

**GOVERNMENT OF HIMACHAL PRADESH**  
**DEPARTMENT OF GENERAL ADMINISTRATION**

**TENDER DOCUMENT**

**FOR**

**HIRING OF HELICOPTER**  
**ON WET LEASE BASIS BY THE**  
**GOVERNMENT OF HIMACHAL PRADESH**

**TENDER NO. GAD-A(E)3-1/2011 DATED 27.02.2012**

**THIS TENDER DOCUMENT CONTAINS THE FOLLOWING :**

**SECTION A :      PRE-BID MEETING FOR HIRING OF HELICOPTER ON  
WET LEASE BASIS**

**SECTION B: NOTICE INVITING TENDER**

**SECTION C : GENERAL TERMS & CONDITIONS**

**SECTION D : SCHEDULES**

**SCHEDULE-I: Company Background and Helicopter specifications  
(to be submitted with the Technical Bid)**

**SCHEDULE-II: Rate Schedule (to be submitted in the Financial Bid)**

**SCHEDULE-III: Format of Tender Letter (to be submitted with the Technical Bid)**

**SCHEDULE-IV: Format of Performance Bank Guarantee**

**SECTION E : DRAFT DEED OF WET LEASE AGREEMENT**

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GOVERNMENT OF HIMACHAL PRADESH  
GENERAL ADMINISTRATION DEPARTMENT

No. GAD-A(E)3-1/2011

DATED

SHIMLA-2

27.02.2012

SECTION-A

Pre-Bid Meeting for Hiring of Helicopter on wet lease basis

State Govt. of Himachal Pradesh intends to hire Twin Engine large/heavy duty transport helicopter with carrying capacity more than 15 passengers to different places in Himachal Pradesh upto 12000ft. altitude requiring crossing over the peaks upto height of 15000 ft. by inviting sealed offers from eligible commercial permit holders (Non-Scheduled category) under DGCA India for leasing of Helicopter on wet lease basis initially for 3 years **w.e.f 01-06-2012** for multi purpose use of State Govt. including VIP duties and emergency evacuations/relief operations etc. with option for renewal/extension for further period upto 2 years on annual basis with mutual consent subject to satisfactory performance during the last 3 years. **In this regard Pre-Bid Meeting has been convened for 17.3.2012 at 11.00 AM.** The interested parties may attend the same in the office chamber of Secretary (GAD) to the Govt. of Himachal Pradesh. The interested parties to participate in Pre-Bid Meeting will have to deposit demand draft of ₹ 10,000/- (₹ Ten Thousand) only in favour of Secretary (GAD) to the Govt. of Himachal Pradesh payable at Shimla. (Not refundable).

Requirements of the State Govt. is as under:-

1. Wet lease of twin engine large/heavy duty transport helicopter having carrying capacity more than 15 passengers plus personal baggage/equipment to different places in Himachal Pradesh upto altitude of 12000 ft requiring crossing over the peaks upto heights of 15000ft .
2. The operator should be Non-Scheduled Operating Permit holder having a valid License issued by the DGCA India and a copy of which should be enclosed with the offer.
3. The Helicopter should have certification of manufacturing company and the same should be acceptable to DGCA and Ministry of Civil Aviation,

2.

Government of India. Helicopter offered should be airworthy, duly approved by DGCA at the time of bidding.

4. The preference will be given to new helicopter.
5. The Helicopter should have excellent performance at high altitudes capable of take off/land at altitude upto 12000ft with more than 15 passengers with safe/good endurance.
6. The helicopter should be technically fit for flying in high altitude routes like Rohtang Pass/Saach Pass/ Kunzum Pass/Baralacha Pass /Pin Parbati Pass upto 15000 ft height.
7. The helicopter should be IFR cleared and capable of operating by night and should have excellent performance at high altitudes mentioned above in terms of reserve of powers, rate of climb, AUW, adequate endurance etc .
8. The pilots and Air Crews to be deployed on the Helicopter should also be technically qualified and professionally competent for all type of flights including those of VIPs as called for vide relevant DGCA's CARs on the subjects.
9. The helicopter should be fitted with modern /latest avionics, nav equipment, flight & safety equipment and IFR cleared.
10. Certificate of airworthiness and the permit of aircraft operation for VIP flights from DGCA would be mandatory (CAR Sec 3 Series C Part X to be complied with) as and when VIP on board.
11. The helicopter should be endorsed on An Operator's Permit issued by DGCA. Safety and serviceability records of the helicopter for the last one year is to be endorsed with the Technical Bid.
12. Full maintenance support and required infrastructure for maintenance and operation of the offered helicopter is must, failing which the bid would be rejected. The details/supporting documents including DGCA approval etc. are to be enclosed alongwith the bid in this regard.

13. The air crew with high altitude flying experience is must, failing which the bid may be rejected. The Bidder as a Company also must have hill flying experience as mentioned below, failing which the bid may be rejected:-

*The bidder must have minimum 4 or more qualified pilots (PIC & Co-pilots) on the type offered on the bidder's payroll for the past six months as on date of offer of bid.*

14. Flight safety record/accidents during the last 5 years of the Air operator is to be enclosed with Technical Bid.

15. The interested party/company should be incorporated in India. NRIs/Foreign Companies must have required clearance from the RBI and FIB (Foreign Investment Board) of the Government of India. Copies of clearance must be attached with the offer.

16. The interested parties should quote rates per flying hour for 40 assured flying hours per month inclusive of all operational cost and other expenses to be incurred on wet lease. The deficit or excess flying hours of each month shall be adjustable within one year on annual basis.

17. The Technical bid shall be accompanied with an earnest money of ₹10.00 lakh (₹ Ten lakh ) in shape of Bank Draft drawn in favour of Secretary (GAD) payable at Shimla.

18. During technical evaluation, relevant information, if any required by the evaluation committee, shall be provided by the bidder.

19. The Bidder as a Company must be currently in the business of operating helicopter services and should have valid Non-Scheduled Operator's Permit(NSOP) of DGCA India. The bidder should provide necessary authenticated documentary evidence of their flying experience in the Technical Bid. The bidder should be in Helicopter flying/Operations business and must have arrangements for an additional helicopter of the same type and model in fully airworthy conditions with full set of pilots and crews so that in case of non availability of the contracted helicopter due to any reason whatsoever, the same is provided forthwith for the services as per the contract.

20. a) The back up (replacement ) helicopter shall be positioned at Shimla within 48 hours if the helicopter under service is grounded for technical snag.

b) No ferry charges shall be paid by the State Govt. for the ferry of back up helicopter.

c) The bidder shall give notice to the State Govt. for any scheduled inspection/maintenance to be carried out on the helicopter at least seven days in advance.

d) If the lessor fail to re-position the helicopter after the authorized grounding, he will be liable to provide replacement of equivalent helicopter.

21 In case the information given by the bidder in the bids is later on found to be incorrect after opening of financial bids then their bids will be rejected forthwith and the bidder may be debarred for bidding in the State for next three year.

22 To consider price variation formula to cater for increase in ATF etc.

23 Submission of Bid

**A Following should be contained in the Technical Bid:-**

a) Details of Company and Helicopter offered as per Scheduled -II with supporting documents as mentioned therein.

b) Earnest Money of ₹ 10.00 Lakhs in the form of Bank Draft in favour of Secretary (GAD) to the Govt. of Himachal Pradesh, payable at Shimla.

c) Performa Tender Letter as per Annexure-I

d) Undertaking regarding arrangement for fully airworthy back up helicopter of the same type and with full set of pilots and crew to be provided to the State Govt.

e) Detail of flying experience and list of Pilots and their flying experience as mentioned above. Photo copies flying licenses and Medical assessment issued by DGCA are to be enclosed.

f) Other required and relevant documents such as Non-Scheduled Operator's Permit, Airworthiness Certificate, Certificate of Registration, Insurance Certificate etc. as mentioned in the Tender.

**B Following should be contained in Financial Bid.**

- a) Schedule of rates duly filled in and signed with seal as per Schedule-I attached.
- b) Other required & relevant documents as mentioned in the Tender.
- c) Both the Technical Bid and Financial Bid are to be kept in separate sealed envelops with proper marking at the top corner of the envelop as under:-

“Technical Bid” document dated \_\_\_\_\_

“Financial Bid” document dated \_\_\_\_\_

- 24. Party rejected in the Technical Bid will not be allowed to participate in the Financial Bid opening process.
- 25. The successful bidder shall submit Performance Bank Guarantee of ₹ 50 lakh (₹ Fifty Lakh).
- 26. Government of Himachal Pradesh shall have an unqualified option to forfeit the earnest money, performance bank guarantee and to black list the company or for termination of agreement:-
  - a) If the tender is withdrawn during the bid period or any extension thereof agreed by the bidder.
  - b) If the tender is varied or modified in a manner not acceptable to Govt. of Himachal Pradesh during the validity or agreed extension of the validity or after issue of Letter of Intent by the Govt. of Himachal Pradesh and prior to signing of agreement.
  - c) If successful bidder seeks modifications to the agreed terms and conditions.
  - d) If the successful bidder refuses to satisfactorily carry out /undertake operations at any time of operations for whatsoever reasons.

- e) If the company selected & awarded the contract fails to position the helicopter at Shimla base on the agreed date then their Earnest Money will be forfeited
- f) If the performance of the awarded company is found unsatisfactory during the contract period or contravenes any terms & conditions of the contract or disobeys the directions of the Govt. of Himachal Pradesh issued from time to time or fails to provide back up helicopter during grounding of the contractual helicopter for technical snags.

27 The successful bidder shall furnish the required performance Bank Guarantee of ₹ 50.00 lakh from any Nationalized Bank or Scheduled Bank in India within 10 days of Letter of Intent, with validity upto 2 months beyond the initial 3 years period of the contract or extended period thereafter.

28 The offered helicopter must also meet following requirements laid down by Civil Aviation Regulatory Authority in India i.e DGCA.

