



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

BIDDING DOCUMENT FOR
THE OPERATION AND MANAGEMENT OF
BIRGUNJ ICD

(Contract No.:NITDB- O&M-LICB/ FY 2019/020 - 01)

December 2019



Government of Nepal
Ministry of Industry, Commerce & Supplies
Nepal Intermodal Transport Development Board (NITDB)
Kupondole, Lalitpur, Nepal

INVITATION FOR BIDS

(First date of publication: 10th December, 2019 (Mangsir 24, 2076 B.S.)

Contract No. : NITDB- O&M-LICB/ FY 2019/020 - 01
Name of the Contract : Operation and Management of Inland Clearance Depot (ICD) at Birgunj
Deadline of bid submission : On or before 12:00 Hours of 24th January, 2020 (Magh 10, 2076)

1. Government of Nepal (GON) resolved to encourage greater participation of the private sector in the development of an open and dynamic economy in Nepal. This was to be achieved by privatization of public enterprises, enlarging the role of private sector in the economy and encouraging private sector investment. In accordance with this policy, ICDs located at Bhairahawa, Biratnagar, and Sirsiya (Birgunj) were leased out by the GoN and the operation is going well; whereas ICD at Kakarbhitta (Mechi) is operated by NITDB as an interim arrangement, which also is in the process of leasing out to the private sector.
2. Pursuant to a decision made by the Board, as the current lease period of ICD at Birgunj is about to expire in a few months time, the NITDB has decided to lease the Assets located in the ICD at Birgunj to the private sector leasehold operator for a period of 5 (Five) years; and, therefore, invites sealed single stage bids comprising a Technical proposal and Financial proposal in separately sealed envelopes, and then both sealed envelopes to be enclosed in one outer sealed envelope/box from eligible private sector bidders for the Operation and Management of Inland Clearance Depot (ICD) at Birgunj.
3. At first, the Technical proposals will be duly opened and evaluated. The Financial proposals of only the technically qualified bidders will be duly opened and evaluated. The relative weights assigned to the Technical and Financial proposal shall be in the ratio of 60:40. The NITDB select the bidder that has obtained the highest composite score (Technical + Financial) as the highest evaluated bidder for awarding the contract.
4. Bidding will be conducted through the Limited International Competitive Bidding (LICB) procedures following NITDB's Terminal Leasing Out Regulation, 2070.
5. Bidders with the following key qualifications are eligible to participate in this bidding: Participation is limited to Nepalese and Indian Company as per the Nepal-India Rail Services Agreement (RSA) Clause 4.1, 4.2 and Letter of Exchange signed between the two Governments on July 4, 2004. Furthermore, all bidders should have:
 - Management/Operational Experience: Experience in warehousing/transportation/ clearing and forwarding/ stevedoring, of minimum Five years, and; Specific experience in port management/Freight Station terminal operation management, of minimum three years (3 years).
 - Financial Strength & Resources : Average annual Turnover for the last three (3) years of minimum NRs 600 million and Volume of Liquid Assets and/ or credit facilities of minimum NRs 200 million Only:
 - In case of joint venture between two or more companies: Validity of JV arrangement.
6. In case of a foreign Bidder, agent's (if any) name, address, acceptance letter for being an agent should be provided while purchasing the bid.
7. Bids must be valid for a period of 120 days from the bid opening date and must be accompanied by a bid security of not less than Rs.50,100,000 (Rupees fifty million one hundred thousand Only), issued in favour of NITDB by any commercial bank ('A' class) of Nepal. The bid security issued by any foreign Bank outside Nepal must be counter guaranteed by any commercial bank ('A' class) of Nepal. The bid security shall be submitted along with technical proposal **and should be valid for at least 150 days from the deadline of bid submission.**

If bidder wishes to submit the Bid Security in the form of cash, the cash should be deposited in Current Account No.: 0100200144668037 (Agricultural Development Bank Ltd., Ramshahpath, Kathmandu) of Nepal Intermodal Transport Development Board, and the receipt of the deposited amount of cash should be submitted along with the technical proposal.
8. A Pre-Bid Meeting shall be held at the office of Nepal Intermodal Transport Development Board, Kupondole, Lalitpur on 11:00 hrs on **5th January 2020 (Poush 20, 2076)**. The bidder or his authorized representative is encouraged to attend the pre-bid meeting. The purpose of the meeting is to clarify any issue regarding the bid documents and opening of bids
9. To obtain further information on the bidding documents, bidders should contact:

"Executive Director
Nepal Intermodal Transport Development Board (NITDB)
Kupondole, Lalitpur, Nepal,
Phone No: 977-1-5550236, Fax: 977-1-5550218 E-mail: nitbktm@nitdb.gov.np"
10. To purchase the bidding documents, eligible bidders should:
 - write to above office or its Branch office at Birgunj Dry port (ICD), Birgunj Metropolitan city – 25, Sirsiya, Parsa, Nepal.
 - request for the bidding documents for "NITDB- O&M-LICB/ FY 2019/020 –01" along with non-refundable payment of NRs. 25,000.00 (Twenty Five thousand only) which should be deposited in NITDB's A/C no. 1202002-001-007-524 NPR at Nepal Rastra Bank, Banking Office, Thapathali, Kathmandu or a demand draft for equivalent amount drawn in favour of Nepal Intermodal Transport Development Board issued by any commercial bank ('A' class) of Nepal accompanied by copy of company registration certificate. The bidding document shall be available on or before 23rd January 2020 (**Magh 09, 2076**) during office hours, to the eligible bidders.
11. Bid must be submitted:
 - To the address; Nepal Intermodal Transport Development Board (NITDB), Kupondole, Lalitpur, Nepal
 - On or before the deadline: **12:00 Hrs. of 24th January 2020 (Magh 10, 2076)**

Bids will be opened in the presence of bidders' representatives who choose to attend at 14:00 Hrs of **24th January 2020 (Magh 10, 2076)** at the office of NITDB.
12. If the last date of submission and opening falls on a government holiday then the next working day shall be considered the last day.
13. The employer reserves the right to accept or reject any or all Bid(s) without assigning any reason, whatsoever.
14. Bidders are strongly advised to visit the site on their own, and, to assess the actual site conditions before submitting their Bid.
15. NITDB will not be responsible for any costs or expenses incurred by Bidders in connection with the preparation or delivery of Bids.

ABBREVIATIONS AND DEFINITIONS

Applicant	:	Any company or joint venture who submits the proposal to qualify for ICD operation under lease arrangement.
Bidder	:	Bidder means either a company or joint venture of companies.
Board	:	Nepal Intermodal Transport Development Board
CFS	:	Container Freight Station
DOC	:	Department of Customs.
Document	:	Document means Bidding Document
Employer	:	Employer means Nepal Intermodal Transport Development Board
FEU(s)	:	Forty Equivalent Unit(s)
GOI	:	Government of India
GON	:	Government of Nepal
Guarantee	:	Guarantee also refers as Security
ICD	:	Inland Clearance Depot (ICD)
IR	:	Indian Railways
ISO-Container:		The standard container approved by International Standards Organization for use in movement of international cargoes. These containers manufacture in two size, viz. 20' x 8'x 8.5' and 40'x 8'x 8.5
DSO Container:		Containers built in accordance with the specifications of Domestic Standard Organization.
Lessee	:	Lessee means the company who operates the facilities.
Lessor	:	Lessor means the NITDB.
LOE	:	Letter of Exchange
MOICS	:	Ministry of Industry, Commerce and Supplies
MOF	:	Ministry of Finance
NITDB		Nepal Intermodal Transport Development Board
NRs	:	Nepalese Rupees
NST	:	Nepal Standard Time
RSA	:	RSA means Railway Services Agreement Signed between GON and GOI, dated 21 May 2004
Terminal	:	Terminal means ICD
TEU	:	Twenty Equivalent Unit
TMC	:	TMC stands for Terminal Management Company, which means a company signing the contract for operation and management of ICD.
USD/US\$:	United States Dollar

Section 1 - Instructions to Bidders

This section specifies the procedures to be followed by Bidders in the preparation and submission of their Bids. Information is also provided on the opening and evaluation of bids and on the award of contract.

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Section 1 - Instructions to Bidders

A. INTRODUCTION

- 1. Scope of Bid**
 - 1.1 In connection with the Invitation for Bids indicated in the Section 2 - Bid Data Sheet (BDS), the Employer, as indicated in the BDS, issues these Bidding Documents requesting the proposal for the Operation and Management of Inland Clearance Depot (ICD). The name, identification, and number of contracts of the Limited International Competitive Bidding (LICB) to Nepalese and Indian Companies as per the provision of RSA and Letter of Exchange relating to RSA are provided in the BDS.
- 2. Introduction**
 - 2.1 This bid document (hereafter referred to as the Document) has been prepared by Nepal Intermodal Transport Development Board (hereinafter referred to as the NITDB) and the information contained in this document has been developed from publicly available sources. This document enables the bidders to participate in the bidding process for leasing the assets and right of operation and management of the Inland Clearance Depot (ICD) located as indicated in the BDS. This document is solely for use by those companies or joint venture companies who are interested in participating in the final bidding process for leasing the assets and for securing the right of operation and management of the Inland Clearance Depot (ICD) complex. The document has been prepared to inform bidders and to encourage them to make their own evaluation of the assets and facilities of the ICD complex. It does not claim to contain all of the information that a prospective investor may require. In all cases, bidders should conduct their own investigation and analysis of the assets, facilities and relevant data set out in this document.
- 3. Confidentiality**
 - 3.1 This document is confidential to the person or its agent who has paid the initial fee and applied for this document. All information contained in the bid and provided by NITDB shall be treated as confidential by the person. In accepting delivery of this Document, the recipient acknowledges and agrees to observe such confidentiality at all times and undertakes not to use or disclose any such information other than for the sole purpose of enabling the person to evaluate the undertaking and to make a set of proposals offer for the lease of assets.
- 4. Status of The Document**
 - 4.1 This document is not an invitation by NITDB to sell its assets and facilities in the ICD but rather a request for proposal from those interested persons to lease the assets and to provide permission by agreement for the operation and management of the ICD. NITDB intends to complete the bid process through the negotiation on final terms and condition with one bidder at a time. The NITDB reserves for itself the option of negotiating final terms and conditions at any time with the first, second or third place ranking bidders in the bidding process by first commencing negotiations with the first place ranking bidder, then the second, and so on. NITDB shall be free to finalize the lease procedure in its sole and clear discretion and may determine or modify procedures relating to the lease of ICD. However, NITDB, unless otherwise warranted by some unforeseen and extreme, adverse development, will not terminate or modify the bidding process as described in this document.
- 5. Disclaimer**
 - 5.1 NITDB makes no representation or guarantee as to the accuracy and completeness of the information and/or projections contained in this document or provided to any party by NITDB or any other

person. NITDB has not independently verified the information contained in this document. NITDB shall have no liability for any statements, opinions, information or matters (expressed or implied) arising out of, contained in or derived from, or for any omission from, this document or any other written or oral communications transmitted to the party in relation to the assets of the ICD at Birgunj.

6. Status Of Lease

- 6.1 The NITDB has decided to lease the premises and assets located in the ICD at Birgunj to the private sector leasehold operator for the period of 5 years. Customs clearance operations shall be conducted within the facilities by the Customs office. However, the Terminal Management Company (TMC) which is selected for ICD management may conduct its operations and commercial services within the ICD complex pursuant to a lease agreement with NITDB, and under this lease agreement TMC will enjoy the right of use and full commercial benefit from those assets and property as specified in the lease agreement. Draft of the proposed lease agreement is presented in Section 6 of the bid document. A Layout Plan and description of the ICD is contained in Section 5 section of the bid document.
- 6.2 The proposed lease agreement restricts the use of assets made available to the successful bidder to any purposes other than specific purposes, and the assets made available must be used solely for terminal operations. The continued beneficial use of these assets will be conditioned by the efficient, safe and environmentally sound provision of terminal services specified along with adequate maintenance of the ICD. All commercial operations including equipment and other infrastructure related to ICD conducted within the terminal will be regulated by NITDB, an independent authority established under the NITDB Formation Order, 1997 (B.S. 2054), Published on Nepal Gazette dated Magh 06, 2054

B. LEASE PROCESS

7. Introduction

- 7.1. NITDB holds on behalf of GoN the property and equipment located at the ICD as described in clause no 5.12 of Section 5 of the bid document. The NITDB retains clear and uncontested possessory rights over these assets without prejudice from liens, encumbrances and/or conflicting claims. The assets under its charge include an ICD designed to facilitate the storage and transfer of cargoes and the interchange of transportation facilities serving the ICD.
- 7.2. The NITDB is authorized to procure under defined terms and conditions to negotiate and enter into lease agreement under which the Inland Clearance Depot (ICD) will be leased out, operated and managed.
- 7.3. Subsequent to the award of leasehold rights to the Lessee all matters concerning the enforcement of terms and conditions contained in the final agreement between the parties will be enforced by both the parties. NITDB will also exercise all regulatory rights and powers over the Lessee entrusted to it by the "Nepal Intermodal Transport Development Board (NITDB) Formation Order 2054 B.S." published on Nepal Gazette dated 2054 Magh 06.
- 7.4. Pursuant to a decision made by the GoN, the NITDB has advertised its resolution to lease the Assets located in the ICD on the date as indicated in the **BDS**.

