

**CIVIL AVIATION DEPARTMENT  
CIVIL SECRETARIAT, J&K  
JAMMU**

**REQUEST FOR PROPOSAL FOR EMPANELMENT  
OF AVIATION COMPANIES FOR HIRING OF  
FIXED WING AIRCRAFT**

**2021**

## Table of Contents

Section 1	-	<b>Glossary</b>
Section 2	-	<b>Background and Bid Invitation</b>
Section 3	-	<b>Tender Schedule</b>
Section 4	-	<b>Instruction to Bidder</b>
4.1	-	<b>Cost of Bid Document</b>
4.2	-	<b>Self-Declaration</b>
4.3	-	<b>Study of bid document</b>
4.4	-	<b>Proposal Preparation cost</b>
4.5	-	<b>Pre-Bid Meeting</b>
4.6	-	<b>Amendment of Bid Document</b>
4.7	-	<b>Rights to Terminate the process</b>
4.8	-	<b>Language of Bids</b>
4.9	-	<b>Bid Submission Format</b>
4.10	-	<b>Documents Comprising of Bids</b>
4.11	-	<b>Earnest Money Deposit (EMD)</b>
4.12	-	<b>Submission of Bids</b>
4.13	-	<b>Method of Submission of Bids</b>
4.14	-	<b>Modification or Withdrawal of Bids</b>
4.15	-	<b>Evaluation Process</b>
4.16	-	<b>Evaluation of Technical Bids</b>
4.17	-	<b>Opening of Financial Bids</b>
4.18	-	<b>Selection Method</b>
4.19	-	<b>Organization Participation Criteria</b>
4.20	-	<b>Rights to Accept / Reject any or all Proposals</b>
4.21	-	<b>Notifications of Award and Signing of Contract</b>
4.22	-	<b>Terms and conditions of the Tender</b>
Section 5	-	<b>Terms &amp; Conditions Governing the Contract</b>
5.1	-	<b>Completeness of Contract</b>
5.2	-	<b>Termination for default</b>
5.3	-	<b>Suspension &amp; Cancellation of Contract</b>
5.4	-	<b>Payment Terms and Schedule</b>
5.5	-	<b>Special Conditions of Contract</b>
Section 6	-	<b>Details of Aircraft Required</b>
Section 6.1	-	<b>Fixed Wing Aircraft</b>
Section 7	-	<b>EXTRACT OF RELEVANT D.G.C.A. REGULATIONS</b>
Section 8	-	<b>Annexure I: Technical Bid Format &amp; Instructions</b>
8.1	-	<b>Technical Cover Letter</b>
8.2	-	<b>Check-list for the documents to be submitted</b>
8.3	-	<b>Format to share Bidder's Particulars</b>
8.4	-	<b>Self-Declaration by bidder</b>
8.5	-	<b>Details of Prior experience</b>

Section 9 - **Annexure II: Financial Bid Formats & Instructions**

9.1 - **Financial Proposal Cover letter**  
(Annexure A in Excel Sheet)

9.2 - **Price Summary & Instructions**

Section 10 - **Annexure III: Draft Contract Agreement**

Section 11 - **Annexure IV: Draft Non -Disclosure Agreement**

**1. Glossary**

<b>Terms</b>	<b>Meaning</b>
DGCA, India	Director General of Civil Aviation, India
CAR	Civil Aviation Requirements
EMD	Earnest Money Deposit
LOI	Letter of Intent
MRO	Maintenance Repair and Overhaul
GOJK	Government of Jammu & Kashmir
NSOP	Non Scheduled Operator Permit
VIP	Very Important Person
D	Date of publication of tender
IT	Income Tax
FY	Financial year
EPF	Employee Provident Fund
PAN	Personal Account Number
AMSL	Above Mean Sea Level
P & L	Profit and Loss
C of A	Certificate of Airworthiness
CA	Contract Agreement
DOA	Director of Aviation
SLA	Service Level Agreement
GST	Goods and Services Tax

**2. Background and Bid Invitation**

The Government of Jammu & Kashmir, intends to empanel Organization's /NSOP Holders/Aviation Agencies/ Companies , registered and based in India, owning and/or operating fixed Wing aircraft to provide mid size multi engine Jet Aircraft with galley services for UT Government and UT VIP's on as required basis for a period of one year starting from 15 July 2021.

Aircraft when required, on hire/charter, by the UT Government will be obtained from the said empanelled agencies/companies at predetermined rate.

The aircraft and crew so offered should meet the requirement laid down in DGCA Air Safety Circular 02 of 1981 and 02 of 2014. In addition compliance of CAR Section 8 Series A Part I is also mandatory. (Extract placed at Para7A, 7B and 7C.)

The detailed requirement of the type of Aircraft and Crew Qualification and scheduling is given in the tender document.

S.No.	Item	Particulars
(a)	Tender Reference	CAW-01 of 2021
(b)	Tender Fee	Rupees 20,000.00 only, to be submitted Online through Payment Gateway, A/c No.0110010100000281, IFSC – JAKA0MOVING, J&K Bank Moving Secretariat Branch. Tender fee is non-refundable
(c)	Place of Pre-Bid Meeting	Office of Civil Aviation Commissioner, Civil Secretariat, J&K, Jammu/Srinagar
(d)	Address of Communication	Office of Civil Aviation Commissioner, 2/19, Civil Secretariat, J&K, Jammu -180001
(e)	Email Address	<a href="mailto:jkcivilaviation@gmail.com">jkcivilaviation@gmail.com</a>
(f)	Contact person	Capt. S. Katoch, Commissioner (Technical) Tele (O): 01912572714
(g)	e-Tendering Website	<a href="https://jktenders.gov.in">https://jktenders.gov.in</a>

### 3. Tender Schedule

EVENT	TARGET DATE
Date of Publishing of Tender Notice	08.06.2021
Period of Downloading of Documents	08.06.2021 to 02.07.2021 (up to 16.00 Hrs)
Last date to send in request for clarification on the tender, (through email on <a href="mailto:jkcivilaviation@gmail.com">jkcivilaviation@gmail.com</a> )	22.06.2021 12.00 Hrs
Pre bid meeting/pre proposal meeting	24 .06.2021 15.00 Hrs
Start Date for submission of bids	25 .06.2021 14.00 Hrs
Last date and time for submission of Tenders	05 .07.2021 14:00 Hrs
Time and date of opening of Technical Bids	06 .07.2021 12 :30 Hrs
Time and date of opening of Financial Bids (tentative, subjective to decision of the Committee).	08 .07.2021 14 :00 Hrs

\*In case the applicable target date is on a Closed Holiday, the fresh target date will be construed as the next working Day.

The technical and Financial Bids will be opened in the Office of Civil Aviation Commissioner, Civil Secretariat, J&K, Jammu/Srinagar.

### 4. Instructions to Bidder

#### 4.1 Cost of Bid Document

The cost of tender document is Rs. 20,000/- to be submitted Online through Payment Gateway - A/c No. 0110010100000281, IFSC – JAKA0MOVING, J&K Bank Moving Secretariat Branch. Tender fee is non-refundable.

#### 4.2 Self- Declaration

Bidder has to upload the scanned copy as part of bid document the self-declaration in the format as given in **Section 8.4**. If at any stage of tendering process or contract period, it is found that bidder has submitted false or wrong information in self declaration then it shall be liable for following actions, at the discretion of the Government of J&K.

- (a) Termination of Contract

- (b) Blacklisting for 5 years
- (c) Forfeiture of Performance Guarantee and/or Forfeiture of EMD.
- (d) Necessary legal action as per prevailing law.

**4.3 Study of bid document**

Bidders are advised to study all instructions, forms, requirements and other information in the Bid documents carefully. Submission of bid shall be deemed to have been done after careful study and examination of the Bid Document with full understanding of its implications. The response to this Bid Document should be full and complete in all respects. Failure to furnish all information required by the Bid Documents or submission of a proposal not substantially responsive to the Bid Documents in every respect will be at the bidder's risk and may result in rejection of its Proposal.

**4.4 Proposal Preparation cost**

a) The bidder is responsible for all costs incurred in connection with participation in the process, including, but not limited to, costs incurred in conduct of informative and other diligence activities, participation in meetings/discussions/presentations, preparation of proposal, in providing any additional information required by Government of Jammu & Kashmir to facilitate the evaluation process, and in negotiating a definitive contract or all such activities related to the bid process. The Office of the Civil Aviation Commissioner, in no case, will be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

b) This bid document does not commit the department to award a contract or to engage in negotiations. Further, no reimbursement cost may be incurred in anticipation of award. All materials submitted by the Bidder shall become the property of the department and may be returned at its sole discretion.

**4.5 Pre-Bid Meeting**

(a) The Office of the Civil Aviation Commissioner, UT of J&K will host a Pre -Bid Meeting for queries (if any) by the prospective bidders. The date, time and place of the meeting are given in **Section 2 & Section 3** of this document. The representatives of bidders may attend the pre -bid meeting to clarify their doubts / seek clarification or additional information, necessary for them to submit their bid.

(b) All enquiries from the bidders relating to this Bid document must be submitted to the designated contact person. The queries should necessarily be submitted in the following format as a Word Document by email at [jkcivilaviation@gmail.com](mailto:jkcivilaviation@gmail.com).

*Handwritten signature*

Sr. No.	Bid Document Reference (Volume, Section No., Page No.)	Content of the Bid Document requiring clarification	Clarification Sought/ Query
1			
2			
3			
...			

