



Government of Nepal  
Ministry of Industry, Commerce and Supplies  
Nepal Intermodal Transport Development Board

## BIDDING DOCUMENT

### OPERATION AND MANAGEMENT OF KAKARBHITTA ICD

Contract Identification No: NITDB- O&M- ICB -03 (FY 2020/021)

Date of issue: ..... [day-month-year]

Bid Document issued to: .....

.....

.....

Employer: Nepal Intermodal Transport  
Development Board

Country: Nepal

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## Abbreviations

BOQ	Bill of Quantities
CFS	Container Freight Station
CTD	Customs Transit Declaration
DOC	Department of Customs
EDI	Electronic Data Interchange
EQC	Evaluation and Qualification Criteria
EXP	Experience
FEU	Forty Foot Equivalent Unit (40 foot long container)
FIN	Financial
GCC	General Conditions of Contract
GoN	Government of Nepal
ICD	Inland Clearance Depot
ICP	Integrated Check Post
ITB	Instructions to Bidders
JV	Joint Venture
LIT	Litigation
MLR	Minimum Lease Rent payable to the Lessor
MOICS	Ministry of Industry, Commerce and Supplies
NITDB	Nepal Intermodal Transport Development Board
NPR	Nepalese Rupees
NST	Nepal Standard Time (5 hrs and 45 minutes faster than Coordinated Universal Time)
O&M	Operation and Maintenance
PAN	Permanent Account Number
PPA	Public Procurement Act
PPMO	Public Procurement Monitoring Office
PPR	Public Procurement Regulations
RSI	Revenue Share on Income payable to the Lessor
SCC	Special Conditions of Contract
SEZ	Special Economic Zone
TEU	Twenty Foot Equivalent Unit (20 foot long container)
TMC	Terminal Management Company
VAT	Value Added Tax

# **PART I: BIDDING PROCEDURES**

NOT FOR SALE

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NOT FOR SALE

**Section 1: Invitation for Bids**

Government of Nepal  
Ministry of Industry, Commerce and Supplies  
Nepal Intermodal Transport Development Board  
Kupondole, Lalitpur, Nepal

**Invitation for Bids**

First date of publication: 16<sup>th</sup> August 2020

Name of Contract: Operation and Management of Kakarbhitta ICD

Contract No: NITDB- O&M- ICB -03 (FY 2020/021)

Deadline of Bid Submission: On or before 12:00 hours of 30<sup>th</sup> September, 2020

1. The **Nepal Intermodal Transport Development Board** (NITDB) invites sealed bids from eligible and qualified bidders to lease out its premises for the Operation and Management of Kakarbhitta ICD for 5 year located at Ward No. 6, Mechinagar Municipality, Jhapa District, Nepal, under International Competitive Bidding (ICB) Procedure in compliance with NITDB's Terminal Lease Out Regulation-2070.
2. The ICB bidding procedures shall follow "single stage two envelopes system": comprising of a Technical Proposal and Financial Proposal that shall be placed in a sealed envelope with each proposal sealed separately.
3. Eligible Bidders may obtain further information and inspect the Bidding Documents at NITDB's Office, Kupondole, Lalitpur and may visit its website [www.nitdb.gov.np](http://www.nitdb.gov.np).
4. All eligible bidders should have following key qualifications to participate in this bidding:
  - Management/Operational Experience: Experience in port management/Freight Station terminal operation management/warehousing/transportation/ clearing and forwarding/Freight Forwarding/Railway operation, of minimum five(5) years
  - Financial Strength: Average annual Turnover for the last three (3) years of minimum NRs 27,200,000.00( in words Nepalese Rupees Twenty Seven Million Two Hundred Thousand Only)
  - In case of joint venture between two or more companies: Validity of JV arrangement.
5. A complete set of Bidding Documents can be purchased from the NITDB office at Kupondole, Lalitpur or from Bilateral and Regional Trade Division, Ministry of Industry, Commerce and Supplies, Singh Durbar, Kathmandu by eligible Bidders on the submission of a written application, along with the copy of company/firm registration certificate and upon submission of a bank voucher for a non-refundable fee of Nepalese Rupees 15,000 deposited at NITDB's account no. 1202002-001-007-524 *with Nepal Rastra Bank, Banking Office, Bahubatar, Kathmandu*. If so requested by the Bidder, the Bidding Documents may also be sent by post/courier services upon payment of an additional amount of NRs. 2,500.00. However, the Employer will not be responsible for delay or non-delivery of the documents so sent. The bidding document shall be available on or before 29<sup>th</sup> September, 2020 during office hours, to the eligible bidders.
6. The pre-bid meeting shall be held on 14<sup>th</sup> September, 2020 at 11:00 hours at NITDB, Kupondole, Lalitpur. In case the date of pre-bid meeting falls on a public holiday, then it will be held on the following working day.
7. Bids must be valid for at least 120 days from the bid opening date and must be accompanied by a bid security of not less than Nepalese Rupees 2,265,000.00(in words Two Million Two Hundred Sixty Five Thousands Rupees only), issued in favour of NITDB by any commercial bank ('A' class) of Nepal. The bid security issued by any foreign Bank outside Nepal must be counter guaranteed by any commercial bank ('A' class) of Nepal. The bid security shall be submitted along with technical proposal and should be valid for at least 150 days from the deadline of bid submission.



8. Bid must be submitted on or before **12:00 Hrs. Nepalese Standard Time of 30<sup>th</sup> September, 2020** at NTIDB office, Kuponole, Lalitpur, Nepal. Any requests for withdrawal or modifications of the bids are entertained only prior to the bid submission deadline. If the last date of bid submission and opening falls on a public holiday, then the next working day shall be considered as the last day.
9. The bids shall be opened at **13:00 hrs of 30<sup>th</sup> September, 2020** in the presence of the bidder's representatives who choose to attend.
10. NTIDB reserves the right to accept or reject, wholly or partly any or all the bids without assigning any reason, whatsoever.
11. Bidders are strongly advised to visit the site on their own cost and to assess the actual site conditions before submitting their Bid.
12. NTIDB will not be responsible for any costs or expenses incurred by Bidders in connection with the preparation or delivery of Bids.

NOT FOR SALE

## Section 2: Instructions to Bidders

### A. General Provisions

#### 1. Definitions

1.1. Unless the context otherwise requires, the following terms whenever used in this bidding document have the following meanings.

- a) "Applicable Law" means the laws and any other instruments having the force of law in Nepal, as they may be issued and in force from time to time.
- b) "Applicable Guidelines" are Nepal Intermodal Transport Development Board Formation Order 2054 and Terminal Leasing Regulations 2070 issued in Nepali language.
- c) "Base Year" is the Nepalese Fiscal Year (a year starting from the fourth month of the calendar based on Bikram Sambat) immediately preceding the year on which the ITB is issued.
- d) "Bid" means the combination of the Technical Proposal and the Financial Proposal of the Bidder in response to the ITB issued by the Employer.
- e) "Bidder" means a legally-established and professional Service providing company from an Eligible Country, which could be a private entity, state-owned enterprise or institution subject to **ITB 4.6** or any combination of such entities, in the form of a joint venture under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent, desirous to provide the Services to the Employer under the Contract.
- f) "Clarified Technical Proposal" means the Technical Proposal after all clarifications accepted by the Evaluation Committee. The clarified Technical Proposal finalized at the end of Technical Evaluation as per **ITB 28.4** will remain unaltered throughout the Contract Duration.
- g) "Contract" means a legally binding written agreement signed between the Lessor and the TMC for Services at the Terminal and includes all the documents listed in the **Bid Data Sheet**.
- h) "Contract Period" is the duration of the Contract as specified in **Bid Data Sheet**.
- i) "Bid Data Sheet" means the table as per **Section 3**, used to reflect assignment conditions to supplement, but not to overwrite the provisions of the ITB.
- j) "Eligible countries" are the countries listed in the **Bid Data Sheet**.
- k) "Employer" or the "Lessor" is Nepal Intermodal Transport Development Board.
- l) "Equipment" are the equipment listed in the **Section 6, TOR**

- D.1.1** to be brought and deployed by the TMC throughout the Contract Duration. The rental fee of the equipment is covered by the fee charged to the users of the Terminal.
- m) "Government" means the Government of Nepal.
  - n) "Information to Bidders" means the information provided under **Appendix G** to the bidding document.
  - o) "ITB" is Instruction to Bidders prepared and issued by the Employer for the selection of TMC. This also referred to as Bidding Document.
  - p) "JV" means Joint Venture which is an association of more than one Company. The members of the JV are jointly and severally liable to the Lessor for the content of the Proposal. Maximum number of JV partners shall be as stated in **Bid Data Sheet**.
  - q) "Letter of Acceptance" means the formal acceptance of the Bid by the Employer. Following the issuance of Letter of Acceptance, the successful Bidder is invited to sign the Contract.
  - r) "Letter of Intent" is the letter of the Employer expressing his intention to award the Contract.
  - s) "MLR" means Minimum Lease rent the TMC has pledged to pay to the Lessor as per **FIN-2A** of Financial Proposal.
  - t) "Personnel" means key-personnel as listed in **Section 4 Form TECH-12 and Section 6 TOR D.1**. non-key personnel, experts, or any other personnel of the TMC, its Sub-contractor or JV members subject to applicable law.
  - u) "RSI" is the Revenue Share on Income that TMC has pledged to pay to the Lessor as per **FIN-2B** of Financial Proposal.
  - v) "Services" means the operation, maintenance and management of the Terminal as well as associated tasks to be performed by the TMC pursuant to the Contract.
  - w) "Sub-contractor" means a legal person or entity to whom the TMC intends to sublet subject to the approval of the Lessor, any part of the Services, while remaining responsible to the Lessor during the performance of the Contract.
  - x) "Terminal" is the facility mentioned in the **Bid Data Sheet** intended to be leased out. It includes all fixed assets, movable assets and equipment belonging to the Lessor within the area covered and includes any replacement, substitute, improvements or additional equipment, plant, buildings and property installed or provided in accordance with this ITB or otherwise by the Lessor.
  - y) "TMC" or "Lessee" is the Terminal Management Company, which after the completion of the bid selection and issuance of notification of award by the Employer will duly get

registered at the concerned authority of Nepal and eventually will sign a Contract with the Lessor to render the Services at the Terminal.

- z) "TOR" means the Terms of Reference which is the description explaining the objectives, scope of work, activities, and tasks to be performed, responsibilities of the TMC, expected results and deliverables of the assignment as elaborated in **Section 6**.
- aa) "User" refers to any person, or company entering the Terminal to use the facilities and services provided in it. The term does not include the Lessor, TMC, Customs Office, Police detachment and government agencies stationed or visiting the Terminal to discharge their official duty.

## 2. Scope of Bid

2.1. In connection with the Invitation for Bids indicated in the **Bid Data Sheet**, the Employer issues this Bidding Document for operation, maintenance and management of a terminal as specified in **Section 6**. The name, identification, and number of Contracts of the Bids are provided in the Data Sheet.

2.2. The Employer intends to select a Bidder in accordance with the basis of selection as specified in the **Bid Data Sheet** and by following Applicable Guidelines and procedure.

2.3. A complete set of Bidding Document may be obtained as explained in the **Bid Data Sheet**.

2.4. Bidders are invited to submit sealed Bid containing a Technical Proposal and a Financial Proposal in separate sealed envelopes, for the Services of the Terminal

2.5. The Employer will timely provide, at no cost to the Bidder, all relevant inputs and data required for the preparation of the Bid as specified in the **Bid Data Sheet**.

2.6. Throughout this Bidding Document:

- a) the term "in writing" means communicated in written form and delivered against receipt;
- b) except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular; and
- c) "Day" means a calendar day as per Bikram Sambat based Nepalese calendar.

## 3. Corrupt and Fraudulent Practices

3.1 The Government requires that the Bidders, Employer and the Contractor as well as their agents, suppliers, and sub-contractors shall adhere to the highest standard of ethics during the procurement and execution of such contracts. In this context, the Employer;

- a) defines, for the purposes of this provision, the terms set forth below as follows:
  - i) "corrupt practice" means the offering, giving,

receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;

- ii) “fraudulent practice” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
  - iii) “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
  - iv) “collusive practice” means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.
  - v) “obstructive practice” means:
    - aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
    - bb) acts intended to materially impede the exercise of the inspection and audit rights provided for under **sub-clause 3.5** below.
  - b) will reject bid(s) if it determines that the Bidder has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
  - c) will sanction a firm or individual, including declaring ineligible, for a stated period of time, to be awarded a contract if it at any time determines that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for, or in executing a contract.
- 3.2. The Bidder shall not carry out or cause to carry out the following acts with an intention to influence the implementation of the procurement process or the procurement agreement:
- a) give or propose improper inducement directly or indirectly,
  - b) distortion or misrepresentation of facts,

- c) engaging in corrupt or fraudulent practice or involving in such act,
- d) interference in participation of other competing bidders,
- e) coercion or threatening directly or indirectly to cause harm to the person or the property of any person to be involved in the procurement proceedings,
- f) collusive practice among bidders before or after submission of bids for distribution of works among bidders or fixing artificial/uncompetitive bid price with an intention to deprive the Employer the benefit of open competitive bid price,
- g) Contacting the Employer with an intention to influence the Employer with regards to the bids or interference of any kind in examination and evaluation of the bids during the period from the time of opening of the bids until the notification of award of contract.

3.3. Public procurement Monitoring Office (PPMO) on the recommendation of the Employer may blacklist a Bidder for a period of one (1) to three (3) years for its conduct including the following grounds and seriousness of the act committed by the bidder:

- a) if convicted by a court of law in a criminal offence which disqualifies the Bidder from participating in the contract,
- b) if it is established that the contract agreement signed by the Bidder was based on false or misrepresentation of Bidder's qualification information,

3.4. A bidder declared blacklisted and ineligible by the Employer or the PPMO, shall be ineligible to bid for a contract during the period of time determined by the Employer or the PPMO.

3.5. The TMC shall permit the Lessor to inspect the Contractor's accounts and records relating to the performance of the Contractor and to have them audited by auditors appointed by the Lessor, if so required by the Lessor.

#### 4. Eligibility

4.1. Only the Bidders, as defined in **Bid Data Sheet**, are allowed to submit a Bid in response to the ITB. A Bidder may be a firm that is a private entity, a state-owned enterprise or institutions subject to ITB 4.6 or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. In the case of a JV:

- a) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms. The qualification requirements of the parties to the JV shall be as specified in the **Bid Data Sheet**, and
- b) the JV shall nominate a Representative who shall have the

authority to conduct all business for and on behalf of any and all the parties of the JV during the bidding process and, in the event the JV is awarded the Contract, during Contract execution.

- 4.2. A Nepalese Bidder or a Nepalese JV member should have obtained a Permanent Account Number (PAN), Value Added Tax (VAT) registration and Tax Clearance Certificate from the Inland Revenue Office and a self-declaration of not being convicted as per the prevailing laws of the Nepal to be eligible.
- 4.3. A non-Nepalese Bidder or a non-Nepalese JV company should submit a self-declaration as per Attachment 5 to TECH-1, that it is duly incorporated and has cleared applicable taxes as required by the laws of the country of incorporation.
- 4.4. It is the Bidder's responsibility to ensure that its JV members, sub-contractors, agents, service providers, suppliers and personnel meet the eligibility requirements under the Applicable Laws of Nepal.
- 4.5. A Bidder shall not have a conflict of interest. A Bidder found to have a conflict of interest shall be disqualified. A Bidder may be considered to be in a conflict of interest with one or more parties in this bidding process, if:
  - a) they have controlling partners in common; or
  - b) they receive or have received any direct or indirect subsidy from any of them; or
  - c) they have the same legal representative for purposes of this bid; or
  - d) they have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Bid of another Bidder, or influence the decisions of the Employer regarding this bidding process; or
  - e) a Bidder participates in more than one bid in this bidding process. Participation by a Bidder in more than one Bid in this bidding process will result in the disqualification of all Bids in which the party is involved. However, this does not limit the inclusion of the same sub-Contractor in more than one bid; or
  - f) a Bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the Contract that is the subject of the Bid; or
  - g) a Bidder or any of its affiliates has been hired (or is proposed to be hired) by the Employer as Engineer for the Contract.
- 4.6 Further eligibility requirements:
  - a. **State Owned** 4.6.1 Bidders that are state-owned enterprises or institutions in the Employer's Country

- Enterprises** may be eligible to compete and subsequent Contract(s) (award only if they can establish the following:
- a) In a manner acceptable to the Employer, that they: (i) are legally and financially autonomous, (ii) operate under commercial law, and, (iii) are not under supervision of the Employer.
  - b) Provide documentary evidence of eligibility, which the Employer shall reasonably request, satisfactory to the Employer.
  - c) Not under suspension from Bidding by the Employer as the result of the operation of a Bid Securing Declaration.
- b. Sanctions** 4.6.2 A Bidder sanctioned by the Employer shall be ineligible to be awarded the Contract, or to benefit from the Contract, financially or otherwise, during such period of time as the Employer shall determine. The list of debarred Bidders and individuals is available at the electronic address specified in the **Bid Data Sheet**.
- c. Prohibition** 4.6.3 Bidders and individuals of a country or goods manufactured in a country may be ineligible if so indicated in **ITB 1.1 (j)** and **ITB 4.1** and as a matter of law or official regulations prohibits commercial relations with that country.
- d. Restrictions for Public Employees** 4.6.4 The following restriction apply on hiring public employee:
- i) Individuals working as permanent employee for the Government or the Employer are not eligible to be included as the Bidder's personnel, sub-contractor or any of its affiliates.
  - ii) In case of resigned or retired individuals from Government or the Employer, the resignation or retirement should precede the issuance of the ITB, for a period of at least six months, or the period established by statutory provisions in Nepal.
  - iii) Individuals with semi-governmental organizations are only eligible if their



hiring would not create a conflict of interest.

## B. Contents of Bidding Document

5. **Sections of Bidding Document**
- 5.1. The Bidding Document consist of Parts I, II, and III, which include all the Sections indicated below, and should be read in conjunction with any Addenda issued in accordance with **ITB 7.1**.
- PART I Bidding Procedures
    - Section 2- Instructions to Bidders (ITB)
    - Section 3- Bid Data Sheet
    - Section 4- Technical Proposal Forms
    - Section 5- Financial Proposal Forms
  - PART II Requirements
    - Section 6- Terms of Reference (TOR)
    - Appendix (A to G)
  - PART III Conditions of Contract and Contract Forms
    - Section 7- General Conditions of Contract (GCC)
    - Appendix (B to F)
    - Section 8- Special Conditions of Contract (SCC)
    - Appendix H
- 5.2. The Invitation for Bids issued by the Employer is not part of the Bidding Document.
- 5.3. The Employer is not responsible for the completeness of the Bidding Document and their Addenda, if they were not obtained directly from the source stated by the Employer in the Invitation for Bids.
- 5.4. The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Document. Failure to furnish all information or documentation required by the Bidding Document may result in the rejection of the bid.
6. **Clarification of Bidding Document, Site Visit, Pre-Bid Meeting**
- 6.1. Before preparing the Bid, Bidders are expected to examine the Bidding Document in detail. The Bidding Document is available for viewing at the address in **Bid Data Sheet**.
- 6.2. A prospective Bidder requiring any clarification on the Bidding Document shall contact the Employer in writing at the Employer's address indicated in the **Bid Data Sheet** or raise any question or curiosity during the pre-bid meeting if provided for in accordance with **ITB 6.5**. The Employer shall be required to make available as soon as possible the answer to such question or curiosity in writing to any request for clarification, provided that such request is received as mentioned in **Bid Data Sheet**. The Employer shall forward copies of its response to all Bidders who have acquired the Bidding Document in

accordance with **ITB 6.7**, including a description of the inquiry but without identifying its source. Should the Employer deem it necessary to amend the Bidding Document as a result of a request for clarification, it shall do so following the procedure under **ITB 7** and not through the minutes of the pre-bid meeting.

- 6.3. The Bidder is encouraged to visit and examine the Terminal and its surroundings and obtain for itself, on its own risk and responsibility, all information that may be necessary for preparing the Bid. The costs of visiting the Site shall be at the Bidder's own expense.
- 6.4. The Bidder and any of its personnel or agents will be granted permission by the Employer to enter the Terminal for the purpose of such visit, but only upon the express condition that the Bidder, its personnel, and agents will release and indemnify the Employer and its personnel and agents from and against all liability in respect thereof, and will be responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the inspection.
- 6.5. The Bidder's designated representative is invited to attend a pre-bid meeting, if provided for in the **Bid Data Sheet**. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 6.6. The Bidder is requested, to submit any questions in writing, to reach the Employer for clarification as mentioned in **Bid Data Sheet**.
- 6.7. Minutes of the pre-bid meeting, including the text of the questions raised, without identifying the source, and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Bidders who have acquired the Bidding Document in accordance with **ITB 2.3**.
- 6.8. Nonattendance at the pre-bid meeting will not be a cause for disqualification of a Bidder.

## 7. Amendment of Bidding Document

- 7.1. At any time prior to the deadline for submission of Bids, the Employer may amend the Bidding Document by issuing addenda.
- 7.2. Any addendum issued shall be part of the Bidding Document and shall be communicated in writing to all who have obtained the Bidding Document from the Employer in accordance with **ITB 2.3**.
- 7.3. Any written request for clarification registered at the Employer's office or that sent through fax or email at the address indicated in the **Bid Data Sheet** will be considered received by the Employer if no automated error message is received back.
- 7.4. Similarly, the Employer's response sent through fax or email at

the address mentioned on the Bidder's application for obtaining the Bidding Document shall be considered received by the Bidder if no automated error message is received back.

- 7.5. To give prospective Bidders reasonable time in which to take an addendum into account in preparing their bids, the Employer may, at its discretion, extend the deadline for the submission of bids, pursuant to **ITB 21.2**

### C. Preparation of Bids

- 8. Cost of Preparation of Bid** 8.1. The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Employer shall in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process
- 9. Language** 9.1. The Bid, as well as all correspondence and documents relating to the Bid exchanged between the Bidder and the Employer, shall be written in English language.
- 10. Documents Comprising the Bid** 10.1 The Bid shall comprise the documents and forms listed in the **Bid Data Sheet**.
- 10.2 The Bidder shall furnish information on commissions, gratuities, and fees, if any, paid or to be paid to agents or any other party relating to this Bid and, if awarded, Contract execution, as requested in the Financial Proposal submission form.
- 11. Technical Proposal** 11.1 Technical Proposal shall be prepared using the Standard Forms provided under **Section 4** of this document
- 11.2 Submission of Technical Proposal in a wrong format shall lead to the Bid being deemed non-responsive
- 11.3 To minimize correspondence for clarification, each forms shall be substantiated in details with necessary attachments.
- 12. Financial Proposal** 12.1 Financial Proposal shall be prepared using the Standard Forms provided under **Section 5** of this document. Following Sub clauses shall be complied to during performance of the Services:
- 12.1.1 Ceiling on Base Year User Fee: The TMC shall have the right to charge the Users of the Terminal, a User Fee. Ceiling of such fee of the Base Year is provided under **Section 6**.
- 12.1.2 Periodic Increment of User Fee: The TMC shall have the right to charge the Users of the Terminal a fixed percentage over the Base Year User Fee as provided in **Section 6**.
- 12.1.3 Value Added Tax: A Value Added Tax (VAT) shall be levied on the User Fee and on any increment added to it as per the Law being enforced. VAT shall be deposited at suitable Inland Revenue Office as per

applicable Law.

12.1.4 The users of the Terminal shall not be charged more than the User Fee, with the Periodic Increment if any, and applicable tax.

