

Request for Proposal

Determination of Aeronautical Tariffs for Major Airports – Assistance to Airports Economic Regulatory Authority of India

RFP No.	02/2011-12
RFP issue date	02.2.2012 (Thursday)
Pre-Bid Conference	10.2.2012 (Friday)
Deadline for Submission	23.2.2012 (Thursday) (Up to 1500 hours)

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This RFP is not an agreement and is neither an offer nor invitation by AERA to the prospective Applicants or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in the formulation of their Proposals pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by AERA in relation to the Consultancy. Such assumptions, assessments and statements do not purport to contain all the information that each Applicant may require. This RFP may not be appropriate for all persons, and it is not possible for AERA, its employees or advisers to consider the objectives, technical expertise and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in this RFP, may not be complete, accurate, adequate or correct. Each Applicant should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments and information contained in this RFP and obtain independent advice from appropriate sources.

Information provided in this RFP to the Applicants is on a wide range of matters, some of which depends upon interpretation of law. The information given is not an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. AERA accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on the law expressed herein.

AERA, its employees and advisers make no representation or warranty and shall have no liability to any person including any Applicant under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, reliability or completeness of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way in this Selection Process.

AERA also accepts no liability of any nature whether resulting from negligence or otherwise however caused arising from reliance of any Applicant upon the statements contained in this RFP.

AERA may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumption contained in this RFP.

The issue of this RFP does not imply that AERA is bound to select an Applicant or to appoint the Selected Applicant, as the case may be, for the Consultancy. AERA reserves the right to reject all or any of the Proposals without assigning any reasons whatsoever.

The Applicant shall bear all costs associated with or relating to the preparation and submission of its Proposal including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations and presentations which may be required by AERA or any other costs incurred in connection with or relating to its Proposals. All such costs and expenses will remain with the Applicant and AERA shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by an Applicant in preparation or submission of the Proposal, regardless of the conduct or outcome of the Selection Process.

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1. Background

1.1 The Parliament of India, enacted an Act called “The Airports Economic Regulatory Authority of India Act, 2008” (hereinafter to be referred as the ‘Act’). The said Act envisages the establishment of a statutory authority called the Airports Economic Regulatory Authority (hereinafter referred to as the ‘AERA’) to regulate tariff for the aeronautical services, determine other airport charges for services rendered at major airports and to monitor the performance standards of such airports. The provisions of the said Act came in to force w.e.f. 1st January 2009 and 1st September 2009.

1.2 AERA, was established by the Government of India vide notification No. GSR 317(E) dated 12th May 2009. The functions of AERA, in respect of major airports, are specified in section 13 of the Act, which are as below :-

- a. to determine the tariff for aeronautical services taking in to consideration –
 - i. the capital expenditure incurred and timely investment in the improvement of airports facilities;
 - ii. the service provided, its quality and other relevant factors ;
 - iii. the cost for improving efficiency;
 - iv. economic and viable operation of a major airports;
 - v. the concession offered by the Central Government in any agreement or memorandum of understanding or otherwise;
 - vi. any other factor which may be relevant for the purpose of the Act.
- b. determine the amount of the development fees;
- c. determine the amount of the passengers service fee levied under rule 88 of the Aircraft Rules, 1937 made under the Aircraft Act, 1934;
- d. monitor the set performance standards relating to quality, continuity and reliability of service as may be specified by the Central Government or any authority authorized by it in this behalf;
- e. call for any such information as may be necessary to determine the tariff for aeronautical services;
- f. perform such other functions relating to tariff, as may be entrusted to it by the Central Government or as may be necessary to carry out the provisions of the Act.

1.3 The ‘aeronautical services’ and ‘major airports’ are defined in section 2(a) and 2 (i) of the Act, respectively.

1.4 While discharging its functions, AERA is required to ensure transparency by, inter-alia, holding due consultations with a stake-holder, which includes a licensee of an airport, airlines operating there at and/or a person who provides aeronautical services and any association of individuals, which in the opinion of AERA, represents

the passengers or cargo facility users, by permitting such stake-holders to make submissions in writing and by documenting all its decisions and explanations thereof.

1.5 After its establishment, AERA has categorized the aeronautical services, in respect of which it is required to determine Tariff, as under :

- (i) Aeronautical services provided by the airport operators;
- (ii) Cargo, Ground Handling and Fuel Supply Services;
- (iii) Air Navigation Services.

AERA has, after extensive stakeholder consultation, finalized its approach to the economic regulation of services categorized at (i) & (ii) above. Detailed Guidelines laying down information requirements, periodicity and procedure for Tariff determination have also been issued. The details of Orders and Guidelines issued in this behalf are as under:

- (i) Order No. 13 dated 12.01.2011 and Direction No. 5 dated 28.02.2011
- (ii) Order No. 5, dated 02.08.2010; Order No. 12 dated 10.01.2011 and Direction No. 4 dated 10.01.2011

These can be downloaded from <http://aera.gov.in>.

1.6.1 In pursuance of the Authority's Order No 13 dated 12.01.2011 and Guidelines vide Direction No 05 dated 28.02.2011, the airport operators have filed their tariff proposals for the first Control Period of 5 years, which has commenced w.e.f. 01.04.2011.

The details of Tariff proposals of Airport Operators (AO) received, as on date, and which are pending consideration of AERA are given below:

- (i) Bangalore
- (ii) Hyderabad
- (iii) Cochin

Airports Authority of India (Ahmedabad, Calicut, Chennai, Guwahati, Jaipur, Kolkata, Lucknow, Thiruvananthapuram)

2. Services required

AERA invites request for proposal (RFP- for short) from applicants who possess requisite experience and capabilities required for undertaking this consultancy either individually (the Sole Firm or Company) or as lead member of a consortium of firms/Companies (the Lead Member) in response to this

invitation. *The term Applicant means the Sole Firm or the Company or the Lead Member as the case may be.* The RFP is for the selection of one consultant only, to, inter-alia, advise AERA and render services in the following core areas (collectively the ‘Consultancy’):

Assist AERA in scrutinizing the proposal submitted by airport operators, undertake due diligence in respect of various assumptions/projections/forecast made in each proposal, analyze different scenarios, (“What if” analyses) and make suitable recommendations regarding the Tariff to be determined.

3. Delivery Schedule

Upon acceptance of the RFP, the Selected Applicant shall be given a period of one year, from the date of award of the Consultancy to accomplish the task mentioned above. AERA may, however, in its discretion extend the delivery period by maximum six months.

4. Scope of Work

4.1 The scope of work to be undertaken by the Selected Applicant is given herein after. The same is merely illustrative and not exhaustive. The Selected Applicant shall thus have to consider the required output and include all further incidental activities that may be necessary for efficient and successful implementation and for achieving the ultimate purpose of the assignment awarded pursuant to the RFP.

- i. Assist the Authority in reviewing the tariff proposals received from the airport operators for identification of information gaps. The tariff proposals include multiyear and annual tariff proposals received/to be received from major airports (eleven in numbers at present; refer to para 1.6.1)
- ii. Assist the Authority in analyzing the Tariff proposals received from the airport operators with respect to determination of Aggregate Revenue Requirements (Comprising various Regulatory Building Blocks) and yield.
- iii. Assist the Authority in identifying key aspects/ observations on the proposals for consideration of the Authority, including cleaning up of the tariff financial model viz. model should be capable of performing sensitivity analysis as the Authority may require.
- iv. Assist the Authority in reviewing impact of change(s) in assumptions/incorporation of Authority’s decisions on various aspects of the proposals submitted by the airport operators in the financial models, sensitivity analysis etc.
- v. Imparting training/ capacity building support to the AERA officials on a continuous basis.

- vi. Assist the Authority in the Stakeholder Consultations, in evaluating the stakeholders' responses and in Authority's decisions thereon.
- vii. Assist and associate with the Authority towards preparation of documentation for tariff determination.
- viii. The Authority is mandated to have due stakeholder consultation in discharge of its function under section 13(4) of the Act. Accordingly, the Authority may hold stakeholder meetings. The selected applicant would be required by the Authority to assist it during the same.

It is however clarified that each of the tariff proposals need to be considered separately based on the submissions made there in as well as other factors that the Authority is mandated to consider while determining the aeronautical tariffs etc. . The selected applicant would extend assistance in respect of all the tariff proposals received/to be received for the consideration of the Authority, as mentioned in (i) above.

4.2 Capacity Building /Training Support

During the period, the Selected Applicant shall assist AERA in the practical implementation of the systems and procedures finalized. The training support shall be extended on a continuous basis. The training shall be used for capacity building and familiarizing the AERA team members in such a way so as to enable them to undertake the work of scrutiny of the tariff proposals submitted by the airport operators on their own. Close cooperation with and the knowledge transfer to the AERA team members are key outputs expected in communicating, documenting and imparting the theoretical and practical aspects of the suggested systems and procedures.

5. Pre Bid Conference

5.1 A Pre-Bid conference shall be convened in Conference Hall, 1st Floor, AERA Building, Administrative Complex, Safdarjung Airport, New Delhi – 110003, on 10th February 2012 at 1100 hours. A maximum of two representatives of each Applicant shall be allowed to participate in the Pre-Bid Conference. The Applicants shall send their queries to the designated office by fax/email along with the details of the representatives attending the Pre Bid conference **at least two clear days** before the day on which the Pre-Bid Conference is scheduled, i.e., 1800 hours on 08.2.2012. The queries shall be sent in the format below.

Query No.	RFP Section			Bidders Query
	No.	Name	Text requiring clarification	

5.2 Only a single query list shall be accepted from a bidder. The queries must reach the designated office of AERA by the schedule time. AERA may decide not to have the Pre-Bid conference if it is able to resolve the queries otherwise. In such a case the clarifications shall be sent to the Applicants electronically or posted on the AERA website <http://aera.gov.in> under the link tenders. During the course of Pre-Bid conference, the Bidders will be free to seek clarifications and make suggestions for consideration of the AERA. AERA shall endeavor to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.

6. Number of Proposals

Each Applicant shall submit only 1 (one) proposal in response to this RFP. An Applicant who submits more than one proposal shall be disqualified.

7. Bid Security

7.1 The Applicant shall submit, along with their bids a Bid Security of Rupees 5 lakhs (Rs. Five Lakhs only) **in the form of a Demand Draft** issued by a Nationalized/Scheduled Bank in India in favour of the “**Airports Economic Regulatory Authority of India**” payable at New Delhi. Bid Security in any other form shall not be entertained. The bid security shall be returnable not later than 30 (thirty) days from the proposal due date, except in case of the highest ranked Applicant as required in Clause 21.5. The Selected Applicant’s Bid Security shall be returned, upon the Applicant signing the Agreement and completing the Deliverables assigned to it for the first 2 (two) months of the Consultancy in accordance with the provisions thereof.

7.2 Any proposal not accompanied by the Bid Security shall be rejected as non-responsive.

7.3 AERA shall not be liable to pay any interest on the Bid Security and the same shall be interest free.

7.4 The Applicant, by submitting its proposal pursuant to this RFP, shall be deemed to have acknowledged that without prejudice to AERA’s other right or remedy hereunder or in law or otherwise, the Bid Security shall be forfeited and appropriated by AERA as the mutually agreed pre-estimated compensation and damage payable to AERA for, inter-alia, the time, cost and effort of AERA in regard to the RFP including the consideration and evaluation of the Proposal under the following conditions:

- (a) If an Applicant submits a non-responsive Proposal;
- (b) If an Applicant withdraws its Proposal during the period of its validity as specified in this RFP and as extended by the Applicant from time to time;

- (c) In the case of the Selected Applicant, if the Applicant fails to reconfirm its commitments during negotiations as required vide Clause 21.1;
- (d) In the case of a Selected Applicant, if the Applicant fails to sign the Agreement or commence the assignment as specified in Clause 21.4 and 21.5 respectively ;
or
- (e) If the Applicant is found to have a Conflict of Interest as specified in Clause 14.

8. Selection Process

AERA would adopt a two stage selection process (collectively the “**Selection Process**”) in evaluating the Proposals comprising technical and financial bids to be submitted in two separate sealed envelopes. In the first stage, a technical evaluation shall be carried out as specified in Clause 19.7 Based on this technical evaluation, a list of short-listed applicants shall be prepared whose financials bids shall be opened for final selection of the Applicant. The first ranked applicant, i.e. the applicant with lowest quote, (the “**Selected Applicant**”) shall be selected for further negotiations, if any.

