement or under applicable law.

2.8.5 The **Selected Bidder shall procure all applicable permits & security clearances under applicable laws, within** Gestation Period or as extended by the Authority.

2.8.6 It is the responsibility of the Selected bidder to obtain all applicable clearances/ permits from the respective authorities within the time allowed by the Authority.

B. Forms and Clarifications

2.9 Contents of the Forms/Annexures/Appendixes

(1)	Form – I	Format for Proposa
(1.1)	Annexure – 1	Details of Bidder
(1.2)	Annexure – 2	Technical Capacity and Financial Capacity of Bidder
(1.3)	Annexure – 3	Certificate of Chartered Accountant
(1.4)	Annexure – 4	Outstanding Dues Certificate
(1.5)	Annexure – 5	Format of Outstanding Dues
(2)	Form – II	Statement of Legal Capacity
(3)	Form – III	Format for Power of Attorney for signing of proposal
(4)	Form – IV	Format for Power of Attorney for lead Member of Consortium

(5)	Form – V	Format for Joint Bidding Agreement for Consortium
(6)	Form – VI	Format of Affidavit
(7)	Form – VII	Format of Integrity Pact
(8)	Form – VIII	Check List of Submissions
(9)	Appendix – I	Format of Financial Proposal
(10)	Appendix – II	Passenger Data
(11)	Appendix – III	Draft Concession Agreement

2.10 Clarifications

2.10.1 Bidders requiring any clarification on the RFP may notify the Authority in accordance with Clause 1.7.1. They should send in their queries through AAI E-Tender portal only. No other form of communication will be accepted. The queries should be uploaded before the date specified in the schedule of Selection Process contained in Clause 1.6. The Authority shall endeavor to respond to the queries within the period specified therein. The responses will be uploaded on the website of the Authority in the AAI E-Tender Portal pertaining to the said RFP.

2.10.2 The Authority shall endeavor to respond to the questions raised or clarifications sought by the Bidders. However, the Authority reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring the Authority to respond to any question or to provide any clarification.

The Authority may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders through the e-procurement portal of Authority. All clarifications and interpretations issued by the Authority shall be deemed to be part of the RFP. Verbal clarifications and information given by Authority or its employees or representatives shall not in any way or manner be binding on the Authority.

2.11 Amendment of RFP

2.11.1 At any time prior to the Proposal Due Date, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of Addenda.

2.11.2 Any Addendum thus issued will only be posted on Authority's website.

2.11.3 In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Authority may, in its sole discretion, extend the Proposal Due Date.

C. PREPARATION AND SUBMISSION OF PROPOSAL

2.12 Language

The Proposal and all related correspondence and documents in relation to the Bidding Process shall be in English language. Supporting documents and printed literature furnished by the Bidder with the Proposal may be in any other language provided that they are accompanied by translations of all the pertinent passages in the English language, duly authenticated and certified by the Bidder. Supporting materials, which are not translated into English, may not be considered. For the purpose of interpretation and evaluation of the Proposal, the English language translation shall prevail.

2.13 Format and Submission of Proposal

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

2.13.2. All proposals should be submitted only through the online Procurement portal (<http://etenders.gov.in>). The portal can also be visited from the website of Authority (<http://www.aai.aero>), where a link as "E-Tender" has been provided on the Home page for this purpose. Hard copies will not be entertained under any circumstances.

2.13.3. The Bidder shall submit the Technical Proposal in the format specified at **Form-I**, together with the documents specified in Clause 2.13.5.

2.13.4 The Technical Proposal shall not include any financial offer.

2.13.5 The Technical Proposal shall contain:

- (i) Index of Submissions
- (ii) Proposal in the prescribed format (**Form-I**) along with Annexures and supporting documents;
 - (a) Annexure 1 – Details of Bidder
 - (b) Annexure 2 – Technical and Financial Capacity of The Bidder

- (c) Annexure 3 – Certificate from Chartered Accountant
- (d) Annexure 4 – Details of Outstanding Dues
- (e) Annexure 5 – Outstanding Dues Certificate

- (iii) Statement of Legal Capacity as per format at **Form-II** duly notarized;
- (iv) Power of Attorney for signing the Proposal as per the format at **Form - III**; duly notarized;
- (v) If applicable, the Power of Attorney for Lead Member of Consortium as per the format at **Form -IV**; duly notarized;
- (vi) Copy of the Joint Bidding Agreement, in case of a Consortium, substantially in the format at **Form -V**; duly notarized;
- (vii) Affidavit as per **Form-VI**, duly notarized;
- (viii) Integrity Pact as per format at **Form-VII**, duly notarized;
- (ix) Documents of Incorporation (in case of a Consortium, for all Members), duly notarized;
- (x) Copy of PAN Card, Copy of Memorandum and Articles of Association, if the Applicant is a body corporate, and if a partnership then a copy of its partnership deed (in case of Consortium, for all Members);

- (xi) Audited Balance Sheet and Profit and Loss Account for last Five financial years (in case of a Consortium, for Lead Member);
- (xii) Self Attested Copy of proof of payment of Earnest Money Deposit,
- (xiii) Self Attested Copy of proof of payment of Tender Cost;
- (xiv) Check-list of Submissions **Form-VIII**.

The Bidders are advised to arrange the submissions/documents in the above order. Each page of Technical Proposal is to be serially numbered, signed and stamped by the Authorized Signatory of the Bidder.

2.13.6 The Technical Proposal shall be typed or written in indelible ink and signed by the authorized signatory of the Bidder who shall also initial each page in blue ink and stamp all pages. All the alterations, omissions, additions or any other amendments made to the Proposal shall be initialed by the person(s) signing the Proposal.

2.13.7 The Digital Copy of Technical Proposals shall be submitted through the online Procurement portal of the Authority (<http://etenders.gov.in>) The portal can also be visited from the website of Authority (<http://www.aai.aero>), where a link as “E-Tender” has been provided on the Home page for the purpose.

2.13.8 Submission of Proposals (Technical and Financial Proposal) through Online Procurement portal is mandatory. Bidders are advised to submit the Proposals through online portal well in advance to avoid network problems. Authority will not be responsible for any inability for submission of Proposals before the Proposal Due Date due to technical problems/network errors.

2.13.9 The Financial Proposal” shall mean the binding and final financial offer to be submitted by each Bidder online in the AAI E tender portal only. The quote in physical form as a document need not be submitted along with technical bid documents

2.13.10 While preparing the financial bid, Bidders should ensure the following conditions are satisfied.

The minimum rate per square feet per month for the first concession year shall be not less that INR 550/-(Rupees Five hundred fifty per sq.ft.p.m.).

The currency of Financial Bid shall be in Indian Rupees. No bids shall be submitted in a currency other than Indian Rupees (INR).

The bidder shall quote rate per sq.ft.p.m offered by them in the cpp portal.

2.13.11 The Technical Proposal and Financial Proposal shall be prepared and submitted through the online portal. Proposals submitted by hand, post, fax, telex, telegram or e-mail shall not be entertained and shall be rejected.

2.14 Proposal Due Date

2.14.1 Proposals (Technical Proposals and Financial Proposals) should be submitted **before 11.07.2018 upto 1500 hours IST** on the Proposal Due Date.

2.14.2 Authority may, in its sole discretion, extend the Proposal Due Date uniformly for all Bidders by issuing an Addendum in accordance with Clause 2.11.

2.15 Late Proposals

The Online Procurement Portal of the Authority shall not accept proposals, after the specified time on the Proposal Due Date and shall be summarily rejected.

2.16 Modifications/ substitution/ withdrawal of Proposals

2.16.1 **The Bidder may withdraw its Proposal after submission, prior to the Proposal Due Date.**

2.16.2 The withdrawal notice shall be prepared and submitted through the online procurement portal (<http://etenders.gov.in>).

2.16.3 Any alteration/ modification in the Proposal or additional information supplied subsequent to the Proposal Due Date, unless the same has been expressly sought for by the Authority, shall be disregarded.

2.17 Validity of Proposals

The Proposals shall be valid for a period of not less than 180 (one hundred and twenty) days, extendable by another 90 days, if so desired by the Authority, from the Proposal Due Date (the “PDD”).

2.18 Confidentiality

Information relating to the examination, clarification, evaluation and recommendation for the Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising Authority in relation to or matters arising out of, or concerning the Bidding Process. Authority will treat all information, submitted as part of the Proposal, in confidence and will require all those who have access to such material to treat the same in confidence. Authority 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 Authority or as may be required by law or in connection with any legal process.

2.19 Correspondence with the Bidder

Save and except as provided in this RFP, Authority shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Proposal.

D. EARNEST MONEY DEPOSIT**2.20 Earnest Money Deposit (EMD)**

2.20.1 A Bidder is required to deposit, along with its Proposal, an Earnest Money Deposit (EMD) equivalent to **INR 11,88,000/-** (Indian Rupees Eleven lakhs Eighty Eight thousand only) .The payment of EMD shall be submitted in the form of Demand Draft drawn in favour of Airport Director, Airports Authority of India, INDORE Airport from any Nationalized/Scheduled Bank.

2.20.2 Authority shall not be liable to pay any interest on the Earnest Money Deposit so furnished and the same shall be interest free.

2.20.3 Any Proposal not accompanied by the Earnest Money Deposit shall be summarily rejected by Authority as non-responsive.

2.20.4 Save and except as provided in Clause 2.20.6, the Earnest Money Deposit of unsuccessful Bidders, will be returned by Authority, without any interest, as promptly as possible on acceptance of the Proposal of the Selected Bidder or when the Bidding process is cancelled by Authority, and in any case within 180 (one hundred and eighty) days from the Proposal Due Date.

- 2.20.5** . The Selected Bidder's Earnest Money Deposit will be returned, without any interest, upon the Selected Bidder's signing the Concession Agreement and furnishing the Security Deposit in accordance with the provisions thereof.
- 2.20.6** Authority shall be entitled to forfeit and appropriate the Earnest Money Deposit as Damages *inter alia* in any of the events specified in Clause 2.20.7 herein below. The Bidder, by submitting its Proposal pursuant to this RFP, shall be deemed to have acknowledged and confirmed that Authority will suffer loss and damage on account of withdrawal of its Proposal or for any other default by the Bidder during the period of Proposal validity as specified in this RFP. No relaxation of any kind on Earnest Money Deposit shall be given to any Bidder.
- 2.20.7** The Earnest Money Deposit shall be forfeited as Damages without prejudice to any other right or remedy that may be available to Authority under the Bidding Documents and/ or under the Concession Agreement, or otherwise, under the following conditions:
- (a) If the Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Section 6 of this RFP;
 - (b) If a Bidder withdraws its Proposal during the period of Proposal Validity as specified in this RFP and as extended by mutual consent of the respective Bidder(s) and Authority;
 - (c) In the case of Selected Bidder, if it fails within the specified time limit:
 - (i) to sign and return the duplicate copy of LOIA; or
 - (ii) to furnish the Security Deposit within the period prescribed there for in the LOIA; or
 - (iii) to sign the Integrity Pact; or
 - (iv) to sign the Concession Agreement; or
 - (v) to furnish the Corporate Guarantee
 - (vi) Submits false information in the Technical proposal.

Chapter Three (03)

EVALUATION OF PROPOSALS

3.1 Opening and Evaluation of Technical Proposals

- 3.1.1** Authority shall open the **Technical Proposals at 1500 hours on 12.07.2018 (IST)** on the Proposal Due Date and in the presence of the Bidders who choose to be present.
- 3.1.2** Proposals for which a notice of withdrawal has been submitted in accordance with Clause 2.16 shall not be opened.
- 3.1.3** Authority will subsequently examine and evaluate the Technical Proposals in accordance with the provisions set out in this Section 3.
- 3.1.4** Any information contained in the Technical Proposals shall not in any way be construed as binding on Authority, its agents, successors or assigns, but shall be binding against the Bidder if the Concession is subsequently awarded to it on the basis of such information.
- 3.1.5** Authority reserves the right not to proceed with the Selection Process at any time without notice or liability and reserves the right to reject any or all Proposal(s) without assigning any reasons.
- 3.1.6** To facilitate evaluation of Technical Proposals, Authority may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Proposal.
- 3.1.7** Prior to evaluation of Technical Proposals, Authority shall determine whether each Proposal is accompanied by Earnest Money Deposit in the form and manner as specified in this RFP. A Proposal not accompanied by the Earnest Money Deposit shall be summarily rejected by Authority and would not be taken up for further evaluation.

3.2 Preliminary Scrutiny

3.2.1 Prior to evaluation of the documents contained in the Technical Proposal, Authority shall determine whether each Technical Proposal is responsive to the requirements set out in this RFP. A Proposal shall be considered responsive only if:

- (i) It is accompanied by a Letter of Transmittal as per format in Form-I.
- (ii) It is accompanied by the Integrity Pact in the format specified in Form-VII.
- (iii) It contains a self-attested copy of the receipt for payment of **Rs. 15,000/- (Rupees Fifteen thousand only)** to Authority towards the cost of RFP document.
- (iv) It is accompanied by Earnest Money Deposit.

3.2.2 Authority reserves the right to reject any Proposal which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by Authority in respect of such Proposals.

3.3 Evaluation of Technical Proposals

3.3.1 During this stage, Authority shall determine whether each Technical Proposal is in compliance with the requirements of the RFP. A Technical Proposal shall be considered to be in compliance with the requirement of the RFP only if:

- (i) the Bidder satisfies the Threshold Eligibility Criteria, as set forth Clause 2.2.2 along with clause 2.2.1
- (ii) it contains all the information and documents in support as requested in this RFP.

3.3.2 Such Technical Proposals which are not in compliance with the requirements of the RFP shall be rejected forthwith and no request for alteration, modification, substitution or withdrawal shall be entertained by Authority in respect of such Proposals(s).

3.3.3 Authority reserves the right to seek clarifications or additional information / documents from any Bidder regarding its Proposal. Such clarification(s) for additional information / document(s) shall be provided within the time specified by Authority for the purpose. Any request and response thereto shall be in writing. If the Bidder does not furnish the clarification(s) or additional information / document(s) within the prescribed time, the Proposal shall be liable to be rejected. In case the Proposal is not rejected, Authority may proceed to evaluate the Proposal 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 Authority.

3.3.4 After the evaluation of Technical Proposals, Authority would announce a short-list of Bidders ("Qualified Bidders"), whose Technical Proposals have been found to be responsive and in compliance with the requirements of the RFP. The Qualified Bidders are eligible for further evaluation of their Financial Proposals. The Financial Proposals of such Bidders whose Technical Proposal has been found to be not in compliance with the requirements of RFP will be rejected.

3.4 Evaluation of Financial Proposals

3.4.1 The Financial Proposals of Qualified Bidders would be opened. Authority would notify the Qualified Bidders of the date, time and venue for opening the Financial Proposals. The Financial Proposals would be opened in the presence of the Qualified Bidders who choose to be present.

3.4.2 **Financial Proposal**" shall mean the binding and final financial offer to be submitted by each Bidder online in the NIC-CPP e-tender portal only. The quote in physical form as a document need not be submitted along with technical bid documents. For the purposes of evaluation of the Financial Proposals and deciding the Selected Bidder, the financial quote offered to the Authority in the First Concession Year shall be the sole parameter for identification of the Highest Bidder.

3.4.3 For the purposes of evaluation, decimals points up to two places shall only be considered.

- 3.4.4** In the event that the Financial Proposal of two or more Bidders are found to be the same and is the highest (the "Tie Bidders"), Authority shall invite fresh Financial Proposals from such Tie Bidders and shall identify the Selected Bidder from amongst such Tie Bidders. Provided that the revised Financial Proposals of such Tie Bidders, shall be no less favorable to Authority than their respective original Proposals.
- 3.4.5** After selection, a Letter of Intent to Award (the "LOIA") shall be issued, in duplicate, by Authority to the Selected Bidder. The Selected Bidder shall, within 7 (seven) working 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, Authority may, unless it consents to extension of time for submission thereof, appropriate the Earnest Money Deposit (EMD) of such Bidder as Damages on account of failure of the Selected Bidder to acknowledge the LOIA.
- 3.4.6** After acknowledgement of the LOIA as aforesaid by the Selected Bidder, it shall fulfill the conditions set forth in Clause 4.2 hereof and shall execute the Concession Agreement within the period prescribed in LOIA. The Selected Bidder shall not be entitled to seek any deviation, modification or amendment in the draft Concession Agreement forming part of this RFP as Appendix III.

3.5 Contacts during Proposal Evaluation

Proposals shall be deemed to be under consideration immediately after they are opened and until such time Authority makes official intimation of award/rejection to the Bidders. While the Proposals are under consideration, Bidders and/ or their representatives or other interested parties are advised to refrain, save and except as required under the Bidding Documents, from contacting by any means, Authority and/ or their employees/ representatives on matters related to the Proposals under consideration.

Chapter Four (04)

AWARD OF CONCESSION

4.1 Issue of Letter of Intent to Award

Authority will issue a Letter of Intent to Award to the Selected Bidder pursuant to the conclusion of the evaluation process as contemplated in Section 3. The Letter of Intent to Award will be handed to the Selected Bidder or posted to the Selected Bidder's address as given in the Proposal and such handing or posting shall be deemed to be good service of such a communication.

4.2 Conditions of Award

4.2.1 The Selected Bidder would be permitted a Business Incubation Period of sixty (60) days from the date of issue of the Letter of Intent to Award. The Selected Bidder shall fulfill all the conditions specified in the Letter of Intent to Award to the satisfaction of Authority (unless any of the conditions are waived in writing by Authority) in this Business Incubation Period of sixty (60) days including the following:

- (i) The Selected Bidder shall submit the Security Deposit in the form and manner as specified in Clause 5.7 hereof;
- (ii) The Selected Bidder shall procure all Applicable Permits under Applicable Laws which are required to execute and perform the Agreement and submit copies thereof to Authority. The Selected Bidder shall procure all Applicable Permits under Applicable Laws which are required to execute and perform the Agreement and submit copies thereof to Authority.

In case of consortium the agreement has to be executed between SPV and AAI.

Regarding SPV the following Provisions shall apply:

In case the Bidder is a Consortium, it shall comply with the following additional requirements:

- (a) Number of members in a consortium shall not exceed 3 (three);
- (b) Subject to the provisions of sub-clause (a) above, the Proposal should contain the information required for each member of the Consortium;
- (c) the members of the Consortium shall form an appropriate Special Purpose Vehicle (the "SPV"), incorporated under the Companies Act 2013 to execute the

Concession, if awarded to the Consortium;

- (d) 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 throughout the Concession Term. The nomination(s) shall be supported by a Power of Attorney, as per the format at **Form-III**, signed by all the other members of the Consortium.
- (e) An individual Bidder cannot at the same time be member of a Consortium applying for the Concession. Further, a member of a particular bidding Consortium cannot be member of any other bidding Consortium applying for the Concession;
- (f) Members of the Consortium shall enter into a binding Joint Bidding Agreement, substantially in the form specified at **Form-V** (the "**Jt. Bidding Agreement**"), for the purpose of submitting a Proposal for the Concession. The Jt. Bidding Agreement, to be submitted along with the Proposal, shall, *inter alia*:
 - (i) convey the intent to form an SPV with shareholding/ownership equity commitment(s) in accordance with this RFP, which would enter into the Concession Agreement and subsequently perform all the obligations of the Concessionaire in terms of the Concession Agreement, in case the concession is awarded to the Consortium;
 - (ii) commit the minimum equity stake to be held by each member;
 - (iii) commit that the Lead Member, whose eligibility experience will be evaluated for the purpose of this RFP, shall subscribe to 51% (fifty one per cent) or more of the paid up and subscribed equity of the SPV and shall further commit that such Lead Member shall, for the entire term of the Concession, hold equity share capital not less than 51% (fifty one per cent) of the subscribed and paid up equity share capital of the SPV;
 - (iv) members of the Consortium undertake that, subject to the provisions of sub-clause (f) (iii) above, they shall collectively hold 100% (one hundred percent) of the subscribed and paid up equity of the SPV at least at all times until the third anniversary of the Rent Commencement Date of the Concession; and
 - (v) Include a statement to the effect that all members of the Consortium (who submitted the Proposal) shall be liable jointly and severally for all obligations of the Concessionaire in relation to the Concession in accordance with the Concession Agreement; and
- (g) Except as provided under this RFP and the Bidding Documents, there shall not be any amendment to the Jt. Bidding Agreement without the prior written consent of the Authority.