12.1.5 Minimum Lease Rent: The proposed MLR submitted by the Bidder shall in no case be less than that stated **Section 6**. The MLR shall be paid on a monthly instalment basis or as agreed with the Employer.

12.1.6 Revenue Share on Income: The Bidder shall propose to share Revenue on the basis of increment in Container Traffic and Standard Bulk as well as on Break Bulk cargo traffic. Sharing shall be at the rate and frequency as specified in the **Section 6**.

12.1.7 Taxes: The Proposal shall not include taxes and duties applicable as per the prevailing law of Nepal.

12.1.8 Investment and remittance: Bidders are required to provide detailed breakdown of foreign currency exchange requirements annually for the amount planned to be brought into or taken out from the country. The Employer shall verify such details of foreign exchange facilities required by the Bidders and recommend for the same to concerned Authorities in Nepal in case of the successful Bidder.

### 13. Alternative Bids

13.1 Unless otherwise indicated in the **Bid Data Sheet**, alternative bids shall not be considered.

### 14. Bid Prices and Mark-up

14.1 The prices and mark-ups shall be quoted by the Bidder in its Financial Proposal.

14.2 The Bidder shall submit a Bid for the whole of the Services described.

14.3 Unconditional mark-ups to MLR that can only be determined in monetary terms shall be adjusted accordingly in the Bid Prices.

### 15. Currencies of Bid and Payment

15.1 The Bidder shall propose its Financial Proposal requirements in Nepalese currency only. Bid in any other currency shall be subjected to disqualification.

15.2 All payments by the Lessee to the Lessor under the contract shall be made in Nepalese Rupees only. However, the Bidder may be required by the Employer to provide detailed breakdown of foreign currency exchange requirements annually for the amount of net profit or net income saving as shown in its audited Balance Sheet. The Employer shall verify such details of foreign exchange facilities required by the Bidder and recommend for the same to concerned Authorities in Nepal.

### 16. Documents Establishing the

16.1 To establish its qualifications to perform the Contract, evaluation shall be carried out as mentioned under **ITB 27**.

## Qualifications of the Bidder

- 17. Period of Bid Validity**
- 17.1 Bids shall remain valid for the period specified in the **Bid Data Sheet** after the bid submission deadline date prescribed by the Employer. A bid valid for a shorter than the stated period shall be rejected by the Employer as non-responsive.
- 17.2 During the period as per **ITB 17.1**, the Bidder shall maintain its Bid (including any modifications as per **ITB 23**), without any change, including the availability of the Equipment, Personnel, proposed User Fee, MLR and the RSI.
- a. Extension of Validity Period**
- 17.3 In exceptional circumstances, prior to the expiration of the bid validity period, the Employer may request Bidders to extend the period of validity of their Bids. The request and the responses shall be made in writing. If a Bid Security is requested in accordance with **ITB 18.1**, it shall also be extended 30 days beyond the deadline of the extended validity period. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder granting the request shall not be required or permitted to modify its Bid.
- b. Substitution of Personnel, Equipment and Development Commitment at Validity Extension**
- 17.4 If any of the Bidder's proposed Personnel or Equipment become unavailable for the extended validity period, the Bidder shall provide a written adequate justification and evidence satisfactory to the Employer together with the substitution request. The technical evaluation score, however, will remain to be based on the evaluation of the originally proposed Personnel or Equipment.
- 17.5 If the Bidder agrees to validity extension but fails to provide replacement Personnel or Equipment with equal or better qualities, or if the provided reasons for the replacement or justification are unacceptable to the Employer, or if the commitment to invest in physical infrastructures becomes unattainable, such proposal shall be rejected.
- c. Sub-Contracting**
- 17.6 The Bidder shall not subcontract any or the whole of the services without the Employer's approval. However, subject to approval only labour intensive portion and equipment deployment portion of the services requiring unforeseen technical expertise may be subcontracted.
- 18. Bid Security**
- 18.1 The Bidder shall furnish as part of its Bid, in original form, a Bid Security as specified in the **Bid Data Sheet**.
- 18.2 If the security is in cash, the amount shall be deposited in the Employer's account as provided in the **Bid Data Sheet**.
- 18.3 In case of Bid Security in the form of bank guarantee it should be as per Bid Security Form included in **Appendix A** or in another substantially similar format approved by the Employer prior to submission of the Bid. The bank guarantee shall be valid for a period of time as stated in the **Bid Data Sheet**. The

bank guarantee shall be unconditional, irrevocable and available in first demand, issued by a “A” class commercial bank from Nepal and shall be valid for minimum thirty (30) days beyond the original validity period of the bid, or beyond any period of extension if requested under **ITB 17.3**.

If an unconditional bank guarantee is issued by a banking or non-bank financial institution located outside the Employer’s Country, the issuing bank or non-bank financial institution shall have a correspondent financial institution located in the Employer’s Country to make it enforceable unless the Employer has agreed in writing, prior to Bid submission, that a correspondent financial institution is not required. Likewise, in case of the guarantee issued by a non-Nepalese banking institution, it shall be counter-guaranteed for the Bid Security amount by any Class-A commercial bank from Nepal.

- 18.4 The Bid Security of a JV shall be in the name of the JV that submits the bid. If the JV has not been legally constituted at the time of bidding, the Bid Security shall be in the names of all future partners.
- 18.5 The Bid Security of unsuccessful Bidders shall be returned within three days, once the successful bidder has furnished the required Performance Security and signed the Contract Agreement pursuant to **ITB 39.1**.
- 18.6 The Bid Security may be forfeited:
- a) if a Bidder withdraws its Bid during the period of bid validity specified by the Bidder on the Letter of Bid, except as provided in **ITB 17.3** or
  - b) if the successful Bidder fails to:
    - i) sign the Contract in accordance with **ITB 39.1**; or
    - ii) furnish a Performance Security in accordance with **ITB 38.1**.

#### 19. Format of Bid

- 19.1 The Bidder shall make submissions as per **TECH-1** to **TECH-12** for Technical Proposal and **FIN-1** to **FIN-3** for the Financial Proposal. The details of which are explained under **Submission and Opening of Bids**.
- 19.2 Any amendments such as interlineations, erasures, or overwriting shall be valid only if they are signed or initialled by the person signing the bid.

#### D. Submission and Opening of Bids

##### 20. Sealing, Signing and Marking of Bids

- 20.1 A Bidder shall submit a signed and complete Bid comprising the documents and forms in accordance with **ITB 10.1**. The submission shall be by hand or through courier, ensuring that

the submission deadline is met.

- 20.2 The Bidder or its authorized representative shall sign the original submission letters as per **TECH-1** for Technical Proposal and **FIN-1** for the Financial Proposal and shall initial all pages of both. The authorization for the representative shall be in the form of a written power of attorney attached to the Technical Proposal.
- 20.2.1 A Bid submitted by a JV shall be signed by all member Companies so as to be legally binding on all members, or by an authorized representative who has a written power of attorney signed by each member Company's authorized representative.
- 20.3 Any revisions, interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Bid.
- 20.4 The signed Bid shall be marked "**ORIGINAL**", and its copies marked "**COPY**" as appropriate. The number of copies is indicated in the **Bid Data Sheet**. All copies shall be made from the signed original. If there are discrepancies between the original and the copies, the original shall prevail.
- 20.5 The original and all the copies of the Technical Proposal shall be placed inside separate sealed envelopes marked with "**ORIGINAL**" and "**COPY**" as appropriate.
- 20.6 All the envelopes with the original and copies of the Technical Proposal shall be placed inside an envelope clearly marked "**TECHNICAL PROPOSAL; OPERATION AND MANAGEMENT OF KAKARBHITTA ICD ; REFERENCE NUMBER: NITDB-O&M- ICB -03 (FY 2020/021)** ; name and address of the Bidder; and with a warning: "**DO NOT OPEN UNTIL** [insert the date and time of the Bid submission deadline as per **ITB21.1**]."
- 20.7 Similarly, the original and all copies of the Financial Proposal shall be inside separate sealed envelopes marked with "**Original**" and "**Copy**" as appropriate.
- 20.8 All the envelopes with the original and copies of the Financial Proposal shall be placed inside an envelope clearly marked "**FINANCIAL PROPOSAL; OPERATION AND MANAGEMENT OF KAKARBHITTA ICD ; REFERENCE NUMBER: NITDB-O&M- ICB -03 (FY 2020/021)** ; name and address of the Bidder; and with a warning: "**DO NOT OPEN WITH THE TECHNICAL PROPOSAL**".
- 20.9 The sealed envelopes containing the Technical and Financial Proposals shall be placed into one outer envelope and sealed. This outer envelope shall be marked "**BID; OPERATION AND MANAGEMENT OF KAKARBHITTA ICD; REFERENCE NUMBER: NITDB- O&M- ICB -03 (FY 2020/021)** ; name and address of the Bidder; and with a warning: "**DO NOT**

**OPEN BEFORE** [insert the time and date of the Bid submission deadline as per **ITB 21.1**].”

- 20.10 If the envelopes with the Bid are not sealed and marked as required, the Employer will assume no responsibility for the misplacement, loss, or premature opening.
- 20.11 The Bid or its modifications must be sent to the address indicated in the **Bid Data Sheet** within the deadline as per **ITB 21.1** to be received by the Employer.
- 20.12 The Bidders are not permitted to alter or modify their Bids in any way after the bid submission deadline.
- 21. Deadline for Submission of Bids**
- 21.1 Bids must be submitted to the Employer no later than the date and time indicated in the **Bid Data Sheet**, or any extension to this deadline. Any Bid or its modification received by the Employer after the deadline shall be declared late and rejected, and promptly returned unopened.
- 21.2 The Employer may, at its discretion, extend the deadline for the submission of Bids by amending the Bidding Document in accordance with **ITB 7.1**, in which case all rights and obligations of the Employer and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.
- 22. Late Submission of Bids**
- 22.1 The Employer shall not consider any Bid that arrives after the deadline for submission as set by **ITB 21**. Any Bid received by the Employer after the deadline for submission of bids shall be declared late, rejected, and returned unopened to the Bidder.
- 23. Withdrawal, Substitution, and Modification of Bids**
- 23.1 A Bidder may withdraw, substitute, or modify its bid after it has been submitted by registering a written notice at the Employer's office within the Bid submission deadline. The notice shall be duly signed and sealed by an authorized representative of the Bidder with an authorization letter attached to the sealed envelope containing:
- a) Name and contact address of the of Bidder
  - b) ITB reference number.
  - c) Clarification on whether the Proposal is to be withdrawn or modified and marking of “**Withdrawal**” or “**Modification**” on the envelope as appropriate.
  - d) Clarification on whether the modification is sought in the Technical or Financial proposal
- 23.2 The notice for modification of Technical and Financial Proposals should be submitted in separate envelopes. The application for Technical Proposal modification shall be opened at the time of opening of the Technical Proposals. Similarly, the application for Financial Proposal modification shall be opened at the time of opening of the Financial Proposals.



- 23.3 The envelope shall be marked “**DO NOT OPEN BEFORE**[insert the time and date of the submission deadline as per **ITB 21.1**].”
- 23.4 Bids requested to be withdrawn in accordance with **ITB 23.1** shall be returned unopened to the Bidders.
- 23.5 Unless the condition as per **ITB 23.1** is met, no bid may be withdrawn, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Letter of Bid or any extension thereof.

#### E. Opening, Evaluation and Comparison of Bids

##### 24. Bid Opening

- 24.1 The Employer shall open the bids in public at the address, date and time specified in the **Bid Data Sheet** in the presence of Bidders’ authorized representatives who choose to attend.
- 24.2 First of all, applications for withdrawal are opened and the names of the corresponding Bidders are read out.
- 24.3 Secondly, the outermost envelope of the Bids is opened. The condition of the envelopes containing the Financial Proposals shall be recorded and kept aside for safekeeping with the Employer until they are opened in accordance with **ITB 29**.

##### 25. Opening of Technical Proposals

- 25.1 Subsequent to activity as per **ITB24.3**, application for modifications on Technical Proposals are opened and the contents are read out. Such modifications shall be an integral part of the original Proposal.
- 25.2 At the opening of the Technical Proposals the following shall be read out:
- a) Name and address of the Bidder (name of JV and the lead partner company in case of a Joint Venture)
  - b) Whether the Bid Security is enclosed
  - c) Whether the Bid contains the signature of its Bidder or its representative
  - d) Whether all modifications in the Bid are signed and sealed by the Bidder or his representative
  - e) Whether the Bidder has proposed any modifications to the conditions of Contract, or attached anything to that effect, and the content of such modifications.
  - f) Receipt of addendum, if any has been issued
  - g) Any other information as per the **Bid Data Sheet**.

##### 26. Preliminary Evaluation

- 26.1 Confirmation to the items listed in **Bid Data Sheet** shall be checked during Preliminary Evaluation. Bids not meeting any of the conditions shall be disqualified.

##### 27. Evaluation of Technical Proposal

- 27.1 While evaluating the Technical Proposals, the Employer will conduct the evaluation solely on the basis of the submitted

document.

27.2 The Technical Proposals shall be evaluated on the basis of their responsiveness to the Bidding Documents, applying the criteria specified in the **Bid Data Sheet**. Each responsive Proposal will be given a technical score. A Proposal shall be rejected at this stage if it does not respond to the requirement of Bid Documents or if it fails to achieve the minimum technical score threshold indicated in the **Bid Data Sheet**.

27.3 Until all the received Technical Proposals are evaluated and the scores are made public, the evaluators shall have no access to the Financial Proposals.

27.4 In case of JV, the combined capacity of all members of the JV shall be considered.

## 28. Clarification of Bids

28.1 To assist in the examination, evaluation, and qualification of the Bidders, the Employer may, at its discretion, ask any Bidder for clarification of its Technical Proposal. Any clarification submitted by a Bidder that is not in response to a request by the Employer shall not be considered. The request for clarification and the response shall be in writing.

28.2 If a Bidder does not provide clarifications on its Technical Proposal by the date and time set in the request for clarification as specified in the **Bid Data Sheet**, its Bid may be rejected.

28.3 Clarification shall be asked through the supplied email or fax. Request for clarification will be considered received by the Bidder if no automated error message is received back.

28.4 The Technical Proposal finalized after clarification accepted by the Evaluation Committee at the end of Technical Evaluation and will remain so throughout the Contract Duration.

## 29. Opening of Financial Proposals

29.1 On completion of evaluation of the Technical Proposals, the Bidders who do not meet the specified Technical score or who were determined non-responsive shall be notified and their Financial Proposal will be returned unopened after completion of selection process and award of the Contract is over.

29.2 The Employer shall notify in writing all Bidders that have achieved a minimum score on the Technical Proposals and shall inform them of the date, time and location for opening of Financial Proposals. Sufficient time shall be allowed for the Bidders to attend the opening of the Financial Proposal. The proposals will be opened at the date, time and place even if the Bidders do not choose to attend.

29.3 The opening of the Financial Proposals shall be done by the Employer. At the opening, the applications for modifications received as per **ITB 23.1** shall be opened first and the following details are read out:

a) Name and contact address of the of Bidder

- b) ITB reference number
  - c) Details of modifications
- 29.4 Following the activity as per **ITB 29.3**, the names of the Bidders and the corresponding overall technical scores shall be read aloud. The Financial Proposals will then be inspected to confirm that they have remained sealed and unopened. These Financial Proposals shall be then opened one by one, and the total prices read aloud and recorded. Copies of the record shall be sent to all Bidders whose Financial Proposals have been opened.
- 30. Nonconformities, errors and omissions**
- 30.1 Provided that a Bid is substantially responsive, the Employer may waive any nonconformity in the Bid that does not constitute a material deviation, reservation or omission.
- 30.2 Provided that a bid is substantially responsive, the Employer may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities in the bid related to documentation requirements. Requesting information or documentation on such nonconformities shall not be related to any aspect of the price of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.
- 30.3 Provided that a bid is substantially responsive, the Employer shall rectify quantifiable nonmaterial nonconformities related to the Bid Price. To this effect, the Bid Price may be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component. If minor discrepancies are found such as in technical specification, description, feature which does not make the bid to be rejected, then the cost, which is calculated to the extent possible due to such differences, shall be included while evaluating the bid.
- 31. Correction of Arithmetical Errors**
- 31.1 The Employer shall correct arithmetical errors on the following basis:
- a) 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, unless in the opinion of the Employer there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;
  - b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
  - c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.

- 31.2 Activities and items described in the Technical Proposal but not priced in the Financial Proposal shall be assumed to be included in the prices of other activities or items, and no corrections shall be made in the Financial Proposal.
- 31.3 In case of discrepancy between the Technical and Financial Proposal with regard to quantities of input, the Technical Proposal shall prevail and corrections shall be made accordingly in order to attain consistency between the Technical Proposal and the Financial Proposal.
- 32. Conversion to Single Currency**
- 32.1 For bid evaluation and comparison purposes, the currency (ies) mentioned in the substantiating documents of the Bid shall be converted into a single currency as specified in the **Bid Data Sheet**.
- 33. Combined Technical and Financial Evaluation**
- 33.1 The total score secured by each of the Bid is calculated by weighting the technical and financial scores and adding them as per the formula and instructions in the **Bid Data Sheet** to derive a ranked list of Bids.
- 34. Rejection of Proposal, annulment of selection process**
- 34.1 Under the following circumstances, any Bid shall be rejected without thereby incurring any liability to the Employer:
- a) Material deficiencies in providing the information sought requested in the ITB.
  - b) Alternative Proposal changing the mode of payment or alternative mode of Service.
  - c) Evidence of corruption or fraud
  - d) Submission of more than one proposal by a Bidder or a JV partner to a Bidder.
- 34.2 Under the following circumstances, all proposals shall be rejected and the selection process annulled without thereby incurring any liability to the Employer:
- a) None of the Technical Proposals are found to be responsive
  - b) The MLR figures quoted by all of the responsive Technical Proposals are lower than that specified in **Section 6**.
- 34.3 The Employer reserves to accept or reject any Bid and to annul the bidding process and reject all bids at any time prior to the Contract award, without thereby incurring any liability to Bidders. In case of annulment, all Bids submitted and specifically Bid Securities shall be promptly returned to the Bidders.
- F. Contract Award**
- 35. Letter of Intent**
- 35.1 Following the ranking of the Bids as per **ITB 33.1**, The Employer shall issue a Letter of Intent as per **Appendix C** expressing its intention to award the Contract to the selected

Bidder.

35.2 Concurrently to inform other Bidders who too have submitted Bids, the Employer shall publish a public notice on a national daily and web sites as mentioned in the **Bid ata Sheet** the name of the selected Bidder and the corresponding MLR as well as the RSI proposed.

### 36. Contract Negotiations

36.1 The selected Bidder shall be invited for Contract Negotiations if no complaints pursuant to **ITB 40.1** is received within 7 (seven) days of publication of public notice as per **ITB 35.2**.

36.2 The negotiations will be held at the date and address indicated in the **invitation for negotiations**. The negotiators from the Employer and the Bidder must have written power of attorney to negotiate.

36.3 The negotiation shall not substantially alter the original scope of Services under the TOR or the Conditions of Contract, the MLR or RSI and shall be limited to the items in the **Bid Data Sheet**.

36.4 The Employer' representative shall prepare minutes of negotiations that are signed by the Employer's and the Bidder's authorized representatives.

36.5 The negotiations are concluded with a review of the finalized draft Contract Agreement, which then shall be initialled by the Employer's and the Bidder's authorized representatives.

36.6 If the negotiations fail, the Employer shall inform the Bidder in writing of all pending issues and disagreements and provide a final opportunity to the Bidder to respond. If disagreement persists, the Employer shall terminate the negotiations informing the Bidder of the reasons for doing so and shall invite the next-ranked Bidder for negotiation. Upon commencement of negotiation with the next-ranked Bidder, the earlier negotiations shall not be reopened.

### 37. Letter of Acceptance

37.1 Upon successful conclusion of the negotiation pursuant to **ITB 36.5**, the Employer shall accept the corresponding Bid and a Letter of Acceptance as per **Appendix D** shall be communicated to the successful Bidder prior to the expiration of period of Bid validity, to furnish the Performance Security and sign the contract within 15 (fifteen) days.

37.2 At the same time, the Employer shall publish a public notice on a national newspaper on the result of the award, identifying the bid and the following information: (i) name of each Bidder who submitted a Bid; (ii) bid prices as read out at Bid Opening; (iii) name and evaluated prices of each Bid; (iv) name of bidders whose bids were rejected and the reasons for their rejection; and (v) name of the winning Bidder, and the Price it offered, as well as the duration and summary scope of the Contract awarded.

- 37.3 Within number of days as per **Bid Data Sheet** of receiving Letter of Acceptance, the selected Bidder shall complete the formality as stated in the **Bid Data Sheet**.
- 38. Performance Security**
- 38.1 Within the specified period, the Bidder shall furnish Performance Security as prescribed in **Bid Data Sheet** from a Nepalese commercial “A” class bank which is authorized to issue such from the Nepal Rastra Bank in accordance with the GCC using sample form provided in **Appendix B** or an alternative format acceptable to the Employer.
- 38.2 Failure of the successful Bidder to submit the Performance Security as per **ITB 38.1**, or complete the formalities as per **ITB 37.3**, or to sign the Contract Agreement within the period as per **ITB 37.1**, shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security. In that event the Employer may invite the next ranked Bidder for Contract Negotiations.
- 39. Signing of Contract**
- 39.1 The authorized representative of the Employer and the authorized representative of the Bidders shall sign the Contract within the period as stated **Bid Data Sheet**.
- 39.2 The TMC is expected to commence providing the Services under the Contract on the date and at the location specified in the **Bid Data Sheet**.
- 40. Complaint and Review**
- 40.1 A Bidder dissatisfied with the evaluation proceedings or the selection of Bidder may file a complaint stating the factual and legal grounds to the Employer within 7 (seven) days of the issuance of the Letter of Intent.
- 40.2 Pursuant to the registered complaint as per **ITB 40.1**, if any error is found in the evaluation process, or if the office of the Employer has been found not to fulfil its responsibilities, or if any of the decisions are found to be against the applicable law, the Employer shall give its decision within 5 (five) days on whether to suspend the proceeding and decide on the procedure to be adopted for further proceedings; or to reject the complaint.
- 40.3 If within 30 (thirty) days from the date of issuance of Letter Acceptance, an unsuccessful Bidder requests for the issues preventing his Bid from being selected, the Employer shall provide him with the details.
- 40.4 Late application filed after the deadline pursuant to **ITB 40.1** shall not be processed.

**Section 3: Bid Data Sheet**

This section consists of provisions which supplement the information or requirements included in Section 1: Instruction to Bidders.