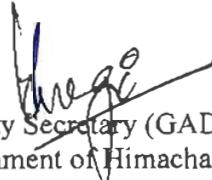
- a) The operator shall abide by all relevant rules, CARs and other regulations issued by DGCA i.e CAR Section 7 Series B and CAR Section 3 Series C Part X etc.
- b) Requirement of operations of Leased aircraft in India as per CAR Section 3. Series C Part-I
- c) Requirement for installation of Aircraft equipments and Instructions as per CAR Section-II, Series I , Part II.
- d) Requirement for installation of flight Data Recorders as per CAR Section II Series I Part V ( preferable & requirement )
- e) Requirement for installation of Cockpit voice Recorders as per CAR Section-II, series I Part IV and other relevant rules & regulations.

29. The successful bidder shall have to provide experienced licensed crew for operations and qualified and experienced maintenance crew for servicing of the helicopter in order to maintain the helicopter for operational use during the Term of the agreement. The successful bidder shall at times require to

undertake IFR flights (Day & Night) in plains, within the capability of the helicopter to meet specific requirements of the State Govt.

30. The selected party/company shall have to position the helicopter at base (Annandale Shimla) by 01.06.2012. The arrangement of infrastructural facilities for inspection & maintenance of their helicopter with spare parts, full strength of Pilots & Crew along with their accommodation and transportation, fuel, insurance etc. with regard to operation of the helicopter will be made by the concerned party/company.
31. The selected party/company shall have to sign the contract within fifteen days after awarding the contract to the Company.
32. The bidder(s) shall indemnify and bond harmless the State Govt. and /or its clients from and against all claims, costs, demands, actions, including legal fees and costs, whatsoever, arising out of the use of the helicopter(s) (including damage or loss of helicopter (s) and third party liability etc.) during the period herein mentioned.
33. The Bidder(s) shall maintain throughout the period of lease Agreement at its own expense, full liability insurance/ self insurance of the helicopter(s). The Bidder shall also maintain throughout the period of lease at its own expenses, insurance/self insurance against war risk and hijacking etc.
34. All taxes, levies, duties, costs etc. except service tax (payable to the Government of India) as applicable and leviable under the contract including personal tax liabilities of the Bidder(s) and their sub-bidders and associates shall be paid by the bidder(s). The service tax to the Central Government at the prevailing rate shall be payable by the State Govt. on the bills. Necessary TDS will be deducted by the State Govt. from monthly bills.

35. Any dispute of difference whatsoever arising between the parties to the agreement, of or relating to the construction, meaning, scope, operation or effect of this contract or the validity of breach thereof shall be referred to the Chief Secretary to the Govt. of Himachal Pradesh as sole Arbitrator who will decide all disputes in accordance with the provisions of the Arbitration and Conciliation Act, 1996, and the award made there under by the arbitrator shall be final and binding upon both the parties, subject to legal remedies available under the law.
36. The Government reserves the right to accept or reject the offers of the bidders without assigning any reason.
37. In addition to above, the following two propositions will also be discussed in the Pre-Bid meeting:-
  - (i) Whether formula based variation in per flying hour rates should be linked to selling price of ATF? If so, formula thereof.
  - (ii) Whether carry forward of monthly deficit or excess flying hours should be adjustable during the contract period i.e. initially 3 years?



Deputy Secretary (GAD) to the  
Government of Himachal Pradesh.

**GOVERNMENT OF HIMACHAL PRADESH  
DEPARTMENT OF GENERAL ADMINISTRATION**

No. GAD-A(E)3-1/2011

DATED SHIMLA-2

27.02.2012

**SECTION -B**

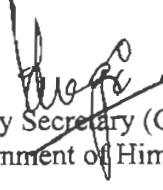
**NOTICE INVITING TENDER**

**For Hiring of Helicopter on Wet Lease Basis by the Government of Himachal Pradesh**

1. The Department of General Administration, Government of Himachal Pradesh (GoHP) invites Tenders/ Bids from reputed and registered Aviation Companies having a minimum fleet of 3 (three) airworthy Twin Engine Large/Heavy Duty Lift Transport Helicopters or helicopters of equivalent performance capability duly certified and endorsed on its Non Scheduled Operators Permit from DGCA, Government of India for leasing of a Helicopter on wet lease basis for a term of 3 years **w.e.f 01.06.2012** for multi purpose use of the State Government of Himachal Pradesh including VIP duty, emergency evacuations/ relief operations etc. with an option for renewal/ extension on such terms & conditions as are mutually acceptable to the Parties subject to satisfactory performance/ rendering of services to the GoHP during the initial term of 3 years.
  
2. The Twin Engine Large/Heavy Duty Transport Helicopter intended to be hired by the State Government should have the capacity to carry more than 15 passengers to different places across the State of Himachal Pradesh upto the altitude of 12000ft. requiring crossing over peaks upto the height of 15000 ft.. The detailed terms & conditions and technical parameters required for the Helicopter to be hired on wet lease basis are specified in the Tender Document. Interested Bidders may apply to the Secretary, Department of General Administration, Government of Himachal Pradesh on the prescribed Bid format.

3. Sealed Tenders/ Bids are invited in a Two Bid Format i.e. Technical and Financial – each filled separately and properly sealed. Both the Bids should be placed in a third cover, in the manner specified in the Tender Document. The aforesaid Bids must reach the office of the Secretary, Department of General Administration, H.P. Government Secretariat, Shimla-2 on or before 10.04.2012 upto 2.00 P.M. The Sealed Bids shall be opened in the office chamber of the Secretary, Department of General Administration, GoHP at 3.00 PM on 10.04.2012. The Technical Bids shall be opened first for scrutiny of the Bid Documents and Technical Data as per the requirement of the Tender Document. Thereafter, the Financial Bids of the technically qualified Bidders shall be opened on 10.04.2012. However, if the Technical Bid of any Bidder(s) is found incomplete or not supported by earnest money/ required documents or deficient viz. a viz. any technical parameters as specified in the Tender Document, the Financial Bid of such Bidder(s) shall not be opened.
4. A copy of the Tender Document can be obtained during working hours from the office of the Department of General Administration, Government of Himachal Pradesh, H.P. Government Secretariat, Shimla-2 from 27.02.2012 onwards against the payment of non-refundable/ non-transferable Tender fee of ₹ 500/- or can be downloaded from the official website i.e. [www.himachal.nic.in/gad/](http://www.himachal.nic.in/gad/) . The downloaded Tender form must be accompanied by a Demand Draft of ₹ 500/- as Tender fee in favour of the Secretary, Department of General Administration, H.P. Secretariat, Shimla-2 payable at Shimla. It is advisable that the interested Bidders should browse the aforesaid official website for information regarding any changes, amendments and updates in the Tender Document or any terms & conditions thereof after the Pre-Bid Meeting and before submission of Bids.
5. The Technical Bid submitted by eligible Bidders shall be accompanied with Earnest Money Deposit of ₹ 10.00 Lakhs in the form of a Bank Draft drawn in favour of the Secretary, Department of General Administration, Government of Himachal Pradesh payable at Shimla.

6. Any conditional Bid/ Tender or Tenders which are not appropriately sealed or received by post after the specified date and time shall not be entertained. The scope of the helicopter services, activities and other terms and conditions, are detailed in the Tender Document.
7. The Government reserves the right to accept or reject any Bid or Tender submitted by the Bidder(s) or to cancel the entire Bidding process and reject all Bids submitted, at any time without assigning any reason and without incurring any liability to the affected Bidder(s).



Deputy Secretary (GAD) to the  
Government of Himachal Pradesh.

## SECTION C

### GENERAL TERMS AND CONDITIONS

#### **1. Introduction**

- 1.1 The Department of General Administration, Government of Himachal Pradesh (GoHP) invites Tenders/ Bids from reputed and registered Aviation Companies having a minimum fleet of 3 (three) airworthy Twin Engine Large/Heavy Duty Transport Helicopters or helicopters of equivalent performance capability duly certified and endorsed on its Non Scheduled Operators Permit from DGCA, Government of India for leasing of a Helicopter on wet lease basis for a term of 3 years **w.e.f 01.06.2012** for multi purpose use of the State Government of Himachal Pradesh including VIP duty, emergency evacuations/ relief operations etc. with an option for renewal/ extension on such terms & conditions as are mutually acceptable to the Parties subject to satisfactory performance/ rendering of services to the GoHP during the initial term of 3 years.
- 1.2 The Twin Engine Large/Heavy Duty Transport Helicopter intended to be hired by the State Government should have the capacity to carry more than 15 passengers to different places across the State of Himachal Pradesh upto the altitude of 12000ft. requiring crossing over peaks upto the height of 15000 ft.. The detailed terms & conditions and technical parameters required for the Helicopter to be hired on wet lease basis are specified in Part 3 of Section C of the Tender Document.
- 1.3 Interested parties may apply to the Secretary, Department of General Administration (GAD), Government of Himachal Pradesh on the prescribed Bid format. The Bidders are advised to go through the Tender Document carefully before submitting their Bids.

#### **2. Description of the Bidding Process**

- 2.1 No Bidder shall submit more than one Bid for the Project.

2.2. A Pre-Bid Meeting of the Bidders shall be held on 17.03.2012 at 11.00 A.M. in the office of Secretary, General Administration Department, H.P. Secretariat, Shimla-2. During the course of Pre-Bid Meeting, the Bidders will be free to seek clarifications and make suggestions for consideration of the GoHP. The GoHP shall endeavour to provide clarifications and such information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding process.

2.3 Bids of the eligible Bidders for rendering of helicopter services to the State Government shall be evaluated on the basis of the Bid Variable i.e. the lowest financial rate quoted by a Bidder for providing the said services strictly in terms of the draft Deed of Wet Lease Agreement appended with the Tender Document, the terms & conditions whereof shall be deemed to be a part of the terms & conditions of this Tender Document.