- (i) The Selected Bidder(s) shall be under obligation to obtain the final approval of the detailed Location Layout Plan of the Advertisement Displays after incorporation of observations of Authority within the limitations of Location Layout Plan Approval Protocol under any circumstances before the Access date.
 - (ii) The Selected Bidder (and where the Selected Bidder is a Consortium, the SPV) shall provide Authority with the updated shareholding pattern of the Selected Bidder/SPV, as on the date of execution of the Concession Agreement;
 - (iii) The Selected Bidder (where the selected bidder is a consortium, the SPV) shall execute the Integrity Pact as per the Draft Integrity Pact forming part of the RFP as Form VII.
 - (iv) The Selected Bidder shall certify to Authority that apart from the authorizations and approvals provided to Authority there are no further approvals or consents (whether statutory or contractual) required by the Selected Bidder to execute the Concession Agreement.
 - (v) The Selected Bidder (where the selected bidder is a consortium, the SPV) shall execute the Concession Agreement as per the Draft Concession Agreement forming part of this RFP as Appendix III).
- 4.3** Without prejudice and in addition to the rights of Authority to invoke the Earnest Money Deposit (EMD) as provided elsewhere in the RFP, the Earnest Money Deposit (EMD) shall be liable to be forfeited and appropriated by Authority in case of failure of a Selected Bidder to fulfill any of the Conditions of Award within the stipulated time and in accordance with the manner prescribed therefore in this RFP and/or the Letter of Intent to Award.
- 4.4** Upon forfeiture by Authority of the Earnest Money Deposit (EMD) as above, Authority shall have the right to cancel/ revoke the Letter of Intent to Award and immediately upon issuance of notice intimating such cancellation/ revocation, to select such other Bidder(s) as may be deemed fit by Authority and /or deal with the Concession as it may deem fit in its sole and absolute discretion.
- 4.5** Authority, in its sole discretion, reserves its right to extend the timelines referred to in this Section 4.

Chapter Five (05)

THE CONCESSION AND THE CONCESSIONNAIRE

5.1 Concessionaire

- 5.1.1 The obligations and duties of the Concessionaire are as prescribed in the RFP and the Concession Agreement.
- 5.1.2 The Selected Bidder within seven (07) days after accepting the LOIA shall submit a detailed Draft Location Layout Plan indicating specific locations, sizes, type of medium, fixing and hoisting arrangements, material specifications, illumination requirements etc. for consideration of Authority. It is further provided that the Revised Location Layout Plan after incorporating the observations of Authority which would be communicated within seven days of submission of Draft Location Layout Plan would need to be submitted back within seven (07) days of receipt of observations of Authority for final approval within the limitations of the Location Layout Plan Approval Protocol. On receipt of the Revised Location Layout Plan the Authority would approve the same at its earliest but in any case not later than the sixty (60) days from the date of LOIA within the business incubation period/access date.
- 5.1.3 To ensure equitable distribution of advertising through the airport, the APD may provide minimum advertisement area distribution guidance at their respective airports (for eg. SHA, Arrival, Departure, etc.)

5.2 Scope of the Concession

- 5.2.1 The Concessionaire shall use the Advertising Locations within the Scope of Advertising Rights Concession defined in this RFP during the Concession Term. The Concessionaire shall ensure that the concept of execution of the Advertisement Rights Concession is in line with the international standards and the image envisaged for the Airport by Authority.
- 5.2.2 The approved Advertisement Locations as per approved Location Layout Plan would be physically handed over to the Concessionaire on "as is where is" basis and Authority shall not be responsible for its renovation, maintenance and up-keep from the Access Date.
- 5.2.3 Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the Concession Agreement shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the Concession Agreement.

- 5.2.4 In order to clearly define the scope of Advertising Rights Concession an indicative list of the advertising media to be given under this RFP are set-out as follows :

The scope of advertisement shall be as per clause 1.1.1 of RFP which is at best an indicative guideline and is neither intended to suggest nor restrain the use of any form of Advertising Medium while formulating the business model/ Location Layout Plans by the Potential bidders.

5.2.5 The negative list of advertisement media not covered under this RFP are set-out as follows:

- Advertisement on Passenger Baggage Trolleys
- Sponsored development of Horticulture and Outdoor Landscaping indicating name & logo of sponsoring agency within the limitation of Authority's Policy in the matter.
- Sponsored Pay & Use Toilets and Advertisements there on (as per area specified by Authority)
- Government sponsored Social Advertisement (**Swatchh Bharat Mission etc.**) with no commercial motives on the Advertisement Display Locations under Airport Branding Area.
- Welcome desk/Reception counter
- Mobile/Wi fi as a medium for any kind of advertisement/interactivity with Airport
- Any advertisement sites/media which is not possible to be permitted due to mandatory/statutory/operational constraints.
- Duly authorized display of the bonafide licensees of the Airport.

5.3 Term of Concession

- 5.3.1 The Concession is proposed to be granted for 10(Ten) years. The Concessionaire will have to operate the Concession for a minimum Lock in Period which would not be less than fifty percent of the awarded Concession Term. In the event of Concessionaire deciding to exit the Concession Agreement at the end of the Minimum Lock in period it would need to issue the Notice of Dissatisfaction and Notice of Termination in such a manner so that the expiry of the Notice Period synchronizes with the expiry date of the Minimum Lock in Period. The option of moving out of the Concession Agreement prior to expiry of the Minimum Lock in Period is not available to the Concessionaire. However in the event of Concessionaire leaving on any date before the expiry of the Minimum Lock in Period it would have to face forfeiture of 6 months Security Deposit equivalent to current month license fee and a ban/debarring of three years on future participation in Tenders/RFP's floated by Authority.

5.3.2 The Concession Term shall be reckoned from the Concession Fee Commencement Date as already defined in the RFP. For the sake of clarity, the Concession Term of Advertisement Sites obtained by a Concessionaire at subsequent stages shall be co terminus with the expiry date of the original Concession Term, unless terminated earlier in accordance with the terms and conditions of the Concession Agreement.

5.4 Concession Fee

5.4.1 The Concessionaire shall, in consideration of the Concession granted by Authority, pay to Authority the Concession Fee as define already in this RFP.

5.4.2 The Concession Fee shall be payable on a monthly basis as set out in the Concession Agreement.

5.4.3 The Concessionaire shall pay with respect to the Concession Fee, the Taxes including service tax which shall be over and above the Concession Fee.

5.4.4 "Concession Fee Commencement Date" shall mean the 61st day in respect of all tendered sites i.e. at the expiry of the Gestation Period of 60 days, reckoned from the Access date or a later date if notified by Authority. However in the event of concessionaire commencing commercial exploitation of the approved advertisement locations as a sample marketing exercise, the concession fee shall be charged on Pro Rata basis. No claims for discounts / reductions / abatements in Concession Fee shall be admissible for any Location(s) lying unsold, after taking over the possession from Authority.

5.4.5 In respect of the additional Advertisement Locations over and above the tendered area handed over at a subsequent stage, the Concession Fee applicable will be the Concession Fee applicable for Advertisement Locations handed over at the first instance. For the sake of clarity, if additional Location is handed over in the Second Concession Year, the Concession Fee applicable for such location will be the Concession Fee for Second Concession Year.

5.5 Other charges

5.5.1 In addition to the Concession fee, the Concessionaire shall be required to pay such Utility Charges and such other charges as set out under the Concession Agreement. If required by the Concessionaire and agreed to by Authority, Authority shall provide or arrange to provide agreed utilities and facilities at the Service Area in consideration of charges as may be determined by Authority from time to time.

5.5.2 If required by the Concessionaire and agreed to by the Authority, Authority shall provide or arrange to provide agreed utilities and facilities at the Service Area in consideration of charges as may be determined by the Authority from time to time.

5.6 Taxes and other payments

The Concessionaire shall pay all contributions, taxes and insurance premiums payable under Applicable Law, during its performance under the Concession Agreement and all applicable sales tax, service tax and other taxes, etc as applicable, to materials and supplies furnished or work performed hereunder and shall save Authority harmless from liability for any such contributions, premiums, and taxes, and as more particularly set out under the Concession Agreement. Direct taxes on respective income shall be borne by the respective parties.

5.7 Security Deposit

On or before the date of execution of the concession agreement the selected bidder/SPV shall deposit or before the date of execution of the concession agreement the selected bidder /SPV shall deposit Bank Guarantee equivalent to (8) months LF of the first year and 2 Months LF in DD/PO with AAI in the first phase with validity up to 6 years.

On or before the commencement of 6th year BG equivalent to 8 months LF of the 6th year and 2 Months LF in DD/PO to be deposited in second phase with validity up to 6 months from the date of expiry of the contract period.

Successful bidder will have the option to renew the existing BG for enhanced amount or submit the Fresh BG to AAI.

AAI reserve the right to modify the definition of security deposit and enhance the same according to prevailing AAI policies and guidelines from time to time.

5.8 Service Standards and other covenants

The Concessionaire shall at all times comply with the Service Standards and such other covenants as may be prescribed by the Authority from Time to Time. .

5.9 Marketing and Promotional Activities

5.9.1 The Concessionaire is required to participate in all sales and promotion programs, display necessary airport publicity materials, and support all airport-wide promotions, and any other marketing or promotional activities as may be organized by Authority from time to time. The Concessionaire agrees to co-operate with Authority in use of the Advertisement Site(s) in relation to such promotional activities.

Sub-licensing / assignment

The Concessionaire shall not sub-contract or sub-concession or assign any of its rights, duties and obligations under the Concession Agreement, in whole or in part.

5.11 Authority's Brand Support and Promotional Activities

- 5.11.1 Authority may, at any point in time, develop its brand with service, quality, respect, promise and creativity as its core elements and the Concessionaire is required to uphold these elements of Authority's brand while developing, operating and maintaining the Advertisements at the Airport.
- 5.11.2 Concessionaire is also required to participate in all loyalty and promotions to be undertaken by Authority in support of its brand including Airport wide promotions and any other incentive scheme as may be initiated by Authority from time to time. Concessionaire agrees to co-operate with Authority in use of the Advertisement Site(s) in relation to Authority's brand.
- 5.11.3 The Agency has to put in place an specifically reserved additional Airport Branding Area as defined in this RFP at its cost which will not exceed five percent (05%) of the Assigned Advertisement Area for Airport Brand Promotion or Social messages of Government of India etc. having no commercial valuations. The area shall be shown in the Location Layout plan and the concessionaire will not be liable to pay any concession fee for this Airport Branding Area.

5.12 Updated Location Layout Plan

- 5.12.1 The Concessionaire shall be under obligation to submit to the Authority an updated Location Layout Plan after taking into account the Rationalization Exercises in the previous year in the first quarter of every concession year as a reference document for the balance concession term.
- 5.12.2 It would however be obligatory on part of the Concessionaire to assist the Authority to undertake a Joint Physical Verification after submission of the Updated Location Layout plan if called upon to do so.

5.13 Exit Clause

In the event of Concessionaire causing Unsatisfactory Performance and failing to make amends even after issuance of Notice of Dissatisfaction during the Minimum Lock In Period as defined herein, the Authority will be entitled to terminate the Concession Agreement after issuing Notice of Termination. However otherwise after the expiry of the Minimum Lock In Period both the parties can opt for this route after serving the Notices of Dissatisfaction and Notice of Termination on each other.

5.14 Penal Interest on Delayed Payments:

Airports Authority of India (AAI) shall raise bill by 10th of every month. The concessionaire has to pay the bill by the 25th of the same month failing which interest at the rate of 12% per annum shall be charged for a period of 90 days thereafter. **In case, default persists on the 31st day counted from Due Date, AAI will issue a notice of dissatisfaction. After expiry of notice of dissatisfaction, if the default still persists, AAI to terminate the concession forthwith, in any case not exceeding 120th day from notice of termination.**

With the termination of the contract, the agency will be debarred for a minimum period of 3 years for participating in any tenders floated for AAI airports. Irrespective of the receipt of the bills from Authority the Concessionaire is bound to remit the License fee on 25th of day of the current month as per the concession agreement.

5.15 Gestation Period

5.15.1 The Gestation Period will be that of sixty (60) days starting from the Access Date and expiring on the Concession Fee Commencement date.

5.15.2 The Gestation Period of sixty (60) days is a Concession Fee holiday period. However it is expected that the Concessionaire within this period completely installs the Advertising Hardware as per approved Location Layout Plan and puts in place the required marketing team to market the Advertising Product in full swing.

5.15.3 The Concessionaire however would be permitted Sample Marketing during this Gestation Period and would be liable to pay the proportionate Concession Fee for the actual Advertisement Area put to use without having any effect on the Concession Fee Commencement date.

5.15.4 The Concessionaire would be entitled to a Resurrection Period of Thirty (30) days in respect of Displaced, & Withdrawn Locations which have to be resurrected at an Alternate Location from its Original Location. This resurrection period would be a Concession Fee Holiday Period on proportionate basis in respect of the affected locations only.

5.15.5 The Concessionaire however would not be entitled any Resurrection Period if the relocation of an Original Location to an Alternate Location has been sought under Rationalization Rights.

5.16 Dispute Resolution

5.16.1 All disputes and differences arising out of or in any way touching or concerning this Concession Agreement shall in the first place be tried by mutual consent within the definitions and interpretations provided herein within a period of thirty (30) days from the date on which the Concessionaire has sought resolution of the dispute from Authority. Failing which the matter would be sought to be referred to Dispute Resolution Committee set up by

Authority on receipt of a written application from the Concessionaire outlining clearly the specific dispute. In the event of dispute remaining unresolved for forty five (45) days after the date of written application the Concessionaire would be free to seek Arbitration under Arbitration and Conciliation Act 1996 duly amended from time to time. The Concessionaire by means of a written application can seek appointment of an Arbitrator and Authority would appoint such an Arbitrator within 30 days of receipt of the application, subject to fulfilling, the pre-requisites for appointment of the Arbitrator as laid hereunder. The Dispute Resolution Process would however cease to operate after the Concessionaire seeks Arbitration.

5.16.2 The concessionaire would have deemed to have met the Pre-requisites for appointment of an Arbitrator if the position of its Outstanding Dues in respect of Undisputed Dues was well within the provisions indicated at Clause 2.2.1 (d).

5.17 Additional Location (s)

The concessionaire can seek and would be allotted Additional Location (s) subject to operational feasibility on payment of proportionate additional Concession Fee. The allotment of such additional location (s) would however cease on or before the Concession Term expiry date.

5.18 Change in Passenger Terminal Building/Traffic Circulation Car Park Areas and Airport Approach Roads

5.18.1 In such an event it would be incumbent upon Authority to provide all necessary details and drawings and inform the Concessionaire at least six (06) months in advance of the Commissioning date of the new facilities so that the Concessionaire can redraw the Location Layout Plan and seek approval of the Authority for implementing the same at the new facilities on their commissioning. The approval of the Revised Location Layout Plan would continue to be governed by the Location Layout Plan Approval Protocol. In the event Authority ensuring the approval of Revised Location Layout Plan and availability of new concessioned premises for relocation of Advertisement hardware at least sixty (60) days before the commissioning date, it would be deemed that the concessionaire has been provided the necessary resurrection period for relocating the displaced location (s) from its original location(s) to Alternate location

(s). In the event of failure of Authority to meet above specified schedule then the necessary resurrection period and Concession Fee Holiday would be allowed as if all the affected locations were Displaced/ Withdrawn Locations.

5.18.2 In case the change in Terminal Building facilities and Traffic Circulation Areas results in suspension of business for more than thirty (30) days, the Concession Term shall be extended by the suspended period and the date of annual escalation of Concession Fee shall be reset accordingly.

5.19 New Advertising Ventures

The Authority may explore additional advertising ventures in consultation with the existing Advertising Rights Concessionaire. Such a venture must be offered to the Existing Advertising Rights Concessionaire on first right of refusal basis for the balance period of the Concession Term. In the event Existing Advertising Rights Concessionaire fails to respond favorably within a period of sixty (60) days, the Authority would be free to offer the same through competitive bidding for the balance period of the concession but at a Minimum Reserve License Fee not lower than the applicable Concession Fee at that time. However Authority reserves the right to keep (any advertisement using Wi-Fi/mobile as a medium for any kind of advertisement or interactivity) out of the purview of this new advertising ventures.

5.20 Displayed Content of Advertisements

5.20.1 The content of Advertisements displayed at approved locations must be in accordance with the guidelines of Advertisement Standards Council of India.

5.20.2 Advertisements with Audio Content will not be permissible.

5.20.3 Advertisements by Political Parties recognized by Election Commission of India not violating the Model Code of Conduct would be permitted.

5.21 Penalty

Authority can impose a fine of Rupees Five Thousand Only (Rs. 5000.00 Only) on the Concessionaire during inspection/audits for every offence, if any staff of Licensee is found to be in an inebriated condition/ indulging in bad conduct/ creating nuisance/ willfully damaging or tampering the sites/ property of the Authority. An indicative list violations are provided for better understanding as below:

- a) Any staff of Licensee found in drunken condition/indulging in bad conduct.
- b) Any staff of the Licensee found creating nuisance.
- c) Improper maintenance & defacement of the Airport Property.
- d) Dishonor of Cheques and Drafts submitted by Licensee to AAI.
- e) Misbehavior with staff and commuters of AAI.
- f) Not following safety and security norms as may be indicated by authorized representative of AAI.
- g) Misusing Electricity or tampering with energy meter.

Chapter Six (06)

FRAUD AND CORRUPT PRACTICES

- A** The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process. Notwithstanding anything to the contrary contained herein, the Authority may reject an Application 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.
- B** Without prejudice to the rights of the Authority under Clause 6.1 hereinabove, if an Bidder is found by the Authority 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, such Bidder shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 3 (three) years from the date such Bidder is found by the Authority 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, as the case may be.
- C** For the purposes of this Clause, the following terms shall have the meaning hereinafter respectively assigned to them:
- (B) “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 the Authority 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 Concession Agreement or arising there-from, before or after the execution thereof, at any time prior to the expiry of two years from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, 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 (e) of Clause 2.2.1 of this RFP, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOIA or after the

execution of the Concession Agreement, as the case may be, any person in respect of any matter relating to the Concession or the LOIA or the Concession Agreement, who at any time has been or is a legal, financial or technical adviser of the Authority in relation to any matter concerning the Concession;

- (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 the Authority 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.

- 6.4 The Concessionaire shall execute an Integrity Pact with the Authority. The Authority shall appoint an Independent External Monitor (IEM) to review independently and objectively, whether and to what extent the Authority and Concessionaire have complied with their obligations under the Integrity Pact and Concession Agreement

Chapter Seven (07)

MISCELLANEOUS

- 7.1** The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the Courts at Airport of Concession/Authority's Corporate Headquarters shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.
- 7.2** The Authority, 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 the Authority by, 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.

It shall be deemed that by submitting the Proposal, the Bidder agrees and releases the Authority, 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.

INDEX OF SUBMISSIONS

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3	Form-I (Annexure 2) – Technical and Financial Capacity of Bidder	
4	Form-I (Annexure 3) – Certificate from Chartered Accountant	
5	Form-I (Annexure 4) – Details of Outstanding Dues At Airport Units Under Management of Authority	
6	Form-I (Annexure 5) – Outstanding Dues Certificate	
6	Form-II - Statement of Legal Capacity	
7	Form-III - Power of Attorney for signing the Proposal	
8	Form - IV - Power of Attorney for Lead Member of Consortium	
9	Form –V Joint Bidding Agreement	
10	Form – VI - Affidavit	
11	Form VII - Integrity Pact	
12	Documents of Incorporation	
13	Copy of Memorandum and Articles of Association/Partnership Deed	
14	Duly Audited balance sheet and profit and loss account for the preceding five (5) financial years.	
15	Documentary proof of payment of RFP document Cost	
16	Documentary Proof of payment of Earnest Money Deposit	
17	Check-list of Submissions as per Form VIII	

FORM-I

Letter Comprising the Proposal
(To be Submitted by the Bidder/Lead Member on its Letter Head)
(Refer Clause 2.13.2)

Dated:

To,

Airport Director,
Airports Authority of India,
DABH Airport, Indore.

Subject: Proposal for grant of Advertisement Rights Concession to Design, Develop, Operate, and Market, the Advertisement opportunity in the entire Airport Estate at DABH Airport, Indore.

Dear Sir,

With reference to your RFP document dated, I/we, having examined the RFP & Bidding Documents and after understanding its contents, hereby submit my/our Proposal for Qualification for the aforesaid Concession. The Proposal is unconditional and unqualified.