8. Nature Of Lease

- 8.1 The NITDB anticipates that the objectives of efficient and cost

effective operation of ICD will be achieved by awarding leasehold on the property and equipment including rights to operate and manage the property and carryout operation and management of the ICD by the private sector leasehold operator for a period as indicated in the **BDS**.

9. Access To Further Information

- 9.1 It is recognized that the information contained in this Document may be inadequate and additional information may have to be gathered to enable potential bidder to make its own assessment of the ICD complex and formulate bid. If, after reviewing this Document, the prospective bidder wishes to obtain additional information, the bidder may proceed further with a view to making a formal bid proposal with the following procedure:
- (a) Application must be made to: the address given in the **BDS**. The application should indicate the willingness to participate in the bidding process. A blank application form is attached in Section 4, Bidding forms, Letter of Bid of the bid document.
 - (b) A confidentiality agreement must be completed and submitted to the address given in the **BDS**. A confidentiality agreement form is attached at Section 6.
 - (c) A letter of authorisation by the concerned company to sign the confidentiality agreement must be submitted to the above address.
- 9.2 On completion of these formalities the bidders will be given access through NITDB to the premises, facilities and developed site of the ICD and related studies and other background materials which may be relevant to bid preparation. Interested bidders should not make any direct approach, to NITDB or their employees without first completing above formalities.

10. Bidding Process

- 10.1 Single Stage Two Envelope sealed bid is invited from the eligible bidders for the Operation and Management of ICD. Technical and Financial proposals are invited in separate sealed envelopes/Box and these separate envelopes are to be put together into a single sealed envelope/Box and submit the single envelope/box.

10.2 The bidding process will be as follows:

A. Bid Submission:

- (a) All prospective companies or joint venture of companies of Nepal and India with relevant experience and background in terminal operations and management are permitted to participate in the bidding process. Once bids have been received, NITDB shall evaluate bids based on the applicable criteria and methods such as provisions referred herein, regulation prepared by NITDB and other applicable relevant documents in order to select the responsive bidder.
- (b) Electronic bid submission shall NOT be permitted.
- (c) The separate sealed envelopes for Technical and Financial proposals are to be kept in a single sealed envelope/Box and to be delivered in a sealed package. For the sealed technical proposal, the sealed package should contain a technical proposal that would include the Bidders Qualification as well. The original and all copies of the technical proposal and financial proposal shall be placed in a separate sealed envelope clearly marked "Technical Proposal" and "Financial Proposal", and also "Original" and

"Copy" as the case may be. Thereafter the envelopes shall be placed into an outer sealed package/Box bearing the submission address and other information indicated in this document and clearly marked:

- i) in case of outer envelope/box "DO NOT OPEN EXCEPT IN THE PRESENCE OF NITDB OFFICIALS BEFORE DAY AND DATE OF OPENING OF THE BID."
 - ii) in case of Technical Proposal envelope/box " DO NOT OPEN EXCEPT IN THE PRESENCE OF NITDB OFFICIALS BEFORE DAY AND DATE OF OPENING OF THE BID."
 - iii) in case of Financial Proposal envelope/box"DO NOT OPEN, EXCEPT IN THE PRESENCE OF THE BID EVALUATION COMMITTEE."
- (d) Proposal must be made in the form set out in Section 4, **Bidding Forms** of the bid document, and must contain all of the information required by each part of the prescribed bidding forms. Bidders are requested to comment on the bidding document and a particular performance standard during pre-bid meeting to be held in NITDB, notified through Bid Notice. Completed proposals must be delivered to the address as indicated in the **BDS** not later than the date and time indicated in the **BDS**.

B. Opening of Bids

- (a) Firstly, the outer envelope/box will be opened and then Technical Proposals will be opened in the presence of the Bidder's representatives/agents who choose to attend at the prescribed time and date and at the address named in the Bidding Document, following the Instruction to Bidders or at the address given in the letter of invitation. The opening of Bid will not be postponed or cancelled due to absence of any or all the Bidder or his representatives/agents.
- (b) The Technical proposal will consist of a technical bid only, without any reference to prices. Financial proposal shall be in conformity with the format for Financial Proposal of the bid document.
- (c) Technical proposal will be opened and evaluated. Following evaluation by the NITDB of the Technical proposals, the Financial proposals of the technically responsive and qualified bidders will be duly opened in the presence of bidders/authorised representatives who wish to attend. Only the Financial proposals of those bidders submitting a technically responsive and qualified Technical proposal will be opened. The Financial proposals of bidders who have not qualified in the technical evaluation shall be returned unopened.
- (d) The evaluation and decision of NITDB following negotiation

with the highest evaluated bidder or other bidders , if necessary, and signing of agreement shall be final and binding on the bidders and NITDB.

- (i) This Document and the process it describes shall be construed by and governed in accordance with the Terminal Leasing out Regulation 2070 of NITDB and other applicable laws of Nepal.
- (j) The bidding process is subject to the provisions of clause ITB 4.1 of this document.

10.3 Bidders will be notified when they are qualified in the Technical proposal for the opening of the Financial Proposal.

11. Leasehold Fee

11.1 Leasehold fee shall comprise a fixed component of minimum annual leasehold fee on base case traffic volume provided in the BDS and fixed amount of revenue sharing on contribution margin for traffic volume exceeding base case limits as provided in the BDS. The bidder is allowed to charge within the framework of ceiling of tariff as prescribed in sub-section 5.2 of Section 5 of the bidding document. Any bid received by quoting the charges below than ceiling referred in sub-section 5.2 of Section 5 shall not be considered as a factor for evaluation of bid. **The charges would have an increment of 10 percent in every two years to accommodate inflation figures and the TMC has to consider this element for adjustment while proposing the leasehold fee.** In case supplementary or new activity in the ICD started is charged by the TMC, the income thus generated from it will be subject to the additional rent payable to the NITDB. However the exact percentage of income payable to the NITDB will be negotiated and agreed between the NITDB and TMC before commencement of the chargeable supplementary or new activity.

12. Evaluation of Technical and Financial Proposal

Based on the provision referred herein, the evaluation committee formed as per the Terminal Leasing out Regulation 2070 will determine whether the Technical and Financial proposals are complete correct, and substantially responsive. The NITDB may select the bidder submitting the highest scoring bid in the weighted and combined evaluation of the Technical and Financial proposal. Financial offers (Fixed component of the Minimum Leasehold fee) will be evaluated based on discounted present value using a discounted rate of 10 percent per annum excluding VAT.

13. Negotiations

13.1 Negotiations with the highest evaluated bidder will be held at the address indicated in the BDS. These negotiations will be limited to the points that are not possible to pre-establish or are not established in the bidding documents. These negotiations should be carried out with transparency and they should not result in material changes on the basis on which the bidding was carried out. Negotiation will include a discussion on the technical proposal regarding overall plan. The negotiation will conclude with a reviewed draft form of contract to complete negotiations. NITDB and highest evaluated bidder will initial the agreed draft contract. Negotiation shall be based on all those issues contained in the bid of the successful bidder. If negotiations fail, NITDB will invite the second highest evaluated bidder and so on for negotiation.

14. Signing the Agreement

14.1 Upon the successful completion of negotiation as per ITB 13.1, NITDB will issue, within 7 (seven) days, of the completion of negotiation a Letter of Acceptance to the selected Bidder expressing its intent to approve the proposal of the selected bidder.

The winning bidder shall then furnish to NITDB an irrevocable and Unconditional Performance Guarantee as per Section 6 of this document for the amount and in the form stipulated in the Lease Agreement and come forth to sign the Agreement within 15 (fifteen) days of the issuance/delivery of the Letter of Acceptance. Failure of the successful bidder to comply with acceptance of negotiation invitation or the furnishing of required Performance Guarantee within the stipulated time shall cause annulment of the award, forfeiture of bid security and any such remedy NITDB may take, and NITDB may resort to award the contract to the next highest evaluated bidder.

- 15. Registration of Terminal Management Company** 15.1 As a pre-condition to the final award of the lease, the winning bidder represented by or authorized to bid on behalf of the winning bidder must fulfill the provision of RSA 4.2 (JV provision in case of Indian company) and have to register as a company under the prevailing laws of Nepal before signing of the lease agreement.
- 16. Guaranties** 16.1 NITDB is putting the premises, equipment and facilities on lease. It is not proposed that NITDB will provide any guarantees, representations or undertakings in relation to the business of the ICD. Potential lessees must satisfy themselves as to the business and operation of the ICD for the purpose of the bid.
- 17. Sections of Bidding Document** 17.1 The Bidding Document consist of Sections indicated below, and shall be read in conjunction with any Addenda issued in accordance with ITB 19:
- Section 1 - Instructions to Bidders (ITB)
 - Section 2 - Bid Data Sheet (BDS)
 - Section 3 - Evaluation and Qualification Criteria (EQC)
 - Section 4 - Bidding Forms (BDF)
 - Section 5 - Lessor's Requirements and Business Information
 - Section 6 - Sample Forms of Letter of Contract Confirmation and Acceptance, Confidentiality Agreement, Lease Agreement, Agreement between Customs Office and ICD Operator, Security Forms, and Format of Financial Proposal
- 17.2 The Employer is not responsible for the completeness of the Bidding Document and their Addenda, if they were not obtained directly from the source stated by the Employer in the Invitation for Bids.
- 17.3 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Document. Failure to furnish all information or documentation required by the Bidding Document may result in the rejection of the bid.
- 18. Clarification of Bidding Document, Site Visit, Pre-Bid Meeting** 18.1 A prospective Bidder requiring any clarification of the Bidding Document shall contact the Employer in writing at the Employer's address indicated in the BDS. The Employer will respond as per ITB 18.6. Should the Employer deem it necessary to amend the Bidding Document as a result of a request for clarification, it shall do so following the procedure under ITB 19.
- 18.2 The Bidder is advised to visit and examine the Site and its surroundings and obtain for itself on its own responsibility all information that may be necessary for preparing the bid and entering into a contract. The costs of visiting the Site shall be at the Bidder's own expense.

- 18.3 The Bidder and any of its personnel or agents will be granted permission by the Employer to enter upon its premises and lands for the purpose of such visit, but only upon the express condition that the Bidder, its personnel, and agents will release and indemnify the Employer and its personnel and agents from and against all liability in respect thereof, and will be responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the inspection.
- 18.4 The Bidder's designated representative is invited to attend a pre-bid meeting, as provided for in the BDS. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.
- 18.5 The Bidder is requested, as far as possible, to submit any questions in writing, to reach the Employer not later than 20 (twenty) days before the pre-bid meeting.
- 18.6 Minutes of the pre-bid meeting, including the text of the questions raised, without identifying the source, and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Bidders who have acquired the Bidding Document in accordance with ITB 18.3. Any modification to the Bidding Document that may become necessary as a result of the pre-bid meeting shall be made by the Employer exclusively through the issue of an addendum pursuant to ITB 19.
- 18.7 Non attendance at the pre-bid meeting by a bidder or its designated representative or agent will not be a cause for disqualification of a Bidder.

19. Amendment of Bidding Document

- 19.1 At any time prior to the deadline for submission of bids, the Employer may amend the Bidding Document by issuing addenda.
- 19.2 Any addendum issued shall be part of the Bidding Document and shall be communicated in writing to all who have obtained the Bidding Document from the Employer in accordance with ITB 18.3.
- 19.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their bids, the Employer may, at its discretion, extend the deadline by a maximum of 15 (fifteen) days for the submission of bids pursuant to ITB Clause 33.2.

C. Preparation of Bids

20. Cost of Bidding

- 20.1 The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Employer shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

21. Language of Bid

- 21.1 The Bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Employer, shall be written in the language specified in the BDS. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified in the BDS, in which case, for purposes of interpretation of the Bid, such translation shall govern.