2.4 During the bidding stage, the Bidders are invited to examine minutely the scope of services envisaged to be rendered, as mentioned in the Tender Document and the draft Deed of Wet Lease Agreement. The Bidders are expected to carry out at their own cost and as per the investigations and analysis at their own level, as may be required for preparing and submitting their respective Bids.

2.5 All Bidders are required to deposit, along with their Bids, an Earnest Money Deposit of ₹10 Lakhs by way of a Bank Draft in favour of Secretary, GAD, H.P. Secretariat, Shimla-2 payable at Shimla. The Earnest Money shall be refundable not later than 30 days from the Bid Due Date, except in the case of the Successful Bidder whose Earnest Money Deposit shall be retained till it has provided the requisite Performance Security. The Bid shall be summarily rejected if it is not accompanied by the requisite Earnest Money Deposit.

2.6 GoHP shall be following a two stage bidding process based on Two Bid Format i.e. Technical and Financial, for the selection of an Aviation Company for providing of services strictly in accordance with the terms and conditions of the draft deed of Wet Lease Agreement which is at **Section-E** of the Tender Document.

2.7 The Bid shall be typed or written in indelible ink and signed by the Authorised Signatory of the Bidder who shall also initial each page, in blue ink. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialed by the person signing the Bid. A copy of the Board Resolution and/ or an appropriate Power of Attorney in favour of the Authorized Signatory of the Bidder shall be submitted as a part of the Technical Bid.

2.8 Submission of Bid :

**A. The Technical Bid should contain the following :**

- a) Details of the Bidding Company, specifications of the Helicopter to be offered for services, all relevant technical details, permits, certificates, etc. as per Schedule-I along with all the relevant supporting documents as mentioned therein.
- b) Earnest Money of ₹ 10.00 Lakhs in the form of a Bank Draft in favour of the Secretary, Department of General Administration, Government of Himachal Pradesh, payable at Shimla.
- c) Tender Letter as per the format at Schedule-III.
- d) Undertaking regarding arrangement for fully airworthy back up helicopter of the same type and with complete details of the pilots and air crew to be provided to the State Government.
- e) Details of flying experience particularly mountain flying experience of the Pilots and the air crew as mentioned above. Photo copies of flying licenses issued by DGCA are to be enclosed.
- f) Copies of currently valid Non-Scheduled Operator's Permit, Airworthiness Certificate, Certificate of Registration, Insurance Certificate etc. issued by DGCA and other competent authorities, for the operation of the Helicopter(s). Copies of other required and relevant documents as stated in Schedule-I should also be attached.

- g) Technical specifications of the Helicopter being offered including safety parameters shall also be mentioned along with proof of strong technical support from the manufacturer of the Helicopter.
- h) Flight safety record/ accidents if any during the last 5 years of the air operation of the Helicopter is also to be enclosed. The serviceability record of the Helicopter for the last one year is also to be enclosed.
- i) A copy of the Board Resolution and/ or an appropriate Power of Attorney in favour of the Authorized Signatory of the Bidder.

**B. The Financial Bid shall contain the following :**

- a) Schedule of rates duly filled in and signed with seal as per Schedule-II attached herewith.

**C. Both the Technical Bid and Financial Bids are to be kept in separate sealed envelopes with proper markings at the top corner of the envelops as under :**

“Technical Bid Documents for Hiring of Helicopter on Wet Lease basis” dated \_\_\_\_\_

“Financial Bid Documents for Hiring of Helicopter on Wet Lease basis” dated \_\_\_\_\_

**D. Both the Bids should be placed in a third sealed envelope super-scribed (in Capitals) as follows :**

**“TENDER FOR HIRING OF HELICOPTER ON WET LEASE BASIS BY THE GOVERNMENT OF HIMACHAL PRADESH”**

The Bid/ Tender, along with a copy of the Tender Document including the draft Deed of Wet Lease Agreement with each page duly signed and stamped, and as enveloped above should be addressed to :

The Secretary, Department of General Administration,  
Government of Himachal Pradesh,

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- 2.9 The Bidders shall ensure that their sealed Bids reach the office of the Secretary, Department of General Administration, Government of Himachal Pradesh on or before 10.04.2012 upto 2.00 p.m. The GoHP shall not be responsible if the Bid/Tender of any Bidder gets misplaced or delayed in transit and is not received by the GoHP by the prescribed date and time.
- 2.10 Sealed Bids shall be opened in the office chamber of the Secretary, Department of General Administration, Government of Himachal Pradesh at 3.00 PM on 10.04.2012. First, the Technical Bids shall be opened and scrutinized. Thereafter, the Financial Bids of the technically qualified Bidders shall be opened on the same date. However, if the Technical Bid of any Bidder(s) is/ are found incomplete or not accompanied by the Earnest Money Deposit or any required documents or is deficient on any technical parameters as specified in the Tender Document, the Financial Bid of such Bidder(s) shall not be opened. The decision of the GoHP in this regard shall be final and binding on the bidders.
- 2.11 Bidders shall provide all the information sought in the Tender Document and while submitting their Bids/ Tenders, shall strictly adhere to the prescribed format(s) as provided in the Tender Document so as to facilitate the GoHP to consider and evaluate them properly. Any change in the format or incomplete information may lead to rejection of the Bid.
- 2.12 Any condition or qualification or any other stipulation contained in the Bid, which in the opinion of the GoHP tantamounts to making the Bid conditional, shall render the Bid liable for rejection.

- 2.13 The Bid and all communications in relation to or concerning the Tender Document and the Bid shall be in English Language.
- 2.14 The Bids shall be valid for a period of 180 days from the Bid Due Date. The validity of the Bids may be extended by mutual consent of the respective Bidders and the GoHP.
- 2.15 The Bidders shall be responsible for all of the cost associated with the preparation of their respective Bids and their participation in the Bidding Process. GoHP will not be responsible or in any way liable for such costs, regardless of the conduct of the Bidding Process.
- 2.16 During Technical Evaluation stage, if any relevant information or clarifications is/ are required by the Evaluation Committee, the same shall be promptly provided by the concerned Bidder.
- 2.17 The GoHP reserves the right to verify all statements, information and documents submitted by the Bidder in response to the Tender Document and the Bidder shall, when so required by the GoHP, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification by the GoHP shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the GoHP thereunder.
- 2.18 The GoHP reserves the right to reject any Bid and appropriate the Earnest Money Deposit if at any time a material mis-representation is made or uncovered or the Bidder does not provide, within the time specified by the GoHP, the supplemental information sought from it for evaluation of the Bid.
- 2.19 The GoHP shall be entitled to forfeit and appropriate the Earnest Money Deposit as damages, submitted by the Bidder(s) under the following circumstances :

- (a) If the Bid is withdrawn or varied or modified during the Bid validity period or any extension thereof.
- (b) If the successful Bidder(s) seek(s) modifications to the agreed terms and conditions of the Tender.
- (c) If the successful Bidder fails within the specified time limit to sign the Wet Lease Agreement or furnish the Performance Security.
- (d) If the successful Bidder after issuance of Letter of Intent (LOI) fails to position the Helicopter at the Base on or before the specified date.

In addition to forfeiture of Earnest Money Deposit as contemplated above, the GoHP may backlist the successful Bidder and debar it from participating in any future Tenders to be floated by the GoHP for a specified period.

- 2.20 The Bidder who quotes the lowest financial rate per flying hour based on the terms & conditions including the condition of minimum guaranteed 40 flying hours per calendar month inclusive of all operational costs and other expenses including the cost of Aviation Turbine Fuel (ATF) incurred on wet lease basis, shall be declared as the successful Bidder.
- 2.21 After selection, a Letter of Intent (LOI) shall be issued by the GoHP to the successful Bidder who shall acknowledge the acceptance of the same within 2 days of receipt of the LOI by it.
- 2.22 Towards due and faithful fulfillment of its obligations as contemplated in the Tender Document including the Wet Lease Agreement, the successful Bidder shall furnish Performance Security by way of an unconditional and irrevocable Bank Guarantee from any Nationalized or Scheduled Bank in India as per the format given in Schedule-IV of the Tender Document, for an amount of Rs. 50.00 lakhs (Rupees Fifty Lakhs Only) in favour of the Secretary, Department of General Administration, Government of Himachal Pradesh within a period of 30 days from the date of issuance of the LOI. The Performance Bank Guarantee shall remain valid for the entire Term of Agreement or any extension thereof. It is clarified that submission of the aforesaid Performance Security by the successful Bidder shall be a precondition for signing of the Wet Lease Agreement.

- 2.23 The successful Bidder shall execute with the Secretary, Department of General Administration, Government of Himachal Pradesh, the Wet Lease Agreement within 15 days from the date of issuance of the LOI and after it has submitted the Performance Bank Guarantee. The successful Bidder shall not be entitled to seek any deviation, modification or amendment in the terms of the Wet Lease Agreement.
- 2.24 The successful Bidder shall position the Helicopter and make it ready for operations at the Base in Shimla by 01.06.2012 or within such extended time period as may be agreed to by the GoHP. If the successful Bidder fails to deliver and make the Helicopter operational within such time limit as aforesaid, the GoHP shall have the right to cancel the offer/ LOI and forfeit the Earnest Money Deposit of the successful Bidder. There upon, the GoHP may at its sole discretion, invite the second lowest Bidder to negotiate the rates for the purpose of providing the Helicopter and the successful Bidder shall not object to the same.
- 2.25 The GoHP reserves the right to accept or reject any Bid or Tender submitted by the Bidder(s) or to cancel the entire Bidding process and reject all Bids submitted, at any time without assigning any reason and without incurring any liability to the affected Bidder(s).