2. I/ We acknowledge that the Authority will be relying on the information provided in the Proposal and the documents accompanying such Proposal for selection of the Bidders for the aforesaid Concession, and we certify that all information provided in the Proposal and in Annexures are true and correct and nothing has been omitted which renders such information misleading; and all documents accompanying such Proposal are true copies of their respective originals.
3. This statement is made for the express purpose of qualifying as a Selected Bidder for the development, operation and maintenance of the aforesaid Concession.
4. I/ We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Qualification statement.
5. I/ We acknowledge the right of the Authority to reject our Proposal without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.

Name & Designation of tender issuing officer: Mr. .Ashok Chettiar, Manager(Commercial)
AAI, DABH Airport, INDORE

6. I/ We certify that in the last three years, we/ any of the Consortium Members or our/ their Associates 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.
7. I/ We declare that:
- (a) I/ We have examined and have no reservations to the RFP document, including any Addendum issued by the Authority;
 - (b) I/ We do not have any conflict of interest in accordance with Clauses mentioned in the RFP 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 6.3 of the RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any Government, Central or State; and
 - (d) I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 6 of the RFP 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 Proposal in response to the RFP for the Concession are true and correct as on the date of making the Proposal and I/we shall continue to abide by them.
8. I/ We understand that you may cancel the Bidding Process at any time and that you are not bound to accept any Proposal that you may receive to qualify the Bidders to Bid for the Concession, without incurring any liability to the Bidders.
9. I/ We believe that I/our Consortium satisfy(s) the Threshold Eligibility Criteria and meet(s) all the requirements as specified in the RFP document and are / is qualified to submit a Proposal.
10. I/ We declare that we/ any Member of the Consortium, or our/ its Associates are not a Member of a/ any other Consortium applying for Concession.

11. I/ We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates 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 Concession or which relates to a grave offence that outrages the moral sense of the community.
12. I/ We further certify that in regard to matters relating to security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
13. I/ We further certify that none of the Directors of the Applicant (in the case of a Consortium, Lead Member and all Members) and/or its Associates is a Director of an entity having Outstanding Dues, as defined in Clause 2.2.1 (d) of RFP.
14. I/ We further certify that we/ any Member of the Consortium, or our/ its Associates do not have any outstanding dues as applicable to this RFP.
15. The Integrity Pact as per format provided in RFP document, and duly signed, is enclosed.
16. 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 in terms of the provisions of this RFP; we shall intimate the Authority of the same immediately.
17. The Statement of Legal Capacity as per format provided in the RFP documents, and duly signed, is enclosed. The power of attorney for signing of Proposal and the power of attorney for Lead Member of consortium is also enclosed.
18. 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 the Authority in connection with the, selection of the Bidder, or in connection with the selection/ Bidding Process itself, in respect of the above mentioned Concession and the terms and implementation thereof.
19. In the event of my/ our being declared as the Selected Bidder, I/we agree to enter into a Concession Agreement in accordance with the draft that shall be provided to me/ us prior to the Proposal Due Date. I/We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
20. I/ We have studied the RFP Documents carefully and also surveyed the site at the Airport. We understand that we shall have no claim, right or title arising out of any documents or information provided to us by Authority or in respect of

any matter arising out of or relating to the Bidding Process including the award of Concession.

21. I/ We agree and understand that the Proposal is subject to the provisions of the RFP Documents. In no case, I/we shall have any claim or right of whatsoever nature if the Concession is not awarded to me/us.
22. I/ We agree and undertake to abide by all the terms and conditions of the RFP document.
23. We agree and undertake to be jointly and severally liable for all the obligations of the Concessionaire under the Concession Agreement till the expiry of the Concession Term in accordance with the Concession Agreement.

In witness thereof, I/we submit this Proposal under and in accordance with the terms of this RFP document.

Yours faithfully,

(Signature, Name and Designation of the Authorized Signatory)

Name and seal of the Bidder/ Lead Member

Dated : _____

Place : _____

FORM-I
Annexure-1

Details of Bidder

1		Details of Bidder/Lead Member	
	a	Name:	
	b	Address of the registered office	
	c	Date & Details of incorporation	
2		Details of individual(s) who will serve as the point of contact/ communication for the Authority:	
	a	Name & Designation	
	b	Correspondence Address	
	c	Email	
	d	Tel / Fax No	
3		Particulars of the Authorised Signatory of the Bidder:	
	a	Name & Designation	
	b	Correspondence Address	
	c	Email	
	d	Tel / Fax No	
		Note: In case of a Consortium, the information above (1-3) should be provided for all the Members of the Consortium.	

4	Debarring Information		
	a	Has the Bidder/member of the Consortium been barred by the Central/ State Government, or any entity controlled by it, from participating in any project?	Yes / No <i>(strike off whichever is not applicable)</i>
	b	If the answer to 4 (a) is yes, does the bar subsist as on the date of Proposal?	Yes / No <i>(strike off whichever is not applicable)</i>
	c	Has the Bidder/ member of the Consortium paid	Yes / No
		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 three years?	<i>(strike off whichever is not applicable)</i>

(Signature of Authorized Signatory)

Name, Designation, Date & Seal or Stamp of Bidder

FORM-I
Annexure-2

Technical Capacity and Financial Capacity of the Bidder
(Refer to Clauses 2.2.2 (A) & (B) of the RFP)

	Name of the Bidder/ Lead Member										
	Status of the Bidder (Whether Individual Bidder or a Consortium Bidder)										
A	Details of Experience (Technical Capacity)										
		Fifth Precedi ng Financi al year		Fourth Precedi ng Financi al Year		Third Precedi ng Financi al Year		Second precedin g financial Year		First Precedi ng Financi al Year	
	Name of the Princip al who awarde d the Adverti sing Rights Conces sion	Periodi city of Conces sion	Amount of Concessi on Fee Paid in Rupees	Periodi city of Conces sion	Amount of Concessi on Fee Paid in Rupees	Periodi city of Conces sion	Amount of Concessi on Fee paid in Rupees	Periodici ty of Conces sion	Amount of Concessi on Fee paid in Rupees	Periodi city of Conces sion	Amount of Concession Fee paid in Rupees
	1										
	2										
	3										
	4										
	5										
	6										
	7										
	8										
	9										
	10										
	TOTAL										

Tender No. AAI/IDR/Comml./2018/02/Advt.

B											
Details of Annual Gross Turnover in Rupees (Financial Capacity)											
A											
Details of Experience (Technical Capacity)											
		Fifth Precedi ng Financi al year		Fourth Precedi ng Financi al Year		Third Precedi ng Financi al Year		Second precedin g financial Year		First Precedi ng Financi al Year	
	From the busine ss claime d at A above										
	From other Busine sses										
	Total										

Notes:

Name & Designation of tender issuing officer: Mr. .Ashok Chettiar, Manager(Commercial)
AAI, DABH Airport, INDORE

The Above information must be supported with the following Declarations/ Documentary Evidence /Certificate from the Chartered accountant of the Bidders:

- (i) The Bidder/Lead member must file a Self-Declaration indicating the three years out of the preceding five financial years in respect of which it intends to claim Technical eligibility in accordance with Clause 2.2.2 (A) (i) of the RFP.
- (ii) The Bidder/Lead Member must submit Self Attested Scanned Copies of Award Letters from the respective Principals on the strength of which it intends to claim Technical eligibility in accordance with Clause 2.2.2 (A) (i) of the RFP;
- (iii) The Bidder must submit a certificate from its Chartered accountant clearly certifying the percentage of Gross Sales Turnover achieved during each of the preceding five financial years from business in respect of which the Technical Experience is being Claimed and other businesses so as to enable Authority to evaluate whether the bidder/lead member has satisfied the condition laid down at Clause 2.2.2 B (I) (a) and (b) of this RFP.
- (iv) In case of a Consortium, separate sheets are to be furnished in respect of each Member of the Consortium

FORM-I
Annexure-3**Certificate from Chartered Accountant**
(Refer to Clauses 2.2.2 (B) (I) (c) of the RFP)

Based on the audited records of the _____ (Name of the Company), this is to certify that..... (Name of Bidder/Lead Member of Consortium) has achieved a gross sales turnover including from Advertising Businesses as defined at Clause 2.2.2 (A) (i) of this particular RFP during the preceding five financial years (April-March) in the percentage indicated against each.

Sr. No.	Financial Year	Total Gross Sales Turnover (100%)	Gross Sales Turnover From Businesses specified At Clause 2.2.2 (A) (i) of the RFP		Indian Rupees In Lakhs	
			In Absolute Terms	In Percentage Terms	In Absolute Terms	In Percentage Terms
01	02	03	04	05[04/03x100]	06	07[06/03X100]
01						
02						
03						
04						
05						

This is to further state that the information certified as above is true, and correct to the best of our knowledge and based on the records produced before us.

Signature

Name & Membership No of Chartered Accountant

Seal of the audit firm:

Date

Place

Note:

In the case of a Consortium, separate sheets are to be furnished by each Member of the Consortium

FORM-I
Annexure-4

**DETAILS OF OUTSTANDING DUES AT AIRPORT UNITS UNDER
MANAGEMENT OF AUTHORITY**

The Bidder (including all Consortium members) shall submit the details of commercial Licenses held/operated (current and past) from the date of publication of RFP in respect of all Airport Units and Offices under management of Authority along with details of undisputed/disputed/stayed by Arbitral Tribunals or Judicial Courts outstanding dues and Security Deposits held up to the relevant period in the following Performa.

Sr. No	Details of Contract	Status of Contract	Commencement Date	Expiry Date	Brief Reasons of Expiry of Contract if applicable	Status of outstanding dues as up to 31.05.2018					
						Undisputed	Disputed Under Arbitration	Stayed by a Judicial Court or Arbitral Tribunal	Total	Contractual Security Deposit	Additional Security Deposit against Disputed Dues.
01	02	03	04	05	06	07	08	09	10	11	12
01											
02											
03											
04											
05											

Note: The Bidder (including all Consortium members) shall submit a outstanding dues certificate from the Authority (as per Form 1 – Annexure 5) in respect of the figures being indicated at Column 07 to Column 12.

Signature of Authorised Signatory
Name, Designation, Seal/Stamp of Bidder, Date & Place

“Outstanding Dues Certificate”

(A separate Certificate is required to be obtained and submitted along with RFP for all the contracts, Airport Units, Offices as mentioned at Form-1, Annexure IV)

File No : _____
 Date of Issuance of Certificate _____
 Name of Contract _____
 Agreement Dated _____
 Commencement Date _____
 Expiry Date _____
 Period up to which ‘Outstanding Dues Certificate’ issued _____
 Issued to : (Name of the Party) _____

Sr. No	Nature of Dues	Amount of Dues in India Rupees	Amount of Security Deposit available with AAI/Reference to orders of Judicial Court/Arbitral Tribunal	Validity of the security deposit/validity of the orders of judicial court/arbitral tribunal
01	Undisputed License Fee Dues			
02	Undisputed Other dues			
03	Disputed Dues referred to conciliation/arbitration			
04	Dues stayed/with held from realization by order of a court/arbitral/judicial tribunal			
	Total			

The composite amount shown if not “NIL” on the date of issue for an up to the relevant period must be bifurcated and clearly defined so as to indicate the month up to which the Undisputed License Fee and other dues have been cleared by the party.

The above certificate is issued in line with the Joint Reconciliation Statement dated _____ between the parties subject to errors and omissions in the due course of business.

FORM – II

Statement of Legal Capacity
(To be furnished by the Bidder /Each Member of Consortium)

Reference _____

Date _____

To,

Dear Sir,

We hereby confirm that we satisfy the terms and conditions laid out in the RFP document.

We have agreed that(insert member's name) will act as the Lead Member of our consortium.*

We have agreed that (insert individual's name) will act as our representative/ will act as the representative of the consortium on its behalf* and has been duly authorized to submit the RFP. 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.....

**Please strike out whichever is not applicable.*

FORM-III

Power of Attorney for signing of Proposal
(To be executed on non-judicial Stamp paper of Rs 200/- and duly not arised)

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 ofaged
years and presently residing at, who is presently employed with us/ the Lead Member of our Consortium 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 Proposal for Award of Advertisement Rights Concession to design, develop, operate, and market the advertising opportunity at Airport, as notified by Airports Authority of India(the "Authority") including but not limited to signing and submission of all Proposals, Bids and other documents and writings, participate in Pre-Proposals and other conferences and providing information/ responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts including the Concession Agreement and undertakings consequent to acceptance of our Financial Proposal, and generally dealing with the Authority in all matters in connection with or relating to or arising out of our Financial Proposal for the said Concession and/ or upon award thereof to us and/or till the entering into of the Concession Agreement with the Authority.

AND we hereby undertake and 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 THIS DAY OF2.....

For

(Signature, name, designation and address)

Witnesses:

1.

(Notarized)

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 executants and when it is so required, the same should be under common seal affixed in accordance with the required procedure.

Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholder's 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.

FORM-IV

Power of Attorney for Lead Member of Consortium
(To be executed on non-judicial Stamp paper of Rs 200/- and duly not arized)

Whereas Airports Authority of India (the "Authority") has invited Proposals from interested parties for Award of Advertisement Rights Concession to design, develop, operate and market the advertisement opportunity at Airport.

Whereas,.....and
 (collectively the "Consortium") being Members of the Consortium are interested in bidding for the Concession in accordance with the terms and conditions of the Request for Proposal document (RFP) and other connected documents in respect of the Concession, 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 Concession 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/shaving our registered office at.....,(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"). We 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 concession/contract, during the execution of the Concession 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 pre-qualification of the Consortium and submission of its Proposal for the Concession, including but not limited to signing and submission of all Technical Proposals, Financial Proposals and other documents and writings, participate in bidders 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 the Authority, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium's Bid for the Concession and/ or upon award thereof till the Concession Agreement is entered into with the Authority.

AND 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/ Consortium.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS..... DAY OF2.....

For

(Signature)

.....

(Name & Title)

For

(Signature)

.....

(Name & Title)

For

(Signature)

.....

(Name & Title)

Witnesses:

1.

2.

.....

(Executants)

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

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 executants(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.

Also, wherever required, 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 favour 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 Apostile certificate.

FORM-V

Joint Bidding Agreement
**(To be executed on non-judicial Stamp paper of Rs 200/- and
duly notarized)**

THIS JOINT BIDDING AGREEMENT is entered into on this the
day of 20...

AMONGST

1. {..... Limited, a company incorporated under the Companies Act, 1956/2013} 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

2. {..... Limited, a company incorporated under the Companies Act, 1956} 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)

AND

3. {..... Limited, a company incorporated under the Companies Act, 1956 and having its registered office at (hereinafter referred to as the "**Third Part**" which expression shall, unless repugnant to the context include its successors and permitted assigns)}

The above mentioned parties of the FIRST, SECOND and THIRDPART are collectively referred to as the "Parties" and each is individually referred to as a "Party"

WHEREAS,

- (A) THE AIRPORTS AUTHORITY OF INDIA, established under the Airports Authority of India Act, 1994, represented by its Chairman and having its principal offices at Rajiv Gandhi Bhawan, Safdarjung Airport, New Delhi-110003 (hereinafter referred to as the "Authority" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited Proposals for Award of Advertisement Rights Concession to design, develop, operate, and market the advertising opportunity at Airport,

(B) The Parties are interested in jointly bidding for the Concession as members of a Consortium and in accordance with the terms and conditions of the RFP document and other Bid documents in respect of the Concession, and

(C) It is a necessary condition under the RFP document that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Proposal.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretations

In this Agreement, the capitalized terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFP.

2. Consortium

2.1 The Parties do hereby irrevocably constitute a consortium (the "**Consortium**") for the purposes of jointly participating in the Bidding Process for the Concession.

2.2 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 Concession, either directly or indirectly or through any of their Associates.

3. Role of the Parties

The Bidder / all the members in the case of consortium undertake to perform all the roles and responsibilities required to be fulfilled for the concession.

4. Joint and Several Liabilities

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Concession and in accordance with the terms of the RFP, and the Concession Agreement, till such time as the Commercial operations of the Concession is achieved under and in accordance with the Concession Agreement.

5. Representation of the Parties

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

- (a) Such Party is duly organized, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;
- (b) The execution, delivery and performance by such Party of this Agreement has been authorized by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favor of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member is annexed to this Agreement, and will not, to the best of its knowledge:
 - (i) require any consent or approval not already obtained;
 - (ii) Violate any Applicable Law presently in effect and having applicability to it;
 - (iii) Violate the memorandum and articles of association, by-laws or other applicable organizational documents thereof;
 - (iv) violate any clearance, permit, concession, grant, license or other governmental authorization, approval, judgment, 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
 - (v) 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 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 Associates 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 this Agreement.

6. Termination

This Agreement shall be effective from the date hereof and shall

continue in full force and effect until the end of Concession Term of the Concession is achieved under and in accordance with the Concession Agreement, in case the Concession is awarded to the Consortium. However, in case the Consortium is either not pre-qualified for the Concession or does not get selected for award of the Concession, the Agreement will stand terminated in case the Bidder is not pre-qualified or upon return of the Earnest Money Deposit by the Authority to the Bidder, as the case may be.

7. Miscellaneous

- 7.1 This Joint Bidding Agreement shall be governed by laws of India.
- 7.2 The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the Authority.

IN WITNESS WHEREOF THE PARTIES ABOVE NAMED HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED
DELIVERED

For and on behalf of
LEAD MEMBER by:

(Signature)
(Name)

(Designation)
(Address)

SIGNED, SEALED AND

SECOND PART

(Signature)
(Name)

(Designation)
(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of
THIRD PART

(Signature)
(Name)
(Designation)
(Address)

In the presence of:

- 1.
- 2.

Notes:

1. 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 executants(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
2. 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 authority to execute this Agreement on behalf of the Consortium Member.
3. 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.

FORM- VI**FORMAT OF AFFIDAVIT**

***(To be executed by Bidder (Lead Member, in the case of a Consortium)
on a non-judicial Stamp Paper of Rs 200/- and duly notarized)***

- I,S/o.....,
Authorized Signatory for M/s do hereby solemnly
affirm and declare as under:
2. I/We acknowledge that the Authority will be relying on the information provided in the Proposal and the documents accompanying such Proposal for Selection of the Bidders for the aforesaid Concession, and we certify that all information provided in the Proposal and in Annexure is true and correct; and nothing has been omitted which renders such information misleading; and all documents accompanying such Proposal are true copies of their respective originals.
 3. I/ We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Qualification statement.
 4. I/ We certify that in the last three years, we/ any of the Consortium Members or our/ their Associates 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 RFP document, including any Addendum issued by the Authority;
 - (b) I/ We do not have any conflict of interest in accordance with Clauses mentioned in the RFP 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 6.3 of the RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any Government, Central or State; and
 - (d) I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 6 of the RFP 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) That the undertakings given by us along with the Proposal in response to the RFP for the Concession are true and correct as on the date of making the Proposal and I/we shall continue to abide by them.
6. I/ We declare that we/ any Member of the Consortium, or our/ its Associates are not a Member of a/ any other Consortium applying for pre-qualification.
7. I/ We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates 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 Concession or which relates to a grave offence that outrages the moral sense of the community.
8. I/ We further certify that in regard to matters relating to security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
9. I/ We further certify that no investigation by a regulatory authority is pending either against us/ any Member of the Consortium or against our/ its Associates or against our CEO or any of our directors/ managers/ employees.

10. I/ We further certify that we/ any Member of the Consortium, or our/ its Associates do not have any outstanding dues as applicable to this RFP.
11. 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 in terms of the provisions of this RFP, we shall intimate the Authority of the same immediately.
12. 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 the Authority in connection with the selection of the Bidder, or in connection with the selection/ Bidding Process itself, in respect of the above mentioned Concession and the terms and implementation thereof.
13. In the event of my/ our being declared as the Highest Bidder, I/we agree to enter into a Concession Agreement in accordance with the draft that shall be provided to me/ us prior to the Proposal Due Date. I/We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
14. I/ We have studied the RFP Documents carefully and also surveyed the site at the Airport. We understand that we shall have no claim, right or title arising out of any documents or information provided to us by Authority or in respect of any matter arising out of or relating to the Bidding Process including the award of Concession.
15. I/ We agree and understand that the Proposal is subject to the provisions of the RFP Documents. In no case, I/we shall have any claim or right of whatsoever nature if the Concession is not awarded to me/us.
16. I/ We agree and undertake to abide by all the terms and conditions of the RFP document.
17. We agree and undertake to be jointly and severally liable for all the obligations of the Concessionaire under the Concession Agreement till the expiry of the Concession Term and in accordance with the Concession Agreement.

DEPONENT

VERIFICATION

I,....., the above name deponent do hereby verify that the contents of the aforesaid paragraphs 1 to 17 are true and correct to the best of my/our knowledge and belief and nothing is concealed there from.