❖ Queries submitted post deadline mentioned in the Tender Schedule or which do not adhere to the above mentioned format may not be responded to.

#### 4.6 Amendment of Bid Document

(a) At any time prior to the deadline for submission of bids Government of Jammu & Kashmir may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, modify the bid document by an amendment. All the amendments made in the document would be made available on Government of Jammu & Kashmir website <https://jktenders.gov.in> through Corrigendum.

b) The bidders are advised to visit the e-tendering website <https://jktenders.gov.in> on regular basis for checking necessary updates. The Government of Jammu & Kashmir also reserves the rights to amend the dates mentioned in this Bid Document for bid process. It will be assumed that the amendments have been taken into account by the bidder while submitting its bid.

c) In order to ensure reasonable time for the prospective Bidders, to take the amendment into account in preparing bids, the Government of Jammu & Kashmir, may, at its discretion, extend the last date for the receipt of Bids.

#### 4.7 Rights to terminate the Process

a) Government of Jammu & Kashmir reserves the right to terminate the Tender process at any time and without assigning any reason. The Government of Jammu & Kashmir makes no commitments, express or implied, that this process will result in a business transaction with anyone.

(b) This bid document does not constitute an offer by the Government of Jammu & Kashmir, The bidder's participation in this process may result in the Government of Jammu & Kashmir selecting the bidder as per Bid Evaluation process and further engaging in discussions, if required. The commencement of such negotiations does not, however, signify a commitment by the Government of Jammu & Kashmir to execute a contractor to continue negotiations, The Government of Jammu & Kashmir may terminate negotiations at any time without assigning any reason.

#### 4.8 Language of Bids

a) The Bids prepared by the Bidder and all correspondences and documents relating to the bids shared by the Bidder with the Government of Jammu & Kashmir, shall be written in English language, provided that any printed literature furnished by the Bidder in another language shall be accompanied by an English translation in which case, for purposes of interpretation of the bid, the English translation shall govern.

b) If any supporting documents submitted are in any language other than English, translation of the same in English language is to be duly attested by the bidder.

#### 4.9 Bid Submission Format

The entire proposal shall be strictly as per the format specified in this Bid Document. Bids with deviation from this format shall be rejected. Details of the format can be found in **Annexure I & Annexure II** of this document.

#### 4.10 Documents Comprising of Bids

a) The following table is provided as the guideline for submitting various important documents along with the bid.

Sr. No.	Type	Documents to be submitted
(i)	<b>Technical Bid</b>	<p>The specifications of the fixed wing aircraft to be hired and Agreement terms are prescribed in the Bidding Documents. In addition to Invitation for bids the Bidding Documents include :</p> <ul style="list-style-type: none"> <li>i) Terms &amp; Conditions</li> <li>ii) Special Conditions of the Contract</li> <li>iii) Details of Aircraft Required.</li> </ul> <ul style="list-style-type: none"> <li>- Technical Bid Covering Letter</li> <li>- Particulars of the Bidders (in the formats given subsequently)</li> <li>- Contact details of officials.</li> <li>- Copy of Certificate of Incorporation.</li> <li>- - Copy of Audited Balance Sheet and Profit &amp; loss statement for FY 2017-18, FY 2018-19 &amp; FY 2019-20.</li> <li>- Certificate from the Chartered Accountant towards relevant turnover of the bidder for FY 2017-18, FY 2018-19 &amp; FY 2019-20.</li> <li>- Details in the project in the relevant format given, towards proof of projects executed.</li> <li>- Self-declaration letter as per section 8.4</li> <li>- Certified copies of valid PAN Card of the agency and not of any individual.</li> <li>- Copy of the Service Tax registration certificate.</li> <li>- - Copy of the IT return filed for FY 2017-18, FY 2018-19 &amp; FY 2019-20.</li> <li>- Copy of EPF registration certificate – if Applicable</li> <li>-Details of GST Number</li> </ul>
(ii)	<b>Financial Bid</b>	<ul style="list-style-type: none"> <li>- Financial Proposal Cover letter</li> <li>- Financial Bid (Annexure A)</li> </ul>

b) Bidders shall furnish the required information on their Technical and Financial proposals in enclosed formats only. Any deviations in format may make the tender liable for rejection. Disclosure of financial information of the bid in technical bid shall be sufficient grounds for rejection of the bid.

(c) All the documents mentioned against technical bid should be submitted in technical bid proposal only and should not be included in financial bid. Similarly all the documents mentioned against financial bid should be submitted in financial bid proposal only and should not be included in technical bid.

(d) All the relevant documents of technical bid should be separate files, zipped in a single zip file with name 'Technical Bid'. Please name the individual files as serial number followed by name. For eg, "1 Technical Bid Cover letter".

(e) The Financial proposal letter shall be uploaded in Technical cover with seal and signature.

(f) Bidder should bring originals of scanned copies submitted during bid preparation for verification during Technical Bid Opening including the Demand Draft of the Earnest Money Deposit.

*Handwritten signature*

#### 4.11 Earnest Money Deposit (EMD)

- Handwritten signature*
- a) Bidders are required to submit scanned copy of the Demand Draft of Earnest Money Deposit on e-tendering website of value of Rs.10,00,000/-. The Demand Draft / Pay Order should be drawn on The Jammu & Kashmir Bank payable at Moving Secretariat Branch, Jammu/Srinagar in favour of "Accounts Officer, Civil Aviation Department, UT of J&K". Offers, made without EMD, will be treated as incomplete and non-responsive and the same will not be considered. The Demand Draft for the Earnest Money Deposit should be deposited with the Office of the Civil Aviation Commissioner, UT of J&K, at its Secretariat office within two days after the submission of online bids. Non receipt of Demand Draft/Pay Order by due date will result in Disqualification of the Bidder.
  - b) EMD of all the unsuccessful bidders will be refunded as promptly as possible, but not later than 30 days after issue of work order.
  - c) In case bid is submitted without EMD as mentioned above then the Department reserves the right to reject the bid without providing opportunity for any further correspondence of the bidder concerned.
  - d) The EMD may be forfeited:
    - (i) If a Bidder withdraws their bid or increases their quoted prices during the period of bid validity or its extended period, if any; or
    - (ii) In case of successful bidder, if the Bidder fails to sign the Contract within specified time in accordance with the format given in the Bid Document.
    - (iii) If During the bid process, a Bidder indulges in any such deliberate act as would jeopardize or unnecessarily delay the process of bid evaluation and finalization.
    - (iv) If during the bid process, any information found wrong/ manipulated/ hidden in the bid.
    - (v) The decision of Administrative Secretary (Aviation), Government of Jammu & Kashmir or a Designated Competent Authority regarding forfeiture of the EMD and rejection of bid shall be final & shall not be questioned under any circumstances.

#### 4.12 Submission of Bids

- a. Tender offers shall be received by the Government of Jammu & Kashmir, through the e - Tendering system before the date and time specified in the schedule of the tender notice.
- b. The Government of Jammu & Kashmir, may, at its discretion, extend this deadline for submission of offers by issuing corrigendum and uploading the same on the e-Tendering system. Note: Telex, cable or facsimile offers shall be rejected.
- c. Government of Jammu & Kashmir, reserves the right to accept or reject any or all the tenders without assigning any reason. Moreover, if no information is provided by the Government of Jammu & Kashmir, then the documents submitted cannot be deemed as accepted.

#### 4.13 Method of Submission of Bids

- a) The two bids system shall be followed i.e. Technical and Financial Offers should be uploaded separately through the e - Tendering system.
- b) The Technical bid should be submitted separately as separate file as earmarked for it on e-Tendering website.
- c) The Financial Bid should be submitted separately as separate file, as earmarked for it on e - tendering website. If the Financial Bid is not submitted separately, this will constitute grounds for declaring the Bid non-responsive.



- d) The Proof of purchase of Demand Draft/Pay Order towards EMD should be uploaded online through the e -Tendering system and the Earnest Money Deposit should be submitted prior to the opening of financial bids.
- e) Sufficient guidelines are provided on e - tendering website for uploading of bids. If bidder faces any issue while uploading bid proposal on e-tendering website, bidder may contact 24 hr help desk support of <https://jktenders.gov.in> . Help desk contacts are given on the website.

#### **4.14 Modification or Withdrawal of Bids**

- a) The Bidder may modify or withdraw its bid after submission on e-Tendering portal only.
- b) No bid may be withdrawn in the interval between the bid submission deadline and the expiration of the bid validity period specified in the Tender Schedule. Withdrawal of a bid during this interval may result in the forfeiture of the Bidder's EMD.

#### **4.15 Evaluation Process**

- a) The bidders must possess the technical know - how and the financial wherewithal that would be required to successfully provide the services sought by the Government of Jammu & Kashmir for the entire period of the contract. The Bidder's Bid must be complete in all respects, conform to all the requirements, terms and conditions and specifications as stipulated in the Bid Document and should be in a position to meet the relevant DGCA Regulations.
- b) The evaluation process of the Bid Document proposed to be adopted by the Government of Jammu & Kashmir is indicated under this clause. The purpose of this clause is only to provide the Bidder an idea of the evaluation process that the Government of Jammu & Kashmir may adopt. However, the Government of Jammu & Kashmir reserves the right to modify the evaluation process at any time during the Tender process, without assigning any reason, whatsoever, and without any requirement of intimating the Bidder of any such change.
- c) The Government of Jammu & Kashmir has a Committee to scrutinize and evaluate the technical and financial bids received. The Committee will examine the Bids to determine whether they are complete, responsive and whether the Bid format conforms to the Bid Document requirements. The Government of Jammu & Kashmir reserves its right to waive any infirmity or nonconformity in a Bid which does not constitute a material deviation according to the Government of Jammu & Kashmir.
- d) There should be no mention of bid prices in any part of the Bid other than the Financial Bids.