<b>A. General Provisions</b>	
<b>1.1 (g)</b>	<ul style="list-style-type: none"> <li>i) Contract Agreement</li> <li>ii) Letter of Acceptance</li> <li>iii) Addenda</li> <li>iv) Special Conditions</li> <li>v) General Conditions</li> <li>vi) Terms of References</li> <li>vii) Technical Proposal</li> <li>viii) Financial Proposal</li> <li>ix) Performance Security</li> </ul>
<b>1.1 (h)</b>	<i>Five (5) years</i>
<b>1.1 (j)</b>	<i>All Countries</i>
<b>1.1 (p)</b>	<i>3 (three)</i>
<b>1.1 (x)</b>	<i>Kakarbhitta ICD, Ward No. 6, Mechinagar Municipality, Jhapa District, Nepal</i>
<b>2.1</b>	Operation and Management of Kakarbhitta ICD ; Reference Number: NITDB- O&M- ICB -03 (FY 2020/021)
<b>2.2</b>	Combined score of Technical and Financial Proposal (Technical proposal 60% and financial proposal 40%)
<b>2.3</b>	<p>Address of obtaining Bid Document: Nepal Intermodal Transport Development Board, Kupondole, Lalitpur, Nepal, or</p> <p>Bilateral and Regional Trade Division, Ministry of Industry, Commerce &amp; Supplies, Singh Durbar, Kathmandu, Nepal</p> <p>Non-refundable fee of Bidding Document: <i>Nepalese Rupees 15,000</i> deposited to Employer's bank account <i>1202002/001.007.524 with Nepal Rastra Bank, Banking office, Kathmandu, Nepal</i></p> <p>Deadline of obtaining Bidding Document: 29<sup>th</sup> September, 2020, Office Hours</p>
<b>2.5</b>	<ul style="list-style-type: none"> <li>▪ <i>Terminal Lease Out Regulations -2070 in Nepali Language which can be downloaded from the website <a href="http://www.nitdb.gov.np">www.nitdb.gov.np</a></i></li> </ul>

	<ul style="list-style-type: none"> <li>Master plan of the Terminal</li> </ul>		
4.1	Requirement	Single entity	Joint Venture of companies Lead partner      Each of the remaining partners
	Average Annual Turnover for last 3 years in NPR	27,200,000	13,600,000      8,200,000
	Registration	Registered as a (i) Port management/ Freight Station terminal operation management / warehousing/ transportation / clearing and forwarding/Freight Forwarding/Railway operation company	Registered as a (i) Port management/ Freight Station terminal operation management / warehousing/ transportation / clearing and forwarding/Freight Forwarding/Railway operation company
	Experience	Management/Operational Experience: Experience in port management/Freight Station terminal operation management/ warehousing/ transportation / clearing and forwarding/Freight Forwarding/Railway operation, <b>of minimum five years</b>	Experience in port management/Freight Station terminal operation management/ warehousing/ transportation / clearing and forwarding/Freight Forwarding/Railway operation <b>of minimum three years</b>
	Self declaration	<i>Self declaration as per Section 4, Attachment 5</i>	
	Compliance with qualification criteria	<i>Bidders provide documentary proof of its eligibility by completing the forms and qualification criteria as stated in the Section 4 (Form TECH 1 to Form TECH 12 and Attachments)</i>	
	JV arrangement	<i>In case of a JV, at least one partner shall be Nepalese Company Joint Venture Agreement in the form as suggested in the bid document duly signed by all partners concerned.</i>	
	Tax clearance	<i>up to the previous year in its country of incorporation</i>	
VAT/PAN registration	<i>For Nepalese companies only</i>		
4.6.2	A list of debarred Bidders is available at: PPMO website: <a href="http://www.ppmo.gov.np">www.ppmo.gov.np</a>		
<b>B. Contents of Bidding Document</b>			
1. 6.1	NITDB website: <a href="http://www.nitdb.gov.np">www.nitdb.gov.np</a>		



6.2	<p>Address: <b>Executive Director</b> Nepal Intermodal Transport Development Board, Kupondole, Lalitpur, Nepal</p> <p>Telephone: +97715550236</p> <p>Facsimile: +97715550218</p> <p>E-mail: <a href="mailto:nitbktm@nitdb.gov.np">nitbktm@nitdb.gov.np</a></p>
6.5, 6.6	<p>Details on pre-bid meeting:</p> <p>Date: 14<sup>th</sup> September, 2020. <i>In case the day falls on a public holiday, then the following day.</i></p> <p>Time: 11:00 hrs (Nepal Standard Time)</p> <p>Address: Nepal Intermodal Transport Development Board, Kupondole, Lalitpur, Nepal</p> <p>Proposer's eligibility for participation: copy of the bank voucher against purchase of the Bidding Document and identification showing affiliation with the Bidder</p> <p>Meeting Coordinator: <i>Executive Director</i></p>
7.3	<p>Mailing address: Nepal Intermodal Transport Development Board, Kupondole, Lalitpur, Nepal</p> <p>Facsimile: +97715550236</p> <p>E-mail: <a href="mailto:nitbktm@nitdb.gov.np">nitbktm@nitdb.gov.np</a></p>
<b>C. Preparation of Bids</b>	
10.1	<p>Bids shall comprise of the following:</p> <p>(1) 1st Inner Envelope with the Technical Proposal:</p> <p>(a) TECH-1: Technical Proposal Submission Form</p> <ul style="list-style-type: none"> <li>▪ Attachment 1: Bank deposit voucher against purchase of Bidding Document</li> <li>▪ Attachment 2: Power of Attorney</li> <li>▪ Attachment 3: Proposal(bid) Security (original bank guarantee or original bank deposit voucher)</li> <li>▪ Attachment 4: JV agreement</li> <li>▪ Attachment 5: In case of a Nepalese or non-Nepalese Bidder or a JV partner: a self-declaration and tax clearance</li> </ul> <p>(b) TECH-2: Bidder's information</p> <p>(c) TECH-3: Relevant experience</p> <p>(d) TECH-4: Financial situation</p> <p>(e) TECH-5: Current contract commitments</p>

	<p>(f) TECH-6: Proposed Work Plan</p> <p>(g) TECH-7: Proposed Business Plan</p> <p>(h) TECH-8: Proposed corporate structure</p> <p>(i) TECH-9: Proposed Operation Plan</p> <p>(j) TECH-10: Financial resources</p> <p>(k) TECH-11: Proposed Employment Plan</p> <p>(l) TECH-12: Proposed Key-Personnel</p> <p>(2) 2nd Inner Envelope with the Financial Proposal</p> <p>(a) FIN-1: Financial Proposal Submission Form</p> <p>(b) FIN-2: Breakdown of MLR and RSI</p> <p>(c) FIN-3: Proposal on User Fee</p>
13.1	<i>No alternative Bids allowed</i>
17.1	<i>120 days from submission deadline</i>
18.1	<i>NPR 2,265,000</i>
18.2	<i>Current Account Number 0100200144668037 at Agriculture Development Bank, Ramshab Path, Kathmandu, Nepal.</i>
18.3	<i>150 days from submission deadline</i>
<b>D. Submission and Opening of Bids</b>	
20.4	The Bidder must submit: a) Technical Proposal: <i>one (1) original and one (1) copy</i> b) Financial Proposal: <i>one (1) original and one (1) copy</i>
20.11	Submission address: <i>Nepal Intermodal Transport Development Board, Kupondole, Lalitpur, Nepal</i>
21.1	The Bid must be submitted during office hours no later than: Date: <i>30<sup>th</sup> September, 2020</i> Time: <i>12:00 hours, Nepal Standard Time</i>
<b>E. Opening, Evaluation and Comparison of Bids</b>	
24.1	The opening shall take place at: <i>Nepal Intermodal Transport Development Board,</i> Date: <i>30<sup>th</sup> September, 2020</i> Time: <i>13:00 hours, Nepal Standard Time</i>
25.2 (g)	<i>No additional information</i>
26.1	During Preliminary Evaluation, the following shall be checked and inspected:

	<p>a) Documentary proof on the legal eligibility of the Bidder</p> <p>b) Completeness of Form TECH-1 to Form TECH-12</p> <p>c) Availability of Financial Proposal envelope</p> <p>d) Sealed signature on all the pages of the documents meant to be considered for evaluation</p> <p>e) receipt against the purchase of the Bidding Document</p> <p>f) Bid Security of prescribed amount and validity</p> <p>g) Power of Attorney</p> <p>h) JV agreement</p> <p>i) Documentary proof on the technical eligibility of the Bidder as per ITB 4.1</p>
27.2	Criteria, secondary-criteria and tertiary-criteria for the evaluation of the Technical Proposals:
	Maximum score: 100
	Minimum technical score threshold: 60 %

Primary Evaluation Criteria		S. N.	Secondary Evaluation Criteria	S. N.	Descriptions	Bid Documents Reference
Criteria	Max. Score					
Bidder's Experience	20	1	Experience in managing and operating similar types (ICP/ICD/CFS) of terminal facilities and services	1.1	No. of Terminals of similar type managed and operated	TECH - 3, Col. - 2, Col. - 3
				1.2	Years of Experience	TECH - 3, Col. - 4
				1.3	Share in management and operating company	TECH - 3, Col. - 12
				1.4	Total throughput volumes handled in last 5 years (consider 1TEU = 0.5 FEU = 21.6 MT = 2Truck)	TECH - 3, Col. - 8, 9, 10
		2	Experience in warehousing/transportation/clearing and forwarding//Freight Forwarding/Railway operation	2.1	No. of projects managed and operated	TECH - 3, Col. - 2, Col. - 3
				2.2	Years of Experience	TECH - 3, Col. - 4
				2.3	Share in management and operating company	TECH - 3, Col. - 12
				2.4	Total throughput volumes handled in last 3 years (consider 1TEU = 0.5 FEU = 21.6 MT = 2Truck)	TECH - 3, Col. - 8, 9, 10
		3	Experience in the country inviting tenders for the project: port management/ Freight Station terminal	3.1	No. of Terminals/projects managed and operated	TECH - 3, Col. - 2, Col. - 3

Primary Evaluation Criteria		S. N.	Secondary Technical Evaluation Criteria	S. N.	Descriptions	Bid Documents Reference		
Criteria	Max. Score							
			operation management/ warehousing/transportation/clearing and forwarding/Freight Forwarding/Railway operation	3.2	Years of Experience	TECH - 3, Col. - 4		
				3.3	Share in management and operating company	TECH - 3, Col. - 12		
				3.4	Total throughput volumes handled in last 5 years (consider 1TEU = 0.5 FEU = 21.6 MT = 2Truck)	TECH - 3, Col. - 8, 9, 10		
		4	Work in hand or current contract of port management/ Freight Station terminal operation management/ warehousing/transportation/clearing and forwarding/Freight Forwarding/Railway operation	4.1	No. of Terminals/projects currently in operation	TECH - 3, Col. - 2, Col. - 3, TECH - 5		
				4.2	Total throughput volumes handled in last 3 years (consider 1TEU = 0.5 FEU = 21.6 MT = 2Truck)	TECH - 3, Col. - 8, 9, 10		
		Bidder's Corporate and Financial Profile	20	5	Share Ownership	5.1	Adequacy of corporate structure	TECH - 2, TECH - 3, TECH - 4, TECH - 8
						5.2	Shareholder's composition in JV	TECH - 2, Row - 5
						5.3	Main line of business	TECH - 2, Row - 6
				6	Participation of port users in corporation	6.1	Name of major shipping line owned	TECH - 2, Row - 6
							Number of major shipping line owned by any JV Partner	TECH - 2, Row - 6
6.2	Name of major shippers					TECH - 2, Row - 6		
	Number of major shippers owned by any JV Partner					TECH - 2, Row - 6		
6.3	Name of multi-modal operators					TECH - 2, Row - 6		
	Number of transportation equipment owned/leased			TECH - 2, Row - 6				
7	Current Financial Position of the Bidder			7.1	Average Total Equity (last 3 years)	TECH - 4, Row - 1		
		7.2	Average annual Turnover in last 3 Years	TECH - 4, Row - 2				
		7.3	Average Net worth (last 3 Years)	TECH - 4, Row - 3				
		7.4	Average Working Capital (last 3 Years)	TECH - 4, Row - 5				
		7.5	Average Cash flows in last 3 financial years	TECH - 4, Row - 6				
		7.6	Average Net Profit margin in last 3 financial years	TECH - 4, Row 8				

Primary Evaluation Criteria		S. N.	Secondary Technical Evaluation Criteria	S. N.	Descriptions	Bid Documents Reference
Criteria	Max. Score					
				7.7	Average Dividends paid in last 3 Years	TECH - 4, Row - 7
				7.8	Increase in equity or investment in last 5 financial Years	TECH - 4, Row - 9
Proposed Business Plan	20	8	Quality of Proposed Business Plan	8.1	Level of realism and realistic assumptions used in "Operation and Management of Terminal"	TECH - 7, Row - a
				8.2	Level of substantiation or documentary evidences in support of Bidder's proposed Business Plan	TECH - 7, Attachments
				8.3	Degree of reliability of Business Plan (should correspond to schedules and field situation)	Cross Checks of TECH - 7 against other schedules with the Bid
		9	Adequacy of proposed management objectives	9.1	Degree of satisfaction of cargo owners' requirements (Importer's/ Exporters'/Freight Forder's interests are addressed)	TECH - 7, b
				9.2	Degree of satisfaction of national transport needs (plans for delays minimization)	TECH - 7, c
		10	Reliability of market demand forecast	10.1	Substantiation of cargo traffic forecast	TECH - 7, d
		11	Potential for attracting new business	11.1	Expected amount of new business proposed	TECH - 7, f
				11.2	Significance of new business in terms of scale increase and use of available capacity (value add to maximize revenue potentials)	TECH - 7, f
				11.3	Basis of achieving expectations from new business (logical reasoning and documentary evidences)	TECH - 7, f
		12	Expected Financial Performance	12.1	Soundness of cash inflow projections and revenue forecasts	TECH - 7, g

Primary Evaluation Criteria		S. N.	Secondary Technical Evaluation Criteria	S. N.	Descriptions	Bid Reference Documents		
Criteria	Max. Score							
				12.2	Soundness of cash outflow projections and expenditure forecasts	TECH - 7, g		
				12.3	Soundness of financing and funding plan	TECH - 7, g		
Proposed Corporate Structure	15	13	Management of Terminal	13.1	Autonomy in operation and management of Terminal	TECH - 8, a		
				13.2	Proposed degree of subcontracting	TECH - 8, b		
				13.3	Functionality of the proposed organizational structure	TECH - 8, d		
				13.4	Capability of generating new initiatives	TECH - 8, e		
				13.5	Capability of monitoring staff performance	TECH - 8, f		
				14	Qualifications of proposed senior executives and key terminal personnel (Education Qualifications)	14.1	Chief Executive Officer	TECH - 8, i
						14.2	Chief of Finance	TECH - 8, i
						14.3	Operation & Maintenance In-charge	TECH - 8, i
						14.4	Administrative Officer	TECH - 8, i
						14.5	IT Expert/Data Analyst	TECH - 8, i
				15	Relevant management and technical experience either in warehousing, transportation, clearing and forwarding, freight forwarding, railway, operation, terminal O&M or shipping (Years)	15.1	Chief Executive Officer	TECH - 8, i
						15.2	Chief of Finance	TECH - 8, i
						15.3	Operation & Maintenance In-charge	TECH - 8, i
						15.4	Administrative Officer	TECH - 8, i
						15.5	IT Expert/Data Analyst	TECH - 8, i
				16	Experience in similar projects (O&M of Terminal) (Years)	16.1	Chief Executive Officer	TECH - 8, i
						16.2	Chief of Finance	TECH - 8, i
						16.3	Operation & Maintenance In-charge	TECH - 8, i
						16.4	Administrative Officer	TECH - 8, i
						16.5	IT Expert/Data Analyst	TECH - 8, i
		17	Experience of O&M of a Terminal in the country inviting tender (Nepal) (Years)	17.1	Chief Executive Officer	TECH - 8, i		
				17.2	Chief of Finance	TECH - 8, i		

Primary Evaluation Criteria		S. N.	Secondary Technical Evaluation Criteria	S. N.	Descriptions	Bid Reference Documents		
Criteria	Max. Score							
				17.3	Operation & Maintenance In-charge	TECH - 8, i		
				17.4	Administrative Officer	TECH - 8, i		
				17.5	IT Expert/Data Analyst	TECH - 8, i		
Operating Plan for the Facilities	10	18	Adequacy of operational arrangements	18.1	Overall operational arrangements for different types of port facilities (liquid bulk, solid bulk, neo-bulk, containers, non-containerized general cargo, dusty cargo)	TECH - 9, a		
					19.1	Equipment allocation as per TOR (on Rent or owned)	TECH - 9, e	
		19	Scope for capacity upgrading	19.2	Development of new management systems and controls	TECH - 9, e		
					20.1	Quality of analysis of current situation	TECH 9, f	
						20.2	Rationality of proposed improvements	TECH 9, f
		20	Effectiveness of proposals to solve current problems	20.3	Reliability of envisaged results	TECH 9, f		
				21.1	Quality of proposals for streamlining present IT system	TECH - 9, g		
		21	Upgrading of Computerized System		21.2	Efficiency in electronic data capturing, production system and data sharing with stakeholders	TECH - 9, g	
				Capacity of investment in additional facilities, equipment and systems	22	Evidence of Financing Capacity	22.1	Amount of Funding from external and local resources (documentary proofs of such funding from financial and non-financial institutions)
		23	Extent and quality of proposed investment for ICD					23.1
23.2	Sector of Investment							TECH - 7, e
23.3	Financing plan for proposed Investment				TECH - 7, e			
Employment Plan	9.00	24	General Employment conditions		24.1	Wage and salary levels	TECH - 11, a	

Primary Evaluation Criteria		S. N.	Secondary Technical Evaluation Criteria	S. N.	Descriptions	Bid Reference Documents
Criteria	Max. Score					
and proposed mechanism for transfer of knowhow and technology				24.2	Career Development scheme	TECH - 11, b
				24.3	Bonuses, incentives and other fringe benefits	TECH - 11, c
				24.4	Social security and medical coverage	TECH - 11, d
				24.5	Proposal for streamlining workforce (Inclusiveness - female & suppressed)	TECH - 11, g
				25.1	Coverage of HR Development scheme	TECH - 11
		25.2	Capacity Development Plan for Staffs	TECH - 11, h		
		25.3	Recruitment plan and Policies for Staffs	TECH 11 - i		
		26.2	Duration and scope of assignment (Full term, Intermittent or Temporary)	TECH - 12, attachments		
		26.3	Knowledge Transfer Plan of Expatriate (Logical Framework attached)	TECH - 12, attachments		

28.2 7 (seven) days

32.1 Single currency for conversion: *Nepalese Rupees*

Official source of the selling rate: *Nepal Rastra Bank*

Date of exchange rate is: *Bid submission deadline*

33.1 The highest evaluated Financial Proposal ( $F_m$ ) is given the maximum financial score ( $S_f$ ) of 100.

The formula for determining the financial scores ( $S_f$ ) of all other Proposals is calculated as following:

$$S_f = 100 \times F / F_m$$

in which,

$F_m$  = is the highest offer

$F$  = the price of the proposal under consideration.

The weights given to the Technical (T) and Financial (P) Proposals are:

$$T = 60\%, \text{ and } P = 40\%$$



Proposals are ranked according to their combined technical ( $S_t$ ) and financial ( $S_f$ ) scores ( $S$ ), using the weights as follows:

$$S = S_t \times T + S_f \times P.$$

## F. Contract Award

- 35.2** The Letter of Intent shall be published at: [www.nitdb.gov.np](http://www.nitdb.gov.np)
- 36.3**
- a) Minor corrections in language and figures
  - b) Conformity on fulfillment of all requirements of the contract
  - c) Handover of the Terminal premises to the successful Bidder
  - d) Expected date of commencement of Services
  - e) Name of Adjudicator
  - f) Data collection and reporting mechanism
  - g) Content of Supplementary Contract between the Terminal Operator and the Customs Office stationed at the terminal
  - h) Payment mechanism of MLR and RSI
  - i) Annual foreign currency exchange requirements for investment and remittance of the successful Bidder
- 37.3** Number of days: *fifteen (15)*
- Obligatory formality:
- a) *Bidder get register with the competent authorities in Nepal to*
    - i) *be recognized as a Terminal Operation and Management Company in Nepal in both cases of single bidder or JV.*
    - ii) *receive PAN and VAT numbers*
  - b) *Duly meet the insurance obligation*
- 38.1** The amount of Performance Security: *next 2 year's MLR quoted in the Financial Proposal*
- The initial validity: *18 months from the Effective Date*
- 39.1** *Within 15 (fifteen) days from the date of obligatory formality is accomplished as per ITB 37.3*
- 39.2** Expected date for commencement: *[within 15 days of Signing of Contract as per ITB 39.1, or a date agreed at the time of Contract Negotiations as per ITB 28.3]*
- Location of commencement: **Kakarbhitta ICD Terminal**

## Section 4: Technical Proposal –Forms

### Checklist of Required Forms

FORM	DESCRIPTION
TECH-1	Technical Proposal submission form.
Attachment 1	Cash receipt or bank deposit voucher against purchase of Bidding Document
Attachment 2	Power of attorney
Attachment 3	Bid security, unconditional bank guarantee
Attachment 4	JV agreement (if the Bid is being submitted by a JV)
Attachment 5	Self-declaration by a non-Nepalese Bidder
TECH-2	Bidder's information
TECH-3	Relevant experience
TECH-4	Financial situation
TECH-5	Current contract commitments
TECH-6	Proposed Work Plan
TECH-7	Proposed Business Plan
TECH-8	Proposed corporate structure
TECH-9	Proposed Operation Plan
TECH-10	Financial Resources
TECH-11	Proposed Employment Plan
TECH-12	Proposed Key-Personnel

*{Notes to Bidder:*

- *All pages of the original Technical and Financial Proposal shall be initialled by the same authorized representative of the Bidder who signs the Bid.*
- *Throughout Section 4 guidance provided to the Bidder to prepare the Technical Proposal are shown in {} brackets; they should not appear on the Proposals to be submitted.*

**Form TECH-1: Technical Proposal Submission Form**

*{to be submitted by the Bidder or by the Lead Member of JV in its Letterhead}*

*{Location, Date}*

*Nepal Intermodal Transport Development Board,  
Kupondole, Lalitpur, Nepal.*

*Attn: Executive Director*

Dear Sir,

We, the undersigned, offer to provide the Services at the *{Terminal}*, at *{location}* in accordance with your Invitation for Bids dated *{date of notice}* We are hereby submitting our Bid, which includes this Technical Proposal and a Financial Proposal sealed in a separate envelope.

*{If the Bidder is a JV, insert the following:}* We are submitting our Bid in a joint venture with: *{name and the legal address of each JV member, and indicate the lead member}*. We have attached a copy of the JV agreement signed by every participating member, which details the likely legal structure of and the proportion of joint and severable liability of the members of the said JV.

*{Or, if the Bid includes Sub-contractors insert the following:}* We are submitting our Bid with the following companies as sub-contractors: *[name and address of each sub-contractor]*.

We hereby declare that:

- (a) We declare to accept the instructions stated in the initially issued ITB document and any addendum issued thereafter.
- (b) All the information and statements made in this Bid are true and we accept that any misinterpretation or misrepresentation contained in this Bid may lead to our disqualification and sanction by the Employer.
- (c) Our Bid shall be valid and remain binding upon us for the period of time specified in the **ITB 17.1**.
- (d) We have no conflict of interest in accordance with **ITB4.5**.
- (e) We meet the eligibility requirements as stated in **ITB4**.
- (f) In competing for (and, if the award is made to us, in executing) the Contract, we undertake to observe all applicable laws including the laws against fraud and corruption, including bribery, in force in the country of the Lessor.

We undertake, if our Bid is accepted and the Contract is signed, to initiate the Services related to the assignment no later than the date indicated in **ITB 39.2**.

We understand that the Lessor is not bound to accept any Proposal that it receives.

We remain,

Yours sincerely,

Authorized Signature *{In full and initials}*:

*{Name and Title of Signatory}*

*{Name of Bidder}*

In the capacity of:

Address:

Contact information (phone and e-mail):

*{For a joint venture, either all members shall sign or only the lead member, in which case the power of attorney to sign on behalf of all members shall be attached}*

Attachment:

- a) Attachment 1 to TECH-1: Cash receipt or bank deposit voucher against purchase of Bidding Document
- b) Attachment 2 to TECH-1: Power of Attorney
- c) Attachment 3 to TECH-1: Bid Security (unconditional Bank Guarantee format)
- d) Attachment 4 to TECH-1: JV Agreement in case of JV
- e) Attachment 5 to TECH-1: Proof of Tax clearance by a Nepalese Bidder or self-declaration on constitution and tax clearance/tax submission evidence of last fiscal year by each non-Nepalese Bidder or non-Nepalese JV member}

**Attachment 5: Self declaration on constitution and tax clearance**

*{in the letterhead of the non-Nepalese Bidder or non-Nepalese JV member}*

*{Location, Date}*

Nepal Intermodal Transport Development Board,  
Kupondole, Lalitpur, Nepal.