22. Technical Proposals

- 22.1 The Technical Proposal shall comprise the following:

- (a) Letter of Bid;
 - (b) Alternative bids, if permissible, in accordance with ITB 24;
 - (c) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB 31.2;
 - (d) documentary evidence in accordance with ITB 28 establishing the Bidder's qualifications to perform the contract;
 - (e) Technical Proposal in accordance with ITB 27;
 - (f) In case of a foreign Bidder who has appointed an Agent in Nepal, name and address of the agent, commission to be received by the agent, currency, and mode of payment, any other conditions with the agent, in case of a local agent attested copy of its Permanent Account Number and acceptance letter for being an agent and other necessary details.
 - (g) **Bid Security, in accordance with ITB 30**
 - (h) Any other document required in the BDS.
- 23. Bidding Forms** 23.1 The bidding forms as referred in Section 4 of bid document shall be prepared using the relevant forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.
- 24. Alternative Bids** 24.1 Alternative bids shall not be considered.
- 25. Financial Proposals** 25.1 Bidders qualifying in the Technical proposal evaluation will be notified of the date and time of opening of the Financial proposals. The Bidder's Financial Proposal should contain information as required in Financial Format of Section 6 of the bid document. The rates and offer quoted by the Bidder in the schedule of charges and in the fixed annual lease hold fee table shall conform to the requirements specified below.
- 25.2 The Financial Proposal shall comprise the following:
- (a) Letter of Bid;
 - (b) written confirmation authorizing the signatory of the Bid to sign the Financial Proposal on behalf of the Bidder, in accordance with ITB 31.2;
 - (c) Any other document required as in the BDS.
- 25.3 The Bidder shall fill the fixed annual leasehold fee table.
- 25.4 The Bidder shall through its financial proposal accept the amount of Revenue to be shared to NITDB exceeding base case traffic volume.
- 25.5 The Bidder shall provide other details and information required in the Financial Format of Section 6 of the bid document
- 26. Currencies of Bid and Payment** 26.1 The unit rates and the prices shall be quoted by the bidder entirely in the currency specified in the BDS.
- 27. Documents Comprising the Technical Proposal** 27.1 The Bidder shall furnish a Technical Proposal in sufficient detail to demonstrate the adequacy of the Bidders' proposal to meet the all requirements as per criteria stipulated in Section – 3 of the bid document.

- 28. Documents Establishing the Qualifications of the Bidder**
- 28.1 To establish its qualifications in accordance with Section 3 (Evaluation and Qualification Criteria) the Bidder shall provide the information requested in the corresponding information sheets.
- 28.2 Domestic Bidders, individually or in joint ventures, applying for eligibility for domestic preference, if mentioned in the BDS shall supply all information required to satisfy the criteria for eligibility as described in ITB 45.
- 29. Period of Validity of Bids**
- 29.1 Bids shall remain valid for the period specified in the **BDS**. A bid valid for a shorter period shall be rejected by the Employer considering it as non-responsive.
- 29.2 In exceptional circumstances, prior to the expiration of the bid validity period, the Employer may request Bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. If a bid security is requested in accordance with ITB 17, it shall also be extended by the same period beyond the deadline of the extended validity period. A Bidder may refuse the request without forfeiting its bid security. A Bidder granting the request shall not be required or permitted to modify its bid.
- 30. Bid Security**
- 30.1 The bidder shall furnish as part of its bid, in original form, a bid security as specified in **BDS**, in the form of bank guarantee as prescribed in bidding document. **The bid security shall be submitted along with Technical Proposal and should be valid for at least 150 days from the deadline of bid submission.**
- 30.2 Any bid not accompanied by an enforceable and compliant bid security, if one is required in accordance with ITB 30.1, shall be rejected by the Employer as non responsive.
- 30.3 The bid security of the unsuccessful Bidder shall be returned as promptly as possible once the successful Bidder has signed the Contract and furnished the required performance security.
- 30.4 The bid security may be forfeited:
- (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Letter of Bids, except as provided in ITB 30.2 or
 - (b) if the successful Bidder fails to:
 - (i) sign the Contract in accordance with ITB 52;
 - (ii) furnish a performance security in accordance with Section 6 of this document
 - (c) Any attempt by a Bidder to influence the Employer in the evaluation of the bids or Contract award decisions may result in the rejection of its bid and forfeit of the bid security
- 30.5 **If a bidder needs to form a JV as per provision of the bidding document but the JV has not been legally constituted at the time of bidding, the Bid Security shall be in the name of bidder(s) who is/are initially participating in the bid process.**
- 31. Format and Signing of Bid**
- 31.1 The Bidder shall prepare one original of the documents comprising the bid and clearly mark it "ORIGINAL". In addition, the Bidder shall submit copies of the bid, in the number specified in the BDS and clearly mark them "COPY." In the event of any discrepancy between

the original and the copies, the original shall prevail.

- 31.2 The original and all copies of the bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written confirmation as specified in the BDS and shall be attached to the bid. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the bid, except for un-amended printed literature, shall be signed or initialed by the person signing the bid.
- 31.3 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the bid.

D. Submission and Opening of Bids

- 32. Sealing and Marking of Bids**
- 32.1 The Bidder shall enclose the original and all copies of the bid, in separate sealed envelopes, duly marking the envelopes as "ORIGINAL", and "COPY." These envelopes containing the original and the copies shall then be enclosed in one single envelope/Box.
- 32.2 The inner and outer envelopes/Box shall:
- (a) bear the name and address of the Bidder;
 - (b) be addressed to the Employer in accordance with BDS 32.2;
 - (c) bear the specific identification of this bidding process indicated in the BDS 1.1; and
 - (d) bear a warning not to open before the time and date for bid opening.
- 32.3 If all envelopes/Box are not sealed and marked as required, the Employer will assume no responsibility for the misplacement or premature opening of the bid.
- 33. Deadline for Submission of Bids**
- 33.1 Bids must be received by the Employer at the address and no later than the date and time indicated in the BDS.
- 33.2 The Employer may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Document in accordance with ITB 19, in which case all rights and obligations of the Employer and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.
- 34. Late Bids**
- 34.1 The Employer shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB 33. Any bid received by the Employer after the deadline for submission of bids shall be declared late, rejected, and returned unopened to the Bidder.
- 35. Withdrawal, and Modification of Bids**
- 35.1 A Bidder may withdraw or modify its bid after it has been submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITB 31.2, (except that withdrawal notices do not require copies). The corresponding modification of the bid must accompany the respective written notice. All notices must be:
- (a) prepared and submitted in accordance with ITB 31 and ITB 32 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked "WITHDRAWAL," or "MODIFICATION;" and

(b) received by the Employer prior to the deadline prescribed for submission of bids, in accordance with ITB 33.

35.2 Bids requested for "withdrawal" in accordance with ITB 35.1 shall be returned unopened to the Bidders.

35.3 No bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Letter of Bid or any extension thereof. If such a request for withdrawal or modification is made by a Bidder contrary to this provision, its bid security shall be forfeited in accordance with ITB Clause 30.4 (a).

36. Bid Opening

36.1 After opening the main outer sealed envelope, Employer will verify if the two proposals (Technical and Financial) are in two different envelopes/box and well sealed. Out of two different sealed envelopes, the Employer shall first open the bids (Technical proposals) at the address, date and time specified in the BDS in the presence of Bidders' designated representatives who choose to attend. As to the Financial proposal, sealed proposal shall be kept safely without opening.

36.2 First, envelopes marked "WITHDRAWAL" shall be opened and read out and the envelope with the corresponding bid shall not be opened, but set aside and which will be eventually returned to the Bidder. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening. No bid substitution shall be permitted. Envelopes marked "MODIFICATION" shall be opened and read out with the corresponding bid. No bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at bid opening. Only envelopes that are opened and read out at bid opening shall be considered further.

36.3 On the day of opening the envelope, the Employer shall prepare a record of the bid opening that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal or modification; and the presence or absence of a bid security, if one was required. The Bidders' representatives who are present shall be requested to sign the record. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders.

36.4 The NITDB will open the Financial proposals of bidders who have qualified in the Technical proposal as mentioned in **BDS** in presence of the Bidder's authorized representative/s who choose to attend at the time, date and place specified in the notification for opening the Financial proposals. Bidder's representatives shall sign a register as proof of their attendance. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders.

36.5 Bidders' names, bid prices, alternative bid price (if any without putting any condition), the presence or absence of the requisite bid security, and other such details the NITDB, as its discretion, may consider to be appropriate, will be announced at the opening of the Financial proposals.

a) To assist in the examination, evaluation, and comparison of

bids, the NITDB may at its sole discretion, ask any Bidder for clarification of the Bidder's Technical and Financial Proposal. The request for clarification and the response shall be in writing or by cable or facsimile, but no change in the price or substance of the financial proposal shall be sought, offered, or permitted except as required to confirm the correction of arithmetic errors discovered by the NITDB in the evaluation of the bids in accordance with ITB 45.

- b) Prior to the detailed evaluation of Financial Proposals received, the NITDB will determine whether each Financial Proposal; (i) meets eligibility requirement defined in the document (ii) has been properly signed; (iii) is accompanied by required bid securities; and (iv) is substantially responsive to the requirements of the bidding documents and (e) has offered the service charges that fall within the ceiling of charges specified in Clause 5.2 of Section 5 of the bid document.
- c) A substantially responsive Financial Proposal is one which conforms to all the terms, conditions of the bidding documents without material deviation or reservation.
- d) If a Financial Proposal is not substantially responsive, it will be rejected, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.
- e) Financial Proposals determined to be substantially responsive will be checked for any arithmetic errors.
- f) The amount stated in the Financial Proposals will be adjusted in accordance with the arithmetic procedure for the correction of errors and, with the concurrence of the Bidder, shall be considered as binding upon the Bidder. In case of discrepancy in the arithmetic computation of the total bid amount based upon unit rate in figure and words, the rate in words shall govern. If the Bidder does not accept the corrected amount, the Bid will be rejected.
- g) The NITDB will evaluate only the Financial Proposals determined to be substantially responsive in accordance with sub clause (e) above.

E. Evaluation and Comparison of Bids

37. Confidentiality

- 37.1 Information relating to the examination, evaluation, comparison, and recommendation of contract award, shall not be disclosed to Bidders or any other persons not officially concerned with such process until information on Contract award is communicated to all Bidders.
- 37.2 Any attempt by a Bidder to influence the Employer in the evaluation of the bids or Contract award decisions may result in the rejection of its bid.
- 37.3 Notwithstanding ITB 37.2 from the time of bid opening to the time of Contract award, if any Bidder wishes to contact the Employer on any matter related to the bidding process, it may do so in writing.

38. Clarification of Bids

- 38.1 To assist in the examination, evaluation, and comparison of the bids, and qualification of the Bidders, the Employer may, at its

discretion, ask any Bidder for a clarification of its bid. Any clarification submitted by a Bidder that is not in response to a request by the Employer shall not be considered. The Employer's request for clarification and the response shall be in writing. No change in the prices or substance of the bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the bids, in accordance with ITB 42.

- 38.2 If a Bidder does not provide clarifications of its bid by the date and time set in the Employer's request for clarification, its bid may be evaluated accordingly or rejected.
- 39. Deviations, Reservations, and Omissions**
- 39.1 During the evaluation of bids, the following definitions apply:
- (a) "Deviation" is a departure from the requirements specified in the Bidding Document;
 - (b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Document; and
 - (c) "Omission" is the failure to submit part or all of the information or documentation required in the Bidding Document.
- 40. Determination of Responsiveness**
- 40.1 A substantially responsive bid is one that meets the requirements of the Bidding Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that,
- (a) if accepted, would:
 - (i) affect in any substantial way the scope, quality, or performance of the Management services specified in the Contract; or
 - (ii) limit in any substantial way, inconsistent with the Bidding Document, the Employer's rights or the Bidder's obligations under the proposed Draft Contract; or
 - (b) if rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive bids.
- 40.2 The Employer shall examine the technical aspects of the bid submitted in accordance with ITB 27, Technical Proposal, in particular, to confirm that all requirements of Section 3 of the bid document have been met without any material deviation or reservation.
- 40.3 If a bid is not substantially responsive to the requirements of the Bidding Document, it shall be rejected by the Employer and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.
- 41. Nonconformities, Errors, and Omissions**
- 41.1 Provided that a bid is substantially responsive, the Employer may waive any non-conformities in the bid that do not constitute a material deviation, reservation or omission.
- 41.2 Provided that a bid is substantially responsive, the Employer may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities in the bid related to documentation requirements. Requesting information or documentation on such nonconformities shall not be related to any aspect of the price of the bid. Failure of the Bidder to comply with the request may result in the rejection of its bid.
- 41.3 Provided that a bid is substantially responsive, the Employer shall rectify nonmaterial nonconformities related to the Bid Price. To this

effect, the Bid Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component. The adjustment shall be made using the method indicated in Section 3 (Evaluation and Qualification Criteria).