### **3. Schedule of Bidding Process**

The State Government shall endeavour to adhere to the following schedule :

<b>EVENT DESCRIPTION</b>	<b>DATE</b>
1. Pre-Bid Meeting :	17.03.2012 at 11.00 A.M.
2. Last date for receiving queries from the Bidders :	19.03.2012.
3. Government's response to the queries to be furnished by :	24.03.2012.
4. Bid Due Date :	10.04.2012 upto 2.00 P.M. which is the last date for the receipt of the Bids.
5. Opening of Bids :	10.04.2012 at 3.00 P.M.
6. Issuance of the Letter of Intent (LOI) :	on or before 30.04.2012.

7. Validity of Bids : 11.10.2012.
8. Signing of Wet Lease Agreement : on or before 16.05.2012.

#### 4. **Eligibility Conditions**

A. **Each Bidding Company must fulfill the following eligibility conditions :**

- (a) The Bidder should hold a valid Air Operator Certificate (AOC) suitable for the type of operations proposed to be carried out in terms hereof.
- (b) Minimum flying experience of 5 years, with each of the flying pilots possessing a minimum mountain flying experience of 1500 hrs. (as on 10.04.2012).
- (c) The Air Crew being offered by the Bidder to the GoHP should be technically qualified and professionally competent for undertaking all type of flights including those of VIPs as required vide relevant Civil Aviation Requirements (CARs) on the subject as laid down by DGCA from time to time. Hill flying experience of the Air Crew is also mandatory.
- (d) Minimum fleet of 3 (three) airworthy Twin Engine Medium Lift Transport Helicopters or helicopters of equivalent performance capable of carrying more than 15 passengers along with personal baggage and/ or equipment in high altitudes, duly certified and endorsed on its Non Scheduled Operators Permit from DGCA, Government of India.
- (e) The Bidder must have a minimum of 4 or more pilots (Pilot in Command & Co-pilot) on its rolls, each of whom are duly trained/ authorised to fly the helicopters and should have been in the direct employment of the Bidder for a minimum period of 6 months, on the date of Bidding. Further, the Pilot in Command (PIC) must possess the requisite PIC flying experience as required for operating VIP flights in terms of CAR Sec 3 Series C Part X.
- (f) The Bidder should have adequate arrangements for an additional/ backup helicopter of the same type and model or helicopter of equivalent performance in fully airworthy condition with complete set of pilots and air crew so as to ensure that in case of non-availability of the Helicopter under service due to any reason whatsoever,

the additional/ backup helicopter is provided forthwith to the GoHP for rendering services in terms of the Draft Deed of Wet Lease Agreement. The backup helicopter shall be required to be positioned at the Base within 48 hours of grounding of the Helicopter under service due to technical snag or any other reason whatsoever. However, no charges shall be paid by the GoHP for ferrying of the backup helicopter.

- (g) The Bidder must have full maintenance support and the required infrastructure for maintenance and operation of the Helicopter being offered, duly approved by DGCA.
- h) The Bidder shall have to submit Annual Safety Audit Report for the last 3 (three) years, conducted by a reputed and certified Safety Auditor, authorized as per norms prescribed under the Bureau of Civil Aviation Security (BCAS)/ DGCA guidelines.
- i) The bidder(s) will be allowed to ground the helicopter for maintenance 3 days per month. However for 500 hours maintenance or 1000 hours maintenance the grounding upto 7 & 10 days respectively will be allowed or as specified in the maintenance manual. The State Government shall have discretion to deduct charges on prorata basis for excess days of grounding beyond authorized number of days based on fixed monthly charges.

**B. Helicopter being offered by the Bidder should possess the following mandatory specifications / requirements :**

- (i) Should have a valid certificate of airworthiness from the DGCA at the time of Bidding.
- (j) Should have the necessary certification of the manufacturing company acceptable to DGCA and the Ministry of Civil Aviation, Government of India. The Helicopter must at all times during the Term of Agreement comply with the mandatory modifications issued by its manufacturers. Furthermore, the mandatory modifications prescribed by DGCA and other modifications as are applicable, must be complied with.
- (k) Have excellent performance at high altitudes and capable of landing/ take off at altitude of upto 12000 feet with more than 15 passengers on board with safe and good endurance.
- (l) Be Instrument Flight Rules (IFR) cleared and capable of operating by night as well and should have excellent performance at high altitude routes like Rohtang Pass/

Saach Pass/ Kunzum Pass/ Baralacha Pass/ Pin Parbati Pass upto the altitude of 15000 ft. in terms of reserve of power, rate of climb, AUW, endurance, etc..

- (m) Should be fitted with modern/ latest avionics, NAV equipment, flight & safety equipment etc.
- (n) Should have appropriate oxygen masks and oxygen supply system as per guidelines laid down by DGCA required for passengers flying at high altitude.

**C. The Bidder(s) shall also meet the following requirements laid down by the DGCA in respect of the offered Helicopter :**

- (a) Requirement of operations of leased aircraft in India as per CAR Section 3 Series C Part-I.
- (b) Requirement for installation of Aircraft equipments and Instructions as per CAR Section-II, Series I, Part II.
- (c) Requirement for installation of flight Data Recorders as per CAR Section II Series I Part V.
- (d) Requirement for installation of Cockpit Voice Recorders as per CAR Section-II, Series I Part VI and other relevant rules & regulations.

In addition to above, the Bidder shall also be compliant with all the relevant rules, notifications, instructions, CARs and other regulations issued by DGCA including CAR Section 7 Series B, CAR Section 3 Series C Part X etc.

The CARs referred above and other relevant details as required may be downloaded from the website of Directorate General Civil Aviation, India i.e. [www.dgca.nic.in](http://www.dgca.nic.in) or a copy thereof may be collected from the office of DGCA, Aurobindo Marg, Opp. Safdarjung Airport, New Delhi 110003, India .

**D. Scope of Services**

The successful Bidder shall carry out its operations/ services in accordance with the terms and conditions contemplated in the draft Wet Lease Agreement (Section E) and the Tender Document. The successful Bidder shall also maintain the validity of the various licenses, permits etc. at all times during the Term of the Agreement or such extended period when the services are being offered by the successful Bidder to the GoHP. Further, the successful Bidder shall also :

- (i) Throughout the Term of Agreement maintain at its own expense, full liability insurance/ self insurance of the Helicopter including that of the backup helicopter. The Bidder shall also maintain throughout the Term of Agreement at its own expense, insurance/ self insurance against war risk, hijacking etc.
- (ii) Pay all taxes including withholding taxes, duties, levies, fees, charges, costs etc. including freight insurance, landing and parking charges at

various locations as applicable, except service tax or any such tax as may be applicable on the Flying Charges. Income Tax at Source at the rates applicable from time to time, shall be deducted by the GoHP from the monthly bills of the successful Bidder.

- (iii) Make adequate arrangement of infrastructural facilities for inspection & maintenance of its Helicopter with spare parts, full strength of Pilots & Crew along with their accommodation, transportation, fuel, insurance etc. with regard to operation of the Helicopter.
- (iv) Have to provide experienced licensed crew for operations and qualified & experienced maintenance crew for servicing of the Helicopter to be hired in order to maintain the helicopter for operational use during the Term of the flights (Day & Night) in plains, within the capability Agreement. The successful Bidder shall at times be required to undertake IFR of the Helicopter to meet specific requirements of the State Govt.
- (v) Shall also abide by all relevant rules, CARs and other regulations issued/ modified/ amended by DGCA and other competent authorities from time to time during the Term of Agreement or any extension thereof.
- (vi) Deliver the Helicopter at Annandale, Shimla, Himachal Pradesh and be ready for operations by 01.06.2012.



Deputy Secretary(GAD) to the  
Government of Himachal Pradesh.

## **SECTION D**

## **SCHEDULES**

## SCHEDULE- I

### TECHNICAL BID

**Government of Himachal Pradesh,  
General Administration Department**

#### **COMPANY BACKGROUND AND HELICOPTER SPECIFICATIONS TO BE SUBMITTED ALONGWITH THE BID**

The Bidders are advised to furnish necessary information required against the respective columns.

If a Bidder fail to answer all the columns of this form, its Bid shall not be evaluated.

1	Name of the owner of the Helicopter. If not registered in the Bidder's name, what is the legal nature of arrangement with the owner? <i>(Proof of possession i.e. Registration Certificate/ Lease Agreement to be provided)</i>		
2	Are you holding Operator's Approval from the Regulatory Authority <i>(please attach copy)</i>		
3	ISO 9001-2000 certification  OR  any other accredited certification of the firm duly supported with documentary proof.		
4.	Annual turnover of the Bidder relating to helicopter operations for the last three years as per audited balance sheet, a copy whereof to be enclosed.		
5.	Annual Safety Audit Report of last 3years. <i>(copy to be enclosed)</i>		
6.	Detail of earnest money deposit of Rs. 10.00 lakh.		
7.	Duration of validity of Bid		

8.	Type of Helicopter offered (a) Call sign/ Regn. No of the helicopter (b) Year of manufacture (c) Manufacturer's Name <i>(Proof to be attached).</i>		
9.	(i) Passengers/ VIP seats available ( <i>excluding Pilots, crew and attendant</i> ) (ii) No. of seats offered (excluding crew and attendant )		
10.	Number of flying hours done on the Helicopter.		
11.	Number of available flying hours for next six months on the Helicopter.		
12.	Date of issue of certificate of Airworthiness of the Helicopter ( <i>proof to be attached</i> ).		
13.	Date of expiry of Certificate of Airworthiness.		
14.	Down time per month ( <i>permitted down time 3 days per month</i> ).		
15.	Copy of hull & crew insurance indicating insurance certificate Number and its validity.		
16.	Last major inspection date and time.		
17.	Engine Hours/Start cycles.		
18.	Present Location of the helicopter.		
19.	Whether in a position to deliver the Helicopter at the Base at Shimla and make the same operational within 21 days from the date of issuance of the LOI ?		
20.	Bidder's total fleet of Helicopters ( <i>type with call sign</i> ).		

