

DELHI INTERNATIONAL AIRPORT LIMITED

**New Udaan Bhawan, Opp. Terminal 3, Indira Gandhi International Airport,
New Delhi-110 037**



REQUEST FOR PROPOSAL (RFP)

FOR

BIDS FOR FINANCE, RIGHT TO USE AND SALE OF EQUIPMENT

RFP Reference No: RFP/DIAL/20-21/001

May 16, 2020

PREPARED AND ISSUED BY

DELHI INTERNATIONAL AIRPORT LIMITED

IMPORTANT NOTICE

Delhi International Airport Limited (DIAL) invites proposals/bids under single stage bid process for "Finance, Right to Use and Sale" of Equipment (*defined herein below*).

Interested Parties may download the RFP (*as defined hereinbelow*) free of charge from <https://procurement.gmrgroup.in> & www.newdelhiairport.in from May 16, 2020 to May 21, 2020.

The RFP (*as defined hereinbelow*) can also be obtained in person from the Tender Officer stationed in the office of DIAL situated at New Udaan Bhawan, Opp. Terminal-3, IGI Airport, New Delhi-110037, on any working day between 2pm to 4pm from May 16, 2020 to May 21, 2020.

REQUEST FOR PROPOSAL

RFP REFERENCE NO: RFP/DIAL/20-21/001

1. DISCLAIMER

- 1.1. This RFP (*as defined hereinbelow*) is being issued by DIAL for selection of the Selected Bidder (*as defined hereinbelow*) for finance, right to use and sale of the Equipment (*as defined hereinbelow*).
- 1.2. The information contained in this RFP or subsequently provided to a Bidder whether verbally or in documentary or any other form, by or on behalf of DIAL or any of its advisors, consultants, contractors, officers, employees and / or its agents, is provided to the Bidder(s) on a private and confidential basis and on the terms and conditions set forth in this RFP and such other terms and conditions subject to which such information may be provided. This RFP is neither an agreement nor an offer by DIAL to the prospective Bidder(s) or any other person.
- 1.3. In no circumstances shall DIAL, or its respective employees, officers, directors, advisors, consultants, contractors and / or agents incur any liability arising out of or in respect of the issuance of this RFP, the selection process, or the legality, validity, effectiveness, adequacy or enforceability of any documentation executed, or which may be executed, in relation to the selection of the Selected Bidder and / or the Transaction (*as defined hereinbelow*).
- 1.4. The RFP is not a prospectus or offer or invitation to the public in relation to the sale of shares, debentures or securities, nor shall this RFP or any part of it form the basis of or be relied upon in any way, in connection with, any contract relating to any shares, debentures or securities.
- 1.5. This RFP along with its annexures, schedules and attachments, is not transferable and can be used by the Bidder(s) for the limited purpose of preparing and submitting the Bid and for no other purpose whatsoever. The possession or use of this RFP in any manner contrary to any Applicable Law (*as defined herein below*) or for any purpose other than as specified in this RFP is expressly prohibited. Each Bidder shall duly inform itself of and shall observe any applicable legal requirements. This RFP is not being distributed to the public nor has not been filed, registered or approved in any jurisdiction.
- 1.6. This RFP is being made available by DIAL to the Bidders on the terms set out in this RFP. Additionally, each Bidder acknowledges that this RFP and any information relating to this RFP, any document provided to the Bidder(s) pursuant to this RFP, the selection process and/or any information relating to the examination, clarification, evaluation and recommendation of the Selected Bidder are confidential information and shall not be disclosed by any Bidder and/or its Affiliate to any person who is not officially concerned with the selection process or is not a retained professional advisor advising DIAL in relation to, or on matters arising out of, or concerning the selection process. Each Bidder shall treat all documents and/or information in confidence and shall ensure and require that all those who have access to such documents, information and/or material to treat the same in confidence.
- 1.7. Each Bidder shall also submit the Confidentiality Undertaking in the format annexed to this RFP as **Annexure-IV** along with its Bid. Any failure to comply with the terms of the Confidentiality Undertaking or this clause shall entitle DIAL to disqualify the relevant Bidder(s) and seek other remedies in accordance with the Applicable Law.

- 1.8. This RFP and the tender documents do not purport to contain all the information that the Bidder, its directors, consultants, contractors, officers, employees, agents and / or advisors would desire or require in reaching a decision as to the submission of its Bid. The RFP and/or the tender documents are subject to updating, expansion, revision and amendment at the sole discretion of DIAL, without the requirement of prior notices to the Bidders or any other person.
- 1.9. Nothing in this RFP shall be construed as business, legal, financial and/or tax advice. The assumptions, assessments, statements and information contained in this RFP may not be complete, accurate or adequate. Each Bidder must also conduct its own analysis of the information contained in this RFP and the tender documents, to correct any inaccuracies therein and is advised to carry out its own independent investigation and due diligence with regard to the proposed Transaction, the regulatory regime and guidelines which apply thereto and all matters pertinent to this RFP and/or the Transaction and to seek its own professional advice on the business, legal, financial, regulatory and/or taxation consequences of entering into any agreement or arrangement relating to this Transaction before the submission of its Bid.
- 1.10. Whilst the information in this RFP has been / shall be prepared in good faith no liability is or will be accepted by DIAL, its respective employees, officers, directors, advisors, consultants, contractors and / or its agents in relation to the accuracy, adequacy or completeness of such information or statements made, nor shall it be assumed that such information or statements will remain unchanged. Neither DIAL nor any of its officers, employees, directors, nor any of its agents, representatives, advisors or consultants undertake to provide any Bidder with access to any additional information, or, to update the information in this RFP and the tender documents or to correct any inaccuracies therein which may become apparent.
- 1.11. DIAL reserves the right to, not release, not furnish or withdraw the RFP, the documents related thereto and/or any information contained therein to any Bidders or third party without assigning any reason whatsoever. DIAL also reserves the right to disqualify and reject any or all of the Bid(s), at its sole and absolute discretion. DIAL reserves the right to modify the process, change the basis of or the procedure (including the timelines) relating to the selection process, discontinue this selection process, reject any, or all of the Bidders, not to invite a Bidder to proceed further, not furnish a Bidder with additional information nor otherwise to negotiate with a Bidder in respect of the Transaction or the selection of the Selected Bidder at any time and/or change the size and scope of the Transaction, without assigning any reason whatsoever. DIAL reserves the right to reject all Bids or to call for fresh Bids. In such an event, no financial obligation of whatsoever nature shall accrue to DIAL or any of its respective officers, employees, advisors or agents.
- 1.12. Each Bidder shall bear all costs associated with or relating to the preparation and submission of its Bid including but not limited to preparation, copying, postage, delivery fees, expenses or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder and DIAL shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by any Bidder in relation to the selection process.
- 1.13. Neither the information contained in this RFP nor any other written or verbal information, in relation to the process set out in the RFP, evaluation of the proposals thereof, award of the Transaction, is intended to be considered as or is intended to form the basis of or the inducement for any investment activity or any decision to enter into any contract or arrangement in relation to the award of the Transaction and should not be relied on as such.