- 42. Correction of Arithmetical Errors**
- 42.1 Provided that the bid is substantially responsive, the Employer shall correct arithmetical errors on the following basis:
- a) if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Employer there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;
 - b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
 - c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.
- 42.2 If the Bidder that submitted the highest evaluated bid does not accept the correction of errors, its bid shall be disqualified and its bid security may be forfeited.
- 43. Conversion to Single Currency**
- 43.1 For evaluation and comparison purposes, the currency (ies) of the bid shall be converted into a single currency (equivalent NRs) by applying the exchange rate as specified by Nepal Rastra Bank as specified in the **BDS**.
- 44. Margin of Preference**
- 44.1 Unless otherwise specified in the **BDS**, a margin of preference shall not apply.
- 45. Evaluation of Bids**
- 45.1 The Employer shall use the criteria and methodologies listed in this Clause and the applicable regulation. No other evaluation criteria or methodologies shall be permitted.
- 45.2 The Technical Proposal will be evaluated first. Responsive Technical proposals will be evaluated on the basis of criteria given in Section 3: Evaluation and Qualification criteria.
- 45.3 The Financial Proposals of bidders determined to have qualified in the Technical proposal will be opened and evaluated as per ITB Clause 36.5 and criteria given in Section 3: Evaluation and Qualification criteria.
- 45.4 For the purpose of evaluation, the relative weights assigned to the Technical and Financial proposal respectively shall be in the ratio indicated in Section 3: Evaluation and Qualification Criteria. . The bidder scoring the highest combined (Technical + Financial) score will be determined to the highest evaluated bidder.
- 46. Comparison of Bids**
- The Employer shall compare all substantially responsive bids to determine the highest evaluated bid, in accordance with ITB 45.2.
- 47. Code of Conduct of the Bidder**
- 47.1 A Bidder shall not indulge in the following activities with intent to influence the approval of a Bid or implementation of contract agreement.
- (a) Inducement to directly or indirectly offer enticement or proposing

to do so.

(b) Submission of distorted or misleading information contrary to facts.

(c) Involvement in corruption or fraudulent activities.

(d) Interference in other competitive Bidders' participation in the bidding process.

(e) Threatening directly or indirectly the life and property of any person involved in the contract agreement.

(f) Collusion in the distribution of works regarding the Lease Out with intent to establish artificial and uncompetitive value with the objective of depriving the Board of the benefit open and free competition before after the submission of bids.

(g) Influence in any manner the examination and evaluation of bids by contacting the Board from the time of opening the bids, notification and acceptance of the Bid.

47.2 No organization or its personnel involved in the preparation of bid documents or specifications pertaining to the Lease Out and its monitoring may act in the capacity of a Bidder.

47.3 Any Bidder not complying with the afore-mentioned code of conduct shall be black-listed and subject to proceedings in writing to the concerned entity.

47.4 An affirmative determination shall be a prerequisite for award of the Contract to the Bidder. A negative determination shall result in disqualification of the bid, in which event the Employer shall proceed to the next highest evaluated bid to make a similar determination of that Bidder's qualifications to perform satisfactorily.

48. Employer's Right to Accept Any Bid, and to Reject Any or All Bids

48.1 The Employer reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to Bidders. In case of annulment, all bids submitted and specifically, bid securities, shall be promptly returned to the Bidders.

F. Award of Contract

49. Award Process

49.1 Subject to following ITB clause 49.2, the NITDB will issue letter of intent and request for negotiation as per ITB 51, to the Bidder whose combined Technical and Financial evaluated score has been determined to be substantially responsive and result in the highest evaluated bid score.

49.2 Notwithstanding sub-clause 49.1 above, the NITDB reserves the right to accept or reject any Proposal, and to cancel the bidding process and reject all bids, at any time prior to the award of contract, without thereby incurring any liability to the affected Bidder or bidders or any obligation to inform the affected bidder or bidders of the grounds for the NITDB's action.

50. Notification of Award

50.1 Prior to the expiration of the period of bid validity, the Employer shall notify the successful Bidder within seven days of successful negotiation and selection, in writing, that its bid has been accepted. The award notification letter (also called as "Letter of Acceptance") shall specify the sum that the Employer will receive from the TMC in consideration of the performance and completion of the operational and Management services ("the Minimum Leasehold Fee").

50.2 Until a formal contract is prepared and executed, the notification of award shall constitute a binding Contract.

50.3 The name and address of the successful Bidder and information on having won the Bid shall be notified to all other Bidders within 7 (seven) days of selection.

50.4 **Complaint Regarding Award** A Bidder who feels that it has been wronged and subjected to harm on account of the wrong decision made in the selection process may register an Application of Complaint before the Board within 7 (seven) days of receiving the notification of the successful Bidder. The Board shall then cause to investigate and address such complaint as per the provisions of the Terminal Leasing Out Regulation 2070.

51. Negotiations

Negotiation will be held at NITDB office. These negotiations will be limited to the points that are not possible to pre-establish or are not established in the bidding documents. These negotiations will be carried out with transparency and they will not result in material changes to the basis on which the bidding was carried out. Negotiation will include a discussion of technical proposal regarding overall plan. The negotiation will conclude with a review to draft form of contract. To complete negotiations NITDB and the successful bidder will initial the agreed contract. If negotiations fail, NITDB will invite the second highest evaluated bidder.

52. Signing of Contract

52.1 In case no application of Complaint has been registered within 7 (seven) days of the Notification of Award, within 15 (fifteen) days of receiving the Letter of Acceptance, the bidder shall furnish to NITDB an irrevocable and unconditional performance security from a recognised commercial bank for the amount and form stipulated in Section 6 of the bid document. Failure of the successful bidder to comply with acceptance of invitation for negotiation or to furnish the required Performance Security within the stipulated time shall constitute a breach of contract, cause for annulment of the award, forfeiture of bid security and any such remedy NITDB may take under the contract (Section 6 of bid document), and NITDB may resort to awarding the contract to the next bidder.

52.2 **If** the Performance Security is provided by the successful bidder in the form of a Bank Guarantee, it shall be issued, by a commercial bank located in Nepal or endorsement of accepting responsibility of the foreign bank by it in case the same has been issued by a foreign bank through a correspondent bank located in Nepal.

53. Mobilization

53.1 After the contract is awarded, the bidder has to fulfil the obligation of financial closure including performance security as stated in Section 6 of bidding document. Meanwhile, the lessee is responsible to mobilize necessary resources to make the ICD fully operational within 30 (thirty) days of signing the agreement.

54. Submission of Detail Plan

54.1 The successful bidder will be required to submit a detailed plan for security arrangement and environmental improvement plan for ICD terminal within 30 days of signing the contract.

Section 2 - Bid Data Sheet

A. Introduction

ITB 1.1	The number of the Invitation for Bids is : Contract No.: NITDB- O&M-LICB/ FY 2019/020 - 01
ITB 1.1	The Employer is: Nepal Intermodal Transport Development Board (“NITDB”) Kupondole, Lalitpur, Nepal
ITB 1.1	The name of the Bidding Process is: Limited International Competitive Bidding (LICB) The identification number of the Contract is : NITDB- O&M-LICB/ FY 2019/020 - 01
ITB 1.1	<u>Clause 4 of RSA</u> "4. Terminal Management Company 4.2 The Terminal Management Company (TMC) should be the company registered in Nepal; however, bidder can be either Nepalese company or an Indian company or an Indo-Nepal Joint Venture Company to be selected through competitive bidding. In case an Indian company is selected, it will be required to select a Nepalese Joint Venture partner and register in accordance with Nepalese laws before signing of the lease Agreement. <u>Provision in Letter of Exchange laid down dated 21 May 2004 regarding Rail Services Agreement:</u> "2. With respect to Article 4 of the Agreement, our two sides have agreed that, in order to ensure efficient and economic operation of services at the ICD at Birgunj, the Terminal Management Company appointed to operate and manage this ICD must have three years previous experience of managing similar rail linked facilities with similar volumes of container traffic. However, this condition would not apply to the Nepali company selected as the joint venture partner by an Indian company if the latter were to be appointed as the Terminal Management Company."
ITB 2.1	The Location is at Sirsiya, Birgunj Metropolitan City Wada No. 25, Birgunj, Parsa, Nepal
ITB 2.1	The name of the Project is: Operation and Management of Inland Clearance Depot (ICD) at Sirsiya , Birgunj Metropolitan City Wada no. 25, (Birgunj).

B. Lease Process

ITB 7.4	The date is: 10 th December 2019 (Mansir 24, 2076)
ITB 8.1	Period is: 5 (Five) years. But subject to extension as per the provision of laid down in " Terminal Leasing out Regulation, 2070 ".
ITB 9.1	Address is: Executive Director, Nepal Intermodal Transport Development Board (NITDB), GON, Kupondole, Lalitpur, Nepal
ITB 10.2 (A)	Address for proposals submission: Nepal Intermodal Transport Development Board (NITDB), GON, Kupondole, Lalitpur, Nepal

	Deadline for submission of Technical and Financial proposals: 12:00 noon on 24th January, 2020 (Magh 10, 2076)
ITB 11.1	<p>Leasehold fee shall comprise a fixed component of minimum annual leasehold fee on base case traffic volume and fixed amount of revenue sharing on contribution margin for traffic volume exceeding base case limits as per following guidelines:</p> <p>Minimum Lease Rent (MLR):</p> <p>The leasehold fee offered to NITDB by the bidder shall not be less than minimum Rs. 2,004,000,000 (Rupees Two Billion, Four Million only) in aggregate for the five year period of which minimum amount payable for the first to fifth year shall be Rs.300,000,000 (Rupees Three Hundred Million only), Rs.336,000,000 (Rupees Three Hundred Thirty Six Million Only), Rs.396,000,000 (Rupees Three Hundred Ninety Six Million only), Rs. 456,000,000 (Rupees Four Hundred Fifty Six Million Only) and Rs. 516,000,000.00 (Rupees Five Hundred Sixteen Million only) respectively. The annual leasehold fee shall be payable in equal monthly instalment. The bidders may propose a rent schedule and charges within the maximum ceiling of charges prescribed as per clause no. 5.2 of Section 5 of this document. Leasehold fees should be specified for each year each month of the year of the five-year lease term as per Table – I of Section 6 of this document. Fees shall be quoted in Nepalese Rupees. All monetary units in the financial bids should be expressed in Nepalese Rupees.</p> <p>Revenue Sharing and Fixation of Basic Volume of Traffic for Revenue Sharing:</p> <p>a) Base volume of Traffic determined for payment of Minimum Lease Rent for the five years shall be as follows:</p> <p>i) The base volume of standard container traffic containing goods exported and imported for the consecutive period of five years starting from first to fifth year shall be 50,300 TEUs, 55,100 TEUs, 60,300 TEUs, 66,000 TEUs and 72,300 TEUs respectively.</p> <p>ii) The base volume of bulk and break bulk traffic of goods exported or imported for the consecutive period of five years starting from first to fifth year shall be 1,129,000 MT, 1,196,000 MT, 1,267,000 MT, 1,342,000 MT and 1,422,000 MT respectively.</p> <p>b) If the actual number of traffic in any of the year exceeds the base case given above, the TMC shall share to NITDB a fixed amount for each unit of additional traffic volume as given below:</p> <p>i) The TMC shall pay to employer the revenue share on incremental traffic over base volume of standard container traffic at the rate of NRs. 4,900 (Rupees Four Thousand Nine Hundred Only) per loaded TEU for the first and second year, NRs. 5,390 (Rupees five Thousand three Hundred Ninety only) for third and fourth year and NRs. 5,930 (Rupees five Thousand nine Hundred thirty only) for fifth year.</p> <p>ii) The TMC shall pay to employer the revenue share on incremental traffic over base volume of standard bulk and break bulk cargo at the rate of NRs. 92 (Rupees Ninety Two only) per Metric Ton of Bulk and Break Bulk Cargo for the first and second year, NRs. 101 (Rupees One Hundred One Only) for third and fourth year and NRs. 111 (Rupees One Hundred Eleven Only) for fifth year.</p> <p>The bidders shall define all the categories and forms of services for which the bidder proposes to charge within the framework of ceiling of tariff as prescribed in clause 5.2 of</p>

	Section 5 of this document. The charges would have an increment of 10 percent in every two years to accommodate inflation figures and the TMC has to consider this element for adjustment while proposing the leasehold fee. In case supplementary or new activity in the ICD started is charged by the TMC, the income thus generated from it will be subject to the additional rent payable to the NITDB. However the exact percentage of income payable to the NITDB will be negotiated and agreed between NITDB and TMC before commencement of the chargeable supplementary or new activity.
ITB 13.1	The Address is : As in BDS 10.2 A
ITB 18.1	For clarification purposes only, the Employer's address is: Executive Director Nepal Intermodal Transport Development Board (NITDB) Kupondole, Lalitpur, Nepal Phone No: 977-1-5550236 Fax: 977-1-5550218 E-mail: nitbktm@nitdb.gov.np Web: www.nitdb.gov.np
ITB 18.4	A Pre-Bid meeting shall take place at the following date, time and place: Date : 5th January 2020 . Time : 11:00 Hours Place : NITDB office, Kupondole, Lalitpur A site visit conducted by the Employer shall be organized; however, the cost of travel and accommodation shall be borne by bidders themselves.