Attn: Executive Director,

Self-declaration on constitution and tax-clearance

Dear Sir,

We, the undersigned, declare that:

We are a company constituted as per *{name of act}* of *{country of constitution}*.

We are registered at *{name of registering authority in the country of constitution}*. The registration number and date of renewal, in case if renewal is needed at the country of incorporation) are *{registration number}* and *{date of registration/date of most recent renewal}* respectively.

We have cleared all applicable taxes in our country of constitution up to *{date}*.

As per the Laws of *{country of incorporation}*, we are allowed to bid and render the above captioned Services.

We remain,

Yours sincerely,

Authorized Signature *{In full and initials}*:

*{Name and Title of Signatory}*

In the capacity of:

Address:

Contact information (phone and e-mail):

## Form TECH-2: Bidder's Information

Row	Bidder's legal name	
1		Overall share in percentage among the JV partners: Lead Partner: ..... % JV Partner 1:
2	In case of a JV, share in percentage	Commitment of equity in USD: Lead Partner: \$. JV Partner 1: \$. JV Partner 2: \$.
3	Bidder's country of constitution	Lead Partner: JV Partner 1: JV Partner 2:
4	Bidder's year of constitution	Lead Partner: JV Partner 1: JV Partner 2:
5	Bidder's legal address in country of constitution	Lead Partner: JV Partner 1: JV Partner 2:
6	Bidder's main line of business:  Type A: Port Management/Freight Station Terminal Operation Management Type B: Warehousing Type C: Transportation Type D: Clearing and Forwarding Type E: Freight Forwarding Type F: Railway Operation	JV Partner Name Type A: Name Type B: Name Type C: Name Type D: Name Type E: Name Type F: Type A: No (Qty): Type B: No (Qty): Type C: No (Qty): Type D: No (Qty): Type E: No (Qty): Type F: No (Qty):
7		Name:
8	Bidder's authorized representative and bid contact	Address:
9	details	Telephone number:
10		Fax number:

11		<i>Email:</i>
12	<i>Bidder's Net Worth</i>	<i>Lead Partner: JV Partner 1: JV Partner 2:</i>
13	<i>Percentage of share owned by the government or public entities, if any</i>	
14	<i>Name and address of the Bidder's Agent if any for Bid submission purpose</i>	
15	<i>Amount of Agent's fee, currency and mode of payment</i>	
16	<i>Date of engagement of the Agent</i>	
17	<i>Agent's Presence in the governing body of firm</i>	<i>(name of firm)</i>
18	<i>Relevant equipment owned</i>	<i>make, model, year of use of relevant equipment)</i>

{Note:

- a) *Fill separate tables for the Bidder and each of the JV members*
- b) *Highlight/mark the relevant entry on the attached substantiating document for conspicuousness}*

Attachment:

- a) *Substantiation for each of the entry in the above table with registration certificate, JV agreement, formation order, audited and certified copies of financial statements or similar document}*

## Form TECH-3: Relevant Experience

S. Nr.	Assignment name and Reference Number	Name and Contact Details of Employer and Country of Assignment	Duration <sup>1</sup>	Annual Turnover (mention currency)	Completion <sup>2</sup> (%)	Total Lease Rent paid to the Lessor <sup>3</sup>	Total throughput volume			Firm's Role <sup>4</sup> in the Assignment	Firm's Involvement <sup>5</sup> in the Assignment
							Container (TEU)	Container (FEU)	Bulk/ Break-bulk (MT)		
1	2	3	4	5	6	7	8	9	10	11	12
			Year 1								
			Year 2								
			Year 3								
			Year 4								
			{add row if required}								

{Note:

- List only relevant experience of each of the JV members in the last 10 years
- Fill a separate table for each of the assignments

Attachment:

- Substantiation for each of the entry in the above table
- If an earlier published company profile or similar document is intended to be attached for substantiation, highlight/mark the relevant entry for conspicuousness}

<sup>1</sup> Give the Date of Agreement and Date of Completion (Scheduled Date of Completion in case of incomplete contract). Provide details for each year in case of a multi-year assignment

<sup>2</sup> Indicate what percentage of the yearly commitment has been fulfilled.

<sup>3</sup> Mention amount and currency.

<sup>4</sup> Define role as Port Management, Operation and Management of ICD/FS/ICP, Warehousing/Transportation Operation, Clearing & Forwarding/Stevedoring/Freight Forwarding or Railway Operation

<sup>5</sup> Define involvement as sole company or as Lead Member or member of a JV. In case of a JV, indicate liability in percentage



**Form TECH-4: Financial Situation**

Row	Parameters	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
1	Total equity										
2	Total turnover										
3	Net worth										
4	Available Line of Credit										
5	Working capital										
6	Cash flow										
7	Dividends paid										
8	Net profit margin										
9	Invested amounts or participation in equity										

{Note:

- a) Enter the figures in equivalent Nepalese Rupees
- b) Data for each of the JV members should be filled in different sheets
- c) In case of a newly constituted Bidder, it is understandable that a number of columns could be blank as there is no data
- d) Highlight/mark the relevant entry on the attached substantiating document for conspicuousness

Attachments:

- a) *Audited and certified balance sheets, cash flow statements, profit/loss account and income statements, Line of Credit issued by banks, etc. to substantiate each of the entry in the above table. The documents should not include the financial condition of sister or parent agencies. }*

NOT FOR SALE

**Form TECH-5: Current Contract Commitments**

S. Nr	Assignment name and Reference Number	Name and Contact Details of Employer and Country of Assignment	Agreement Date	Scheduled Completion Date	Monitory Contractual Commitments <sup>6</sup>		Contractual Commitments in Kind <sup>7</sup>		Bidder's Role <sup>8</sup> in the Assignment	Bidder's Involvement <sup>9</sup> in the Assignment
					Amount and Currency	Completed %	Equivalent Amount and Currency <sup>10</sup>	Completed %		
1										

{Note:

- a) List only relevant experience of each of the JV members in the last 10 years
- b) Fill a separate table for each of the JV members

Attachment:

- a) Substantiation for each of the entry in the above table
- b) If an earlier published company profile or similar document is intended to be attached for substantiation, highlight/mark the relevant entry for conspicuousness}

<sup>6</sup> Add more columns for "Amount and currency" if the Contract involves a number of currencies.

<sup>7</sup> Investment which the Firm had to make in addition to the Leasehold Fee which has to be left at site as a part of the contract.

<sup>8</sup> Define role as Port Management, Operation and Management of ICD/FS/ICP, Warehousing/Transportation Operation/Clearing & Forwarding/Stevedoring/Freight Forwarding or Railway Operation

<sup>9</sup> Define involvement as sole company or as Lead Member or member of a JV. In case of a JV, indicate liability in percentage

<sup>10</sup> Enter the cost equivalent as per the Contract.

## Form TECH-6: Proposed Work Plan

S. Nr.	Activity	Year 1			Year 2			Year 3			Year 4			Year 5		
1																
2																
3																
4																
5																
6																
...																

{Note:

List and show major activities, including the following:

- a) Signing of the Contract Agreement
- b) Mobilization of key-personnel and equipment
- c) Taking over the responsibilities from the existing TMC
- d) Payment of MLR and RSI installments to the Lessor
- e) Physical improvement of the Terminal
- f) Recurrent inspection schedule and maintenance activities as per the TOR}

**Form TECH-7: Proposed Business Plan**{Note:

*In line with the objective, scope and specific requirements of the TOR, the Business Plan is expected to focus on the following:*

- a) Realistic assumptions (duration of planning, technical detailing, coverage of periodic activities in operation of Terminal, coverage of periodic activities in maintenance of Terminal)*
- b) Proposed management objectives (degree of satisfaction of stakeholders – Freight Forwarders, Importers / Exporters' interests are addressed)*
- c) Degree of satisfaction of transport needs – submit Plan for Delays Minimization*
- d) Market demand forecast (vessel traffic, Freight volume; cargo traffic, facilities' handling systems)*
- e) Proposed Investment Plan for the ICD (amount of equity to be invested, amount of other funds to be invested, sector of investment, timing of investment, graphical representation of investment, financing plan for the investments)*
- f) Potential for attracting new business (business type, business volume and amount; significance of new business in terms of scale increase and use of available capacity to add value to and maximizes revenue potentials; Basis of achieving set targets from new business– logical reasoning and documentary evidences)*
- g) Expected financial performance (cash inflow projections, cash outflow projections, revenue/expenditure forecasts, financing and funding plan, performance prognosis, risk/sensitivity analysis)*
- h) Detail elaboration on data and its validation*
- i) Period of Business Plan covered and its linkage with the period of Contract (ICD Kakarbhitta) – Refer to TECH 6*

Attachment:

*Basis for the assumptions made*

*Data, information and documentary evidences in support of Business Plan*

**Form TECH-8: Proposed Corporate Structure**{Note:

*In line with the objective, scope and specific requirements of the TOR, the Proposal for Corporate Structure is expected to focus on the following:*

- a) Level of autonomy (including authority for expenses) given to the O&M team at each level. Mention if Parental Company Controls in the Management of Kakarbhitta ICD or it does not control.*
- b) Proposed degree of subcontracting for core or non-core functions*
- c) Proposed Lead Member of a JV*
- d) Functionality of the proposed structure (Organizational Structure)*
- e) Capability of generating new initiatives – detail elaboration on O&M innovative ideas*
- f) Capability of monitoring staff performance – Monitoring Plan*
- g) Duty station of the proposed personnel*
- h) Mode of communication with the parent company*
- i) Qualifications of proposed key-personnel (age, education, relevant experience, experience in Nepal)*

Attachment:

- a) Brief description of the background and organization of individual member of the JV*
- b) Organizational chart and a list of Board of Directors for each member of the JV*
- c) Proposed organization chart to execute the Contract showing from which of the JV members, each of the staff members will be seconded}*

**Form TECH-9: Proposed Operation Plan**{Note:

*In line with the objective, scope and specific requirements of the TOR, the Proposal for Services at the Terminal is expected to focus on the following:*

- a) Adequacy of operational arrangements (overall operational arrangements for different types of port facilities),*
- b) Appraisal per facility of horizontal transfer, storage system and port-to-inland transport interface,*
- c) Proposal for operational area allocation (on the attached layout of the Terminal).*
- d) Maintenance of the existing facility (use and maintenance of Lessor's equipment, frequency of inventorying, frequency of maintenance, mode of maintenance, degree of automation)*
- e) Scope for capacity upgrading (additional equipment allocation (owned or on rent), development of new management systems and controls (Terminal management, trade facilitation, operational safety), labor and staff deployment)*
- f) Problem solving (analysis of current situation – problem identification, rationality of proposed improvements- problem solving, reliability of envisaged results– justifications and practicability)*
- g) IT based Management Information System to capture reliable data relating to traffic volume (vehicle entry and exit status), tariff/revenue collection and financial transaction relating to the contract(streamlining present systemproblem identification, electronic data capturing – problem solving, data outputs and data sharing with stakeholderspracticability and reliability)*

Attachment:

*Graphical representations of the proposal using the layout plans of the Terminal supplied with this ITB as attachment to Appendix G: Information to Bidders }*

**Form TECH-10: Financial Resources**

S. Nr.	Source of Financing	Amount and Currency
1		
2		
3		
4		
5		
n		

Note:

- a) Specify proposed sources of financing net of current commitments, available to meet the total cash flow demands of the service.
- b) As a minimum, resources shall include Working Capital and Credit Lines.
- c) Highlight/mark the relevant entry on the attached substantiating document for conspicuity

Attachment:

- a) Substantiation for each of the entry in the above table with audited and certified copies of Profit and Loss Account, Credit Lines issued by qualified commercial banks or similar document}



**Form TECH-11: Proposed Employment Plan***{Note:*

*In line with the objective, scope and specific requirements of the TOR, the proposal for engaging key-personnel, other staff and labor is expected to focus on the following:*

- a) Wage and salary levels*
- b) Career development prospects (Upgrading or Promotion of Executives and other Project Staffs, Trainings etc.)*
- c) Bonuses, incentives and other fringe benefits (Defined Bonus and Incentive Plan)*
- d) Social security and medical coverage (Provision for Social Security and Medical Coverage)*
- e) Replacement plan of the key personnel in case if so required*
- f) Number and types of key personnel, auxilliary staffs and labors*
- g) Proposal for streamlining workforce (inclusive approach for female and suppressed)*
- h) Capacity Development Plan for Local Staffs, Unskilled Labors, Skilled Workers, Support Staffs and Middle-level Staffs*
- i) Detail Plan or Policies for Recruitment of Project Local Staffs, Unskilled Labors, Skilled Workers, Support Staffs and Middle Level Staffs*

**Form TECH-12: Proposed Key-Personnel**Note:

The following are generally considered to be the Key-Personnel and require the Lessor's consent for replacement:

1. Chief Executive Officer
2. Chief of Finance
3. Operation and Maintenance In-charge
4. Administrative Officer
5. IT expert / Data Analyst

*In addition to the above, the Project may require to use the services of a Planning & Management Consultant for ICD. It is expected that the Expatriate has extensive experience on 'operation and management' of similar Types of Terminal with sound academic qualification in the related field. The Expatriate is believed to provide management skills and know how and transfer the knowledge of terminal management to the local staffs and local Firms.*

*{Provide the following:*

- a) Terms of Reference (TOR) of the proposed key-personnel;*
- b) Proposed organization chart to execute the Contract showing from which of the JV members, each of the key-personnel will be deployed. Also state whether a key-personnel role will be shared by more than one staff member and whether one staff member will be performing the role of more than one key-personnel.*
- c) CV of the staff members proposed for key personnel positions.*
- d) Name, proposed position, proposed responsibility and parent Bidder of each of the key-personnel, as per TECH -2, to be deployed to execute the Contract at the Terminal}*
- e) Mention Job Descriptions and division of work of the key personnel and staffs*

**ATTACHMENT: TERMS OF REFERENCE**

Position/Title:

Deployment duration within next 5 years:

Duty Station:

Type of affiliation with the parent company:

Core task:

Supplementary tasks:

Supervisor:

Reporting requirements:

Language Skills:

**ATTACHMENT: CURRICULUM VITAE**

Position/Title:

Name of Expert:

Date of Birth:

Country of Citizenship:

Contact information:

Education:*{For each degree/diploma/certification provide: College/ University/ Training center, Dates attended}*Employment record relevant to the assignment:*{For each relevant assignment provide: Employer, Name and contact details of immediate supervisor, Position, Dates in employment, Duty Station, Responsibilities in brief}*Membership in Professional Associations:*{For each relevant affiliation provide: Name of the association, Date of joining, Position}*Publications made:*{List only relevant publications}*Language Skills:*{List only relevant languages, level of skill}*Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience, and I am available to undertake the assignment in case of an award. I understand that any misstatement or misrepresentation described herein may lead to my disqualification or dismissal and/or sanctions by the Lessor.

---

 Name of Expert

Signature

Date

---

 Name of authorized  
 Representative of the Bidder  
*{the same who signs the Proposal}*

Signature

Date

**Section 5: Financial Proposal –Forms**

**Checklist of Required Forms**

FORM	DESCRIPTION
FIN -1	Financial Proposal Submission Form
FIN -2	Breakdown of MLR and RSI
FIN -3	Proposal for User Fee

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**Form FIN-1: Financial Proposal Submission Form***{Location, Date}*

*Nepal Intermodal Transport Development Board,  
Kupondole, Lalitpur, Nepal.*

*Attn: Executive Director*

Dear Sirs:

We, the undersigned, offer to provide the O&M Services for the *[Terminal]* at *[location]* in accordance with your Invitation for Bids dated *[date of issuance of IFB]* and our Technical Proposal.

Our attached Financial Proposal is for Lease Rent which is the sum of Minimum Lease Rent component for 5 years equal to Nepalese Rupees *[Indicate the sum of MLR for the 5 years in words and figures]* in accordance with **ITB12.1.5** and Revenue Share on Income component in accordance with **ITB 12.1.6** above the base traffic.

Our Financial Proposal shall be binding upon us up to expiration of the Bid Validity Period, i.e. before the date indicated in **ITB 17**.

*{If no agents have been engaged} [No commissions or gratuities have been or are to be paid by us to agents or any third party relating to this Proposal and Contract execution]*

*{if agents have been engaged} [Commissions and gratuities paid or to be paid by us to an agent or any third party relating to preparation or submission of this Proposal and Contract execution, paid if we are awarded the Contract, are listed below:*

<i>S. Nr.</i>	<i>Name and Address of Agent</i>	<i>Amount and Currency</i>	<i>Purpose of Commission or Gratuity</i>
<i>1</i>			
<i>2</i>			
<i>n</i>			

We understand you are not bound to accept any Bid you receive.

We remain,

Yours sincerely,

Authorized Signature: *{In full and initials}*

Name and Title of Signatory:

In the capacity of:

Address:

E-mail: \_\_\_\_\_

*{For a JV, either all members shall sign or only the lead member, in which case the power of attorney to sign on behalf of all members shall be attached}*

**Form FIN-2: Breakdown of MLR and RSI****A – Minimum Lease Rent component<sup>11</sup>**

Month	Minimum Lease Rent (in million Nepalese Rupees)				
	1st year	2nd year	3rd year	4th year	5th year
1 <sup>st</sup> month					
2 <sup>nd</sup> month					
3 <sup>rd</sup> month					
4 <sup>th</sup> month					
5 <sup>th</sup> month					
6 <sup>th</sup> month					
7 <sup>th</sup> month					
8 <sup>th</sup> month					
9 <sup>th</sup> month					
10 <sup>th</sup> month					
11 <sup>th</sup> month					
12 <sup>th</sup> month					
Total					

{Note:

<sup>11</sup> For the evaluation purpose, Net Present Value of the figures will be calculated using the following formula:

$$NPV = L / (1+i)^t$$

Where,

L = Leasehold Fee entered in the above table

i = Discount rate = 10%

t = the corresponding year for which the Leasehold Fee or Revenue sharing amount are entered in the above table

*MLR is payable in equal monthly installments }*

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**B –Revenue Share on Income component (payable when traffic threshold is crossed)**

If the actual number of traffic in any of the year exceeds the base case, the Lessee shall pay to Lessor the revenue share on incremental traffic over base case equivalent truck traffic at the rate of NRs 165.07 per equivalent truck traffic for the first and second year, NRs 181.57 for third and fourth year and NRs 199.73 for the fifth year.

To make the calculations for the traffic volume simpler, the different modes of traffic are converted to equivalent truck traffic using the factors as per the table on the left. The table on the right gives the Base case traffic volume in equivalent truck traffic.

Conversion factor

Category of Traffic	Conversion factor to obtain equivalent truck traffic
Truck/Tanker/Tractor/Trailer	1.00
Light Vehicles/Bullock cart	0.50
Rikshaw/hand trolley	0.15
Fixed Container Vehicle	1.50
TEU Trailer/ Flat truck etc.	2.00
FEU Trailer/Flat truck etc.	3.00
One trip onwards	0.25

Base case traffic

Year	Equivalent truck traffic
Year 1	114,672
Year 2	118,377
Year 3	122,200
Year 4	126,147
Year 5	130,223

**Form FIN-3: Proposal for User Fee**

For the activities in **C.2 of Section 6: Terms of Reference**, the Bidder shall confirm the following Ceiling Unit Rate.

S. No.	Particulars	Unit	Ceiling unit Rates (NPR)		
			Year 1 & 2	Year 3&4	Year 5&6
A	Freight Vehicle Entry*				
a.	Truck/ Tanker/ Tractor/ Trailer	per entry per trip	235.81	259.39	285.33
b.	Light Vehicles/Bullock Cart with capacity up to 5 Ton	per entry per trip	117.90	129.69	142.66
c.	Rickshaw/ Hand Trolley	per entry per trip	35.40	38.94	42.83
d.	Container Truck (fixed container Vehicle)	per entry per trip	353.69	389.06	427.97
e.	TEU	per entry per trip	471.58	518.74	570.61
f.	FEU	per entry per trip	707.39	778.13	855.94
B	Loading/ unloading/ handling of cargo	all activities			
a.	TEU+	per vehicle	2,357.95	2,593.75	2,853.13
b.	FEU+	per vehicle	4,244.31	4,668.74	5,135.61
c.	For other vehicles+				
i.	Containerized cargo	per MT	165.06	181.57	199.73
ii.	Non containerized break bulk/ Packaged/ Bagged cargo	per MT	165.06	181.57	199.73
iii.	Non containerized bulk/ loose cargo	per MT	117.90	129.69	142.66
C.	Terminal Handling Charge				
a.	Loaded Container				
i.	TEU	Complete cycle	2,357.95	2,593.75	2853.13
ii.	FEU	Complete cycle	3,772.73	4,150.00	4565.00
b.	Empty Container				
i.	TEU	Complete cycle	1,178.99	1,296.89	1,426.58
ii.	FEU	Complete cycle	1,886.37	2,075.01	2,282.51
c.	LCL Cargo including container handling/ loading/ unloading and stuffing and destuffing	Per MT	471.58	518.74	570.61

S. No.	Particulars	Unit	Ceiling unit Rates (NPR)		
			Year 1 & 2	Year 3&4	Year 5&6
D.	Weightment Charge of loaded/empty vehicles	Per event	235.81	259.39	285.33
E.	Warehousing Charges				
a.	Import				
i.	Up to 24 hrs upon arrival	Per kg per day	Free	free	free
ii.	2-8 days	Per kg per day	0.14	0.16	0.17
iii.	9-30 days	Per kg per day	0.19	0.21	0.23
iv.	31 days onwards	Per kg per day	0.28	0.31	0.34
b.	Export				
i.	Up to 24 hrs upon arrival	Per kg per day	free	Free	free
ii.	2-8 days	Per kg per day	0.07	0.08	0.09
iii.	9-30 days	Per kg per day	0.09	0.10	0.11
iv.	31 days onwards	Per kg per day	0.12	0.13	0.14
c.	Open Yard Storage				
i.	Up to 24 hrs upon arrival	Per kg per day	free	Free	free
ii.	2-8 days	Per kg per day	0.07	0.08	0.09
iii.	9 days onwards	Per kg per day	0.12	0.13	0.14
F	Parking & Storage Charges for loaded/unloaded vehicles				
a.	FEU				
i.	Up to 24 hrs upon arrival	Per day	free	Free	free
ii.	2-7 days	Per day	471.58	518.74	570.61
iii.	8 days onwards	Per day	707.39	778.13	855.94
a.	Other Vehicles				
i.	Up to 24 hrs upon arrival	Per day	free	Free	free
ii.	2-7 days	Per day	353.69	389.06	427.97
iii.	8 days onwards	Per day	471.58	518.74	570.61
G	Parking & Storage charges of containers				

S. No.	Particulars	Unit	Ceiling unit Rates (NPR)		
			Year 1 & 2	Year 3&4	Year 5&6
a.	FEU Container				
i.	Up to 24 hrs upon arrival	Per day	free	Free	free
ii.	2-7 days	Per day	471.58	518.74	570.61
iii.	8 days onwards	Per day	707.39	778.13	855.94
a.	TEU Container				
i.	Up to 24 hrs upon arrival	Per day	Free	free	
ii.	2-7 days	Per day	353.69	389.06	427.97
iii.	8 days onwards	Per day	471.58	518.74	570.61
H	Cleaning of containers				
a.	TEU	Per event	235.81	259.39	285.33
b.	FEU	Per event	353.69	389.06	427.97
I	Forklift Charge				
a.	Complete Cycle				
i.	TEU	Per vehicle	3,513.84	3,865.22	4,251.74
ii.	FEU	Per vehicle	7,027.68	7,730.45	8,503.50
b.	Single Cycle				
i.	TEU	Per vehicle	1,830.73	2,013.80	2,215.18
ii.	FEU	Per vehicle	3,660.25	4,026.28	4,428.91
c.	Non-containerized	Per MT	220.22	242.24	266.46

If the export is repeated through the same vehicle on the same day, the entry fee will be only 25% from the second trip onwards.

