

REQUEST FOR PROPOSAL (RFP)

CONSULTANCY SERVICES FOR PRELIMINARY QUARRY INVESTIGATION  
**PROPOSED EXPANSION WORKS**  
FOR BANGALORE INTERNATIONAL AIRPORT LIMITED



Bangalore International Airport Limited  
Administration Block  
Bengaluru International Airport  
Devanahalli  
Bangalore - 560 300  
January 2012

## DISCLAIMER

1. This Request for Proposal (RFP) is issued by Bangalore International Airport Limited (“**BIAL**”).
2. The information contained in this RFP document or subsequently provided to the interested applicants (“**Bidders**”), whether verbally or in documentary or any other form by or on behalf of BIAL or any of their employees or advisers, is provided to the Bidders on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.
3. This RFP is neither an agreement nor an offer by BIAL to the prospective Bidders or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in the formulation of their proposals pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by BIAL in relation to the scope of services. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for BIAL, its employees or advisers to consider the objectives, technical expertise and particular needs of each party who read or use this RFP. The assumptions, assessments, statements and information contained in this RFP may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments and information contained in this RFP and obtain independent advice from appropriate sources.
4. Information provided in this RFP to the Bidders is on a wide range of matters, some of which depends upon interpretation of law. The information given is not an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. BIAL accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on the law expressed herein.
5. BIAL, its employees and advisers make no representation or warranty and shall have no liability to any person including any Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, reliability or completeness of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way in this selection process.

6. This RFP, along with its Annexures, is not transferable. The RFP and the information contained herein are to be used only by the person to whom it is issued. It may not be copied or distributed by the recipient to third parties (other than in confidence to the recipient's professional advisors). In the event that the recipient does not continue with its involvement in the project in accordance with this RFP, this RFP must be kept confidential.
7. BIAL also accepts no liability of any nature whether resulting from negligence or otherwise however caused arising from reliance of any Bidder upon the statements contained in this RFP.
8. BIAL may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumption contained in this RFP.
9. The issue of this RFP does not imply that BIAL is bound to select a Bidder or to appoint the selected Bidder, as the case may be, for the consultancy and BIAL reserves the right to reject all or any of the proposals without assigning any reasons whatsoever. This RFP may be withdrawn or cancelled by BIAL at any time without assigning any reasons thereof.
10. The Bidder shall bear all its costs associated with or relating to the preparation and submission of its proposal including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by BIAL or any other costs incurred in connection with or relating to its proposal. All such costs and expenses will remain with the Bidder and BIAL shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by an Bidder in preparation for submission of the proposal, regardless of the conduct or outcome of the selection process.

## 1. Introduction

Bangalore International Airport Limited (“**BIAL**”) is the owner and operator of the Bengaluru International Airport (the “**Airport**”) in Bangalore. The Airport has been built and operated at the best international standards under a public-private partnership model. This project is the first international airport in India built, owned and operated under a public-private partnership model with private shareholders holding a majority stake.

BIAL has entered into a Concession Agreement with the Government of India, whereby the Government of India has granted the exclusive right and privilege to BIAL to carry out the development, design, financing, construction, operation and management of the Airport.

BIAL is proposing for expansion as per its proposed BIAL master plan. BIAL is looking for an experienced consultant for **Consultancy Services for Preliminary Investigations on the identified quarry to ascertain extractable aggregate quantity and quality**. BIAL hereby invites qualified companies/firms/individuals (hereinafter referred to as the “**Applicant/s**”) to participate in the RFP.

BIAL is interested in receiving proposals from suitably qualified consultants for providing the scope of Services as detailed below, on the terms and conditions contained in this RFP. The proposal in the bids shall comply with all the requirements stated in this RFP. Based on final evaluation, the successful bidder will be notified and the contract shall be awarded to such successful bidder (hereinafter referred to as the “**Consultant**”). The notification of award of the contract by BIAL shall be followed by execution of a consultancy agreement between BIAL and the Consultant, as per the standard format attached in this RFP as **Annexure-2**.

## 2. Proposal for Consultancy Services

2.1 The bidders are requested to prepare and forward Technical and Financial Proposals to BIAL in separate sealed envelopes super-scribed with the details of the Proposal to the address mentioned in the RFP, based on the Scope of Services outlined in **Annexure-1** of this RFP.

**Part-1: Technical Offer:** inclusive of

- a. Introduction
- b. Methodology
- c. Scope of Work
- d. Deliverables
- e. Schedule
- f. List and details of testing equipment and machinery
- g. Team Composition, Credentials & Deployment Schedule
- h. List of relevant / comparable projects

**Part-2: Financial Offer: inclusive of**

- a. Consultancy Fees
- b. Breakup & Distribution of total consultancy fees

**A) Preliminary Investigation**

STAGES	DETAIL	FEES (IN INR)
<b>STAGE 1:</b>	Ascertain gross volume of the quarry and net volume of aggregate that could be derived	
	Understand Legal and other Environmental requirements	
	Uniformity of the parent rock along with the depth and limits of the potential source of aggregate	
	Geological classification and formation of the parent rock	
<b>STAGE 2:</b>	Understand and map the location and distance from the project location and detailed routing	
	Petrographic analysis of the parent rock	
<b>STAGE 3:</b>	Detailed Technical Investigation; includes Physical, Mechanical and Chemical properties etc	
<b>STAGE 4:</b>	Detailed report and presentation on the investigation analysis	
<b>Total Fees (All Stages)</b>		

\*Fees quoted shall be inclusive of all required expenses & charges

- 2.2 BIAL shall retain the right to close the assignment at end of any Stage, as per the needs of the overall development Program. In such an event the above breakup of fees shall form the basis for finalization of payment of consultancy fees, after successful completion of the work for respective stage.
- 2.3 The language for all written communication shall be English and unless mentioned otherwise the currency shall be Indian Rupee.

2.4 The proposal should be signed on each page by the Bidder or his duly authorised representative. The proposal should be accompanied by a certified true copy of a power of Attorney or board resolution in favor of signatory to the documents.

2.5 Any discrepancies, omissions, ambiguities or conflicts in or among contract documents or any doubt as to their meaning should be called to the attention of the contact person as mentioned in the RFP within five (5) days of issue of the RFP. Where information sought is not clearly indicated or specified, the clarifying bulletin/s shall be issued to all Bidders which will become part of the agreement. BIAL will not make or be responsible for any oral instructions.

### 2.6 Cost of tendering

The Bidder shall bear all costs associated with the preparation and submission of its Proposal and BIAL shall, in no case, be responsible or liable for such costs, regardless of the outcome of the tender process.

### 2.7 Site Inspection and Conditions

The Bidder is advised to visit and inspect the Site (the quarry would be within the radius of 35-40 kms from airport), and obtain for itself on its own responsibility and cost, all information regarding all existing and expected conditions and matters that may be necessary for preparing the Proposal and entering into a contract for performance of the scope of services. BIAL shall use every effort to procure that the Bidder and any of its personnel or agents with prior intimation, are granted permission to enter the Site for the purpose of such inspection, but only upon the express condition that the Bidder, its personnel and agents, will exercise due care and will be responsible for personal injury or death, loss of or damage to property and any other loss, damage, costs and expenses incurred as a result of such inspection. The Bidder, its personnel and agents will release and indemnify BIAL and its personnel and agents from and against all liability in respect thereof.

2.8 It is obligatory on the part of the Bidder to tender for all the component parts and submit all information required as per document.