- 1.14. DIAL proposes to select the Selected Bidder in accordance with this RFP on the basis of Bids submitted by the Bidders. This RFP outlines DIAL's expectations in relation to the Bid(s) to be submitted by the Bidder(s). No legal or other obligation shall arise in DIAL's name unless and until the Transaction Documents, have been formally and validly executed with the Selected Bidder identified by DIAL. Each Bidder must rely on the terms and conditions contained in any contract, when, and if, finally executed, subject to such limitations and restrictions which may be specified in such contract.
- 1.15. Each Bidder's acceptance of delivery of this RFP constitutes its agreement to, and acceptance of, the terms set forth in this RFP. By acceptance of this RFP, each Bidder agrees that, with respect to DIAL, this RFP and any information contained herein supersedes any other document(s) or earlier information, if any, in relation to the subject matter hereof.
- 1.16. DIAL may conduct the process as set out hereunder either by itself, or through or with the assistance of one or more advisors and agencies. Each Bidder consents to DIAL sharing the Bid and all other information as may be provided by the Bidder during the process and thereafter, with such advisors and agencies. It is clarified that acceptance, evaluation and selection of the Selected Bidder shall be made by DIAL at its sole discretion, and that DIAL shall not be bound by any opinions or observations of its advisors or agents.
- 1.17. No persons other than those expressly specified in this RFP have been authorized by DIAL to give any information or to make any representation not contained in this RFP and, if given or made, any such information or representation shall not be relied upon as having been so authorized.
- 1.18. DIAL will not have any liability to any Bidder or any other person under any laws (including without limitation the law of contract or tort), the principles of equity, restitution or unjust enrichment or otherwise for any loss, expense or damage which may arise from or be incurred or suffered in connection with anything contained in this RFP, any matter deemed to form part of this RFP, the intimation of the Selected Bidder, the information supplied by or on behalf of DIAL or its employees, any consultants, or otherwise arising in any way from the selection process. DIAL will also not be liable in any manner whether resulting from negligence or otherwise however caused arising from reliance of any Bidder upon any statements contained in this RFP.

2. DEFINITIONS AND INTERPRETATION

2.1. Definitions

For the purposes of this Request for Proposal ("**RFP**"), whenever used in this RFP, unless repugnant to the meaning or context thereof, the following expressions shall have the following meanings:

"**AAI**" means the Airports Authority of India, as established under the Airports Authority of India Act, 1994;

"**Affiliate**" with respect to an entity means any person which, directly or indirectly, (a) Controls such entity, (b) is Controlled by such entity, or (c) is Controlled by the same person who, directly or indirectly, Controls such entity;

"**Airport**" means the Indira Gandhi International Airport at New Delhi, located on the underlying land forming part of the Demised Premises and all land acquired by or

leased to DIAL under the Lease Deed or otherwise in pursuance of the OMDA;

"Applicable Law" means all laws, bye-laws, statutes, rules, regulations, orders, ordinances, protocols, codes, guidelines, policies, notices, directions, judgments, decrees or other requirements or official directive of any Governmental Authority or person acting under the authority of any Governmental Authority and / or of any statutory authority in the Republic of India including AAI and the rules, regulations and guidelines (including policies and circulars) framed by DIAL from time to time;

"Bid" or **"Quotation"** means the quotation including technical bid, financial bid and other documents, as required under this RFP to be part of the Bid submitted by the Bidders, in response to and in accordance with the terms and conditions of this RFP;

"Bid Submission Deadline" shall be the date specified in Clause 3.3.7;

"Bid Validity Period" has the meaning ascribed to the term in Clause 3.3.2;

"Bidder" means an Interested Party, including its Consortium Members wherever applicable, submitting or causing to be submitted, in the manner prescribed in Clause 3 of this RFP, the Bid and other submissions;

"Control" shall include the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner, or the ownership of 50% (fifty percent) or more of the legal and beneficial interest; and "Controlling" and "Controlled by" shall be construed accordingly. It is clarified that a fund manager shall be rendered in Control directly or through fund(s) managed by that fund manager;

"Consortium" means the reference to the group of entities (including at least one Interested Party) and shall not consist of more than (3) three members jointly submitting the Bid as a Bidder. Each member of the Consortium shall individually be referred to as "Consortium Member".

"Consortium Member(s)" shall in relation to a Consortium mean each of the members of the Consortium;

'Construction Phase' shall mean the period during which the Equipment is supplied, installed and commissioned by the Contractor at the project site and the overall time for completion for runway section is 22 (twenty two) months from Notice to Proceed and for works other than runway section is period of 39 (thirty nine) months from the Notice to Proceed or such other period as DIAL may instruct.

"Contract" means a contract agreement dated February 7, 2019 entered into between DIAL and the Contractor, wherein DIAL appointed the Contractor to design and execute the works relating to phase 3A Development comprising design, construction, supply, manufacture, assembly, erection, installation, setting to work, testing, completion and maintenance of the 'works' as are more particularly described in the Contract;

"Contractor" means a contractor appointed by DIAL for undertaking the works of Phase 3A Development and is currently Larsen and Toubro Limited, a company incorporated under the Companies Act, 1956 and having its registered office at L & T House, Narottam Morarji Marg, Ballard Estate, Mumbai – 400001 and L&T construction headquarters office at Mount Poonamallee Road, Manapakkam, Chennai 600 089;

"Demised Premises" shall have the meaning ascribed to the term in the Lease Deed;

"DIAL" means Delhi International Airport Limited, a company existing under Companies Act, 2013 and having its registered office at New Udaan Bhawan, Opposite Terminal 3, Indira Gandhi International Airport, New Delhi – 110 037;

"Equipment" means the various movable assets in the form of airport systems being procured, installed, tested, commissioned and made fit to use by the Contractor at the Airport pursuant to and in accordance with the Contract, and which are now the subject matter of the Transaction, as more particularly indicated in **Annexure - I** hereto.

"Equipment Cost" means the cost of Equipment amounting to approx. INR 2,000/- crores (Rupees Two Thousand Crores only), including applicable GST as on date, as per the Contract (as more particularly indicated in **Annexure- I**).