#### **4.16 Evaluation of Technical Bids**

- (a) All the bidders satisfying parameters mentioned in Technical Criteria will be declared technically qualified.
- (b) The Committee may invite each Bidder to make a presentation as part of the technical evaluation subject to prevailing pandemic situation, the Committee may seek presentation physically or online.

#### **4.17 Opening of Financial Bid**

- a) The Financial bids shall not be opened by the Government of Jammu & Kashmir until the evaluation of the Technical Proposals has been completed.
- b) After the technical evaluation is completed, the Government of Jammu & Kashmir shall, on the same day:
  - (i) inform the Bidders who have submitted proposals and cleared the Technical evaluation, about their eligibility, and
  - (ii) notify those bidders whose proposals did not pass technical evaluation or were

considered non responsive to the Bid Document and scope of work, that their Financial Proposals will not be opened.

- c. Financial Proposals shall be opened publicly thereafter on the next day/designated day in the presence of the Technically Qualified Bidders /Representatives who choose to attend and in the presence of the members of the Committee approved by the GOJK as directed by the Administrative Secretary, Civil Aviation Department, UT of J&K. The name of the Technically Qualified Bidders shall be read aloud.
- d. The Bidders representatives who are present shall be requested to sign the attendance sheet.
- e. The Financial Bids will be evaluated by the Government of Jammu & Kashmir for completeness and accuracy. Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected. If there is a discrepancy between words and figures, the amount in words will prevail.
- f. (f)The amount stated in the proposal form, adjusted in accordance with the above mentioned procedure shall be considered as binding, unless it causes the overall proposal price to rise, in which case the proposal price shall govern.
- g. If the bidder does not accept the correction of errors, its bid will be rejected and the bid security may be forfeited. In such a case, Government of Jammu & Kashmir may use its discretion and award the contract to next qualified bidder.
- h. Activities and items described in the Technical Proposal but not prices, shall be assumed to be included in the prices of other activities or items. In case as activity or line item is quantified in the financial proposal differently from the Technical Proposal, the Evaluation Committee shall correct the quantification indicated in the Financial Proposal so as to make it consistent with that indicated in the Technical Proposal, apply the relevant unit price included in the Financial Proposal to the corrected quantity and correct the total Proposal cost.

#### **4.18 Selection Method**

- (a) The technically qualified bidder with L1 & L2 rate shall be selected for empanelment.
- (b) Both the L1 and L2 bidders will be called for negotiation, and minimum rate quoted for a particular type of mid size multi engine Jet Aircraft with galley services will be fixed to prepare a common rate chart, before the Committee. The decision of the Committee will be final.

#### **4.19 Organization Participation Criteria**

- (a) Consortium is not allowed to participate in tender.
- (b) If it is found Organizations have tendered separately under different names for the same contract, all such tender(s) shall stand rejected and tender deposit of each such firm/establishment shall be forfeited. In addition, such firms /establishments shall be liable, at the discretion of the Government of Jammu & Kashmir for further penal action including blacklisting.
- (c) If after award of contract it is found that the accepted bid proposal violated any of the directions pertaining to participation as stated above, the contract shall be liable for cancellation at any time during its validity in addition to penal action against the contractors as well as related firm / establishment.

#### **4.20 Rights to Accept / Reject any or all Proposals**

Government of Jammu & Kashmir reserves the right to accept or reject any proposal, and to annul the bidding process and reject all Bids at any time prior to award of Contract, without thereby incurring any liability to the affected Bidder or Bidders or any obligation to inform the affected bidder or bidders of the grounds for the Government of Jammu & Kashmir's action.

#### 4.21 Notifications of Award and Signing of contract

##### (A) Post qualification and Award

- a) The Office of Civil Aviation Commissioner will determine to its satisfaction whether the bidder is qualified to satisfactorily perform the Contract.
- b) The determination will take into account the bidder's financial and other capabilities. It will be based upon an examination of the documentary evidence of the bidder's qualifications submitted by the bidder, as well as such other information as the Office of Civil Aviation Commissioner deems necessary and appropriate.
- c) An affirmative determination will be a prerequisite for award of the Contract to the bidder. A negative determination will result in rejection of the bidder's bid.
- d) The Government of Jammu & Kashmir will award the Contract to the successful qualified bidder with the lowest price per hour and the successful bidder will be required to submit to the Government Performance Guarantee Amount of Rs 10,00,000/- (Rs Ten Lakhs Only).

##### (B) Notification of Award

- a) The Government of Jammu & Kashmir through the Office of Civil Aviation Commissioner will notify the successful bidder in writing by letter, or by Email, that its Bid has been accepted within a month from the date of opening of the bids. The Bidder is required to confirm his acceptance within One Week of receipt of Notification.
- b) The notification of award will constitute the formation of a contract, until the Contract has been effected.

##### (C) Termination for Insolvency

- a) The Office of Civil Aviation Commissioner may at any time terminate the Contract by giving written notice to the Empanelled Member, without compensation to the Member, if the Member becomes bankrupt or otherwise insolvent. Notwithstanding the above, such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Office of Civil Aviation Commissioner.

##### (D) Termination for Convenience

- a) The Office of Civil Aviation Commissioner may, by written notice sent to the Empanelled Member, terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the convenience of Office of Civil Aviation Commissioner, the extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective.

#### 4.22 Terms and conditions of the Tender

Bidder is required to refer to the draft Contract Agreement, attached Annexures in this Bid Document, for all the terms and conditions (including project timelines) to be adhered by the successful bidder during Project Implementation and Post implementation period. Please note that one needs to read the Contract Agreement as a whole document; and the Annexure mentioned there-in may not correspond to the Bid Document Annexure, Please refer to the Interpretation Section of the Agreement (**Section 11.2** of draft agreement) for reference of the Annexure.

#### 5. Terms & Conditions Governing the Contract

##### 5.1 Completeness of Contract

The contract will be deemed as incomplete if any part of the work under this project is not complete as per the terms and conditions of this RFP or not acceptable to the department.

## 5.2 Termination for default

The Office of Civil Aviation Commissioner may, without prejudice to any other remedy for breach of contract, by written notice of default sent to the Empanelled Member, terminate the Contract in whole or in part:


- I) if the Empanelled Member fails to provide the charter services as and when required by the Government of Jammu & Kashmir.
- II) If the empanelled member fails to perform any other obligation(s) under the contract; and
- III) If the empanelled member, in either of the above circumstances, does not cure its failure within a period of 10 calendar days (or such longer period as the Office of Civil Aviation Commissioner may authorize in writing) after receipt of a notice of default from the Office of Civil Aviation Commissioner specifying the nature of the default(s).

## 5.3 Suspension & Cancellation of Contract

(a) The contract of the successful bidder shall be suspended and the successful bidder may be blacklisted forthwith by the Government of Jammu & Kashmir without issuing notice on any of the following circumstances / reasons:

- (i) Violations of any condition of the tender / contract or part of any condition of the tender contract of tender / contract, or
- (ii) Substantial deviation found in quality of aircraft offered.
- (iii) If it is found that during the process of a ward of contract, fraudulence was made by the bidder or the successful bidder.

(b) As stopping the services and taking appropriate action in this regard is of an urgent and emergent nature required to protect the interest of the Government of Jammu & Kashmir, the contract of the concerned will be first suspended without issuing any notice. However, before taking the final decision on the matter, all concerned will be given reasonable opportunities to explain their stand. After enquiry, if the successful bidder is found guilty, the Contract of the successful bidder for the services in question will be cancelled and other appropriate legal action shall also be initiated against all concerned.

 (c) In the event of cancellation of contract with the existing successful bidder, the contract may be awarded to the next most responsive bidder.

(d) The decision of the Government of Jammu & Kashmir shall be final and binding.

(e) The vendor will allow Government of Jammu & Kashmir or its nominated agencies access to information reasonably required to define the current mode of operation associated with the provision of the services to enable it to assess the existing services being delivered.

## 5.4 Payment Terms and Schedule

Payment of the successful bidder shall be done by the Office of Civil Aviation Commissioner, Government of Jammu & Kashmir. The successful bidder shall submit the Payment invoices with all supporting documents chronologically within 45 working days of the completion of the flight along with all supporting documents.

## 5.5 Special Conditions of Contract

**(A)** The bidder must have five years' experience of providing fixed wing aircraft on charter/ hire. Out of this at least two years' experience is necessary in providing charter/ hiring services to Government/ Government Agencies. In case the Bidder owns the aircraft the above total experience period can be reduced to three years.

- (B)** The bidders should give the following details, supported by documentary proof:
- Background of party including nature of business and certificate of registration of Business.
  - Net worth of Party. Minimum Yearly turnover /Net worth of Rs.20.00 Crores is required.
  - Details of Group / Associate Companies, etc.
  - P & L account & Balance Sheet for last 3 years.
  - Copy of Hiring Contract made with Government/Government Agencies/Public Sector Undertakings.
  - Any other relevant information
  - NSOP Certificate/Aircraft C. of A certificate –If applicable

- (C)** The bidders will have to specify the costing as follows:
- i. **Cost per hour for the offered mid size multi engine Jet Aircraft with galley services which is endorsed on the NSOP of the operator.**
  - ii. **Mobilization/ de-mobilization charges.**
  - iii. **Minimum per day flying hours liability .**
  - iv. The bidder will be selected on the basis of three above conditions.