## 3. **Validity**

3.1 The proposal shall be valid for at least ninety (90) days from the deadline for receipt of proposals

3.2 In exceptional circumstances, prior to expiry of the bid validity period, BIAL may request the bidder for a specified extension in the period of validity. The request and the response thereto shall be made in writing. A bidder agreeing to the request shall not be permitted to modify his bid, but shall be required to extend the validity of his

bid. All the terms of the bidding shall continue to be applicable during the extended period of validity.

#### **4. Format and Signing of Proposal**

- 4.1 The Bidder shall provide all the information as per this RFP. BIAL reserves the right to evaluate only those Proposals that are received in the required format, complete in all respects and in line with the instructions contained in this RFP.
- 4.2 The Bidder shall prepare and submit one original proposal along with an additional copy.
- 4.3 The Proposal shall be signed and each page of the Proposal shall be initialed by a person or persons duly authorized to sign on behalf of the Bidder and holding the Power of Attorney.
- 4.4 RFP submissions must be received no later than **12.00hrs on 3.2.2012 (Proposal Due Date)** in the manner specified in the RFP document at the address given below.
- 4.5 The Proposal shall not contain alterations or additions, except those to comply with instructions issued by BIAL or as necessary to correct errors made by the Bidder, in which case such corrections shall be initialed by the person or persons signing the Proposal.
- 4.6 One set of originals of all documents in hard printed format along with the proposal duly signed by the Bidder shall be submitted. (This will become the part of the agreement to be executed on award of the contract).
- 4.7 The envelope and proposal should clearly mention the following details:

**BID for preparation of designs for the Management Office of Bangalore International Airport Limited.**

To  
Mr. Suresh K N  
Bangalore International Airport Limited.  
Administrative Block,  
Devanahalli, Bangalore-560300,India.

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#### **Proposal Due Date and Time:**

BIAL may, in exceptional circumstances and at its sole discretion, extend the Proposal due Date by issuing an Addendum uniformly for all Bidders.

**5. Questions during the Bid phase:**

All enquiries or comments regarding this bid, and any other related matters must be made in writing by e-mail to Mr. Suresh K N (suresh.kn@bialairport.com). BIAL may, to the extent necessary and as it deems fit, respond in writing to any questions and concerns of the bidders regarding any element of the issued bid documents.

**6. Responsibility of the Bidder:**

It is the sole responsibility of the bidder to:

- i) Examine and understand the bid documents, including all the annexures/appendices and to verify their completeness. In the event that there are any pages or documents obviously missing or erroneously inserted in the documents supplied, the Bidder shall promptly apply to BIAL in writing to have any such discrepancy rectified well before the bid closing date;
- ii) Familiarize itself with the premises at which the services will be conducted and any relevant fixtures, fittings and equipment there to be utilised or that may otherwise be relevant, make all relevant investigations in relation to the performance of its obligations pursuant to the Bid;
- iii) The bidders should inform BIAL of any concerns implied or related to but not specifically mentioned in the Bid or other documentation.

***BIAL reserves its right to accept any Bid and to reject any or all the Bids/proposals received without any reason or can change the process of the selection at any time during or after the Bid process.***

**7. Confidentiality:**

BIAL and the Consultant should ensure the confidentiality of all documents supplied by either party to either side. The documents will be used in bidding process only.

**8. Assignment:**

Any assignment of the agreement or of any rights hereunder, in any manner, by operation of law or otherwise, without the prior written consent of BIAL, shall be void. Any such consent shall not relieve the Consultant from its obligations under the RFP/agreement.

**9. Law and Jurisdiction:**

The present Bid shall be considered, governed by and interpreted in accordance with the laws of Republic of India. The jurisdiction for the purposes of the bid shall be the courts in Bangalore only.

**10. Bankruptcy:**

BIAL may at any time by notice in writing summarily terminate the Consultancy Agreement without compensation if the Consultant is declared bankrupt/insolvent and/or faces any action of bankruptcy, etc. In such an event, the Consultant will be bound to refund all amounts received from BIAL. In addition to that BIAL is also entitled to invoke the guarantee bonds executed in its favor by the bank on behalf of the Consultant.

**11. Government Regulations:**

- (a) The bidder shall be responsible for obtaining and maintaining permits and also for complying with all the laws, orders, regulations or other instructions issued by all statutory authorities in India.
- (b) The bidder shall not give, bargain, sell, assign or sublet or otherwise dispose off the bid or any part thereof, or the benefit or advantage of the contract or any part thereof to any third party.

**12. AWARD PROCESS:**

**12.1 General:**

BIAL is conducting the award process in a fair and non-discriminatory manner. Canvassing in any form, unsolicited letter and post bid correction will invoke summary rejection of the Bid. Conditional Bids would be rejected.

BIAL however reserves the right to unilaterally and at its sole discretion to change the award process, certain elements of the bid documents or to annul the entire bidding process at any time, without assigning any reason and without incurring any liability towards the affected bidder. BIAL also reserves the right to change some elements of the planned set up for the work at the Airport, if governmental regulations change in a manner such that the objectives of BIAL cannot be met through the planned set up.

The Bidder shall comply with all the terms and conditions set out in bid document and its appendices while submitting its proposal.

**12.2 Distribution of RFP/Bid Documents:**

The RFP document shall be treated as confidential and the information given in the RFP is for the purpose of submitting a proposal only and shall not be used or distributed to any third-party at any time for any other purpose.

### 12.3 **Selection Criteria:**

BIAL would evaluate the proposal based on the technical capabilities of the firm, financial soundness of the firm, relevant experience, price offered etc.; but will ensure a balance between technical and commercial aspects.

Key requirements for applications:

- Filled document as per terms of RFP

### 12.4 **Legal conditions**

The Bidder shall be a valid legal entity as per Indian laws.

BIAL will evaluate the different proposals based on the following criteria (in brackets the weightage of each criterion):

Sl.No	Criteria	Percent (%)
1	Understanding the Scope requirements	25%
2	Proposed Team's Capability & Experience in the relevant work	15%
3	List and details of testing equipments and machineries	20%
4	Approach, methodology, quality and consistency for the proposed consultancy services	15%
5	Competitive pricing	15%
6	Process & Documentation expertise, quality and completeness of proposal	10%

## 13 **LIST OF ANNEXURES TO RFP**

1. ANNEXURE 1: SCOPE OF SERVICES & DELIVERABLES
2. ANNEXURE 2: TEMPLATE OF AGREEMENT CONDITIONS
3. ANNEXURE 3: QUALIFICATION QUESTIONNAIRE

## **ANNEXURE-1: SCOPE OF SERVICES & DELIVERABLES**

This document provides introduction to the Project, Scope of Services, and Schedule and expected Deliverables. Interested applicants are invited to prepare and submit their Technical Proposal and Financial Proposal based on the information provided in this document.

### **CONTENTS**

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- 1. Scope of Services**
- 2. Deliverables and Schedule**
- 3. Project Duration**

## 1. Scope of Services

The scopes of services for proposed consultancy works are to be comprehensive in nature with preliminary and detailed investigations which shall cover the following:

Ascertain the extractable quantity and quality of aggregates in the identified quarry block.

To carry out preliminary investigation on:

- The gross volume of the quarry and net volume of aggregate can be derived from the quarry.
- The geological classification and formation of the parent rock.
- Uniformity of the parent rock along with the depth and limits of the potential source of aggregate.
- Petrographic analysis of the parent rock.

Location and distance from the project location along with a plan area and detailed route map also to be included in the report along with related legal and environmental requirements.