"Eligibility Criteria" means eligibility criteria as set out in General Terms and Conditions for Submission of Bids;

"Entity" means, (i) an entity competent to enter into contract under the Indian Contract Act, 1872 and incorporated under the provisions of Applicable Law, including the Companies Act, 1956 / Companies Act, 2013 or the Limited Liability Partnership Act, 2008; or (ii) an entity incorporated under a similar/equivalent legislation; or (iii) Fund.

"Fund" means the alternate investment fund, private equity funds, real estate investment trusts, venture capital fund or any Qualified Institutional Buyer as defined in the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018 or any entity, regulated in India, involved in the business of banking, insurance, lending or otherwise financing projects;

"Governmental Authority" means the Government of India, the Government of the National Capital Territory of Delhi, and any other government authority, statutory authority, government department, agency, commission, board, tribunal or court or other law, rule or regulation making entity having or purporting to have jurisdiction on behalf of the Republic of India, or any state or other subdivision thereof or any municipality, district or other subdivision thereof, including AAI;

"INR" means Indian Rupees;

"Insolvency Event" means, if a Bidder (or any member of a Consortium) is subject to: (a) a petition in bankruptcy or insolvency or liquidation or for the alteration or adjustment of a substantial part of indebtedness being filed before a Governmental Authority against it under any bankruptcy, insolvency or other applicable Law relating to debtors or to alteration or adjustment of indebtedness, and if such petition, complaint or action filed against such party seeking its insolvency or liquidation, is admitted (after hearing); or (b) files, or consents to, any petition in bankruptcy or for reorganization under any bankruptcy or insolvency law, or for the appointment of an interim resolution professional, resolution professional or receiver for a substantial portion of its property by a Governmental Authority, or (c) commences proceedings for or takes any corporate action authorising or providing for its dissolution or liquidation; or (d) is subject to a receiver being appointed by a Governmental Authority over a substantial part of the property of such party and such appointment is not vacated in 30 (thirty) days;

"Interested Parties" means the parties who have downloaded or procured the RFP with an intention to submit Bid in terms thereof;

“Lead Member” in respect of a Bidder bidding as Consortium, shall mean and refers to 1 (one) Member identified by the Other Consortium Members as the lead member of such bidding Consortium;

"Lease Deed" means the registered Lease Deed dated 25 April 2006 entered into between AAI and DIAL and any supplementary deed(s) thereto;

“Notice to Proceed” means March 7, 2019 i.e. the date when the notice was issued by DIAL to the Contractor under the Contract for proceeding with the execution of works as defined in the Contract;

"OMDA" means the Operation, Management and Development Agreement dated 4 April 2006 entered into between AAI and DIAL and all agreement(s) and document(s) supplemental thereto;

“Other Consortium Member” means the Consortium Member other than Lead Member;

“Phase 3A Expansion” means the current phase of development at the Airport pursuant to the Master Plan, which commenced in March 2019;

"RFP" means this request for proposal document issued by DIAL, and all annexures, schedules, volumes, attachments, addenda and/or instruments supplemental thereto;

"Representatives" mean all authorised representatives, employees, advisors, consultants of the Bidder;

"Selected Bidder" means the Bidder or its Consortium, wherever applicable, that is selected pursuant to this RFP to execute the Transaction in the manner contemplated in the RFP and the Transaction Documents;

"Selection Process" refers to the process as detailed herein, for evaluation and selection of the Selected Bidder for the Transaction;

"Single Bidder" means any Entity which has submitted a Bid individually.

“Tenor” means the term of the right to use of the Equipment which is minimum 7 (seven) years commencing from September 2023 or upon completion of the Works under the Contract, whichever is earlier.

"Transaction Documents" mean the following agreements covering the key terms set out in **Annexure - II** hereto:

- (a) the Agreement for Financing, Right to Use and Sale;
- (b) the Tripartite Agreement
- (c) Escrow Agreement; and
- (d) any other agreements or documents as may be designated by DIAL to be the Transaction Documents;

"Transaction" shall have the meaning ascribed to the term in Clause 3.2.1;

"Taxes" means applicable national, state (or union territory) or local tax on gross income / gross receipts / sales and services, of the nature of user, ad valorem, value-added, goods and services tax, property tax, capital gains, transfer, duties of custom and excise, or other taxes, cesses, fees, assessments or charges of any kind whatsoever and additions to tax or additional amount with respect thereto, in relation to the Transaction, but not including any interest, any fines or penalties, and "*Taxation*" or "*Tax*" shall have a corresponding meaning;

"Transfer Assets" has the meaning ascribed to the term in OMDA;

"Tripartite Agreement" means the agreement to be executed between the Contractor, Selected Bidder and DIAL.

2.2. Interpretation

The words and expressions beginning with or in capital letters used in this RFP not defined herein but defined in the Transaction Documents shall, unless repugnant to the context, have the meaning respectively assigned to them in the Transaction Documents. Further, notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the Transaction Documents shall have an overriding effect; provided, however, that any condition or obligation imposed on the Bidders hereunder shall continue to have effect in addition to its obligations under the Transaction Documents.

3. INVITATION TO SUBMIT BID

3.1. Background

3.1.1. The Airports Authority of India ("**AAI**") and DIAL have entered into Operations, Management, Development Agreement ("**OMDA**") dated April 4, 2006 pursuant to which AAI granted to DIAL the exclusive right and authority for operating, maintaining, developing, designing, constructing, upgrading, modernizing, financing and managing the Indira Gandhi International Airport ("**Airport**").

3.1.2. DIAL has a vision for the Airport as an airport of the highest international standards with emphasis on world class development and expansion and airport management, safety, functionality, customer and passenger service, modern architecture and efficient and environmentally friendly operations.

3.1.3. In furtherance of the above objective, DIAL has commenced the expansion works at the Airport, pursuant to Phase 3A of the Master Plan 2016 developed under the OMDA ("**Phase 3A Development**"). By a contract agreement dated February 7, 2019 (the "**Contract**"), DIAL has appointed the Contractor to design and execute the works relating to Phase 3A Development comprising design, construction, supply, manufacture, assembly, erection, installation, setting to work, testing, completion and maintenance of the 'works' as are more particularly described in the Contract ("**Works**").

3.1.4. To meet out the part of capital expenditure relating to Phase 3A Development at the Airport under the Contract, DIAL intends to raise funds for the Equipment through 'finance, right to use and sale' of the Equipment whereby the Selected Bidder shall finance, provide right to use and sell the Equipment to DIAL.

3.2. Transaction Structure

3.2.1. The 'finance, right to use and sale' transaction ("Transaction") shall comprise of following:

a) **Financing Purchase of Equipment:**

The Selected Bidder shall deposit the Equipment Cost in an escrow account in 4 (four) or 5 (five) tranches as mutually agreed with DIAL and in the manner provided in the Transaction Documents.