**(D)** In addition to Hourly Charter Charges, the following will be paid at Actual on submission of supporting documents:

- i. Landing/Parking Charges
- ii. Crew Related Charges of lodging/ boarding/ transportation if not provided by the GOJK.
- iii. Catering Charges for the Passengers
- iv. Watch Extension Charges
- v. Ground Handling Charges
- vi. Central/State/Local Taxes

**(E)** Cancellation Charges conditions will be specified clearly and will only be paid on confirmation that the said aircraft has not flown on other charters.

**(F)** The Office of Civil Aviation Commissioner will make all efforts to make the flying Programme of VIP's available to the Service Provider at least 24 hours in advance. In case of any issue with FDTL the Service Provider is to promptly inform the Civil Aviation Department and the Civil Aviation Commissioner immediately to arrive at a workable solution within the Regulatory Framework.

## **6 DETAILS OF AIRCRAFT REQUIRED**

### **7 6.1 Fixed Wing Aircraft**

- a) Mid size multi engine Jet Aircraft with galley services registered in India with DGCA.
- b) Minimum Seating of 8-12 Passengers in addition to Pilots and Cabin Crew.
- c) Have Stand Up Cabin.
- d) Independent fully functional Lavatory.
- e) Aircraft should not be more than ten years old.
- f) Capable of operating from all airstrips of UT of J&K including UT of Ladakh with full passenger load.
- g) Have adequate range to fly to anywhere in Country from any airfield in UT of J&K and UT of Ladakh within the existing rules, regulations/ requirement of MOCA, GOI and DGCA.

## **7. EXTRACT OF RELEVANT D.G.C.A. REGULATIONS**

### **A) Air Safety Circular 02/1981**

2.1 Twin-engine aircraft with good operational capability, reliability and easy maintainability characteristics should be used.

2.2 The aircraft must possess a current certificate of airworthiness with all mandatory

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modifications and requirements duly incorporated.

2.3 The aircraft must be equipped with serviceable instruments/equipments as required under Instrument Flight Rules.

2.4 The aircraft must be inspected and certified by an appropriately licensed Aircraft Maintenance Engineer prior to such flights.

3.1.2 The Pilot should possess a minimum flying experience of 3,000 hours including at least 2,000 hrs as Pilot -in-Command, 50 hrs of Night flying and not less than 50 hours experience, as Pilot - in-Command, on the type of aircraft flown.

3.1.3 The Pilot should possess a minimum of 30 hrs. of experience as Pilot-in-Command during the last six months and 5 hrs. Instrument flying (real or synthetic) during the two months immediately preceding the date of intended flight.

**B) Air Safety Circular 02/2014**

2.1.1 All pilots of non-scheduled/private aircraft/helicopter operators shall ensure that their licenses and ratings are current and are certified to carry out such operations.

2.1.5 Crew composition shall be in accordance with the provisions of CAR Section 8, Series A, Part I; Air Safety Circular 2 of 1981 and MHA guidelines.

**C) CAR Section 8 Series A Part I**

**3. MINIMUM FLIGHT CREW REQUIREMENTS:**

An aircraft registered in India shall be operated by flight crew, adequate in number and description, duly trained and qualified on the type of aircraft to be flown to ensure the safety of operations.


The following requirements in this regard should be complied with by all the operators covered under para 2 of this CAR.

i) The number of flight crew members operating any flight, shall not be less than that specified in the approved aircraft Flight. Manual or Operations Manual or Certificate of Airworthiness.

ii) All aircraft engaged in Scheduled Public Transport operations, should be flown by at least two pilots.

iii) All aircraft engaged in carriage of VVIP/VIP should be flown by at least two pilots.

**D) i)** In addition to the above it is Mandatory to have BA Test prior to every flight with VIP on board. While the Government of Jammu & Kashmir will make efforts to have a suitable Medical practitioner available for the same, it does not divest the Service Provider from providing medical practitioner for the BA test.

 ii) Suitable Industry Standard Accommodation will be provided by the UT Government. In the absence of the same the Service Provider may arrange the same and bill it to the UT Government by providing actual invoices.

Section 8 - Annexure I : Technical Bid Format & Instructions  
8.1 Technical Cover Letter

Date: dd/mm/yyyy

To


The Civil Aviation Commissioner,  
2/19, Civil Secretariat,  
J&K, Jammu.

Sub: Request for Proposal for Empanelment of Aviation Agencies for hiring of Fixed Wing aircraft.

Ref: Tender No. <No> Dated<DD/MM/YYYY>

Dear Sir,

Having examined the Bid Document (and the clarification/corrigendum issued thereafter, if any), the receipt of which is hereby duly acknowledged, we, the undersigned, offer to provide the professional services as required and outlined in the Bid Documents.

 We attach hereto our technical & financial proposals as required by the Bid Document. We confirm that the information contained in these responses or any part thereof, including the exhibits, and other documents and instruments delivered or to be delivered to the Government of Jammu & Kashmir is true, accurate, verifiable and complete. This response includes all information necessary to ensure that the statements therein do not in whole or in part mislead the department in its short-listing process.

We fully understand and agree to comply that on verification, if any of the information provided here is found to be misleading the selection, process, we are liable to be dismissed from the selection process or termination of the contract during the project, if selected to do so.

We agree for unconditional acceptance of all the terms and conditions set out in the Bid Document (& subsequent clarification/corrigendum, if any) and also agree to abide by this tender response for a period of 120 days from the date fixed for bid opening. We hereby declare that in case the contract is awarded to us, we shall submit the contract performance guarantee bond in the form prescribed the Bid Document.

We agree that you are not bound to accept any tender response you may receive. We also agree that you reserve the right in absolute sense to reject all or any of the products / services specified in the tender response.

It is hereby confirmed that I/We are entitled to act on behalf of our company/corporation/firm/organization and empowered to sign this document as well as such other documents, which may be required in this connection.

-----  
Signature of Authorized Signatory (with official seal)

Name :  
Designation :  
Address :  
Telephone & Fax :

E-mail address:

### 8.2 Check-list for the documents to be submitted

Sr.No.	Documents to be submitted	Submitted(Y/N)
(a)	Requisite documentations for requirements as per para 4.10(a) above and 5.5 A&B.	
(b)	Technical Bid Covering Letter	
(c)	Particulars of the Bidders (in the formats given subsequently)	
(d)	Contract details of officials (in the formats given subsequently)	
(e)	Copy of Certificate of Incorporation	
(f)	Copy of the Audited Balance sheet for FY 2017-18, FY 2018-19 & FY 2019-20	
(g)	Copy of the Audited Profit & Loss statements FY 2017-18, FY 2018-19 & FY 2019-20	
(h)	Certificate from the Chartered Accountant towards relevant turnover of the bidder or Work Orders providing of Charter Operatorions in FY 2017-18, FY 2018-19 & FY 2019-20	
(i)	Details in the project in the relevant format given, towards proof of projects executed.	
(j)	Self-Declaration letter as per Section 8.4	
(k)	Certified copies of valid PAN card of the Agency and not of any individual.	
(l)	Copy of the Service Tax Registration certificate.	
(m)	Copy of the IT return filed for the FY 2017-18, FY 2018-19 & FY 2019-20	

### 8.3 Format to share Bidder's Particulars

Sr. No.	Description	Details(to be filled by the responder to Bid Document)
(a)	Name of the Bidder	
(b)	Official address	
(c)	Phone No. and Fax No. and Email id	
(d)	Corporate Headquarters Address	
(e)	Phone No. and Fax No. and Email id	
(f)	Web site Address	
(g)	Details of Bidder's Registration (Please enclose copy of the registration document)	
(h)	Name of Registration Authority	
(i)	Registration Number and Year of Registration	
(j)	Service tax Registration No.	
(k)	Permanent Account Number (PAN) of the agency	
(l)	Company's Turnover for last 5 years (Year wise)	

**Note:** Please submit the relevant proofs for all the details mentioned above along with your Bid response.



Contact Details of officials (at least two) for future correspondence regarding the bid process:

Details	Authorised Signatory	Secondary Contact
Name		
Title		
Company Address		
Phone		
Mobile		
Fax		
E-mail		

#### 8.4 Self-Declaration by Bidder

(To be submitted on the Letterhead of the responding firm) Date: dd/mm/yyyy

To

The Civil Aviation Commissioner,  
2/19, Civil Secretariat,  
J&K, Jammu.

**Sub: Self-Declaration for not being declared / black-listed, having no pending criminal case against us and bidding for Government of Jammu & Kashmir.**

Dear Sir,

I/We, the undersigned, herewith declare that on the date of submission of the bid,

1. My/ our company/ society (name of the organization) has not been debarred / black-listed by Central / any State Government department in India.
2. My/ Our company/society (name of the organization) has no criminal case pending against in any of the court of this country.
3. My/our company / society has no civil/criminal case pending against them in any court of law.
4. The manpower proposed/ deployed by M/s\_\_\_\_\_ against tender (Tender ref no) \_\_\_\_\_ has no civil /criminal case against them and they are not undergoing any kind of trial / detention and are free from any matter being subjudice. We have made adequate enquiries about the character and antecedents of the manpower and are fully satisfied with the enquiry result.  
If in future any deployed manpower is found to have any kind of criminal background before or on the date of deployment, we will be held responsible.
5. We indemnify, Purchaser against all claims, losses, costs, damages, expenses, action suits and other proceeding, resulting due to our carelessness in this regard.