Secondly, a Detailed Technical investigation has to be carried out:

These investigation parameters are based on aggregate requirement specific to the type of work envisaged ( Building, pavement, concrete etc.) and would include tests to determine

- Physical Properties
- Mechanical Properties
- Chemical Properties

Physical Properties of Aggregates:

Following physical properties investigation to be carried out:

- |   |                  |
|---|------------------|
| • Specific Gravity of aggregates & Water Absorption | - IS:2386 Part-3 |
| • Bulk Density of aggregates                        | - IS:2386 Part-3 |
| • Particle Size Distribution                        | - IS2386 Part-1  |
| • Flakiness and Elongation Index                    | - IS 2386 Part-1 |
| • Presence of deleterious materials                 | - IS 2386 Part-2 |

Mechanical properties of Aggregates:

- |                               |                   |
|-------------------------------|-------------------|
| • Aggregate Impact Value Test | -IS:2386 Part-4   |
| • Aggregate Crushing Value    | -IS:2386 Part-4   |
| • Abrasion Value              | -IS:2386 Part-4   |
| • Stone Polishing Value       | -BS: 812-Part-114 |

Chemical Properties of Aggregates:

- Soundness test of the aggregate -IS:2386-Part 5
- Bitumen Coating and Stripping test -IS:6241
- Alkali Aggregate Reactivity - IS:2386 Part-7
- Water Sensitivity test (if required) - AASHTO T 283

Other requirements for Aggregates:

Sl. No.	Property	Test	Specification
1	Cleanliness	Grain size analysis	Max 5% percent passing through 0.075mm sieve
2	Particle Shape	Flakiness & Elongation Index (Combined)	Max 30 Percent
3	Strength	Los Angels Abrasion Value	Max. 30Percent
		Aggregate Impact Value	Max 24 percent
4	Durability	Soundness	
		Sodium Sulphate	Max. 12 Percent
		Magnesium Sulphate	Max. 18 percent
5	Water Absorption	Water Absorption	Max. 2 percent
6	Stripping	Stripping Value of aggregate	Max. Retained coating 95%
7	Water Sensitivity	Retained tensile Strength	Min. 80%
8	Polishing Value	Stone Polishing Value	Min. 55

Particle Shape & Size:

- Roughness/Angularity improved by crushing which includes more aggregate interlocking and provides more bonding surface for asphalt and aggregate should have at least medium to rough texture and in angular in shape.
- Aggregates should have at least 60 to 100 percent with one crushed face and possibly 50 to 80 percent with two crushed faces.
- Shape of aggregate influenced by type of parent rock and its formation and also the type of crusher is being used for aggregate will influence the shape of the finished product.

Any other tests have to be carried out as required.

## 2. Deliverables and Schedule

The Consultant shall present/submit all deliverables to BIAL in the form of reports and associated drawings for BIAL's review. After incorporating BIAL's review / comments / inputs / suggestions, the Consultant shall proceed to further stages. All submissions shall be in the

form of drawings, reports, excel and spread sheets, sketches as may be necessary for the purpose. Submissions shall be made in both hard copy and soft copy formats. Hard copy submissions - 6 sets printed in color, on A1 and A3 size papers only (drawings on appropriate scale). Soft copy submissions need to be done in MS OFFICE / AutoCAD/, Power point, etc. as applicable, in editable platforms, compatible with appropriate Geographic Information System (GIS) platforms. The Consultant shall deliver the output at various stages as per the requirement of the BIAL. The Consultant shall work as per the priority provided by BIAL and deliverable should be made as per the requirement.

### 3. Project Duration

Each stage shall commence after satisfactory completion of the tasks under the preceding stage with a letter/email of go-ahead from BIAL. The suggested durations exclude the time required for BIAL review and approval. Project duration is presented in the below table for all the stages of work Consultants must deliver all the deliverables as per the times duration for all the stages of work as follows.

BIAL shall retain the right to close the assignment at end of any stage mention below, as per the needs of the overall implementation of BIAL Program & as per the Proposal for consultancy services part-2 financial offer.

STAGES	DETAIL	Duration in Weeks
STAGE 1:	Ascertain gross volume of the quarry and net volume of aggregate that could be derived	4
	Understand Legal and other Environmental requirements	
	Uniformity of the parent rock along with the depth and limits of the potential source of aggregate	
	Geological classification and formation of the parent rock	
STAGE 2:	Understand and map the location and distance from the project location and detailed routing	4
	Petrographic analysis of the parent rock	
STAGE 3:	Detailed Technical Investigation; includes Physical, Mechanical and Chemical properties etc	
STAGE 4:	Detailed report and presentation	

STAGES	DETAIL	Duration in Weeks
	on the investigation analysis	
<b>Total Duration (All Stages)</b>		4 weeks

The Above mentioned time table shall be updated as per requirement of BIAL & shall be in line with BIAL's development program. This time table may be further updated with time required for BIAL's team & proof checking reviews and as per actual construction schedule.

The Consultant shall strictly follow the above mentioned time table (as this time schedule is further linked to various other development activity), any deviation from this time schedule will lead to termination of services without any prior notice.

**[Relevant Service to be inserted] CONSULTANCY AGREEMENT\***

**BETWEEN**

**BANGALORE INTERNATIONAL AIRPORT LIMITED**

**AND**

***[Consultant's name to be inserted]***

*\*This is only an indicative template. Certain terms and conditions contained herein may be modified if and when found necessary, based on mutual discussion between the parties.*

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## CONSULTANCY AGREEMENT

This CONSULTANCY AGREEMENT (“**Agreement**”) is entered into on this the \_\_\_\_\_ day of \_\_\_\_\_, 2011 (the “**Execution Date**”) by and between:

BANGALORE INTERNATIONAL AIRPORT LIMITED, a Company incorporated under the Companies Act, 1956 and having its Registered Office at Administration Block, Bengaluru International Airport, Bangalore 560 300, India, (hereinafter referred to as “**BIAL**”, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors-in-interest and assigns) of the FIRST PART;

**AND**

[*Consultant’s name*], a Company incorporated under the Companies Act, 1956 and having its Registered Office at-----, (hereinafter called the ‘**Consultant**’, which expression shall mean and include its consortium partners, representatives, successors-in-interest and permitted assigns) of the SECOND PART.

The aforesaid parties are hereinafter referred to individually as a ‘Party’ and collectively as the ‘Parties’, as the context may require.

### **WHEREAS:**

- A. Pursuant to a Concession Agreement entered into between BIAL and the Government of India, BIAL has been granted the exclusive right and privilege to carry out the development, construction, commissioning, maintenance, operation and management of the Airport (defined later), in accordance with the terms contained therein.
- B. A project (defined later) for improving the existing airport infrastructure has been envisaged by BIAL, in order to increase the passenger capacity of the Airport (defined later).
- C. [*Brief description of the consultant company and the services it provides*]
- D. Pursuant to BIAL’s request for proposal, the Consultant has submitted a proposal to provide the Services (as hereinafter defined) and BIAL has expressed its desire to engage the Consultant for providing the Services, on a non-exclusive basis, subject to the terms and conditions set-forth in this Agreement.