C. Preparation of Bids

ITB 21.1	The language of the bid is: English
ITB 25.2 (c)	The eligible bidder requires to settle applicable tax , if any, in its country of incorporation and submit the certification of tax settlement together with Bid.
ITB 26.1	The prices quoted by the Bidder shall be : Nepalese Rupees/ US Dollar
ITB 28.2	Domestic Preference shall not be provided
ITB 29.1	The bid validity period shall be 120 days from the deadline of submission of the Bid.
ITB 30.1	A bid security of not less than Rs.50,100,000 (Rupees fifty million one hundred thousand Only), issued in favour of NITDB by any commercial bank ('A' class) of Nepal. The bid security shall be submitted along with technical proposal. The bid

	<p>security issued by any foreign Bank outside Nepal must be counter guaranteed by any commercial bank ('A' class) of Nepal. The bid security shall be submitted along with technical proposal and should be valid for at least 150 days from the deadline of bid submission.</p> <p>If bidder wishes to submit the Bid Security in the form of cash, the cash should be deposited in Current Account No.: 0100200144668037 (Agricultural Development Bank Ltd., Ramshahpath, Kathmandu) of Nepal Intermodal Transport Development Board, and the receipt of the deposited amount of cash should be submitted along with the technical bid.</p>
ITB 31.1	In addition to the original of the bid, the number of copies is: Four
ITB 31.2	<p>The written confirmation of authorization to sign on behalf of the Bidder shall consist of: Power of Attorney issued by the Board of Directors of a company, and Memorandum of Understanding of JV partners including the respective Board of Directors' approval (in case of JV)</p> <p>(a) The name and description of the documentation required to demonstrate the authority of the signatory to sign the Bid such as a Power of Attorney; and</p> <p>(b) In the case of Bids submitted by an existing or intended JV, an undertaking signed by all parties (i) stating that all parties shall be jointly and severally liable, and (ii) nominating a Representative who shall have the authority to conduct all business for and on behalf of any and all the parties of the JV during the bidding process and, in the event the JV is awarded the Contract, during formation of new company and thereafter contract execution</p>

D. Submission and Opening of Bids

ITB 32.2	<p>For bid submission purposes only, the Employer's address is:</p> <p>Executive Director</p> <p>Nepal Intermodal Transport Development Board (NITDB)</p> <p>Kupondole, Lalitpur, Nepal</p> <p>Phone No: 977-1- 5550236</p> <p>Fax: 977-1-5550218</p> <p>E-mail: nitbktm@nitdb.gov.np</p>
ITB 33.1	<p>The deadline for bid submission is:</p> <p>Date: 24th January 2020</p> <p>Time: 12:00 hours NST</p>

ITB 36.1	<u>The bid opening shall take place at:</u> Nepal Intermodal Transport Development Board (NITDB) Kupondole, Lalitpur, Nepal Date: 24th January 2020 Time: 14:00 hours NST
ITB 36.4	The Bidder shall score 60% in Technical proposal.
ITB 43.1	The exchange rate shall be considered as of last date of bid submission.
ITB 45.4	The ratio for Technical and Financial Proposal is 60:40.

Section 3 - Evaluation and Qualification Criteria

Table of Criteria

1. Evaluation 2

1. Evaluation

1.1 Bidder's Qualification

The Technical bid will comprise of bidder qualification of Specific Experience, Annual Turnover, Line of Credit, Volume of Liquid Assets and Litigation History. The minimum required qualifications are as set out below:

Bidders Qualification Criteria

Grouping	Specific Area	Minimum Requirement to Post Qualify
1. Management/Operational Experience	1.a Experience in warehousing/transportation/clearing and forwarding/stevedoring/railway operation, and;	1.a Five (5) Years
	1.b Specific experience of managing similar rail linked facilities with similar volumes of EXIM container traffic (at least average annual handling experience of 30,000 TEUs and 677,000 MT of Break Bulk/Bulk Cargo in past three years)	1.b Three (3) Years
2. Financial Strength & Resources	Average annual Turnover for the last three (3) years	NRs. 600 million
	Volume of Liquid Assets and or credit facilities	NRs. 200 million
3. In case of joint venture between two or more companies	Validity of JV arrangement	Letter of JV Agreement or MOU must be submitted and the validity must be for the total leasehold period.

4. Litigation History:

A bidder shall provide related information about any litigation or arbitration resulting from leasehold agreement completed or on-going business under its execution over the last 5 years. A consistent history of award against the bidder or any partner of a joint venture may result in failure of the Bid.

The above criteria specifying minimum requirements for post qualification will apply to each Bidder. The bidder not meeting the above qualification criteria will not be post qualified and accordingly their technical proposal will not be evaluated further.

1.2 Technical Proposal Evaluation

NITDB will carry out a detailed evaluation of the received bids, in order to determine whether the technical aspects are responsive to the requirements set forth in the bidding documents. In order to reach such a determination, NITDB will examine the information supplied by the Bidders, and other requirements in the bidding documents, taking into account the following factors, as primary and secondary criteria.

The evaluation of the technical proposal by the members of the evaluation committee will be carried out individually to determine the responsiveness against the Factor stated below. The Final responsiveness of each Factor will be based on the findings of the members. Any bidder determined to be responsive in each Factor shall be declared technically qualified.

A responsive proposal is one, which conforms to all the terms, conditions and substantially meets technical parameters as stipulated in the bidding document.

(A) Principal Plan & Information

- (a) Business Plan
- (b) Operating and Maintenance Standard
- (c) Security, Traffic management and Environmental improvement plan

(a) Business Plan

Bidders are required to meet the Business Plan as given in Section - 4.

(b) Operating and Performance Standard

Bidders are required to meet the Operating and Maintenance standard given in Section - 4.

(c) Security, Traffic Management and Environmental Improvement

The Bidders should provide a plan for security arrangements within ICD complex. A traffic management and parking plan and environmental improvement plan in accordance with the requirement outlined in Section - 4. Following the evaluation of these plans, deficiencies, if any, will be notified to the qualified bidders. The qualified bidder will be required to give an undertaking as a part of requirement. Such deficiencies will be remedied in the detailed plan to be **submitted within 30 days after the signing of contract.**

In addition to the merits and consistency of the plans and other information submitted, the following factors should also be included in the preparation of the technical proposal.

- (i) It will be the responsibility of the bidder to procure skilled and experienced manpower for the operation and management of the ICD according to recruitment and training plans submitted with the proposal. The proposal should spell out programs to develop the level of local expertise, the management capacity of local supervisors and skill levels of workers. Proposals may also indicate which supplementary employment benefits will be offered. In addition, bids should outline the proposed organizational structure and define the organization. They should also include names and CVs of key personnel and their consent for management and operation positions. The bidders should also clearly indicate the number and position of expatriate employees if any, to be hired for the operation and management of the proposed project.

- (ii) The operation and management plan should also include a "Future Development Plan" with respect to the ICD and should indicate the amount that the bidder proposes to invest in the ICD and categories of investment that it proposes to make.
- (iii) The bidder should demonstrate its ability to transfer best terminal operating technologies and methods and to disseminate knowledge and competencies within Nepal
- (iv) Bidder should also demonstrate his ability to manage and efficiently operate the ICD
- (v) The bidder should indicate specific programs designed to increase the quality of logistic and transport services offered in Nepal
- (vi) The proposal should spell out programs to develop the level of local expertise, the management capacity of local supervisors and skill levels of workers. Proposals may also indicate which supplementary employment benefits will be offered.

Based on the above criteria, the individual member and the expert of the evaluation committee appointed by NITDB will carry out the evaluation of bids on the basis of their responsiveness to the document applying the evaluation factors specified in the document.

NITDB shall notify the responsive bidders in writing that they have passed and indicate the date, and time, and address for submitting and opening the financial proposals. Unless agreed in advance with all bidders, the opening date shall not be sooner than 30 days after the notification date. The notification may be sent by registered letter, cable telex, facsimile, or electronic mail.

(B) Criteria to be considered for Technical Evaluation

In the technical evaluation the following factors and supporting criteria will be considered as identified in the table below:

Factor	Primary Criteria	Secondary Criteria	Marks	Percentage
1. Registered bidder's corporate and financial profile	<p>1.1 Experience in managing and operating terminal facilities and services</p> <p>1.2 Experience in similar business in Nepal</p> <p>1.3 Details of Business worldwide</p>	<p>1.1.1 Number of terminals</p> <p>1.1.2 Types of services</p> <p>1.1.3 Years of experience</p> <p>1.1.4 Shareholding in management and operating company</p> <p>1.1.5 Total throughput volumes handled in past three years</p> <p>1.1.6 Annual turnover</p> <p>1.2.1 Number of terminals and projects</p> <p>1.2.2 Total throughput volume handled in past three years</p> <p>1.2.3 Annual turnover</p> <p>1.3.1 Number of terminals and projects</p> <p>1.3.2 Countries/locations</p> <p>1.3.3 Total throughput volume handled in past three years</p> <p>1.3.4 Annual turnover</p>	20	

	1.4 Company ownership (Joint/Single)	1.4.1 Adequacy of corporate structure 1.4.2 Main shareholders: - nationality - main line of business - public/private - local/foreign 1.4.3 Share of main shareholders in equity capital 1.4.5 Net profit margin in past three financial years 1.4.6 Dividends paid out in previous three years 1.4.7 Invested amounts or participation in equity in past five financial years		
	1.5 Current financial position of bidder	1.5.1 Total equity 1.5.2 Total turnover 1.5.3 Net worth 1.5.4 Working capital 1.5.5 Cash flow in past three financial years		
2. Proposed business plan	2.1 Quality of proposed business plan	2.1.1 Level of realism in assumptions used 2.1.2 Level of substantiation 2.1.3 Guarantees provided and data confirmed 2.1.4 Degree of reliability 2.1.5 Time period covered 2.1.6 Level of technical and quantified detail	20	
	2.2 Adequacy of stated Plan	2.2.1 Degree of satisfaction of shipping lines' requirements 2.2.2 Degree of satisfaction of cargo owners' requirements 2.2.3 Degree of satisfaction of national transport needs		
	2.3 Reliability of market demand forecast	2.3.1 Substantiation of cargo traffic forecast 2.3.2 Substantiation of predicted activity levels in facilities' handling systems		
	2.4 Plan for starting new business	2.4.1 Type and amount of expected new business 2.4.2 Significance of new business in terms of scale increase and use of available capacity 2.4.3 Guarantees of achieving expectations		
	2.5 Expected financial performance	2.5.1 Soundness of cash inflow projections and revenue forecasts 2.5.2 Soundness of cash outflow projections and expenditures forecasts 2.5.3 Soundness of financing and		

		<p>funding plan</p> <p>2.5.4 Soundness of financial performance prognosis</p>		
3. Proposed corporate structure	<p>3.1 Corporate of autonomy</p> <p>3.2 Adequacy of the proposed corporate structure</p> <p>3.3 Creative Capability</p> <p>3.4 Capability of monitoring performance</p> <p>3.5 Qualifications and experience of proposed senior executives and key terminal personnel</p>	<p>3.5.1 Age</p> <p>3.5.2 Education and degree</p> <p>3.5.3 Relevant management and technical experience</p> <p>3.5.4 Experience in similar projects</p> <p>3.5.5 Experience in the country inviting tenders</p>	10	
4. Operating plan for the facilities	<p>4.1 Adequacy of operational arrangements</p> <p>4.2 Scope for capacity upgrading</p> <p>4.3 Effectiveness of proposal to solve current problems</p> <p>4.4 Use of modern information technology</p>	<p>4.1.1 Overall operational arrangements for different types of port facilities (liquid bulk, solid bulk, containers, containerized general cargo)</p> <p>4.1.2 Appraisal per facility of port-to-inland transport interface</p> <p>4.2.1 Additional equipment allocation</p> <p>4.2.2 Development of new management systems and controls</p> <p>4.2.3 Reorganization of labour and staff deployment</p> <p>4.3.1 Quality of analysis of current situation</p> <p>4.3.2 Rationality of proposed improvements</p> <p>4.3.3 Reliability of envisaged results</p> <p>4.4.1 Scope of proposed extension of computerized system</p> <p>4.4.2 Effectiveness and timing of computer applications and EDI system</p>	20	
5. Capacity for investment in additional facilities, equipment and system development	<p>5.1 Adequacy of financing capacity</p> <p>5.2 Proposed investment and its volume</p>	<p>5.1.1 Weight of foreign financial resources</p> <p>5.1.2 Weight of local financial resources</p> <p>5.2.1 Scope of investment programme</p> <p>5.2.2 Proposed new facilities and equipment</p> <p>5.2.3 Projected investment</p> <p>5.2.4 Investment period and timing</p> <p>5.2.5 Proposed sources of funding</p>	20	
6. Employment generation and transfer of technology	6.1 General employment condition	<p>6.1.1 Wage and salary levels</p> <p>6.1.2 Career development prospects</p> <p>6.1.3 Bonuses, incentives and other fringe benefits</p> <p>6.1.4 Proposals for streamlining workforce</p>	10	