Thanking you, Yours faithfully,

-----

Signature of Authorized Signatory (with official seal)Name :  
Designation :  
Address :  
Telephone & Fax :E-mail address:

## 8.5 Details of Prior experience

Relevant experience	
General Information	
Client for which the hired aircraft was Provided	
Name and contact details of the client	
Details of Aircrafts given on hire	
Other Details	
Duration of the <u>Contract</u>	
Other Relevant Information	
Mandatory Supporting Documents:	
Copy of Contract to be attached	
Please provide complete details regarding the scope of the project to indicate the relevance to the requested technical evaluation criterion.	

## Section 9 - Annexure II: Financial Bid Formats & Instructions

### 9.1 Financial Proposal Cover letter

**Date:dd/mm/yyyy**

To,

The Civil Aviation Commissioner,  
2/19, Civil Secretariat,  
J&K, Jammu.

**Sub: Request for Proposal for Empanelment of Aviation Agencies/ Companies for hiring of Fixed Wing aircraft**

**Ref: Tender No :<No> Dated<DD/MM/YYYY>Dear Sir,**

We, the undersigned Bidders, having read and examined in detail all the bidding documents in respect of "Empanelment of Aviation Agencies/ Companies for hiring of Fixed Wing aircraft" do hereby propose to provide services as specified in the Bid Document referred above. Attached herewith are the price quotes in Excel Sheet of Annexure 'A' for Airplanes.

#### 1. PRICE AND VALIDITY

- All the prices mentioned in our Tender are in accordance with the terms as specified in the Tender documents. All the prices and other terms and conditions of this tender are valid for a period of two years from the date of opening of the Tenders.
- We hereby confirm that our tender prices does not include all taxes and taxes as applicable under rules to be levied separately. Taxes are quoted separately under relevant sections, as specified in the Bid Document formats.
- We have studied the clause relating to Indian Income Tax and hereby declare that if any income tax, surcharge on Income Tax, Professional and any other corporate Tax in alteredcatd under the law, we shall pay the same.

#### 2. UNIT RATES

We have indicated in the relevant schedules enclosed in Annexure A unit rates per hour for the type of aircraft proposed by us for empanelment alongwith mobilization and de-mobilization charges as well as minimum hours of flying for the day.

3. DEVIATIONS

We declare that all the services shall be performed strictly in accordance with the Bid Documents and there are no deviations, irrespective of whatever has been stated to the contrary anywhere else in our bid.

Further we agree that additional conditions, if any, found in our proposal documents, shall not be given effect to.

4. QUALIFYING DATA

We confirm having submitted the information as required by you in your RFP document. In case you require any other further information / documentary proof in this regard before evaluation of our Tender, we agree to furnish the same in time to your satisfaction.

5. BID PRICE

We declare that our Bid Price is for the entire scope of the work as specified in the RFP Document. The bid price at which the contract is awarded shall hold good for entire tenure of the contract from 15<sup>th</sup> July 2021 to 14<sup>th</sup> July 2022. These prices are indicated in the subsequent sub-sections of this section. The excel sheet in Annexure A of the financial bid is attached herewith.

6. CONTRACT PERFORMANCE GUARANTEE BOND:

We hereby declare that in case the contract is awarded to us, we shall abide by the terms and conditions of the contract agreement.

We hereby declare that our Tender is made in good faith, without collusion or fraud and the information contained in our bid proposal is true and correct to the best of our knowledge and belief.

We understand that our Tender is binding on us and that you are not bound to accept a Tender you receive. We confirm that no Technical deviations are attached here with this commercial offer.

Thanking you,



Yours faithfully, Signature of Authorized Signatory  
(With official seal)

Name :  
Designation :Seal

Date:  
Place  
:  
Business Address:

**9.1 ANNEXURE A (FINANCIAL BID)**

**PRICE SCHEDULE**

Sl. No.	Item Description	Quantity	Units	Flying cost per hour, In <b>Figures</b> To be entered by the <b>Bidder</b> Rs.	Mobilization Charges/ de-mobilization charges, In <b>Figures</b> To be entered by the Bidder Rs.	Minimum Flying Hours charges per day, In <b>Figures</b> To be entered by the Bidder Rs.	TOTAL AMOUNT	TOTAL AMOUNT In Words
1	2	3	4	5	6	7	8	9
1.01	Mid size multi engine Jet Aircraft	1	Nos					
Total in figures								
Quoted rate in words								

*Handwritten signature/initials*

## 9.2 Price Summary & Instructions

The total mentioned above will be considered as final bid price by bidder for commercial evaluation.

Note:

- The bidders may visit the site and obtain additional information at their own cost and responsibility.
- All the prices are to be entered in Indian Rupees only.
- **For the purpose of evaluation of Financial Bids, the Government of Jammu & Kashmir make appropriate assumptions to arrive at a common bid price for all the Bidders. This however shall have no co-relation with the Contract value or actual payment to be made to the Bidder.**
- The Contract Price shall be a firm lump sum price not subject to any alteration.
- The Bidder shall be deemed to have satisfied itself as to the correctness and sufficiency of the contract price, which shall, except as otherwise provided for in the contract, cover all its obligations under the contract.
- BID Validity 45 days beyond validity of proposal

Section 10 - Annexure III: Draft Contract Agreement

### 10. Annexure III: Draft Contract Agreement

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**On Non Judicial Stamp Paper**

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This Contract Agreement, hereinafter referred to as "CA" is made this \_\_\_\_ day of \_\_\_\_\_ 2021 at (office address)

#### **BETWEEN**

The office of the Civil Aviation Commissioner, Government of Jammu & Kashmir, (which term or expression, unless excluded by or repugnant to the subject or context, shall mean and include its successors-in office and assigns) of the First Party

#### **AND**

M/s \_\_\_\_\_, a company registered under the Companies Act, 1956 having its registered office at "Bidder" (which term or expression, unless excluded by or repugnant to the subject or context, shall mean and include its successors) of the Second Party

Each individually a "Party" hereto and collectively the "Parties"

And whereas M/s. \_\_\_\_\_ has submitted its proposal to get selected in "Empanelment of Aviation Agencies/ Companies for hiring of fixed wing aircraft" for Government of Jammu & Kashmir.

NOW, THEREFORE, in consideration of the premises covenants and promises contained herein and other good and valuable considerations, the receipt and adequacy of which is hereby acknowledged, the parties intending to be bound legally, IT IS HEREBY AGREED between the Parties as follows:

#### **10.1 Definition, Interpretations and other Terms**

(a) Bid means the tender process conducted by the Government of Jammu & Kashmir and the technical and commercial proposals submitted by the successful bidder, along with the subsequent clarifications and undertakings, if any;

(b) Confidential Information means all information including Government of Jammu & Kashmir Data (whether in written, oral, electronic or other format) which relates to the technical, financial, business affairs, customers, suppliers, products, developments, operations, processes, data, trade secrets, design rights, know-how and personnel of each Party and its affiliates which is disclosed to or otherwise learned by the other Party in the course of or in connection with this CA (including without limitations such information received during negotiations, location visits and meetings in connection with this CA);

(c) Customers mean all citizens and business organizations and users who use the Department Services.

(d) Deliverables means all the activities released to the date entry, providing data entry operators and any other infrastructure as defined in the Bid Documents & subsequently Corrigendum (if any), based on which the technical proposal & Commercial proposal was submitted by the Bidder and as required as per this CA;

(e) Effective Date means the date on which this CA is executed;

(f) CA means this Contract agreement, together with the recitals and all schedules and the contents, requirements, specifications and standards of the Bid Document (as may be amended, supplemented or modified in accordance with the provisions hereof) and the Bid. In the event of a conflict between this CA and the Schedules, the terms of the CA shall prevail; with overriding effect;

(g) Proprietary Information means processes, methodologies and technical and business information including drawings, designs, formulae, flow charts, data and computer programs already owned / licensed by either Party or granted by third parties to a Party hereto prior / subsequent to the execution of this Agreement;

(h) Required Consents means the written consents, clearances and licenses, rights and other authorizations as may be required to be obtained by the Bidder, for all tasks/ activities/software and communication technology for this project; from all the concerned departments / agencies, etc. as the case may be.

(i) Bid Document means the Request for proposal released vide Bid Document number and include all the clarifications / addendums, explanations and amendments issued by the department in respect thereof;

(j) Service Level Requirement(s) means the timelines and the quality levels to be adhered to by the Bidder for delivering various services under the contract;

(k) Services means the content and services delivered and to be delivered to the customers, to the Government of Jammu & Kashmir by the Bidder, and includes but not limited to the services specified in the Bid Document or as may be specified and incorporated in the subsequent Agreement/s under Contract Agreement.