Such amount deposited by the Selected Bidder in the escrow account will be released to the Contractor by the escrow agent as per DIAL's instructions in accordance with the terms of the Contract and the Transaction Documents.

The title of each Equipment shall pass on to the Selected Bidder as and when payment has been made for that Equipment.

DIAL shall during the Construction Phase pay interest to the Selected Bidder on the amount of the Equipment Cost as deposited into the escrow account from time to time, commencing from the date of each tranche of deposit, and the interest to be paid by DIAL during the Construction Phase shall be quoted by the Selected Bidder in its Bid and also specify the periodicity at which the interest shall be payable. Interest shall be paid from the date of deposit of the amounts by Selected Bidder in the escrow account.

Upon execution of the Agreement to Finance, Right to Use and Sale, DIAL shall pay to the Selected Bidder as security deposit an amount of 20% of the Equipment Cost, which will be adjusted in the final/last of the payments to be made by DIAL to the Selected Bidder. The annual return the Selected Bidder intends to give on such security deposit shall be quoted in its Bid. Further, the Selected Bidder shall provide an appropriate collateral to DIAL against such security deposit in the form and manner as agreed by DIAL and for the period until the first tranche of the Equipment Cost is deposited by the Selected Bidder in the escrow account.

The Selected Bidder shall at all times during the Construction Phase and at the request of DIAL allow possession/beneficial occupancy of the Equipment to DIAL for any operational or constructional requirement of the Airport or for any other reasons as may be detailed in the Transaction Documents.

b) **The Right to Use of the Equipment by the Selected Bidder to DIAL:**

During the Tenor, the Selected Bidder shall provide to DIAL a 'right to use' to the Equipment by way of lease for such monthly consideration to be paid by DIAL which shall be quoted by the Selected Bidder in its Bid. The Tenor for the runway section works and works other than runway section shall be co-terminus and the 'right to use' period shall be for a minimum of 7 (seven) years.

c) **The Sale of Equipment by Selected Bidder to DIAL:**

Upon expiry of the Tenor or in the event of early termination, the Selected Bidder shall sell the Equipment to DIAL.

Upon expiry of the Tenor, the Equipment shall be sold to DIAL at the fair market value of the Equipment after the adjustment of the amounts paid by DIAL towards the cost of the Equipment during the Tenor.

In the event of early termination during the Tenor, the equipment shall be bought by DIAL at consideration equivalent to net present value of future right to use consideration at mutually agreed discounting factor to be agreed at the time of the Transaction Documents.

Note: The Transaction will in all perspectives be a financial arrangement wherein the Selected Bidder finances the cost of Equipment and provides DIAL the right to use the Equipment by way of lease during the Tenor. DIAL pays back the substantial cost of Equipment with applicable interest during such period and then buys such Equipment for the agreed consideration. At all times, DIAL will have right to use the Equipment for its business. Since the Equipment are to be used for Airport Business, the Selected Bidder will not create any encumbrance over such Equipment in favor of any Entity during the Tenor.

3.3. Invitation to Tender

- 3.3.1. DIAL invites Bids for finance, right to use and sale of Equipment under a single stage bidding process on the terms and conditions contained in this RFP. The Bids can be sent by courier or in person in a sealed envelopes scribing the 'RFP reference no.', 'RFP description' & 'Bid Due Date' to the Tender Officer.
- 3.3.2. Quotation shall be unconditional, firm and remain valid for 3 (three) calendar months from the Bid Due Date ("**Bid Validity Period**"). A Bid valid for a shorter period may be rejected by DIAL as non-responsive. However, DIAL may request the Bidders to extend the Quotation beyond the Bid Validity Period by serving a written notice to the Bidders.
- 3.3.3. Bidders are advised to study this RFP and the tender documents thoroughly. Submission of Bid shall be deemed to have been done after careful study and examination of this RFP and tender document with full understanding of its implications.
- 3.3.4. The tender documents are not transferable.
- 3.3.5. Bidders may obtain further information /clarification, if any, from:

Tender Officer:

Mr Hari Nagrani
Chief Financial Officer
DELHI INTERNATIONAL AIRPORT LIMITED
New Udaan Bhawan, Opp. Terminal 3,
IGI Airport, New Delhi – 110 037, India
Tel. + 91-11-[4719 7000-01] or + 91-11-[4719 7412]
Email id: Hari.Nagrani@gmrgroup.in

3.3.6. The RFP can be obtained through following options:

- a) Download free of charge RFP from Delhi Airport Website - www.newdelhiairport.in or <https://procurement.gmrgroup.in>
- b) The RFP can be obtained in person from the Chief Financial Officer, DIAL stationed at New Udaan Bhawan, Opp. Terminal-3, IGI Airport, New Delhi-110037, on any working day between 2pm to 4pm from May 16, 2020 to May 21, 2020.

3.3.7. The Bidders are advised to adhere to the following schedule for the purpose of this tender/RFP:

Date of issuance of RFP	:	May 16, 2020
Last date of obtaining RFP	:	May 21, 2020
Last Date for submission of any clarifications/Queries by Bidders	:	May 25, 2020
Reply to the Bidder's clarification/Queries by DIAL and issuance of Addendum, if any	:	May 27, 2020
Last date and time for Quotation/Bid submission/Bid Due Date and Time (" Bid Submission Deadline ")	:	June 03, 2020 before 1800 hours

4. The General Terms and Conditions and Special Terms and Conditions for submission of Bids are annexed hereto:

General Terms and Conditions for the Submission of Bid

1.	Eligibility Criteria	1.1	The Bidders who will submit its Quotation/Bid shall be a registered private or public company/ group or Non-Banking Financial Services Company (NBFC) registered with RBI or Affiliate/ company controlled by NBFC or any Fund or a Consortium of the Entities and having adequate experience and know-how to undertake finance, lease and sale, with minimum 5 (five) years of experience in finance and lease sectors.
		1.2	No Entity which has been blacklisted by or under watch-list of any Governmental Authority shall be allowed to participate in the tender process. All intending Entities shall be under obligation to inform in writing about criminal cases pending against them (including their directors, managing directors, managing partners and managers who may be authorized to look after their work), if any.
		1.3	In case the bidder is a single Entity, then the eligibility criteria may be fulfilled by such Entity either by itself or through its Affiliate. In case the bidder is a Consortium, then the eligibility criteria may be fulfilled by – a. The Lead Member (either by itself or through its Affiliate); or b. Other Consortium Member (either by itself or through its Affiliate) Provided that the Affiliate entity on whose credential the Bidder has relied upon remains an Affiliate of the Bidder (or the Lead Member or the Other Member in