Verified at thisthe day of
2016

DEPONENT

FORM – VII**FORMAT OF INTEGRITY PACT**

(To be submitted by the Bidder as a part of Technical bid documents and also to be signed by the selected bidder within the Business Incubation Period after issuance of LOIA by Authority)

The Pact made this _____ day of _____ between Airports Authority of India, a body corporate constituted by the Central Government under the Airports Authority of India Act, 1994 and having its Corporate Office at Rajiv Gandhi Bhawan, New Delhi, and offices at _____ in India, hereinafter called the Authority (which term shall unless excluded by or its repugnant to the context, be deemed to include its Chairman, or Members, Executive Director, Airport Directors, Officers or any of them specified by the Chairman in this behalf, and shall also include its successors and assign(s) of the one part.

AND

_____ represented by _____ of the other part, hereinafter called the "Bidder/Contractor" (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/Contractor).

WHEREAS the Authority intends to award, under laid down organizational procedures, tender / contract for _____. The Authority, 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 Bidder/Contractors.

WHEREAS the Authority is desirous to make its business mechanism more transparent, thus to ensure strict adherence of the aforesaid objectives/goals, the Authority hereby adopts the instrument developed by the renowned international non-governmental organization "Transparency International" (TI) headquartered in Berlin (German). The Authority will appoint an External Independent Monitor (EIM) who will monitor the tender process and the execution of the contract for compliance with the principles mentioned above.

AND WHEREAS the Bidder is submitting a tender to the Authority for _____ in response to the RFP dated _____. Contractor is signing the contract for execution of _____.

NOW, therefore, this indenture witnesses herewith:

SECTION 1: Commitment of the Authority

- 1.1 That the Authority commits itself to take all measures necessary to prevent corruption and to observe the following principles:
- i. No employee of the Authority, personally or through family members, will in connection with the tender for, or the execution of a contract, demand, take a promise for or accept for him/her or third person, any material or immaterial benefit, which he/she is not legally entitled to.
 - ii. The Authority will, during the tender process treat all Bidders with equity and reason. The Authority will in particular, before and during the tender process, provide to all Bidders the same information and will not provide to any Bidder confidential / additional information through which the Bidder could obtain an advantage in relation to the tender process or the contract execution.
 - iii. The Authority will take all measures to exclude all known prejudiced persons from the tender process.
- 1.2 That if the Authority receives information on the conduct of any of its employee which is a criminal offence under the relevant anti-corruption laws of India, or if there be a substantive suspicion in this regard, the Authority will inform its Vigilance Department to initiate appropriate action.

SECTION 2: Commitments of the Bidder / Contractor

- 2.1 That the Bidder / Contractor commit itself to take all measures necessary to prevent corruption. Further he commits himself to observe the following principles during his participation in the tender process and during the contract execution:
- i. The Bidder/ Contractor has not offered, promised or given and will not, directly or through any other person or firm, offer, promise or give to any of the Authority's employees involved in

the tender process or the execution of the contract or to any third person, any material or immaterial benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the tender process or during the execution of the contract.

- ii. The Bidder/Contractor 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, specifications, certifications, subsidiary contracts, submission or non-submission of bids or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
 - iii. The Bidder/ Contractor has not committed and will not commit any offence under the relevant Anti-Corruption Laws of India. Further the Bidder / Contractor will not use improperly, for purpose of competition or personal gain, or pass on to others, any information or document provided by the Authority as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
 - iv. The Bidder/Contractor will, when presenting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
 - v. The Bidder/Contractor will inform the External Independent Monitor;
 - (a) If he receives demand for any illegal / undue payment / benefit.
 - (b) If he comes to know of any unethical or illegal payment / benefit.
 - (c) If he makes any payment to any Authority's associate(s).
 - vi. The Bidder(s)/Contractor(s) will not submit a frivolous / false/ bogus complaint with malafide intention.
- 2.2 That the Bidder/Contractor will not instigate any person to commit offences mentioned in Clause 2.1 above or be an accessory to such offences.

SECTION 3: Disqualification from tender process and exclusion from future contracts

- 3.1 That if the Bidder(s)/Contractor, during tender process or before the award of the contract or during execution of the contract / work has committed a transgression in violation of Section 2 or in any other form such as to put his reliability or credibility as Bidder(s)/Contractor(s) into question, the Authority is entitled to disqualify him from the tender process or to terminate the contract for such reason.
- 3.2 That if the Bidder/Contractor against whom any action in terms of Section 3.1 above has already been taken in any other tender / contract process, again commits a transgression in violation of section 2 such as to put his reliability or credibility into question, the Authority is entitled also to debar the Bidder/Contractor from future tender/contract processes. The imposition and duration of the debarment will be determined by the severity of the transgression. The severity will be determined taking into consideration the circumstances of the case, in particular the number of transgression, the position of the transgressor within the company hierarchy of the Bidder and the amount of the damage. The debarment will be imposed for a period minimum of six months and maximum of five years.
- 3.3 That the Bidder/Contractor accepts and undertakes to respect and uphold the Authority's absolute right to resort to and impose such debarment and further accepts and undertakes not to challenge or question such debarment on any ground.
- 3.4 That if the Bidder/Contractor applies to the Authority for premature revocation of the debarment and proves to the satisfaction of the Authority that he has installed a suitable and effective corruption prevention system and also restored/recouped the damage, if any, caused by him, the Authority may, if thinks fit, 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.

- 3.5 That a transgression is considered to have occurred if the Authority is fully satisfied with the available documents and evidence submitted along-with External Independent Monitor's recommendations/suggestions that no reasonable doubt is possible in the matter.

SECTION 4: Previous Transgression

- 4.1 That the Bidder/Contractor declares that no previous transgression occurred in the last five years with any other company in any country or with any other Public Sector Enterprise in India conforming to the TI approach that led to debarment / disqualification and could justify his exclusion from the tender process.
- 4.2 That if the Bidder/Contractor makes incorrect statement on the subject, he can be disqualified from the tender 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.

SECTION 5: Compensation for damages

- 5.1 That if the Authority has disqualified / debarred the Bidder from the tender process prior to the award under section 3 or 4, the Authority is entitled to forfeit the Earnest Money Deposit.
- 5.2 That if the Authority has terminated the contract under section 3 or 4, or if the Authority is entitled to terminate the contract under section 3 or 4, the Authority shall be entitled to demand and recover from the contractor damages equivalent to 5% of the contract value or the amount equivalent to security deposit or performance bank guarantee, whichever is higher.
- 5.3 That the Bidder/Contractor agrees and undertakes to pay the said amount without protest or demure subject only to condition that if the Bidder/Contractor can prove and establish to the satisfaction of the Authority 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 the Authority.

SECTION 6: Equal treatment of all Bidders / Contractors/Sub- contractors/ Associates

- 6.1 That the Bidder/Contractor undertakes to get this Pact signed by the sub-contractor(s) and associate(s) whose value of the work contribution exceeds Rs. 5(five) crores, and to submit the same to the Authority along-with the tender document / contract before contract signing.
- 6.2 The sub-contractor(s)/associate(s) engaged by the Contractor, with the approval of the Authority after signing of the contract, and whose value of the work contribution exceeds Rs. 5 (five) crores will be required to sign this Pact by the Contractor, and the same will be submitted to the Authority before doing / performing any act/function by such sub-contractor(s)/ associate(s) in relation to the contract / work.
- 6.3 That the Authority will disqualify from the tender process all Bidder(s) who do not sign this Pact or violate its provisions or fails to get this Pact signed in terms of Section 6.1 or 6.2 above.
- 6.4 That if the Contractor(s) does/ do not sign this Pact or violate its provisions or fails to get this Pact signed in terms of Section 6.1 or 6.2 above. Authority will terminate the contract and initiate appropriate action against such Contractor(s).

SECTION 7: Allegations against bidder / contractors/ subcontractors/ associates

- 7.1 That if the Authority receives any information of conduct of a Bidder, Contractor or Sub-contractor, or of an employee or a representative or an associate of a Bidder, Contractor or Sub-contractor which constitutes corruption, or if the Authority has substantive suspicion in this regard, the Authority will inform the Vigilance Department for appropriate action.

SECTION 8: External Independent Monitor(s), number depending on the size of the contract to be decided by the Chairman of the Authority.

- 8.1 That the Authority will appoint competent and credible External Independent Monitor(s) for this Pact. 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 Authority.

- 8.2 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 the Authority.
- 8.3 That the Bidder/Contractor accepts that the Monitor has the right to access without restriction to all project documentation of the Authority including that provided by the Bidder/Contractor. The Bidder/Contractor will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to sub-contractors and associate. The Monitor is under obligation to treat the information and documents of the Authority and Bidder/Contractor/Sub-Contractors/Associates with confidentiality.
- 8.4 That the Authority will provide to the Monitor sufficient information about all meetings among the parties related to the project provided such meetings could have an impact on the contractual relations between the Authority and the Contractor/Bidder. The parties offer to the Monitor the option to participate in such meetings.
- 8.5 That as soon as the Monitor notices, or believes to notice, violation of this Pact, he will so inform the management of the Authority 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 the Monitor will submit a written report to the Chairperson of the Board of the Authority within 2 weeks from the date of reference or intimation to him by the Authority and, should be occasion arise, submit proposals for correcting problematic situations.
- 8.7 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.

8.8 The word 'Monitor' would include singular and plural.

SECTION 9: Pact Duration

9.1 That this Pact comes into force when both the parties have signed it. It expires for the Contractor 12 months after the final payment under the respective contract, and for all other Bidders 3 months after the contract is awarded.

9.2 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 the Authority.

SECTION 10: Miscellaneous provisions

10.1 That this Pact is subject to Indian Laws, Place of performance and jurisdiction is the Corporate Headquarter / the Regional Headquarter / offices of the Authority, as applicable.

10.2 That the charges and supplements as well as termination notices need to be made in writing.

10.3 That if the Contractor / Bidder is a partnership or a Consortium, this Pact must at the submission of the technical proposal must be signed by all the partners and consortium members or their authorized representatives.

10.4 That should one or several provisions of this Pact turn out to be invalid, the remainder of this Pact remains valid. In this case the parties will strive to come to an Agreement to their original intentions.

For the Authority

For the Bidder/Contractor

Place _____ Witness 1: _____

Date _____ Witness 2: _____

FORM-VIII**CHECKLIST OF SUBMISSIONS**

The Bidders are advised to arrange the submissions/documents in the following order. Each page of Proposal is to be serially numbered, signed and stamped by the Authorized Signatory of the Bidder/Lead Member of the Consortium.

Sr. No.	Document Name	To be furnished by	To be notarized	Yes/No
1	Form- I Letter Comprising the Proposal	Bidder/Lead Member	No	
2	Form –I (Annexure 1) – Details of Bidder	Bidder/Lead Member	No	
3	Form-I (Annexure 2) – Technical and Financial Capacity of Bidder	Bidder/Separately by All Members of Consortium	No	
4	Form-I (Annexure 3) – Certificate from Chartered Accountant	Bidder/Separately by All Members of Consortium	No	
5	Form-I (Annexure 4) – Details of Outstanding Dues At Airport Units Under Management Of Authority	Bidder/Separately by All Members of Consortium	No	
6	Form-I (Annexure 5) – Outstanding Dues Certificate	Bidder/Separately by All Members of Consortium	No	
6	Form-II Statement of Legal Capacity	Bidder/Separately by All Members of Consortium	Yes	
7	Form – III Power of Attorney for signing the Proposal	Bidder/Separately by All Members of Consortium	Yes	
8	Form-IV Power of Attorney for Lead Member of Consortium	Members of Consortium	Yes	
9	Form-V Joint Bidding Agreement	Jointly by all Members of Consortium	Yes	
10	Form-VI Affidavit	Bidder/Lead Member of the Consortium	Yes	
11	Form-VII Integrity Pact	Bidder/All Members of the Consortium separately	Yes	
12	Documents of Incorporation	Bidder/All Members of Consortium	Yes	

13	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	Bidder/All Members of Consortium	No	
14	Duly audited balance sheet and profit and loss account for the Preceding five (5) financial years.	Bidder/Lead Member	No	
15	Documentary proof of payment of RFP Document Cost	Bidder/Lead Member	No	
16	Documentary Proof of payment of Earnest Money Deposit	Bidder/Lead Member	No	

Date, Place, Signature, Name, Designation, Seal and Stamp of the Bidder/Lead Member

APPENDIX-I

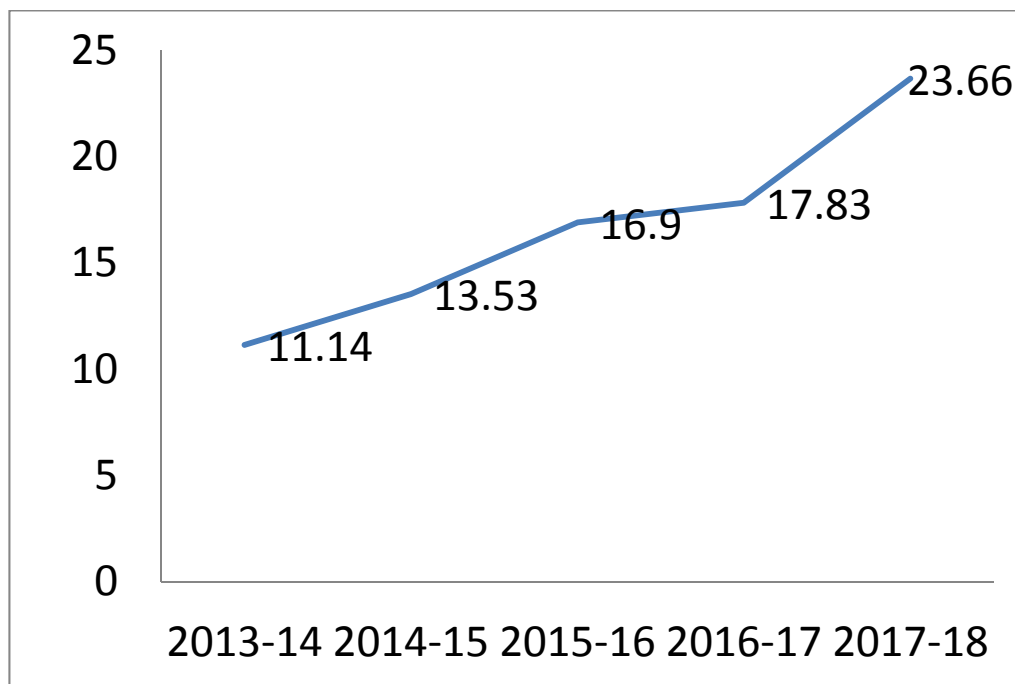
FORMAT FOR FINANCIAL PROPOSAL

(For reference purpose and not to be submitted with Technical bids)

Financial Proposal” shall mean the binding and final financial offer to be submitted by each Bidder online in the AAI E tender portal only. The quote in physical form as a document need not be submitted along with technical bid documents.

APPENDIX II**PASSENGER TRAFFIC DATA AT
DABH AIRPORT, INDORE**

Year	Total Passengers (in lacs)
2013-14	11.14
2014-15	13.53
2015-16	16.90
2016-17	17.83
2017-18	23.66



Note: These details are provided to the Bidders for indicative reference only. Authority does not vouch for the accuracy of these details and advises the prospective Bidders to authenticate these details from sources of its choice and understanding.

APPENDIX-III

AIRPORTS AUTHORITY OF INDIA

CONCESSION AGREEMENT

FOR

**ADVERTISEMENT RIGHTS CONCESSION TO DESIGN, DEVELOP,
OPERATE AND MARKET THE ADVERTISING OPPORTUNITY IN THE
ENTIRE AIRPORT ESTATE**

AT

DABH AIRPORT, INDORE



CONCESSION AGREEMENT

THIS CONCESSION AGREEMENT (“Agreement”) made and executed at
..... on this _____ day of _____ 2016

BY AND BETWEEN:

1. The **Airports Authority of India**, acting through its Chairman (hereinafter referred to as “**Authority**”, which expression shall unless repugnant to the context or meaning thereof, includes its successors and assigns) of the **FIRST PART**; and
2. _____, a company incorporated under the Companies Act, 2013, and having its Registered Office at _____ (hereinafter referred to as the “**Concessionaire**” which expression unless repugnant to the context or meaning thereof shall be deemed to mean and include its successors and permitted assigns), of the **SECOND PART**.

The Authority and the Concessionaire are hereinafter collectively referred to as “**Parties**” and individually as “**Party**”.

WHEREAS:

- A. AAI is an authority (the “**Authority**”) established under the Airports Authority of India Act., 1994 (the “**AAI Act**”), which is responsible for the development, operation, management and maintenance of airports in India.
- B. AAI has undertaken the development of the entire Airport Estate (the “**Airport**”) which is located at Indore. The Airport comprises separate Passenger & Cargo handling Areas named as terminals for domestic and international traffic in addition to various other facilities such as traffic circulation areas, car parks, residential areas, approach roads etc.
- C. The Authority, with the objective of providing better amenities to the Airport Users and in the overall public interest, is desirous of awarding the Advertisement Rights Concession to design, develop, operate, and market the advertising opportunity at the Airport (the

"Concession"), to a private entity, in accordance with the terms and conditions set forth herein.

- D.** Pursuant to the above, the Authority prescribed the technical and commercial terms and invited bids from the intending bidders including, inter-alia,{the Selected Bidder} in terms of the Request for Proposal dated..... (the **"RFP"**)
- E.** After evaluation of the Proposals received, the Authority has accepted the Proposal of {the Selected Bidder [consortium comprising....., and (collectively the **"Consortium"**) with as its Lead member]} and issued a Letter of Intent to Award bearing No. dated(hereinafter called the **"LOIA"**), prescribing inter alia, the terms and conditions of execution of this Concession Agreement.
- F.** Subsequently{the Selected Bidder} has, in terms of RFP and the LOIA, fulfilled the following pre requisites to the execution of this Agreement within the prescribed Business Incubation Period. The RFP and LOIA would form integral part of this concession agreement
- G.** Pursuant to the aforesaid process and relying upon representations and warranties made by the Selected Bidder, the Authority has agreed to accept the Selected Bidder as the Concessionaire for the purpose of performance/ implementation and execution of the Concession subject to and in accordance with the terms and conditions set out in this Agreement.

NOW THEREFORE, in consideration of the provisions and mutual covenants contained herein, it is hereby agreed by and between the Parties as follows:

ARTICLE - 1 [DEFINITIONS & INTERPRETATION]

1.1. Definitions & Interpretations

The words and expressions mentioned or defined in this agreement shall, unless the context otherwise requires, have the same meaning and understanding as ascribed thereto in the RFP document forming integral part of this Concession Agreement. However In addition to the terms already defined , if certain other terms are defined and used elsewhere in this Agreement, shall have their respective defined meanings, unless the context expressly or by necessary implication otherwise requires. Provided further that any consent or approval required from the Authority under this Agreement shall mean the prior written consent of the Authority.

- 1.1.1 The rule of construction, if any, that a contract should be interpreted against the parties responsible for drafting and preparations thereof, shall not apply.
- 1.1.2 Any word or expression used in this Agreement shall, unless otherwise defined or construed in this Agreement, bear its ordinary English meaning and for these purposes, the General Clauses Act 1897 shall not apply.

1.2 Priority of Agreements and Errors/Discrepancies

- 1.2.1 This agreement, and all other agreements and documents forming part of this agreement are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this agreement, the priority of this agreement and other documents and agreements forming part hereof shall, in the event of

any conflict
between them, be in the following order:

- (a) this agreement; and
- (b) all other agreements and documents forming part hereof;

1.2.2 In other words the agreement at (a) above shall prevail over the agreements and documents at (b) above. Provided further that in case of ambiguities or discrepancies within this agreement, the following shall apply:

- (a) Between two Articles of this agreement, the provisions of specific Articles relevant to the issue under consideration shall prevail over those in other Articles;
- (b) Between any value written in numerals and that in words, the latter shall prevail.