9. Composition of the team

9.1 Key Personnel

The Applicant shall be required to offer a team of key personnel to carry out the assignment. The team shall consist of the following key personnel for discharge of responsibilities as specified below:

Key Personnel	Responsibilities
Team Leader	Will lead, co-ordinate and supervise the team for the Consultancy and shall be responsible for the timely, efficient and satisfactory delivery of services mentioned at para 2.
Sector Experts (atleast 3 experts)	The sector experts will bring in experience, particularly in the field of Financial analysis, econometric modeling & forecast and data base management.

The composition of the team should be adequate to ensure that prerequisite skills are available to provide all the outputs required from the assignment within the timeframe prescribed.

10. Eligibility Criteria

10.1 Conditions of Eligibility

10.1.1 In order to be eligible to submit the RFP, an Applicant should have participated as a Consultant in any one of the following projects/assignments (i.e. eligible assignments):

- i. Assisted and/or advised in the capacity building of a Regulatory Authority ;
- ii. Assisted a minimum of 2 Regulatory Authorities in any infrastructure sector in evaluation of multi-year tariff proposals and submissions and fixation of tariffs;

10.1.2. The fact that the applicant has participated as a Consultant in any of the above projects or assignments specifically relating to the airport infrastructure and for other aeronautical services shall be provided appropriate weightage as per the scheme of technical evaluation (refer to para 19.7.1)

10.1.3. The Applicant should have turnover of Rs. 30 crores per annum (Rs. Thirty Crores only) under the head of professional fees during each of the last three accounting years. For avoidance of doubt, professional fees hereunder refers to fees earned by the Applicant for providing advisory or consultancy services to its clients. (Refer Appendix –I, Form – 5)

10.1.4. Availability of Key Personnel: The proposed Team Leader and Sector Experts must be the employees of the Applicant or the employees of any of the Consortium member (in case the Application is made by a Lead Member on behalf of a Consortium) or be members of the Consortium. The applicant shall offer the services of only those Key Personnel who fulfill the eligibility requirements specified in the table given at clause 10.1.5.

10.1.5. Eligibility criteria for Key Personnel: Each of the Key Personnel must fulfill the eligibility criteria specified here in below:

Key Personnel	Length of Professional Experience	Experience in Eligible Assignments
Team Leader	10 years	<p>The Team Leader should have participated in the process of assisting or advising the regulatory authorities in scrutinizing multiyear tariff regulations; or tariff reviews; or tariff fixation; or evaluation of multiyear tariff petitions /submissions;</p> <p>Preference shall be given to those who have participated in any of the above assignments specifically relating to tariff fixation for the airport infrastructure sector and/or other aeronautical services.</p>
Sector Experts		

Economist	5 years	Experience in econometric modeling and forecast.
Financial Expert	7 years	The financial expert should have experience in the financial analysis of public, private and PPP Projects in the airport infrastructure or other aeronautical services or across other infrastructure sectors. Preference shall be given to experts who have assisted regulatory bodies/airport operators in reviewing tariff applications/making tariff submissions.
Database management expert	5 years	The database management expert should have experience in RDMS, Data mining, software based analytical tools, sensitivity analysis, econometric modeling. Preference shall be given to experts who have assisted regulatory bodies/ airport operators in reviewing tariff applications/making tariff submissions.

10.1.6 The Applicant shall enclose with the Technical proposal, a certificate issued by its Statutory Auditors stating its year wise income against the professional fee during the past three years in the format prescribed at Form 5, Appendix I.

10.1.7. A person/entity barred from participating in any project/assignment by the Central Government or any State Government or by any other authority under the direct or indirect control of the Central Government or any State Government, shall not be eligible to submit a proposal provided such bar is still subsisting.

10.1.8. An Applicant, in the last three years, must not have failed to perform on any agreement and/or contract by way of an imposition of a penalty/damages by an arbitral award or any other judicial pronouncement. The Applicant must not have either been expelled from any project or faced any termination of the agreement/contract for being held responsible for its breach.

11. Preparation and Submission of the Proposal

11.1 Language

The proposal with all accompanying documents (the “Documents”) and all communications in relation to or concerning the Selection Process shall be in English language and strictly on the forms provided in this RFP. No supporting document or printed literature shall be submitted with the proposal unless specifically asked for and in case any of these Documents is in another language, it must be accompanied by an accurate translation of the relevant passages in English, duly authenticated and certified by the Applicant. For the purpose of interpretation and evaluation of the Proposal, the translation in English shall prevail.

11.2 Format and signing of Proposal

11.2.1 The Applicant shall provide all the information sought under this RFP. AERA would evaluate only those Proposals that are received in the specified forms and complete in all respects.

11.2.2 The applicant shall prepare one original set of the Technical Proposal (together with originals/ copies of Documents required to be submitted along therewith pursuant to this RFP) and clearly marked “ORIGINAL”. In addition, the Applicant shall submit 2 (two) copies of the Technical Proposal, along with documents, marked “COPY”. In the event of any discrepancy between the original and its copies, the original shall prevail. It is clarified that the Technical Proposal marked “ORIGINAL” only shall be considered for the purpose of scrutiny and evaluation.

11.2.3. The proposal marked “ORIGINAL” shall be typed or written in indelible ink and signed by the authorized signatory of the Applicant who shall initial each page, in blue ink. In case of printed and published Documents, only the cover shall be initialed. All the alternations, omissions, additions, or any other amendments made to the Proposal shall be initialed in blue ink by the person(s) signing the Proposal. The Proposals must be properly signed in blue ink by the authorized representative (the “Authorized Representative”) as detailed below:

- (a) by the proprietor, in case of a proprietary firm; or
- (b) by a partner, in case of a partnership firm and/or a limited liability partnership; or
- (c) by a duly authorized person holding the Power of Attorney, in case of a Limited Company or a corporation ; or
- (d) by the authorized representative of the Lead Member, in case of consortium.

11.2.4. A copy of the Power of Attorney certified under the hands of a partner or director of the Applicant and notarized by a notary public in the form specified in Appendix – I (Form -4) shall accompany the Proposal.

11.2.5. Applicants should note the Proposal Due Date, as specified in Clause 15 for submission of Proposals. Except as specifically provided in this RFP, no supplementary material will be entertained by AERA, and that evaluation will be carried out only on the basis of Documents received by the closing time of Proposal Due Date as specified in.

11.2.6. Applicants will ordinarily not be asked to provide additional material information or documents subsequent to the date of submission, and unsolicited material if submitted will be summarily rejected. For avoidance of doubts, AERA reserves the right to seek clarifications under and in accordance with the provisions of Clause 18.

12. Technical Proposal

12.1.1. Applicants shall submit the technical proposal in the formats at Appendix – I (the “**Technical Proposal**”). While submitting the Technical Proposal, the Applicant shall, in particular, ensure that:

- a) All forms are submitted in the prescribed formats and are signed by the prescribed signatories;
- b) The Bid Security is provided as per Clause 7;
- c) Power of Attorney as specified in Form -4, Appendix – I, is executed as per Applicable Laws;
- d) CVs of all Key Personnel have been included ;
- e) Key Personnel have been proposed only if they meet the Conditions of Eligibility laid down at Clause 10.1.4. and 10.1.5. of the RFP;
- f) No alternative proposal for any Key Personnel is being made and only one CV for each position has been furnished;
- g) The CVs have been signed and dated in blue ink by the respective Key Personnel and countersigned by the Applicant. Photocopy or unsigned/non-countersigned CVs shall be rejected;
- h) The CVs shall contain an undertaking from the respective Key Personnel about his/her availability for the duration specified in the RFP;
- i) Key Personnel proposed have good working knowledge of English language;

- j) Key Personnel would be available for the entire period of the assignment.
- k) No Key Personnel should have attained the age of 75 (seventy five) years at the time of submitting the proposal; and
- l) The proposal is responsive in terms of Clause 19.3

12.1.2. Failure to comply with the requirements spelt out in this Clause 12.1.1 shall make the Proposal liable to be rejected.

12.1.3. If an individual Key Personnel makes a false averment regarding his qualification, experience or other particulars, or his commitment regarding availability for the Project is not fulfilled at any stage after signing of the Agreement, he shall be liable to be debarred for any further assignment of AERA for a period of 5 (five) years. The award of this consultancy to the Applicant may also be liable to cancellation in such an event.

12.1.4. The Technical Proposal shall not include any financial information relating to the Financial Proposal.

12.1.5. AERA reserves the right to verify all statements, information and documents, submitted by the Applicant in response to the RFP. Any such verification or the lack of such verification by the AERA to undertake such verification shall not relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of the AERA there under.

12.1.6. In case it is found during the evaluation or at any time before signing of the Agreement or after its execution and during the period of subsistence thereof, that one or more of the eligibility conditions have not been met by the Applicant or the Applicant has made material misrepresentation or has given any materially incorrect or false information, the Applicant shall be disqualified forthwith if not yet appointed as the Consultant either by issue of the Letter of Award (LOA) or entering into of the Agreement, and if the Selected Applicant has already been issued the LOA or has entered into the Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by AERA without AERA being liable in any manner whatsoever to the Applicant or Consultant, as the case may be.

12.1.7 In such an event, the AERA shall forfeit and appropriate the Bid Security as mutually agreed pre-estimated compensation and damages payable to the AERA for, inter-alia, time, cost and effort of AERA, without prejudice to any other right or remedy that may be available to AERA.

13. Submission of Proposal :

13.1 The Applicants shall submit the Proposal in hard bound form with all pages numbered serially and by giving an index of submissions. Each page of the submission shall be initialed by the Authorized Representative of the Applicant as per the terms of the RFP.

13.2 In case the proposal is submitted on the document down loaded from AERA's Website, the Applicant shall be responsible for its accuracy and correctness as per the version uploaded by the AERA and shall ensure that there are no changes caused in the content of the downloaded document. In case of any discrepancy between the downloaded or photocopied version of the RFP and the original RFP issued by AERA, the latter shall prevail.

13.3 The Proposal shall be sealed in an outer envelope which should bear the address of the AERA, RFP Number, Consultancy Name, Name and address of the Applicant. If the envelope is not sealed and marked as instructed herein, AERA assumes no responsibility for the misplacement or premature opening of the contents of the Proposal submitted and consequent losses, if any, suffered by the Applicant.

13.4 The aforesaid outer envelope should contain two separate sealed envelopes, one clearly marked 'Technical Proposal' and the other clearly marked 'Financial Proposal'.

13.4.1. The envelope marked "Technical Proposal" shall contain:

- (i) Application in the prescribed format (Form -1 of Appendix – I) along with all Forms 2 to 10 of Appendix- I and supporting documents; and
- (ii) Bid security as specified in Clause 7.

13.4.2. The Technical Proposal and Financial Proposal shall be typed or written in indelible ink and signed by the Authorized Representative of the Applicant. All pages of the Technical Proposal (marked 'ORIGINAL') and Financial Proposal must be numbered and initialed by the person or persons signing the Proposal.

13.6 The completed Proposal must be delivered on or before the specified time on Proposal Due Date. Proposals submitted by fax, telex, telegram or e-mail shall not be entertained. The Proposal shall be made in the Forms specified in this RFP. Any attachment to such Forms must be provided on separate sheets of paper and only information that is directly relevant should be provided. This may include photocopies of the relevant pages of printed documents. No separate documents like printed annual statements, company brochures, copy of contracts etc. will be entertained.

14. Conflict of Interest

14.1 AERA requires the Consultant to provide professional, objective and impartial advice and at all times hold AERA's interests paramount and avoid conflict of interest with any other assignment. Without limitation on the generality of aforesaid the Consultant or any of their associates shall not take up any assignment that by its nature will result in conflict with present assignment i.e., during the period of this assignment and for a period of two years thereafter. However, a similar engagement for any service provider or any other stakeholder shall be construed as a conflict of interest. Whereas a similar engagement for any other regulator (viz. Central government in the case of airports other than major airports) may not be so construed.

14.2 Any Applicant found to have a Conflict of Interest shall be disqualified. In the event of disqualification, AERA shall forfeit and appropriate the Bid Security as mutually agreed genuine pre-estimated compensation and damage payable to the AERA for, inter-alia, the time, cost and effort of AERA including consideration of such Applicant's Proposal, without prejudice to any other right or remedy that may be available to the AERA hereunder or otherwise.