(\* )Same rates will apply to loaded and empty freight vehicles. Generally, a vehicle coming empty will go back loaded and a vehicle coming loaded will go back empty or loaded.

(+) Rate will be double for hazardous cargo.

*Note: Additional cost items not covered above but if required during the contract implementation shall be decided by the NITDB management as per the existing rate being applicable in Birgunj/ Biratnagar/ Bhairahawa ICD/ICP. The User Fee for the 6<sup>th</sup> year will only be applicable when in case the contract is extended as per GCC 13.3.*

**PART II: REQUIREMENTS**

NOT FOR SALE

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## Section 6: Terms of References

### Operation and Management of Kakarbhitta ICD

#### A. Objectives

The main objectives of the proposed operation and management Contract are the following:

- Facilitate bilateral and international trade through modernized customs process;
- Provide smooth, hassle free, safe and economic service to the ICD users;
- Minimize damage and pilferage of cargo;
- Create a facilitating environment to customs, quarantine and security authorities to fulfil their statutory requirements;
- Maintain a sustainable and transparent revenue generation channel for the government;
- Minimise environmental problems generated by congestion and dust/smoke pollution.

#### B. Scope of Services

The scope is limited to Service at Kakarbhitta ICD terminal located at Ward No. 6, Mechinagar Municipality, Jhapa District, Nepal as per the provisions in the SCC, GCC and TOR and with the international trade limited to cargo over road.

#### C. Specific Responsibilities

##### 1. Revenue Generation

The amount payable to the Lessor is composed of the following:

- Minimum Lease Rent
- Revenue Share on Income.

The revenue that is likely to be generated from the operations of the ICD may be classified into the following three broad categories:

- Core gateway services
- Sub-leases
- Supplementary services.

##### 1.1. Minimum Lease Rent

By the 1<sup>st</sup> week of each month over the contract period, the Lessee shall pay to the Lessor MLR for the preceding month. The monthly instalment of MLR shall be calculated as one-twelfth for the corresponding year. MLR offered to the Lessor by the bidder shall not be less than minimum NPR 90,600,000 (Nepalese Rupees Ninety Million, Six Hundred Thousand Only) in aggregate for the five year period of which minimum amount payable for the first to fifth year shall be as listed below:

- NPR 15,600,000 in the 1st year,
- NPR 16,800,000 in the 2nd year,

- NPR 18,000,000 in the 3rd year,
- NPR 19,200,000 in the 4th year,
- NPR 21,000,000 in the 5th year,

### 1.2. Revenue Share on Income

The Lessee shall pay to Lessor an additional amount over the Minimum Lease Rent during the Contract duration. This additional payable amount is termed as Revenue Share on Income (RSI).

To make the calculations for the traffic volume simpler, the different modes of traffic are converted to equivalent truck traffic using the factors as per the table on the left. The table on the right gives the Base case traffic volume in equivalent truck traffic.

Conversion factor		Base case traffic	
Category of Traffic	Conversion factor to obtain equivalent truck traffic	Year	Equivalent truck traffic
Truck/Tanker/Tractor/Trailer	1.00	Year 1	114,672
Light Vehicles/Bullock cart	0.50	Year 2	118,377
Rikshaw/hand trolley	0.15	Year 3	122,200
Fixed Container Vehicle	1.50	Year 4	126,147
TEU Trailer/ Flat truck etc.	2.00	Year 5	130,223
FEU Trailer/Flat truck etc.	3.00		
One trip onwards	0.25		

The Lessee shall pay to Lessor the revenue share on incremental traffic over base case equivalent truck traffic at the rate of NRs 165.07 per equivalent truck traffic for the first and second year, NRs 181.57 for third and fourth year and NRs 199.73 for fifth year.

### 1.3. Core Gateway Services

While transiting the goods through the ICD facilities, all the users and importers/exporters will utilize the core gateway services. These common user services include

- the systematic entry and exit of containers, container trucks, open trucks and other commercial vehicles,
- basic cargo handling as required by Customs or any other governmental or authorized agencies,
- basic warehousing, for goods impounded or detained by Customs or any other governmental or authorized agencies.

The TMC will set the prices for these services within the published tariff ceilings set by NITDB.

### 1.4. Sub-leases

The TMC will have the authority to charge rent for other users or sub-leasing the premises which includes office spaces for banks, insurance companies, freight forwarders, customs agents, telecommunication service providers, laboratories etc.

The sub-leasing should be done without reducing the floor area being covered by the



Customs Office or interfering with its functioning. Furthermore, the TMC cannot outsource its managerial functions for running the facility and in exercising facility control and coordination. The TMC as the Lessee will have to substantiate to NITDB that the sub-lessee is capable and has the necessary equipment to provide the sub-leased services.

### 1.5. Supplementary Services

The Lessee is entitled to charge rent or levy fees on the usage of a variety of services it provides within the ICD to enhance the profitability. Such supplementary services include services offered to some sub-set of terminal users with special logistics needs. The entrepreneurial instinct of the TMC and his understanding of the distribution arrangements and logistics characteristics of the underlying freight markets are the best guide to define the marketable value added menu under this supplemental services category.

No ceiling has been set for the corresponding User Fee under this category of activities. As these services are typically subject to competition from other service providers on either side of the Nepal border, the charges are suggested to be competitive. The Lessee shall require to take specific approval from the Lessor before commencement of this service.

## 2. Ceiling on User Fee

A ceiling has been set by GON on User Fees as tabulated below. TMC shall have the right to charge User fee to the Users of the Terminal not exceeding the tabulated ceiling rates. The unit rate for the 6<sup>th</sup> year will be applicable only if the Contract is extended as per GCC 13.3.

As the periodic increment of User Fee as per ITB 12.1.2 has already incorporated in the proposed User Fee ceiling in the table, no additional increment is applicable.

S. No.	Particulars	Unit	Ceiling unit Rates (NPR)		
			Year 1 & 2	Year 3 & 4	Year 5 & 6
A	Freight Vehicle Entry				
a.	Truck/ Tanker/ Tractor/ Trailer	per entry per trip	235.81	259.39	285.33
b.	Light Vehicles/Bullock Cart with capacity up to 5 Ton	per entry per trip	117.90	129.69	142.66
c.	Rickshaw/ Hand Trolley	per entry per trip	35.40	38.94	42.83
d.	Container Truck (fixed container Vehicle)	per entry per trip	353.69	389.06	427.97
e.	TEU	per entry per trip	471.58	518.74	570.61
f.	FEU	per entry per trip	707.39	778.13	855.94
B	Loading/ unloading/ handling of cargo	all activities			
a.	TEU	per vehicle	2357.95	2593.75	2853.13
b.	FEU	per vehicle	4244.31	4668.74	5135.61
c.	For other vehicles				
i.	Containerized cargo	per MT	165.06	181.57	199.73
ii.	Non containerized break bulk/ Packaged/ Bagged cargo	per MT	165.06	181.57	199.73
iii.	Non containerized bulk/ loose cargo	per MT	117.90	129.69	142.66
C.	Terminal Handling Charge				
a.	Loaded Container				

S. No.	Particulars	Unit	Ceiling unit Rates (NPR)		
			Year 1 & 2	Year 3 & 4	Year 5 & 6
i.	TEU	Complete cycle	2,357.95	2,593.75	2853.13
ii.	FEU	Complete cycle	3,772.73	4,150.00	4565.00
b.	Empty Container				
i.	TEU	Complete cycle	1,178.99	1,296.89	1,426.58
ii.	FEU	Complete cycle	1,886.37	2,075.01	2,282.51
c.	LCL Cargo including container handling/loading/ unloading and stuffing and destuffing	Per MT	471.58	518.74	570.61
D.	Weighment Charge of loaded/empty vehicles	Per event	235.81	259.39	285.33
E.	Warehousing Charges				
a.	Import				
i.	Up to 24 hrs upon arrival	Per kg per day	free	free	free
ii.	2-8 days	Per kg per day	0.14	0.16	0.17
iii.	9-30 days	Per kg per day	0.19	0.21	0.23
iv.	31 days onwards	Per kg per day	0.28	0.31	0.34
b.	Export				
i.	Up to 24 hrs upon arrival	Per kg per day	free	free	free
ii.	2-8 days	Per kg per day	0.07	0.08	0.09
iii.	9-30 days	Per kg per day	0.09	0.10	0.11
iv.	31 days onwards	Per kg per day	0.12	0.13	0.14
c.	Open Yard Storage				
i.	Up to 24 hrs upon arrival	Per kg per day	free	free	free
ii.	2-8 days	Per kg per day	0.07	0.08	0.09
iii.	9 days onwards	Per kg per day	0.12	0.13	0.14
F	Parking & Storage Charges for loaded/unloaded vehicles				
a.	FEU				
i.	Up to 24 hrs upon arrival	Per day	free	free	free
ii.	2-7 days	Per day	471.58	518.74	570.61
iii.	8 days onwards	Per day	707.39	778.13	855.94
a.	Other Vehicles				
i.	Up to 24 hrs upon arrival	Per day	free	free	free
ii.	2-7 days	Per day	353.69	389.06	427.97
iii.	8 days onwards	Per day	471.58	518.74	570.61
G	Parking & Storage charges of containers				
a.	FEU Container				
i.	Up to 24 hrs upon arrival	Per day	free	free	free
ii.	2-7 days	Per day	471.58	518.74	570.61
iii.	8 days onwards	Per day	707.39	778.13	855.94
a.	TEU Container				
i.	Up to 24 hrs upon arrival	Per day	free	free	

S. No.	Particulars	Unit	Ceiling unit Rates (NPR)		
			Year 1 & 2	Year 3 & 4	Year 5 & 6
ii.	2-7 days	Per day	353.69	389.06	427.97
iii.	8 days onwards	Per day	471.58	518.74	570.61
H	Cleaning of containers				
a.	TEU	Per event	235.81	259.39	285.33
b.	FEU	Per event	353.69	389.06	427.97
I	Forklift Charge				
a.	Complete Cycle				
i.	TEU	Per vehicle	3,513.84	3,865.22	4251.74
ii.	FEU	Per vehicle	7,027.68	7,730.45	8503.50
b.	Single Cycle				
i.	TEU	Per vehicle	1,830.73	2,013.80	2215.18
ii.	FEU	Per vehicle	3,660.25	4,026.28	4428.91
c.	Non-containerized	Per MT	220.22	242.24	266.46

If the export is repeated through the same vehicle on the same day, the entry fee will be only 25% from the second trip onwards.

(\* )Same rates will apply to loaded and empty freight vehicles. Generally, a vehicle coming empty will go back loaded and a vehicle coming loaded will go back empty or loaded.

(+) Rate will be double for hazardous cargo.

*Note:* Additional Cost item not covered above but if required during the contract implementation shall be decided by the NITDB management as per the existing rate applicable in Birgunj/Biratnagar/Bhairahawa ICD/ICP.

### 3. Facilitation to Government Agencies

The TMC will provide within the Terminal the following without any charge:

- Designated office space for the Customs officials, Lessor's staff and security personnel and all other government agencies.
- Supply of electricity, water and cleaning service within the designated office spaces
- Living space for the security personnel
- Unrestricted access for customs officials to Container Freight Stations, inspection sheds, motor vehicles, etc.
- Segregation and securing of containers or trucks marked by the customs officials for an indefinite period.
- Issuance of different type of entrance permits for different zone to the customs clients as per the request of the Chief Customs Officer
- Facilitation to government inspection and audits

### 4. Smooth Operation

The TMC will make adequate provision including the necessary paperwork for its own purpose to facilitate the following activities:

- Hassle-free entry of the goods carrying trucks

- b) Deployment of its own security and help-personnel for user facilitation and guidance as well as against violence and illegal activities within the ICD
- c) Stuffing of a 20 foot container for mixed cargo: 1 hour
- d) De-stuffing of a 20 foot container for mixed cargo: 1 hour
- e) Stuffing of a 40 foot container for mixed cargo: 2 hour
- f) De-stuffing of a 40 foot container for mixed cargo: 2 hour
- g) Lift on/off a container to truck/trailer: 15 minute
- h) Loading/unloading of break bulk cargo in to/from truck: 45 minute
- i) Weighing a truck/trailer: 10 minute
- j) Identification of cargo location: 15 minute
- k) Issuing of entry/exit pass for vehicle: 15 minute
- l) Processing of terminal charges and its acceptance: 45 minute

## 5. Maintenance of the Terminal

The TMC shall take every effort to avoid premature wear and tear of the administrative building, CFS shed, underground water tank, pavement, boundary wall and other areas, including fencing and gates, barriers, etc. and the Lessor's equipment within the Terminal and follow an appropriate repair and maintenance regime according to the time tabulated here.

In case of breakdown of utilities (e.g., electricity, water supply, fire-fighting setup, drainage), the TMC shall repair the same within 24 hours to make the services functional. The operator shall provide other alternative arrangement for non-interruption of services until the repair is being done.

In case the civil structure (e.g., pavement, buildings, gates, warehouses, boundary wall etc.) are damaged, except under exceptional circumstances, the TMC shall start the rectification works immediately and complete it within stipulated time.

The TMC shall maintain the Terminal, including the Lessor's equipment within it, as per the following maintenance regime:

### 5.1. Maintenance of the Civil Part

Repair immediately for the indicated items and following the inspection schedule for other items:

S. Nr.	Checks	Daily	Weekly	Monthly	Half-yearly	Annually	Bi-annually	Every 5 <sup>th</sup> year
1	Administrative Building, Sub- station, Gate Cabin Canteen, Ablution block, Toilet blocks, Water kiosks etc.							
1.1	Sweeping/ cleaning of walls/ ceilings/ windows/ and premises	√						
1.2	Garbage disposal	√						

S. Nr.	Checks	Daily	Weekly	Monthly	Half-yearly	Annually	Bi-annually	Every 5 <sup>th</sup> year
1.3	Cleaning of glass panes			✓				
1.4	Repair of building doors and windows (pane, fittings, putty)					✓		
1.5	Painting of walls, ceiling, sign boards						✓	
1.6	Painting of railing, pipes, grills, woodwork, steel works, brackets etc.						✓	
1.7	Cleaning and repair of rainwater drain pipes.				✓			
2	Goods Shed, CFS, Customs Litigation & workshop							
2.1	Sweeping/ cleaning of walls/ ceilings/ windows/ and premises		✓					
2.2	Garbage Disposal		✓					
2.3	Repair of doors and windows (pane, fittings, putty, etc.), cleaning of glass panes				✓			
2.4	Painting of walls, ceiling, sign boards							✓
2.5	Painting of railing, pipes, grills, woodwork, steel works, brackets etc.							✓
2.6	Painting of pipe lines, brackets, grills etc.							✓
2.7	Painting of roof truss							✓
2.8	Repair of leakage etc from Roof Sheets, extract or etc.				✓			
1.7	Cleaning and repair of rainwater drain pipes.				✓			
3	Platform, Concrete block pavement (type I, II), Concrete pavement (IIIA)							
3.1	Sweeping		✓					
3.2	Garbage disposal		✓					
3.3	Repair of potholes (>50 mm)					✓		
3.4	Cleaning and repair of rainwater drain channel				✓			
4	Bituminous pavement (IIIB)							
4.1	Sweeping		✓					
4.2	Garbage disposal		✓					
4.3	Repair of potholes (>100 mm)					✓		
4.4	Cleaning and repair of rainwater drain channel				✓			
5	Non-paved Area							
5.1	Cutting of grass, shrubs, pruning of trees				✓			
5.2	Trimming of ground				✓			
5.3	Garbage disposal			✓				
6	Utilities							
6.1	Repair of tap, valves, fountain, cooling system, etc.		✓					
6.2	Maintenance of water supply line							
6.3	Cleaning of underground water tanks				✓			
6.4	Cleaning of overhead water tanks				✓			
6.5	Cleaning of drains of basins and tanks					✓		
6.6	Sewerage/drainage pipe line maintenance						✓	
6.7	Cleaning of septic tank						✓	
7	Firefighting line							
7.1	Pressure and operation checkup		✓					

S. Nr.	Checks	Daily	Weekly	Monthly	Half-yearly	Annually	Bi-annually	Every 5 <sup>th</sup> year
7.2	Maintenance							
8	Boundary wall, gate, boom-gate							
8.1	Painting							√
8.2	Greasing, oiling of gate/ boom gate			√				
8.3	Maintenance following malfunction/accident							
9	Green area/ garden							
9.1	Watering	√						
9.2	Replacement of dead plant			√				
9.3	Plantation of seasonal plants			√				
9.4	Manure/fertilizer application				√			
9.5	Grass cutting			√				
9.6	Maintaining the levels					√		
9.7	Garbage disposal			√				
10	Lessor's Equipment (to be repaired and maintained as per Operation and Maintenance manual with the following additions)							
10.1	Greasing and oiling			√				√
10.2	Replacement of broken parts	√						
10.3	Monthly maintenance			√				
10.4	Annual maintenance					√		
10.5	Replacement of tires							√

## 5.2. Maintenance of the Electrical Part

Repair immediately after detection of malfunction or following the checking schedule:

S. Nr.	Checks	Daily	Weekly	Monthly	Half-yearly	Annually	Bi-annually	Every 5 <sup>th</sup> year	As per Manufacturer
1	Diesel generator set								
1.1	10 minute run test on auto/ manual operation and maintain frequency, temp., current and voltage record	√							
1.2	Battery electrolyte	√							
1.3	A-Check								√
1.3.1	Check air cleaner and drain air tank		√						
1.3.2	Check loose or worn out belts	√							
1.3.3	Check engine coolant and top up if required	√							
1.3.4	Check engine oil level through dip stick and diesel reserve	√							
1.4	B-Check				√				√

S. Nr.	Checks	Daily	Weekly	Monthly	Half-yearly	Annually	Bi-annually	Every 5 <sup>th</sup> year	As per Manufacturer
1.4.1	Repeat A- check and also carry out B-Checks				√				
1.4.2	Change engine oil and filter				√				
1.4.3	Check throttle linkage and lubricate				√				
1.4.4	Clean fuel tank breather and replace fuel filter				√				
1.4.5	Check air piping and clean/ change crank case breather				√				
1.5	C-Check					√			√
1.5.1	Repeat A and B-Checks and also carry out C-Check					√			
1.5.2	Clean radiator and check fan hub/ idler and water pump					√			
1.5.3	Check alternator, air cleaner etc.					√			
1.6	D-Check								√
1.6.1	Repeat A,B and C-Checks and perform D-Check								√
1.7	Alternator								√
2	Transformer								
2.1	Transformer oil for sludge and acidity					√			
2.2	Excess humming	√							
2.3	Silica gel color of breather	√							√
2.4	Transformer oil dielectric strength and dehydration if required.				√				
2.5	Earth value and connections				√				
2.6	Operation of controls			√					
2.7	Maintain hourly record of WTI, OTI readings	√							
2.8	Oil Level and tap changer.			√					
2.8.1	Examine for cracked bushings and dirt deposit			√					
2.8.2	Insulation resistance					√			
2.9	Explosion vent sight glass.								√
2.10	Any other check as per manufacturer's recommendations								√
3	Firefighting and water supply pumps								
3.1	Trial run of fire pumps on auto operation		√						
3.2	MCC operation/ status			√					
3.3	Gland leakage & rectification		√						
3.4	Cable connection			√					
3.5	10 minutes operation of diesel pump	√							
3.6	Check oil level of diesel tank		√						
3.7	Descaling of pumps					√			
3.8	Check holding of valves & descale if required					√			
3.9	Check pressure vessel for corrosion etc.				√				
3.10	Any other check as per manufacturer's recommendations								√
4	SF-6, 11KV breaker panels								
4.1	Cable terminations			√					

S. Nr.	Checks	Daily	Weekly	Monthly	Half-yearly	Annually	Bi-annually	Every 5 <sup>th</sup> year	As per Manufacturer
4.2	Functioning of various protective relays			√					
4.3	Earth value & connections		√						
4.4	Check readings of metering panel and maintain record	√							
4.5	Check SF-6 gas pressure/ leakage.					√			√
5	LT-Distribution Panels								
5.1	Cable connections			√					
5.2	Functioning of various protective releases				√				
5.3	Earth value & connections		√						
5.4	Check functioning of indicating meters and lamps	√							
6	Fire detection and alarm system								
6.1	Smoke & ROR detectors								
6.1.1	Cleaning of contacts			√					
6.1.2	Simulate smoke to check function & maintain record.			√					
6.2	Fire extinguishers								
6.2.1	Refill used units if any	√							
6.2.2	Check operation, gas/ chemical filling and maintain record					√			
6.3	Fire detection Control Panels								
6.3.1	Check operation of LCP and MCP by simulating fault conditions			√					
6.3.2	Check P. Cards & replace faulty cards if necessary				√				
6.4	Public address system								
6.4.1	Check audibility of hooters & announcement			√					
6.4.2	Working of main hooter	√							
6.4.3	Check batteries		√						
6.5	Any other check								√
7	LT and HT-Power Cables								
7.1	IR value								
7.1.1	Check insulation resistance of power cables.				√				√
7.1.2	Carry out specified pre-monsoon checks.					√			
7.2	Terminations								
7.2.1	Check physically all terminations for heating and lug pitting etc.				√				√
8	High-mast lighting								
8.1	Check for fused lamps or ballasts etc. of luminaries by lowering carriage.				√				
8.2	A-Check								√
8.3	Oil level, bolt security, foreign matter, power drive, corrosion etc. of winch					√			
8.4	Frays, kinks, corrosion, splicing etc. in wire rope					√			
8.5	Check for damage and lubricate in compensation pulley.					√			



S. Nr.	Checks	Daily	Weekly	Monthly	Half-yearly	Annually	Bi-annually	Every 5 <sup>th</sup> year	As per Manufacturer
8.6	Check joints, guide, cable & junction box, CG box, luminaires, cable wire, clamps, Nylon bobbin & chain in Lantern carriage				√				
8.7	Lanterns					√			
8.8	Plug and socket and electrical box					√			
8.9	General: Check as per manufacturer's recommended list.								√
8.10	B-Check								
8.10.1	As per A-Check plus test load the wire rope with maint. Cage after two years.						√		√
8.10.2	Raise maint. Cage to check any wear & tear and damage to upper part of mast.						√		
8.11	C-Check								
8.11.1	Repeat A & B-checks and also carry out checks on wire rope & electrical installations as per manufacturer's recommendations						√		√
9	Other equipment viz. battery chargers, HPSV & fluorescent luminaires, compressor, distribution boards & other internal electrical equipment								√

#### D. Resource Mobilization

##### 1. TMC's Personnel

The following is an indicative list of key-personnel requirement for Kakarbhitta ICD Terminal during normal times. To support the key-personnel and for specific maintenance activities, specific workers need to be hired. The TMC is free to propose required manpower and will be responsible for recruiting, training and employing qualified staff in sufficient numbers for the O&M of the Terminal.

1. Chief Executive Officer
2. Chief of Finance
3. Operation and Maintenance In-charge
4. Administrative Officer
5. IT Expert/ Data Analyst

The above staff composition is the Lessor's suggestion. The TMC is advised to assess its own requirement and propose appropriate staff composition and staff input requirement for efficient performance of the Contract. If the proposed team is found inadequate during the performance of the services then additional staff shall be provided by the TMC at its own cost.