21.	<p>Total Company staff strength</p> <p>(i) Pilots</p> <p>(a) Indian</p> <p>(b) Foreign Nationals</p> <p>(ii) Licence Engineers.</p> <p>(a) Indian</p> <p>(b) Foreign Nationals</p> <p>(iii) Other staff.</p>		
22.	Past experience ( <i>last three years</i> ) with detail of existing operations.		
23.	<p>(a) Licence details of the Pilots, Engineers in support of their rating category and experience on type of the helicopter at their credit and Medical Assessment issued by DGCA (<i>proof to be attached</i>).</p> <p>(b) Hill flying experience of each pilot and air crew (<i>proof to be attached</i>).</p>		
24.	List of safety, navigation/ communication equipments etc, available on board the helicopter offered.		
25.	<p>Fuel details</p> <p>* Type of fuel in use</p> <p>* Standard fuel cap on board (Kgs)</p> <p>* Fuel consumption per hour (KG/Ltrs both):</p>		
26.	Range without reserve (in Nautical Miles).		
27.	<p>Speed of helicopter in Knots with</p> <p>(i) VNE</p> <p>(ii) Max. Cruising speed.</p>		
28.	Has the helicopter being offered been involved in any fatal accident in the past five		

	years? If yes, please give brief details of the cause of accident(s). Details of other significant accident/ incident may also be provided.		
29.	List of existing clients.		
30.	Confirmation regarding provision of the insurance cover for helicopter passengers and third party(ies) as per Tender requirement ( <i>attach copy of policy/ certificate</i> ).		
31.	Whether entire services shall be provided by the Bidder? If not, give details of work/ part of services to be outsourced?		
32.	Confirmation that Bidder is willing to abide by all the requirements laid down by Civil Aviation Regulatory Authority of India i.e. DGCA as specified in the Tender document.		
33.	Are aviation oxygen masks for air crew and passengers available ?		

Signature -----

Name -----

Designation -----

(Seal of the Company)

Date -----

(Authorised Signatory of the Bid)

Schedule-II

**FINANCIAL BID**

**Government of Himachal Pradesh**

**General Administration Department**

**RATE SCHEDULE**

(in figures and words)

1. Rate Per Flying Hour: ₹ \_\_\_\_\_ (Rupees \_\_\_\_\_).

2. Amount for minimum guaranteed 40 flying hours

each calendar month :  $40 \times ₹ \text{_____}$  (as per Sr. No. 1 above) =  
₹ \_\_\_\_\_ (Rupees \_\_\_\_\_).

We unconditionally accept all the "Terms and Conditions" of the Tender Document no. \_\_\_\_\_ dated \_\_\_\_\_.

Signature \_\_\_\_\_

Name \_\_\_\_\_

Designation \_\_\_\_\_

Date \_\_\_\_\_

(Seal of the Company)

(Authorised Signatory)

## SCHEDULE-III

### **FORMAT OF TENDER LETTER**

**(to be submitted with the Technical Bid)**

To

The Secretary (GAD) to the  
Govt. of Himachal Pradesh,  
Shimla-2.

**Subject: Hiring of Helicopter on Wet lease basis by the Government of Himachal Pradesh**

Sir,

We, the undersigned, have considered and complied with the various Bidding instructions as contained in the Tender Document and have accepted the Tender Document with various terms and conditions of the draft Wet Lease Agreement in respect of hiring by Government of Himachal Pradesh of a twin engine large/heavy duty transport Helicopter having carrying capacity of more than 15 passengers plus personal baggage/ equipment to various places in Himachal Pradesh upto the altitude of 12000 ft. requiring crossing over of peaks upto the height of 15000ft, in full cognizance and compliance with the conditions and regulations of the local government authorities. We, the undersigned, hereby offer to provide one Helicopter for which we have Tendered. The services shall be rendered by us in conformity and in accordance with the terms & conditions of the Tender document to the entire satisfaction of the Government of Himachal Pradesh, at the price and schedule of rates to be quoted in our Financial Bid.

We further confirm and stipulate as follows:-

1. Until the final Deed of Wet Lease Agreement/ Contract documents are prepared and executed, this Tender Documents, together with modifications/ additions/ deletions agreed to by the Government of Himachal Pradesh and pursuant to their written acceptance thereof, shall constitute a binding contract between us and the State Government upon the terms of this Tender including the Price Schedules accompanying the same.

2. We shall be prepared to provide the services on the location, to commence within the stipulated time period and to complete the same in accordance with the terms & conditions of the Deed of Wet Lease Agreement during the 3 years Term of the Agreement or any extension thereof. The aforesaid time schedule i.e. its beginning and completion dates are of the essence of the Agreement.
3. We undertake and confirm that prices quoted in our Financial Bid shall remain firm and capable of acceptance by you in accordance with the provisions hereof for a period of 180 days from the Bid Due Date.

Date \_\_\_\_\_ day of \_\_\_\_\_

Signature \_\_\_\_\_

Name \_\_\_\_\_

In the capacity of \_\_\_\_\_

Duly authorized to sign Tender for and on behalf of \_\_\_\_\_ (Name and address)

Witness : \_\_\_\_\_

## SCHEDULE-IV

### FORMAT OF PERFORMANCE SECURITY IN THE FORM OF PERFORMANCE BANK GUARANTEE OF THE LESSOR

Bank Guarantee No.: \_\_\_\_\_ Dated: \_\_\_\_\_

**Issuer of Bank Guarantee:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(hereinafter referred to as the "Bank")

**Beneficiary of Bank Guarantee:**

The Secretary, Department of General Administration,  
Government of Himachal Pradesh, Shimla.

**Nature of Bank Guarantee:**

Unconditional and irrevocable Bank Guarantee.

**Context of Bank Guarantee**

Performance during the Term of the Agreement in respect of the Deed of Wet Lease Agreement (hereinafter referred to as the "Agreement") to be executed between the Secretary, Department of General Administration, Government of Himachal Pradesh ("hereinafter referred to as the "LESSEE") and \_\_\_\_\_ (hereinafter referred to as the "LESSOR") for providing of services by the LESSOR of one Twin Engine large/heavy duty Helicopter or a Helicopter of equivalent performance duly certified by the Directorate General of Civil Aviation (DGCA), Government of India to the LESSEE (hereinafter referred to as the "Services"), provided however, such context of the Bank Guarantee or reference to the Agreement in this Bank Guarantee shall in no manner to relied upon at any stage to adversely affect or dilute the unconditional and irrevocable nature of this Bank Guarantee. The title of this Guarantee i.e. "Performance Security" shall in no manner and at no stage be relied upon to adversely affect or

dilute the unconditional and irrevocable nature of this Bank Guarantee. The Contract of Bank Guarantee is an independent Contract between the Bank and the LESSEE and is not dependent upon execution or performance of any Agreement between LESSEE and \_\_\_\_\_ (name of the LESSOR).

**Operative part of the Bank Guarantee:**

1. At the request of the LESSOR, we \_\_\_\_\_ (name and address of the bank), hereinafter referred to as the "Bank"), do hereby unconditionally and irrevocably affirm and undertake that we are the Guarantor and are responsible to the LESSEE i.e. the beneficiary on behalf of the LESSOR, upto a total sum of Rs. 50 Lakhs (Rupees Fifty Lakhs Only), such sum being payable by us to LESSEE immediately upon receipt of first written demand from the LESSEE.
2. We unconditionally and irrevocably undertake to pay to the LESSEE on an immediate basis, upon receipt of first written demand from the LESSEE and without any cavil or argument or delaying tactics or reference by us to LESSOR and without any need for the LESSEE to convey to us any reasons for invocation of the Guarantee or to prove the failure to perform on the part of the LESSOR or to show grounds or reasons for the demand or the sum specified therein, the entire sum or sums within the limits of Rs.50 Lakhs (Rupees Fifty Lakhs Only).
3. We hereby waive the necessity of the LESSEE demanding the said amount from LESSOR prior to serving the Demand Notice upon us.
4. We further agree and affirm that no change or addition to or other modification to the terms of the Agreement, shall in any way release us from any liability under this unconditional and irrevocable Guarantee and we hereby waive notice of any such change, addition or modification. We further agree with the LESSEE that the LESSEE shall be the sole and the exclusive judge to determine that whether or not any sum or sums are due and payable to him by LESSOR, which are recoverable by the LESSEE by invocation of this Guarantee.
5. This Guarantee will not be discharged due to the change in constitution of the Bank or the LESSOR. We undertake not to withdraw or revoke this Guarantee during its currency/ validity period, except with the previous written consent of the LESSEE.

6. We unconditionally and irrevocably undertake to pay to the LESSEE, any amount so demanded not exceeding ₹ 50 Lakhs (Rupees Fifty Lakhs Only) notwithstanding any dispute or disputes raised by LESSOR or anyone else in any suit or proceedings before any dispute review expert, arbitrator, court, tribunal or other authority, our liability under this Guarantee being absolute, unconditional and unequivocal. The payment so made by us under this Guarantee to the LESSEE, shall be a valid discharge of our liability for payment under this Guarantee and the LESSOR shall have no claim against us for making such payment.
7. This unconditional and irrevocable Guarantee shall remain in full force and effect and shall remain valid until \_\_\_\_\_

Notwithstanding anything contained herein:

8. Our liability under this Bank Guarantee shall not exceed Indian Rs. 50 Lakhs (Rupees Fifty Lakhs Only).
9. This unconditional and irrevocable Bank Guarantee shall be valid w.e.f. \_\_\_\_\_ to \_\_\_\_\_.
10. We are liable to pay the guaranteed amount or any part thereof under this unconditional and irrevocable Bank Guarantee only and only if the LESSEE serves upon us a written claim or demand on or before \_\_\_\_\_.