15. Proposal Due Date

The Proposal should be submitted at or before 23.2.2012 up to 1500 hours at the designated address in the manner and form as detailed in this RFP. AERA may, in its sole discretion, extend the Proposal Due Date by issuing an Addendum.

16. Late Proposals

Proposals received by AERA after the specified time on Proposal Due Date shall not be eligible for consideration and shall be summarily rejected.

17. Modification/substitution/withdrawal of Proposals

17.1 The Applicant may modify, substitute, or withdraw its Proposal after submission, provided that written notice of the modification, substitution, or withdrawal is received by AERA prior to Proposal Due Date. No Proposal shall be modified, substituted, or withdrawn by the Applicant on or after the Proposal Due Date. The modification, substitution, or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 13, with the envelopes being additionally marked "**MODIFICATION**", "**SUBSTITUTION**" or "**WITHDRAWAL**", as appropriate.

17.2 Any alteration/modification in the Proposal or additional information or material supplied subsequent to the Proposal Due Date, unless the same has been expressly sought for by AERA, shall be disregarded.

18. Clarifications

18.1 To facilitate evaluation of Proposals, AERA may, at its sole discretion, seek clarifications from any Applicant regarding its Proposal. Such clarification(s) shall be provided within the time specified by AERA for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.

18.2 If an Applicant does not provide clarifications sought under Clause 18.1 above within the specified time, its Proposal shall be liable to be rejected. In case the Proposal is not rejected, AERA may proceed to evaluate the Proposal by construing the particulars requiring clarification to the best of its understanding, and the Applicant shall be barred from subsequently questioning such interpretation of the AERA.

19. Evaluation Process

19.1 Evaluation of Proposals – The Proposals shall be opened at 1530 hrs on the Proposal Due Date, at Conference Hall, Ist Floor, AERA Building, Administrative Complex, Safdarjung Airport, New Delhi - 110003, in the presence of the Applicants who choose to attend. The envelopes marked “**Technical Proposal**” shall be opened first. The envelopes marked “**Financial Proposal**” shall be kept sealed for opening at a later date.

19.2 Proposals for which a notice of withdrawal has been submitted in accordance with Clause 17 shall not be opened.

19.3 Prior to evaluation of Proposals, AERA shall determine whether each Proposal is responsive to the requirements of the RFP. AERA may, reject any Proposal that is not responsive hereunder. A Proposal shall be considered responsive only if :

- a) the Technical Proposal is received in the form specified at Appendix-I, with three Copies, one marked “ORIGINAL” and two marked as “COPY”;
- b) it is received by the Proposal Due Date including any extension thereof pursuant to Clause 15;
- c) it is accompanied by the Bid Security as specified in Clause 7.
- d) it is signed, sealed, bound together in hard cover and marked as stipulated in Clauses 11.2 and 13;
- e) it is accompanied by the Power of Attorney as specified in Form -4, Appendix – I;
- f) it contains all the information (complete in all respects) as requested in the RFP;
- g) it does not contain any condition or qualification; and

h) it is not non-responsive in terms hereof.

19.4 AERA reserves the right to reject any Proposal which is non-responsive and no request for alternation, modification, substitution or withdrawal shall be entertained by AERA in respect of such Proposals.

19.5 AERA shall subsequently examine and evaluate each of the proposal. The technical evaluation of the proposals shall be done on Monday, the 27th February, 2012 after the presentation to be made by the Applicant(s) on the Approach and Methodology. The presentation shall be held in the Conference Hall, Ist Floor, AERA Building, Administrative Complex, Safdarjung Airport, New Delhi - 110003 on Thursday the Monday, the 27th February, 2012 from 1000 hrs onwards.

19.6 Team Composition and Experience of Key professionals/Experts

19.6.1 The score for the experience of the Applicant in participating or assisting or advising in any of the assignment/projects mentioned at clause 10.1.1 shall be 30 marks. The Applicant shall provide details of the experts proposed to be deployed together with the time/duration for the proposed assignment. Applicants, who offer to provide more than one expert for one or more sectors, shall clearly specify the sector expert who should be evaluated for the purpose of Technical Evaluation. Such Applicant, if successful, shall be bound to provide the services of the additional sector expert(s) to AERA at no additional cost or liability whatsoever. However, in no case, more than one person should be proposed as the Team Leader.

19.6.2. The team of experts proposed to be deployed shall be available to AERA in continuity until successful completion of the hand holding support period. The Curriculum Vitae (CV) of each expert proposed to be deployed for the assignment shall be given along with the duration proposed for this assignment.

19.6.3. AERA would evaluate each member proposed to be deployed based on their qualifications, experience etc., and assign score for every applicant based on its evaluation as under:

One Team Leader	14
Three Sector Experts	33 (11 each)
Total	47 marks

Weightages for evaluation of the above shall be as under :

For Educational Qualification	25%
Relevant Experience	75%

(Participation in projects/ assignments specifically relating to the aviation sector would be given preference and higher weight age)

19.6.4. The score for the financial strength shall be 3 marks.

19.6.5 The score for Approach and Methodology and presentation by the Authorized Signatory and/or the Team Leader and Sector Experts shall be 20 marks. The presentation shall be made by the Authorized Signatory and/or the Team leader, when at least one of the Sector Experts would be required to be available. The presentation should clearly bring out the understanding of the Applicant with regard to the requirements of AERA and concisely present the approach and methodology proposed to be followed for the successful completion of the assignment. The presentation should, normally, not exceed a time limit of twenty minutes.

19.7 Technical Proposal Evaluation

19.7.1 The Technical Proposals shall be examined by the AERA to determine whether the bids received are responsive in terms of the requirements stipulated based on the evaluation criteria below :

	Criteria	Wt	Marks
A	Experience of the Consulting Firm		30
1	Assisting /advising in the capacity building/setting up of a Regulatory Authority	30%	9
2.	Assisting at least 2 Regulatory Authorities in any infrastructure sector in evaluation of multi-year tariff petitions/submissions and fixation of tariffs;	30%	9
3.	Participation in any of the above projects/assignments specifically relating to the airport infrastructure or aeronautical services.	40%	12
	Proportionate higher score will be awarded based on the number of successful assignments completed/participated in each of the above category and on the basis of scope/content of such assignments.		
B	Qualification and Experience of Team Leader		14
1	Educational Qualification	28.6%	4
2	Relevant Experience/participation in the process of assisting/advising Regulatory Authorities On Capacity building, preparing multi year tariff regulations, evaluation of multi year tariff petitions/submissions;	42.8%	6

3	Participation in any of the above projects/assignments specifically relating to the Aviation Sector	28.6%	4
C	Qualification and Experience of Sector Experts Educational Qualification and Relevant Experience – (Edu. Qual-25% and Experience 75%)		33
1	- Economist	33.3%	11
2	- Financial Expert	33.3%	11
3	- Database Management	33.3%	11
D	Financial Strength		3
1	Professional fees received is more than Rs. 30 crores in each of the last three years	16.67%	0.5
2	Professional fees received is more than Rs. 30 crores but less than Rs. 60 crores in each of the last three years	33%	1
3	Professional fees received is more than Rs. 60 crores in each of the last three years	50%	1.5
E	Approaches and Methodology and Presentation The presentation shall be made by the Authorised Signatory and/or the Team Leader when at least one of the Sector Experts should be required to be available. The presentation should clearly bring out the understanding of the Applicant with regard to the requirements of AERA and concisely present the approach and methodology proposed to be followed for the successful completion of the assignment. The presentation should, normally, not exceed a time limit of twenty minutes.		20
	Total Technical Score		100

19.7.2. The total technical score would be an arithmetic sum of score obtained by the applicant for each of the parameter indicated above viz. experience of the Applicant, qualification of and relevant experience of the Team Leader and Sector experts, financial strength and approach methodology proposed by the applicant etc. the maximum achievable total technical score for any applicant would be 100 marks. A **minimum of 67 marks** is necessary for qualifying in the Technical Bid. The Applicants would be ranked based on the technical score obtained.

19.7.3. The financial bids of all the applicants who secure the minimum qualifying score of 67 shall be opened. In case, the number of applicants who secure minimum qualifying 67 marks is less than three, AERA may, in its sole discretion, pre-qualify the first three ranked applicant(s) including those who secure the minimum qualifying marks, if any, even though their technical score is less than 67 marks, by reduction in the qualifying marks. However, the qualifying marks shall not be reduced below '50' in any case.

19.7.4 Financial bids of the firms who do not qualify shall be returned unopened.

19.7.5. After the technical evaluation, AERA shall prepare a list of the shortlisted Applicants for opening of their Financial Bid, A date, time and venue will be notified to the Shortlisted Applicants for announcing the result of evaluation and opening of Financial Proposals. Before opening of the Financial Proposals, the Technical Score of the shortlisted Applicants shall be read out. The opening of Financial Bids/Proposals shall be done in presence of representatives of the shortlisted Applicants who choose to be present. AERA will not entertain any query or clarification from Applicants who fail to qualify at any stage of the Selection Process.

19.7.6. Applicants are advised that selection of the successful applicant will be entirely at the discretion of the AERA. Applicants will be deemed to have understood and agreed that no explanation or justification on any aspect of the Selection Process or Selection will be given. Any information contained in the Proposal shall not in any way be construed as binding on the AERA, its agents, successors or assigns, but shall be binding against the Applicant if the Consultancy is subsequently awarded to it.

19.8 Financial Proposal

19.8.1 The Applicants shall submit the Financial Proposal in the formats at Appendix-II, Form I clearly indicating the total cost of the Consultancy assignment in both figures and words, in Indian Rupees, and signed by the Applicant's authorized signatory. In the event of any difference between figures and words, the amount indicated in words shall be considered for evaluation. In the event of a difference between the arithmetic total and the total shown in the Financial Bid, the lower of the two shall be taken into account. While submitting the Financial Bid, the Applicant shall ensure the following:

- (i) The lump sum professional fee quoted in the Financial Bid Shall be inclusive of all costs associated with the assignment and shall cover

remuneration for all the Personnel, accommodation, air fare, equipment, printing of documents, surveys etc. The Financial Bid shall be unconditional, unqualified and shall be final and binding. .

(ii) The lump sum professional fee quoted in the financial Bid shall be inclusive of all statutory tax liabilities and expenses. Further, all payments shall be subject to deduction of taxes at source as per applicable laws.

19.8.2 The shortlisted Applicant whose financial bid is found to be the lowest shall be selected as Consultant.

19.8.3 The selected Consultant shall be paid professional fees for the services rendered in three equal installments payable on four monthly basis. However, the last and final installment shall be paid at the successful completion of consultancy work.

19.8.4 In case AERA organizes stakeholder meeting, outside Delhi, the selected Consultant shall be entitled to reimbursement of the actual return fare paid or Economy Class return airfare - whichever is less, for the shortest route from Delhi to the station where the stakeholder meeting, is held in respect of maximum of two representatives of the selected applicant.

20. Confidentiality

Information relating to the examination, clarification, evaluation, and recommendation for the selection of Applicants shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional adviser advising the AERA in relation to matters arising out of, or concerning the Selection Process. AERA will treat all information, submitted as part of the Proposal, in confidence and will require all those who have access to such material to treat the same in the confidence. AERA may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/or the Authority.

21. Appointment of Consultant

21.1 Negotiations

21.1.1 The Selected Applicant may, if necessary, be invited by AERA for negotiations. The negotiations could be for reducing the price of the Proposal and for re-confirming the obligations of the Selected Applicant under this RFP. Issues such as deployment of Key Personnel, understanding of the RFP, methodology and quality of the work plan may also be discussed during negotiations. In case the Selected Applicant fails to reconfirm its commitment, AERA reserves the right to call for fresh tender.

21.2 Substitution of Key Personnel

21.2.1 AERA will not normally consider any request of the Selected Applicant for substitution of Key Personnel as the ranking of the Applicant is based on the evaluation of Key Personnel and any change therein may upset the ranking. Substitution will, however, be permitted if the Key Personnel is not available for reasons of any incapacity or due to health, subject to equally or better qualified and experienced personnel being provided to the satisfaction of AERA.

21.2.2 AERA expects all the Key Personnel to be available during implementation of the Agreement. AERA will not consider substitution of Key Personnel except for reasons of any incapacity or due to health. Such substitution shall ordinarily be limited to one Key Personnel subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority.