		1.4	<p>case of a Consortium) throughout the Construction Phase.</p> <p>In case of Bidder being a Consortium:</p> <p>a. Each Consortium Member shall jointly and severally be liable to DIAL and DIAL may enforce the performance of the Transaction Documents from one or more of the Consortium Members, if the Consortium is the Selected Bidder.</p> <p>b. No changes/replacement of the Consortium Members of the Bidder shall be permitted during the bid process and in case Consortium is declared as the Selected Bidder, no change/replacement of the Consortium Members shall be permitted during the Construction Phase other than with the prior written consent of DIAL.</p>
2.	Queries and Clarification of RFP	2.1	Within the time as notified in this RFP, any of the Interested Parties/Bidders requiring any clarification/query of the RFP or related to the Transaction may notify DIAL in writing or by e-mail at the address indicated in this RFP. DIAL may respond to any request for clarification which it receives in accordance with the timelines set out in this RFP.
3.	Amendment of RFP	3.1	If any addendum is issued by DIAL with respect to this RFP prior to Bid Submission Date then to afford Bidders reasonable time to take an addendum into account in preparing their Quotation, DIAL may extend the deadline for submission of Quotation.
		3.2	In case after the issuance of any addendum, Bidders who have already submitted their Bid, do not resubmit their Bid, it shall be deemed that such Bidders/Interested Parties do not intend to modify their Quotation pursuant to the addendum and the addendum has been taken into account by them.
4.	Preparation of Quotation	4.1	The Quotation submitted by the Bidders shall comprise of such documents, as may be required and set out in this RFP.
		4.2	The right to use consideration for the Equipment quoted by the Bidders shall be exclusive of GST.
5.	Form of Quotation and other documents comprising the Quotation	5.1	The Bidders shall submit the Quotation in the form attached to this RFP as Annexure-III .
6.	Format and signing of Quotation	6.1	The Quotation shall be typed and signed by a person or persons duly authorized to sign on behalf of the Bidders. All pages of the Quotation shall be initialed by the person or persons signing the Quotation.

			The Quotation shall be submitted in one original and one photocopy.
7.	Evaluation of quotations	7.1	<p>DIAL will examine the Quotations to determine whether they are complete, whether the documents have been properly signed, whether the quotation are substantially compliant to the requirements of this RFP and whether the Bidders have provided any clarification and/or substantiation that DIAL may have required. Process of evaluation of Quotations shall be confidential. To assist in the examination, evaluation and comparison of Quotations, DIAL may, at its discretion, request any Bidder for clarification of its Quotation.</p> <p>A tender/bid evaluation committee shall evaluate the Quotations received taking into account lowest lease rental per Rs.1000 or the IRR of cash flows to DIAL or lowest cash outflow to DIAL based on bids submitted by Bidders and the rate of interest payable by DIAL during the Construction Phase on the payment made by the Selected Bidder to the Contractor on behalf of DIAL.</p>
8.	Award of contract	8.1 8.2	<p>DIAL reserves the right to accept any Bid and to annul the Bid process and reject all Bids at any time, without assigning any reason, prior to placement of supply order/signing of contract, without thereby incurring any liability to the affected party(s) or any obligation to inform the affected party(s) of the grounds for DIAL's action.</p> <p>DIAL shall present the results of the evaluation and shall award the contract to the Selected Bidder whose Quotation has been determined to be substantially conforming to the requirements identified by DIAL, and who has offered the most advantageous Bid to DIAL, in accordance with this RFP.</p> <p>The Transaction may be undertaken and accordingly the Transaction Documents can be executed by the Selected Bidder through its subsidiary company or a Special Purpose Company or its Affiliate or Entity Controlled by the Selected Bidder.</p>

5. **RIGHT TO ACCEPT / REJECT ANY OR ALL BIDS**

- 5.1. Notwithstanding anything contained in this RFP, DIAL reserves the right to, *inter alia* accept or reject any Bid and /or to cancel or withdraw the selection process, reject all Bids, call for fresh Bids or restart the selection process, at any time, without any liability or any obligation for such acceptance, rejection or annulment and without assigning any reasons thereof.

6. **DISQUALIFICATIONS**

This RFP is only open to the Bidders and Consortium satisfying the Eligibility Criteria set out in this RFP. DIAL shall have the right, in its sole discretion, to disqualify any Bidder on, including but not limited to any one or more of the following grounds:

- a) any Bid not being accompanied by any supporting document or annexure required to be submitted in accordance with the RFP;
- b) participation or submission by a Bidder of more than one Bid. Any Bidder who submits more than 1 (one) Bid shall render the Bids submitted by such Bidder (individually or as a Bidding Consortium) subject to rejection, at the option of DIAL;
- c) failure to comply or continue to comply with the requirements of the RFP and/or the Bid being non-responsive to the requirements of the RFP;
- d) if the Bid is not signed, sealed and marked as stipulated in the RFP or does not contain all the information as requested in the RFP or by DIAL otherwise or is not in the formats specified in the RFP, DIAL may reject the Bid as non-responsive;
- e) if any Bidder, its member or any affiliate, as part of the Bid, has provided any document, undertaking, declaration or confirmation that is untrue, incomplete, inaccurate or not to the satisfaction of DIAL or has made any misrepresentation in its Bid. If the Bidder is a Bidding Consortium, then the entire Bidding Consortium could be disqualified / rejected;
- f) any Bid received after the Bid Submission Deadline;
- g) if the Bidder attempts to withdraw or modify the Bid after the Bid Submission Deadline, without the written approval and consent of DIAL;
- h) upon occurrence of an Insolvency Event against the Bidder, its member or any Affiliate, as the case may be;
- i) if the Bidder does not submit the Bid for the complete scope of the Transaction or submits any conditional or qualified Bid;
- j) if the Bidder, its member or an Affiliate attempts to influence or induce DIAL with respect to the Eligibility Criteria or the selection process; or
- k) if the Bidder or its Affiliate (whose credentials have been relied upon) has been barred / blacklisted by the Central / State Government, or any entity controlled by the Central / State Government, from participating in any project, and the bar subsists as on the Bid Submission Deadline.

7. CONFLICT OF INTEREST

- 7.1. A Bidder shall not have a conflict of interest. All Bidders found to have a conflict of interest shall be disqualified. A Bidder, or as a member of a Consortium shall be considered to be in conflict of interest with one or more other Bidders in the bidding process if any of, including but not limited to, the following apply:
- 7.2. they have Controlling shareholders in common;
- 7.3. they have the same legal representative for purposes of this RFP; or
- 7.4. they have a relationship with each other, directly or through common third parties, that puts them in a position to improperly influence the Bid of another Bidder participating in the bidding process.