### 1.1. TMC's Equipment

In order to ensure that each operator has adequate financial stake in the Kakarbhitta ICD Terminal, NITDB expects that adequate handling equipment are available at site. The requirements are as tabulated below:

No.	Equipment Type and Characteristics	Number	
		Continuously Required	Additionally on call
1	Wheel crane (minimum 10 MT capacity)	-	1
2	Motorized fork-lift (minimum 1 MT capacity)	1	1
3	Top-Loader (Reach-stacker of 45 MT capacity)	-	1

The TMC shall propose additional equipment in his Technical Proposal to achieve at least the requirements in **clause 4**(Smooth Operation) above.

### 1.2. TMC's Financial Resources

It is to be expected that a business undertaking of this scale requires certain amount liquid asset. The resources should be adequate to cover the following:

- Issuance of Performance Security to the Lessor
- Monthly payment of minimum Leasehold Fee to the Lessor
- Yearly payment of Revenue Sharing component to the Lessor
- Operation costs including expense on staff, equipment and facility maintenance
- Insurance premium
- Possible delayed collection from regular users

### E. Approval by the Lessor

The TMC shall be required to obtain specific approval of the Lessor before taking any of the following actions:

- Use of the Terminal for other purpose than receiving and dispatching trucks for international trade
- Storing and handling of goods of archaeological value and animal/plant material listed under CITES.
- Keeping and handling of live animals for more than a day
- Storing and handling of hazardous material as listed by WHO
- Transferring of the Lessor's equipment, mechanical/electrical component within the Terminal to any other location: even if such transfer is requested by a government agency
- Closure of the Terminal except when the Customs Office within it too is closed.

### F. Reporting Requirements

The TMC shall establish an IT based Management Information System to capture reliable and efficient data relating to traffic volumes (vehicle entry and exit), tariffs and revenue

collections and financial transactions relating to the contract. It shall email a daily report at 20:00 hours (or immediately after the closure of the Customs Office for the night) to the Lessor with the following details:

- Date and time of entry/exit, identification details of train/truck bringing in/taking out the consignment, with identification, importer/exporter identification, container identification, shipping agent identification
- Date and time of re-entry of the container/truck after delivery/collection within Nepal, Location of such delivery/collection

The TMC shall give automated access to the Lessor to its electronic database to extract the above information in order to create and maintain a corridor monitoring database.

In addition to the above reporting requirements, if the Lessor instructs to use a specific electronic system for Terminal Management, Billing and associated activities, the TMC shall use the system.

NOT FOR SALE



**Appendix A: Bid Security (Bank Guarantee)**

{Bank's Name, SWIFT code and Address of Issuing Branch or Office}

Beneficiary: *Nepal Intermodal Transport Development Board*

Date:

Proposal Security No.:

We have been informed that {name of the Bidder} (hereinafter called "the Bidder") has submitted to you its Bid dated {date} (hereinafter called "the Bid") for the Services at {Terminal} under ITB No {ITB reference number} ("the Instruction to Bidder").

Furthermore, we understand that, according to your conditions, Bids must be supported by a BidSecurity.

At the request of the Bidder, we {name of Bank} hereby irrevocably undertake unconditionally to pay you any sum or sums not exceeding in total an amount of {amount in figures and words} upon receipt by us of your first demand in writing accompanied by a written statement stating that the Bidder is in breach of its obligation(s) under the Bid conditions, because the Bidder:

- a) has withdrawn its Bid during the period of validity of Bid specified by the Bidder in the *Technical Proposal Submission Form*; or
- b) does not accept the correction of errors in accordance with the Instructions to Bidders (hereinafter "the ITB"); or
- c) having been notified of the acceptance of its Bid by the Lessor during the period of validity of Bid, (i) fails or refuses to execute the Contract Agreement, or (ii) fails or refuses to furnish the Performance Security, in accordance with the ITB

This guarantee will expire: (a) if the Bidder is the successful Bidder, upon our receipt of copies of the Contract Agreement signed by the Bidder and the Performance Security issued to you upon the instruction of the Bidder; and (b) if the Bidder is not the successful Bidder, upon the earlier of (i) our receipt of a copy your notification to the Bidder of the name of the successful Bidder; or (ii) *thirty days* after the expiration of the Bid Validity.

Consequently, any demand for payment under this guarantee must be received by us at the office on or before that date.

{Bank's seal and authorized signature(s)}

**Appendix B: Performance Security**

*{Bank's Name, and Address of Issuing Branch or Office}*

Beneficiary: *Nepal Intermodal Transport Development Board, Gyaneswor, Kathmandu*

Date:

Performance Guarantee Number:

Contract Reference Number:

We have been informed that *{name of the Terminal Management Company}* (hereinafter called "the TMC") has entered into Contract No. ...*reference no. of the contract...* dated ... with you, for the execution of *{name of Contract}* (hereinafter called "the Contract").

By this letter, we the undersigned, *[name of Bank]*, a Bank organized under the laws of *[country of Bank]* and having its registered/principal office at *[address of Bank]*, do hereby jointly and severally with the Lessee irrevocably guarantee payment owed to you by the Lessee, pursuant to the Agreement, up to the sum of *{amount equal to 2 year's Minimum Lease Rent}*.

We undertake to make payment under this Letter of Guarantee upon receipt by us of your first written demand signed by your duly authorized officer declaring the TMC to be in default under the Contract, and without cavil or argument any sum or sums within the above-named limits, without you need to prove or show grounds or reasons for your demand and without the right of the TMC to dispute or question such demand.

This Letter of Guarantee shall be valid from the date of issue until the earlier of Eighteen(18) months after the Effective Date. If the Defect Liability Period is extended with respect to any part or the Terminal in accordance with the Contract, you shall notify us, and the validity of this Letter of Guarantee shall be extended with respect to the percentage of the Leasehold Fee stipulated in the notification until expiry of such extended Defect Liability Period.

Our liability under this Letter of Guarantee shall become null and void immediately upon its expiry, whether it is returned or not, and no claim may be made hereunder after such expiry or after the aggregate of the sums paid by us to you shall equal the sums guaranteed hereunder, whichever the earlier.

All notices to be given hereunder shall be given by registered (airmail) post to the addressee at the address herein set out or as otherwise advised by and between the parties hereto.

We hereby agree that any part of the Lease Agreement may be amended, renewed, extended, modified, compromised, released or discharged by mutual agreement between you and the TMC, and this security may be exchanged or surrendered without in any way impairing or affecting our liabilities hereunder without notice to us and without the necessity for any additional endorsement, consent or guarantee by use, provided, however, that the sum guaranteed shall not be increased or decreased.

No action, event or condition which by any applicable law should operate to discharge us from liability hereunder shall have any effect and we hereby waive any right we may have to apply such law, so that in all respects our liability hereunder shall be irrevocable and, except as stated herein, unconditional in all respects.

*{Seal of Bank and Signature}*

**Appendix C: Letter of Intent**

*[On letterhead paper of the Employer]*

*[date]*

*[Notes:*

*The issuance of Letter of Intent is the information of the selection of the Bid of the successful Bidder by the Employer and for providing information to other unsuccessful Bidders who participated in the Bid as regards to the outcome of the leasing process. This standard form of Letter of Intent to Award should be filled in and sent to the successful Bidder only after evaluation and selection of substantially responsible highest evaluated Bid.]*

*[name and address of the Bidder]*

Issuance of letter of intent to award the contract

*[Name of Contract, Reference Number]*

We would like to thank you for submitting a Bid in response to the Invitation for Bids dated *[date]* for execution of the *[Name of Contract, Reference Number]*.

This is to notify you of our intention to award the Contract to you as your Bid price *[amount in figures and words in Nepalese Rupees]* as corrected and modified in accordance with the Instructions to Bidders is hereby selected as Substantially Responsive Highest Evaluated Bid.

Thanking you

*[Authorized Signature, Name, Title]*

CC:

*[Name and address of all other Bidders submitting Bid]*

**Appendix D: Letter of Acceptance**

*[on letterhead paper of the Employer]*

*[date]*

*[name and address of the Bidder]*

**Notification of Award**

*[Name of Contract, Reference Number]*

This is to notify that your Bid dated *[date]* for execution of the *[Name of Contract, Reference Number]* for the *Leasehold Price, Revenue Sharing and Investment in Physical Infrastructure* as per the attachment, as corrected in accordance with the Instructions to Bidders is hereby accepted in accordance with the Instruction to Bidders.

You are hereby instructed to contact this office to sign the formal contract agreement within 15 days. As per the Conditions of Contract, you are also required to submit Performance Security, as specified in SCC, consisting of a Bank Guarantee in the format included in *Appendix B* of the bidding document.

The Bid Security that you submitted earlier will be forfeited, in case you fail to furnish the Performance Security and to sign the contract within specified period.

Thanking you

*[Authorized Signature, Name, Title]*



## Appendix E: Joint Venture Agreement

WHEREAS the *Government of Nepal, Nepal Intermodal Transport Development Board* (hereafter referred as Employer) intends to lease out [*give name*] *Terminal, Nepal* (hereafter referred as Terminal) for *Operation and Management and associated tasks* (hereafter referred as Services) to an eligible and interested party and has requested for Bids.

WHEREAS, we *{the name of the JV}*: the joint venture of *{JV member 1}*, *{JV member 2}*, and *{JV member 3}* (hereinafter referred as the Bidder) wish to associate themselves for the purpose of submitting Technical and Financial Bid and if selected, executing the Services by forming a Nepalese company registering under Company Act 63 and subsequently entering into a contract with the Employer.

NOW THEREFORE, be it resolved:

1. *{JV member 1}*, *{JV member 2}*, and *{JV member 3}* agree to form a joint venture *{the name of the JV}* for the purpose of undertaking the obligations and furnishing the Services under the said contract and share the benefits and liabilities thereof.
2. *{JV member 1}* will be the Lead Bidder and the authorized representative nominated by JV member 1 shall be authorized to sign and submit the Technical and Financial Bid, apply for their modification and withdrawal, as well as if successful, negotiate a contract with the Employer to provide the Services. *{JV member 1}* will also be responsible for overall technical and financial matters including administrative works and logistics management.
3. The percentage share of benefit or liability under the joint venture is decided to be (i) *{JV member 1: aa%}*, (ii) *{JV member 2: bb%}*, and (iii) *{JV member 3: cc%}*.
4. It is intended that each of the joint venture members of *{the name of the JV}* will provide expertise and resources that best represent their capabilities and experience and members are jointly and severally liable for the performance of the Services.
5. The relationship between the joint venture companies shall be limited to this agreement and shall be construed as deemed to be as joint venture agreement for the sole purpose of providing the Services at the Terminal.
6. If this JV is awarded with the contract for providing the Service, we will timely incorporate a the local joint venture company by having the shares percentage as written in Clause 3 of this agreement. All the JV members hereby confirm that none of us shall sell our share in the company that is signing the contract.
7. The members of *{the name of the JV}* hereby certify that this joint venture agreement truly and correctly reflects their agreement with each other concerning the detailed terms and conditions of their exclusive joint venture agreement executed for the purpose of the said services under the contract.

IN WITNESS THEREFORE, the parties have signed in the present joint venture agreement in their respective rights on *{date, month, year}*.

for and behalf of  
*{JV member 1}*

for and behalf of  
*{JV member 2}*

for and behalf of  
*{JV member 3}*

*{Authorized Signature,  
name and title}*

*{Authorized Signature,  
name and title}*

*{Authorized Signature,  
name and title}*

**Appendix F: Power of Attorney***{Letterhead of the Bidder}**{date}**{name and address of the Employer}*Power of Attorney for the purpose of *{state the purpose}*  
*{Name of Contract, Reference Number}*

Dear Sirs,

The bidder/joint venture *{the name of the bidder/JV}* hereby authorizes *{name, parent organization and position of the proposed person}* to *{task for which authorization is provided}* for the above captioned contract. The specimen signature of *{name, parent organization and position of the proposed person}* is as given under:

.....

for and behalf of *{the name of the bidder/JV}*,*{JV member 1}**{JV member 2}**{JV member 3}**{Authorized Signature,  
name and title}**{Authorized Signature,  
name and title}**{Authorized Signature,  
name and title}*

## Appendix G: Information to Bidders

*(Note: The Employer shall not be liable for any expressed or implied information in this appendix. The prospective Bidders are expected to verify the information on the infrastructures, connectivity, activities of other agencies and traffic in and around the Terminal.)*

### 1. Introduction

Government of Nepal has set up Inland Clearance Depot (ICD) at Bhairahawa, Birgunj, Kakarbhitta, Tatopani, and Integrated Check Post (ICP) at Birgunj and Biratnagar, which are considered to be the major hubs for goods moving in and out of the country. Out of the above, Birgunj ICD is railway based whereby cargos are transported from India and third country to Nepal and vice versa. The other ICDs are vehicle based through which cargo from Nepal to India, Nepal to China (Tatopani ICD) and third country and vice versa pass through. The ICDs are intended to streamline transport logistics chain related with international trade; especially to facilitate Nepal's trade through reduced time and minimized cost of transportation and thus contributing to the competitiveness of the country's trade regime. To foster greater participation of the private sector in the operation of logistics services, Nepal Intermodal Transport Development Board (NITDB) is following the policy of leasing out of ICDs to terminal management operators.

Nepal Government, the legitimate titleholder of all the immovable property located at all the ICDs, has transferred its sole possessor rights over such properties to NITDB. The assets and operational rights of ICDs at Bhairahawa and Birgunj and ICP at Biratnagar have already been leased to Private Sector Terminal Management Operators. The ICD at Kakarbhitta till date is being operated by NITDB itself. Through the present invitation of Bids, the process of selection and leasing out of assets and operational right of this ICD too has been started.

### 2. Design and Capacity of the ICD

The Customs check post in Kakarbhitta has been developed and rationalized in line with anticipated traffic levels to provide the required terminal facilities. Under these arrangements, both containerized and break bulk traffic shall be stored, transferred and transhipped with the ICD. All good trucks will also be kept off-road and parked inside the terminal premises.

Some of the key facilities within the ICD complex under construction include:

#### a. ICD Terminal Building:

- Ground floor:
  - Customs Office: 600 sqm
  - Freight Forwarding Clearing Agent Office: 195 sqm
  - Desktop/ Photocopiers etc: 50 sqm
  - Lobby/ Front Desk: 145 sqm
  - Electrical Room: 15 sqm
- First floor:
  - Bank 140 sqm
  - Freight Forwarding Clearing Agent Office: 160 sqm
  - Terminal Management Company Office: 240 sqm

- Laboratory for Customs: 135 sqm
- Second floor:
  - Meeting Hall: 140 sqm
  - Training Class Room: 120 sqm
  - Store Room: 40 sqm
- b. Common Facility Buildings: with the provision for recreational/ refreshment area for labours, drivers, common canteen block (about 205 sq.m)
- c. Ware Housing Facilities: Including covered goods shed (export/ import), Inspection sheds (export/ import), custom litigation shed, labour waiting area (about 3550 sq.m)
- d. Associated Support Buildings: including Gate Complex for regulating entry/ exit, guard posts/ houses, weigh bridge office, electrical substation, toilet block, passenger and police check post (about 430 sq.m.)
- e. Parking/ container yards: for about 100 nos. of loaded/ unloaded TEUs, 25-30 nos. of container, 20-25 nos of visitors car / two wheeler parking area
- f. Utility spaces: for UG/OHT Water tanks, Electrical & Communication, Fire Safety system Installation on Buildings, Green areas.
- g. Future Extension Provisions: with container stacking yards, parking for 20 feet - 40 feet container/ trucks, covered good shed, etc.
- h. Existing Nepal Transit & Warehouse Building about 445 sqm Build up area (Godown 315 sqm, Cold Storage Room 55 sqm & Office Room 75 sqm).
- i. New Building for Patrolling Team (Armed police) which is constructed by Department of Mechi Custom itself (not to be managed by TMC).
- j. Existing Nepal Rastra Bank office owned by Department of Mechi Custom itself. ( 240 sqm Plinth Area) This area is not included in the offer for leasing out of the ICD and shall have to be decided with NITDB & DoC.
- k. Other facilities:
  - Fire detection and alarm system for the ICD terminal building, Closed warehouse, Litigation Shed, Electrical substation and Passenger terminal building
  - 2 nos. of High Mast lighting providing in ICD complex
  - A CCTV networks system, Telephone, Computer Network system and central UPS system are provided
  - 400 KVA Transformer 2 nos., 82.5 KVA stand by Diesel Genset 2 nos. & 20 KVA Diesel genset 1 no. is reinstalled.
  - 17m elevated Overhead Water Tank of 35,000 liters capacity
  - Two numbers of Underground Water Tank of 75,000 liter capacity each
  - Weighbridge of 100 ton capacity
  - Septic Tank and Reed Bed Treatment Plant
  - Boundary wall as per security requirement for ICD

- Road Pavement as follows:
  - Truck Access & circulation: Concrete Pavement M35
  - Truck parking Area: Concrete Pavement M35
  - Container stacking yard: Gravel wearing surface
  - Access Road to ICD & Passenger Terminal Building: Asphalt concrete pavement
  - Footpath: Concrete block paving

A three dimensional illustration and a general layout of the ICD are given over leaf.

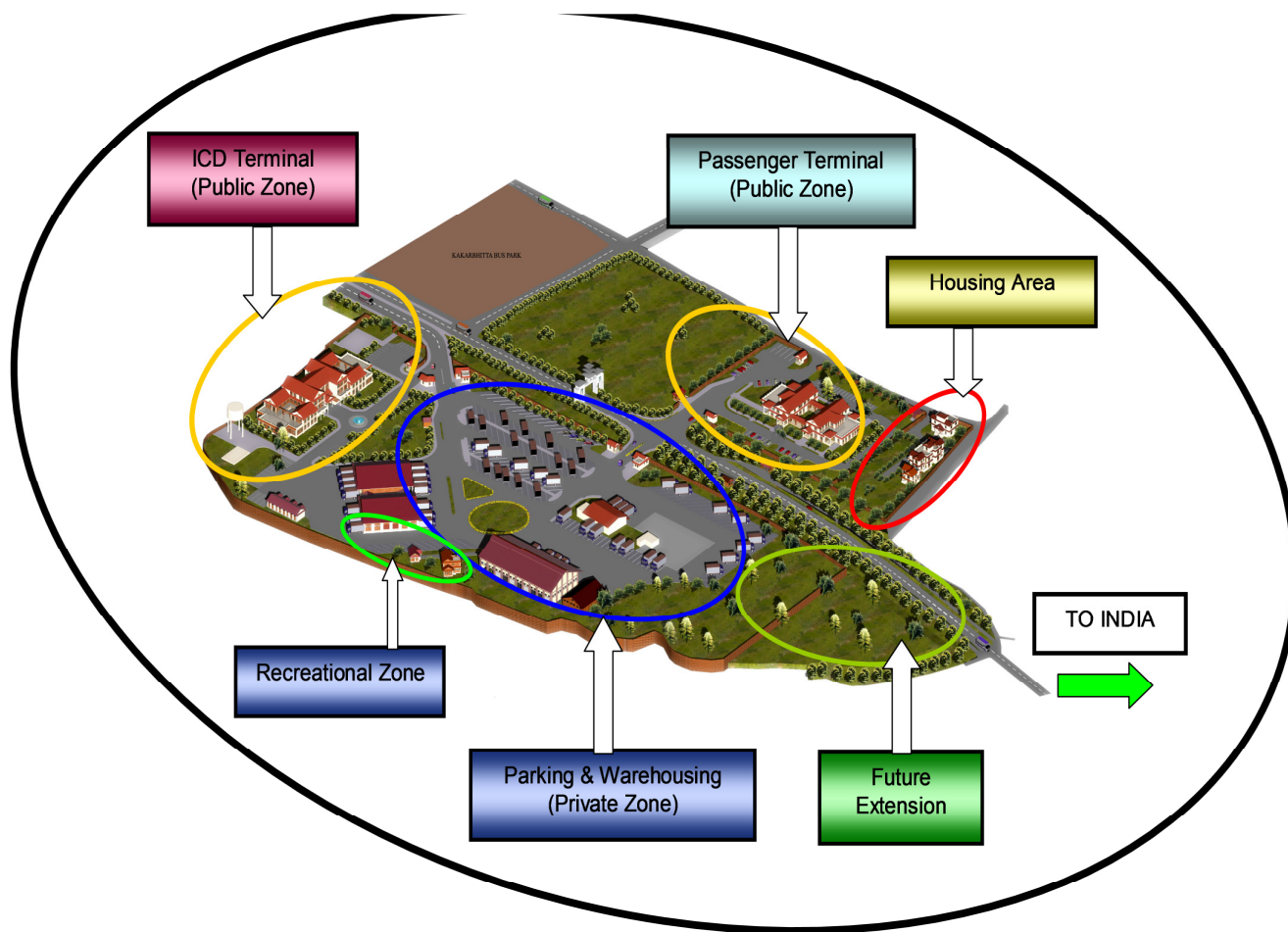
### 3. Review of Actual Statistics of Operation of Kakarbhitta ICD

The ICD at Kakarbhitta has come into operation from the month of Aswin 2067. As the process of leasing of assets and operational right of the ICD to private sector terminal operator could not be completed, the ICD till date is being operated by NITDB itself. Statistics of operations of ICD available for past fiscal years are presented below:

#### 3.1. Major Imports and Exports

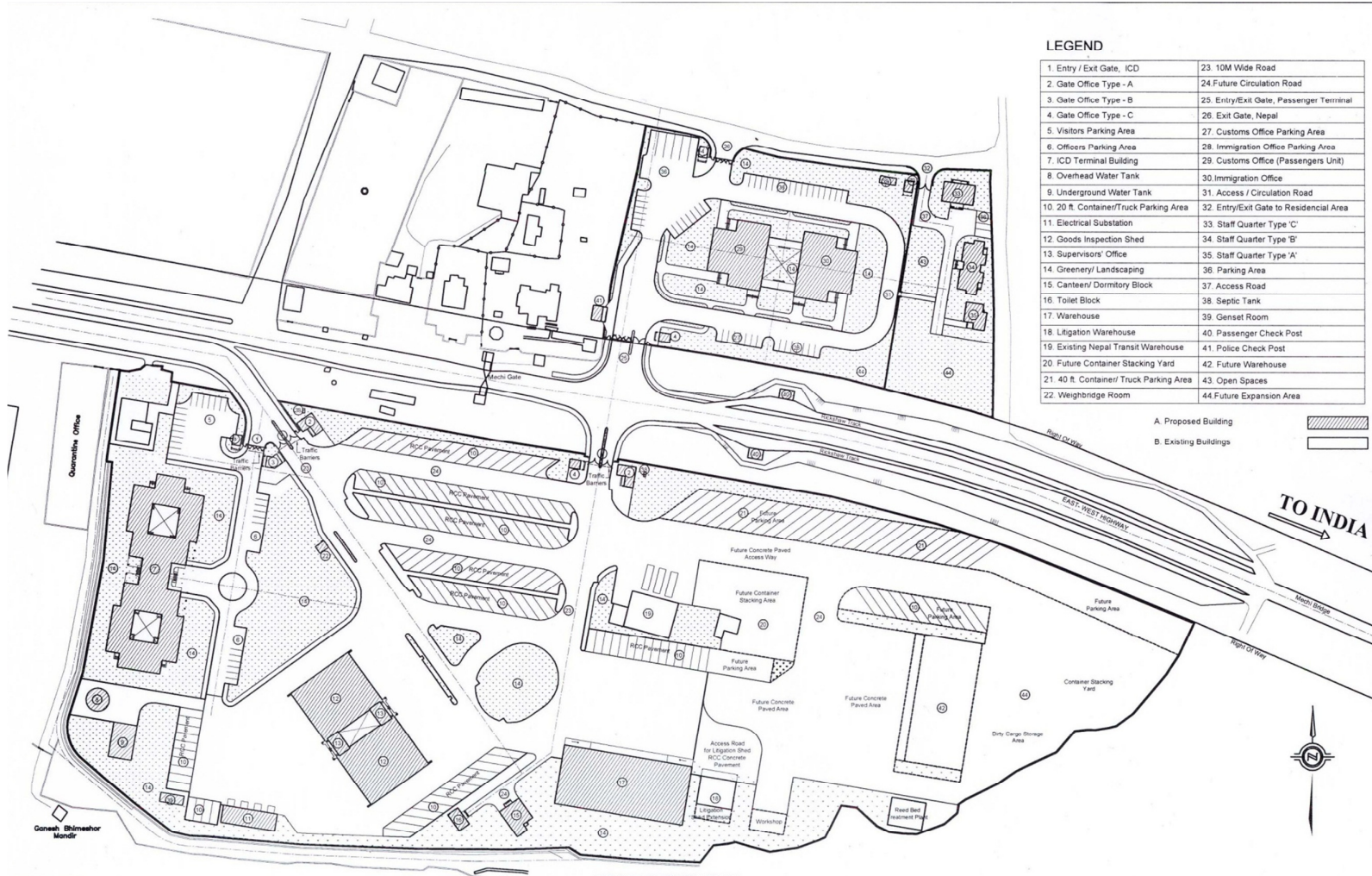
The major items imported and exported each year from last 10 years through the Customs point in Kakarbhitta has been as below.