21.2.3. Substitute of the Team Leader will not normally be considered and may lead to disqualification of the Applicant or termination of the Agreement.

21.3 Award of Consultancy

After selection, a Letter of Award (the "LOA") shall be issued, in duplicate, by the AERA to the Selected Applicant and the Selected Applicant shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Applicant is not received by the stipulated date, AERA may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Applicant as mutually agreed genuine pre-estimated loss and damage suffered by AERA on account of failure of the Selected Applicant to acknowledge the LOA, and the next highest ranking Applicant may be considered.

21.4 Execution of Agreement

After acknowledgement of the LOA as aforesaid by the Selected Applicant, it shall execute the Agreement within fifteen days. The Selected applicant shall not be entitled to seek any deviation in the Agreement.

21.5. Commencement of assignment

The Selected Applicant shall commence the Consultancy services within 7 (seven) days of the date of the Agreement or such other date as may be mutually agreed. If the Selected Applicant fails to either sign the Agreement as specified in Clause 21.4 or commence the assignment as specified herein the Bid Security of the selected Applicant shall be forfeited and appropriated in accordance with the provisions of Clause 7.

21.6. Proprietary data

Subject to the provisions of Clause 20, all documents and other information provided by the AERA or submitted by an Applicant are to treat all information as strictly confidential. AERA will not return any Proposal or any information related thereto. All information collected, analysed, processed or in whatever manner provided by the Applicants/Selected Applicant to the AERA in relation to the Consultancy shall be the property of AERA.

22. Liquidated Damages and Penalties

22.1. Corporate Guarantee

The Selected Applicant shall furnish a Corporate Guarantee or Bank Guarantee equal to 10% of the value of the Contract, to be appropriated against recovery of liquidated damages as specified in Clause 22.3 & 22.4 herein.

22.2. Performance Security

AERA shall retain by way of performance security, 10% (ten percent) of all the amounts due and payable to the Consultant, to be appropriated against breach of terms and conditions of the contract or on account of delay in completing the task. The Consultant may, in lieu of retention of the amounts as referred above, furnish a Bank Guarantee. This will be in addition to the Corporate Guarantee as referred in Para 22.1 above.

22.3 Liquidated Damages for error/variation

In case any error or variation is detected in the reports submitted by the Consultant and such error or variation is the result of negligence or lack of due diligence on the part of the Consultant, the consequential damages thereof shall be quantified by AERA in a reasonable manner and recovered from the Consultant by way of liquidated damages, subject to a maximum of 5% (five percent) of the total value of the contract.

22.4. Liquidated Damages for delay

The delivery schedule for completion of the task is one year from the date of award of the Consultancy (refer to para 3). However, in case it is not completed within the period of one year from award of the consultancy, the Consultant shall be liable to pay liquidated damages, in addition to the forfeiture of Performance Security, not exceeding an amount equal to 0.5% (zero point five percent) of the total value of the contract per day, subject to a maximum of 5% (five percent) of the total value of the contract. The liquidated damages in such a case will be decided by the Authority taking into consideration the underlying reasons for the delay.

22.5 Penalty for deficiency in Services

In addition to the liquidated damages not amounting to penalty, as specified in Clause above, the Consultant may be censured and/ or debarred for deficiencies on its part.

23. Validity of the Proposal

The Request For Proposal shall be valid for a period of **90 days** from the proposal due date.

24. Right to reject any or all Proposals

Notwithstanding anything contained in this RFP, AERA reserves the right to accept or reject any Proposal, and to annul the selection process and reject all Proposals at any time prior to award of contract, without assigning any reason and without incurring any liability, whatsoever, to the bidder(s).

25. Designated Office

**Secretary
Airports Economic Regulatory Authority of India,
AERA Building,
New Administrative Block,
Safdarjung Airport,
New Delhi.**

Tel: 011-24695044-47

APPENDICES

TECHNICAL BID

Letter of Proposal

(On Applicant's letter head)

(Date and Reference)

To,

.....
.....
.....

Sub: Appointment of Consultant for proving assistance to AERA for tariff determination for Airports.

Dear Sir,

With reference to your RFP Document dated, I/we, having examined all relevant documents and understood their contents, hereby submit our proposal for selection as Consultant for _____. The proposal is unconditional and unqualified.

2. All information provided in the proposal and in the Appendices is true and correct and all documents accompanying such proposal are true copies of their respective originals.
3. This statement is made for the express purpose of appointment as the Consultant for the aforesaid assignment.
4. I/We shall make available to the AERA any additional information it may deem necessary or require for supplementing or authenticating the proposal.
5. I/We acknowledge the right of the AERA to reject our proposal without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
6. I/We certify that in the last three years, we/any of the consortium members have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Applicant, nor been expelled from any assignment contract nor have had any contract terminated for breach on our part.

7. I/We declare that:
 - (a) I/We have examined and have no reservations to the RFP Documents, including any Addendum issued by the AERA;
 - (b) I/We do not have any conflict of interest in accordance with Clause 14 of the RFP Document;
 - (c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, in respect of any tender or request for proposal issued by or any agreement entered into with the AERA or any other public sector enterprise or any government, Central or State; and
 - (d) I/We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
8. I/We understand that you may cancel the selection process at any time and that you are neither bound to accept any Proposal that you may receive nor to select the Consultant, without incurring any liability to the Applicants in accordance with Clause 24 of the RFP document.
9. I/We declare that we/any member of the consortium, are/is not a Member of a/any other Consortium applying for selection as a Consultant.
10. I/We certify that in regard to matters other than security and integrity of the country, we have not been convicted by a Court of Law or indicated or adverse orders passed by a regulatory authority which would cast a doubt on our ability to undertake the Consultancy for the Project or which relates to a grave offence that outrages the moral sense of the community.
11. I/We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our Associates.
12. I/We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our CEO or any of our Directors/ Managers/employees.
13. I/We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever arising to challenge or question any decisions taken by the Authority in connection with the selection of Consultant or in connection with the selection process itself in respect of the above mentioned assignment.

14. The Bid Security of Rs. 5,00,000/- (Rupees Five Lakhs only) in the form of a Demand Draft, from a Nationalized/Scheduled Bank in India, is attached, in accordance with the RFP document.
15. I/We agree and understand that the proposal is subject to the provisions of the RFP documents. In no case, shall I/we have any claim or right of whatsoever nature if the Consultancy for the assignment is not awarded to me/ us or our proposal is not opened or rejected.
16. I/We agree to keep this offer valid for 90 (ninety) days form the proposal due date as per clause 23 of the RFP.
17. A Power of Attorney in favour of the authorized signatory to sign and submit this proposal and documents is attached herewith in Form 4.
18. In the event of my/our firm/company/corporation/consortium being selected as the Consultant, I/we agree to enter into an Agreement with AERA for carrying out the assignment as set out in the RFP.
19. The Financial Bid is being submitted in a separate cover. This Technical Bid read with the Financial Bid shall constitute the Application which shall be binding on us.
20. I/We have studied RFP carefully and understand that except to the extent as expressly set forth in the RFP we shall have no claim, right or title arising out of any documents or information provided to us by AERA or in respect of any matter arising out of or concerning or relating to the selection process including the award of Consultancy.
21. I/We agree and undertake to abide by all the terms and conditions of the RFP Documents. In witness thereof, I/we submit this Bid under and in accordance with the terms of the RFP Document.

Yours faithfully,

(Signature, name and designation of the Authorized Signatory)
(Name and seal of the Applicant/Lead Member)

Particulars of the Applicant

1.1	Title of Consultancy : Consultant for _____
1.2	State whether applying as Sole Firm or Lead Member of a consortium : Sole Firm Or Lead Member of a consortium
1.3	State the following: Name of the Company or Firm : Legal Status (e.g. incorporated private company, unincorporated business, partnership etc.): Country of incorporation: Registered address: Year of Incorporation: Year of commencement of business: Principal place of business : Brief description of the Company including details of its main lines of business Name, designation, address and phone number of Authorized Signatory

	<p>of the Applicant:</p> <p>Name :</p> <p>Designation:</p> <p>Company:</p> <p>Address :</p> <p>Phone No. :</p> <p>Fax No. :</p> <p>E-mail address:</p>
1.4	<p>If the Applicant is Lead Member of a consortium, state the following for each</p> <p>Of</p> <p>The other Member Firms:</p> <p>(i) Name of Firm: (ii) Legal Status and country of incorporation (iii) Registered address and principal place of business.</p>
1.5	<p>For the Applicant, (in case of a consortium, for each Member), state the following information:</p> <p>(i) In case of non Indian company, does the company have business presence in India ? Yes/No</p> <p>(ii) Has the Applicant or any of the Members in case of a consortium been penalized by any organization for poor quality of work or breach of contract in the last five years ? Yes/No</p> <p>(iii) Has the Applicant/Member ever failed to complete any work awarded to it by any public authority/entity in last five years? Yes/No</p>

(iv) Has the Applicant or any member of the consortium been blacklisted by any Government department/Public Sector Undertaking in the last five years? Yes/No

(v) Has the Applicant or any of the Members, in case of a consortium, suffered bankruptcy/insolvency in the last five years? Yes/No

DECLARATION :-

It is hereby declared and undertaken that the information contained above from point (ii) to (v) is true and correct to my knowledge and nothing material has been concealed therefrom.

(Signature, name and designation of the Authorised Signatory)

For and on behalf of_____

Note : If answer to any of the question at (ii) to (v) is yes, the Applicant is not eligible for this consultancy assignment.

Statement of Legal Capacity
(To be forwarded on the letter head of the Applicant)

Ref. Date :

To,

Dear Sir,

Sub : RFP for Appointment of Consultant for providing assistance to AERA for Tariff Determination for Airports.

I/We hereby confirm that we, the Applicant (along with other members in case of consortium), satisfy the terms and conditions laid down in the RFP document.

I/We have agreed that(insert Applicant's name) will act as the Lead Member of our consortium.

I/We have agreed that(insert individual's name) will act as our Authorised Representative/will act as the Authorised Representatives of the consortium on our behalf and has been duly authorized to submit our Proposal.

Further, the authorized signatory is vested with requisite powers to furnish such proposal and all other documents, information or communication and authenticate the same.

Yours faithfully,

(Signature, name and designation of the Authorised Signatory)
For and on behalf of

Power of Attorney

Know all men by these presents, we, (name of firm and address of the registered office) do hereby constitute, nominate, appoint and authorize Mr/Ms..... son/daughter/wife and presently residing at ,....., who is presently employed with us and holding the position of as our true and lawful attorney (hereinafter referred to as the “Authorised Representatives”) to do in our name and our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to the submission of our Proposal for selection as the Consultant for _____, including but not limited to signing and submission of all applications, proposals and other documents and writings, participating in pre-bid and other conferences and providing information/responses to the AERA, representing us in all matters before the AERA, signing and execution of all contracts and undertakings/declarations consequent to acceptance of our proposal and generally dealing with the AERA in all matters in connection with or relating to or arising out of our Proposal for the said Project and/or upon award thereof to us till the execution of appropriate Agreement/s with the AERA.

AND, we do hereby agree to ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Authorised Representatives pursuant to and in exercise of the powers conferred by the instant deed of Power of Attorney and that all acts, deeds and things done by our said Authorised Representative in exercise of the powers hereby conferred shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE,THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF, 20**

For
(Signature, name, designation and address)

Witnesses :

1.

2.

Notarised

Accepted

.....
(Signature, name, designation and address of the Attorney)

Notes :

The mode of execution of the Powers of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executants (s) and when it is so required the same should be under common seal affixed in accordance with the required procedure. The Power of Attorney should be executed on a non –judicial stamp paper of Rs. 50 and duly notarized by a notary public.

Wherever required, the Applicant should submit for verification the extract of the charter documents and other documents such as a resolution/power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Applicant.

For a Power of Attorney executed and issued overseas, the document will also have to be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney is being issued. However, Applicants from countries that have signed the Hague Legislation Convention 1961 need not get their Power of Attorney legalized by the Indian Embassy if it carries a conforming Apostle certificate.

Financial Capacity of the Applicant
(Refer Clause 10.1.3)

S. No.	Accounting Year	Professional Fees (Figures in INR)
1		
2		
3		

Certificate from the Statutory Auditor

This is to certify that (name of the Applicant) had a turnover, as shown above, against the respective years on account of professional fees for providing advisory or consultancy to its clients.