8. AMENDMENT OF RFP

- 8.1. Any time before the Bid Submission Deadline, DIAL may, for any reason, whether on its own initiative or in response to a query or clarification requested by any Bidder, modify or amend the RFP including, but not limited to, the timelines specified in the RFP. In order to give Bidders reasonable time to take the above amendments into account in preparing their Bids, DIAL may, at its sole discretion, extend the Bid Submission Deadline.
- 8.2. DIAL shall consider the comments and issue suitable clarifications and changes as it deems fit, if any, to the RFP, prior to the Bid Submission Deadline. During this process, DIAL reserves the right to contact any Bidder and seek separate meetings, feedback and/or comments from such Bidder.
- 8.3. The amendment to the RFP shall be notified in writing through a letter or fax or e-mail or in any other manner as DIAL may deem fit to all the Bidders and shall be binding on each Bidder.
- 8.4. DIAL may also on its own motion, if deemed necessary, issue revised RFP, addenda, instructions, clarifications and/or interpretations to all Bidders. All documents, addenda, instructions, clarifications and interpretations issued by DIAL shall be deemed to be part of the RFP. Verbal clarifications and information given by DIAL or its advisors, consultants, contractors, officers, employees and/or its agents shall not in any way or manner be binding on DIAL.

9. WITHDRAWAL AND MODIFICATION OF BIDS

No Bid shall be modified, substituted or withdrawn by the Bidder, after submission of the Bid. Any alteration / modification in the Bid or additional information supplied subsequent to the Bid Submission Deadline, unless the same has been expressly sought for by DIAL, shall be disregarded.

10. NO DEVIATIONS

Bidders may note that DIAL will not entertain any deviations to the RFP at the time of submission of the Bids or thereafter.

11. UNCONDITIONAL AND UNQUALIFIED BIDS

The Bid to be submitted by each Bidder should be unconditional and unqualified and the Bidder would be deemed to have accepted all the terms and conditions of the RFP with all its contents and other included parts. If any Bid is received in variation of this condition DIAL shall have right to not consider the same.

Special Terms and Conditions for the Submission of Quotation

1. These terms and conditions shall form part of this RFP to enable the Bidders to submit their Quotations to DIAL.
2. The Bid documents received by DIAL after Bid Due Date and Time shall be rejected outright and no correspondence in that regard shall be entertained.
3. There should not be any deviation by the Bidders from the terms and condition as have been stipulated in the Bid documents.
4. This document and any material transmitted herewith may contain information proprietary to DIAL, its subsidiaries, affiliates and such information is not to be used by the recipient for any purposes other than the purpose for which it was transmitted. Recipient shall not publish, distribute, or use any information relating to or developed under or about the RFP or use the trade name, trademark or service mark of DIAL for any business purposes or for the purposes of making an advertisement, creating a business reference, news, website content, or for endorsement of product or services of whatsoever nature without the prior written approval of DIAL. The information shall be maintained in confidence and not disclosed to third parties without the written consent of DIAL. The foregoing obligations as to confidentiality shall survive the termination or expiry of this tender and any contract awarded thereafter.
5. Bid will be accepted by DIAL via by courier / by person and in sealed envelopes and in the manner provided herein above.
6. Bid is likely to be rejected because of non-fulfillment of any of the above terms.
7. All disputes arising out of this RFP shall lie within the jurisdiction of New Delhi only. DIAL reserves the right to reject all or any Bid without assigning any reason thereof.
8. List of Equipment to be financed, to provide right to use by way of lease and to be sold by Selected Bidder to DIAL along with their value is provided as **Annexure-I**.
9. The Selected Bidder shall be liable to make payments to the Contractor for the purchase of the Equipment. It shall make payment equivalent to the Equipment Cost for such purchase.
10. The Selected Bidder shall recognize the right of AAI to acquire the Equipment (Transfer Assets as per OMDA) in the manner provided in the OMDA, in accordance with the Article 19.3.2 of OMDA. The Transaction Documents to be entered into between the Selected Bidder and DIAL shall contain an express undertaking to transfer the assets to AAI upon the exercise of such right by AAI in accordance of Article 19.3.2 of OMDA; and transfer of the rights and obligations of DIAL under such agreements to AAI in the event of termination of the OMDA and expiry thereof.
11. This Transaction is subject to approval by the Board of Directors of DIAL.

**Annexure I – Details of Equipment and the Equipment Cost
(Indicative List)**

LIST OF EQUIPMENT & ITS COST				
Descripton	supply of Major equipment	Auxiliaries equipment & Installation, testing & commissioning	GST	Grand Total
	Rs. Cr.	Rs. Cr.	Rs. Cr.	Rs. Cr.
Design	-	92.55	16.66	109.21
Terminal MEP	-	-	-	-
HVAC	72.88	118.04	38.84	229.76
Electrical	125.26	174.01	52.68	351.95
Fire detection	0.98	46.86	8.61	56.46
Fire alarm	5.27	4.67	1.79	11.73
PHE	8.10	45.07	9.57	62.74
Airport systems	-	-	-	-
PBB	49.41	12.35	11.12	72.88
VDGS	34.96	8.74	7.87	51.56
GPU/PCA infra	20.53	30.79	9.24	60.56
PSC	18.39	4.60	4.14	27.13
BHS	148.00	37.00	33.30	218.30
HBS	39.78	9.95	8.95	58.68
VHT	38.07	9.52	8.56	56.15
ATRS	31.18	7.79	7.01	45.98
AGL SYSTEMS	186.35	127.65	56.52	370.52
SUB STATIONS	29.70	21.33	9.34	60.36
Roads	12.07	8.04	2.90	23.01
Landside	5.55	24.72	5.45	35.71
T3	76.93	32.62	19.72	129.27
	-	-	-	-
TOTAL	903.40	816.30	312.26	2,031.96
			Say (approx) Rs. Cr	2,000.00