	<p>6.2 Human resources development plan</p> <p>6.3 Proportion of national and expatriate experts in employment</p> <p>6.4 Other Supplementary plan</p>	<p>6.2.1 Frequency of proposed training schemes</p> <p>6.2.2 Numbers of staff and workers to be trained</p> <p>6.2.3 Recruitment and promotion policies</p> <p>6.2.4 Career development schemes</p> <p>6.3.1 Number and level of experts</p> <p>6.3.2 Duration and scope of assignments</p> <p>6.3.3 Expected contribution from foreign experts</p> <p>6.3.4 Probability of transfer of know-how</p> <p>6.4.1 Number and duration</p> <p>6.4.2 Type and coverage</p> <p>6.4.3 Expected outputs</p>		
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1.3 Financial Situation

Criteria	Compliance Requirements			Documents
Requirement	Single Entity	Joint Venture		Submission Requirements
		All Partners Combined	Each Partner	

1.3.1 Historical Financial Performance

Submission of audited balance sheets and income statements or, if not required by the law of the applicant's country, other financial statements acceptable to the Employer, for the last 5 years to demonstrate the current soundness of the applicants financial position. As a minimum, a bidder's net worth calculated as the difference between total assets and total liabilities should be positive.	must meet requirement	not applicable	must meet requirement	not applicable	Form FIN - 1 with attachments
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1.3.2 Average Annual Turnover

Minimum average annual turnover of NRs. 600 million within the last 3 years . Average annual turnover shall be adjusted as per Nepal Rastra Bank Price Index to arrive at the present value.	must meet requirement	must meet requirement	must meet minimum 25% of the requirement	(i) Must meet minimum 40% of the requirement	Form FIN - 2
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1.3.3 Financial Resources

Using forms FIN-1, FIN-3 and FIN-4 in section 4(Bidding Forms) the Bidder must demonstrate access to, or availability of financial resources, other than any contractual advance payment to meet the cash flow requirement of NRs. 200 million per year .	must meet requirement	must meet requirement	(i) Must meet minimum 25% of the requirement*	(i) Must meet minimum 40% of the requirement*	Form FIN - 1, FIN - 3 and FIN - 4 with supporting Documents
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1.4 Experience

Criteria	Compliance Requirements			Documents	
	Single Entity	Joint Venture			Submission Requirements
		All Partners Combined	Each Partner	One Partner	
Requirement					
1.a Experience of minimum 5 years in warehousing/ transportation/ clearing and forwarding/ stevedoring/ railway operation, and; 1.b Specific experience of minimum 3 years of managing similar rail linked facilities with similar volumes of EXIM container traffic (at least average annual handling experience of 30,000 TEUs and 677,000 MT of Break Bulk/Bulk Cargo in past three years)	must meet requirement	must meet requirement	not applicable	not applicable	Form EXP -1 and EXP - 2

1.5 Weights assigned to the Technical and Financial proposal

The relative weight given to the Technical Evaluation will be 60% (Sixty Percentage Points), while the Financial Evaluation will be given 40% (Forty Percentage Points). Hence the relative weight ratio of Technical:Financial will be 60:40. To qualify in the Technical Evaluation a Bidder shall have to secure at least 60% (Sixty Percentage Points) in the Technical Evaluation.

Section 4 – Bidding Forms

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Letter of Bid

To,
The Executive Director
Nepal Intermodal Transport Development Board (NITDB)
Kupondole, Lalitpur
Nepal

Dear Sir,

We hereby apply to the **Nepal Intermodal Transport Development Board (NITDB)**, Kupondole, Lalitpur as an Terminal Operator for the “**Operation and Management of Inland Clearance Depot at Birgunj Metropolitan City – 25, Sirsiya, Parsa, Nepal**”

We authorize the NITDB, Kupondole, Lalitpur or its authorized representative to conduct any investigation to verify the statements, documents and information submitted and to clarify the financial or any other aspects of this application. For this purpose, we here by authorize any previous employer, public official, engineer, bank, tax office to furnish pertinent information deemed necessary and requested by NITDB to verify statements and information provided in this application or regarding our competence and standing.

We declare that the statements made and the information provided in application is complete, true and concrete in every respect.

Respectfully,

Authorized representative of the firm

Position:

Date:

Official Seal of the Company

Bidder's Qualification

To establish its qualifications to perform the management service in accordance with Section 3 (Evaluation and Qualification Criteria) the Bidder shall provide the information requested in the corresponding Information Sheets included hereunder (Please note that copy of evidences has to be enclosed along with the information supplied).

Form ELI - 1: Bidder's Information Sheet

Bidder's Information	
Bidder's legal name	
In case of JV, legal name of each partner	
Bidder's country of constitution	
Bidder's year of constitution	
Bidder's legal address in country of constitution	
Bidder's authorized representative (name, address, telephone numbers, fax numbers, e-mail address)	
<p style="text-align: center;">Attached are copies of the following original documents.</p> <ul style="list-style-type: none"> <input type="checkbox"/> 1. In case of single entity, articles of incorporation or constitution of the legal entity named above. <input type="checkbox"/> 2. Authorization to represent the firm or JV named in above. <input type="checkbox"/> 3. In case of JV, letter of intent to form JV or JV agreement. <input type="checkbox"/> 4. In case of a government-owned entity, any additional documents not covered under 1 above required. 	

Form ELI - 2: JV Information Sheet

Each member of a JV must fill in this form

JV Partner Information	
Bidder's legal name	
JV Partner's legal name	
JV Partner's country of constitution	
JV Partner's year of constitution	
JV Partner's legal address in country of constitution	
JV Partner's authorized representative information (name, address, telephone numbers, fax numbers, e-mail address)	
<p>Attached are copies of the following original documents.</p> <p><input type="checkbox"/> 1. Articles of incorporation or constitution of the legal entity named above.</p> <p><input type="checkbox"/> 2. Authorization to represent the firm named above.</p> <p><input type="checkbox"/> 3. In the case of government-owned entity, documents establishing legal and financial autonomy and compliance with commercial law.</p>	

Form FIN - 1: Financial Situation

Each Applicant or member of a JV must fill in this form

Financial Data for best 3 Years among the Previous 5 Years (Fiscal Year 2013/14 to 2017/18)					
	Year 1:	Year 2:	Year 3:	Year 4:	Year 5:

Information from Balance Sheet

Total Assets					
Total Liabilities					
Net Worth					
Current Assets					
Current Liabilities					
Working Capital					

Information from Income Statement

Total Revenues					
Profits Before Taxes					
Profits After Taxes					

- Attached are copies of financial statements (balance sheets including all related notes, and income statements) for the last five years, as indicated above, complying with the following conditions.
- All such documents reflect the financial situation of the Applicant or partner to a JV, and not sister or parent companies.
 - Historic financial statements must be audited by a certified accountant.
 - Historic financial statements must be complete, including all notes to the financial statements.
 - Historic financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).

Form FIN - 2: Average Annual Turnover

Each Bidder or member of a JV must fill in this form

The information supplied should be the Annual Turnover of the Bidder or each member of a JV in terms of the amounts billed to clients for each year for work in progress or completed.

Annual Turnover Data for the last 5 Years (Fiscal Year 2013/14 to 2017/18)	
Year	Amount [NRs/USD]
Average Annual Turnover	

Form FIN – 3: Financial Resources

Specify proposed sources of financing net of current commitments, available to meet the total cash flow demands of the service indicated in Section 3 (Evaluation and Qualification Criteria). As a minimum, resources shall include working capital from FIN – 1 and credit lines.

Financial Resources		
No.	Source of financing	Amount [NRs]
1		
2		
3		
	Total Financing Resources	

Form FIN- 4: Current Contract Commitments related to terminal operation and management

Bidders and each partner to a JV should provide information on their current commitments on all other contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

Current Contract Commitments				
No	Name of Contract	Employer's Contact Address, Tel, Fax	Value of Current Contracts [NRs./USD.]	Estimated Completion Date
1				
2				
3				
4				
5				

Form EXP – 1: General Experience

Each Bidder or member of a JV must fill in this form

General Experience				
Starting Month Year	Ending Month Year	Years	Name and Address of Employer Brief Description of the services provided by the Bidder	Role of Bidder

Form EXP – 2: Specific Experience

Fill up one (1) form per contract.

Contract of Similar Size and Nature			
Contract No of	Contract Identification		
Award Date		Completion Date	
Role in Contract	<input type="checkbox"/> Port Management <input type="checkbox"/> Freight Station Management <input type="checkbox"/> Operation and Management of existing ICD <input type="checkbox"/> warehousing/transportation operation <input type="checkbox"/> clearing & forwarding/ stevedoring <input type="checkbox"/> railway operation		
Total Contract Amount	US\$/NRS		
If partner in a JV or subcontractor, specify participation of total contract amount	Percent of Total	Amount	
Employer’s Name Address Telephone/Fax Number E-mail			
Description of the similarity in accordance with Criteria 1.4 of Section 3			
<i>(Bidder to describe the Project to signify the similarity)</i>			

Technical Proposal (Supplemental Information)

In submitting their technical proposals bidders should follow the following format:

The bidder should submit an explanation of the organization, which proposes to operate the ICD at Sirsiya and explain its legal and ownership status. Thus for example, the bidder should explain if the business is partnerships who are the multiple owners? What businesses do they own and operate individually? Where is their primary place of business located? How will ownership interest, management responsibility and liability be divided among individual partners? The bidder should provide copies of original document defining the constitution or legal status, place of registration and principal place of business, written power of attorney of the signatory of the bid to commit the bidder.

In addition the bidder should provide the following: i) the full name and address and nationalities of all constituents, owners, shareholders and/or directors of the bidder company ii) a statement representing the paid up capital (or other interest to be explained and the decision making rights of each of the constituents regarding their company; iii) a copy of the memorandum of understanding among the constituents regarding their participation in the bid and the provision of paid-up capital, if a new bidding company is to be formed , a copy of the articles of incorporation and a financial statement, if the bidding company already exists; iv) power of attorney or equivalent commitments from all constituents to establish a locally registered company for the specific purpose of leasing and operating the ICD at Sirsiya and to delegate decision making authority to their agent/representative; v) identify by name, business experience and affiliation of all members of the board of the bidding company; vi) provide a chart which clarifies all of constituent companies, their interrelationship with other companies and holdings.

The Principal Plan and Information will include:

The plan may comprise of following major section while preparing the technical proposal:

A. Management Information System (MIS)

- i) The bidder should explain the computerization of the entire operations of ICD pertaining to handling of cargo/containers/movement
- ii) The MIS should also include generation of reports as under:
 - (1) Statistical report- cargo/warehouse/container inventory
 - (2) Business reports including profitability statements
 - (3) Economy reports
 - (4) Pay roll of employee
 - (5) Cargo inventory report
 - (6) Equipment movement stock
 - a. Daily working report
 - b. Daily carting report
 - c. Daily maintenance
 - d. Security within the yard, attendance of staff, details of important visitors/clients
 - (7) Any special features related to client, staff, customers, customs and other agency

- (8) Container movement, stock loaded – empty for export-import size wise
- (9) Any un-towards incidents in the year
- (10) Any accidents regarding employees, equipment, trailers, container or cargo yard

B. Proposed Business and Employment Plan

In a separate section of the proposal, the bidder should provide a business plan, which describes the scope of the business that the bidder proposes to develop with the ICD assets as a base and which confirms the financial viability of business. The business plan must be organized into sections, which include the following key aspects of the business plan. Bidders are also at liberty to comment, suggest for the improvement of efficient terminal operation.