ARTICLE - 2 [THE CONCESSION]

2.1 The Concession

- 2.1.1 Relying and acting upon the Proposal submitted by the Selected Bidder, and the representations, warranties and covenants of the Concessionaire as more particularly set out hereunder, the Authority hereby grants and authorizes the Concessionaire Advertisement Rights Concession to design, develop, operate, and market the advertising opportunity at _____ Airport and to exercise and/or enjoy the rights, powers, benefits, privileges, authorizations and entitlements as set forth in this Agreement (the "**Concession**").
- 2.1.2 The Authority hereby grants to the Concessionaire a non-exclusive right to access the concessioned premises during the Concession Term, in order to undertake and discharge its rights and obligations pursuant to the Concession. It is clarified that neither the Concession nor the access rights in relation to the Sites(s) shall create any tenancy rights or any other right, title or interest of any kind or nature whatsoever in relation to the Advertisement locations in favor of the Concessionaire other than the permissive right of use, hereby granted in respect of the Concession. The Authority shall be in possession and full charge and control of the advertisement locations at all times and the Authority shall at all times have free and unobstructed access to these advertisement locations handed over to the concessionaire.
- 2.1.3 In consideration of the Concession granted by the Authority in accordance with the terms hereof, the Concessionaire agrees to pay the Concession Fee to the Authority in accordance with the terms and conditions set forth herein. The Concessionaire also agrees to pay to the Authority and/or to its respective appointed service provider(s), the Charges for utilities and other services used by Concessionaire and to perform all such obligations of the Concessionaire as are required, in the manner and in accordance of the terms and conditions as set out under this Agreement.

2.2 The Concession Term

- 2.2.1 The term of the Concession (the "**Concession Term**") shall commence on the Concession Fee Commencement Date and shall terminate on the seventh (07th) anniversary of the Concession fee Commencement Date, unless terminated or extended earlier in accordance with the terms and conditions of this Agreement.

2.2.2 The Concession Term shall be reckoned from the Concession Fee Commencement Date. For the sake of clarity, the Concession Term of Advertisement Area under Additional Locations handed over to the Concessionaire at subsequent stages shall co terminate on the expiry date of the Concession Term already notified at Clause 2.2.1 of this concession agreement.

2.3 The Assigned Area

The Assigned Area under the Concession shall be 6000 Sq.Ft. which would be handed over on the Access Date as per Approved Location Layout Plan.

2.4 Partial or Full Relocation of the Concession

2.4.1 The Concessionaire agrees and acknowledges that the Authority may require the Concessionaire to partially or fully relocate its operations on account of security, statutory, operational or developmental issues. Such relocations would however be governed and regulated in terms of various definitions already forming part of the RFP.

2.4.2 Notwithstanding anything contrary herein, in the event of such relocations the Authority shall not compensate the Concessionaire for any costs related to relocations except the reliefs already built in for such eventualities.

2.5 Concession restricted to operation of Advertising sites.

2.5.1 The Concessionaire agrees that the Authority does not grant and has not granted any other right pursuant to this Agreement, except the right to use the Site(s) in accordance with this Agreement.

2.5.2 The Concessionaire agrees that the Advertisement Locations shall only be used for operating and executing the Concession and for no other purposes, and use of the same for any other purpose shall require prior written approval of the Authority, which approval shall be at the sole discretion of the Authority and which may be subject to payment of such additional Concession Fees as may be prescribed by the Authority.

2.5.3 The Concessionaire agrees and acknowledges that prior to the execution of this Agreement, it has made a complete and careful examination and an independent evaluation of the business opportunity and operating conditions

at the Airport 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 present as well as in the course of the performance of its obligations under this Concession Agreement. The Concessionaire further acknowledges that except as may be particularly set out hereunder, the Concessionaire does not rely on any representations made by the Authority, at any time whatsoever, and that the Concessionaire has made its own independent evaluations for entering into this Agreement. The Concessionaire further acknowledges and agrees that the Authority has neither guaranteed nor guarantees, in any manner express or implied, the scope of the business and the Concessionaire shall not have any right (and hereby waives any such rights) to bring any claim against, or recover any compensation or other amount from the Authority and the Authority has made no representation as to the suitability or profitability of the same.

2.6 Additional Site(s)

Subject to the provisions of Clause 2.3, the Concessionaire agrees and acknowledges that it shall not be entitled for any additional area ("**Additional Location (s)**"), apart from the Original Locations, granted to the Concessionaire under the terms and provisions of this Concession Agreement subject of course to mutual consent of the parties.

2.7 Withdrawal of Approved Advertisement Locations(s)

The Concessionaire agrees and acknowledges that the Authority may order withdrawal of originally approved advertisement locations at any time during the Concession Term on account of security, statutory, operational or developmental issues. Such an eventuality would be governed and regulated under the provisions for such situations already defined in the RFP forming part of this Concession Agreement.

2.8 Change in Terminal Building

In the event of shifting of passenger operations from an existing passenger terminal building to a newly commissioned passenger terminal building and associated traffic movement facilities the procedure and protocol specified at Clause 5.18 of the RFP forming part of the Concession Agreement would be followed.

ARTICLE - 3 [OBLIGATIONS OF THE CONCESSIONAIRE]**3.1 Obligations of the Concessionaire**

- 3.1.1 Subject to and on the terms and conditions of this Concession Agreement, the Concessionaire shall at its cost and expense procure, finance for and undertake the design, engineering, procurement, construction, operation and maintenance of the Concession and observe, fulfil, comply with and perform all its obligations set out in this Agreement or arising hereunder.
- 3.1.2 The Concessionaire shall comply with all Applicable Laws and Applicable Permits (including renewals as required) in the performance of its obligations under this Agreement.
- 3.1.3 Subject to Clauses 4.1.1 and 4.1.2, the Concessionaire shall discharge its obligations in accordance with Good Industry Practices and as a reasonable and prudent person.
- 3.1.4 The Concessionaire shall, at its own cost and expense, in addition to and not in derogation of its obligations elsewhere set out in this Agreement:
- (a) 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;
 - (b) procure, as required, the appropriate proprietary rights, licenses, agreements and permissions for materials, methods, processes and systems used or incorporated into the Concession;
 - (c) make reasonable efforts to maintain harmony and good industrial relations among the personnel employed by it or its Contractors in connection with the performance of its obligations under this Agreement;
 - (d) ensure and procure that its Contractors comply with all Applicable Permits and Applicable Laws in the performance by them of any of the Concessionaire's obligations under this Agreement;
 - (e) not do or omit to do any act, deed or thing which may in any manner be in violation of any of the provisions of this Agreement;

- (f) support, cooperate with and facilitate the Authority in the implementation and operation of the Concession in accordance with the provisions of this Agreement; and
- (g) Handover the vacant and peaceful possession of Advertisement Locations under its possession as on expiry date of the concession agreement within thirty (30) days period.

3.2 Obligations relating to Shareholding and Ownership

3.2.1 The Concessionaire shall not undertake or permit any Change in Ownership, except with the prior approval of the Authority.

3.2.2 The Concessionaire shall not undertake or permit a Change in Ownership, which shall have the effect of Authority having a direct or indirect shareholding in the Concessionaire.

3.2.3 Notwithstanding anything to the contrary contained in this Agreement, the Concessionaire agrees and acknowledges that:

- (i) all acquisitions of Equity by an acquirer, either by himself 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 of the Concessionaire; or
- (ii) acquisition of any control directly or indirectly of the Board of Directors of the Concessionaire by any person either by himself or together with any person or persons acting in concert with him shall be subject to prior approval of the Authority from national security and public interest perspective, the decision of the Authority in this behalf being final, conclusive and binding on the Concessionaire, and undertakes that it shall not give effect to any such acquisition of Equity or control of the Board of Directors of the Concessionaire without such prior approval of the Authority. For the avoidance of doubt, it is expressly agreed that approval of the Authority hereunder shall be limited to national security and public interest perspective, and the Authority shall endeavor to convey its decision thereon expeditiously. It is also agreed that the Authority shall not be liable in any manner on account of grant or otherwise of such approval and that such approval or denial thereof shall not in any manner absolve the Concessionaire from any liability or obligation under this Agreement.

For the purposes of this Clause 3.2.3:

- (a) the expression "acquirer", "control" and "person acting in concert"

shall have the meaning ascribed thereto in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeover) Regulations, 1997 or any statutory re-enactment thereof as in force as on the date of acquisition of Equity, or transfer of control of the Board of Directors, as the case may be, of the Concessionaire;

- (b) 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 Concessionaire; and
- (c) 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 Concessionaire, not less than half of the directors on the Board of Directors of the Concessionaire or of any company, directly or indirectly whether situated in India or abroad, having ultimate control of not less than 15% (fifteen per cent) of the Equity of the Concessionaire shall constitute acquisition of control, directly or indirectly, of the Board of Directors of the Concessionaire.

3.3 Employment of Foreign nationals

The Concessionaire acknowledges, agrees and undertakes that employment of foreign personnel by the Concessionaire and/or its contractors and their subcontractors shall be subject to 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 the Concessionaire and, notwithstanding anything to the contrary contained in this Agreement, refusal of or inability to obtain any such permits and approvals by the Concessionaire or any of its contractors or sub-contractors shall not constitute Force Majeure Event, and shall not in any manner excuse the Concessionaire from the performance and discharge of its obligations and liabilities under this Agreement.

3.4 Employment of trained personnel

The Concessionaire shall ensure that the personnel engaged by it in the performance of its obligations under this Agreement are at all times properly trained for their respective functions.

Further, the Concessionaire shall not, employ any of the officials of the Authority, for a period of two years after such an official ceases to be under the employment of the Authority (for any reason whatsoever), unless a specific prior written approval from the Authority in respect of such employment/engagement, is procured by such concerned official.

ARTICLE - 4 [OBLIGATIONS OF AUTHORITY]**4.1 Obligations of the Authority**

- 4.1.1 The Authority shall, at its own cost and expense undertakes, comply with and perform all its obligations set out in this Agreement or arising hereunder.
- 4.1.2 The Authority agrees to provide support to the Concessionaire and undertakes to observe, comply with and perform, subject to and in accordance with the provisions of this Agreement and the Applicable Laws, the following:
- (a) upon written request from the Concessionaire, and subject to the Concessionaire complying with Applicable Laws, provide all reasonable support and assistance to the Concessionaire in procuring Applicable Permits required from any Government Instrumentality for implementation and operation of the Concession;
 - (b) upon written request from the Concessionaire, assist the Concessionaire in obtaining access to all necessary infrastructure facilities and utilities, including water and electricity at rates and on terms no less favorable to the Concessionaire than those generally available to commercial customers receiving substantially equivalent services;
 - (c) not do or omit to do any act, deed or thing which may in any manner be in violation of any of the provisions of this Agreement; and
 - (d) support, cooperate with and facilitate the Concessionaire in the implementation and operation of the Concession in accordance with the provisions of this Agreement.

4.2 Obligations relating to Transfer

The Authority agrees that during the Concession Term, in the event the Authority transfers the rights to operate and maintain the Airport to a third party(s), the Authority shall ensure that

(a) Authority shall cause to transfer/novate this Agreement, in favour of such third party, on the principle that such transfer/novation would release Authority of all liabilities and obligations arising from and after the date of transfer / novation of such rights. The Parties, along with relevant third party(s) shall execute necessary documentation or put in place necessary agreements for the aforesaid transfer/novation; and

(b) the rights and obligations under or pursuant to all contracts and other arrangements entered into in accordance with the provisions of this Agreement between Authority and Concessionaire shall be vested in such third party

ARTICLE - 5 [REPRESENTATIONS AND WARRANTIES]**5.1 Representations and Warranties of the Concessionaire**

The Concessionaire represents and warrants to the Authority that:

- (a) it is duly incorporated, validly existing and in good standing under the laws of India;
- (b) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- (c) it has taken all necessary corporate and other actions under Applicable Laws and its constitutional documents to authorize the execution, delivery and performance of this Agreement;
- (d) it has the financial standing and capacity to undertake the Concession;
- (e) this Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- (f) it is subject to civil and commercial laws of India with respect to this Agreement and it hereby expressly and irrevocably waives any immunity in any jurisdiction in respect thereof;
- (g) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under or accelerate performance required by any of the terms of the Concessionaire'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 or affected;
- (h) there are no actions, suits, proceedings or investigations pending or to the Concessionaire'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 Concessionaire Event of Default or which individually or in the aggregate may result in Material

Adverse Effect;

- (i) 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;
- (j) 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;
- (k) subject to receipt by the Concessionaire from the Authority any amount due under any of the provisions of this Agreement, in the manner and to the extent provided for under the applicable provisions of this Agreement, upon termination of this Agreement, all rights and interests of the Concessionaire under this Agreement and in and to the Project / Project Facilities shall pass to and vest in the Authority on the Termination Date free and clear of all Encumbrances without any further act or deed on the part of the Concessionaire or Authority;
- (l) no representation or warranty by the Concessionaire contained herein or in any other document furnished by it to Authority or to any Government Authority 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 the Concessionaire to any person to procure the Concession.
- (n) Without prejudice to any express provision contained in this Agreement, the Concessionaire acknowledges that prior to the execution of this Agreement, the Concessionaire has after a complete and careful examination made an independent evaluation of the Site(s), requirements, commercial viability and potential of the Concession, and the information provided

to it as part of the bid documents or otherwise, and has determined to its satisfaction the nature and extent of risks and hazards as are likely to arise or may be faced by the Concessionaire in the course of performance of its obligations hereunder.

The Concessionaire also acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth above and hereby confirms that Authority shall not be liable for the same in any manner whatsoever to the Concessionaire.

5.2 Representations and Warranties of Authority

Authority represents and warrants to the Concessionaire that:

- (a) Authority has full power and authority to grant the Concession;
- (b) Authority has taken all necessary action to authorize the execution, delivery and performance of this Agreement;
- (c) this Agreement constitutes Authority's legal, valid and binding obligation enforceable against in accordance with the terms hereof;
- (d) there are no actions, suits or other proceedings pending or, to its 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 result in default or breach of this Agreement or which individually or in the aggregate may result in material impairment of its ability to perform its obligations under this Agreement;
- (e) 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 Authority's ability to perform its obligations under this Agreement;
- (f) it has complied with Applicable Laws in all material respects;

- (g) it has good and valid right to the locations, and has power and authority to grant a Concession in respect thereto to the Concessionaire; and
- (h) upon the Concessionaire paying the Concession Fee and performing the covenants herein, it shall not at any time during the term hereof, interfere with the peaceful exercise of the rights and discharge of the obligations by the Concessionaire, in accordance with this agreement.

5.3 Obligation to notify change

In the event that any of the representations or warranties made/given by a Party ceases 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 this Agreement.

ARTICLE - 6 [DISCLAIMER]**6.1 Disclaimer**

6.1.1 The Concessionaire acknowledges that prior to the execution of this Agreement, the Concessionaire has, after a complete and careful examination, made an independent evaluation of the Request for Qualification, Request for Proposal, Scope of the Project, Specifications and Standards, Site, local conditions, traffic volumes and all information provided by the Authority or obtained, procured or gathered otherwise, and has determined to its satisfaction the accuracy or otherwise thereof and the nature and extent of difficulties, risks and hazards as are likely to arise or may be faced by it in the course of performance of its obligations hereunder. Save as provided in Clause 5.2, the Authority makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy and/or completeness of the information provided by it and the Concessionaire confirms that it shall have no claim whatsoever against the Authority in this regard.

6.1.2 The Concessionaire acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth in Clause 6.1.1 above and hereby acknowledges and agrees that the Authority shall not be liable for the same in any manner whatsoever to the Concessionaire, [the Consortium Members and their] Associates or any person claiming through or under any of them.

ARTICLE - 7 [SECURITY DEPOSIT]

7.1 Security Deposit

- 7.1.1 The Concessionaire shall, as security for the performance of its obligations hereunder during the Concession Term, provide to and maintain with the Authority, an interest free Security Deposit. On or before the date of execution of the concession agreement the selected bidder/SPV shall deposit 10 (TEN) Months License fee as interest free Security Deposit. Two months license fee of first year shall be paid in DD/PO and remaining 8 months License fee of the 1st (first) year in the form of Bank Guarantee valid for 7 years and six months. The bank guarantee from an Indian Scheduled Bank (not from Co-operative bank) only will be accepted.
- 7.1.2 Failure of the concessionaire to provide and/or maintain the security deposit for the prescribed amount in accordance with the provisions hereof ,shall entitle the Authority to forfeit and appropriate the available security deposit as damages ,and to terminate this agreement in accordance with Article 19.

7.2 Appropriation of Security Deposit

Upon occurrence of a Concessionaire Event of Default, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to appropriate the relevant amounts from the Security Deposit as Damages for such Concessionaire Event of Default. Upon such appropriation from the Security Deposit, the Concessionaire shall, within 15 (fifteen) days thereof, replenish, in case of partial appropriation, to its original level the Security Deposit, and in case of appropriation of the entire Security Deposit provide afresh Security Deposit, as the case may be, and the Concessionaire shall, within the time so granted, replenish or furnish fresh Security Deposit as aforesaid failing which the Authority shall be entitled to terminate this Agreement in accordance with Article 19. Upon replenishment or furnishing of a fresh Security Deposit, as the case may be, as aforesaid, the Concessionaire shall be entitled to an additional Cure Period of 30 (thirty) days for remedying the Concessionaire Event of Default, and in the event of the Concessionaire not curing its default within such Cure Period, the Authority shall be entitled to appropriate such Security Deposit as Damages, and to terminate this Agreement in accordance with Article 19. Further, the Authority shall be at liberty to invite fresh Bids at the risks and costs of the Concessionaire.

7.3 Release of Security Deposit

The Security Deposit shall remain in full force and effect for a period of the entire Concession Term and shall be released only upon settling all outstanding dues and handing over vacant and peaceful possession by the Concessionaire of the Assigned Advertisement Area after the expiry /termination of Concession Term.

ARTICLE - 8 [Assigned Advertisement Area]**8.1 The Advertisement Location (s)**

The Concession shall comprise of the Advertisement Locations as approved in accordance with the limitations of Advertisement Location Layout Approval protocol as per assigned advertisement area licensed in terms of this RFP. The Original Location Layout plan however would form integral part of this Concession Agreement. Any changes during the currency of the Concession however would be regulated and governed in accordance with the definitions ascribed already in respect of those situations in the RFP. The leave and license shall be provided and granted by the Authority to the Concessionaire as a licensee under and in accordance with this Concession Agreement in respect of Advertisement Locations comprising the Approved Location Layout Plan.

8.2 Licence and Access

8.2.1 In consideration of the Concession Fee, this Agreement and the covenants and warranties on the part of the Concessionaire herein contained, the Authority, in accordance with the terms and conditions set forth herein, hereby grants to the Concessionaire, commencing from the Access Date, leave and licence rights in respect of all the Location(s) described at 8.1 above, on an "as is where is" basis, free of any Encumbrances, together with all and singular rights, liberties, privileges, easements and appurtenances whatsoever to the said Concessioned Premises where these are located. It is expressly agreed and understood that the Authority shall have no liability whatsoever in respect of any expenditure incurred by the Concessionaire on or about these Advertisement Locations pursuant hereto in the event of Termination or otherwise.

8.2.2 The Concession and license granted by this Agreement to the Concessionaire shall always be subject to existing rights of access of the Authority and the Concessionaire shall perform its obligations in a manner that Location(s) and Service Area(s) are open for access and inspection at all times during the Concession Term.

- 8.2.3 It is expressly agreed that the Concession granted hereunder shall terminate automatically and forthwith, without the need for any action to be taken by the Authority to terminate the Concession, upon the Termination of this Agreement for any reason whatsoever.
- 8.2.4 The Concessionaire hereby irrevocably appoints the Authority (or its nominee) to be its true and lawful attorney, to execute and sign in the name of the Concessionaire a transfer or surrender of the Concession granted hereunder at any time after the Concession Term has expired or has been terminated earlier in terms hereof, a sufficient proof of which will be the declaration of any duly authorized officer of the Authority, and the Concessionaire consents to it being registered for this purpose.
- 8.2.5 It is expressly agreed that all building fixtures of the Advertisement Locations are and will remain the property of the Authority except that the Concessionaire shall be entitled to exercise usufructory rights thereon during the Concession Period.

8.3 Handover of the Advertisement Location(s)

- 8.3.1 On or before the Access Date, the Authority Representative and the Concessionaire shall, on a mutually agreed date and time, inspect the approved advertisement location and prepare a memorandum containing an inventory of the said location. Signing of the memorandum, in two counterparts (each of which shall constitute an original), by the authorized representatives of the Parties shall be deemed to constitute a valid licence and access to the Concessionaire for free and fair use and development of the vacant and unencumbered Site under and in accordance with the provisions of this Agreement and for no other purpose whatsoever.
- 8.3.2 On and after the Access Date, the Concessionaire shall maintain a round-the-clock vigil over the Site and shall ensure and procure that no encroachment thereon takes place. However in the event of any encroachment or occupation on any part thereof, the Concessionaire shall report such encroachment or occupation forthwith to the Authority for corrective action thereof.