NOW THEREFORE, it is agreed as follows

1. DEFINITIONS

1.1 Definitions

The following words and expressions, as used throughout this Agreement, shall have the following meanings:

- 1.1.1 “**Agreement**” refers to this Consultancy Agreement, and all exhibits and attachments annexed to this Agreement or otherwise, incorporated by reference; and all written modifications occurring after the date of this Agreement.
- 1.1.2 “**Airport**” means the Greenfield international airport constructed and operated by BIAL at Devanahalli, near Bangalore in the State of Karnataka and includes the existing Terminal 1(T1) and further airport developments.
- 1.1.3 “**Applicable Laws**” means, all laws, promulgated or brought into force and effect by the Government of India or the Government of Karnataka including, the regulations and rules made thereunder, and judgments, decrees, injunctions, writs and Orders of any Court of record, as may be in force and effect during the subsistence of this Agreement.
- 1.1.4 “**Commencement Date**” means, the date upon which, the Consultant commences provision of the Services under this Agreement, being [*To be inserted at later date*].
- 1.1.5 “**Confidential Information**” or “**Information**” has the meaning assigned to it in **Clause 12** of this Agreement.
- 1.1.6 “**Deliverables**” shall have the meaning assigned to it in **Clause 4** of this Agreement.
- 1.1.7 “**Professional Fee**” shall have the meaning assigned to it in **Clause 6.1** of this Agreement.
- 1.1.8 “**Project**” refers to the designing, expanding and augmentation of existing Airport infrastructure being undertaken by BIAL, in order to increase the passenger capacity of the Airport.
- 1.1.9 “**Services**” has the meaning assigned to it in **Clause 3** of this Agreement.
- 1.1.10 “**Standard of Care**” has the meaning assigned to it in **Clause 7.1** of this Agreement.
- 1.1.11 “**Term**” shall have the meaning ascribed to it in **Clause 2** of this Agreement.
- 1.1.12 “**Written**” or “**in writing**” means, hand-written, type-written, printed or electronically made (inclusive of e-mail communication and attachments) and resulting in a permanent record.

1.2 Interpretation

In this Agreement, except to the extent that the context requires otherwise:

- 1.2.1 Reference to a “judgment” includes any order, injunction, determination, decree or other judicial or arbitral tribunal measure in the Indian jurisdiction, which is final and binding;
- 1.2.2 A reference to a “law” includes common law, the Constitution of India and any decree, judgment, legislation, direction, order, ordinance, regulation, by-law, statute, notification, circular, guideline, rule, statutory instrument or other legislative measure, with which BIAL is required to comply by law (and “lawful” and “unlawful” shall be construed accordingly);
- 1.2.3 References in the singular shall include references in the plural and vice versa;
- 1.2.4 A reference to a “day” means a calendar day; any reference to a “month” shall mean a reference to a calendar month; and any reference to “year” shall mean a reference to a calendar year (i.e., twelve (12) months) unless otherwise defined in this Agreement;
- 1.2.5 References to a particular Clause, paragraph, sub-paragraph, Schedule or Attachment shall, except where the context otherwise requires, be a reference to that Clause, paragraph, sub-paragraph or Schedule to this Agreement;
- 1.2.6 The headings are inserted for convenience and are to be ignored for the purposes of construction;
- 1.2.7 Terms defined in the Schedules hereto shall have the meanings ascribed thereto in the Schedules when used elsewhere in this Agreement;
- 1.2.8 The Schedules to this Agreement form part of this Agreement and will be in full force and effect, as though they were expressly set out in the body of this Agreement;
- 1.2.9 Any reference to any agreement (including this Agreement), deed, instrument, license, code or other document of any description shall be construed, at the particular time, as a reference to that agreement, deed, instrument, license code or other document as the same may then have been amended, varied, supplemented, modified, suspended or novated;
- 1.2.10 The words “written” and “in writing” includes a facsimile transmission and any means of reproducing words in a tangible and permanently visible form with confirmation of the transmission;
- 1.2.11 The words “include” and “including” are to be construed without limitation;
- 1.2.12 In case of any ambiguity or discrepancy between the Clauses and the Schedules, the Clauses shall prevail; and
- 1.2.13 If any payments due hereunder become payable on a day when principal commercial banks in Bangalore are closed for business or a day which is declared a holiday under the Negotiable Instruments Act, 1881, such payments shall be deemed due and payable on the next business day thereafter

## 2. **TERM OF AGREEMENT**

This Agreement shall become effective from the Execution Date. The term of this Agreement shall be for a period from the Commencement Date upto [*To be inserted at later date* ], (the “Term”) or until completion of the Services whichever is later,

unless terminated earlier under the provisions of this Agreement. Any renewal of this Agreement is not automatic, unless and until previously agreed by BIAL in writing.

### **3. SERVICES**

3.1 BIAL hereby appoints the Consultant, on a non-exclusive basis, to provide the Services morefully described in **Schedule A**, subject to and in accordance with the provisions of this Agreement (the “**Services**”), and Consultant accepts such appointment by BIAL to provide the Services.

#### **3.2 Changes to Services**

BIAL may at any time and from time to time, request changes (including alterations, omissions or additions) to the scope of Services under this Agreement. If such change affects the costs and/or time schedule for performance of the Services, the Parties shall mutually agree on the changes in costs and/or the time schedule.

### **4. DELIVERABLES FROM THE SERVICES**

The Deliverables pertaining to the scope of Services to be provided under this Agreement are as stipulated in **Schedule A**. These Deliverables shall be provided by the Consultant as per the time schedule stipulated in **Schedule B**. Upon the Consultant providing all the Deliverables to BIAL, the Consultant shall hand over all documents and Confidential Information to BIAL. The Deliverables shall not be used by or through the Consultant for any purposes other than that of providing the Services under this Agreement. In the event of any reuse whatsoever of the said documents by or through the Consultant, the Consultant shall indemnify, defend and hold BIAL harmless from any and all claims, causes, damages, losses, liability and expenses, including but not limited to attorney’s fees resulting from such unauthorized use. Submission or distribution of the documents to meet official regulatory requirements or for similar purposes in connection with the Agreement is not to be construed as publication in derogation of BIAL’s reserved rights. It is expressly agreed herein that, the Deliverables shall not be used by or through the Consultant for any purpose other than those provided under this Agreement.

### **5. EXCLUSIVITY**

During the period this Agreement is in force, and for a period of three (3) years thereafter the Consultant shall not either in its own name or through its Affiliates, directly or indirectly: engage in activities deemed by BIAL to conflict with the Services or the purposes for which such Services are provided.

### **6. COMPENSATION**

6.1 The fixed consultation fee for satisfactory completion of the scope of Services shall be *[The fee payable shall be inserted at later date]* (the “**Professional Fee**”). BIAL shall pay Service Tax, if applicable, subject to the Consultant furnishing to BIAL, a valid

invoice giving a break-up of the Professional Fee and the Service Tax payable thereon. The Professional Fee shall be subject to deduction of applicable taxes. BIAL shall make payments within thirty (30) days from the date of receipt of valid invoices from the Consultant. In the event of any portion of the Services not being completed within the time schedule stipulated in this Agreement, for reasons attributable to BIAL, then the Consultant shall provide such remaining Services, if requested in writing by BIAL, at mutually agreed upon rates. For the sake of clarity, it is expressly stated herein that the Professional Fee shall be the fee payable for the Services and shall not be based on the time schedule. The Professional Fee payable by BIAL to the Consultant for completion of each phase of the Services and the terms of payment of this Professional Fee is as stipulated in Schedule C.

6.2 Payment for additional services

For performance of any additional services if requested by BIAL in writing (“Additional Services”), BIAL shall pay additional compensation as per the rates stipulated in **Schedule C** for such Additional Services. The expenses incurred by the Consultant towards travel and accommodation for the performance of the Additional Services shall be paid in accordance with the charges stipulated in **Schedule C**. The additional compensation for the Additional Services shall be paid by BIAL within thirty (30) days following the date of receipt of the Consultant’s valid invoice for such additional compensation.

6.3 The Professional Fees shall be payable in the installments set forth in **Schedule C**.

Upon the achievement of each payment milestone set forth in **Schedule C**, in accordance with the acceptance and completion criteria therefore as set forth in this Agreement, the Consultant shall be entitled to invoice BIAL for the installment of the Professional Fee specified against such milestone.