Name of the Authorized Signatory :

Designation :

Name of the Audit firm :

(Signature of the Authorised Signatory of the Statutory Auditor)
Seal of the Firm

Note :

1. Please do not attach any printed Annual Financial Statement.
2. In case the Applicant does not have a statutory auditor, it shall provide the certificate from its chartered accountant that ordinarily audits the annual accounts of the Applicant.

Particulars of Key Personnel

S. No.	Designation of Key Personnel	Name	Educational Qualification	Length of Professional Experience			Experience in eligible assignments	Proposed Deployment of the Key Personnel in the Current Assignment
					Name of Firm	Employed Since		
1	Team Leader							
2	Economist							
3	Financial Expert							
4	Database Management Expert							

Proposed Methodology and Work Plan

The proposed methodology and work plan shall be described as follows:

1. Understanding of Assignment / Project (not more than two pages)

The Applicant shall clearly state its understanding of the Assignment / Project and also highlight its important aspects. The Applicant may supplement various requirements of the assignment/project and also make precise suggestions if it considers this would bring more clarity and assist in achieving the Objectives laid down in the assignment/project.

2. Methodology and Work Plan (not more than three pages)

The Applicant will submit its methodology for carrying out this assignment, outlining its approach toward achieving the objectives of the assignment. The Applicant will submit a brief write up on its proposed team and organization of personnel explaining how different areas of expertise needed for this assignment have been fully covered by its proposal. In case the Applicant is a consortium, its should specify how the expertise of each firm is proposed to be utilized for this assignment. The Applicant should specify the sequence and locations of important activities, and provide a quality assurance plan for carrying out the Consultancy Services.

Note: Marks will be deducted for writing lengthy and out of context responses.

Experience of the Applicant

(Refer Clause 10.1.1)

S.No.	Assisting/advising in the following Assignments	Experience of the Applicant
1	Assistance/ Advice in the capacity building of a Regulatory Authority.	
2	Assisted a Minimum of Two Regulated Authorities in any Infrastructure Sector in Evaluation of Multi Year Tariff Proposals and Submissions and Fixation of Tariff.	

Experience of Key Personnel @

(Refer Clause 9 and 10.1.4 to 10.1.6)

Name and age of the Key Personnel:**Designation:**

S.No.	Name of the Project / Assignment	Name of firm for which the Key Personnel worked	Designation of the Key Personnel on the project	Date of Completion of project assignment	Man days spent
1					
2					
3					
4					
5					
6					
7					
8					

@ Use separate Form for the Team Leader and each of the Sector Experts.

Curriculum Vitae (CV) of profession Personnel

1. Proposed Position:
2. Name of Personnel:
3. Date of Birth:
4. Nationality:
5. Educational Qualifications:
6. Employment Record:
(Starting with present position, list in reverse order every employment held.)

7. List of projects on which the Personnel has worked

Project Name	Description of assignment performed
--------------	-------------------------------------

8. Details of the current assignment and the time duration for which services are required for the current assignment.

Certification:

1. I am willing to work on the assignment/ project and I will be available for entire duration of the Project assignment as required.
2. I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications and my experience.

(Signature and name of the Professional)
Place.....

(Signature and name of the Authorised Signatory of the Applicant)

Note:

1. Use separate form for each Professional Personnel.
2. Each page of the CV shall be signed in ink by both the Personnel concerned and by the Authorised Representative of the Applicant firm along with the seal of the firm. Photocopies will not be considered for evaluation.

FINANCIAL BID

Covering Letter
(On Applicant's letter head)

(Date and Reference)

To,

Dear Sir,

Subject: Appointment of Consultant for _____

I/ We, _____ (Applicant's name) herewith enclose the Financial Bid for selection of my/our firm as Consultant for above subject.

I/We agree that this offer shall remain valid for a period of 90 (ninety) days from the proposal due date or such further period as may be mutually agreed upon.

Yours faithfully,

(Signature, name and designation of the Authorised Signatory)

Note: The Financial Bid is to be submitted strictly as per forms given in the RFP

**APPOINTMENT OF CONSULTANT FOR PROVIDING ASSISTANCE
TO AERA FOR TARIFF DETERMINATION OF MAJOR AIRPORTS
FORMAT FOR FEE QUOTE**

Name of Activity	Amount (Rs)
Lump-sum professional fee for carrying out the assignment and related tasks as given in the scope of work (inclusive of all taxes, levies and duties)	

Total in
Words _____

**(To be signed by the authorized signatory)
NAME & DESIGNATION**

DRAFT AGREEMENT

Tariff Determination for Airports – Assistance to Airports Economic Regulatory Authority of India

AGREEMENT No. _____

This AGREEMENT (hereinafter called the “Agreement”) is made on the _____ day of the month of _____ 2012, between, on the one hand, the Chairperson, Airports Economic Regulatory Authority of India (hereinafter called the “the Authority” which expression shall include their respective successors and permitted assigns, unless the context otherwise requires) and, on the other hand, by M/s _____ (hereinafter called the “Consultant” which expression shall include their respective successors and permitted assigns).

WHEREAS

- (A) The Authority vide its Request for proposal (RFP No. 2/2011-12) invited proposals from applicant possessing the requisite, potential, experience and capabilities required for undertaking the task of consultancy to assist Airport Economic Regulatory Authority in Tariff Determination of Airports ;
- (B) The Consultant submitted its proposals for the aforesaid work, whereby the Consultant represented to the Authority that it had the required professional capacity & skills, in the said proposals the Consultant also agreed to provide Service to the Authority on the terms and conditions as set forth in the Request for Proposal (RFP. No. 02/2011-12) and this Agreement ; and
- (C) The Authority, on acceptance of the aforesaid proposals of the Consultant, awarded the Consultancy to the consultant vide its Letter of Award dated _____ (the “LOA”); and
- (D) Consequent thereupon, the parties hereby reduce into writing the broad parameters of the terms and conditions by so as to constitute a lawful agreement between them.

NOW, THEREFORE, the parties hereto hereby agree as follows:

1 General

1.1 Definitions and Interpretation

- 1.1.1 The words and expressions beginning with capital letters and defined in this Agreement shall, unless the context otherwise requires, have the meaning hereinafter respectively assigned to them :

- (a) "Airport Operator" means the person(s) or Authority which manages an airport.
- (b) "Applicable Laws" means the laws and any other instrument having the force of law in India as they may be issued and in force from time to time;
- (c) "Agreement" means this Agreement, together with all the Annexes/appendix, etc;
- (d) "Agreement Value" shall have the meaning set forth in Clause 6.1;
- (e) "Confidential Information" shall have the meaning set forth in Clause 3.3;
- (f) "Conflict of Interest" shall have the meaning set forth in Clause 3.2 read with the provisions of RFP;
- (g) "Dispute" shall have the meaning set forth in Clause 9.2.1;
- (h) "Effective Date" means the date on which this Agreement comes into effect pursuant to Clause 2.1;
- (i) "Government" means the Government of India;
- (j) "INR, Re. or Rs." Means Indian Rupees;
- (k) "Member", in case the Consultant consists of a joint venture or consortium of more than one entity, means any of these entities, is "Members" means all of these entities;
- (l) "Lead Member" means in case the Consultant consists of a consortium of more than one entity, the party assigned the role of Lead Member in consultation with the Authority. The Parties agree that the Lead Member shall act on behalf of the Members in exercising all the Consultant's rights and obligations towards the Authority under this Agreement, including without limitation the receiving of instructions and payments from the Authority.
- (m) "Personnel" means the Team Leader, the Sector Experts and any other persons hired by the Consultant and assigned the performance of the Services or any part thereof;
- (n) "Team Leader" means the Team Leader nominated by the Consultant in their proposal, who will lead, co-ordinate and supervise the team for the consultancy and shall be responsible for the Services;
- (o) "Party" means the Authority or the Consultant, as the case may be, and "Parties" means both of them;

- (p) “Services” means the work to be performed by the Consultant pursuant to this Agreement, as described in the Terms of Reference hereto;
- (q) “RFP” means the Request for Proposal document (RFP. No. 02/2011-12) in response to which the Consultant’s proposal for providing Services was accepted and any clarification(s) issued by the Authority pursuant thereof;
- (r) “Stakeholders” means a licensee of an airport, airlines operating thereat and/or a person who provides aeronautical services and any association of individuals, which in the opinion of Authority, represents the passenger or cargo facility users; or any other person/association of persons, whom the Authority may, in its sole discretion, like to approach for consultation;
- (s) “Third Party” means any person or entity other than the Government, the Authority or the Consultant. All terms and words not defined herein shall, unless the context otherwise requires, have the meaning assigned to them in the RFP;

1.1.2 The following documents along with all addenda issued thereto shall be deemed to form and be read and construed as integral part of this Agreement and in case of any contradiction between or among them the priority in which a document would prevail over other would be as laid down below beginning from the highest priority to the lowest priority:

- (a) Agreement;
- (b) Annexes of the Agreement;
- (c) RFP No. 02/2011-12 and clarifications issued by the Authority pursuant thereof;
- (d) Letter of Award
- (e) Authority’s Direction No.05/20101-11 dated 28.02.2011 with respect to AERA (Terms and Conditions for determination of tariff for Airport Operators) Guidelines 2011.

1.2 Relation between the Parties

Nothing contained herein shall be construed as establishing a relation of master and/or servant or of agent and principal as between the Authority and the Consultant. The Consultant shall, subject to this Agreement, have complete charge of Personnel performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

1.3 Rights and Obligations

The mutual rights and obligations of the Authority and the Consultant shall be as set forth in the Agreement; in particular:

- (a) the Consultant shall carry out the Services in accordance with the provisions of this Agreement; and
- (b) the Authority shall make payments to the Consultant in accordance with the provisions of this Agreement.

1.4 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts at New Delhi alone shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

1.5 Language

All notices required to be given by one party to the other Party and all other communications, documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

1.6 Tables of contents and headings

The table of contents, heading or sub-heading in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement.

1.7 Notices

Any notice or other communication to be given by any party to the other party under or in connection with the matters contemplated by this Agreement shall be in writing and shall :

- (a) in the case of the Consultant, be given by facsimile and by letter delivered by hand to the address given and marked for attention of the Consultant's Representative set out below in Clause 1.10 or to such other person as the Consultant may from time to time designate by notice to the Authority; provided that notices or other communications to be given to an address outside India may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by facsimile to the number as the Consultant may from time to time designate by notice to the Authority;
- (b) in the case of the Authority, be given by facsimile and by letter delivered by hand and be addressed to the Authority with a copy delivered to the Authority's Representative set out below in Clause 1.10 or to such other person as the Authority may from time to time designate by notice to the Consultant; provided that if the Consultant

does not have an office in Delhi it may send such notice by facsimile and by registered acknowledgement due, air mail or by courier; and any notice or communication by a party to the other party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post if ought to have been delivered.

1.8 Location

The Services shall be performed/rendered/delivered at the offices of the Authority or any other place of the Authority as required, in accordance with the provisions of RFP and at **such locations** as are incidental thereto, including the **offices of the Consultant**.

1.9 Authority of Lead Member

In case the Consultant consists of a consortium of more than one entity, the Parties agree that the Lead Member shall act on behalf of the Members in exercising all the Consultant's rights and obligations towards the Authority under this Agreement, including without limitation the receiving of instructions and payments from the Authority.

1.10 Authorized Representatives

- 1.10.1 Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement by the Authority or the Consultant, as the case may be, may be taken or executed by the officials specifically designated as Authorized Representative by the Authority and Consultant respectively. 1.10.2 The Authority may, from time to time, designate a particular official as the Authority Representative. Unless otherwise notified, the Authority Representative shall be :

Secretary

Airports Economic Regulatory Authority of India

AERA Building, Administrative Complex,

Safdarjung Airport, New Delhi – 110003.

Tel :- 011- 24695042/Fax :- 011-24695048

- 1.10.3 The Consultant may designate a particular employee as Consultant's Representative. Unless otherwise notified, the Consultant's Representative shall be :

1.11 Taxes and duties

Unless otherwise specified in the Agreement, the Consultant shall pay all such taxes, duties, fees and other impositions as may be levied under the Applicable Laws and the Authority shall perform such duties in regard to the deduction of such taxes as may be lawfully imposed on it.

2. COMMENCEMENT, COMPLETION AND TERMINATION OF AGREEMENT

2.1 Effectiveness of Agreement

This Agreement shall come into force and effect on the date of this Agreement (the “Effective Date”).