Export	Import
Lentils	Diesel
Black tea	Coal
Corrugated steel	Jute and other fibers
Flat steel plate	Petrol
Other steel products	LPG
Wheat bran	Kerosene oils
Buffalo	Rice
Ginger	Battery
Tanned skins	Potatoes
Plastic coated plates	Betel nuts



**Master Plan Highlighting Separate Zone of Kakarbhitta ICD.**

**Note: In the above master plan, Operation & Management of Passenger Terminal (Public Zone), Housing Area lying on north side of East-West Highway doesn't come under the scope of TMC.**



**General Layout (for the purpose of TECH-9)**

**Note: In the above Layout, Operation & Management of infrastructure lying on north side of East-West Highway doesn't come under the scope of TMC.**

### 3.2. Traffic Flow

The flow of different categories of traffic to Kakarbhitta ICD during the past fiscal years is as follows:

Year No □	1	2	3	4	5	6
Particulars	2070/71	2071/72	2072/73	2073/74	2074/75	2075/76
Truck/Tanker/Tractor/Trailer	38,263	40,796	48,149	46,545	51,828	36,109
Light Vehicles/Bullock cart	7,214	7,866	9,439	9,409	7,783	7,225
Rikshaw/hand trolley	-	-	-	-	-	-
Fixed Container Vehicle	833	1,192	2,112	2,918	4,561	3,761
TEU Trailer/flat truck etc.	1,176	749	1,044	726	666	560
FEU Trailer/Flat truck etc.	4,946	9,480	11,282	15,591	24,857	18,071
One trip onwards	-	-	-	-	-	-

### 3.3. Income from Operation

Income from operation of Kakarbhitta ICD by NITDB for past fiscal years is as given below:

	1	2	3	4	5
Particulars	2070/71	2071/72	2072/73	2073/74	2074/75
Entry Fee	9,262,873	11,437,100	13,587,469	15,294,282	20,344,006
Parking Fee	1,480,897	1,646,665	3,794,866	2,387,480	5,523,519
Warehouse charge	2,631,273	1,764,673	6,423,741	4,791,307	4,619,669
Sub-Letting & other income	1,577,482	1,899,959	1,950,184	2,150,036	3,054,387
<b>Total in NRs.</b>	<b>14,952,525</b>	<b>16,748,396</b>	<b>25,756,261</b>	<b>24,623,105</b>	<b>33,541,481</b>

### 4. Cost of Operation

As in case of revenue, cost of operation of Kakarbhitta ICD by NITDB is available for past fiscal years. The cost of operation is available in seven major heads as given below:

Year No □	1	2	3	4	5
Particulars	2070/71	2071/72	2072/73	2073/74	2074/75
1) Fuel	1,730,658	2,117,693	1,694,627	1,742,827	1,365,052
2) Security Expenses	1,874,604	2,028,385	2,606,056	2,823,785	2,814,597
3) Insurance Premium	444,313	431,951	437,296	463,198	465,894
4) Repair & Maintenance	880,434	1,275,845	1,750,000	482,015	297,052
5) Salary & Remuneration	3,320,125	3,590,551	5,451,737	5,281,607	4,812,679
6) Water & Electricity charges	1,411,959	1,320,706	1,450,000	2,139,870	2,289,700
7) Administration expenses	1,426,928	1,389,858	1,465,990	1,551,895	1,535,455
<b>Total in NRs.</b>	<b>11,089,021</b>	<b>12,154,989</b>	<b>14,855,706</b>	<b>14,485,197</b>	<b>13,580,429</b>

### 5. Transit

Nepal is currently enjoying the port facilities at Kolkata and Haldia. There is an additional possibility of using Chatgaon Dhaka ports of Bangladesh for international traffic in case of Kakarbhitta.



## **6. Dry-ports in Nepal**

At present, the dry-ports at Birgunj, Biratnagar, Bhairahawa, Kakadbhitta and Tatopani are operational. Except Tatopani ICD, all of them are along t

he Nepal-India border. Tatopani is along Nepal – China border. The first three has been leased out to private operator. The fifth Tatopani ICD near the China-Nepal border has been leased to NTWCL (GoN entity). Dryports at Chobhar (Kirtipur Municipality, Kathmandu) and Rasuwa (Nepal-China border) are under construction.

## **7. A few Policy and Regulatory provisions**

### **7.1. Industrial Enterprise Act, 1992**

The Act classifies industries into different categories based on their nature and volume of investment. The process of registering, obtaining operation license and its renewal too are defined in the act

Governmental facilities to industries, mainly a rebate on income or excise tax, vary depending on the use of local raw materials, local manpower and geographic location within the country. There are also provisions for income tax credit on reinvestment and also in investments on pollution control equipment.

### **7.2. Foreign Investment and Technology Transfer Act, 1992**

The purpose of the act is to promote foreign investment and transfer of technology into the country. The Act ensures smooth repatriation of investment, dividends on such investments, and loan repayment. Approvals for bringing foreign investment are required under this Act.

### **7.3. Labour Act, 1992**

The Labour Act 1992 has been enacted to ensure the welfare and safety of workers in different establishments and organizations. It includes provisions for minimum wage based on skill as well as basic job security to employees. It provides for maximum allowable working hours and sets out the minimum employable age and minimum standards of health and safety at the working place. Regarding collective bargaining, a workplace with at least 10 workers can form a union with a minimum membership of 25% of the total work force. In case of Labour related disputes, the Labor Court will handle only those which could not be resolved by Labour Department as well as Labour Office.

### **7.4. Taxes and Duty Regime**

Although tax and duty regime vary, there are said to be four main types of taxes or duties levied: customs duties, excise duties, value-added tax and income tax.

The Customs duties are currently going through a process of rationalization and harmonization with international standards and codes. Trade barriers have been lowered in recent years in a number of products ranging from daily necessities to luxury and comforts. Excise duties are now applicable to a very limited number of items. The value added tax is applicable in the country. The VAT applies to most items except for food supplies.

### **7.5. Nepal Intermodal Transport Development Board Formation Order 2054**

The order has been issued by the government through a notice published in Nepali language on 6 Magh 2054 (19 January 1998) in Volume 47, Number 40 of the Nepal Gazette in exercise of the power conferred by Section-3 of the Development Board Act-2013. A copy of the originally published document or its unofficially translated version is available at the Employer's office.

The order has the following sections:

- Short Title and Commencement
- Definition
- Formation of the Board
- Functions, Duties and Powers of the Board
- Board Meeting and Decision:
- Executive Director
- Fund of the Board
- The Board's Accounts and Audit
- Staffing Arrangement
- Authority to Constitute Sub-Committees
- Delegation of Authority
- Meeting Fees and other Facilities
- Liaison with GON
- Authority to give Directives
- Office of the Board
- Authority to Formulate Bylaws

#### 7.6. Terminal Leasing Regulations-2070

In exercise of the powers conferred by Section 16 of Nepal Intermodal Transport Development Board Formation Order-2054, Nepal Intermodal Transport Development Board has framed the Terminal Leasing Regulations-2070. A copy of the originally published document in Nepali language or its unofficially translated version is available at the Employer's office.

The regulations is divided in 6 chapters and 2 annexes as follows:

- Chapter-1: Preliminary
- Chapter 2: Authority to Lease out a Terminal
- Chapter 3: Preparation of Bid
- Chapter-4: Examination and Evaluation of the Bids
- Chapter-5: Provisions for Lease Contract Agreement
- Chapter-6: Miscellaneous
- Annex-1: Net Present Value
- Annex-2: Procedure for Scoring during Evaluation

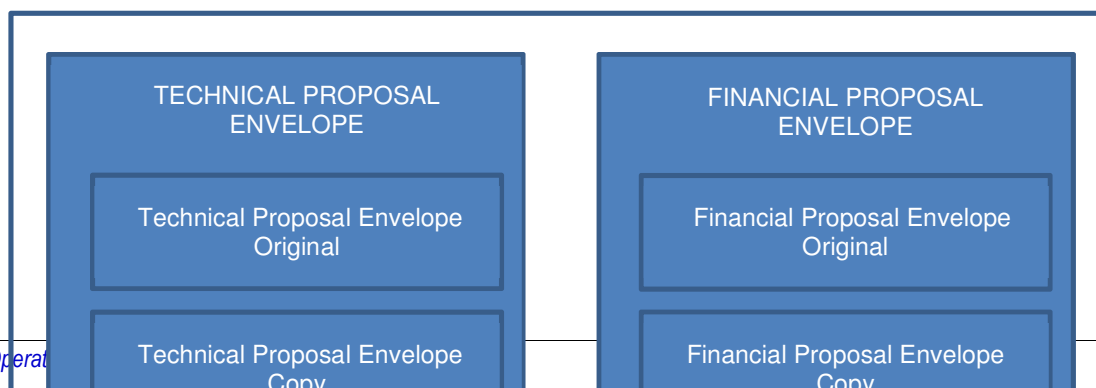
#### 8. Mode of Bid Submission

The following is required to be submitted:

- Technical Bid: 1 original and 1 copy
- Financial Bid: 1 original and 1 copy

The content of the envelopes shall be as follows:

#### PROPOSAL ENVELOPE



## **Appendix H: Supplementary Agreement with Customs Office**

This agreement of cooperation is made on [day] of [month, year] between Government of Nepal Customs Office at [give location] (hereinafter called the "Customs"), and [name of the Terminal Management Company] (hereinafter called the "TMC") and responsibilities of either of the parties. Definition of words used in this agreement shall have same meaning as it is ascribed in the agreement between the Lessor and the TMC to render Services at the Terminal.

### **Objective**

The objective of this agreement is to develop mutual co-operation and assistance among the parties of this agreement for smooth operation of the Terminal providing efficient Service. This agreement expressly does not limit any legally prescribed rights, duties, authority and responsibilities of either of the parties.

### **Joint Responsibility of the Parties**

Both the Customs and TMC shall issue identification card to their personnel, bearing the name, designation, validity date and zone of admittance. In addition the Customs will issue identification cards to visitors and also countersign the cards for TMC personnel. The Customs and the TMC shall order the security personnel under their command not to allow any person without such valid identification card.

Both contracting parties will inform each other about any change, transfer or termination of their staff respectively as earliest as possible.

### **Responsibilities of the TMC**

The TMC will deploy required number of civil unarmed guards and will be responsible for safety and security of the Terminal and consignment deposited therein. The TMC shall also be responsible for making necessary arrangements for proper inspection of any incoming, outgoing and stored consignment by appropriate personnel of the Customs.

The TMC shall immediately inform the Customs of any known, suspected or perceived illegal activity or breach of security within the Terminal.

The TMC will provide within the Terminal the following without any charge:

- a) Designated office space for the Customs officials and security personnel
- b) Supply of electricity, water and cleaning service within the designated office spaces
- c) Living space for the security personnel

Any duties or liability placed upon the TMC under this agreement will be applicable to its sub-lessee, sub-contractor, agent, co-investor or their personnel functioning within the Terminal. It will be responsibility of the TMC to notify its affiliates on the provisions of this agreement before subletting or assigning any function to them.

### **Responsibilities of the Customs**

The Customs may decide to augment the security situation within the Terminal by deploying detachments of Civil Police, Armed Police Force, Border Security Guard, the National Army or any other government forces.

The Customs shall try to facilitate and expedite its activities to assist the TMC (or alternatively, its sub-lessee, sub-contractor, agent and co-investor) in improving the latter's service delivery. Nevertheless, whenever the Customs finds appropriate, it could inspect any of the sheds being used by the TMC and check any of the consignment therein.

**Dispute Resolution**

If any dispute arises out of terms and conditions of this agreement or operation of the Terminal between the TMC and the Customs that could not be settled mutually by the parties of this agreement, it shall be referred to the Lessor and settled mutually in its presence. If the dispute could not be settled in this manner, it shall be settled as per **GCC 35** of the Contract between the Lessor and TMC.

We hereby mutually agree to the above mentioned terms and conditions and express our willingness to adhere to them in good faith.

For and on behalf of the Customs,  
*[name and address of the Customs Office]*

For and on behalf of the TMC,  
*[Name and address of the TMC]*

.....  
*[Authorized Representative of the Customs – name, title and signature]*

.....  
*[Authorized Representative of the TMC– name, title and signature]*

Witness,  
*[the Lessor]*

Witness:  
*[Nepalese JV Member of the Proposer]*

.....  
*[Name, title and signature]*

.....  
*[Name, title and signature]*

**PART III: CONDITION OF CONTRACT  
AND CONTRACT FORMS**

NOT FOR SALE

# CONTRACT DOCUMENT

## OPERATION AND MANAGEMENT OF KAKARBHITTA ICD

Contract Identification No: *NITDB- O&M- ICB -03 (FY  
2020/021)*

Contract Date: ..... *[day-month-year]*

Lessor: Nepal Intermodal Transport  
Development Board, Kupondole,  
Lalitpur

Lessee: .....  
.....  
.....

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NOT FOR SALE



## Section 7: General Condition of Contract and Contract Forms

### I. Form of Contract Agreement

*{Text in brackets {} and all notes should be deleted in the final text}*

This CONTRACT (hereinafter called the “Contract”) is made the {number} day of the month of {month}, {year}, between, on the one hand, **Nepal Intermodal Transport Development Board** (hereinafter called the “Lessor”) and, on the other hand, {name of TMC} (hereinafter called the “Lessee”).

*{If the TMC consist of more than one company, the above should be partially amended to read as follows:“... (hereinafter called the “Lessor”) and, on the other hand, a Joint Venture {name of the JV} consisting of the following entities, each member of which will be jointly and severally liable to the Lessor for all the Lessee’s obligations under this Contract, namely, {name of member 1} and {name of member 2} (hereinafter called the “Lessee”).}*

#### WHEREAS

- (a) the Lessor has proposed the Lessee to provide certain services as defined in this Contract (hereinafter called the “Services”);
- (b) the Lessee, having represented to the Lessor that it has the required professional skills, expertise and financial resources, has agreed to provide the Services on the terms and conditions set forth in this Contract;

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents, in the following precedence, attached hereto shall be deemed to form an integral part of this Contract:
  - a) The Special Conditions of Contract;
  - b) The General Conditions of Contract;
  - c) Terms of Reference (as a part of appendix)
  - d) Clarified Technical Proposal (as a part of appendix)
  - e) Financial Proposal (as a part of appendix)
  - f) Performance Security (as a part of appendix)
  - g) Letter of Intent (as a part of appendix)
  - h) Letter of Acceptance (as a part of appendix)
  - i) Joint Venture Agreement (as a part of appendix)
  - j) Supplementary Agreement with Customs Office (as a part of appendix)

2. The mutual rights and obligations of the Lessor and the Lessee shall be as set forth in the Contract, in particular:

- (a) the Lessee shall carry out the Services in accordance with the provisions of the Contract; and
- (b) the Lessee shall make payments to the Lessor in accordance with the provisions of the Contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

For and on behalf of the Lessor,

For and on behalf of the Lessee,

Nepal Intermodal Transport Development Board {Name of TMC }

.....  
{Authorized Representative of the Lessor – name, title and signature}

.....  
{Authorized Representative of the TMC – name and signature}

Witness:

Witness:

.....  
{Name, title and signature}

.....  
{Name, title and signature} any of the JV members}

## II. General Conditions of Contract

### A. General Provisions

#### 1. Definitions

1.1 Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- a) "Applicable Law" means the laws and any other instruments having the force of law in Nepal, as they may be issued and in force from time to time.
- b) "Applicable Guidelines" are Nepal Intermodal Transport Development Board Formation Order 2054 and Terminal Leasing Regulations 2070 issued in Nepali language.
- c) "Base Year" is the Nepalese Fiscal Year (a year starting from the fourth month of the calendar based on Bikram Sambat) immediately preceding the year on which the Contract is signed.
- d) "Clarified Technical Proposal" means the Technical Proposal finalized at the end of Technical Evaluation and which will remain unaltered throughout the Contract Duration.
- e) "Contract" means a legally binding written agreement signed between the Lessor and the TMC for Services at the Terminal and includes all the documents listed in **GCC 3.3**.
- f) "Contract Period" is the duration of the Contract as specified in **SCC**.
- g) "Day" means a calendar day as per Bikram Sambat based Nepalese calendar.
- h) "Date of Contract" means the Date on which the Contract is executed.
- i) "GCC" means these General Conditions of Contract.
- j) "Government" means the Government of Nepal.
- k) "Lessor" is the "Employer" i.e., Nepal Intermodal Transport Development Board.
- l) "MLR" means Minimum Lease rent the TMC has pledged to pay to the Lessor as per **FIN-2A** of Financial Proposal.
- m) "RSI" is the Revenue Share on Income that TMC has pledged to pay to the Lessor as per **FIN-2B** of Financial Proposal.
- n) "SCC" means the Special Conditions of Contract by which the GCC may be amended or supplemented.
- o) "Services" means the operation and management of the Terminal as well as associated tasks to be performed by

the TMC pursuant to the Contract.

- p) "Sub-contractor" means a legal person to whom the TMC intends to sublet, subject to the approval of Lessor, any part of the Services, while remaining responsible to the Lessor during the performance of the Contract.
- q) "Terminal" is the facility mentioned in the **SCC** leased out as per the Contract. It includes all fixed assets, movable assets and equipment belonging to the Lessor within the area covered and includes any replacement, substitute, improvements or additional equipment, plant, buildings and property installed or provided in accordance with the ITB document or otherwise by the Lessor.
- r) "TMC" is the Terminal Management Company who, after becoming the successful Bidder, has signed a Contract with the Lessor to render the Operation, Maintenance and Management Services of the Terminal. The TMC is also known as the Lessee.
- s) "TOR" means the Terms of Reference which is the description explaining the objectives, scope of work, activities, and tasks to be performed by and responsibilities of the TMC, expected results and deliverables of the assignment as elaborated in **Section 6**.
- t) "User" refers to any person, or company entering the Terminal to use the facilities and services provided in it. The term does not include the Lessor, TMC, Customs Office, Police detachment and government agencies stationed or visiting the Terminal to discharge their official duty.
- u) "User Fee" means the fee, excluding yearly increment and VAT, proposed to be collected by the TMC from the Users as per **FIN-3** of the Financial Proposal.

## 2. Relationship between the Parties

- 2.1. Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the Lessor and the TMC. The TMC, subject to this Contract, has complete charge of the Sub-Contractors, Suppliers and Personnel, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.
- 2.2. Following the Contract agreement, the Lessor delegates full authority to the TMC to operate and manage the business and assets of the Terminal.
- 2.3. The TMC shall have no other interest and rights on the assets except as specifically provided for in the Contract. Any betterment, structural modification and expansion of the assets require the consent of Lessor.
- 2.4. The TMC shall not sell or attempt to sell, pledge, part with

- possession, custody mortgage or otherwise transfer any portion of the Terminal. Neither shall the TMC use the Terminal for purposes other than stated in the TOR.
- 2.5. The TMC is obligated to provide the Services within the Terminal as a common user facility which could be used by anyone accepting and willing to pay the requisite User Fee.
- 3. Interpretation**
- 3.1. This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Laws and Applicable Guidelines.
- 3.2. In interpreting the contract, singular also means plural, masculine also means feminine or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined.
- 3.3. The documents forming the Contract shall be interpreted in the order of priority as listed in **SCC**.
- 4. Language**
- 4.1. This Contract has been executed in the language specified in the **SCC**, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.
- 5. Communications**
- 5.1. Any communication required or permitted to be given or made pursuant to this Contract shall be in writing in the language specified in **GCC 4**. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the **SCC**.
- 5.2. A Party may change its address for notice hereunder by giving the other Party any communication of such change to the address specified in the **GCC 5.1**.
- 6. Location**
- 6.1. The Services shall be performed at such locations as are specified in **GCC 1.1 (q)** and, where the location of a particular task is not so specified, at such locations, whether in the Government's country or elsewhere, as the Lessor may approve.
- 7. Authority of Member in Charge**
- 7.1. In case the TMC is a Joint Venture, the members hereby authorize the member specified in the **SCC** to act on their behalf in exercising all the TMC's rights and obligations towards the Lessor under this Contract, including without limitation the receiving of instructions and payments from the Lessor.
- 8. Authorized Representatives**
- 8.1. Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Lessor or the TMC may be taken or

executed by the officials specified in the **SCC**.

9. **Corrupt and Fraudulent Practices**
- 9.1. The Lessor requires compliance with the provisions made in Applicable Guidelines in regard to corrupt and fraudulent practices as set forth in **Attachment 1** to the **GCC**.
47. a. **Commissions and Fees**
- 9.2. The Lessor requires the TMC to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the selection process or execution of the Contract. Failure to disclose such commissions, gratuities or fees may result in termination of the Contract and/or sanctions by the Lessor.
- B. Commencement, Completion, Modification and Termination of Contract**
10. **Effective Date**
- 10.1 This Contract shall come into force and effect on the Effective Date, which shall be as mentioned in **SCC**.
11. **Termination of Contract for Failure to Become Effective**
- 11.1. If this Contract has not become effective within such time period after the Agreement Date as specified in **GCC 10**, either Party may, by not less than Seven (7) days written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.
12. **Commencement of Services**
- 12.1 The TMC shall accomplish the task of getting duly registered with the competent authorities of Nepal including VAT/PAN registration and confirm the availability of Personnel and Equipment and begin carrying out the Services not later than the number of days after the Effective Date specified in the **SCC**.
13. **Duration, Expiration and Extension of Contract**
- 13.1. Unless terminated earlier pursuant to **GCC 18** hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the **SCC**.
- 13.2. If the TMC for an existing Contract submits an application to extend the Contract before six months of its expiry, the Lessor may or may not agree to extend the Contract for a duration not exceeding **five years** depending upon the performance of the TMC. Such extension may follow a negotiation to modify technical and financial obligations of the TMC and consultation of the relevant Customs office and other stakeholders.
- 13.3. In case of a delay on agreement for a new Contract, the term of the existing TMC for the Terminal could be extended by the Lessor for up to **six months** at a time without modifying any Technical and Financial obligations of the TMC.
14. **Entire Agreement**
- 14.1 This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative

of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth in the Contract.