## 10.2 Interpretations

- a. Reference to any stature or statutory provision include a reference to that stature or statutory provision as from time to time amended, extended, re-enacted or consolidated and to all statutory instruments made pursuant to it;
- b. Words denoting the singular shall include the plural and vice-versa and words denoting persons shall include firms and corporations and vice versa;
- c. Unless otherwise expressly stated, the words "herein", "hereof", "hereunder" and similar words refer to this CA as a whole and not to any particular Article, Schedule. The term Articles, refers to Articles of this CA. The words "include" and "including" shall not be construed as terms of limitation. The words "day" and "month" mean "Calendar day" and "Calendar month" unless otherwise stated. The words "writing" and "written" means "in documented form", whether electronic or hard copy, unless otherwise stated;
- d. The headings and use of bold type in this CA are for convenience only and shall not affect the interpretation of any provision of this CA;
- e. The Schedules to this CA form an integral part of this CA and will be in full force and effect as though they were expressly set out in the body of this CA;
- f. Reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to such agreement, deed, instrument, license or other document as the same may be amended, varied, supplemented, modified or suspended at the time of such reference;
- g. Any word or expression used in this CA shall, unless defined or construed in this CA, bear its ordinary English language meaning;
- h. The damages payable by a Party to the other Party as set forth in this CA, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and liquidated damages likely to be suffered and incurred by the party entitled to receive the same and are not by way of penalties;
- i. This CA shall operate as a legally binding agreement specified the master terms, which apply to the Parties under this agreement and to the provision of the services by the Bidder;

*Handwritten signature*

- j) The documents forming this Agreement are to be taken as mutually explanatory of one another. The following order shall govern the priority of documents constituting this Agreement, in the event of a conflict between various documents, the documents shall have priority in the following order.
- (i) This Agreement;
  - (ii) Scope of Services for the Bidder (hereby annexed as **Annexure I**)
  - (iii) Detail Financial proposal of the Bidder accepted by the Government of Jammu & Kashmir (hereby annexed as **Annexure II**)
  - (iv) Clarification & Corrigendum Documents published by the Government of Jammu & Kashmir subsequent to the Bid Document for this work.
  - (v) Bid Document of the Government of Jammu & Kashmir for this work.
  - (vi) LOI issued by the Government of Jammu & Kashmir to the successful bidder.
  - (vii) Successful bidder's "Technical Proposal" and "Financial Proposal" in response to the Bid Document.

### 10.3 Term of the Contract Agreement

The term of this CA shall be a period of one year from the date of execution of this Agreement. The same may be extended for a further period of ONE YEAR on mutually acceptable Terms and Conditions.

### 10.4 Work Completion Timelines & Payment Terms

A successful completion of flight as per flight programme will constitute Work Completion

#### Notes:

- ❖ Payment will be made to the Bidder inclusive of all taxes as quoted in Financial Bid, subject to TDS.
- ❖ The Bidder will submit the Bills/Invoice as per the terms & conditions of the Bid Document and contract agreement.
- ❖ If the Bidder is liable for any penalty/liquidated damages as per the SLA, the same shall be adjusted from the payments due to the Bidder.
- ❖ The Government of Jammu & Kashmir will release the payment within 45 working days after submission of valid invoice subject to the condition that invoice and all supporting documents produced are in order and flight is performed to the satisfaction of the office of the Civil Aviation Commissioner, Government of Jammu & Kashmir. Government of Jammu & Kashmir shall be entitled to delay or withhold the payment of any invoice or part of it delivered by Bidder, when the Government of Jammu & Kashmir disputes such invoice or part of it, provided that such dispute is confide.
- ❖ All payments under the contract will be made through Electronic Clearing System / RTGS / NEFT / CBS.

### 10.5 Responsibility of selected bidder as selected agency

Using this tender, the Government of Jammu & Kashmir is selecting an agency/ companies, so as to engage Successful Bidder for providing fixed wing aircraft on hire. The successful bidder will be responsible for the manpower employed and deployed for the entire work scope of the inspection.



## **10.6 Security and safety**

- a) The Successful Bidder will comply with the directions issued from time to time by the DGCA and BCAS and other GOI Departments and Government of Jammu & Kashmir, and the standards related to the security and safety of the State VIP's in so far as it applies to the provision of the Services.
- b) Successful Bidder shall promptly report in writing to the Government of Jammu & Kashmir, any act or omission which they are aware that could have adverse effect on the proper conduct of flight resulting in a Violation of DGCA norms.

## **10.7 Indemnity**

The Successful Bidder agrees to indemnify and hold harmless the GOJK, its officers, employees and agents (each a "Indemnified Party") promptly upon demand at any time and from time to time, from and against any and all losses, claims, damages, liabilities, costs (including reasonable attorneys fees and disbursements) and expenses (collectively, "Losses") to which the Indemnified Party may become subject, in so far as such losses directly arise out of, in any way relate to, or result from.

- a) Any mis-statement or any breach of any representation or warranty made by the Successful Bidder or
- b) The failure by the Successful Bidder to fulfill any covenant or condition contained in this Agreement, including without limitation the breach of any terms and conditions of this Agreement by any employee or agent of the Successful Bidder. Against all losses or damages arising from claims by third Parties that any Deliverable (or the access, use or other right thereto), created by Successful Bidder pursuant to this Agreement.
- c) Any compensation / claim or proceeding by any third party against the Government of Jammu & Kashmir arising out of any act, deed or omission by the Successful Bidder or
- d) Claim filed by a workman or employee engaged by the Successful Bidder for carrying out work related to this Agreement. For the avoidance of doubt, Indemnification of Losses pursuant to this section shall be made in an amount or amounts sufficient to restore each of the Indemnified Party to the financial position it would have been in had the losses not occurred.

Any payment made under this Agreement to an indemnity or claim for breach of any provision of this Agreement shall include applicable taxes.

## **10.8 Publicity**

Any publicity by the bidder in which the name of the Government of Jammu & Kashmir is to be used should be done with the explicit written permission of the Government of Jammu & Kashmir

## **10.9 Warranties**

- a) The Successful bidder warrants & represents to the Government of Jammu & Kashmir That:
- (i) It has full capacity and authority and all necessary regulatory approvals to enter into and to perform its obligations under this Agreement;
- (ii) This Agreement is executed by a duly authorized representative of the Bidder;
- (iii) It shall discharge its obligations under this agreement with due skill, care and diligence so as to comply with the service level agreement.

b) In the case of the SLAs, the successful Bidder warrants and represents to Government of Jammu & Kashmir, that:

(i) The successful Bidder has full capacity and authority and all necessary approvals to enter into and perform its obligations under the SLAs and to provide the services;

(ii) The SLAs shall be executed by a duly authorized representative of the successful Bidder;

(iii) The services will be provided and rendered by appropriately qualified, trained and experienced personnel as mentioned in the Bid Documents;

(iv) Successful Bidder has all necessary resources to enable it to provide the services;

(v) The services will be supplied in conformance with all laws, enactments, orders and regulations applicable from time to time, to Indian registered aircrafts;

(vi) If the successful Bidder uses in the course of the provision of the services, components, equipments, software and hardware and software manufacturer by any third party and which are embedded in the Deliverables or are essential for the successful use of the Deliverables, it will pass through regulatory approvals of the DGCA, India.

c) Notwithstanding what has been stated elsewhere in this Arrangement and the schedules attached herein, in the event the successful Bidder is unable to meet the obligations, Government of Jammu & Kashmir will have the option to invoke the performance Guarantee after serving a written notice of thirty (30) days on the successful Bidder.

#### **10.10 Force Majeure**

The successful Bidder shall not be liable for forfeiture of its performance Guarantee, imposition of liquidated damages or termination for default, if and to the extent that its delay in performance or other failure to perform its obligations under the contract is the result of an event of Force Majeure. For purpose of this clause, "Force Majeure" means an event beyond the "reasonable" control of the successful Bidder, not involving the successful Bidder's fault or negligence and not foreseeable. Such events may include Acts of God & Acts of Government of India in their sovereign capacity.

For the successful Bidder to take benefit of this clause it is a condition precedent that the successful Bidder must promptly notify the Government of Jammu & Kashmir, in writing of such conditions and the clause thereof within 5 days of the Force Majeure event arising. Government of Jammu & Kashmir, or the consultant / committee appoint by the Government of Jammu & Kashmir shall study the submission of successful Bidder and inform whether the situation can be qualified one of the Force Measures. Unless otherwise directed by Government of Jammu & Kashmir in writing, the successful Bidder shall continue to perform its obligations under the resultant Agreement as far as it is reasonably practical, and shall seek all reasonable alternative means for performance of services not prevented by the existence of a Force Majeure event.

In the event of delay on performance attributable to the presence of a Force Majeure event, the time for performance shall be extended by a period(s) equivalent to the duration of such delay. If the duration of delay continues beyond a period of 30 days, the Government of Jammu & Kashmir and the successful Bidder shall hold consultations with each other in an endeavor to find a solution to the problem.

Notwithstanding anything to the contrary mentioned above, the decision of the Government of Jammu & Kashmir shall be final and binding on the successful bidder.

### **10.11 Resolution of Disputes**

Government of Jammu & Kashmir and the successful Bidder shall make every effort to resolve amicably. However, decision shall be made as per 12 (5) of Arbitration and Conciliation Act, 1996.

### **10.12 Risk Purchase Clause**

In the event successful Bidder fails to execute the project as stipulated in the CA, or as per the directions given by the Government of Jammu & Kashmir from time to time, the Government of Jammu & Kashmir reserves the right to procure similar services from the next eligible bidder or from alternate sources at the risk, cost and responsibility of the successful Bidder. Before taking such a decision, the Government of Jammu & Kashmir shall serve a notice period of 1 month to the successful Bidder. Successful Bidder's liability in such case would not be higher than 50% of the contract value/ pending financial liability.