2.2 Commencement of Services

The Consultant shall commence the Services within a period of 7 (seven) days from the Effective Date, unless otherwise agreed by the Parties.

2.3 Termination of Agreement for failure to commence Services

If the Consultant does not commence the Services within the period specified in the Clause 2.2 above, the Authority may, by not less than 2 (two) weeks’ notice to the Consultant, declare this Agreement to be null and void, and in the event of such a declaration, the Bid Security of the Consultant shall stand forfeited.

2.4 Expiration of Agreement

Unless terminated earlier pursuant to Clause 2.9 hereof, this Agreement shall expire when the Services have been completed and a period of 90(ninety) days has elapsed after all payments due under this Agreement, have been made.

2.5 Entire Agreement

2.5.1 All instruments mentioned in clause 1.1.2 together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn; provided, however, that the obligations of the Consultant arising out of the provisions of the RFP shall continue to subsist and shall be deemed as part of this Agreement.

2.5.2 Without prejudice to the generality of the provisions of Clause 2.5.1, on matters not detailed/ elaborated in this Agreement, the provisions of RFP shall apply.

2.6 Modification of Agreement

Modification of the terms and conditions of this Agreement, including any modification of the scope of the Services, may only be made by written agreement between the parties. Pursuant to clause 4.3.2 hereof, however each party shall give due consideration to any proposals for modification made by the other party.

2.7 Force Majeure

2.7.1 Ambit & Meaning

- (a) For the purpose of this Agreement, “Force Majeure” means an event which is beyond the reasonable control of a Party, and which makes a Party’s performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and shall be limited to war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by government agencies.
- (b) Without prejudice to the generality of clause (a) above, it is specifically clarified that Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party’s agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to either (A) take into account at the time of the conclusion of this Agreement and (B) avoid or overcome in the carrying out of its obligations hereunder.
- (c) Force Majeure shall not include insufficiency of funds or failures to make any payment required hereunder.

2.7.2 No breach of Agreement

The failure of a Party to fulfill any of its obligations hereunder shall not be considered to be breach of, or default under, this Agreement 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 Agreement.

2.7.3 Measure to be taken

- (a) A Party affected by an event of Force Majeure shall take all reasonable measures to remove such Party's inability to fulfill its obligations hereunder with a minimum of delay.
- (b) A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any event not later than seven (7) days following the occurrences of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.
- (c) The Parties shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

2.7.4 Extension of time/Termination of Service

Any period within which a Party shall, pursuant to this Agreement, complete any action or task, may 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, to be decided at the sole discretion of the Authority.

Not later than fifteen (15) days after the Consultant has, as the result of an event of Force Majeure, become unable to perform a material portion of the Services, the Authority will be at liberty to terminate the Agreement and award the same to another party.

2.8 Suspension of Agreement

Notwithstanding any other clause of this agreement, the Authority may, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if in the opinion of the Authority the Consultant has been in breach of this Agreement, or has in any manner failed to perform any of its obligations under this Agreement including the carrying out of the Services; provided that such notice of suspension (i) shall state the nature of the breach or failure, and (ii) shall provide an opportunity to the Consultant to remedy such breach or failure within a period not exceeding five (5) days after receipt by the Consultant of such notice of suspension.

2.9 Termination of Agreement and fresh Award thereof

2.9.1 By the Authority

The Authority may, by not less than fifteen (15) days' written notice of termination to the Consultant, such notice to be given after the occurrence of any of the events specified in this Clause 2.9.1, terminate this Agreement if:

- (a) The Consultant fails to remedy any breach hereof or any failure in the performance of its obligations hereunder, as specified in a suspension pursuant to Clause 2.8 hereinabove, within five (5) days of receipt of such notice of suspension;
- (b) the Consultant becomes insolvent or bankrupt or enters into any agreement with its creditors for relief of debt or take advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary;
- (c) the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 9 hereof;
- (d) the Consultant submits to the Authority a statement which has a material effect on the rights, obligations or interests of the Authority and which the Consultant has reason to believe is false;
- (e) any document, information, data or statement submitted by the Consultant in its Proposals, based on which the Consultant was considered eligible or successful, if found to be false, incorrect or misleading;
- (f) as a result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than fifteen (15) days;
- (g) a situation of conflict of interest as set out in Clause 3.2 of this agreement.
- (h) the Authority, in its sole discretion and for any reason whatsoever, decides to terminate this Agreement.

Notwithstanding anything contained in this agreement, it is specifically agreed by the parties that on such issuance of notice of termination by the Authority, the Authority will be at liberty to initiate the process for fresh award of the agreement and award the same.

2.9.2 By the Consultant

The Consultant may, by not less than thirty (30) day's written notice to the Authority, to be given after the occurrence of any of the events specified in this clause 2.9.2, terminate this Agreement if :

- (a) the Authority fails to pay any money due to the Consultant pursuant to this Agreement and not being the subject of dispute pursuant to Clause 9 hereof or otherwise, within forty-five (45) days after receiving written notice from the Consultant stating that such payment is overdue;
- (b) the Authority is in material breach of its obligations pursuant to this Agreement and has not remedied the same within forty-five (45) days (or such longer period as the Consultant may have subsequently granted in writing) following the receipt by the Authority of the Consultant's notice specifying the particular breach in question, the manner in which such breach has affected the performance of the

services of the Consultant under this Agreement and the action required from the Authority with regard to such breach;

2.9.3 Cessation of rights and obligations

Upon termination of this Agreement pursuant of Clause 2.3 or 2.9 hereof, or upon expiration of this Agreement pursuant to Clause 2.4 hereof, 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 of expiration, (ii) the obligations of confidentiality set forth in Clause 3.3 hereof, as relate to the Consultant's Services provided under the Agreement; and (iii) any right or remedy which a Party may have under the Agreement or the Applicable Law.

2.9.4 Cessation of Services

Upon termination of this Agreement by notice of either Party to the other pursuant to Clauses 2.9.1 or 2.9.2 hereof, the Consultant 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 without causing any detrimental effect to the work/service in question. The Consultant agrees to render all assistance to the Authority/ the New Consultant in this regard. With respect to documents prepared by the Consultant and any material furnished by the Authority, the Consultant shall proceed as provided respectively by Clauses 3.7 or 3.8 hereof.

2.9.5 Payment upon Termination

Upon termination of this Agreement pursuant to Clause 2.9.1 or 2.9.2 hereof, the Authority shall make the necessary payments to the Consultant after due adjustment of any amount that may be considered due from the Consultant to the Authority having due regard to the complete milestones or deliverables by the Consultant.

2.9.6 Disputes about Events of Termination

If either Party disputes whether an event specified in Clause 2.9.1 or in Clause 2.9.2 hereof has occurred, such Party may, within 30 (thirty) days after receipt of notice of termination from the other Party, refer the matter to arbitration pursuant to Clause 9 hereof, and this Agreement shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award. However the provisions of this Clause will not affect the right of the Authority to initiate the process for fresh award of this agreement or to award this Agreement to some other Consultant.

3. OBLIGATIONS OF THE CONSULTANT

3.1 General

3.1.1 Standards of Performance

The Consultant shall perform the Service and carry out obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate and effective methods. The Consultant shall always act, in respect of any matter relating to this Agreement or to the Services, as a faithful adviser to the Authority, and shall at all times support and safeguard the Authority's legitimate interests and shall not indulge in any activity which might have an conflicting interest or which might adversely affect interest of the Authority.

3.1.2 Terms of Reference

The scope of Services to be performed by the Consultant are specified in the Terms of Reference (the "TOR") at Annex -1 of this Agreement. The Consultant shall provide the deliverables specified therein in conformity with the time schedule stated therein.

3.1.3 Applicable Laws

The Consultant shall perform the Services in accordance with the Applicable Laws and shall take all practicable steps to ensure that the Personnel of the Consultant comply with the Applicable Laws.

3.2 Conflict of Interest

3.2.1 The Consultant shall not have a Conflict of Interest and any breach thereof shall constitute a breach of the Agreement making this agreement liable to termination at the behest of the Authority.

3.2.2 Consultant and Affiliates not to be otherwise interested in the Project – Notwithstanding the specific activities set out in Clause 3.2.3 below, the Consultant agrees that, during the term of this Agreement and after its termination, the Consultant and any entity affiliated with the Consultant, shall not take up any assignment or render any advice or opinion relating to any work project of the Authority including but not limited to any opinion/advise, etc relating to the challenge of the validity or the legality of (i) any of the rules and regulations that such Consultant has advised or (ii) any other work which is related to or has arisen as part of this agreement, provided that such advice has been substantially implemented by the Authority. Any breach of this obligation shall amount to a Conflict of Interest.

3.2.3 Prohibition of conflicting activities

Neither the Consultant nor its personnel shall engage, either directly or indirectly, including without limitation any of the following activities:

- (a) any activities relating to the determination of aeronautical tariffs, development fee, user development fee, passengers service fee; and setting up and/or monitoring of performance standards at major airports as defined by the Airports Economic Regulatory Authority of India Act, 2008;
- (b) after the termination of this Agreement, such other activities as may be specified in the Agreement; or
- (c) at any time, such other activities as have been specified in the RFP s Conflict of Interest.

3.3 Confidentiality

The Consultant, and its Personnel shall not, either during the term or within two (2) years after the Expiration or Termination of this Agreement disclose any proprietary information, including but not limited to information relating to reports, data, software or other material, whether written or oral, in electronic or magnetic format, and the contents thereof; and any reports, digests or summaries created or derived from any of the foregoing that is provided by the Authority to the Consultant, and its Personnel; any information provided by or relating to the Authority, its technical processes, business affairs or finances or any information relating to the Authority's employees, officers or other professionals or suppliers, customers, or contractors of the Authority; and any other information which the Consultant is under an obligation to keep confidential in relation to the Project, the Services or this Agreement ("Confidential Information"), without the prior written consent of the Authority.

Notwithstanding the aforesaid, the Consultant and its Personnel may disclose, with prior written approval of the Authority, Confidential Information to the extent that such Confidential Information :

- (i) is required to be disclosed by Law or judicial or administrative or arbitral process or by any Governmental Instrumentalities, provided that for any such disclosure, the Consultant and its Personnel shall give the Authority, prompt written notice, and use reasonable efforts to ensure that such disclosure is accorded confidential treatment ;
- (ii) is provided to the professional advisers, agents, auditors or representatives of the Consultant as is reasonable under the circumstances; provided, however, that the consultant or its Personnel as the case may be, shall require their professional advisers, agents, auditors or its representatives, to undertake in writing to keep such

Confidential Information, confidential and shall use its best efforts to ensure compliance with such undertaking.

Subject to the confidentiality obligations above, the Consultant shall be allowed to use this engagement as an experience citation with other clients.

3.4 Liability of the Consultant

It is agreed between the parties that the Consultant shall be liable to the Authority for any loss or damage accrued or likely to accrue due to deficiency in Services rendered by it. It shall be no defense for the Consultant to state that such loss incurred or likely to be incurred or damage sustained or likely to be sustained by the Authority was not the direct cause of or proximate to any act or omission by the Consultant.

Subject to the provisions of Clause 4.5.2, clause 4.6.5 and clause 4.6.6 set out herein below, the Consultant's overall liability under the Agreement shall be capped at ten percent (10%) of the Agreement Value and shall be restricted to direct costs only. The Consultant shall not be, in any event, liable for indirect or consequential losses or damages.

3.5 Consultant's actions requiring the Authority's prior approval

The Consultant shall obtain the Authority's prior approval in writing before taking any of the following actions:

- (a) appointing such members of the Professional Personnel as are not listed in Annexure – II in terms of Clause 4.4 of this Agreement.
- (b) any other action that may be specified in this Agreement.

3.6 Reporting obligations

The Consultant shall submit to the Authority the reports and documents specified in the Agreement, in the form, in the manner and within the time periods set forth therein.

3.7 Documents prepared by the Consultant to be the property of the Authority

- 3.7.1 All reports and other documents prepared and submitted by the Consultant in Performing the Services under this Agreement shall become and remain the property of the Authority, and the Consultant shall, not later than Termination or Expiration of this Agreement, deliver all such documents to the Authority, together with a detailed inventory thereof. The Consultant may retain a copy of such documents. Restrictions about the future use of these documents shall be as specified in the Agreement.