Annexure - II
Indicative Key Terms and Conditions of the Transaction

- The Selected Bidder shall deposit the Equipment Cost in an escrow account in 4 or 5 (four of five) tranches as mutually agreed with DIAL and in the manner provided in the Transaction Documents.
- The title of each Equipment shall pass on to the Selected Bidder as and when payment has been made for that Equipment as per the terms of the Transaction Documents and Contract.
- DIAL shall during the Construction Phase pay interest to the Selected Bidder on the amount of the Equipment Cost as deposited into the escrow account from time to time, commencing from the date of each tranche of deposit and in manner detailed in the Transaction Document. Interest shall be paid from the date of deposit of amounts by the Selected Bidder into the escrow account.
- During the Tenor, the Selected Bidder shall provide to DIAL 'right to use' of the Equipment by way of lease.
- DIAL shall make the payment of monthly consideration for 'right to use' of the Equipment during the Tenor as per the terms of the Transaction Document.
- The Selected Bidder shall at all times during the Construction Phase and at the request of DIAL allow possession/beneficial occupancy of the Equipment to DIAL for any operational or constructional requirement of the Airport or for any other reasons as may be detailed in the Transaction Documents.
- Upon execution of the Agreement for Financing, Right to Use and Sale, deposit an amount equivalent to 20% of the Equipment Cost, as a security deposit in the escrow account. The said amount of security deposit shall be released and adjusted from the final/last of the payments to be paid by DIAL to the Selected Bidder. Further, the Selected Bidder shall provide an appropriate collateral against such security deposit in the form and manner as instructed by DIAL and for such period until the first tranche of the Equipment Cost is deposited by the Selected Bidder in the escrow account.
- The Bidder and DIAL shall also be required to enter into an escrow agreement with a scheduled bank in India, simultaneously with the execution of the Agreement for Finance, Right to Use and Sale, for release of payments to the Contractor.
- The events of default of the Selected Bidder and the termination rights of the parties shall be detailed out in the Transaction Document.
- Upon expiry of the Tenor or early termination, DIAL shall acquire the Equipment from the Selected Bidder. DIAL shall also have the right extend the Tenor, at any given point in time upon mutually agreed terms between the Selected Bidder and DIAL.
- The buyer / lessor of the Equipment i.e. Selected Bidder recognizes the rights of AAI to acquire the Transfer Assets in the manner provided in the OMDA, in accordance with Article 19.3.2 of OMDA.
- The buyer / lessor of the Equipment i.e. the Selected Bidder undertakes to transfer the relevant Transfer Assets upon exercise of aforesaid right by AAI, in accordance with Article 19.3.2 of OMDA.

- The rights and obligations of DIAL under the Transaction Documents shall transfer to AAI in the event of termination of the OMDA or expiry thereof in accordance with Article 19.1.
- The Selected Bidder shall indemnify DIAL in case of any failure / breach of the Transaction Documents.
- The Selected Bidder shall not create any encumbrance, of whatsoever nature, in the Equipment being purchased by it or in which right to use has been given to DIAL.

The above mentioned are indicative terms and the detailed terms and conditions in relation to the Transaction will be listed out in the Transaction Documents.

- The Bidder shall also be required to enter into a Tripartite Agreement with DIAL and the Contractor within six (06) months of the award of the Transaction, the following are some of the key indicative terms and conditions:
 - (a) The Selected Bidder shall pay to the Contractor the Equipment Cost on behalf of DIAL. Accordingly, the payment obligations of DIAL under the Contract will be assigned to the Selected Bidder.
 - (b) The title of each Equipment shall pass on to the Selected Bidder as and when the payment is made for that Equipment. Accordingly, DIAL's right with respect to the title of the Equipment under the Contract will be novated in favor of the Contractor.
 - (c) The Selected Bidder shall at all times during the Construction Phase and at the request of DIAL allow the possession/beneficial occupancy of the Equipment for any operational or constructional requirement of the Airport or for any other reasons as may be detailed in the Transaction Documents.
 - (d) Rights relating to certification of payments with respect to the Equipment, inspection and audit of the Equipment provided in the Contract shall remain with DIAL.
 - (e) The Contractor will be responsible for payment of **(i)** all other taxes imposed and assessments made in relation to the Equipment; **(ii)** the cost of all import or export licences if required for the Equipment; **(iii)** the cost of any port dues including (but not by way of limitation) wharfage dues, storage, charges, quay rent, craneage, shipping dues, pilotage fees, anchorage, berthage and mooring fees, quarantine dues, loading, portage and overtime fees for any Equipment; **(iv)** all charges and other expenses in connection with the landing and shipment of Equipment and any part thereof, materials and other things of whatsoever nature brought into the project site for the purposes of the Contract.
 - (f) The benefit of any tax exemption or concessional rate available when the Contractor purchases Equipment will be passed on to the Selected Bidder.

The above mentioned are indicative terms of the Tripartite Agreement and the detailed terms and conditions in relation to the Transaction will be listed out in the Tripartite Agreement.

**Annexure III
FORM OF BID**

(On the Interested Party's Letterhead)

Tender Officer
DELHI INTERNATIONAL AIRPORT LIMITED
New Udaan Bhawan, Opp. Terminal 3,
IGI Airport, New Delhi 110 037
India

(date)

Tel. +91 (11) 4719 7000 or + 91 (11) 4719 7412

Ref: RFP for finance, right to use and sale of Equipment.

Dear Sir,

1. Having examined the RFP [and addendum thereto (if any)] issued by DELHI INTERNATIONAL AIRPORT LIMITED for the above-mentioned work, we have ascertained that they contain no errors or other defects.
2. We have understood the terms of RFP and our below Quotation is based on the following:

Particulars	UOM	Details
Financer		Selected Bidder
Borrower		DIAL
Asset Type		Movable Assets
Asset Cost	INR. (in Crores)	approx. 1,700/- (Seventeen Hundred Crores)
GST @18% (or as applicable)	INR. (in Crores)	approx. 300/- (Three Hundred Crores)
Total	INR. (in Crores)	approx. 2,000/- (Two thousand crores)

3. Our quotation is as follows:

Particulars	UOM	Details / Amounts (in INR)
Setup Fee/Upfront Fee (excl GST), if any		
Interest rate payable by DIAL during construction phase (payable monthly or quarterly or yearly to be specified by the Bidder)		
Security Deposit	20 % of Equipment Cost	
Return on Security Deposit (payable monthly or quarterly or yearly to be specified by the Bidder)	% p.a. calculated as simple interest	

Monthly consideration for Right to use (excl GST)	Rs. / 1000 / month	
Any other conditions	Separate sheet can be used	

The detail terms & conditions of the Bid / proposal is enclosed as annexure to this letter.

4. We submit herewith the following documents in support of Bid:

S No.	Particulars	Documents
1	Certificate of Incorporation	Number Issuance Authority Date of Certificate
2	Certificate of Registration as NBFC/ Fund, as the case may be	Number Issuance Authority Date of Certificate
3	Certificate of Experience & know how to undertake the business of finance, lease and sale, duly executed by the CFO of the Bidder	
4	Undertaking duly executed by CFO of the Bidder stating that the blacklisted by or under watch-list of any Governmental Authority	
5.	Power of attorney for signing of Bid in the format, duly certified by Company Secretary / CFO	
6.	Confidentiality Undertaking	

5. We also provide detail of criminal cases pending against the Bidder (including the directors, managing directors, managing partners and managers who may be authorized to look after the affairs of the Bidder, if any. The same details should also be furnished for any Affiliate whose credentials have been used for meeting the Eligibility Criteria.