6.4. Review of Invoices

BIAL will review the invoices promptly and notify the Consultant of any inaccuracy. The Consultant’s invoices for payment shall be prepared in the form stipulated by BIAL. Each invoice shall be accompanied by such supporting documentation and evidence as would enable BIAL to assess the work performed and which demonstrates to the reasonable satisfaction of BIAL that all the relevant performance provisions of this Agreement have been met. BIAL may from time to time stipulate requirements in this regard. BIAL shall be entitled to make such investigations as it may deem necessary to assess the achievement of the relevant payment milestone, including without limitation the completion of the relevant tasks or submission of the applicable deliverables. The Consultant shall provide such clarifications as BIAL may require to enable such assessment.

6.5 Withholding and deductions of payments

6.5.1 Withholding payments:

If BIAL disputes the amount contained in an invoice, BIAL may withhold payment to the extent that it reasonably believes that the Consultant is in breach of its obligations in accordance with this Agreement and shall give the Consultant fifteen (15) days' notice to remedy the deficiency. BIAL will pay all undisputed amounts in accordance with this Agreement. Once the Consultant has cured the deficiency, BIAL will pay the Consultant the amounts withheld. For the avoidance of doubt, it is clarified that such withheld amount shall not incur any interest.

#### 6.5.2 Deductions

BIAL may deduct from the Professional Fee or/and Reimbursable Expenses amounts on account of claims of penalty, costs or claims, loss, damages directly incurred by BIAL ("**Direct Damages**") that arise from the negligence of the Consultant.

If the breach is such that the same can be remedied, the provisions of **Clause 6.5.1** will apply. In case the Consultant fails to remedy the breach, as provided in **Clause 6.5.1** above, BIAL has the discretion, without further notice, to deduct such amounts from the Professional Fee or/and Reimbursable Expenses and this right is in addition to any other rights available to BIAL under this Agreement.

6.6 No payments of invoices or portions thereof shall at any time constitute any approval or acceptance of the Services under this Agreement, nor be considered to be a waiver by BIAL of any of the terms of this Agreement.

### 7. OBLIGATIONS OF THE CONSULTANT

#### 7.1 Standard of Care

The Consultant shall perform the Services on behalf of and under the directions of BIAL and such Services shall be rendered in accordance with the standards of care, skill and diligence reasonably required of other international consultants performing the same or similar services on projects of similar size and complexity ("**Standard of Care**"). The Consultant shall be solely responsible for the acts and omissions of its consultants, partners, sub-contractors, etc., as if they were the acts and omissions of the Consultant.

7.2 The Consultant agrees to furnish to BIAL, qualified professionals to perform the Services. Such professionals shall have the requisite experience and qualifications necessary for the due performance of the Services and the obligations of the Consultant, under this Agreement ("**Professionals**"). The Professionals to be deputed by the Consultant for the performance of Services is detailed in the deployment schedule attached herewith as **Schedule D**.

- 7.3 BIAL shall have the right to ascertain whether such Professionals are satisfactory for the performance of the Services and shall be entitled to request the Consultant to replace any of the Professionals, whether before assigning the work or after, in the event BIAL is not satisfied with the services of such Professionals; and the Consultant shall replace such individuals, immediately. The Consultant shall not remove or replace any personnel appointed to Key Positions without the prior approval of BIAL, which approval shall not be unreasonably withheld.
- 7.4 Changes in the scope, manner or timing of the Services shall be authorized by BIAL, in writing, and shall include, if necessary, an appropriate adjustment in the Professional Fee and the time schedule. All duly authorized changes shall become part of this Agreement. Neither Party shall be bound to perform any change until agreed to by both the Parties, in writing.
- 7.5 The Consultant shall comply with the laws, codes, and regulations applicable to the Services during the entire period when the Services are rendered, and on BIAL's request, shall make available all the documents pertaining to the compliance with the relevant laws.
- 7.6 Reports and presentations at all stages will be submitted in adequate numbers of hard and soft formats as applicable.
- 7.7 The terms and conditions of the RFP for submission of Deliverables shall apply to this Agreement.

## **8. OBLIGATIONS OF BIAL**

- 8.1 BIAL agrees to comply with all reasonable requests of the Consultant regarding providing access to all documents and employees, necessary for the performance of the Consultant's obligations under this Agreement.
- 8.2 BIAL shall provide, in a timely manner, full information (including the Confidential Information), regarding requirements for the Project, including a program, which shall set-forth BIAL's objectives, schedules, constraints and criteria and such other information reasonably required by the Consultant for due performance of the Services under this Agreement.
- 8.3 BIAL will appoint a nominated project representative to act on BIAL's behalf in relation to this Agreement who will liaise with the Consultant, in relation to this Agreement.

## **9. Infringement, Indemnification**

- 9.1 The Consultant shall defend, indemnify and hold harmless BIAL and its affiliates, and their respective directors, officers, employees, agents and employees (collectively the "Indemnitees") from and against any and all liabilities arising as a result of any claim,

suit or proceeding or allegation that the performance of the Services or the Deliverables or any part thereof, in the form furnished or as subsequently modified by the Consultant, constitutes an infringement of any patent, utility models, mask work protections, trademark, design, copyright, trade secret, mark or other intellectual property rights or applications thereof of any third party (collectively, “**Third Party Intellectual Property Rights**”). BIAL shall without undue delay notify the Consultant of such infringement claim, suit or proceeding and the Consultant shall, at its expense, have the authority, to settle the claim or assume control and defence of any suit or proceeding, but shall not compromise or settle any suits or claims or admit any criminal liability or wrongdoing by BIAL and its affiliates, without the express prior written consent of BIAL; unless any compromise or settlement includes an unconditional release of any claims against BIAL and its affiliates and does not involve any stipulation, judgment or injunction against BIAL and its affiliates. BIAL shall (at the Consultant’s expense) extend reasonable assistance for the Consultant to defend of any such claim, proceeding or suit.

- 9.2 In the event that the performance of the Services or the Deliverables or any part thereof are, in such suit or proceeding, held to constitute an infringement or the use thereof, is enjoined, or if in respect of any claim of infringement or violation BIAL deems it advisable to do so; the Consultant shall promptly, at its own expense and option, take any one of the following actions:
- (a) procure for Indemnities the right to continue the use of the Deliverables;
  - (b) replace the Deliverables and/or Services with non-infringing deliverables and services that are functionally equivalent and comply with the Specifications; or
  - (c) modify such Deliverables and/or Services so that they become non-infringing provided, that (i) such Deliverables and/or Services as modified complies with scope of Services under the Agreement and (ii) the Consultant shall fully indemnify BIAL for any costs associated with any such action.

If the Consultant is unable to fulfill its obligations set forth in the preceding sentence despite its best efforts, BIAL shall have the right, at the sole cost and expense of the Consultant, to procure the right to continue the use of such infringing Deliverables and/or Services.

- 9.3 The Consultant shall defend, indemnify and hold the Indemnities harmless from and against any and all Liabilities arising or brought against or incurred by any Indemnity for (a) any injury to persons (including physical or mental injury, libel, slander and death) caused by (or relating to the strict liability of) the Consultant or its respective officers, employees, representatives, personnel or agents (“**Indemnifiers**”) (b) loss or damage to property, caused by (or relating to the strict liability of) the Indemnifiers (c) violations of Applicable Laws, Applicable Permits, codes, ordinances or regulations by the Consultant, (d) any claims arising out of or in connection with the Consultant’s obligations in accordance with and pursuant to Clause 11 (Confidentiality) or (e) any

other Liability or loss that shall have resulted from any negligent or wilful act, omission or default of the Indemnifiers.