- i) Statement of Business Mission and Strategy:** This section of the plan should lay out management's objectives, define the customers that they propose to serve and also explain the way in which bidder propose to create value for these customers.
- ii) Market Users Segment:** Further this section should characterize their needs, describe and explain how the bidder proposes to develop each of the market user segments that he has identified. This section should go on to describe the set of services that the bidder proposes to offer and further the value-to-proposed price for each of these services.
- iii) Operating Plans:** This section of the business plan should explain the flow of traffic, cargo and people among work areas; it should explain arrangements for assuring efficient cargo and container handling at each workstation; and it should describe management control needed to assure both that work is efficiently performed and that work performed is efficiently charged. The plan should characterize problems, which currently exist with the facility and explain how the bidder proposes to correct the problems. The operating plan should deal with the following issues: a) security; b) support of customs operations; c) cargo loss and damage; d) payment arrangements; and e) insurance coverage. The operating plan should include quantitative measures of expected activity at specific workstations, corresponding manning and equipment utilization levels. It should also include projections of utility costs and essential expense items such as fuel, tires and oil.
- iv) Proposed Manning and Organizational Structure:** In this section the bidder should explain expected manning requirements by craft or skill and explain the management structure needed to operate the proposed business efficiently. This section should also describe recruitment performance incentives and motivational methods that management proposes to use to assure high levels of productivity. It should also include a description of proposed employ benefits, including health care, housing and/or other fringe benefits. Importantly, this section should also include payroll forecast and multi-year project of the cost of employee benefits and of management overhead.
- v) Human Resource Development:** The bidder should clarify plans to invest in the ICD workforce, to develop essential skills and to replace expatriate managers with Nepalese. This section defines the terms and conditions of any management training program which the bidder proposes to undertake and further explain the kind of training that the bidder proposes to offer to skilled operators, mechanics, accountants and computer programmers, among other categories.
- vi) Capacity Utilization and Plans for New Investment:** In this section the bidder should explain plans to manage commercial office spaces, cargo handling, cargo storage and traffic flow capacity efficiently. This section should project future expected capacity utilization levels

and should explain how the bidder proposes to support future growth with limited capacity. This section should further develop plans for capacity expansion and define the need for additional investment in fixed assets including equipments by the bidder.

(vi) **Supplemental Information to be provided in the Business Plan**

Railway Operation: The rail link between Raxaul and Birgunj (Sirsiya) ICD will be operated through Indian Railway System. The TMC has to indicate their plan and programme in their proposal regarding railway terminal handling. It is anticipated that the TMC will have to provide the following services to the Indian Railways:

- Train Origination and Termination services include:
 - Lifting containers on and off flat cars.
 - Off-load or load bulks and merchandise from general merchandise trains.
 - Provide any needed supplies or make any other required arrangements for train crews.
 - Jointly inspect to ensure fit in all respect at Raxaul each wagon/flat going in interchange from India to Nepal and returning in interchange from Nepal to India.
- Clerical Services include:
 - Check actual train consists against train manifest.
 - Determine actual train arrival time and placement of cars for demurrage billing.
 - Estimate demurrage charges.
 - Prepare outbound loading plan.
 - Prepare container off-loading and stacking plan.
 - Keep account of local freight collection.
 - Maintain statistical data for customs.
 - Note container seal numbers and check condition of seals upon discharge from train.
- Customer services include:
 - Notify customers and cargo arrival and availability.
 - Provide customers with cargo tracking and tracing.
 - Freight charge billing.
 - Demurrage and equivalent detention billing.
 - Bill collection Services.
 - Flat car/ wagons ordering.
 - Notification of equipment availability and status as required by shipping agents.

Equipment Operation:

For the efficient operation of containers in the ICD, the NITDB will provide 4 units of Reach Stacker (3 of 45 tons and 1 of 7.5 tons) which has completed 18 years of economic life. The TMC has to run that equipment efficiently and utilise the capacity to maximum extent to minimise the dwell time. Therefore, it is the responsibility of the TMC to operate the equipment and maintain the performance standards of the equipment by the trained staff as per the manufacturer's maintenance standard and schedule.

NITDB expects that adequate handling equipment like reach stackers for the use of stacking and shifting ISO/DSO containers, cranes, Loader, forklifts, tractor-trailers and wheelbarrows, scales, computer equipment presently available in the ICD will be replaced/ procured/rented/leased and maintained adequately by the TMC based upon requirement after assessment of feasibility until the end of the lease. The operator shall procure /lease and install at least three new reach stacker(s) for the stacking and shifting of containers within six months of awarding of the contract. The reach stackers

purchased / leased by the TMC shall be taken away by the TMC itself after completion of contract. NITDB shall not buy or take any liabilities of the reach stackers.

Information and Control Systems: The bidder should explain the kinds of computer based activity and work management systems that the bidder proposes to implement and the internal operating and profit and loss management controls that bidder proposes to use. The bidder should also explain the proposed source of application software and the kind of telecommunications and computer processing facilities that the operator proposes to install. Similarly, the bidders should also indicate their plans of linking up their information system.

- vii) **Financial Plan and Source of Funding:** This section should develop a year to year projection of capital improvements and a corresponding year to year projection of internal and external funding sources need to support the projected human and fixed asset development plans.

C. OPERATING & MAINTENANCE STANDARDS

(a) Operating Standards

The efficiency of the operation within ICD is judged basically on the dwell time; more the dwell time, less the efficiency and the vice versa. The component of efficiency has many factors to consider. It is entirely based on the operation standards, less documentation and easy procedures and traffic management to be followed and maintained by the potential TMC. It also reflects plan to manage office, rail operation, cargo handling, cargo storage and working shifts in ICD. Similarly, in addition to the **4 units of Reach Stackers (completed of 18 years economic life)** being provided, the TMC has to arrange the adequate numbers of Reach Stackers, cranes, forklifts, and trailers which will help in completing the handling process in a shortest possible time.

The performance standards reflecting minimum dwell time are the key factors to judge the efficiency of the ICD. Therefore, the TMC should give top priority to finalise all the handling activities in ICD within the given time frame. The expression of commitment of TMC on performing the handling activities should be demonstrated in an important location where maximum number of visitors/users could share this information.

The operating time including loading/unloading as well as de-stuffing and stuffing, should not be more than as specified below:

S.N	Activities	Maximum Time
1	Lifting off all containers from a unit train	4 hour
2	Lifting on all containers to unit train	4 hour
3	Stuffing of a 20' container for mixed cargo	1 hour
4	De-stuffing of a 20' container for mixed cargo	1 hour
5	Off loading a full rake of break bulk / bulk cargo	8 hour
6	On loading a full rake break bulk / bulk cargo	8 hour
7	Lift on / off a container to truck / trailer	15 minute
8	Loading / unloading of break bulk cargo in to / from truck	45 minute
9	Weighing a truck / trailer	10 minute
10	Identification of cargo location	15 minute
11	Issuing of entry / exit pass for vehicle	15 minute
12	Processing of terminal charges and it acceptance	45 minute

Note: The above timings do not include time taken for Customs processing.

(b) Maintenance Standard

The upkeep of the facilities is of prime importance in the effective operation and management of the ICD. Thus, every effort should be taken to avoid premature wear and tear of the administrative building, CFS shed, underground water tank, pavement, boundary wall and other areas, including fencing and gates, barriers, etc. within the ICD complex and appropriate repair and maintenance according to the time period prescribed in Annex 8 has to be carried out regularly by the TMC.

In exceptional cases, such as in case of breakdown of any parts of the utility (like electricity, water supply, fire fighting, drainage, etc.), the operator shall repair the same within 24 hours to make the services functional. The operator shall provide other alternative arrangement(s) for non-interruption of services until the repair work is done. In case the civil structure (like pavement, buildings, gates, warehouses, boundary wall etc.) is damaged, except under exceptional circumstances, the operator shall start the rectification works immediately and complete it within stipulated time.

D Security, Traffic Management and Environment Improvement Plan

(a) Security arrangement within ICD Perimeter

The security and the vigilance of the whole ICD perimeter should be provided continuously round the clock by a sufficient number of security guards and personnel. It is also recommended that an adequate number of armed guards be provided. The guards should be well uniformed for identification and provided with necessary equipment like radio telephone/walkie-talkies for instant communication. All the guards must have been well trained to combat different emergencies and incidents. In view of the huge number of loaded trucks and the warehousing provision, it is also recommended that the number of armed guards should be adequately placed. In the course of time even a close circuit TV may be necessary to protect the unforeseen hazards in the warehouse, Goods shed, parking lot, electric installation, hydrant facilities, Administrative Building, Cafeteria and Toilets and the cargoes either stored in the truck itself or stored in the warehouse. However, the guards should make constant rounds physically and ensure the safety and security. Every incoming and outgoing trucks / containers/ trailers to and from ICD should be thoroughly checked and inspected by security personnel and likewise no person will be allowed without authorised permission. Different equipment to detect unwanted and hazardous materials may be installed and used in the entry/exit gate. However, following checklists are suggested:

- Security personnel to provide round the clock safety and security.
- Combating emergency situation.
- Provision of uniforms, Helmet, IDs to security personnel.
- Installation of detecting hazardous and unwanted materials.
- Provision of first aid materials and medical person.
- Safety signs and notices to prevent hazards and accident.

(b) Traffic Management and Parking Plan

The designated ICD of Birgunj was developed in the area of 38 hectares of land out of which 24 hectares is presently being developed and 14 hectares have been reserved for future expansion. The facility includes a parking lot, made available within ICD, that should be managed in such a way that the facility can accommodate a **maximum number of about 1600 TEUs** in an organised and effective manner. Meanwhile the proposed slot/quay, railway yard, pavement marking and parking identification should be marked distinctly by indelible white paint to park different type of vehicles separately in a systematic order. Chaos and confusion relating to traffic management to the possible extent should be avoided for the vehicles that wanted to use the facility.

The traffic management should address the railway operation and management, vehicle (incoming and outgoing) carrying containers, mixed cargoes, bulk and homogeneous cargoes to be parked in separate block inside and outside the goods shed identifying the type of vehicle. The operator shall make necessary arrangement for strict enforcement of the traffic management plan.

(c) Environmental Management Plan

Environmental Monitoring Programmes are vital to assess the effectiveness of environmental management plans. The TMC has to comply with the provisions of the Environment Act and rules and regulations of Nepal, including the Nepal Environmental Policy and Action Plan brought out by GoN. The TMC has to take care the preventive measures by providing required number of trashcans/bins for different types of disposal materials. Disposal of garbage/refuse spillage in any form within ICD complex is strictly prohibited. However, following components for mitigating environment problems within ICD Complex should be addressed:

- Proper maintenance of existing vegetation and further development of greenery in and around the ICD complex.
- Safe disposal of toxic /harmful chemicals and other wastes.
- Noise control
- Refuse disposal
- Disaster management
- Fire Protection
- Control of CFC gas from refrigeration

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5.1 Maintenance Schedule for Birgunj ICD

5.1.1 Civil Maintenance

S. No.	Checks	Daily	Weekly	Monthly	Half Yearly	Annually	Bi- annually	Every five years	Remarks
1.0	Administrative Building, Sub- station, Gate Cabin Canteen, Ablution block, Toilet blocks, Water kiosks etc.								
1.1	Sweeping	√							
1.1.1	Cleaning walls/ceilings/windows/and premises	√							
1.2	Garbage Disposal	√							
1.3	<i>Painting of</i>								
1.3.1	- Walls, Ceiling Sign boards						√		
1.3.2	- RS / D / W / V							√	
1.3.3	- Railing, pipes, grills, brackets etc.						√		
1.4	Cleaning of PVC Water Tank				√				
1.5	Water supply line								Immediately on notice of defect
1.6	Sanitary / Drainage pipe line								Immediately on notice of defect
1.7	Rain water pipe line					√			Before monsoon & after clogging
1.8	RS greasing / oiling			√					
1.9	RS / D / W / V Fitting								Immediately on notice of defect
1.10	Glass pans of W / V								Immediately on notice of defect
1.11	Repair of Mud Phaska etc.					√			Before monsoon & after clogging
2.0	Goods Shed, CFS, Customs Litigation & workshop								
2.1	Sweeping of floor		√						
2.2	Garbage Disposal		√						As required
2.3	<i>Painting of</i>								
2.3.1	- Walls							√	
2.3.2	- RS / D / W / V							√	
2.3.3	- Pipe lines, Brackets, Grills etc.							√	
2.3.4	- Roof Truss							√	
2.4	Repair of leakage etc from Roof Sheets, extract or etc.								Immediately on notice of defect
2.5	RS Greasing / Oiling etc.			√					
2.6	RS / D / W / V Fitting								Immediately on notice of defect