\_\_\_\_\_  
Authorized Signatory, for Bank

## **SECTION -E**

# **DRAFT DEED**

# **OF WET LEASE AGREEMENT**

## DEED OF WET LEASE AGREEMENT

This DEED OF WET LEASE AGREEMENT is hereby executed on this \_\_\_\_\_ day of \_\_\_\_\_, 2012

*By and between*

The Governor of Himachal Pradesh, represented by the Secretary (GAD) to the Government of Himachal Pradesh, hereinafter referred to as the "LESSEE" which expression shall include its successor and assigns;

..... *First Party*

*And*

M/s \_\_\_\_\_  
represented by \_\_\_\_\_, hereinafter referred to as the "LESSOR" which expression, unless repugnant to the context, shall include its successors and assigns;

..... *Second Party*

..... *individually referred to as "Party" and collectively as "Parties".*

**WHEREAS**, the LESSEE is desirous of hiring one Twin Engine Large/Heavy Duty Transport Helicopter for its operations in the State of Himachal Pradesh as well as outside the State as and when required.

**AND WHEREAS**, the LESSOR is engaged in the business of providing helicopter services and pursuant to having selected the LESSOR through an open, transparent and competitive bidding process, the LESSEE has issued a Letter of Intent dated \_\_\_\_\_ to the LESSOR and the LESSOR has agreed to provide to the LESSEE, the services of one Medium Lift Twin Engine Helicopter or a Helicopter

of equivalent performance duly certified by the Directorate General of Civil Aviation (DGCA), Government of India on the mutually agreed terms and conditions herein contained.

**NOW, THEREFORE, IT HAS BEEN AGREED BETWEEN THE PARTIES AS FOLLOWS :**

**1. INTERPRETATION :**

The following words and phrases shall have the meanings hereby assigned to them :

- (a) "Area of Operation" denotes any area within the national boundaries of India;
- (b) "Base" means "ANNADALE SHIMLA" where the Helicopter and Crew including maintenance facilities upto 300 hours servicing will be provided;
- (c) "Main Base" means "\_\_\_\_\_ " where facilities of 500 and 1000 hours (including life development) shall be provided;
- (d) "Delivery Date" means the date by which the Lessor is required to mobilize the Helicopter at the Base for operation;
- (e) "Flying Charges" would mean the amounts set out in Clause 11.1;
- (f) "Flying Time" with respect to the Helicopter would mean the time from "rotor starts" of the Helicopter till "rotor stops";
- (g) "Force Majeure" would mean fire, flood, industrial action, bad weather, acts of God (like earthquake, landslide, lightning, tempest, tornado), war (whether declared in India or the country of the manufacture of major components or sub-assemblies of the Helicopter), civil disturbance, sabotage, epidemic, any Governmental restrain and any such like cause which is not reasonably within the control of either party claiming force majeure. Financial distress would, however, not constitute force majeure;
- (h) "Regulatory Authority" means any Government Body(ies) or Government Department(s) having the responsibility for regulating aviation related matters in the Area of Operation;
- (i) "Emergency" shall mean any situation which in the opinion of the authorized representative of the LESSEE is :

- i) A matter of life or death of any person and/ or
- ii) A matter of serious threat of injury/ damage to any person or property of the “LESSEE”;

(j) “Month” means calendar month and “Monthly” shall have the corresponding meaning;

(k) “Scheduled Flight” means a Helicopter flight scheduled in accordance with the programme for the Operational Day;

(l) “Security” as it relates to the Helicopter means all actions taken towards:

- a. Avoidance of ingress by un-authorised personnel;
- b. Safety of the Helicopter from intentional damage by any external forces.

(m) “Service” means the services carried out by the LESSOR and its personnel under this Agreement as set out in Clause 4;

(n) “Scheduled/ Unscheduled Maintenance” means maintenance required for Helicopter as per DGCA’s Regulations and as prescribed by the manufacturer, defect rectification etc;

(o) “Party” or “Parties” means party or parties to this Agreement;

(p) “Out Station” means any station other than the Base Station;

(q) “Term” means the period set out in Clause 3;

(r) “Operational Day” for a Helicopter means the time commencing from first scheduled flight as per the programme for the day to the estimated time of landing of last scheduled flight of the day;

(s) “Programme” means written requisition of the Helicopter for a day indicating time of departure, destination and approximate flight time etc;

(t) “Night” shall mean period between sun set and sun rise;

(u) “Watch Hours” means the time notified by the Airports Authority of India from time to time for normal operation of different airports;

(v) “VFR” means Visual Flight Rules as specified by DGCA;

(w) “IFR” means Instrument Flight Rules as specified by DGCA; and

(x) “Headings” are for convenience of reference only and shall not affect the meaning and interpretation of this Agreement.

## 2. DELIVERY OF HELICOPTER

The Lessor undertakes to deliver the Helicopter at Annandale, Shimla, Himachal Pradesh on or before the Delivery Date. Adherence to the Delivery Date and starting of operations shall be the essence of this Agreement. The LESSOR shall

ensure that their Helicopter shall be ready for operations at Annandale, Shimla by the Delivery Date, which shall be 01.06.2012. Should the Helicopter not be delivered at the Base and made operational on or before the Delivery Date, the LESSEE may consider granting extension of time for the delivery of the Helicopter, subject to genuine reasons as may be appealed by the LESSOR. If the LESSOR fails to deliver and make the Helicopter operational within such extended time limit, the LESSOR shall have the right to cancel the offer/ LoI and forfeit the earnest money of the LESSEE. There upon, the LESSEE may at its sole discretion, invite the second lowest bidder to negotiate the rates for the purpose of providing the Helicopter and the LESSOR shall not object to the same.

### **3. TERM OF AGREEMENT**

The Term of the Agreement shall be 3 years and it shall commence from 01.06.2012 and terminate at the Base on the evening of 31.05.2015. However, on or before the expiry of the agreed term of 3 years, the Parties shall, if mutually agreed upon in writing, have the option to renew this Agreement on such terms and conditions as may be agreed upon at the time of renewal of this Agreement. The LESSEE will however, give a written notice of not less than 60 days prior to the expiry of the initial term of this Agreement indicating its intention of such extension/ renewal and the LESSOR shall, within 15 days of receipt of such notice, inform the LESSEE of its intention to renew this Agreement.

### **4. SERVICE**

- 4.1 The LESSOR shall during the Term of Agreement provide the Helicopter as required by the LESSEE and the LESSOR shall ensure that the Helicopter is available and maintained for operational use as demanded by the LESSEE and its authorized personnel.
- 4.2 The LESSOR shall always provide experienced VFR (Day) licensed crew for operations and qualified & experienced maintenance crew for

servicing of the Helicopter in order to maintain the Helicopter for operational use during the Term of this Agreement. The LESSOR shall at times be required to undertake IFR flights (Day & Night) in plains, within the capability of the Helicopter to meet specific requirements of the LESSEE.

- 4.3 The LESSEE shall, before programmed departure of a flight, provide to the LESSOR with a manifesto containing the number and name of the passengers, cargo weight, destination and the estimated time of departure/ arrival of the flight.
- 4.4 NOTWITHSTANDING the foregoing it shall be the LESSOR's sole responsibility to determine the acceptable number of passengers and/ or load before each flight and upon such determination, the LESSOR may seek variation in the proposed number of passengers and/ or load to be carried by the Helicopter.
- 4.5 Before any proposed flight, it shall be the LESSOR's responsibility to determine the route and the suitability of flying and landing conditions including the state of destination Helipad, and upon any such destination and after consultation and agreement with the LESSEE's authorized representative, which shall not be unreasonably withheld, the LESSOR may vary the proposed route or postpone or cancel the proposed flight, or seek a change in the proposed destination Helipad(s).
- 4.6 If the Helicopter becomes, or is construed as total loss, the LESSOR shall use its best endeavor to replace at its expense, the contracted Helicopter by an identical helicopter or a helicopter satisfactorily acceptable to the LESSEE within thirty days of the loss and after meeting the DGCA requirements, failing which the LESSEE may terminate this Agreement. The Flying Charges payable under this Agreement in respect of the lost Helicopter shall cease after the date of loss until the LESSOR replaces it by a similar fully operational helicopter at the said Base.
- 4.7 The LESSOR shall obtain necessary Non-Scheduled Operator's Permit to operate the Helicopter and shall ensure that an airworthiness certificate for the Helicopter is obtained and renewed during the term of the Agreement. The Helicopter shall comply with all the laws, rules,

regulations, orders, standards and schedules governing the aircraft in Non-Scheduled category of the DGCA India. The Helicopter shall be flown and operated in compliance with such laws in force.

## 5. HELICOPTER SPECIFICATION

The LESSOR, in keeping with the requirements of the LESSEE mentioned in Clause 4.2 shall ensure that the Helicopter is equipped to IFR standards and that the said equipment is serviceable and maintained to regulatory air worthiness standards of DGCA, India.

## 6. HELICOPTER POSITIONING, AVAILABILITY, MAINTENANCE, SCHEDULED INSPECTION/ TECHNICAL SNAGS - REPLACEMENT OF HELICOPTER AND SAFETY

- 6.1 The LESSOR shall make available the Helicopter to the LESSEE for operational use upto 480 hours of flying per year for three years Term of this Agreement. The Helicopter should be made available for approximately 40 flying hours in a month during the period of this agreement.
- 6.2 In the following eventualities the flying hours in a particular month and the corresponding minimum guaranteed amount of Flying Charges in respect of that particular month shall be reduced proportionately :
  - (i) When the Helicopter is grounded on account of necessary maintenance for days more than that allowed to the LESSOR as per Clause 6.3 hereof.
  - (ii) When the Helicopter is grounded due to Force Majeure conditions as per Clause 13 hereof.
- 6.3 The LESSOR shall be allowed to ground the Helicopter for maintenance at the rate of three days per month during the Term of the Agreement.

However, the grounding would not be allowed for more than 7 days at a stretch for 500/ 1000 hours (including life development) of scheduled servicing respectively. However, total days of grounding shall not exceed 36 days in a year. If the Helicopter is grounded for days more than the limits specified herein above, the LESSEE shall have the discretion to deduct Flying Charges on pro-rata basis for such excess days of grounding.