9.4 This Section shall survive the expiry or termination of this Agreement.

## 10. OWNERSHIP

10.1 The tender documents, contracts, the specifications, the electronic data and other documents prepared by the Consultant for this Agreement are the Deliverables for use solely by BIAL.

10.2 The Consultant hereby assigns, transfers and conveys to BIAL (or undertakes to procure such assignment to BIAL) free of cost with full title guarantee and with effect from the date of this Agreement (or, in the case of materials not yet in existence, with effect from the creation thereof) and notwithstanding the completion or abandonment of the Services or termination or expiry of this Agreement, common law, statutory and other reserved rights, including the intellectual property rights, in the Consultant's materials and / or the Deliverables which have been developed by the Consultant for the Services or are hereafter prepared by or on behalf of the Consultant in the course of or for the purposes of performing its obligations under this Agreement.

10.3 If and to the extent that the Consultant demonstrates to the satisfaction of BIAL that an assignment as referred to in **Clause 10.2** above is not possible or is in any way not effective to vest full title in BIAL, the Consultant shall grant to BIAL free of cost an irrevocable, perpetual, royalty free, worldwide exclusive license to use the intellectual property in the Deliverables for any purpose whatsoever. Such license shall carry the right to grant sub-licenses and shall be freely assignable to any person.

10.4 The Consultant shall (and shall procure that each and every subcontractor of Consultant hereunder shall) execute any and all further documents and take any and all other actions requested by BIAL in order to perfect any assignment, transfer or licence of any such common law, statutory and other reserved rights, including the intellectual property rights, as required by this **Clause 10**.

10.5 BIAL shall retain all common law, statutory and other reserved rights, including the intellectual property rights in all drawings, plans, designs, programmes, diagrams, specifications, technical data, software, models, reports, calculations, documents or other items or materials created by or on behalf of BIAL and that are provided by or behalf of BIAL to Consultant for the performance of the Services.

10.6 If use of any part of the Deliverables is limited or prohibited, the Consultant shall procure the necessary licenses to use the infringing or a modified but non-infringing Deliverables or replace it with substantially equal but non-infringing Deliverables; provided, however:

10.6.1 that any such substituted or modified Deliverables shall meet all the requirements and be subject to all the provisions of this Agreement; and

10.6.2 that such replacement or modification shall not modify or relieve Consultant of its obligations under this Agreement.

## **11. NON - PERFORMANCE**

- 11.1 If the Consultant fails to comply with its obligations under this Agreement, the Consultant shall refund the Professional Fee already paid by BIAL, subject to deduction of mutually agreed Professional Fee for the actual partial service rendered.
- 11.2 The Parties recognize the expense and inconvenience likely to be incurred from any need to prove the loss and damage that will be suffered by BIAL, in the event of a failure by the Consultant to comply with its obligations under this Agreement.

## **12. CONFIDENTIAL INFORMATION AND NON-DISCLOSURE**

- 12.1 The Consultant acknowledges that, BIAL is the owner of the Confidential Information, whether in writing or oral or otherwise. The Consultant shall treat this Confidential Information (as hereinafter defined) as strictly confidential, and shall not use the same either for its own purpose or for that of third parties, and shall only use it on BIAL's instructions for rendering the Services. For the purposes of this Agreement, "Confidential Information" or 'Information' shall mean and include, information, manuals, data, drawings, books, records, agreements entered into by BIAL with third parties, photographs and documents, whether in hard copy or electronic form.

### **12.2 Confidentiality**

Both the Parties acknowledge that, any and all Confidential Information, including any commercial and technical information and data provided by one to the other, shall be considered to be confidential, and the Party receiving such Confidential Information, shall not, at any time, directly or indirectly disclose such Information to any person or firm, or use the same, in any manner, other than in connection with rendering the scope of Services contemplated under this Agreement, without the prior consent of the other Party. Neither the Consultant nor BIAL shall, unless otherwise agreed (which agreement may be on such general or specific terms as the Parties may determine), disclose to any third party any Confidential Information, which is the property of the other Party to this Agreement or which, otherwise, relates to its business, secrets, dealings, transactions or affairs or which, relates in any way, to either of the Parties unless, and to the extent that, such disclosure:

- 12.2.1 is reasonably required for the exercise or performance by either Party of its rights or obligations under this Agreement; or
- 12.2.2 is required pursuant to any relevant statutory or regulatory requirements or duties or any requirement of the Applicable Law.
- 12.2.3 is related to Information, which is already in the public domain, other than as a result of breach of this Clause, by the Party seeking to make such disclosure;

*Provided that*, in the case of any disclosure in accordance with **Clauses 12.2.1 or 12.2.2**, the Party disclosing such Information shall, so far as reasonably practicable, impose on the third party receiving such Information such obligations, as may be

appropriate to maintain its confidentiality.

- 12.3 Notwithstanding what is stated above or anywhere else in this Agreement, the Consultant agrees herein that, BIAL may share the contents of this Agreement and provide the Deliverables developed by the Consultant to such of BIAL's consultants involved in the expansion and augmentation of the existing infrastructure at the Airport.
- 12.4 The obligations under this Clause shall survive the termination of this Agreement for a period of three (3) years.

### **13. SUSPENSION & TERMINATION**

#### **13.1 Suspension**

BIAL may by written notice to the Consultant suspend at any time the performance of all or any portion of the Services to be performed under this Agreement. The Consultant shall cease work on such Services (or part thereof as specified in the notice) on the date stated in the notice, but shall continue to perform any unsuspended part of the Services. Upon receipt of notice to resume suspended Services, the Consultant shall resume performance under this Agreement to the extent required in the notice.

#### **13.2 Termination for Default by the Consultant**

BIAL shall be entitled to terminate this Agreement if:

- 13.2.1 the Consultant, without reasonable cause, fails to perform the Services or fails to perform the Services within the time schedule stipulated herein; or
- 13.2.2 the Consultant subcontracts the whole of the Services or assigns this Agreement or its obligations under this Agreement, without the required agreement / consent of BIAL; or
- 13.2.3 the Consultant fails to commence the Services or make progress so as to fail to meet the time schedule agreed to under this Agreement, or abandons the Services or plainly demonstrates an intention not to continue performance under this Agreement; or
- 13.2.4 the Consultant is ordered to be wound up by a court; the Consultant files a petition for voluntary winding up; or levy of an execution or restraint on the Consultant's assets; or appointment of a provisional liquidator, administrator, trustee or receiver of the whole or substantially whole of the undertaking of the Consultant by a court of competent jurisdiction; or
- 13.2.5 the Consultant is in breach of its obligations under this Agreement, which breach has a material adverse effect on BIAL and, if capable of remedy, is not remedied by the Consultant within thirty (30) days from the date of notice calling upon the Consultant to rectify the breach.

13.3 In any of these events or circumstances, BIAL may, upon giving thirty (30) days' written notice to the Consultant, terminate this Agreement and in the case of the events set forth in **Clause 13.1.4**, forthwith.

13.4 Termination for Cause

This Agreement may be terminated for cause by either Party upon not less than thirty (30) days' prior written notice, should the other Party fail substantially to perform its obligations in accordance with the terms of this Agreement, through no fault of the Party initiating the termination. This Agreement will automatically terminate on the thirty-first (31<sup>st</sup>) day following receipt of written notice under this Sub-clause, unless the Party receiving the notice, corrects or undertakes and diligently continues actions intended to correct its non-performance. If a Party receiving notice undertakes and diligently continues actions that are reasonably likely to correct its non-performance, such Party shall have an additional thirty (30) days to fully correct its non-performance. If a Party receiving the notice, corrects its non-performance within the initial or extended notice period under this Sub-clause, this Agreement will not terminate and the Parties shall proceed with uninterrupted performance of their contractual obligations. If a Party receiving notice fails to fully correct its non-performance, this Agreement will automatically terminate on the sixty-first (61<sup>st</sup>) day following receipt of written notice under this Sub-clause.