### **10.13 Limitation of Liability towards Government of Jammu & Kashmir**

The successful Bidder liability under the resultant agreement shall be determined as per the law in force for the time being. The successful Bidder shall be liable to the Government of Jammu & Kashmir for loss or Damage occurred or caused or likely to occur on account of any act of omission on the part of the successful Bidder and its employees, including loss caused to Government of Jammu & Kashmir on account of defect in goods or deficiency in services on the part of successful Bidder or his agents or any person/persons claiming through or under said successful Bidder. However, such liability of successful Bidder shall not exceed the total value of the Agreement.

### **10.14 Conflict of Interest**

The successful Bidder shall disclose to Government of Jammu & Kashmir in writing, all actual and potential conflicts of interest that exist, arise or may arise (either for the successful Bidder or its team) in the course of performing the services as soon as it becomes aware of such a conflict. Successful Bidder shall hold Government of Jammu & Kashmir's interest paramount, without any consideration for future work, and strictly avoid conflict of interest with other assignments.

### **10.15 Fraud and Corruption**

The Government of Jammu & Kashmir requires that successful Bidder must observe the highest standards of ethics during the execution of the contract. In pursuance of this policy, the Government of Jammu & Kashmir defines, for the purpose of this provision, the terms set forth as follows:

- (a) "Corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of the Government of Jammu & Kashmir in the contract executions.
- (b) "Fraudulent practice" means a mis-presentation of facts, in order to influence a process or the execution of a contract, to the Government of Jammu & Kashmir, and includes collusive practice among bidders (prior to or after proposal submission) designed to establish proposal prices at artificial high or non-competitive levels and to deprive Government of Jammu & Kashmir of the benefits of free and open competition.
- (c) "Unfair trade practices" means supply of services different from what is ordered on, or change in the scope of work which is given by the Government of Jammu & Kashmir.
- (d) "Coercive Practices" means harming or threatening in the execution of contract.  
If it is noticed that the successful Bidder has indulged into the corrupt/ Fraudulent/Unfair / Coercive practices, it will be a sufficient ground for the

Government of Jammu & Kashmir for termination of the contract and initiate black-listing of the successful bidder.

#### **10.16 Exit Management**

##### **a) Exit Management purpose**

This clause sets out the provisions, which will apply during Exit Management period. The parties shall ensure that their respective associated entities carry out their respective obligations set out in this Exit Management clause.

The exit management period starts, in case of expiry of contract, at least 3 months prior to the date when the contract comes to an end or in case of termination of contract, on the date when the notice of termination is sent to the successful bidder, The exit management period ends on the date agreed upon by the Government of Jammu & Kashmir or Three months after the beginning of the exit management period, whichever is earlier.

##### **b) Right of Access to Information**

At any time during the exit management period, the successful bidder will be obliged to provide an access of information to the Government of Jammu & Kashmir and /or any replacing successful bidder in order to make an inventory of the Assets (Including hardware/ Software/ Active/ passive), documentations, manuals, catalogs, archive data, Live data, policy documents or any other material related to implementation of Enterprise E-mail for the Government of Jammu & Kashmir.

##### **c) Exit Management Plan**

Successful Bidder shall provide the Government of Jammu & Kashmir with a recommended "Exit Management Plan" within 90 days of signing of the contract.

#### **10.17 Termination of contract**

The Government of Jammu & Kashmir without prejudice to any other remedy under this contract and applicable law, reserves the right to terminate for breach of contract by providing a written notice of 30 days stating the reason for default to the successful Bidder and as it deems fit, terminate the contract either in whole or in part ;

If the successful Bidder fails to provide aviation services as contracted and required by the Government of Jammu & Kashmir form time to time.

If the successful Bidder fails to perform any other obligations(s) under the contract. Prior to providing a notice of termination to the successful Bidder, the Government of Jammu & Kashmir shall provide the successful Bidder with a written notice of 30 days instructing the successful Bidder to cure any breach/ default of the Contract, if the Government of Jammu & Kashmir is of the view that the breach may be rectified.

On failure of the successful Bidder to rectify such breach within 30 days, the Government of Jammu & Kashmir, may terminate the contract by providing a written notice of 30 days to the successful Bidder, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to Government of Jammu & Kashmir. In such an event the successful Bidder shall be liable for forfeiture of Performance Guarantee Amount held with the Government of Jammu & Kashmir.

In the event of termination of this contact for any reason whatsoever, the Government of Jammu & Kashmir is entitled to impose any such obligation and conditions and issue any clarification as may be necessary to ensure an efficient transition and effective continuity of the services which the successful Bidder shall be obliged to comply

with and take all available steps to minimize the loss resulting from that termination/ breach, and further allow and provide all such assistance to the Government of Jammu & Kashmir and / or succeeding successful bidder, as may be required to take over the obligations of the successful Bidder in relation to the execution/ continued execution of the requirements of this contract.

#### **10.18 Miscellaneous**

##### **a) Confidentiality**

Except with the prior written permission of the Government of Jammu & Kashmir, the successful Bidder (including all partners) and its personnel shall not disclose such confidential information to any person or entity not expected to know such information by default of being associated with the project nor shall the successful Bidder and its personnel make public the recommendations formulated in the course of, or as a result of the inspection. In matters pertaining to privacy of data, the successful Bidder (including all partners) shall not use any data for analytical/ commercial reasons whatsoever.

To the extent that such disclosure is required for the purpose of this Agreement, either Party may disclose Confidential Information to:

Its employees, agents to any of its affiliates & their respective independent contractors or employees of DGCA, India.

(i) its professional advisors & auditors, who require access for the purposes of this Agreement, whom the relevant Party has informed of its obligations under this Article & in respect of whom the relevant Party has informed of its obligations under this Article has used commercially reasonable efforts to ensure that they are contractually obliged to keep such Confidential Information confidential on terms substantially the same as set forth in this Article. Either Party may also disclose confidential Information or any entity with the other Party's prior written consent.

The provisions of this Article shall survive the expiration or any earlier termination of this Agreement.

##### **(b) Standards of Performance**

The successful Bidder shall provide the services and carry out their obligations under the Contract with due diligence, efficiency and professionalism/ethics in accordance with generally accepted professional standards and practices as laid down by DGCA, India.

##### **c) Independent Contractor**

Nothing in this Agreement shall be construed as establishing or implying any partnership or joint venture or employment relationship between the Parties to this Agreement. Except as expressly stated in this Agreement, nothing in the Agreements shall be deemed to constitute any Party as the agent of any other Party or authorizes either Party (i) to incur any expenses on behalf of the other Party, (ii) to enter into any engagement or make any representation or warranty on behalf of the other Party, (iii) to pledge the credit of or otherwise bind or oblige the other Party's prior written consent.

##### **d) Waiver**

A waiver of any provision or breach of this Agreement must be in writing and signed by an authorized official of the Party executing the same. No such waiver shall be construed to affect or imply a subsequent or the same provision or subsequent breach of this Agreement.

**e) Notices**

Any notice or other document, which may be given by either Party under this Agreement, shall be given in writing in person or by pre-paid recorded delivery post.

In relation to a notice given under Agreement, any such notice or other document shall be addressed to the other Party's principal or registered office address as set out below.

Commissioner/ Secretary to Government,  
Civil Aviation Department,  
Civil Secretariat,  
UT of J&K, Jammu/Srinagar.

**Successful Bidder:**

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Tel: ..... Fax: .....

Any notice or other document shall be deemed to have been given to the other Party when delivered (if delivered in person) if delivered between the hours of 9.45 am and 5.30 pm at the address of the other Party set forth above or on the next working day thereafter if delivered outside such hours, and 7 calendar days from the date of posting (if by letter).

**f) Personnel/Employees**

(i) Management (Regional Head/VP level officer) of successful Bidder involved in the Charter operations should attend the review meeting along with Civil Aviation Commissioner, Government of Jammu & Kashmir at least once in a month.



(ii) Each Party shall be responsible for the performance of all its obligations under this Agreement & shall be liable for the acts & omissions of its employees & agents in connection herewith.

**g) Variations & Further Assurance**

(i) No amendment, variation or other change to this Agreement or the SLAs shall be valid unless made in writing & signed by the duly authorized representatives of the Parties to this Agreement.

(ii) Each Party to this Agreement or the SLAs agree to enter into or execute, without Limitation, whatever other agreement, document, consent & waiver & to do all other things which shall or may be reasonably required to complete & deliver the Obligations set out in the Agreement or the SLAs.

**h) Severability & Waiver**

(i) If any provision of this Agreement or the SLAs, or any part thereof, shall be found by any court or administrative body of competent jurisdiction to be illegal, invalid or unenforceable the illegality, invalidity or unenforceability of such provision or part provision shall not affect the other provisions of this Agreement or the SLAs or the remainder of the provisions in question which shall remain in full force & effect. The relevant Parties shall negotiate in good faith in order to agree to

substitute for any illegal, invalid or unenforceable provision a valid & enforceable provision which achieves to the greatest extent possible the economic, legal & commercial objectives of the illegal, invalid or unenforceable provision or part provision within 7 working days.

(ii) No failure to exercise or enforce & no delay in exercising or enforcing on the part of either Party to this Agreement or the SLAs of any right, remedy or provision of this Agreement or the SLAs shall operate as a waiver of such right, remedy or provision in any future application nor shall any single or partial exercise or enforcement of any right, remedy or provision preclude any other or further exercise or enforcement of any other right, remedy or provision.