- 6.4 The LESSOR will carry out its maintenance, repair, overhaul or servicing activities during such times other than the timings of an Operational Day so that the flying activity during the days other than ground time as specified in Clause 6.3 is not hampered or affected. The LESSOR shall give notice to the LESSEE of any scheduled maintenance to be carried out on the Helicopter at least 7 days in advance.
- 6.5 If the Helicopter is grounded for more than the authorized days in any calendar month, the LESSOR shall replace at its expenses, the Helicopter with an identical Helicopter acceptable to the LESSEE or the LESSOR shall indemnify the LESSEE the entire cost of alternative arrangements which the LESSEE may make.

Provided that the stipulation contained in Clause 6.3 regarding excess grounding will not be applicable when alternate arrangements are made by the LESSEE.

Provided further that hours flown under alternate arrangements by the LESSEE shall be added to the flying hours of the LESSOR.

- 6.6 The LESSOR shall keep one backup Helicopter (of same type and capacity/ standard or as acceptable to the LESSEE) ready at their Main Base or at the Base at Shimla for immediate replacement of the Helicopter under service prior to grounding of the Helicopter for major (Scheduled) inspections which by DGCA regulations is required or if it becomes total loss or constructive total loss. The backup (Replacement) of Helicopter shall be positioned at the Base at Shimla before such scheduled inspection is due so that normal flying services are not disturbed.

- 6.7 The back up (replacement) Helicopter shall be positioned at the Base at Annandale, Shimla within 48 hours if the Helicopter under service is grounded for technical snag.
- 6.8 No ferry charges shall be paid by the LESSEE for the ferry of the back up Helicopter.
- 6.9 The LESSOR shall notify to the LESSEE immediately when the Helicopter is grounded or when it is again fully operational and shall keep complete and accurate records of all groundings of the Helicopter due to routine maintenance or otherwise which the LESSEE, at its discretion, may inspect at any reasonable time.
- 6.10 The LESSEE shall ensure that the Helicopter flying programme shall always be in conformity with DGCA regulations on air crew Flight Time Limitations (FTL), Flight Duty Time Limitations (FDTL) and seventh day off after six consecutive days of flying to prevent fatigue of the LESSOR's air crew.
- 6.11 The LESSOR shall comply with all Indian Aviation Regulatory and all other applicable laws, rules & regulations of India. The LESSOR shall indemnify the LESSEE/ State Government against the LESSOR's ignorance and/ or failing to comply with said laws, rules & regulations. The LESSOR shall also abide by Civil Airworthiness Requirements (CARs) including that of Sec 3 Series C Part-I, as amended from time to time and provide all assistance/ information to the State Government and Director General of Civil Aviation (DGCA) to ensure compliance. The LESSOR must agree to abide by any other new requirements introduced by DGCA, India from time to time.
- 6.12 All field replacement flying and test flying would be considered non-revenue and would be at the cost of LESSOR and shall be excluded for the purpose of billing to the LESSEE.

## FIRST PARTY's PERSONNEL

LESSOR shall provide, for the duration of this Agreement for the Helicopter and as per LESSEE's requirement, IFR rated pilots and necessary engineering crew to operate the Helicopter and provide the services to the LESSEE in accordance with this Agreement. In order to meet the requirement of IFR, the crew shall undergo competency/ currency checks/ tests and keep their licences current.

## **8. BASE**

The LESSEE has nominated ANNADALE SHIMLA as the Base for the Helicopter where the LESSOR shall station the Helicopter and provide the equipment, personnel, spare parts and tools etc. as may be required for the operation of the Helicopter.

## **9. OPERATIONAL DAY**

The LESSEE's authorized representative may vary from time to time, the commencing and ending times of the Operational Day of the Helicopter by giving the LESSOR written notice of at least 12 hours before the Operational Day commences.

## **10. PROVISION OF SERVICES AND FUEL**

10.1 The LESSEE shall provide, at the Helipads with adequate fire fighting equipment, wind direction indicators and current weather information and other essential facilities required for the operation of the Helicopter as per the DGCA guidelines wherever the said facilities/ equipment are not provided by National Airports Authority of India or any other Airport/ Helipad owner. The LESSEE will also provide Standard Base Maintenance Facilities such as technical accommodation, hard standing for the Helicopter, and commercial power supply facilities at its Base at Shimla. In case operations are to be undertaken from any Defence Helipads/ Airfield, necessary clearance from Defence Authorities will be obtained by the LESSEE.

- 10.2 Security of the Helicopter at Helipads/ Airfield and security check of passengers, baggage, and cargo is required to be carried out as per the guidelines issued by the Bureau of Civil Aviation Security. This is to be arranged by the LESSEE at all locations where Helicopter service is intended to be availed.
- 10.3 All arrangements for fueling will be made by the LESSOR at the Base or at places where Indian Oil Corporation fuel is available. If the fuel is required to be positioned at any other station, the LESSEE may position the same at the cost of LESSOR at all locations where Helicopter services are intended to be availed.
- 10.4 The LESSOR shall provide portable oxygen equipment whenever the same is required for operations at high altitudes as specified by the DGCA.
- 10.5 Accommodation for the crew and maintenance personnel, their transportation and medical facility at the LESSEE's Base at Shimla will be arranged by the LESSOR at its own expense.
- 10.6 Out Station Operations away from the LESSEE's Base shall be forecasted 24 hours in advance and arrangements for crew's lodging and transport facility within the State of Himachal Pradesh (but outside Shimla) and air crew medical check shall be made by the LESSEE at its cost. Cost of meals will however be borne by the LESSOR's personnel themselves. For overnight stay at places out side Himachal Pradesh, accommodation, transport, meals etc. shall be arranged by the LESSOR at its own expense.

## 11. CHARGES

In consideration of the LESSOR carrying out the service, the LESSEE shall, in respect of the Helicopter, pay to the LESSOR, during the term of this Agreement, the following charges:

### 11.1 FLYING CHARGES

The LESSEE shall, subject to the provisions of this Agreement in respect of the Helicopter, pay to the LESSOR the corresponding Flying Charges per hour and pro-rata thereof to the nearest multiple of three minutes for

the flying hours of the Helicopter @ ₹ \_\_\_\_\_/- (Rupees \_\_\_\_\_ Only) per hour plus service tax or any other tax levied thereon as per the applicable laws from time to time. The LESSOR shall periodically provide to the LESSEE, copies of the relevant documents towards proof of having deposited with the concerned authorities, the amount collected from the LESSEE towards taxes.

- 11.2 The LESSEE shall guarantee minimum 40 hours of flying per month during the Term of the Agreement to the LESSOR, for which Flying Charges shall be payable by the LESSEE to the LESSOR each month.
- 11.3 In the event the 40 hours contemplated in Clause 11.2 and paid for by the LESSEE are not utilized in a particular month, The LESSEE shall have the facility to use the unutilized hours in period during the currency of agreement upto 480 hours in a year. For any increase in flying hours beyond 480 hours in a year during the currency of agreement, the LESSEE shall make payment to the LESSOR on prorata basis.
- 11.4 The Flying Charges shall be payable by the LESSEE to the LESSOR from the date of positioning the Helicopter at the Base or LESSEE's nominated location.
- 11.5 The aforesaid rate includes provision for catering to fluctuation in prices of fuel/ ATF, customs duty rates for purchase of spares etc. and as such no separate fluctuation charges for fuel/ATF, customs duty etc. shall be payable by the LESSEE to the LESSOR.

#### **11.6 LANDING, PARKING AND WATCH EXTENSION CHARGES**

- 11.6.1 All landing, parking, Route Navigation and Housing Charges shall be exclusively borne by the LESSOR.
- 11.6.2 Extension of watch hours at air fields to meet the requirements of operations, fueling, weather etc. shall be arranged and paid for by the LESSEE.

## 11.7 FLIGHT LOG

- 11.7.1 The LESSEE's authorized representative shall sign the "rotor starts" and "rotor stops" time of each flight which shall constitute *prima facie* evidence of the flying hours recorded therein.
- 11.7.2 The LESSOR shall, after each Operational Day, prepare a daily flight log in duplicate, indicating *inter alia*, the flying hours thereof on the basis of aforementioned document, the original copy whereof shall be retained by the LESSOR and the duplicate copy handed over to the authorised representative of the LESSEE. Also the LESSOR shall within 24 hours of each Operational Day, give the flight log of the same to the authorized representative of the LESSEE.

## 12 PAYMENT

- 12.1 Fixed monthly charges of ₹. \_\_\_\_\_/- (Rupees \_\_\_\_\_ Only) calculated at the rate of ₹ \_\_\_\_\_ per hour on account of the minimum guaranteed 40 flying hours per calendar month plus service tax or any other tax levied thereon as per the applicable laws from time to time, shall be paid by the LESSEE to the LESSOR on a monthly basis before the 10<sup>th</sup> of the following month in respect of each month to be reckoned from the date of stationing of the Helicopter at the Base for operation/ service. Actual number of hours flown shall be computed at the end of the Term of the Agreement and the LESSEE shall pay for any extra hours flown beyond 40 hours per month during the Term of the Agreement at the end of the Term of Agreement.
- 12.2 The LESSEE shall pay to the LESSOR, the mobilization/ demobilization charges ex-Delhi and back based on actual flying hours at the rate mentioned at Clause 11.1 above.
- 12.3 All invoices shall be raised in Indian Rupees and all payments to be made by the LESSEE to the LESSOR, shall be made in Indian Rupees by way of Demand Draft payable at \_\_\_\_\_.