8.4 Advertisement Location (s) to be free from Encumbrances

Subject to the provisions of Clause 8.3, the Advertisement Location shall be made available by the Authority to the Concessionaire pursuant hereto free from all Encumbrances and occupations and without the Concessionaire being required to make any payment to the Authority on account of any costs, compensation, expenses and charges for the use of such Site for the duration of the Concession Term, except insofar as otherwise expressly provided in this Agreement. For the avoidance of doubt, it is agreed that existing rights of way, easements, privileges, liberties and appurtenances to the Licensed Premises shall not be deemed to be Encumbrances.

8.5 Protection of Advertisement Location(s) from encroachments

During the Concession Term, the Concessionaire shall protect the Advertisement location from any and all occupations, encroachments or Encumbrances, and shall neither place/create nor permit any other person or entity claiming through or under the Concessionaire to place/create any Encumbrance or security interest over all or any part of the Site, or on any rights of the Concessionaire therein or under this Agreement, save and except as otherwise expressly set forth in this Agreement.

8.6 Access to the Authority and Independent Auditor

The Concession, access and right to the Advertisement Location granted to the Concessionaire hereunder shall always be subject to the right of access of the Authority and the Independent Auditor and their employees and agents for inspection, viewing and exercise of their right and performance of their obligation under this Agreement.

8.7 Utilisation of Vacant Sites

8.7.1 The Concessionaire shall utilize any Sites which have not been sold /booked by any Advertiser for display of Advertisements and are not displaying any Advertisements as follows:

- (a) The Concessionaire shall utilize the vacant Sites for promotion of its Concession, design, content, etc.;
- (b) Such vacant Sites shall be maintained and kept in clean and tidy condition;
and

8.8 New Advertising Ventures

Any New Advertising Venture if contemplated by Authority will be regulated in terms of the provisions contained in Clause 5.19 Chapter Five (05) of the RFP forming part of this concession Agreement.

ARTICLE – 9**[CONSTRUCTION OF ADVERTISEMENT STRUCTURES]****9.1 Obligations Prior to Commencement of Hardware Installation Work**

Prior to commencement of Hardware Installation Works as per the approved Location Layout Plan, the Concessionaire shall:

- (a) Submit to the Authority a detailed program comprising of its installation methodology, time schedule and other details;
- (b) Appoint its representative duly authorized to deal with the Authority in respect of all matters under or arising out of or relating to this Agreement;
- (c) undertake, do and perform all such acts, deeds and things as may be necessary or required before commencement of hardware installation under and in accordance with this Agreement, the Applicable Laws and Applicable Permits; and
- (d) Make its own arrangements for sourcing of materials needed for the Hardware Installation under and in accordance with the Applicable Laws and Applicable Permits.

9.2 Conduct during Gestation Period

During the Gestation Period, the Concessionaire shall maintain, at its cost, the Advertisement locations as may be necessary for the efficient progress of Hardware installation works which would be necessary for safe usage of the Airport Terminal by the Airport Users and conforms to Good Industry Practices. In the performance of its activities during the Gestation Period, the Concessionaire shall cause minimum interruption to the Airport Operations, provided further that such interruption and diversion shall be undertaken by the Concessionaire only with the prior written approval of the Authority, which approval shall not be unreasonably withheld. For the avoidance of doubt, it is agreed that the Concessionaire shall at all times be responsible for ensuring that its activities at the Site do not affect the safe and smooth operation of the Terminal.

9.3 Construction of Advertisement Structures at Alternate Locations

In the event of originally approved Advertisement Locations have to be shifted to the Alternate location(s) the Concessionaire shall undertake the Hardware Installation Work at such Alternate Site(s) in accordance with the provisions hereof.

ARTICLE-10 [CONCESSION FEE]**10.1 Concession Fee**

In consideration for the grant of Concession, the Concessionaire shall pay to the Authority, a concession fee (the "**Concession Fee**") in respect of each of the Advertisement Location(s)(including Alternate Site(s), if any) comprising the Assigned Advertisement Area at the agreed rates in accordance with the terms and conditions of this concession agreement.

10.2 Determination of Concession Fee

10.2.1 The Concessionaire agrees and undertakes that the Concession Fee to be paid each Month under this Agreement shall be Rs..... during the first concession year. During the subsequent concession year annual compound escalation will be applicable as per Clause 10.2.3. **The percentage rate of annual compound escalation will be determined as per clause 10.2.3 of RFP.** For the avoidance of doubt, the Concession Fee for a part of Month shall be determined in proportion to the number of days considering the month to be always of thirty (30) days.. However, any service tax applicable with respect to the grant of right to use the Advertisement Space(s) shall be borne by the Concessionaire and shall not be deducted from the Concession Fee.

10.2.2 In respect of the additional Advertisement Locations over and above the tendered area handed over at a subsequent stage, the Concession Fee applicable will be the Concession Fee applicable for Advertisement Locations handed over at the first instance. For the sake of clarity, if additional Location is handed over in the Second Concession Year, the Concession Fee applicable for such location will be the Concession Fee for Second Concession Year.

10.2.3 (i) The following principles shall be followed while Working out the annual escalation:

(a) The rates of recurring payments shall be escalated every year from the first day of the month from first billing date

(b) The base date for working out such escalation shall be the first stay post completion of gestation period

(ii) The escalation shall be worked out as per the formula given below:-

$$Rn1 = (CPI1 - CPI_0) / CPI_0 \quad Rn2 = (Pax1 - Pax0) / Pax0$$

$$Rn = (0.2 Rn1 + 0.8 Rn2) * 100\%$$

Rn: Escalated rate/Revised rate which shall be applicable in the year which is to follow after the completion of n years since the first day of the month after the Bid opening month.

R: Rate quoted by the licensee at the time of bid.

CPII: The monthly consumer price index (All India CPI- General Index(Urban) for Delhi center as issued by The Central Statistics office (CSO), Ministry of Statistics and program Implementation (Govt. of India), latest series shall be applicable. The monthly index applicable shall be the annual average of CPI starting from 1 year prior to the date on which the escalation is being calculated to the last available CPII at the time of escalation of rate.

PaxI: The annual passenger traffic for respective airports is issued by Airport Authority of India shall be applicable. The annual traffic date starting from 1 year prior to the date on which the escalation is being calculated shall be applicable

CPIo: The monthly Consumer price index (ALL India CPI-General Index (Urban) for Delhi central as issued by The Central Statistics Office (CSI), Ministry of Statistics and program Implementation (Govt. of India), latest series shall be applicable. The monthly Index applicable shall be the annual average of CPI starting from 1 year prior to receipt of bid to the last available CPII at the time of receipt of bid.

Paxo: The annual passenger traffic for respective airports as issued by Airports Authority OF India shall be applicable. The annual traffic data starting from 1 year prior to the date of receipt of bid shall be applicable

iii).Rate of Escalation (Rn) will be calculated per annum as per sample calculation given below. However, for practical purpose Rn will be calculated from the last available CPII at the time of escalation of rate. No reduction in the applicable current rate shall however be allowed in case the revised rate falls below the rate existing at the time when escalation is

calculated for rate. (i.e. if R_{n+1} is worked out less than R_n , the rate R_n will continue to be applicable).

iv). Rate of Escalation (R_n) will be calculated on the basis of the abovementioned formulae. However, the lower limit (floor) of 10% and upper limit (cap) of 20% shall be applicable on the escalation rate. The calculated rate will be rounded to the closest 0.5%. for example, if the calculated $R_n=14,37\%$, a rate of 14.5% shall be used to calculate annual escalation.”

10.3 Determination of Monthly Concession Fee

Concession fee (License fee) for the first concession year shall be quote offered by the successful bidder for the tendered display area (ie; Quoted rate per sqft per month multiplied by total advertisement display area in the RFP/tender.).For subsequent concession years, the concession fee shall always be as per clause 10.2.3.

10.4 Taxes

The Concession Fee paid by the Concessionaire to the Authority shall be exclusive of Taxes and all Taxes shall be paid over and above the Concession Fee. The payment of applicable Taxes in respect of the Concession Fee and any other taxes applicable under the law shall be the obligation of the Concessionaire and shall be borne by the Concessionaire.

10.5 Payment of Concession Fee

10.5.1 The Concession Fee payable under the provisions of this Article 10 shall be due and payable in monthly installments. The Concession Fee bills however will be raised by the Authority in accordance with the terms and conditions of the Concession Agreement by 10th of every month. Irrespective of the receipt of the bills from AAI, the Concessionaire is bound to remit the License fee on 25th of day of the current month as per the concession agreement. The concessionaire has to pay the bill by the 25th of the same month failing which interest at the rate of 12% per annum shall be charged for a period for 90 days thereafter.

10.5.2 Consequent to raising of an invoice as stipulated at 10.5.1 above, the Concession Fee shall be paid by the Concessionaire to the Authority every Month, by the 25th (twenty fifth) day of every Month.

10.5.3 All payments towards Concession Fee, payable by the Concessionaire to the Authority, shall be by way of electronic fund transfer through Real Time Gross Settlement (RTGS) system to provide for real time inter-bank payment in favor of such account as may be prescribed by the Authority from time to time.

10.5.4 All payments towards Concession Fee, payable by the Concessionaire to the Authority, shall be in Indian Rupees.

10.6 Effect of Traffic variation on Concession Fee

The Concessionaire hereby acknowledges and agrees that there shall be no revision in Concession Fee on account of increase/decrease in passenger traffic at the Airport in the normal course of business.

10.7 Independent Audit

The Authority may in its discretion direct the Concessionaire to submit duly audited accounts or any other related information by Concessionaire's Chartered Accountants at its own cost as may be required by the Authority or its auditors for the purpose of such independent audit.

ARTICLE -11 [OPERATION AND MAINTENANCE]

- 11.1** The Concessionaire shall use the Advertising Locations for the sole purpose of displaying the Advertisement Content in accordance with Good Industry Practices, standards and specifications with a view to compliment the image of the Airport as envisaged by the Authority.
- 11.2** The Concessionaire hereby acknowledges and agrees that it shall obtain all requisite operating Permits from competent authorities at the Concessionaire's own cost and shall prior to the commencement of operations of the Advertisement Spaces apply, pay for and comply with the conditions of all Permits or Approvals.
- 11.3** The Concessionaire shall maintain and keep in force all requisite Approvals and comply with all Applicable Laws and statutory rules and guidelines laid down by competent authorities, including without limitation, any rules and regulations framed under Shops and Establishments Act, Factories Act, Industrial Disputes Act, Minimum Wages Act, etc. as may be applicable to the Concessionaire and any operational guidelines laid down by the Authority from time to time.
- 11.4** The Concessionaire shall obtain requisite utility connections from the nearest available sources provided by the Authority and shall install its own metering devices. All metering devices shall be tested and calibrated to the satisfaction of the Authority.
- 11.5** The Concessionaire shall comply in all respects at his own cost with the provisions of all statutes and bye-laws and regulations made there under and all rules and requirements made or prescribed by any competent authority relating to public hygiene including but not limited to housekeeping, maintenance and cleanliness. In the event of any complaint, the Concessionaire shall take such necessary and immediate action as may be required to satisfy the complaint.
- 11.6** The Concessionaire shall maintain the Advertisement Spaces in each of the 365 days in a year in order to provide a high level of ambience and décor at the Airport, unless instructed otherwise by the Authority in writing.
- 11.7** The Concessionaire shall employ adequately qualified and trained staff/personnel and in such numbers as is required to achieve

optimum service levels, who shall represent the Concessionaire on a full-time basis and be available during business hours to ensure the smooth and efficient operation of the Advertisement Sites at the Airport.

- 11.8** It is hereby clarified that any or all of the Advertisement Locations may fall under security area and the ingress and egress to the area may be monitored and regulated by Bureau of Civil Aviation Security or any governmental authority or its authorized representatives. The Concessionaire shall, at its own risk and cost and as a condition precedent to handover of these locations, obtain and maintain the necessary security clearance/ Airport Entry Permits (AEPs) for the Concessionaire and its employees/personnel from the Bureau of Civil Aviation Security (**BCAS**) or any Governmental Authority or its authorized representatives at its own cost and risk and the Authority may assist and co-operate with the Concessionaire for obtaining the necessary Airport Entry Permits (AEPs). However, the Authority shall not be responsible in the event BCAS refuses to grant clearance to the Concessionaire or its employees/personnel. The Concessionaire shall be liable and responsible for planning the movement of its goods and services in line with BCAS/Security requirements to ensure problem free and uninterrupted operations.

- 11.9** The following documents (and such other documents as may be required by the appropriate Governmental Authorities from time to time) shall be required by the Concessionaire to be submitted to the Authority for facilitating the security clearance process and other administrative processes, within 7(seven) days of intimation by the Authority:

For the security vetting of the Concessionaire, the following documents shall be submitted to the Authority:

- (a) Memorandum and Articles of Association of the Concessionaire;
- (b) Company Profile;
- (c) Promoters' details;
- (d) Copy of Letter of Intent to Award/ this Agreement;
- (e) Form 32 providing the details of the Directors; and
- (f) Copy of latest balance sheet.

Further the Concessionaire shall submit 3 sets of the security program as per the prescribed format of BCAS for permission to operate in the Security Hold Area.

11.10 For the purpose of obtaining the Airport Entry Passes (Operations) in respect of the employees and personnel of the Concessionaire, the following documents (and such other documents as may be required by the appropriate Governmental Authorities from time to time) needs to be submitted to the Authority:

- (a) A copy of the Security Clearance of the Concessionaire by the relevant security agencies;
- (b) The approval copy of the security program;
- (c) Copy of Letter of Intent to Award/Agreement;
- (d) Duly filled Airport Entry Pass request Forms;
- (e) 2 (two) photographs of each of the Individuals (Concessionaire's personnel);
- (f) Police Verifications of Individuals from relevant SHO/SP/Police Authority; and
- (g) copy of valid passports/other photo identifications, duly self attested by a notary.

11.11 The Concessionaire agrees to submit such other documents/details as required by the Authority and/or BCAS or any other Governmental Authority for the purpose of facilitating the process of obtaining the security clearance.

11.12 The Concessionaire shall, at the instructions of the Authority, participate in any promotional activity of a Governmental Authority, intended for distribution and/or dissemination of any public service message.

11.13 The Concessionaire agrees and acknowledges that the Concessionaire shall at all times comply with the service standards as may be prescribed by the Authority.

11.14 Prohibitions

11.14.1 The Concessionaire shall not tamper with any part of the walls, beams, columns, ceiling and floor, electrical installations etc. except for carrying out needful hardware installation at approved locations without consultation of the relevant officers of Authority..

11.14.2 The Concessionaire 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.

- 11.14.3 The Concessionaire shall not install or suffer to be installed in the Advertisement Installation any electrical lamp, equipment or appliance which is likely to overload the electrical wiring or cabling of the Airport or to cause radio interference.
- 11.14.4 The Concessionaire 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 concessionaires of the Authority.
- 11.14.5 The Concessionaire shall not do or permit or suffer to be done at the Location(s) anything which may be or become a nuisance, annoyance, inconvenience or disturbance to the Authority or to any of the Authority's concessionaires or occupiers of any adjoining or neighboring premises or visitors to the Airport.
- 11.14.6 The Concessionaire shall not leave any waste materials or other refuse in or near the Sites at all times and which waste materials or other refuse shall be removed with extreme care and shall be disposed off in accordance with the Authority's directions immediately at such places as may be designated by the Authority and not any other places within the Airport.
- 11.14.7 The Concessionaire shall at all times comply with all BCAS guidelines as may be applicable to its operations at the Airport.
- 11.14.8 The Concessionaire shall not store at any time explosives, petroleum, spirit or other highly inflammable substance and noxious or objectionable smokes, fumes, gases, vapours or odours at its advertisement Location(s) and Service Area(s).
- 11.14.9 The Concessionaire shall not enter into a collective association with other Concessionaires of the Authority, for any purpose whatsoever, and the Authority shall not be bound to recognize such association.

11.15 General

- 11.15.1 The Concessionaire shall, subject to the approval of Authority, design, fabricate, install and maintain each Advertising Display.
- 11.15.2 The Concessionaire shall ensure that the display content at each Advertising Location shall conform to the guidelines of Advertisement Standards Council of India in addition to the following::

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- a. Conform to the Applicable Laws and regulations and should not offend the morality, decency and religious susceptibilities of public;
- b. Not deride any race, caste, color, creed or nationality;
- c. Not incite crime, disorder, violence, breach of law or glorify violence or is anti national integrity and security;
- d. Not directed toward any religious or political end
- e. Conform to code of conduct as prescribed by the Election Commission of India with regard to display of Advertisements at Public places during Election Process at the Airport of Concession

11.15.3 The Concessionaire shall also be solely responsible to pay any charges, taxes, cess or levies that any competent authority may impose on putting up signage within or outside the Passenger Terminal Buildings..

ARTICLE - 12 [SAFETY REQUIREMENTS]

12.1 The Concessionaire shall comply with the provisions of this Agreement, Applicable Laws and Applicable Permits and conform to Good Industry Practice for securing the safety of the Airport Users. In particular, the Concessionaire shall develop, implement and administer a surveillance and safety program for providing a safe and hygienic environment in or around the Advertisement Locations.

12.2 All costs and expenses arising out of or relating to Safety and Hygiene Requirements shall be borne by the Concessionaire

12.3 Fire Safety Regulations and Requirements

12.3.1 The Concessionaire shall, wherever required, obtain the requisite approvals from the Airport Fire and Rescue Services, for the purposes of the operating the concession.

12.3.2 The Concessionaire shall ensure that, if directed by Airport Fire and Rescue Services the fire protection systems are provided at the Location(s) and Service Area(s). However these Fire Protection Systems wherever provided are checked and serviced at least once annually by trained persons of an approved organization, authorized by the relevant authorities and a label certifying that the equipment and/or system is checked shall be attached to the same.

12.3.3 Prohibited substances found on/in Advertisement locations shall be confiscated and destroyed by the Authority and the cost thereof or such penalties as the Authority shall impose from time to time, shall be borne by the Concessionaire and paid within 15 days from the date of written notice from the Authority.

12.3.4 Any non-compliance of fire safety requirements, procedures or measures as may be notified by the Authority shall be rectified by the Concessionaire within 30 (thirty) days from the date of such notification. After the thirty-day period, the Authority would carry out an inspection to ensure compliance.

12.3.5 If there are any outstanding deficiencies or deficiencies not rectified to the satisfaction of the Authority as observed during the inspection and where these deficiencies are material, the Authority

shall give the Concessionaire a further 15 days from the date of inspection to rectify the same before a further inspection is held. If the deficiency remains, the Concessionaire's business shall be suspended without compensation and the Concessionaire would be given another 15 days before action is taken to terminate this Agreement. Where the Authority finds that the deficiencies are minor, and the Concessionaire fails to rectify these after 14 days notice to do so, the Authority shall take all steps necessary to rectify the same immediately thereafter and the Concessionaire shall bear all costs, expenses, or such charges as the Authority shall impose from time to time, incurred by the Authority.

12.3.6 The Concessionaire shall take part in organized fire safety activities by the Authority that include fire evacuation drills, fire warden briefings, fire safety campaigns and fire safety awareness talks.

ARTICLE- 13 [AIRPORT HEALTH /HYGIENE REQUIREMENTS]**13.1 Compliance of Airport Health and Hygiene Requirements**

- 13.1.1 The Airport Health Officer/Medical Officer of AAI or persons authorised by them may without notice, enter the premises any time and inspect the premises, materials, instruments and implements etc. used by the Licensee.
- 13.1.2 All the instructions given by the Airport Health Officer/Medical Health Officer of AAI or any persons authorised by them in the maintenance of public health of the Airport including sanitation control, prevention of infectious diseases, control and prevention of nuisance from insects, rodents, or any other source, shall be carried out by the Concessionaire his agent and servants.
- 13.1.3 The Concessionaire shall notify to the Airport Health Officer whenever any person working under him is suffering or suspected to be suffering or convalescing from any infectious disease. The Airport Health Officer may medically inspect the said person or any person who is suspected to have been in contact with the person and take any precautionary and preventive measures considered necessary.
- 13.1.4 The Concessionaire his agents and servants shall not without consent of the Airport Health Officer, interfere with injure, destroy or render useless any work executed or any materials or things placed in under or upon any land or building by or under the orders of the Airport Health Officer with the object of preventing the breeding or entry of mosquitoes or maintenance of sanitation.
- 13.1.5 The Concessionaire his agents and servants shall not abuse the water sources and drainage facilities in the airport area so as to create a nuisance or insanitary situation prejudicial to public health.