13.5 Termination for Convenience

BIAL may terminate or suspend this Agreement for the convenience of BIAL, upon not less than fifteen (15) days' prior written notice to the Consultant.

13.6 Termination for Abandonment

This Agreement may be terminated upon not less than three (3) days' prior written notice, in the event, the Project is permanently abandoned. Permanent abandonment occurs, if this Agreement is suspended for more than ninety (90) consecutive days: (1) by BIAL for any reason (except the Consultant's negligence); (2) by the Consultant under this Clause; or (3) by occurrence of any force majeure event. This Agreement automatically terminates on the third (3<sup>rd</sup>) day following receipt of written notice under this Sub-clause.

13.7 Consequences of Termination

The Consultant shall, upon termination of this Agreement:

13.7.1 immediately discontinue the performance of the Services on the date and to the extent specified in the notice;

13.7.2 promptly obtain cancellation upon terms satisfactory to BIAL of all subcontracts or any other agreements existing for the performance of the terminated Services, or assign those agreements as directed by BIAL;

13.7.3 hand over to BIAL all Deliverables, Confidential Information, documents, designs, etc., prepared by the Consultant under this Agreement, whether complete or in progress;

- 13.7.4 hand over all documents, information, materials, items and facilities provided by BIAL for or in connection with the performance of the Services; and
- 13.7.5 comply with other reasonable requests from BIAL regarding the terminated Services.

- 13.8 BIAL shall upon termination of this Agreement, pay the Consultant for any completed and accepted Services that remain unpaid as of the date of termination, after deducting any unadjusted advance, previously paid to the Consultant, provided further that in the event of termination by BIAL for default pursuant to **Clause 13.2** above, BIAL shall make the aforesaid payments after deducting any cost or damage incurred or suffered by BIAL as a result of such default.
- 13.9 The Consultant shall pay any costs and damages incurred or suffered by BIAL as a result of its default within seven (7) days of a written demand therefor, from BIAL. BIAL may at its option call upon any securities and guarantees provided to BIAL pursuant to this Agreement, for any such amount.
- 13.10 The rights of BIAL to terminate this Agreement as aforesaid is without prejudice to its other rights, powers and remedies available at law or under contract. Termination of this Agreement shall not prejudice or affect the accrued rights, claims and liabilities of the Parties.
- 13.11 If the Project is suspended, the Professional Fee shall be equitably adjusted to provide for reasonable fees, costs and expenses incurred in the interruption and resumption of the Services, when the Project is resumed.

#### **14. DISPUTE RESOLUTION / ARBITRATION**

##### Disputes

Any controversy, claim, cause of action, demand or other dispute arising out of or relating to this Agreement (collectively the “Dispute”) shall be resolved as follows:

##### **14.1 Attempt to Resolve**

BIAL and the Consultant will seek to amicably resolve all Disputes arising between them. If BIAL and the Consultant cannot resolve the Dispute within thirty (30) days of service of notice in writing, by one Party to the other Party to meet to resolve the Dispute or such a period as BIAL and the Consultant may subsequently agree, then it shall be submitted to their respective designated representatives under this Agreement.

##### **14.2 Reference to Arbitrator**

Any Dispute, which the Parties are unable to resolve pursuant to **Clause 14.1** within thirty (30) days (or such longer period as the Parties may agree) of the written notification by one Party to the other of the existence of a Dispute, shall be finally

determined by arbitration in accordance with the Indian Arbitration and Conciliation Act 1996 by three (3) arbitrators appointed in the manner stipulated below:

#### *14.2.1 Selection of Arbitrators*

Arbitration will be held before three arbitrators. BIAL and the Consultant will each appoint one (1) arbitrator with the third arbitrator to be chosen by mutual agreement of the two (2) arbitrators previously chosen. All arbitration proceedings will take place in Bangalore and shall be conducted in English. The decision of the tribunal is final and binding upon the Parties (and enforceable against them). All the arbitrators must be experienced in resolving large-scale construction-related disputes. No arbitrator shall be the present or former employee or agent of, or consultant or counsel to either Party or in any way, related or closely connected with the Parties.

#### *14.2.2 Attorneys' Fees*

Each Party shall pay the expenses of the arbitration and the eventual liability for the costs shall be in terms of the arbitral award.

#### *14.2.3 Finality of Award*

The award rendered by the arbitrators shall be final, and judgment may be entered upon it in accordance with the Applicable Law in any Court having jurisdiction thereof. This Agreement to arbitrate and any agreement to arbitrate with an additional person or entity duly consented to by the Parties to this Agreement, shall be specifically enforceable under the prevailing arbitration law. This Agreement to arbitrate extends to all subsequent contracts between the Parties arising out of or related in any way to the Project.

### **15. INSURANCE**

The Consultant shall maintain Professional Liability insurance for a sum of Rupees \_\_\_\_\_ only (Rs. \_\_\_\_\_/-). The Consultant shall provide to BIAL, insurance certificate(s) showing compliance with these requirements, and providing that, the required coverage and limits shall not be cancelled without thirty (30) days' prior written notice to BIAL.

### **16. CORRECTION OF ERRORS AND OMISSIONS**

If any errors or omissions occur in the Deliverables, the Consultant shall, as a part of the Services, perform or re-perform the Service required to investigate, correct, document and process remedies of such errors and omissions, without any additional cost to BIAL.

**17. REPRESENTATIONS, WARRANTIES AND COVENANTS**

Each Party represents and warrants to the other that as of the Effective Date and for duration of the term of this Agreement, the following representations and warranties shall remain true, complete and valid:

- 17.1 it is a company duly incorporated and validly existing under (i) the Applicable Laws of India, in the case of BIAL; and (ii) the Applicable Laws of [\_\_\_\_\_], in the case of the Consultant;
- 17.2 it has the necessary, power and authority and has taken all actions necessary to validate, execute and deliver this Agreement and perform its obligations hereunder;
- 17.3 its obligations under this Agreement will be legally valid and binding and enforceable against it;
- 17.4 the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, or constitute a default under, or accelerate any performance required under the terms of agreement, understanding, covenant, or any decree or order to which it is a party or by which it or any of its properties or assets is bound or affected and does not result in a violation of any Applicable Law.

**18. MISCELLANEOUS PROVISIONS**

**18.1 Submission of invoices and Deliverables**

All invoices for payment and the Deliverables shall be addressed to and marked as detailed under:

Bangalore International Airport Limited  
Project Office  
Bengaluru International Airport  
Devanahalli  
Bangalore 560 300  
Kind Attn: Director/Head-Projects  
Reference: <Insert Package Name>-

Submission of all such invoices and Deliverables shall be treated as valid only if it is submitted in accordance with the procedure mentioned above and subject to verification and acceptance by BIAL.

**18.2 Assignment and Delegation**

Neither this Agreement nor any duties or obligations under this Agreement may be assigned or delegated by the Consultant without the prior written consent of BIAL.

**18.3 Governing Law**

This Agreement shall be construed, and the legal relations between the Parties hereto shall be determined, in accordance with the laws in India.

**18.4 Counterparts**

This Agreement shall be executed in two (2) counterparts, each of which shall be deemed as original; but, all of this together shall constitute one (1) and the same instrument.

18.5 Entire Agreement

This Agreement supersedes any and all agreements, either oral or in writing, between the Parties hereto with respect to the rendering of Services by the Consultant to BIAL, and contains all of the covenants and agreements between the Parties with respect to the rendering of such services in any manner whatsoever. Each Party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which is not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

18.6 Partial Invalidity

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force, without being impaired or invalidated in any way.