**(i) Survivability**

*The termination or expiry of this Agreement or the SLAs for any reason shall not affect or prejudice any terms of this Agreement, or the rights of the Parties under them which are either expressly or by implication intended to come into effect or continue in effect after such expiry or termination.*

**10.19 Applicable Law**

The contract shall be governed by the laws and procedures prescribed by the Laws prevailing and in force in India, within the framework of applicable legislation and enactment made from time to time concerning such commercial dealings/processing. All legal disputes are subject to the jurisdiction of Jammu/Srinagar courts only.

Signed, sealed and delivered  
For and on behalf of Civil Aviation Department, Government of Jammu & Kashmir

Signed, sealed and delivered

By ...

For and on behalf of the "Successful Bidder"

Witnesses:

- (1)
- (2)

**Attachment to the Agreement**

- (i) Scope of Services for the successful Bidder (Annexure I)
- (ii) Detail Financial proposal of the successful Bidder accepted by Government of Jammu & Kashmir (Annexure II) ( price quotes in Excel Sheet of Annexure 'A' for Airplanes)
- (iii) Corrigendum Document, if any, published by the Government of Jammu & Kashmir subsequent to the Bid Documents for this work.
- (iv) Bid Document of the Government of Jammu & Kashmir for this work.
- (v) LOI issued by the Government of Jammu & Kashmir to the successful Bidder (Annexure V)
- (vi) The successful Bidder's "Technical Proposal" and "Financial Proposal" submitted in response to the Bid Document (Annexure II)

**11. Annexure IV: Draft Non-Disclosure Agreement**

This Non-Disclosure Agreement ("Non-Disc") is made and entered into \_\_\_\_\_ day of the \_\_\_\_\_ ( effective date) by and between Civil Aviation Department, Government of Jammu & Kashmir (Department) and \_\_\_\_\_(Company).

Whereas, Department and Company have entered into an agreement (agreement) \_\_\_\_\_ effective \_\_\_\_\_ for \_\_\_\_\_; and

Whereas, each party desires to disclose to the other party certain information in oral or written form which is proprietary and confidential to the disclosing party, ("CONFIDENTIAL INFORMATION").

NOW, THEREFORE, in consideration of the foregoing and the covenants and agreements contained herein, the parties agree as follows:

### 1. Definitions. As used herein:

(a) The term "Confidential Information" shall include, without limitation, all information and materials, furnished by either Party to the other in connection with citizen/users/persons/ customers data, products and / or services, including information transmitted in writing , orally, visually(e.g. video terminal display) or on magnetic or optical media, and including all proprietary information, customer & prospect lists, trade secrets, trade names or proposed trade names, methods and procedures of operation, commercial or marketing plans, licensed document know-how, ideas, concepts, designs, drawings, flow charts, diagrams, quality manuals, checklists, guidelines, processes, formulae, source code materials, specifications, programs, software packages, codes and other intellectual property relating to the disclosing party's data, computer database, products and / or services. Results of any tests, sample surveys, analytics, data mining exercises or usage etc. carried out by the receiving party in connection with the Department's information including citizen/ users/ persons/ customer personal or sensitive personal information as defined under any law for the time being in force shall also be considered Confidential Information.

(b) The term, "Department" shall include the officers, employees, agents, consultants, contractors and representatives of Company, including its applicable affiliates and subsidiary companies.

(c) The term, "Company" shall include the directors, officers, employees, agents, consultants, contractors and representatives of Company, including its applicable affiliates and subsidiary companies.

### 2. Protection of Confidential Information. With respect to any Confidential Information disclosed to it or to which it has access, Company affirms that it shall:

(a) Use the Confidential information as necessary only in connection with Project and in accordance with the terms and conditions contained herein;

(b) Maintain the Confidential Information in strict confidence and take all reasonable steps to enforce the confidentiality obligations imposed hereunder, but in no event take less care with the Confidential Information that the parties take to protect the confidentiality of its own proprietary and confidential information and that of its clients;

(c) Not to make or retain copy of any tour programme of the State VIP's for whom the Aircraft has been hired. Tour programmes developed by or originating from Directorate except as necessary, under prior written intimation from the office of the Civil Aviation Commissioner, Government of Jammu & Kashmir in connection with the Project, and ensure that any such copy is immediately returned to the



office of the Civil Aviation Commissioner, Government of Jammu & Kashmir even without express demand from the office of the Civil Aviation Commissioner, Government of Jammu & Kashmir to do so;

(d) Not disclose or in any way assist or permit the disclosure of any Confidential Information to any other person or entity without the express written consent of the other party; and

(e) Return to the other party, or destroy, at Directorate's discretion, any and all Confidential Information disclosed in a printed form other permanent record, or in any other tangible form (including without limitation, all copies, notes, extracts, analyses, studies, summaries, records and reproductions thereof) immediately upon the earlier to occur of (i) expiration or termination of either party's engagement in the Project, or (ii) the request of the other party therefore.

(f) Not to discuss with any member of public, media, press, any or any other person about the nature of arrangement entered between Department and company or the nature of services to be provided by the Company to the Department.

3. **Onus.** Company shall have the burden of providing that any disclosure or use inconsistent with the terms and conditions hereof falls within any of the following exceptions.

4. **Exceptions.** These restrictions as enumerated in this Agreement shall not apply to any Confidential Information:

(a) Which is independently developed by Company or lawfully received from another source free of restrictions and without breach of this Agreement; or

*Handwritten signature*  
(b) After it has become generally available to the public without breach of this Agreement by Company; or

(c) Which at the time of disclosure to Company was known to such party free of restriction and evidenced by documentation in such party's possession; or

(d) Which department agrees in writing is free of such restrictions.

(e) Which is received from a third party not subject to the obligation of confidentiality with respect to such information;

5. **Need to know.** Company shall restrict disclosure of such confidential Information to its employees and / or consultants with a need to know ( and advise such employees of the obligations assumed herein), shall use the Confidential Information to any affiliates, subsidiaries, associates and / or third party without prior written approval of the disclosing party.

6. **Intellectual Property Rights Protection.** No license to a party, under any trademark, patent, copyright, design right , mask work protection right, or any other intellectual property right is either granted or implied by the conveying of Confidential Information to such party.

7. **No Conflict.** The Parties represent and warrant that the performance of its obligations hereunder do not and shall not conflict with any other agreement or obligation of the respective parties to which they are a party or by which the respective parties are bound.

8. **Authority.** The parties represent and warrant that they have all necessary authority and power to enter into this Agreement and perform their obligations hereunder.

9. **Dispute Resolution.** If any difference or dispute arises between the Civil Aviation Department, Government of Jammu & Kashmir and the Company in connection with the validity, interpretation, implementation or alleged breach of any provision of this Agreement, any such dispute shall be referred to Commissioner/ Secretary to Government, Civil Aviation Department, Civil Secretariat, Jammu & Kashmir.

(a) The arbitration proceedings shall be conducted in accordance with the (Indian)Arbitration & Conciliation Act, 1996 & amendments thereof.

(b) The place of arbitration shall be as decided by Government of Jammu & Kashmir.

(c) The arbitrator's award shall be substantiated in writing and binding on the parties.

(d) The proceedings of arbitration shall be conducted in English language.

(e) The arbitration proceedings shall be completed within a period of 180 days from the date of reference of the dispute to arbitration.

10. **Governing Law.** This agreement shall be interpreted in accordance with and governed by the substantive and procedural laws of India and the parties hereby consent to the exclusive jurisdiction of Courts and /or Forums situated at Location, India only.

11. **Entire Agreement.** This Agreement constitutes the entire understanding and agreement of the parties, and supersedes all previous or contemporaneous agreement or communications, both oral and written, representations and under standings among the parties with respect to the subject matter hereof.

12. **Amendments.** No amendment, modification and / or discharge of the Agreement shall be valid or binding on the parties unless made in writing and signed on behalf of each of the parties by their respective duly authorized officers or representatives.

13. **Binding Agreement.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

14. **Severability.** It is the intent of the parties that in case any or more of the provisions contained in this Agreement shall be held to be invalid or unenforceable in any respect, such provision shall be modified to the extent necessary to render it, as modified, valid and enforceable under applicable laws, and such invalidity or unenforceability shall not affect the other provisions of this Agreement.

15. **Waiver.** If either party should waive any breach of any provision of this Agreement, it shall not thereby be deemed to have waived any preceding or succeeding breach of the same or any other provision hereof.

16. **Survival.** Both parties agree that all of their obligations undertaken herein with respect to Confidential Information received pursuant to this Agreement shall survive till perpetuity even after any expiration or termination of this Agreement.

17. **Non-solicitation.** During the term of this agreement and thereafter for a further period of two (2) years Company shall not solicit or attempt to solicit DOA employees and / or consultants, for the purpose of hiring / contract or to proceed to conduct operations/ business similar to the DOA with any employee and / or consultant of the DOA who has knowledge of the Confidential Information, without the prior written consent of DOA. This section will survive irrespective of the fact whether there exists a commercial relationship between Company and Department.

18. **Term.** Subject to aforesaid, this Agreement shall remain valid up to 2 years from the "effective date."

IN WITNESS HEREOF, and intending to be legally bound, the parties have executed this Agreement to make it effective from the date and year first written above.

For GOJ&K,

For Company

\_\_\_\_\_  
Name:


\_\_\_\_\_  
Name:

Title:

Title:

WITNESSES: 1.

2.

  
( S. Katoch)  
Commissioner (Technical)  
Civil Aviation Department