- 3.7.2 All reports and other documents prepared and submitted by the Consultant in performing the Services under this Agreement shall become and remain the property of the Authority, and all intellectual property right in such Consultancy Documents shall vest with the Authority. Any Consultancy Document, of which the ownership or the intellectual property rights do not vest with the Authority under law, shall automatically stand assigned to the Authority as and when such Consultancy Document is created and the Consultant agrees to execute all papers and to perform such other acts as the Authority may deem necessary to secure its rights herein assigned by the Consultant. Any third party licenses, necessary for the performance of services under the Agreement, would be procured by the Authority.
- 3.7.3 The Consultant shall not use these documents for purposes unrelated to this Agreement without the prior written approval of the Authority.

3.8 Any data/information/report furnished by the Authority

Any data/information/report made available to the Consultant by the Authority shall be the property of the Authority. Upon Termination or Expiration of this Agreement, the Consultant shall furnish forthwith to the Authority, an inventory of such data/information/reports and shall dispose of such data/information/report in accordance with the instructions of the Authority. The Consultant would be allowed to retain a copy of its working papers to maintain a professional record of its involvement in the engagement and to comply with applicable legal and regulatory requirements. Also, it is appreciated that it may not be possible for the Consultant to permanently dispose-off all information so furnished (for instance in terms of information embodied in project related emails). In all cases, the Consultant shall be responsible for protecting such information and not using such information for purposes unrelated to this Agreement without the prior written approval of the Authority.

3.9 Providing access to the Consultants Office and Personnel

The Consultant shall ensure that the Authority, and officials of the Authority having authorization from the Authority, are provided unrestricted access to the Consultant's Office and to all Personnel during office hours. All such officials of the Authority shall have the right to inspect the Services in Progress, interact with relevant Personnel of the Consultant and verify the records for his satisfaction.

3.10 Accuracy of Documents

The Consultant shall be responsible for accuracy of any data or information collected by it or procured from other agencies/authorities and all other details prepared by it as part of these services. Subject to provisions of Clause 3.4, it shall indemnify the Authority against any inaccuracy in the work which

might surface during implementation of this consultancy, if such inaccuracy is the result of any negligence or inadequate due diligence on part of the Consultant or arises out of its failure to conform to good industry practice. The Consultant shall also be responsible for promptly correcting, at its own cost and risk, the reports, rules, regulations prepared by the Consultant, including any re-survey/investigations.

4. CONSULTANT PERSONNEL

4.1 General

The Consultant shall employ and provide such qualified competent and experienced Personnel as may be required to carry out the Services

4.2 Deployment of Personnel

The designations and name of the key Personnel engaged by the Consultant for carrying out the Services are described in Annexure – II of this Agreement.

4.3 Approval of Personnel

4.3.1 The Key Personnel listed in Annexure – II of the Agreement are hereby approved by the Authority.

4.3.2 The Authority will be at liberty to request the Consultant to remove/replace any personnel on which the Consultant will within a period of seven days propose an alternative person for the Authority's consideration. In the event the Authority does not reject a proposal within fourteen (14) days of the date of receipt thereof under this Clause 4.3, it shall be deemed to have been approved by the Authority. Should the Consultant be unable to make a suitable alternative arrangement to the satisfaction of the Authority, it shall be treated as an event of substitution of Key personnel or that of a Team Leader under Clause 4.4, as the case may be, with the consequences as set out in Clause 4.5 and Clause 4.6 respectively. During the process, it shall be the obligation of the Consultant to ensure that the service being rendered does not interrupt or suffer in any manner.

4.4 Substitution/Replacement of Key Personnel

4.4.1 The Authority expects all the Personnel specified in the Proposal to be available during implementation of the Agreement. Since the qualifications and profile of the personnel is the sole ground of consideration of this agreement, it is agreed by the parties that substitution of personnel will only be considered in terms of this clause.

4.5 Substitution/Replacement of Key Personnel – Sector Experts

4.5.1 Substitution of the Sector Experts will only be allowed in the following circumstances :

- (i) death
- (ii) insolvency
- (iii) being declared of incapable mental state
- (iv) being impaired on account of health and medical conditions which would effect his role as a Sector Expert
- (v) resignation from the services of the Consultant
- vi) indulging in activities in the nature of conflict of interest in any manner

4.5.2 Substitution of the Sector Experts will be subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority. Every event of Substitution of a Sector Expert on the part of the Consultant will entail a deduction of an amount equal to 3% of the Agreement Value payable to the Consultant (excepting in the case of such substitution arising due to the death of the Sector Expert).

4.6 Substitution/Replacement of Key Personnel – Team Leader

4.6.1 Subject to Clause 4.6.2 below, substitution of the Team Leader shall be ground for termination of this Agreement by the Authority

4.6.2 Substitution of the Team Leader will only be allowed in the following circumstances :

- (i) death
- (ii) insolvency
- (iii) being declared of incapable mental state
- (iv) being impaired on account of health and medical conditions which would effect his role as a team leader
- (v) resignation from the services of the Consultant.
- vi) indulging in activities in the nature of conflict of interest in any manner

4.6.3 The selection of the subsequent Team Leader be a matter of written consent of the Authority. Failure of the Consultant to obtain written consent on the part of the Authority shall bring about a termination of the Agreement.

- 4.6.4 Where the Consultant decides to substitute the Team Leader, it shall, before such substitution, forward to the Authority such proposal of substitution along with the CV/profile of the intended new Team Leader. Such proposed New Team Leader must be equally or better skilled, qualified and experienced than the Team Leader sought to be substituted. The Authority shall within (15) fifteen days either agree or decline to give its consent to the proposal. In case the Authority decline to grant consent, this will be ground for termination of the Agreement and the consequences set out in Clause 2.9, in addition to those set out in Clause 4.6.5 below, will follow. If the Authority agrees, then the Consultant shall forthwith carry out the substitution of the Team Leader.
- 4.6.5 Every event of substitution of Team Leader on the part of the Consultant shall entail a deduction of an amount 6% of the Agreement Value payable to the Consultant (excepting in the case of such substitution arising due to the death of the Team Leader).
- 4.6.6 The Consultant shall be liable to the Authority for any costs or effect of or damage to the performance of services to the Authority or any other event of loss or damage incurred or likely to be incurred by the Authority, if any during such period of substitution of the Sector Experts or Team Leader, or as a result thereof.

4.7 Team Leader

The person designated as the Team Leader of the Consultant's Personnel shall be responsible for the coordinated, timely and efficient functioning of the Personnel. In addition he shall be responsible for day to day performance of the Services.

5. OBLIGATIONS OF THE AUTHORITY

5.1 Assistance in clearances etc.

Unless otherwise specified in the Agreement, the Authority shall make best efforts to ensure that the Government shall :

- (a) Provided the Consultant and its Personnel with necessary permissions and such other authorizations or compliances as may be necessary to enable the Consultant, its Personnel to perform the Services;
- (b) Issue to officials, agents and representatives of the Government all such advisories as may be necessary or appropriate for the prompt and effective implementation of the Services.

The Authority shall assist in arranging meetings / interactions / consultations with stakeholders, setting out the context and expectations from stakeholders. In this regard, the Authority may issue such advisories to stakeholders, as may

be necessary, for provision of required data, information or responses on consultations to the Consultant.

5.2 Access to Major Airports in connection with the Services

The Authority shall make best efforts to ensure that the Consultants have unimpeded access to the Major Airports in respect of which access is required for the performance of Services.

5.3 Payments

In consideration of the services performed by the Consultant under this Agreement, the Authority shall make to the Consultant such payment and in such manner as is provide in Clause 6 of this agreement.

6. PAYMENT TO THE CONSULTANT

6.1 Fees payable for services rendered and Agreement Value

An abstract of the lump sum professional fees payable to the Consultant for the Services is set forth in Annexure III of the Agreement. The payments under the Agreement shall not, in any case, exceed the agreement value specified herein (the "Agreement Value").

6.2 Currency of payment

All payments shall be made in Indian Rupees.

6.3 Mode of billing and payment

Billing and payments in respect of the Services shall be made as follows :-

- (a) The Consultant shall be paid for its services in three equal four monthly installments, subject to the Consultant fulfilling the following conditions :
 - (i) No payment shall be due for the next stage till the Consultant completes to the satisfaction of the Authority the work pertaining to the preceding stage.
 - (ii) The Authority shall pay to the Consultant, only the undisputed amount.
- (b) The Authority shall cause the payment due to the consultant to be made within 15 (fifteen) days after the receipt by the Authority of bills raised by the Consultant for the stage with necessary particulars (the "Due Date").
- (c) The Final payment under this Clause shall be made only after the Final Report has been submitted by the Consultant and approved as satisfactory by the Authority. The Services shall be deemed completed

and final accepted by the Authority and the Final Report shall be deemed approved by the Authority as satisfactory upon expiry of 90 (ninety) days after receipt of the Final Report by the Authority unless the Authority, within such 90 (ninety) day period, gives written notice to the Consultant which shall thereupon promptly make any necessary corrections and/or additions, and upon completion of such corrections, the foregoing process shall be repeated.

- (d) Any amount which the Authority has paid or caused to be paid in excess of the amounts actually payable in accordance with the provisions of the Agreement shall be reimbursed by the Consultant to the Authority within 15 (fifteen) days after receipt by the Consultant of notice thereof. Any such claim by the Authority for reimbursement must be made within 1 (one) year after receipt by the Authority of a Final Report in accordance with Clause 6.3 (c). Any delay by the Consultant in reimbursement by the due date shall attract simple interest @ 10% (ten percent) per annum.
- (e) All payments under the Agreement shall be made to the account of the Consultant as may be notified to the Authority by the Consultant.

7. LIQUIDATED DAMAGES AND PENALTIES

Without prejudice to the generality of Clause 3.4, the parties agree to the following :

7.1 Corporate Guarantee or Bank Guarantee

The Consultant shall furnish a Corporate Guarantee or Bank Guarantee (substantially in the form Specified as Annexure-V of this agreement) equal to 10% of the value of the Contract, to be appropriated against recovery of liquidated damages as specified in Clause 7.3 & 7.4 herein.

7.2 Performance Security

AERA shall retain by way of performance security, 10% (ten percent) of all the amounts due and payable to the Consultant, to be appropriated against breach of **terms and conditions of the contract or on account of delay** in completing the task. The Consultant may, in lieu of retention of the amounts as referred above, furnish a Bank Guarantee (substantially in the form Specified as Annexure-IV of this agreement). This will be in addition to the Corporate Guarantee as referred in Para 7.1 above.

7.3 Liquidated Damages for error/variation

In case any error or variation is detected in the reports submitted by the Consultant and such error or variation is the result of negligence or lack of due diligence on the part of the Consultant, the consequential damages thereof shall be quantified by AERA in a reasonable manner and recovered

from the Consultant by way of liquidated damages, subject to a maximum of 5% (five percent) of the total value of the contract.

7.4 Liquidated Damages for delay

Notwithstanding the Clause 7.2 in case of delay in completion of the work as specified in the delivery schedule, the Consultant shall be liable to pay, in addition to the forfeiture of Performance Security, liquidated damages not exceeding an amount equal to 0.5% (zero point five percent) of the total value of the Contract per day, subject to a maximum of 5% (five percent) of the total value of the Contract. The liquidated damages in such a case will be decided by the Authority taking into consideration the underlying reasons for the delay.

7.5 Penalty for deficiency in Services

In addition to the liquidated damages not amounting to penalty, as specified in Clause above, the Consultant may be censured and /or debarred for deficiencies on its part.

7.6 Encashment and appropriation of Bank Guarantee furnished

The Authority shall have the right to invoke and appropriate the proceeds of the Guarantee submitted under clauses 7.1 and 7.2, in whole or in part, with notice to the Consultant in the event of breach of this Agreement or for recovery of liquidated damages specified in Clause 7.3 and/or 7.4 above, after issuance of a fifteen day notice to the Consultant indicating the area of breach or incident or delay or error or variation as the case may be.

8. FAIRNESS AND GOOD FAITH

8.1 Good Faith

The Parties undertake to act in good faith with respect to each other's rights under this Agreement and to adopt all reasonable measures to ensure the realization of the objectives of this Agreement.