6. We undertake:

- 6.1 to keep this quotation open for acceptance without unilaterally varying or amending its terms for the period stated in the RFP.
- 6.2 that if this quotation is accepted, we shall provide in such numbers and in such form as may be stipulated in the Transaction Documents such performance guarantees, undertakings and warranties;

7. We understand that you are not bound to accept the lowest or any quotation you may receive.

8. This bid shall be governed by and construed in all respects according to the Applicable Laws being in force in India. The courts at Delhi will have exclusive jurisdiction in the matter.

Signature _____

in the capacity of _____

Duly authorised to sign quotation for and on behalf of

Annexure IV-
Confidentiality Undertaking
(To be executed on stamp paper of appropriate value)

This Confidentiality Undertaking (“**Undertaking**”) is made at New Delhi on this ____ day of _____, 2020 by:

_____, a company incorporated under the provisions of the Companies Act, 1956/2013, and having its registered office at _____, represented by its authorised signatory _____ (hereinafter referred to as “**Recipient**”, which expression unless repugnant to the context or meaning thereof shall be deemed to mean and include its successors and permitted assigns).

In Favor of

Delhi International Airport Limited, a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at New Udaan Bhawan, Opposite ATS Complex, Terminal-3, IGI Airport, New Delhi-110037, India , (hereinafter referred to as “**DIAL**” which expression unless repugnant to the context or meaning thereof shall be deemed to mean and include its successors and assigns).

to assure the protection and preservation of confidential and/or proprietary information disclosed by DIAL to the Recipient.

The Recipient agrees to undertake as set out herein:

This Undertaking is effective from the date of execution of this Undertaking by the Recipient.

1. **Confidential Information:** The term “Confidential Information” shall mean and include, without limitation, the RFP and everything contained therein, all documentation, data, particulars of the works and technical or commercial information made by (or on behalf of) DIAL or obtained directly or indirectly from DIAL or its representatives by the Recipient or which is generated by the Recipient or any information or data that the Recipient receives or has access to, as a result of the RFP, as being confidential information of DIAL.
2. **Exceptions:** The term “Confidential Information” shall not include any information which is now, or hereafter becomes available to the public, but not for the reason or as a consequence of the breach, default, failure to act by or on behalf of the Recipient or its employees, officers, directors, whether existing or erstwhile. Provided that the Recipient shall not disclose any information under this Clause 2, without giving prior written notice to DIAL of the relevant circumstances which the Recipient believes confer a right to disclose such information and DIAL has had a reasonable period to rebut these circumstances.
3. **Purpose:** The Recipient shall use Confidential Information solely for purpose of analysing the scope of works and for submitting it Bid in response to this RFP (hereinafter referred to as “**Authorized Purpose**”) and for no other purpose. The Recipient shall not use Confidential Information for any purpose other than the Authorized Purpose.
4. **Use:** The Recipient shall:
 - (a) use the Confidential Information only to the extent necessary to accomplish the Authorized Purpose;
 - (b) preserve the secrecy of the Confidential Information;

- (c) not disclose the Confidential Information to any employee except to those having a need to know the same for the Authorized Purpose and shall be responsible and obligated for its employees' compliance with this Undertaking;
 - (d) not disclose the Confidential Information to any third party or if such disclosure is required pursuant to a valid court order provided that the Recipient shall give DIAL reasonable prior written notice of such disclosure and, where required, assist DIAL to resist such order;
 - (e) immediately notify DIAL in writing upon the discovery of any loss or unauthorized disclosure of any Confidential Information; and
 - (f) return to DIAL all Confidential Information in whatever form (including all copies thereof and summaries, analysis, compilations, studies, reports, notes and other documents or materials derived there from, whether prepared by the Recipient or not) upon receipt of the written request of DIAL.
5. **Ownership:** The Confidential Information is the property of DIAL and/or its associates. Nothing in this Undertaking shall be construed as granting to the Recipient or any other person, any property rights, by license or otherwise any right, to any Confidential Information disclosed pursuant to this Undertaking, or to any invention or any patent, copyright, trademark, or other intellectual property right that has issued or that may issue, based on such Confidential Information. The Recipient shall not make, have made, use or sell for any purpose any product or other item using, incorporating or derived from any Confidential Information.
6. **Remedies:** The Recipient agrees that any breach or a threatened breach by the Recipient of its undertakings and obligations under this Undertaking will cause irreparable injury to DIAL and monetary damages would not be an adequate remedy for such breach or threatened breach. Accordingly, in addition to any remedies that may be available, under Applicable Law, in equity or otherwise, DIAL shall be entitled to seek temporary and permanent injunctive relief against any threatened breach or the continuation of any breach and costs and expenses relating to the enforcement of any breach or threatened breach of this Undertaking.
7. **Duration:** The Recipient's obligations under this Undertaking shall be continuous and shall not lapse.
8. **Definitive Commitment:** Recipient acknowledges and agrees that no contract or agreement with respect to or in connection with the Authorized Purpose shall be deemed to exist unless and until DIAL and Recipient execute and deliver a final definitive agreement relating thereto (the "**Definitive Commitment**"). DIAL and Recipient further agree that unless and until DIAL and Recipient shall have executed and delivered a Definitive Commitment, neither DIAL nor Recipient shall be under any legal obligation of any kind whatsoever except for the matters specifically agreed to herein. DIAL and Recipient shall have the liberty to negotiate and enter into similar kind of arrangements with any third party and this Undertaking shall not be deemed to have been entered into on exclusivity basis.
9. **Waiver:** DIAL's failure to exercise or delay in exercising a right or remedy provided by this Undertaking or by law does not constitute a waiver of such right or remedy or a waiver of other rights or remedies.
10. **Publicity:** The Recipient must not make any press or other public statements (which includes announcements and releases) relating to this Undertaking, the Confidential Information and/or the Authorized Purpose.

11. **Severability:** If any of the provisions of this Undertaking is found to be invalid for any reason whatsoever, such invalidity shall not affect the validity and operation of the other remaining provisions of this Undertaking.
12. **Laws:** This Undertaking, including its validity and interpretation, the merits of any dispute or claim arising out of or relating to this Undertaking shall be governed by the laws of India.
13. **Forum:** The Recipient shall submit to the exclusive jurisdiction of the courts at New Delhi, India to adjudicate any dispute arising out of this Undertaking, to the exclusion of other courts.

IN WITNESS WHEREOF the Recipient have caused this Undertaking to be signed by its duly authorised representative as of the date, month and year first above written.

<p>SIGNED AND DELIVERED by Recipient</p> <p>Signature:</p> <p>Name:</p> <p>Designation:</p> <p>Place:</p> <p>Date:</p>	<p><u>Witnessed by:</u></p>
---	--