**15. Modifications or Variations**

15.1. Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposals for modification or variation made by the other Party.

**16. Force Majeure**

**a. Definition**

16.1. For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible under the circumstances, and subject to those requirements, includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action confiscation or any other action by Government agencies.

16.2. Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party's Sub-Contractors, agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.

**b. No Breach of Contract**

16.3. The failure of a Party to fulfill any of its obligations in the contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

**c. Measures to be Taken**

16.4. A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

16.5. A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than **fourteen (14)** days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written

notice of the restoration of normal conditions as soon as possible.

- 16.6. Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.
- 16.7. During the period of their inability to perform the Services as a result of an event of Force Majeure, the TMC shall demobilize upon instructions by the Lessor.
- 16.8. In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to **GCC 35**.

## 17. Suspension

- 17.1. The Lessor may, by written notice of suspension to the TMC, if the TMC fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the TMC to remedy such failure within a period as per **SCC** after receipt by the TMC of such notice of suspension.

## 18. Termination

- 18.1 This Contract may be terminated by either Party as per provisions set forth below:

**a. By the Lessor**

18.1.1 The Lessor may terminate the Contract in the following case after giving the TMC a written notice:

- a) following a **seven (7)** Day notice in case of the following:
  - i) If the TMC fails to confirm, as per **GCC 12**, availability of all of the Equipment and Personnel and also fails to accomplish the task of getting registered with competent Authority of Nepal including VAT/PAN registration.
  - ii) If the Lessor determines that the TMC has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing the Contract.
- b) following a **Thirty (30)** Day notice in case of the following:
  - i) If the TMC fails to remedy a failure in the performance of its obligations, including payment of Leasehold Rent, hereunder, as specified in a notice of suspension pursuant to **GCC 17**;
  - ii) If the TMC fails to renew the Performance



Security as per **SCC**.

- iii) If the TMC, or any of its JV members, become insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;
  - iv) If the TMC fails to comply with any final decision reached as a result of arbitration proceedings pursuant to **GCC 35.8**
  - v) If, as the result of Force Majeure, the TMC is unable to perform a material portion of the Services for a period of not less than Sixty (60) Days;
- c) Following a **Sixty (60)** Day notice if the Lessor, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

**b. By the TMC**

18.1.2 The TMC may terminate this Contract, by not less than **Thirty (30)** Days' written notice to the Lessor, in case of the occurrence of any of the following events:

- (b) If, as the result of Force Majeure, the TMC is unable to perform a material portion of the Services for a period of not less than **Sixty (60)** Days.
- (c) If the Lessor fails to comply with the decision reached as a result of dispute resolution pursuant to **GCC 35.8**.
- (d) If the Lessor is in material breach of its obligations pursuant to this Contract and has not remedied the same within **forty-five (45)** Days (or such longer period as the TMC may have subsequently approved in writing) following the receipt by the Lessor of the TMC's notice specifying such breach.

**c. Cessation of Rights and Obligations**

18.1.3 Upon termination of this Contract pursuant to **GCC 11 or GCC 18** hereof, or upon expiration of this Contract pursuant to **GCC 13**, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in **GCC 22**, (iii) the TMC's obligation to permit inspection, copying and auditing of their accounts

and records set forth in **GCC 25**, and (iv) any right which a Party may have under the Applicable Law.

**d. Cessation of Services**

18.1.4 Upon termination of this Contract by notice of either Party to the other pursuant to **GCC 18a or GCC 18b**, the TMC shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner.

**e. Payment upon Termination**

18.1.5 Upon termination, the TMC shall pay to the Lessor the MLR and RSI for the duration prior to the effective date of termination.

18.1.6 In the case of termination pursuant to paragraphs (c) of **GCC 18.1.1**, the Lessor shall pay the TMC a reasonable demobilization cost of Equipment and Personnel.

**19. Indemnification**

19.1 The TMC shall indemnify and hold harmless the Lessor at all times on a full indemnity basis from and against all liabilities, claims, proceedings, judgments, damages, obligations, costs and expenses of any nature whatsoever or howsoever arising which at any time may be incurred or be imposed on the Lessor arising from or being due to a breach by the TMC of the obligations of this Contract. This indemnity shall continue in full force and effect notwithstanding any termination of this Contract agreement.

19.2 The Lessor shall indemnify and hold harmless the TMC at all times on a full indemnity basis from and against all liabilities, claims, proceedings, judgments, damages, obligations, costs and expenses of any nature whatsoever or howsoever arising which at any time may be incurred or be imposed on the TMC arising from or being due to a breach by the Lessor of the obligations of this Contract. This indemnity shall continue in full force and effect notwithstanding any termination of this Contract agreement.

**C. Obligations of the TMC**

**20. General**

**a. Standard of Performance**

20.1 The TMC shall perform the Services with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The TMC shall always act, in respect of any matter relating to this Contract or to the Services, as a faithful adviser to the Lessor, and shall at all times support and safeguard the Lessor's legitimate interests in any dealings with the third parties.

- 20.2 The TMC shall employ and provide such qualified and experienced Personnel as well as Equipment in excellent working condition as are required to carry out the Services.
- 20.3 The TMC shall follow the documents forming the Contract and the Supplementary Agreement with the Customs annexed to the Contract.
- b. Law Applicable to Services** 20.4 The TMC shall perform the Services in accordance with the Contract, Nepal Intermodal Transport Development Board Formation Order -2054, Terminal Lease Out Regulation-2070 and the Applicable Law and shall take all practicable steps to ensure that its Sub-contractors and Personnel comply with the Applicable Law.
- 20.5 Throughout the execution of the Contract, the TMC shall comply with the import of goods and services prohibitions in the Lessor's country when
- (a) as a matter of law or official regulations, Nepal prohibits commercial relations with that country; or
  - (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Nepal prohibits any import of goods from that country or any payments to any country, person, or company in that country.
- 20.6 The Lessor shall notify the TMC in writing of relevant local customs, and the TMC shall, after such notification, respect such customs.
- 21. Conflict of Interests**
- 21.1 The TMC shall hold the Lessor's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.
- a. Prohibition of Conflicting Activities**

21.1.1 Neither the TMC nor its Personnel shall engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.
  - b. Strict Duty to Disclose Conflicting Activities**

21.1.2 The TMC has an obligation and shall ensure that its Sub-contractors and Personnel shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their Lessor, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the TMC or the sanction/ termination of the Contract.

- c. **Conflicting ownership** 21.1.3 Selling the whole business of any of the JV member forming the TMC, and selling of any amount of the share of the TMC to a new entity will require a written consent of the Lessor.
22. **Confidentiality** 22.1 Except with the prior written consent of the Lessor, the TMC and its Personnel shall not at any time communicate to any person or company any confidential information acquired in the course of the Services.
23. **Liability of the TMC** 23.1 Subject to additional provisions, if any, set forth in the **SCC**, the TMC's liability under this Contract shall be as determined under the Applicable Law.
24. **Insurance to be taken out by the TMC** 24.1. The TMC (i) shall take out and maintain, and shall cause any Sub-contractors to take out and maintain, at its (or the Sub-contractors', as the case may be) own cost but on terms and conditions approved by the Lessor, insurance against the risks, and for the coverage specified in the **SCC**, and (ii) at the Lessor's request, shall provide evidence to the Lessor showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid. The TMC shall ensure that such insurance is in place prior to commencing the Services as stated in **GCC 12**.
25. **Accounting, Inspection and Auditing** 25.1 The TMC shall keep, and shall make all reasonable efforts to cause its Sub-contractors to keep, accurate and systematic accounts and records in respect of the Services in such form and detail as will clearly identify relevant time changes and costs.  
25.2. The TMC shall permit and shall cause its Sub-contractors to permit, the Lessor, Lessor or any company empowered by Applicable Laws to inspect the Site and/or all accounts and records relating to the performance of the Contract and the submission of the Proposal to provide the Services, and to have such accounts and records audited by auditors appointed by the Lessor.
26. **Reporting Obligations** 26.1. The TMC shall submit to the Lessor the reports and documents specified in **TOR (Terms of References)**, in the form, in the numbers and within the time periods set forth in the said TOR.
27. **Proprietary Rights of the Lessor in Reports and Records** 27.1. Unless otherwise indicated in the **SCC**, all reports and relevant data compiled or prepared by the TMC for the Lessor in the course of the Services shall be confidential and become and remain the absolute property of the Lessor. The TMC may retain a copy of such reports or data but shall not use the same for purposes unrelated to this Contract without prior written approval of the Lessor.

**28. Operation and Management of the Terminal**

- 28.1. The TMC shall enter into a Contract, as per the annexed format, with the Customs Office stationed at the Terminal.
- 28.2. The TMC shall mobilize necessary resources and make the Terminal fully operational by the Effective Date of the Contract. The Leasehold Rent shall be applicable from the same date.
- 28.3. The TMC shall not sub-contract the whole of the Services. Only the Services requiring unforeseen technical expertise could be subcontracted.
- 28.4. The ownership of the TMC cannot be changed throughout the Contract duration.
- 28.5. The TMC will deploy required number of civil unarmed guards and will be responsible for safety and security of the Terminal and consignment deposited therein. The TMC shall also be responsible for making necessary arrangements for proper inspection of any incoming, outgoing and stored consignment by appropriate personnel of the Customs Office.
- 28.6. The TMC shall immediately inform the Customs of any known, suspected or perceived illegal activity or breach of security within the Terminal.
- 28.7. The TMC will provide within the Terminal the following without any charge:
- a) Designated office space for the Customs officials and security personnel
  - b) Supply of electricity, water and cleaning service within the designated office spaces
  - c) Living space for the security personnel
- 28.8. The TMC shall issue identification card to their personnel, bearing the name, designation, validity date and zone of admittance. It shall order its security personnel not to allow any person without such valid identification card.
- 28.9. The TMC will inform the Lessor and the Customs Office about any change, transfer or termination of their staff within the date the action is effective.
- 28.10. The TMC may sublet part of the Services to an extent elaborated in TOR and clarified Technical Proposal subject to prior approval by the Lessor. Notwithstanding such approval, the TMC shall retain full responsibility for the Services.
- 28.11. Any duties or liability placed upon the TMC under this Contract will be applicable to its sub-lessee, sub-contractor, agent, co-investor or their personnel functioning within the

Terminal. It will be responsibility of the TMC to notify its affiliates on the provisions of this agreement before subletting or assigning any function to them.

28.12 The Terminal, Equipment, materials and data made available to the TMC by the Lessor, shall be the property of the Lessor and shall be marked accordingly. Upon termination or expiration of this Contract, the TMC shall make available to the Lessor an inventory of such equipment, vehicles and materials and shall dispose of such equipment, vehicles and materials in accordance with the Lessor's instructions.

28.13 The items such as the Terminal, Equipment and materials provided by the Lessor under this Contract shall be repaired and maintained in good condition by the TMC as elaborated in the **TOR** throughout the Contract Duration.

28.14 Any equipment, materials brought by the TMC or its Personnel into the Lessor's country for the use either for the project or personal use shall remain the property of the TMC or the Experts concerned, as applicable.

28.15 The TMC shall, at the Lessor's written request, within **Seven (7) Days** provide a replacement of Sub-contractors, Personnel or Equipment, if the latter:

- a) is found to have committed serious misconduct
- b) is found to be charged with having committed a criminal action
- c) is found to be charged against engagement in corrupt, fraudulent, collusive, coercive or obstructive practice while performing the Services,
- d) is found to be incompetent or incapable in discharging assigned duties

28.16 Any such replacements shall be acceptable to the Lessor.

#### **D. Payments to the Lessor**

##### **29. Payments and Adjustments**

###### **a. Payment to Lessor**

29.1 The TMC is required to pay the Lessor Leasehold Rent as follows:

- (a) The MLR shall be as per **SCC** payable in monthly instalments.
- (b) The payment under RSI shall be as per **SCC** payable at the end of each corresponding Nepalese Fiscal Year

###### **b. Taxes to be paid by TMC**

29.2 It will be the TMC's responsibility to settle its and its Personnel's tax obligations (income tax, corporate tax, registration fee, annual renewal fee of the JV, etc.) with the

competent tax office in Nepal.

29.3 VAT charged on the Users' Fee shall be settled by the TMC at the competent Inland Revenue Office.

**c. Adjustment for Taxes to be paid by Lessor** 29.4 If the Lessor requests the TMC to settle taxes which it has to pay (for example, the Property Rental Tax) with the relevant tax office on its behalf, the TMC shall comply and recover the amount from any outstanding Leasehold Rent.

**d. Interest on late payment** 29.5 In case of defaulting payment of on Leasehold Rent, interest at a rate specified in the **SCC** shall be payable to the Lessor.

**e. Delay Damage** 29.6 The TMC shall pay delay damages to the Lessor at the rate and up to a maximum limit as stated in the **SCC** for non-conformation to the maintenance cycles mentioned in **TOR** and not completion of any proposal for development stated in the Clarified Technical Proposal. Payment of delay damages shall not affect the TMC's liabilities.

29.7 If the Intended Completion Date is extended after delay damages have been paid, the Lessor shall correct any overpayment by the TMC by adjusting the next Leasehold Rent.

**30. Currency of Payment** 30.1. The payments to be made by the TMC to Lessor under this Contract shall be in **Nepalese Rupees**.

#### **E. Obligations of the Lessor**

**31. Assistance and Exemptions** 31.1. Unless otherwise specified in the **SCC**, the Lessor shall use its best efforts to:

(a) Assist the TMC with obtaining work permits and such other documents as shall be necessary to enable the TMC to perform the Services.

(b) Assist the TMC with promptly obtaining, for its Personnel and their eligible dependents, all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in the Lessor's country while carrying out the Services under the Contract.

(c) Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Personnel and their eligible dependents.

(d) Issue to officials, agents and representatives of the Government all such instructions and information as may be necessary or appropriate for the prompt and effective implementation of the Services.

(e) Assist the TMC, its Sub-contractors and Personnel with obtaining exemption from any requirement to register or obtain any permit to practice their profession or to

establish themselves either individually or as a corporate company in the Lessor's country according to the applicable law in the Lessor's country.

- (f) Assist the TMC, its Sub-contractors and Personnel with obtaining the privilege, pursuant to the applicable law in the Lessor's country, of bringing into the Lessor's country reasonable amounts of foreign currency for the purposes of the Services or for personal use of the Personnel and of withdrawing any such amounts as may be earned therein in the execution of the Services.
- (g) Provide to the TMC any such other assistance as may be specified in the **SCC**.
- (h) Assist the TMC, its Sub-contractors and Personnel to remit a reasonable amount of their earnings in any freely convertible currency to their home country.

In order to receive such assistance, the TMC is required to provide detailed breakdown of foreign currency exchange requirements annually for the amount of net profit or net income saving as shown in its audited Balance Sheet. Upon verification, the Employer shall recommend to the concerned authority to avail the exchange and remit facility to the TMC in an annual basis.

- 32. **Access to Project Site** 32.1. The Lessor warrants that the TMC shall have, free of charge, unimpeded access to the project site in respect of which access is required for the performance of the Services.
- 33. **Change in the Applicable Law Related to Taxes and Duties** 33.1. If, after the Agreement Date of this Contract, there is any change in the applicable law in the Lessor's country with respect to taxes and duties which increases or decreases the cost incurred by the TMC in performing the Services, then such changes will be adjusted in the Leasehold Fee payable to the Lessor.

#### **F. Fairness and Good Faith**

- 34. **Good Faith** 34.1. Both the Lessor and the TMC undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

#### **G. Settlement of Disputes**

- 35. **Dispute resolution Process** 35.1 Both the Lessor and the TMC shall seek to resolve any dispute amicably by mutual consultation.  
35.2 If either party objects to any action or inaction of the other party, the objecting party (Party-1) may file a written Notice of Dispute to the other Party (Party-2) providing in detail the basis of the dispute.



- 35.3 Party-2 will consider the Notice of Dispute and respond in writing within thirty (30) days after receipt. If Party-2 fails to respond within Thirty(30) days, or if the dispute cannot be amicably settled within thirty (30) days following the response of Party-2, the dispute shall be referred to the Adjudicator by either of the parties within the next fifteen (15) days.
- 35.4 The Adjudicator shall be appointed through consensus of the Lessor and the TMC. If no consensus could be reached on the appointment, they shall jointly request to the Appointing Authority as specified in **SCC**.
- 35.5 The Adjudicator shall give a written decision within thirty (30) days from the date of submission of all relevant documents, as sought, regarding the dispute. The dispute is resolved if both the parties accept it.
- 35.6 If any of the parties do not accept the Adjudicator's decision, it may opt for arbitration within thirty (30) days of the receipt of the decision.
- 35.7 Arbitration shall be conducted in accordance with the Arbitration Act, 2055 at the place given in the **SCC**.
- 35.8 The ruling made by the Arbitrator on a dispute shall be binding to both the parties.
- 35.9 Both the disputing parties shall equally bear the cost of the dispute resolution process.

## Attachment 1: Requirements against Corrupt and Fraudulent Practices

The TMC, its agents, sub-contractors and any personnel thereof shall:

- 1) fulfill the responsibilities as stated in the *ITB, TOR, GCC, SCC, clarified Technical Proposal, Financial Proposal and Supplementary Agreement with the Customs Office*.
- 2) observe the highest standard of ethics during the selection of the TMC and execution of the Contract.
- 3) not attempt to affect the above provision through the following:
  - a) “corrupt practice”, that is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party<sup>12</sup>;
  - b) “fraudulent practice”, that is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation<sup>13</sup>;
  - c) “collusive practices”, that is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party<sup>14</sup>;
  - d) “coercive practices”, that is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party<sup>15</sup>;
  - e) “obstructive practice”, that is
    - (aa) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
    - (bb) acts intended to materially impede the exercise of the Lessor’s inspection and audit rights;
- 4) The Lessor will reject a Proposal for award if it determines that the Proposer recommended for award or its agents, sub-contractors, service providers, or suppliers, and any personnel, has directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the Contract;
- 5) Any agency or its personnel entrusted to prepare the ITB, TOR or Evaluation Criteria on behalf of the Lessor will not be eligible to submit Proposals for the Services.
- 6) The Lessor will declare misprocurement, cancel the Contract, and inform the competent authority for further action if it determines at any time that the Proposer, the Lessor or their representatives were engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the selection process or the implementation of the Contract in question. Any such Proposer will also be sanctioned automatically.

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<sup>12</sup> The “another party” refers to an official of the Owner or Lessor or any public official acting in relation to the selection process or Contract execution.

<sup>13</sup> The “party” refers to a public official; the terms “benefit” and “obligation” relate to the selection process or Contract execution; and the “act or omission” is intended to influence the selection process or Contract execution.

<sup>14</sup> The “parties” refers to participants in the procurement or selection process (including public officials) attempting either themselves, or through another person or company not participating in the procurement or selection process, to simulate competition or to establish prices at artificial, non-competitive levels, or are privy to each other’s Proposal prices or other conditions.

<sup>15</sup> The “party” refers to a participant in the selection process or Contract execution.

### III. Special Conditions of Contract

Number of GC Clause	Amendments of, and Supplements to, Clauses in the GCC
1.1 (f)	Five (5) years
1.1 (q)	<i>Kakarbhitta ICD Terminal, Kakarbhitta, Nepal</i>
3.3	a) Contract Agreement, b) Letter of Acceptance, c) Special Conditions of Contract, d) General Conditions of Contract, e) Terms of References, f) Clarified Technical Proposal, g) Financial Proposal, and h) Any other document mutually signed by either party during the contract agreement.
4	English Language
5.1 and 5.2	The addresses are: Lessor : <i>Nepal Intermodal Transport Development Board, Kupondole, Lalitpur, Nepal</i> Attention : <i>Executive Director, or The Chairman, (for activities pursuant to GCC 35)</i> Facsimile: <i>+97715550236</i> E-mail: <i>nitbktm@nitdb.gov.np</i> TMC : <i>[successful Proposer]</i> Attention : <i>[Authorized Person as given in Form of Contract]</i> Facsimile : E-mail :
7	<i>[If the TMC consists only of one company, state "not applicable"; OR If the TMC is a Joint Venture consisting of more than one company, the name of the JV member as per TECH-8 (c) of received Proposal]</i>
8	For the Lessor: <i>[Name, Executive Director, Nepal Intermodal Transport Development Board]</i> For the TMC: <i>[Name, title and organization as per TECH-12 (1) of Proposal]</i>
10	<i>Within 7 days after the Date of Contract.</i>
12	<i>Within 15 days of the contract Effective Date</i>

Number of GC Clause	Amendments of, and Supplements to, Clauses in the GCC
13.1	<i>Five Years</i>
17	30 (thirty) days
18.1.1(b)(ii)	Six months before the expiry of the duration of existing Performance Security
23	<i>No additional condition</i>
24	<p>The insurance coverage against the risks shall be as follows:</p> <ul style="list-style-type: none"> <li>a) Insurance for loss or damage of the infrastructure inside the Terminal by all reasonable causes, including fire and earthquake and consequences thereto : 100% of the valuation</li> <li>b) Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Lessor's country by the Lessee or its Sub-contractors and Personnel: <i>NPR 1,000,000 per incident with no limit on number of occurrences</i></li> <li>c) Third Party liability insurance: <i>NPR 1,000,000 per incident with no limit on number of occurrences</i></li> <li>d) Loss or damage to the Lessor's Equipment and the Lessee's Equipment with the details on each of the equipment given to the insurance company: <i>NPR 20,000,000</i></li> <li>f) Personal injury or death of the Lessor's personnel, Lessee's personnel and a minimum of 50 numbers of hired labor with the details of the personnel given to the insurance company: <i>NPR 1,000,000 per person with no limit on number of occurrences</i></li> </ul>
27	<i>No additional condition</i>
29.1 (a)	<i>[as mentioned in Form FIN-2 A] and MLR shall be payable from the date of commencement.</i>
29.1 (b)	<p><i>Following paragraph is applicable for GCC clause 29.1(b):</i></p> <p><i>As mentioned in Form FIN-2 B, Share of revenue, payable to the Lessor, due to exceeding base case equivalent truck traffic shall be paid to the Lessor on annual basis within one month of completion of each year. The first year shall be a period of 12 months starting from the date of commencement of operation of ICD by the Lessee.</i></p>
29.5	<i>Eight Percent (8%) per year on the default amount.</i>
29.6	<p><i>It is the obligation of the Lessee to repair in accordance with the provisions of operating performance standard stipulated in the document for the Assets after receiving a written notice from the Lessor. If the Lessee fails to initiate any such repairs to the assets as instructed by the Lessor, within 24 hours (Twenty Four Hours) and the repair works is not carried out and completed within two weeks after the notice given by Lessor, Lessee shall pay to the Lessor NRs. 5,000 (Nepalese Rupees five thousand only) per day subsequent to completion of two weeks period as liquidate damages for every such failure. Such liquidated damages and other charges against the default of the lessee shall be paid together with the lease rent for the subsequent month by the lessee.</i></p>
31.1 (g)	<i>Allow TMC to remit the income from the contract "Operation and Management of</i>

**Number of GC  
Clause**

**Amendments of, and Supplements to, Clauses in the GCC**

*Kakarbhitta ICD Terminal; Contract No: NITDB- O&M- ICB -03 (FY 2020/021) ” to the country of its legal incorporation in the currency of that country, excluding the payables to the Employer, taxes and other payables in Nepal. The Lessor shall facilitate the TMC in obtaining foreign currency exchange facilities from the concerned Authority in Nepal*

**35.4** Nepal Council for Arbitration

**35.7** Arbitration shall be conducted in Kathmandu, Nepal.

*[Note:*

*The text in brackets are for guidance purposes only and should be deleted in the final text of the signed Contract]*