ARTICLE – 14 [PAYMENTS TO AUTHORITY]**14.1 Payments to Authority**

14.1.1 The Concessionaire shall pay to the Authority, the following amounts in relation to each of the Advertisement Locations comprised in the Concession in accordance with this Article.

- a) Concession Fee as agreed and as specified under Article Ten (10).
- b) Utility Charges, as per metered actual consumption.

14.1.2 The Concessionaire shall pay to the Authority, the following amounts in relation to each of the Service Area(s) if allotted to the Concessionaire in respect of this concession in accordance with this Article.

- a) Space Rent at rates as notified from time to time.
- b) Common Area Maintenance (CAM) charges
- c) Utility Charges, as per metered actual consumption

14.1.3 The Concession Fee bills however will be raised by the Authority in accordance with the terms and conditions of the Concession Agreement by 10th of every month. Irrespective of the receipt of the bills from AAI, the Concessionaire is bound to remit the License fee/Space rent/CAM on 25th of day of the every current month as per the concession agreement. The concessionaire has to pay the bill by the 25th of the same month failing which interest at the rate of 12% per annum shall be charged for a period for 90 days thereafter.

14.2 Common Area Maintenance (CAM) Charges

14.2.1 The Concessionaire shall pay to the Authority, the Common Area Maintenance (CAM) Charges in relation to each of the Service Area(s) comprised in the Concession in accordance with this Clause. Such CAM Charges shall be at the rate of 10% (ten percent) of the Space Rent applicable for such area, as may be notified by the Authority from time to time.

14.3 Utility Charges

14.3.1 The Concessionaire shall pay to the Authority or any other agency appointed by Authority in this regard, the Utility Charges for use of utilities such as electricity, water, etc. in relation to each of the backup office/ go down area, Service Area, Advertisement Display Location etc. comprised in the Concession in accordance with this Clause. Such Charges shall be paid by the Concessionaire to the Authority or any other agency appointed by the Authority in this regard, promptly and expeditiously. Such Utility Charges shall be payable at the rate prescribed by the Authority for actual usage to be metered. After raising bills by AAI in respect of electricity/utility charges the concessionaire would be under obligation to make payments within 14 days of bill date.

14.4 Delay of Payment

AAI shall raise bill by 10th of every month. The concessionaire has to pay the bill by the 25th of the same month failing which interest at the rate of 12% per annum shall be charged for a period for 90 days thereafter. In case, default persists on the 31st day counted from Due Date, AAI will issue a notice of intent to terminate the concession. After expiry of notice period, if the default still persists, AAI to terminate the concession forthwith, in any case not exceeding 90th day from due date.

With the termination of the contract, the agency will be debarred for a minimum period of 3 years for participating in any tenders floated for AAI airports. Irrespective of the receipt of the bills from AAI, the Concessionaire is bound to remit the License fee on 25th of day of the current month as per the concession agreement

14.5 Mode of Payment

All payments under this Agreement from the Concessionaire to Authority shall be by way of online payment through Real Time Gross Settlement System (RTGS) to provide for real time interbank payment in favour of such account as may be prescribed by Authority from time to time. All such payments shall be confirmed by written notice/ communications.

ARTICLE - 15 [INSURANCE]

15.1 Insurance Cover

The Concessionaire shall effect and maintain at its own cost, during the Gestation Period and the Concession Term, such insurances for such maximum sums as may be required under the Applicable Laws, and such insurances as may be necessary or prudent in accordance with Good Industry Practice (the "**Insurance Cover**"). The Concessionaire shall also effect and maintain such insurances as may be necessary for mitigating the risks that may devolve on the Authority as a consequence of any act or omission of the Concessionaire.

15.2 Evidence of Insurance Cover

All insurances obtained by the Concessionaire in accordance with this Article 15 shall be maintained with insurers on terms consistent with Good Industry Practice. Within 15 (fifteen) days of obtaining any insurance cover, the Concessionaire shall furnish to the Authority, notarized true copies of the certificate (s) of insurance, copies of insurance policies 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 Concessionaire to the Authority.

15.3 Waiver of Subrogation

All insurance policies in respect of the insurance obtained by the Concessionaire pursuant to this Article 15 shall include a waiver of any and all rights of subrogation or recovery of the insurers there-under against, inter alia, the Authority, and its assigns, successors, undertakings and their subsidiaries, affiliates, employees, insurers and 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 Concessionaire's Waiver

The Concessionaire hereby further releases, assigns and waives any and all rights of subrogation or recovery against, inter alia, the Authority and its assigns, undertakings and their subsidiaries, affiliates, employees, successors, insurers and underwriters, which the Concessionaire 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 Concessionaire 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.

15.5 Application of insurance proceeds

The proceeds from all insurance claims, except life and injury, shall be paid to the Concessionaire and it shall apply such proceeds, in full, for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the facilities for the performance of obligations under this Concession.

ARTICLE- 16 [CHANGE IN LAW]**16.1 Change in Law**

“Change in Law” means any of the following events which have a Material Adverse Effect:

- (a) adoption, promulgation, modification, reinterpretation or repeal after the date of this Agreement by any Government Authority of any statute, rule, ordinance, regulation or order, treaty, convention, directive, guideline, policy having force of law; or
- (b) the imposition by any Government Authority of any material condition (other than a condition which has been imposed as a consequence of a violation by the Concessionaire of any Applicable Permit) in connection with the issuance, renewal or modification of any Applicable Permits after the date of this Agreement which renders the performance by the Concessionaire of any of the terms of this Agreement impossible or unviable; or
- (c) any Applicable Permit previously granted, ceasing to remain in full force and effect for reasons other than breach/violation by or the negligence of the Concessionaire or if granted for a limited period, being renewed on terms different from those previously stipulated.

Provided any (i) imposition of new taxes, duties, cess and the like and/or the increase in taxes, duties, cess and the like effected from time to time by any Government Authority, and/or (ii) imposition of standards and condition of operations, maintenance and safety arising out of a new or revised Environmental Law; and/or (iii) imposition of standards and terms of employment and working conditions of labourers and workmen; and/or (iii) any rules or regulations stipulated by AERA or other regulatory authority having jurisdiction over the Airport in respect of the standards of service shall not constitute a Change in Law.

Provided further that (i) adoption, promulgation, modification, reinterpretation or repeal after the date of this Agreement by any Government Authority of any statute, rule, ordinance, regulation or order regulating or prohibiting the sale and/or consumption of Alcoholic Beverages shall not constitute a Change in Law.

16.2 The Concessionaire's Remedy

- (a) In the event of Change in Law the Concessionaire may propose to the Authority modifications to the relevant terms of this Agreement which are reasonable and intended to mitigate the effect of the Change in Law. Thereupon, the Parties shall, in good faith, negotiate and agree upon suitable changes in the terms of this Agreement including extension of the Concession Term, so as to place the Concessionaire in substantially the same legal and financial position as it were prior to such Change in Law. Provided however, that if the resultant Material Adverse Effect is such that this Agreement is frustrated or is rendered illegal or impossible of performance, the Change in Law shall be deemed to be a Political Event, whereupon the provisions with respect thereto shall apply.
- (b) Upon occurrence of a Change in Law, the Concessionaire shall notify the Authority, of the following:
- (i) the particulars, nature and the impact of Change in Law on the Concession;
 - (ii) in sufficient detail, the estimate of the additional time likely to be incurred by the Concessionaire on account of the Change in Law; and
 - (iii) the measures, which the Concessionaire has taken or proposes to take to mitigate the impact of Change in Law, including in particular, minimising the additional time.

Notwithstanding the aforesaid, if in terms of Good Industry Practice, the event constituting a Change in Law could be insured, the Concessionaire shall not be entitled to any remedy under this Article 16.2.

If as a result of Change in Law, the Concessionaire incurs a reduction in costs or other financial gain or benefit in connection with its development or operation of the Concession, the Concessionaire shall notify the Authority and pay to the Authority an amount that would put the Concessionaire in the same financial position it would have occupied had there been no such Change in Law resulting in such cost reduction, increase in return or other financial gain or benefit as aforesaid. Without prejudice to the aforesaid, the Authority may, by notice in writing require the Concessionaire to pay an amount that would put the Concessionaire in the same financial position it would have occupied had there been no such Change in Law resulting in such cost reduction, increase in return or other gain or benefit.

The Concessionaire shall make payment of such compensation within sixty (60) Days of the said financial benefit. If the Concessionaire shall dispute the quantum of such compensation claim of the Authority, the same shall be finally settled in accordance with the dispute resolution mechanism contained in Article 22 herein.

ARTICLE -17 [FORCE MAJEURE]**17.1 Force Majeure Event**

As used in this Agreement, Force Majeure Event means the occurrence of any of the Non-Political Events, the Political Events or the Other Events in India, set out in Articles 17.2, 17.3 and 17.4 respectively including the impact/consequence thereof which :

- (a) is beyond the control of the Party claiming to be affected thereby (the "Affected Party");
- (b) prevents the Affected Party from performing or discharging its obligations under this Agreement; and
- (c) the Affected Party has been unable to overcome or prevent despite exercise of due care and diligence.

17.2 Non-Political Events

Any of the following events which prevent the Affected Party from performing any of its obligations for a continuous period of not less than 7 (seven) Days from the date of its occurrence, shall constitute a Non-Political Event:

- (a) act of God, extremely adverse weather conditions, lightning, earthquake, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionizing radiation, fire or explosion at the site where the Terminal is located (to the extent of contamination or radiation or fire or explosion originating from a source external to the Site and by reasons not attributable to the Concessionaire or the Contractor or any of the employees or agents of the Concessionaire or the Contractor);
- (b) strikes or boycotts (other than those involving the Concessionaire, Contractors or their respective employees/representatives, or attributable to any act or omission of any of them), and not being an Other Event set forth in Article 17.4, labour disruptions or any other industrial disturbances not arising on account of the acts or omissions of the Concessionaire or the Contractor;

- (c) any event or circumstance of a nature analogous to any of the foregoing.

Provided any strikes or boycotts or civil commotion or agitation by (i) the employees of Authority, or (ii) the employees of Airlines / aircraft carriers, or (iii) passengers, or (iv) Airport Users shall not constitute a Non-Political Event.

17.3 Political Events

Any of the following events shall constitute Political Event:

- (a) unlawful or unauthorised or without jurisdiction revocation of, or refusal to renew or grant without valid cause, any clearance, licence, permit, authorisation, no objection certificate, consent, approval or exemption required by the Concessionaire or any of the Contractors to perform their respective obligations under this Agreement and the Project Agreements; provided that such delay, modification, denial, refusal or revocation did not result from the Concessionaire's or any Contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, licence, authorisation, no objection certificate, exemption, consent, approval or permit; or
- (b) early determination of this Agreement by the Authority for reasons of national emergency, national security or the public interest;

17.4 Other Events

Any of the following events which prevent the Affected Party from performing any of its obligations under this Agreement for a continuous period of not less than 7 (seven) Days from the date of its occurrence, shall constitute the Other Event:

- (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 civil commotion, boycott or political agitation which prevents collection of sales revenue from Airport Users by the Concessionaire;

- (c) any judgment or order of a court of competent jurisdiction or statutory authority in India made against the Concessionaire or the Contractor in any proceedings which is non-collusive and duly prosecuted by the Concessionaire; and any judgment or order of a court of competent jurisdiction or statutory authority in India made against the Concessionaire or the Contractor in any proceedings which is non-collusive and duly prosecuted by the Concessionaire other than relating to proceedings (i) pursuant to failure of the Concessionaire to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement or (iv) with respect to exercise of any of its rights under this Agreement by the Authority; or
- (d) any event or circumstance of a nature analogous to any of the foregoing.

17.5 Notice of Force Majeure Event

- (a) The Affected Party shall give written notice to the other Party in writing of the occurrence of any of the Force Majeure Event (the "Notice") as soon as the same arises or 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 adverse effect it has or is likely to have on the performance of its obligations under this Agreement.
- (b) The Notice shall inter-alia include full particulars of:
 - (i) the nature, time of occurrence and extent of the Force Majeure Event with evidence in respect thereof;
 - (ii) the duration or estimated duration and the effect or probable effect which such Force Majeure Event has or will have on the Affected Party's ability to perform its obligations or any of them under this Agreement;
 - (iii) the measures which the Affected Party has taken or proposes to take, to alleviate the impact of the Force Majeure Event or to mitigate the damage; and
 - (iv) any other relevant information.
- (c) So long as the Affected Party continues to claim to be affected by a Force Majeure Event, it shall provide the other Party with fortnightly written reports containing the information called for by Article 17.5(b) and such other information as the other Party may reasonably request.

17.6 Period of Force Majeure

Period of Force Majeure shall mean the period from the time of occurrence specified in the Notice given by the Affected Party in respect of a Force Majeure Event until the earlier of:

- (a) expiry of the period during which the Affected Party is excused from performance of its obligations in accordance with Article 17.8; or
- (b) termination of this Agreement pursuant to Article 17.10 hereof.

17.7 Resumption of Performance

During the period of Force Majeure, the Affected Party shall in consultation with the other Party, make all reasonable efforts to limit or mitigate the effects of the Force Majeure Event on the performance of its obligations under this Agreement. The Affected Party shall also make efforts to resume performance of its obligations under this Agreement as soon as possible and upon resumption shall notify the other Party of the same in writing. The other Party shall afford all reasonable assistance to the Affected Party in this regard.

17.8 Performance Excused

The Affected Party, to the extent rendered unable to perform its obligations or part thereof under this Agreement as a consequence of the Force Majeure Event shall be excused from performance of the obligations. Provided that, the excuse from performance shall be of no greater scope and of no longer duration than is reasonably warranted by the Force Majeure Event. Provided further, nothing contained herein shall absolve the Affected Party from any payment obligations accrued prior to the occurrence of the underlying Force Majeure Event.

17.9 Costs, Revised Timetable**(a) Costs**

Each Party shall bear its costs, if any, incurred as a consequence of the Force Majeure Event.

(b) Extension of time/period

The Affected Party shall be granted by the other Party, extension of time specified in this Agreement for the performance of any obligation by such period not exceeding the period during which the relative performance was affected by the Force Majeure Event. Such extension may include extension of the Concession Term by the Authority in appropriate cases if permissible under Applicable Law.

17.10 Termination Due to Force Majeure Event

If the period of Force Majeure continues or is in the reasonable judgment of the Parties likely to continue beyond a period of 120 (one hundred and twenty) Days, the Parties may mutually decide to terminate this Agreement or continue this Agreement on mutually agreed revised terms. If the Parties are unable to reach an agreement in this regard, the Affected Party shall after the expiry of the said period of 120 (one hundred and twenty) Days be entitled to terminate the Agreement in which event, the provisions of Article 19 shall, to the extent expressly made applicable, apply.

ARTICLE -18. EVENTS OF DEFAULT

18.1 Events of Default

Event of Default means the Concessionaire Event of Default or the Authority Event of Default or both as the context may admit or require.

18.2 Concessionaire Event of Default

Save as otherwise provided in this Agreement, in the event that any of the defaults specified below shall have occurred, and the Concessionaire fails to cure the default within the Cure Period set forth below, of where no Cure Period is specified, then within a Cure Period of 30 (thirty) days, the Concessionaire shall be deemed to be in defaults of this Agreement (the "**Concessionaire Event of Default**"), unless the default has occurred solely as a result of any breach of this Agreement by the Authority or due to Force Majeure. The defaults referred to herein shall include:

- (a) the Security Deposit has been appropriated in accordance with Clause 7.2 and the Concessionaire fails to replenish or provide fresh Security Deposit within a Cure Period of 15 (fifteen) days;
- (b) subsequent to the replenishment of furnishing of fresh Security Deposit in accordance with Clause 7.2, the Concessionaire fails to cure, within a Cure Period of 30 (thirty) days, the Concessionaire Default for which whole or part of the Security Deposit was appropriated;
- (c) any representation or warranty of the Concessionaire herein contained is found to be materially false or misleading or the Concessionaire is at any time in breach of such representation or warranty by the Concessionaire;
- (d) the Concessionaire abandons or manifests intention to abandon the operation of the Concession prior to the expiry of one half of the Concession Term.;

- (e) the Concessionaire has failed to make any payment to the Authority within the period specified thereof in this Agreement;
- (f) failure by the Concessionaire to operate and maintain the Advertisement Displays in accordance with the Applicable Laws and Applicable Permits;
- (g) any breach by the Concessionaire of obligations set forth in Article 11 of this Agreement;
- (h) cancellation, expiry, termination or a breach by the Concessionaire of any Approvals required for carrying out operations of the Advertisement Spaces;
- (i) the Concessionaire directly or indirectly, undertakes or performs either itself or through agency, sub-contract, sub-concession or otherwise, any activity other than activities provided for/ envisaged under this Agreement.
- (j) failure of Concessionaire to maintain Insurance(s) in accordance with the requirements of this Agreement.
- (k) the Concessionaire repudiates this agreement or otherwise takes any action or evidences or conveys an intention not to be bound by the Agreement;
- (l) a Change in the shareholding/ownership of the Concessionaire has occurred in breach of the provisions of Clause 3.3;
- (m) the Concessionaire is adjudged bankrupt or insolvent, or if a trustee or receiver is appointed for the Concessionaire or for the whole or material part of its assets that has a material bearing on the Concessions;
- (n) the Concessionaire has been, or is in the process of being liquidated, dissolved, wound-up, amalgamated or reconstituted in a manner that would cause, in the reasonable opinion of the Authority, a material adverse bearing on the Concession;
- (o) the Concessionaire submits to the Authority any statement which has a material effect on the Authority's rights, obligations or interests and which is false in material particulars; or
- (p) the concessionaire has failed to fulfill any obligation, for which failure Termination has been specified in this Agreement.

18.3 Authority Event of Default

In the event that any of the defaults specified below shall have occurred, and the Authority fails to cure such default within a Cure Period of 45 (forty five) days or such longer period as has been expressly provided in this Agreement, the Authority shall be deemed to be in default of this Agreement (the "**Authority Event of Default**") unless the default has occurred as a result of any breach of this Agreement by the Concessionaire or due to Force Majeure. The defaults referred to herein shall include:

- (a) The Authority commits a material default in complying with any of the provisions of this Agreement and such default has a material adverse bearing on the Concessionaire; or
- (b) the Authority repudiates this Agreement or otherwise takes any action that amounts to or manifests an irrevocable intention not to be bound by this Agreement; or
- (c) The Terminal ceases to handle operations for passenger traffic.
- (d) The Authority fails to fulfill its obligation to handover the Assigned Advertisement Area at the start of Concession and anytime thereafter during the currency of the concession agreement.

ARTICLE - 19 [TERMINATION]**19.1 Termination for Concessionaire Event of Default**

Without prejudice to any other rights or remedies which the Authority may have under this Agreement, upon occurrence of a Concessionaire Event of Default, the Authority shall be entitled to terminate this Agreement; provided that before such Termination, the Authority shall by a notice of dissatisfaction, inform the Concessionaire of its reasoned intent to terminate the Agreement and grant thirty (30) days to the Concessionaire to make a representation, and may after expiry of such thirty (30) days, whether or not it is in receipt of such representation, terminate the Agreement by issuing a Notice of Termination of one hundred and twenty (120) days as defined in the RFP

19.2 Termination for Authority Event of Default

Without prejudice to any other right or remedy which the Concessionaire may have under this Agreement, upon occurrence of an Authority Event of Default, the Concessionaire shall be entitled to terminate this Agreement; provided that before such Termination, the Concessionaire shall by a notice of dissatisfaction, inform the Authority of its intent to terminate the Agreement and grant 30 (thirty) days to the Authority to make a representation, and may after the expiry of such 30 (thirty) days, whether or not it is in receipt of such representation, terminate the Agreement by giving a Notice of Termination of one hundred and twenty (120) days.

19.3 Termination by Authority for Convenience

19.3.1 The Authority may, at its sole discretion, for any reason whatsoever, at any time during the Concession Term, terminate the rights of the Concessionaire, whenever the Authority shall determine that such Termination is in the best interests of the Authority; provided that before such Termination, the Authority shall by a notice of dissatisfaction of thirty (30) days inform the Concessionaire of its intent to terminate the Agreement. In the event of no/unsatisfactory response from Concessionaire the Authority at its discretion issue Notice of Termination of One Hundred and Twenty (120) days to terminate this concession agreement.

However if such a Notice of Dissatisfaction/Termination is issued during the Minimum Lock In Period (i.e. One half period of the Concession Term) the concessionaire would face besides termination the forfeiture of 6 months Security Deposit equivalent to current month License fee and a ban of 3 years in participation of future of Authority

19.3.2 The Concessionaire agrees and acknowledges that, upon Termination by Authority under the provisions of Clause 19.3.1, the Concessionaire shall not be entitled for damages, reimbursement of any costs or compensation for anticipatory profits.