18.7 Amendment

Any amendment to this Agreement shall become valid only if it is in writing and signed by both the Parties.

18.8 Notices

Any notices to be given hereunder by either Party to the other may be effected either by personal delivery or by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices shall be addressed to the parties at their addresses mentioned above, but each party may change that address by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of the date of actual receipt; mailed notices shall be deemed communicated as of three (3) days after the date of mailing.

18.9 Force Majeure

Neither of the Parties shall be held responsible for any delay or failure in performance hereunder caused by fire, strikes of third party's personnel, embargoes, requirements imposed by the Governmental, civil and military authorities, acts of God or by public enemy or other similar causes beyond such Party's reasonable control without fault or negligence.

18.10 Survival of Clauses

All terms, conditions and provisions of this Agreement, which by their nature are independent of the period of performance, shall survive the cancellation, termination, expiration, default or abandonment of this Agreement.

18.11 Any failure or delay by a Party in insisting upon the strict performance of any terms or conditions of this Agreement, or exercise any rights or remedies provided herein or by law, or to invoke any security or guarantee hereunder or notify a breach, or the

acceptance of any payment hereunder, shall not construed as a waiver of any right or remedy of such Party hereunder.

IN WITNESSES WHEREOF, the Parties have signed this Agreement on the date, month and year first above written in the presence of the following witnesses:

<b>BANGALORE INTERNATIONAL AIRPORT LIMITED</b>	<b><i>[Insert Consultant's name]</i></b>
By	By
Name:	Name: [_____]
Title:	Title: [_____]
In the presence of:	In the presence of:
Witness:	Witness:
Name:	Name:
Address:	Address:

**SCHEDULE A - SCOPE OF SERVICES AND DELIVERABLES**  
*Attached as a ANNEXURE-1 OF THIS RFP*

## SCHEDULE B - TIME SCHEDULE

*Note: Bidder to indicate the time schedule for the proposed Services in this section which shall be subject to further discussion and finalization during bid clarification and negotiation meetings based on actual requirement.*

## SCHEDULE C - PROFESSIONAL FEE AND PAYMENT TERMS

*Note: Bidder to indicate the breakup of Professional fee and indicate tentative payment schedule for this work which shall be subject to further discussion and agreement during negotiation meetings.*

## SCHEDULE D - DEPLOYMENT SCHEDULE

*Note: Bidder to indicate the manpower deployment schedule for the proposed Services in this section which shall be subject to further discussion and finalization during bid clarification and negotiation meetings based on actual requirement.*

<b>1</b>	<b>Applicant</b>	
1.1	Full Name	
1.2	Jurisdiction of Incorporation	
1.3	Registration Number	
1.4	Registered Address	
	Please attach:	
1.5	Current registration certificate	
1.6	Most recent audited accounts, year ending:	
<b>2</b>	<b>Parent Company providing Guarantee (if applicable)</b>	
	If you are a subsidiary within a group of companies, we seek a parent company guarantee of your performance of this services agreement; otherwise this Section 2 is not applicable	
2.1	Name of Parent providing Guarantee	
2.2	Jurisdiction of Incorporation	
2.3	Registration Number	
2.4	Registered Address	
	Please attach:	
2.5	Current registration certificate	
2.6	Most recent audited accounts, year ending:	
<b>3</b>	<b>Contact Person for this Consultancy Services Agreement</b>	
3.1	Name	
3.2	Address for Courier	
3.3	Office Phone	
3.4	Mobile Phone	
3.5	Fax	
3.6	E-mail Address	
<b>4</b>	<b>Bank Providing Tender, Other Bonds &amp; insurances (if applicable)</b>	
4.1	Name of Bank	
4.2	Branch of Bank	
4.3	Please attach letter from bank confirming its willingness to provide bonds in the specified forms	
<b>5</b>	<b>Disclosure of Interests</b>	
	Please disclose here any beneficial financial interest which exists, or may exist, between yourselves and the following or their affiliates:	
5.1	BIAL	
5.2	The GVK group of companies	

<b>6</b>	<b>Certifications &amp; Procedures</b>	
	Please attach your current corporate Quality Procedure, Safety Manual and certification(s) for:	
6.1	Quality, eg ISO 9000	
6.2	Environmental Management, eg ISO 14000	
6.3	Other relevant certifications	

<b>7</b>	<b>Reference Project # 1 (works of similar nature, scale, complexity and time constraints, and executed in a region with a similar climate)</b>	
7.1	Employer	
7.2	Main Contractor	
7.3	Project #	
7.4	Project Name	
7.5	Approximate Value of Consultancy Services agreement	
7.6	Start Date - Completion Date: Planned & Actual	
7.7	Brief Description & Indicative Quantities	
7.8	Reference Contact, Name & Phone	

<b>8</b>	<b>Reference Project # 2 (works of similar nature, scale, complexity and time constraints, and executed in a region with a similar climate)</b>	
8.1	Employer	
8.2	Main Contractor	
8.3	Project #	
8.4	Project Name	
8.5	Approximate Value of Consultancy Services agreement	
8.6	Start Date - Completion Date: Planned & Actual	
8.7	Brief Description & Indicative Quantities	
8.8	Reference Contact, Name & Phone	

<b>9</b>	<b>Reference Project # 3 (works of similar nature, scale, complexity and time constraints, and executed in a region with a similar climate)</b>	
9.1	Employer	
9.2	Main Contractor	
9.3	Project #	
9.4	Project Name	
9.5	Approximate Value of Consultancy Services agreement	
9.6	Start Date - Completion Date: Planned & Actual	
9.7	Brief Description & Indicative Quantities	
9.8	Reference Contact, Name & Phone	

<b>10</b>	<b>Current Commitments (for each project currently on hand of a similar nature, please list the following information)</b>			
	Project Identification	Expected Completion Date	Outstanding Value, (INR)	Key Personnel Involvement
10.1				
10.2				
10.2				
10.4				
10.5				
10.6				

<b>11</b>	<b>Litigation &amp; Arbitration History</b>					
	Please provide the following information upon each litigation and arbitration in which you were a party in the years 2004 to 2006 inclusive; in descending order of combined amount in dispute:					
	Claimant or Respondent?	Claim Amount	Counterclaim Amount	Arbitration or Litigation?	Date Commenced	Date Concluded
11.1						
11.2						
11.3						
11.4						
11.5						
11.6						
11.7						
11.8						
11.9						
11.10	Remainder as Claimant					
11.11	Remainder as Respondent					

<b>12</b>	<b>Assumptions, Exceptions and Deviations in the proposed tender</b>
12.1	Identify here any provision(s) of the attached documents proposing your assumptions, exceptions and deviations to tender:
12.2	Identify here any provision(s) of the attached document which materially increases your price:

<b>13</b>	<b>Authorized Representative Certificate</b>	
	After carefully studying the Invitation to Tender, the intended form of Consultancy Services agreement and their attachments, all necessary enquiry, and obtaining all necessary corporate authorities, I hereby:	
13.1	certify that the information in and attached to this Qualification Questionnaire (including any Joint Venturers' information) is in all respects complete and correct	
13.2	confirm that we are willing and able to tender, negotiate, execute and perform the proposed Consultancy Services agreement, and to provide the Tender Bond, indemnity and insurances and, if applicable, Parent Company Guarantee	
13.3	undertake that, we will provide a competitive and good faith tender for the whole of the proposed Consultancy Services agreement	
	Full Name	Signature
	Position	
	Company	
	Date	