### **13. FORCE MAJEURE**

In the event of either Party being rendered unable by force majeure to perform any obligation required to be performed by it under the Agreement, the respective obligation of the Party affected by such force majeure shall after issuance of a written notice to the other Party be suspended for the period during which such cause lasts. The term "FORCE MAJEURE" as used herein shall mean Acts of God, War (declared or undeclared), riots or civil commotion, fires, floods and any change in laws, Acts and regulations of Government of India. Upon the occurrence of such cause and upon its termination, the Party alleging that it has been rendered unable by Force Majeure as aforesaid shall notify the other Party in writing within forty eight (48) hours of the alleged beginning and ending thereof giving full particulars and satisfactory evidence in support of its claim. During and in respect of the period as the obligations of the Parties are suspended by force majeure, the LESSOR shall not be entitled to any charges under Clauses 11.1 and 12.1 above.

In the event the Force Majeure conditions are reasonably expected to continue for a period of more than fifteen (15) days, the LESSEE shall have the option of terminating this Agreement by giving seven (7) days written notice thereof to the LESSOR, and if the Agreement is terminated as such, the LESSEE shall pay to the LESSOR, the amount payable up to the date of such termination.

### **14. INDEMNITY**

14.1 The LESSOR shall indemnify the LESSEE and/ or its clients/ actual users

from and against all claims, costs, demands, actions, including legal fees costs, whatsoever, arising out of the LESSOR's third party liability for use of the Helicopter (including damage or loss of Helicopter) during the term herein mentioned.

14.2 The LESSOR shall also indemnify the LESSEE against and from any and all claims including fees arising from the death or injury to any person including the LESSEE's personnel and/ or the loss of damage to the property of any person including the property of the LESSEE,

resulting from any act of omission and commission in the performance of service by the LESSOR or any personnel employed by the LESSOR.

## **15. INSURANCE**

- 15.1 The LESSOR shall maintain throughout the period of the Lease Agreement at its own expenses, full liability insurance/ self insurance of the Helicopter. The LESSOR shall also maintain, throughout the period of Lease at its own expense, insurance/ self insurance against the risks of war and hijacking.
- 15.2 The LESSOR shall comply with the laws in respect of Worker's compensation and all other laws in force with reference to employees, safeguarding insurance and protecting all labour employed or used by the LESSOR and shall insure and continue to insure against third party bodily injury liability or loss of life on each occurrence as per the statutory provisions.
- 15.3 Third party legal liability insurance cover of appropriate value shall be obtained by the LESSOR so as to indemnify the LESSEE in respect of all sums which the LESSOR may become legally liable to pay for bodily injury and property damage caused by an occurrence arising out of the ownership, leasing, maintenance or use of the aircraft.
- 15.4 Passengers insurance liability cover shall be obtained by the LESSOR in respect of all sums which the LESSEE may become legally liable to pay for or for the admitted liability of Rs.7,50,000/- per passenger for bodily injury (including death) arising out of contract of carriage of any passenger by an occurrence whilst the passenger is in the care, custody or contract of the LESSOR. The passenger admitted liability offered is against full legal discharge. In the event of non payment or delay in payment by the Insurer beyond 60 days from the date of lodging the claim, the LESSOR shall indemnify the LESSEE for discharging their legal liability.
- 15.5 Personnel baggage liability insurance shall be obtained by the LESSOR in respect of damage to or for loss of any property caused whilst the

passengers are being carried by the Helicopter or in the course of any of the operations of loading or unloading to the extent of Rs.75,000/- against each and every claim of each individual passenger.

15.6 Combined Single Limit in respect of bodily injury/ property damage/ baggage loss or damage shall be restricted to Rs.50,00,00,000/- (Rupees Fifty Crores) as a cumulative amount for any one occurrence and in respect of any number of passengers including the crew.

**16. TAXES AND DUTIES**

16.1 All taxes including withholding taxes, duties, levies, fees, charges, costs etc. including freight insurance, landing and parking charges at various locations as applicable, except service tax or any such tax as may be applicable on the Flying Charges, shall be borne by LESSOR. The service tax or any such tax as may be applicable on the Flying Charges payable to the Central Government at the prevailing rate, shall be paid by the LESSEE on the bills in respect of the Flying Charges raised by the LESSOR. Income Tax at Source at the rates applicable from time to time, shall be deducted by the LESSEE from the monthly bills of the LESSOR.

**17. TERMINATION**

**TERMINATION ON EXPIRY OF THE TERM**

17.1 This Agreement shall automatically stand terminated on the expiry of the Term of the Agreement including any extension thereof, as stated in Clause 3 hereinabove.

17.2 The LESSOR shall remove the Helicopter from the Base within 7 days from the date of expiry of the Agreement. The LESSEE shall not be liable to pay any charges (other than demobilization charges) after the date of termination of this Agreement.

17.3 **TERMINATION AT THE SOLE DISCRETION OF THE LESSEE**  
Notwithstanding anything contained elsewhere in this Agreement, the LESSEE may at any stage in its sole discretion terminate this Agreement

by giving to the LESSOR 30 days prior written notice without assigning any reason whatsoever.

17.4 **TERMINATION ON ACCOUNT OF FORCE MAJEURE**

The Parties shall have the right to terminate this Agreement on account of Force Majeure as set forth in Clause 13.

17.5 **TERMINATION DUE TO OPERATIONAL PROBLEMS**

17.5.1 If the LESSOR is not in a position to provide the Helicopter contracted for by the due date or due to inordinate delay in the supply of spare parts or repairs or rotables and engines by the manufacturers/ other approved suppliers of the LESSOR, this Agreement may be terminated by giving 7 days notice in writing by either Party.

17.5.2 If either of the Parties shall fail or neglect to perform or observe any of the terms, conditions and covenants of this Agreement, this Agreement shall be terminated by giving 30 day's notice in writing by the affected Party to the other Party.

17.5.3 The LESSEE shall have an unqualified option to forfeit the Earnest Money and/or Performance Bank Guarantee and/ or black list the LESSOR and/ or terminate this Agreement :

- a) If the LESSOR fails to position the Helicopter at the Base in Shimla on or before the stipulated date.
- b) If the performance of the LESSOR is found unsatisfactory during the Term of the Agreement or the LESSOR contravenes any terms & conditions of the LOI or this Agreement or disobeys the directions of the LESSEE issued from time to time or fails to provide back up helicopter during grounding of the leased Helicopter for technical snags.

17.6 **CONSEQUENCES OF TERMINATION**

In all cases of termination herein set forth, the obligation of the LESSEE to pay the rates or any other charges shall be limited upto the period till the date of termination.

## 18. CONFIDENTIALITY

18.1 The LESSOR acknowledges that all material and information provided to it in connection with the services and all knowledge gained in connection with this Agreement and the performance hereof is confidential and disclosure of which to or use by a third party would be damaging to the interests of the LESSEE. The LESSOR agrees to hold such material information and knowledge in strictest confidence and not to divulge the same to any third party. Such material information of knowledge about the LESSOR's operational information and all such information related to Maintenance and Administration, will likewise be held as confidential by the LESSEE.

18.2 Clause 18.1 shall survive even after the termination of this Agreement.

## 19. PERFORMANCE GUARANTEE

At the time of or before the signing of this Agreement, the LESSOR shall furnish to the LESSEE, an irrevocable and unconditional Bank Guarantee from a Scheduled Bank in India for a sum of Rs. 50.00 lakhs in the format provided in the Bid Document. This irrevocable Guarantee shall be drawn in favour of the \_\_\_\_\_ and shall be valid for a period of at least 1 year, which shall be liable to be extended up to a date 60 days beyond the date of the initially envisaged 3 years Term of the Agreement. In the case the Term of the Agreement is extended, then the validity of the Performance Guarantee shall also be renewed under written instructions from the LESSEE. In the event of the LESSOR failing to fulfill any of its obligations under this Agreement and/ or in respect of any amount due from LESSOR to LESSEE, the LESSEE shall have the absolute discretion to invoke the said Bank Guarantee without serving any prior notice in respect thereof to the LESSOR.

**20. ARBITRATION**

- 20.1 Any dispute or difference whatsoever arising between the Parties out of or relating to the construction, interpretation, application, meaning, scope of operation or effect of the Agreement or the validity or the breach thereof, shall be first tried for amicable settlement through consultation/discussion between the Parties. If the disputes can not be settled by the Parties within 30 days from the date of consultation, such dispute shall be referred to the Chief Secretary to the Government of Himachal Pradesh, who shall be appointed as the Sole Arbitrator for adjudicating upon the disputes and differences in accordance with the provisions of the Arbitration and Conciliation Act, 1996. The Award of the Arbitrator shall be a reasoned one and made in writing in English language. The Award shall be final and binding upon both the Parties.
- 20.2 The arbitration proceedings shall be conducted at Shimla in Himachal Pradesh.
- 20.3 During the period of arbitration, there shall be no suspension of the Agreement.

**21. COURT JURISDICTION AND APPLICABLE LAWS**

All questions, disputes or difference arising under or out of or in connection with this Agreement shall be subject to the laws of India and to the exclusive jurisdiction of the courts situated at Shimla, Himachal Pradesh.

**22. SEVERABILITY**

Should any provision of this Agreement be found to be invalid, illegal or otherwise not enforceable by any Court of Law, such finding shall not affect the remaining provisions hereto.

23. **NOTICE**

Any notice required to be given under the provisions of this Agreement, shall be in writing and shall be deemed to be properly given if sent by hand, registered mail or fax, addressed as follows :

TO THE FIRST PARTY -

TO THE SECOND PARTY-

THE SECRETARY (GAD)

TO THE GOVT. OF HIMACHAL PRADESH

SHIMLA-2

In case of change in address, the concerned Party will inform the other in writing.

IN WITNESS WHEREOF THE authorised representatives of the Parties hereto have signed this Agreement on the day and year first above written.

**IN PRESENCE OF**

1.

(Name and Designation/Address of Lessor)

2.

**AUTHORISED REPRESENTATIVE**

**IN PRESENCE OF**

1.

**SECRETARY (GAD) TO THE**

2.

**GOVT. OF HIMACHAL PRADESH.**