8.2 Operation of the Agreement

The Parties recognize that it is impractical in this Agreement to provide for every contingency which may arise during the life of the Agreement, and the Parties hereby agree that it is their intention that this Agreement shall operate fairly between them, and without detriment to the interest of either of them, and that, if during the term of this Agreement either Party believes that this Agreement is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but failure to agree on any action pursuant to this Clause shall not give rise to a dispute subject to arbitration in accordance with Clause 9 hereof.

9. SETTLEMENT OF DISPUTES

9.1 Amicable settlement

The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Agreement or the interpretation thereof.

9.2 Dispute Resolution

9.2.1 Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the “Dispute”) shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 9.3.

9.2.2 The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

9.3 Conciliation

In the event of any Dispute between the Parties, either may call upon the Chairperson, Airports Economic Regulatory Authority of India, and the Chairman of the Board of Directors of the Lead Member for amicable settlement, and upon such reference, the said persons shall meet no later than 10 (ten) days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 10 (ten) day period or the Dispute is not amicably settled within 15 (fifteen) days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of settlement within 30 (thirty) days of the notice in writing referred to in Clause 9.2.1 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 9.4.

9.4 Arbitration

9.4.1 In the event of any question, dispute or difference arising under or in connection with (except as to any matters the decision of which is specially provided for by these or the special conditions) the same shall be referred to the sole arbitration of the Chairperson, Airports Economic Regulatory Authority or a person so appointed by him in this regard.

9.4.2 It will be no objection that the arbitrator is a Government Servant or a member/officer of the Authority or that he had to deal with the matters to

which the agreement relates or that in the course of his duties as a Government servant/or a member/officer of the Authority, he has expressed views on all or any of the matters in dispute or difference and the consultant hereby waives the plea of institutional bias. The award of the arbitrator shall be final and binding on the parties to this contract.

- 9.4.3 In the event of the Arbitrator dying, neglecting or refusing to act or resigning to act or resigning or being unable to act for any reason, or his award being set aside by the court for any reason, it shall be lawful for the Chairperson, Airports Economic Regulatory Authority to appoint another arbitrator in place of the outgoing arbitrator in the manner aforesaid.
- 9.4.5 The arbitrator may from time to time with the consent of all the parties to the contract enlarge the time for making the award. The Consultant agrees that an award may be enforced against the Consultant, and their respective assets wherever situated.
- 9.4.6 All disputes connected to or arising in relation to the above process of arbitration shall be restricted to the courts of New Delhi. This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.

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

SIGNED, SEALED AND DELIVERED

SIGNED, SEALED AND DELIVERED

For and on behalf of
Consultant :

For and on behalf of
Airports Economic Regulatory Authority of India

Shri.

Shri

Tel :

Tel :

Fax :

Fax :

In the presence of :

1 :

2.

Terms of Reference

1. Services required

The Consultant shall inter-alia assist AERA in scrutinizing the Annual and Multi Year Tariff Proposals submitted by airport operators, undertake due diligence in respect of various assumptions/projections /forecast made in each proposal, analyze different scenarios, (“What if” analyses) and make suitable recommendations regarding the Tariff to be determined.

2. Delivery Schedule

The Consultant shall be given a period of one year, from the date of award of the Consultancy to accomplish the task mentioned above. AERA may, however, in its discretion extend the delivery period by maximum six months.

3. Scope of Work

The scope of work to be undertaken by the Selected Applicant is given herein after. The same is merely illustrative and not exhaustive. The Selected Applicant shall thus have to consider the required output and include all further incidental activities that may be necessary for efficient and successful implementation and for achieving the ultimate purpose of the assignment awarded pursuant to the RFP.

- (i) Assist the Authority in reviewing the tariff proposals received from the airport operators for identification of information gaps. The tariff proposals include multiyear and annual tariff proposals received/to be received from major airports (eleven in numbers at present; refer to para 1.6.1)
- (ii) Assist the Authority in analyzing the Tariff proposals received from the airport operators with respect to determination of Aggregate Revenue Requirements (Comprising various Regulatory Building Blocks) and yield.
- (iii) Assist the Authority in identifying key aspects/ observations on the proposals for consideration of the Authority, including cleaning up of the tariff financial model viz. model should be capable of performing sensitivity analysis as the Authority may require.
- (iv) Assist the Authority in reviewing impact of change(s) in assumptions/incorporation of Authority’s decisions on various aspects

of the proposals submitted by the airport operators in the financial models, sensitivity analysis etc.

- (v) Imparting training/ capacity building support to the AERA officials on a continuous basis.
- (vi) Assist the Authority in the Stakeholder Consultations, in evaluating the stakeholders' responses and in Authority's decisions thereon.
- (vii) Assist and associate with the Authority towards preparation of documentation for tariff determination.
- (viii) The Authority is mandated to have due stakeholder consultation in discharge of its function under section 13(4) of the Act. Accordingly, the Authority may hold stakeholder meetings. The selected applicant would be required by the Authority to assist it during the same.

Deployment of Personnel *

(Refer Clause 4.2 of the Agreement)

Sl. No.	Designation	Name (Shri.)
1	Team Leader	
2	Economist	
3	Financial Expert	
4	Database Management Expert	

Deployment of the Additional Experts Proposed by the Consultant *

Sl. No.	Designation	Name (Shri.)
1	Additional Expert	
2	Additional Expert	
3	Additional Expert	
4	Additional Expert	
5	Additional Expert	

*- As per Consultant's Proposal submitted in response to the RFP

Fees payable for services rendered

(Refer Clause 6.1)

Name of Activity	Amount (Rs.)
Lump-sum professional fee for carrying out the assignment and related tasks as given in the scope of work (inclusive of all taxes, levies and duties)	

Total in words – _____ only.

Bank Guarantee for performance Security

(Refer clause 7.2)

To

Chairperson

Airports Economic Regulatory Authority of India

In consideration of Airports Economic Regulatory Authority of India, acting on behalf of the Chairperson, (hereinafter referred as the “Authority”,) which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators and assigns) having awarded to M/s, having its office at (hereinafter referred as the “Consultant” which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns), vide the Authority’s Agreement No. dated Value at Rs. (Rupees), (hereinafter referred to as the “Agreement”) a Consultancy Service for Determination of Aeronautical Tariffs for Major Airports – Assistance to Airports Economic Regulatory Authority, and the Consultant having agreed to furnish a Bank Guarantee amounting to Rs. (Rupees) to the authority for performance to the said agreement.

1. We, _____ (Bank/Consultant) do hereby undertake to pay to the Authority an amount not exceeding Rs.....(Rupees.....) against any loss or damage caused to or suffered or likely to be caused to or suffered by the Authority by reason of may breach of any of the terms or conditions contained in the said agreement or on account of delay in completion of work as specified in the agreement.

2. We, (indicate the name of the Bank) do hereby undertake to pay the amount due and payable under this Guarantee without any demur, merely on a demand from the Authority stating that the amount/claimed is due by way of loss or damage caused to or likely to be caused to or suffered by the Authority by reason of breach by the said Consultant of any of the terms and conditions contained in the said Agreement or by reason of the Consultant’s failure to perform the said Agreement. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under the Guarantee shall

be restricted to an amount not exceeding Rs. (Rupees).

3. We undertake to pay to the Authority any money so demanded notwithstanding any dispute or disputes raised by the Consultant in any suit or proceeding pending before any court or tribunal relating thereto, our liability under this present being absolute and unequivocal. The Payment so made by us under this bond shall be a valid discharge of our liability for payment there under and the Consultant shall have no claim against us for making such payment.
4. We, (indicate the name of the Bank) further agreed that the Guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said agreement and that it shall continue to be enforceable till all the dues of the Authority under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till the Authority certifies that the terms and conditions of the said agreement have been fully and properly carried out by the said Consultant and accordingly discharges this Guarantee. Unless a demand or claim under this Guarantee is made on us in writing on or before a period of one year and eight months from the date of this Guarantee, we shall be discharged from all liabilities under this Guarantee thereafter.
5. We, (indicate the name of Bank), further agree with the Authority that the Authority shall have the fullest liberty without our consent and with affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extend time of performance by the said Consultant from time to time or to postpone for any time or from time to time any of the powers exercisable by the authority against the said Consultant and to forbear or enforce any the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Consultant or for any forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Consultant or any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have the effect of so relieving us.
6. This Guarantee will not be discharged due to the change in the constitution of the Bank or the consultant(s).
7. We, (Indicate the name of Bank) lastly undertake not to revoke this Guarantee during its currency except with the previous consent of the authority in writing.

8. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to Rs. (Rupees) only. The Bank shall be liable to pay the said amount or any part thereof only if the Authority serves a written claim on the Bank in accordance with paragraph 2 hereof, on or before [(indicate date falling One year and eight months after the date of this Guarantee)].

Dated, the day of2012

For.....

(Name of Bank)

(Signature, Name and Designation of the Authorised Signatory)

Seal of the Bank:

NOTES :

- (i) The Bank Guarantee should contain the name, designation and code number of the officer(s) signing the Guarantee.
- (ii) The address, telephone no. and other details of the Head Office of the Bank as well as of issuing Branch should be mentioned on the covering letter of issuing Branch.

Format for Corporate / Bank Guarantee

(Refer clause 7.1)

To

Chairperson,

Airport Economic Regulatory Authority of India

In consideration of Airports Economic Regulatory Authority of India, acting on behalf of the Chairperson, (hereinafter referred as the “Authority”,] which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators and assigns) having awarded to M/s....., having its office at..... (hereinafter referred as the “Consultant” which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns), vide the Authority’s Agreement No. dated Valued at Rs.....(Rupees.....), (hereinafter referred to as the “Agreement”) a Consultancy Service for Determination of Aeronautical Tariffs for Major Airports – Assistance to Airports Economic Regulatory Authority , and the Consultant having agreed to furnish a Corporate/ Bank Guarantee amounting of Rs (Rupees.....) to the Authority for performance of the said agreement.

1. We,_____ (Bank/Consultant) do hereby undertake to pay to the Authority an amount not exceeding Rs.....(Rupees.....) on account of liquidity damages for delay or error or variation as the case may be, which the Authority may determine the said agreement.
2. We,_____ (Bank/Consultant) do hereby undertake to pay the amount due and payable under this Corporate Guarantee without any demur, merely on a demand from the Authority stating that the amount/claimed is due by way of loss or damage caused to or likely to be caused to or suffered by the Authority by reason of breach of any of the terms or conditions contained in the said Agreement or by reason of Consultant’s/our failure to perform the said Agreement. Any such demand made on us shall be conclusive as regards the

amount due and payable by us under this Guarantee. However, our liability under this Corporate Guarantee shall be restricted to an amount not exceeding Rs. (Rupees).

3. We, _____ (Bank/ Consultant) undertake to pay to the Authority any money so demanded notwithstanding an dispute or disputes raised in any suit or proceeding pending before any court of tribunal relating thereto, our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be a valid discharge of our liability for payment there under.

4. We, _____ (Bank/Consultant) further agree that the Corporate Guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said agreement and that it shall continue to be enforceable till all the dues of the Authority under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till the Authority certifies that the terms and conditions of the said agreement have been fully and properly carried out by the said Consultant and accordingly discharges this Guarantee. Unless a demand or claim under this Guarantee is made on us in writing on or before of one year and eight months from the date of this Guarantee, we shall be discharged from all liability under the Corporate/Bank Guarantee thereafter.

5. We, _____ (Bank/Consultant) further agree with the Authority that the Authority shall have the fullest liberty without our consent and without affecting in any manner or obligations hereunder to vary and of the terms and conditions of the said Agreement or to extend time of performance of the Agreement from time to time or to postpone for any time or from time to time any of the powers exercisable by the Authority against the said Agreement and to forbear or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted or for any forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Consultant or any such

matter or thing whatsoever which under the law relating to sureties to sureties would, but for this provision, have the effect of so relieving us.

6. This Guarantee will not be discharged due to the change in the constitution of the Bank/ Consultant(s).

7. We, lastly undertake not to revoke this Guarantee during its currency except with the previous consent of the Authority in writing.

8. For the avoidance of doubt, our Liability under this Guarantee shall be restricted to Rs. (Rupees) only. We, shall be liable to pay the said amount or any part thereof only if the Authority serves a written claim on us in accordance with paragraph 2 hereof, on or before (indicate date falling One year and **eight months** after the date of this Guarantee)].

Dated, the day of2012

For

(Signature, Name and Designation of the Authorised Signatory)

Seal of the Consultant : or the Bank as the case may be