19.4 Termination by Concessionaire for Convenience

The Concessionaire may, One Hundred and Twenty (120) days prior to the expiry of the Minimum Lock In period of one half of the Concession Term, issue a notice of termination in writing of one hundred and twenty (120) days expiring on the expiry date of Minimum Lock In Period to terminate this Concession Agreement. In the event of Concessionaire exercising such option it will not face the punitive provisions of forfeiture of security deposit, installed hardware etc. as outlined at 19.3.1 above.

The Concessionaire may at any time after the expiry of the minimum lock in period of one half of the concession term issue in writing a notice of dissatisfaction of thirty (30) days/notice of termination of one hundred and twenty (120) days to terminate this Concession Agreement. In the event of Concessionaire exercising such option it will not face the punitive provisions of forfeiture of security deposit, installed hardware etc. as outlined at 19.3.1 above.

19.5 Termination by Efflux of Time

Unless terminated earlier in accordance with the provisions of this Article 19, the Agreement shall terminate upon the expiry of Concession Term.

19.6 Consequences of Termination of the Agreement

- 19.6.1 Where the Agreement is terminated pursuant to Clause 19.2 or clause 19.3 the Authority shall release and refund the available Security Deposit to the Concessionaire, provided there are no outstanding claims of the Authority on the Concessionaire. However the exclusionary provision of dealing with a situation of termination before the Minimum Lock in period would prevail over and above this provision.
- 19.6.2 Where the Agreement is terminated pursuant to Clause 19.5, the Authority shall release and refund the available Security Deposit to the Concessionaire, provided there are no outstanding claims of the Authority on the Concessionaire.
- 19.6.3 The Concessionaire shall, within a period of thirty (30) days from the expiry / termination of the Agreement hand over the Sites and Service Areas in relation to which the Agreement has been terminated in good condition. The Concessionaire shall remove all its materials, belongings, etc. from such locations at the Concessionaire's own cost, failing which the Authority shall have the right to take over such property and sell the same at such price as it may get, and utilize the proceeds towards payment of any outstanding amounts due from the Concessionaire (including cost of such removal).
- 19.6.4 Save and except as otherwise expressly provided herein, the Authority shall not be liable to compensate the Concessionaire in any manner whatsoever in the event of earlier termination or determination of the Concession for any reason whatsoever.

19.7 Obligations during Termination Period

Upon service of a notice by either Party of its intent to terminate the Agreement, the Parties shall, subject where applicable to the provisions of this Article 19, continue to perform such of their respective obligations under this Agreement which are capable of being performed with the object, as far as possible, of ensuring continued availability of the facilities and services to the Airport Users, failing which the Party in breach shall compensate the other Party for any loss or damage occasioned or suffered on account of the underlying failure/breach.

ARTICLE -20 [LIABILITY AND INDEMNITY]**20.1 General Indemnity**

20.1.1 The Concessionaire will indemnify, defend, save and hold harmless the Authority and its officers, servants, agents, Government Instrumentalities and Government owned and/or controlled entities/enterprises, ("**the Authority Indemnified Persons**") against any and all suits, proceedings, actions, demands and third party claims for any loss, damage, cost and expense of whatever kind and nature arising out of any breach by the Concessionaire of any of its obligations under this Agreement or any related agreement or on account of any defect or deficiency in the provision of services by the Concessionaire to any Airport User, except to the extent that any such suits, proceedings, actions, demands and claims have arisen due to any negligent act or omission, or breach of this Agreement on the part of the Authority Indemnified Persons.

20.1.2 The Authority will indemnify, defend, save and hold harmless the Concessionaire against any and all suits, proceedings, actions, demands and third party claims for any loss, damage, cost and expense of whatever kind and nature arising out of breach by the Authority of any of its obligations under this Agreement or any related agreement, which materially and adversely affect the performance by the Concessionaire of its obligations under this 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 Agreement or any related agreement and/or breach of its statutory duty on the part of the Concessionaire, its subsidiaries, affiliates, contractors, servants or agents, the same shall be the liability of the Concessionaire.

20.2 Indemnity by the Concessionaire

20.2.1 Without limiting the generality of Clause 20.1, the Concessionaire shall fully indemnify, hold harmless and defend the Authority and the Authority Indemnified Persons from and against any all loss and/or damages arising out of or with respect to:

- (a) failure of the Concessionaire to comply with Applicable Laws and Applicable Permits:
- (b) the payment of taxes required to be made by the Concessionaire in respect of the income or other taxes of the Concessionaire's contractors, suppliers and representatives; or
- (c) non-payment of amounts due as a result of materials or services furnished to the Concessionaire or any of its

contractors which are payable by the Concessionaire or any of its contractors.

20.2.2 Without limiting the generality of the provisions of this Article 20, the Concessionaire shall fully indemnify, hold harmless and defend the Authority Indemnified Persons from and against any and all suits, proceedings, actions, claims, demands, liabilities and damages which the Authority Indemnified Persons may hereafter suffer, or pay by reason of any demands, claims, suits or proceedings arising out of claims of infringement of any domestic or foreign patent rights, copyrights or other intellectual property, proprietary or confidentiality rights with respect to any materials, information, design or process used by the Concessionaire or by the Concessionaire's Contractors in performing the Concessionaire's obligations or in any way incorporated in or related to the Project. If in any such suit, action, claim or proceedings, a temporary restraint order or preliminary injunction is granted, the Concessionaire shall make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the revocation or suspension of the injunction or restraint order.

20.3 Notice and Contest of Claims

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 20 (the "**Indemnified Party**"), it shall notify the other Party (the "**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.

20.4 Defence of Claims

20.4.1 The Indemnified Party shall have 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 20, 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; 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.

20.4.2 If the Indemnifying Party has exercised its rights under Clause 20.3, 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).

20.4.3 If the Indemnifying Party exercises its rights under Clause 20.3, 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. as and when incurred, unless:

- (a) the employment of counsel by such party has been authorised in writing by the Indemnifying Party; or
- (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; or
- (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 20.4.3 shall be applicable, the counsel for the Indemnified Party shall have 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 shall constitute legal or other expenses hereunder.

No Consequential Claims

Notwithstanding anything to the contrary contained in this Article 20, 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 Agreement.

20.5 Survival on Termination

The provisions of this Article 20 shall survive Termination.

ARTICLE - 21
[RIGHTS AND TITLE OVER THE ADVERTISEMENT
LOCATIONS/DISPLAYS]

21.1 Licensee Rights

For the purpose of this Agreement, the Concessionaire shall have rights to the use of the Advertisement Locations/Displays as sole licensee subject to and in accordance with this Agreement. For the avoidance of doubt, the Concessionaire agrees and acknowledges that term Advertisement Location/Display as set out in this Agreement shall be covered under the AAI Act of 1994 and AAI Amendment act of 2003 and the provisions of the said Act shall apply to all matter provided for there under.

21.2 Access Rights of the Authority and Others

21.2.1 The Concessionaire shall allow free access to the Advertisement Locations/Displays at all times for the authorized representatives of the Authority, and the Independent Auditor, and for the persons and vehicles duly authorized by any Government Instrumentality to inspect or to investigate any matter within their authority, and upon reasonable notice, the Concessionaire shall provide to such persons reasonable assistance necessary to carry out their respective duties and functions.

21.2.2 The Concessionaire shall, for the purpose of operation and maintenance of any utility, allow free access to the Advertisement Location/Display at all times for the authorized persons of the Authority or any agency that the Authority may appoint in this regard.

21.3 Property Taxes

The Concessionaire shall not be liable to pay any property taxes in respect of the Advertisement Locations/Displays.

21.4 Sub-licensing/ sub-letting

The Concessionaire shall not sub-contract or sub-concession or assign any of its rights, duties and obligations under the Concession Agreement, in whole or in part.

ARTICLE-22 [DISPUTE RESOLUTION]

22.1 Dispute resolution

Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Concession Agreement (including its interpretation) between the Parties, shall be governed and regulated in accordance with the provisions contained at Clause 5.16 of the RFP and in accordance with the provisions of Arbitration and conciliation Act 1996 as amended from time to time.

ARTICLE- 23 [DISCLOSURE]

23.1 Disclosure of Specified Documents

The Concessionaire shall make available for inspection by any person authorized by the Authority, copies of financial records and books of accounts during normal business hours on all working days at the Concessionaire's Registered Office with a prior notice.

ARTICLE 24. REDRESSAL OF PUBLIC GRIEVANCES

24.1 Complaints Register

- 24.1.1 The Concessionaire shall maintain a register (the "**Complaint Register**") open to public access at all times for recording of complaints by any person (the "**Complainant**").
- 24.1.2 The Complaint Register shall be securely bound and each page thereof shall be duly machine numbered. It shall have appropriate columns including the complaint number, date, name and address of the Complainant, substance of the complaint and the action taken by the Concessionaire. Immediately after a complaint is registered, the Concessionaire shall give a receipt to the Complainant stating the date and complaint number.
- 24.1.3 Without prejudice to the provisions of Clauses 24.1.1 and 24.1.2, the Authority may, in consultation with the Concessionaire, specify the procedure for making complaints in electronic form and for responses thereto.

24.2 Redressal of complaints

- 24.2.1 The Concessionaire shall inspect the Complaint Register regularly and take prompt and reasonable action for redressal of each complaint. The action taken shall be briefly noted in the Complaint Register and a reply stating the particulars thereof shall be sent by the Concessionaire to the Complainant through electronic mail or registered post.
- 24.2.2 All complaints received shall be redressed to the satisfaction of the complainant within a reasonable time from the receipt of such complaint.
- 24.2.3 At the expiry of each quarter the Concessionaire shall send to the Authority a true photocopy each of all the pages of the Complaint Register on which any entry has been recorded during the quarter. Authority may, in its discretion, advise the Concessionaire to take such further action as the Authority may deem appropriate for fair and just redressal of any grievance. The Concessionaire shall consider such advice and inform the Authority of its decision thereon, and if the Authority is of the opinion that the Complainant is entitled to further relief, it may refer the matter to the competent forum for its disposal under the Applicable Laws.

ARTICLE -25 [MISCELLANEOUS]**25.1 Governing law and jurisdiction**

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts at Indore (Mention the City/District where the Airport is situated) shall have jurisdiction over matters arising out of or relating to this Agreement.

25.2 Waiver of Immunity

Each Party unconditionally and irrevocably:

- (a) agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;
- (b) agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Party with respect to its assets;
- (c) waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and
- (d) consents generally in respect of the enforcement of any judgement or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgement that may be made or given in connection therewith).

25.3 Waiver

25.3.1 Waiver, including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement:-

- (a) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;
- (b) shall not be effective unless it is in writing and executed by a duly authorized representative of the Party; and
- (c) shall not affect the validity or enforceability of this Agreement in any manner.

25.3.2 Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation there under nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

25.4 Exclusion of implied warranties etc.

This Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by either Party not contained in a binding legal agreement executed by both Parties.

25.5 Survival

25.5.1 Termination shall:

- (a) not relieve the Concessionaire or the Authority, as the case may be, of any obligations hereunder which expressly or by implication survive Termination hereof; and
- (b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.

25.5.2 All obligations surviving Termination shall be subject to Limitation act of 1963

25.6 Entire Agreement

This Agreement and the Schedules together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn.

25.7 Severability

If for any reason whatever, any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any

such provisions shall not be subject to the Dispute Resolution Procedure set forth under this Agreement or otherwise.

25.8 No Partnership

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, or to impose any partnership obligation or liability upon either Party, and neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

25.9 Third Parties

This Agreement is intended solely for the benefit of the Parties, and their respective successors and permitted assigns, and nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a Party to this Agreement.

25.10 Successors and Assigns

This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assigns.

25.11 Notice

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall:

(a) in the case of the Concessionaire, be given by facsimile and by letter delivered by registered post/electronic mail to the address given and marked for attention of the person set out below or to such other person as the Concessionaire may from time to time designate by notice to the Authority; provided that notices or other communications to be given to an address outside **India** may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by facsimile to the number as the Concessionaire may from time to time designate by notice to the Authority;

Name of Person
 Correspondence Address

 Name of Alternate person
 Correspondence Address

(b) in the case of the Authority, be given by facsimile and by letter delivered by registered post and be addressed to the Chairman of the Authority with a copy delivered to the Authority Representative set out below or such other person as the Authority may from time to time designate by notice to the Concessionaire; provided that if the Concessionaire does not have an office in **INDORE** it may send such notice by facsimile and by registered

acknowledgement due, air mail or by courier; and

Authority Representative/Airport Director,
DABH Airport, INDORE

- (c) any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered.

25.12 Language

All notices required to be given by one Party to the other Party and all other communications, Documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

25.13 Currency

The currency for all payments under the provisions of this Agreement shall be in INR.

25.14 Time

Time shall be the essence of this Agreement, both as regards the dates, periods or times of day mentioned and as regards any dates, periods or times of day, which may be substituted for them in accordance with this Agreement

25.15 Conflict

25.15.1 This Agreement supersedes all previous agreements or arrangements between the Parties, including any correspondence entered into in respect of the contents hereof and represents the understanding between the Parties in relation thereto.

25.15.2 This Agreement constitutes a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties.

25.15.3 In the event of a conflict between the terms of the Agreement and those of Authority's Commercial Manual or any other guidelines, the terms of this Agreement shall prevail.

25.16 Counterparts

This Agreement is executed in two counterparts, each of which, when delivered, shall constitute an original of this Agreement. The Parties have read and thoroughly understood the contents hereof and have hereby affixed their respective signatures and seals before witnesses.

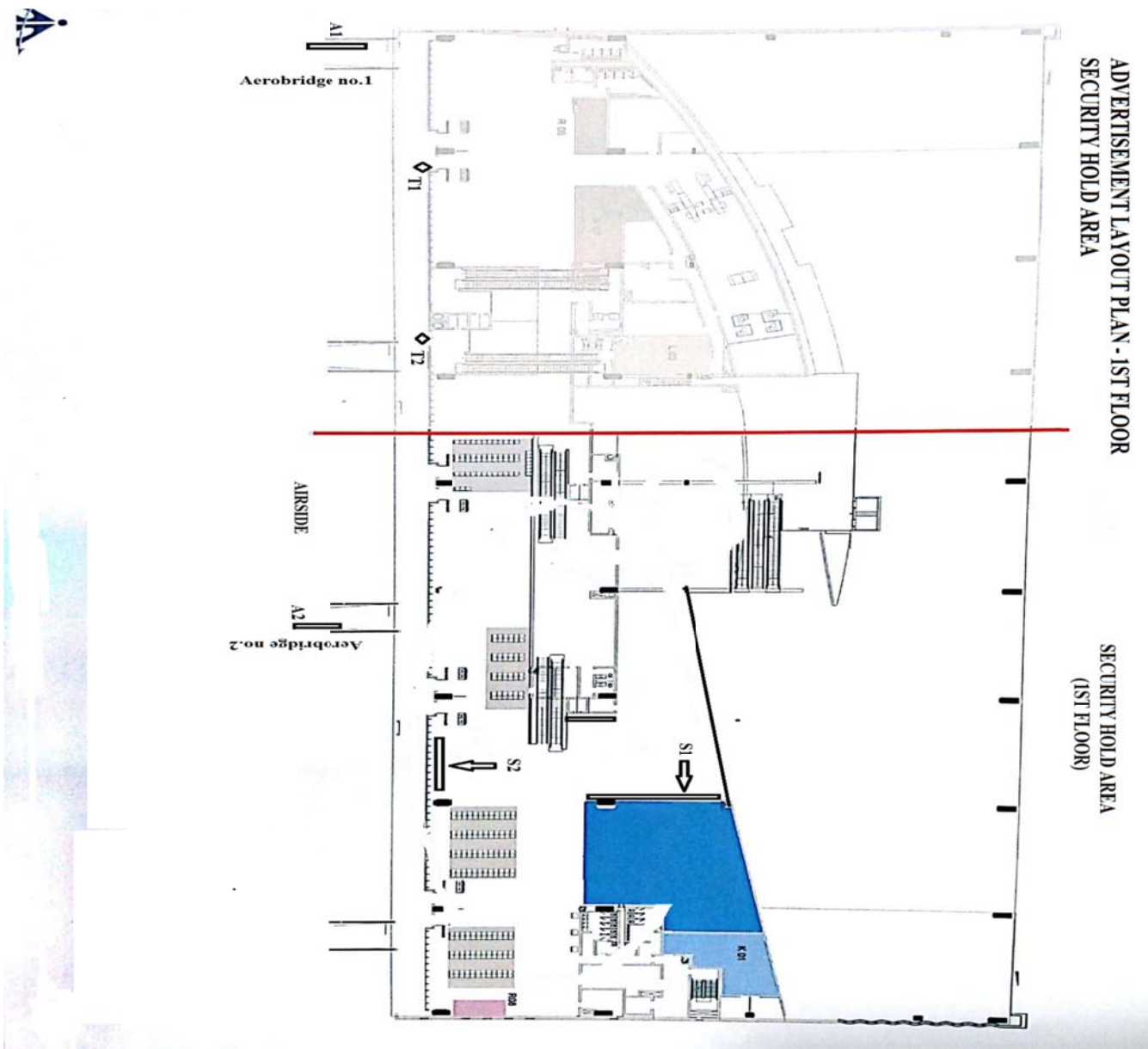
IN WITNESS WHEREOF this Agreement bearing No and containing Pages has been executed by the duly authorized representatives of the Parties hereto on the day and year first above written

<i>For and on behalf of Airports Authority of India</i>	<i>Witnessed by:</i> 1. _____ 2. _____
<i>Name, Signature, Designation, Seal, Stamp, Place, Date</i>	<i>Witnessed by:</i> 1. _____
<i>For and on behalf of Concessionaire</i> Name, Signature, Designation, Seal, Stamp, Place, Date	<i>Witnessed by:</i> 1. _____

SCHEDULE A

INDICATIVE LOCATION LAYOUT PLAN ALONG WITH THE DETAILS OF MEASUREMENTS

(SUBJECT RFP CLAUSE 5.1.2)



Name & Designation of tender issuing officer: Mr. .Ashok Chettiar, Manager(Commercial)
AAI, DABH Airport, INDORE

Advertisement Area Inside Terminal NITB

Arrival Hall In NITB

S.N.	Locations	Shown in plan as	Dimension in Feet		face	Total Area In SqFt
			Lenth	Width		
1	Conveyer Belt No.1	A1	40	4	2	320
2	Conveyer Belt No.2	A2	40	4	2	320
3	Conveyer Belt No.3	A3	40	4	2	320
4	On Wall	A4	10	8	1	80
5	On Wall	A5	15	4	1	60
Total Area						1100

SHA In NITB

1	Above restaurant	S1	64.7	7	1	453
2	On Gate No.6	S2	45	7	1	315
3	Below LED Screen	S3	30	6	1	180
4	Tortum	T1-2	9	4	2	72
5	Aerobridge	AR1-2	60	6	2	720
Total Area						1740

Departure In NITB

1	Above Check in Counters	D1	165	4	1	660
Total Area						660

Total Area Inside Terminal Building

3500

Advertisement Area Outside Terminal NITB

S.N.	Locations	Shown in plan as	Dimension		face	Nos	Total Area
1	On Pillars	P1-8	4	3	4	8	384
2	Hordings	H1-2	36	12	1	2	864
3	Hordings	H3-4	16	8	1	2	256
4	Pole Kiosk	K1-7	6	4	4	7	672
5	Pole Kiosk	DS1-10	4	3	2	10	240
6	Pole Kiosk	SS1-7	4	3	1	7	84
Total Area Outside Terminal Building							2500

SCHEDULE B**MONTHLY CONCESSION FEE**

1. **Assigned Advertisement Area:** **6000 Sq. ft**
2. **Highest Rate quoted by the Concessionaire on Per Sq. ft. Per month basis for the first Concession year:**
3. **Monthly Concession Fee:** Concession fee (License fee) for the first concession year shall be quote offered by the successful bidder for the tendered display area (ie; Quoted rate per sqft per month multiplied by total advertisement display area in the RFP/tender.)

For subsequent concession years, the concession fee shall always be as per clause 10.2.3 of RFP

Sr. No.	CONCESSION YEAR		MONTHLY CONCESSION FEE IN INR	
	FROM	TO	FIGURES	WORDS
01				
02				
03				
04				
05				
06				
07				

SCHEDULE C

INTEGRITY PACT

(TO BE SUBMITTED IN FORM VII)