2.7	Replacement of broken Glass panes of W / V								Immediately on notice of defect
3.0	Underground Water Tank								
3.1	Cleaning				√				
4.0	HO Tank								
4.1	Cleaning					√			
5.0	Platform, Concrete block pavement (type I, II) & Concrete pavement (IIIA) and Brick pavement								
5.1	Platform, concrete bloc, concrete pavement, brick pavement								
5.1.1	- Sweeping		√						
5.1.2	- Maintenance								Immediately on notice of defect
5.1.3	- Grabage disposal		√						
5.2	<i>Bituminous pavement (IIIB)</i>								
5.2.1	- Sweeping		√						
5.2.2	- Maintenance					√			
5.2.3	- Grabage disposal		√						
5.3	Non paved Area								
5.3.1	Cutting of grass, shrubs etc. Cutting				√				
5.3.2	- Maintenance the levels				√				
5.2.3	- Grabage disposal			√					
6.0	Utilities								
6.1	Water Supply Line								
6.1.1	- Checking of tap, valves etc		√						
6.1.2	- Maintenance								Immediately on notice of defect
6.2	Fire fighting line								
6.2.1	- Pressure & operation checkup		√						
6.2.2	- Maintenance								Immediately on notice of defect
6.3	Cleaning of drains					√			
6.4	Sewerage/Drainage pipe line maintenance								Immediately on notice of defect
6.5	Dislodging of septic tank						√		
7.0	Boundary wall including fencing								
7.1	Painting							√	
8.0	Gates, barrels etc.								
8.1	Greasing/oiling etc.			√					
8.2	Painting						√		
8.3	Other maintenance								Immediately on notice of defect
9.0	Green Area (Plants & horticulture)								
9.1	- Watering	√							

9.2	- Replacement of dead plant			√					
9.3	- Plantation of seasonal plants			√					
9.4	- Manure/fertilizer application					√			
9.5	- Grass cutting			√					
9.6	- Maintaining the levels					√			
9.7	- Garbage disposal			√					
(B) Electrical Works Maintenance									
S. No.	Checks	Daily	Weekly	Monthly	Half Yearly	Annually	Bi-annually	Five Yearly	Remarks
DIESEL GENERATING SET									
1	Daily 10 minute run test on auto/ manual operation & maintain frequency, temp., current & voltage record	√							
1.2	Battery electrolyte	√							
1.3	A-Check								Refer O & M manual
1.3.1	- Check air cleaner and drain air tank		√						
1.3.2	- Check loose or worn out belts	√							
1.3.3	- Check engine coolant & top up if required	√							
1.3.4	- Check engine oil level through dip stick & diesel reserve	√							
1.4	B-Check				√				Refer O & M manual
1.4.1	— Repeat A- check & also carry out B-checks				√				
1.4.2	— Change engine oil & filter				√				
1.4.3	— Check throttle linkage & lubricate				√				
1.4.4	— Clean fuel tank breather & replace fuel filter				√				
1.4.5	— Check air piping & clean/ change crank case breather				√				
1.5	C-check					√			Refer O & M manual
1.5.1	- Repeat A & B-checks & also carry out C-check					√			
1.5.2	- Clean radiator & check fan hub/ idler & water pump					√			
1.5.3	- Check alternator, air cleaner etc.					√			
1.6	D-Check							√	After every 6000 hours of running or two years. Refer O & M manual.
1.6.1	Repeat A,B & C-checks & also carry out D-check								
1.7	Alternator								As per manufacturer's O & M manual
2.0	TRANSFORMERS								
2.1	Transformer oil for sludge & acidity					√			
2.2	Excess humming	√							
2.3	Silica gel colour of breather	√							If silica gel is pink, change with spare charge.

2.4	Transformer oil dielectric strength & dehydration if required.				√				
2.5	Earth value & connections				√				
2.6	Operation of controls			√					
2.7	Maintain hourly record of WTI, OTI readings	√							
2.8	Oil Level & tap changer.			√					
2.8.1	- Examine for cracked bushings & dirt deposit			√					
2.8.2	- Insulation resistance					√			
2.9	Explosion vent sight glass.								Refer O & M manual
2.10	Any other check as per manufacturer's recommendations								Refer O & M manual
3.0	Fire Fighting & Water Supply Pumps								
3.1	Trial run of fire pumps on auto operation		√						
3.2	MCC operation/ status			√					
3.3	Gland leakage & rectification		√						
3.4	Cable connection			√					
3.5	10 minutes operation of diesel pump	√							
3.6	Check oil level of diesel tank		√						
3.7	Descaling of pumps					√			
3.8	Check holding of valves & descale if required					√			
3.9	Check pressure vessel for corrosion etc.				√				
3.10	Any other check as per manufacturer's recommendations								Refer O & M manual
4	SF-6 11kv Breaker Panels								
4.1	Cable terminations			√					
4.2	Functioning of various protective relays			√					
4.3	Earth value & connections		√						
4.4	Check readings of metering panel and maintain record	√							
4.5	Check SF-6 gas pressure/ leakage.					√			Refer O & M manual
5.	LT DISTRIBUTION PANELS								
5.1	Cable connections			√					
5.2	Functioning of various protective releases				√				
5.3	Earth value & connections		√						
5.4	Check functioning of indicating meters and lamps	√							
6.	Fire Detection And Alarm System								
6.1	Smoke & ROR detectors								
6.1.1	- Cleaning of contacts			√					
6.1.2	Simulate smoke to check function & maintain record.				√				
6.2	Fire extinguishers								
6.2.1	Refill used units if any	√							

6.2.2	Check operation, gas/ chemical filling and maintain record					✓			
6.3	Fire detection Control Panels								
6.3.1	Check operation of LCP and MCP by simulating fault conditions			✓					
6.3.2	Check P. Cards & replace faulty cards if necessary				✓				
6.4	Public address system								
6.4.1	Check audibility of hooters & announcement			✓					
6.4.2	Working of main hooter	✓							
6.4.3	Check batteries		✓						
6.5	Any other check as per manufacturer's recommendations								Refer O & M manual
7.0	LT & HT POWER CABLES								
7.1	IR value								
7.1.1	- Check insulation resistance of power cables.				✓				Values less than 50 Mega Ohms should be a cause of further investigation or replacement immediately
7.1.2	- Carry out specified pre-monsoon checks.					✓			
7.2	Terminations								
7.2.1	- Check physically all terminations for heating and lug pitting etc.				✓				Any loose connection should be cleaned & tightened and damaged lugs to be replaced.
8.	High Mast Lighting								
8.1	Check for fused lamps or ballasts etc. of luminaries by lowering carriage.				✓				
8.2	A-Check								Yearly
8.3	Winch								Refer O & M manual
8.3.1	- Oil level, Bolt security, Foreign matter, Power drive, Corrosion etc.					✓			
8.4	Wire rope								
8.4.1	- Frays, Kinks, Corrosion, Splicing etc.					✓			
8.5	Compensating Pulley								
8.5.1	- Check for damage & lubricate.					✓			
8.6	Lantern carriage								
8.6.1	- Check joints, guide, cable & junction box, CG box, luminaires, cable wire, clamps, Nylon bobbin & chain.				✓				
8.7	Lanterns					✓			
8.8	Plug and socket and electrical box					✓			
8.9	General: Check as per manufacturer's recommended list.								Refer O & M manual
8.10	B-Check								
8.10.1	- As per A-Check plus test load the wire rope with maint. Cage after two years.						✓		Refer O & M manual
8.10.2	- Raise maint. Cage to check any wear & tear and damage to upper part of mast.						✓		

8.11	C-Check								
8.11.1	- Repeat A & B-checks and also carry out checks on wire rope & electrical installations as per manufacturer's recommendations						√		Refer O & M manual
	Note: Contact the manufacturer after 25 years of installation with maintenance history.								
<p>N.B.: 1. Contract the manufacturer after 25 years of installation of electrical equipment with maintenance history.</p> <p>2. For other equipment viz. battery chargers, HPSV & flourescent luminaires, compressor, distribution boards & other internal Electrical equipment, manufacturer's recommendation as well as general experience in the trade is to be followed.</p>									

5.2 Maximum Ceiling and Proposed Charges by TMC

The following table shows the detailed activities of ICD Operation and their maximum rates have been prescribed as follows.

Escalation of charges: The charges could be increased by 10 percent after two consecutive years to accommodate inflation figures.

Notwithstanding what has been projected in the Bid Document, the following are to be treated as maximum ceiling and capping rates for the different activities in terminal operation for the first year 2020/21.

If supplementary or new activity in the ICD started is charged by the TMC, the income thus generated from it will be subject to the additional rent payable to the NITDB. However, the exact percentage of income payable to the NITDB will be negotiated and agreed between NITDB and TMC before commencement of the chargeable supplementary or new activity.

MAXIMUM CEILING OF CHARGES FOR BIRGUNJ ICD OPERATION							
S.N.	Activities	Maximum Ceiling in NRs.			Bid offered by the Company		
		Vehicles	Per TEU	Per FEU	Vehicles	Per TEU	Per FEU
1	Freight Vehicle Entry per entry/trip (a) Commercial vehicle up to 10 ton (b) Commercial vehicle above 10 ton (c) Light vehicle/Bullock cart with capacity up to 5 ton (d) Rickshaw/hand trolley	133.1+ 266.2+ 66.55 20.57	- - - -	- - - -			
2	Loading/Unloading/Stuffing/Destuffing (all activities) (a) Containerized cargo (b) Non-containerized break bulk/packaged bagged cargo (c) Non-containerized bulk/loose cargo	246.4/ton+ 363/ton+	1870 -	2200 -			
3	Terminal Handling Charges (a) Loaded container (complete cycle of handling) (b) Empty container (complete cycle of handling) (c) Handling of LCL cargo including container handling container handling loading/unloading and stuffing/destuffing (d) Transfer of loaded container for survey and other purpose (one time operation) (e) Transfer of empty container for survey and other purposes (one time operation) (f) Special charges for over dimensional container (ODC)	- - - - - -	3630 786.5 302.5/ton 1210 786.5 25% additional	4900.5 1210 302.5/ton 1512.5 1210 25% additional			
4	Weightment Charges (one activity) of loaded/empty vehicles	133.1	133.1	133.1			
5	Warehousing Charges for goods stored at CFS and Goods Shed: 72 hours free time from the time of arrival (a) Imports (i) 4-10 days = 8.47 paisa/kg/day (ii) 11-30 days = 10.89 paisa/kg/day (iii) 31 days onwards = 16.94 paisa/kg/day (b) Exports (i) 4 -10 days = 4.84 paisa/kg/day (ii) 11-30 days = 6.05 paisa/kg/day (iii) 31 days onwards = 8.47 paisa/kg/day (c) Open Yard Storage (i) 24 hours from the time of entry (ii) 2-7 days = 4.84 paisa/kg/day (iii) 8 days onwards = 7.26 paisa/kg/day	Free	Free	Free			

6	Parking and storage charges: Loaded/Empty (a) Freight vehicles (i) 24 hours from the time of entry (ii) 2-7 days/day (iii) 8 days onwards/day (b) Containers (i) 24 hours from the time of entry (ii) 2-7 days/day (iii) 8 days onwards/day	Free 199.65 266.2	Free 199.65 266.2	Free 266.2 399.3			
7	Sub lease charges Unfurnished room on the main terminal building @ Rs. 665.5/m2 per month						
8	Railway freight to and from ICD to International Border	20' TEU- NPR 484 per Contatiner 40' FEU- NPR 726 per Contatiner Break Bulk cargo - NPR 18.7 Per ton Bulk Cargo and Loose Cargo- NPR 14.3 Per ton					
9	Supplementary services if offered by bidders						

Note:

1. TEU = Twenty Foot Equivalent Unit, FEU = Forty Foot Equivalent Unit.
2. + Rates will be double for hazardous cargo.
3. **Same rates will apply to loaded and empty freight vehicles. A vehicle coming empty will go back loaded and a vehicle coming loaded will go back empty or loaded.**
4. **If the export is repeated through the same vehicle on the same day, the entry fee will be only 25% from the second trip onwards.**

.....

Date

.....

Signed by on behalf of company / firm

.....

Name and Position

5.3 Business Information

This section attempts to give an overall assessment of the policy environment that may affect the functioning of a TMC. The information provided hereunder is only indicative and is in no way intended to replace the due diligence that may be required by any potential bidder.

5.3.1. Information on Trade and Transit Situation of Nepal

A. Trade

5.3.1.1 Current Situation

For the Government of Nepal trade is not merely a means for accumulating national wealth and prosperity, rather, more importantly, it is a means to provide employment and livelihood to the poorest of the poor people in the country. So, for the Government, trade has more human face than the commercial profit. Therefore, it has taken trade as an effective tool to reduce abject poverty of the country and to enhance well being of marginalized people. With this belief the Government has given high emphasis to trade and mainstreamed trade into its development plans and programs since long.

In the same time, Nepal firmly believes that the real promotion of sustainable trade cannot be achieved through protection; rather, it should be based on efficiency, quality and competitiveness. Only a competitive trade can contribute to meet the national objective in a sustained manner. Accordingly, the Government, in last two decades, has taken several measures to liberalize and open up trade and to make it competitive. The membership of the World Trade Organization (WTO) is a milestone towards this end and, during and after accession of WTO, the process of liberalization was further intensified.

The Government further believes that the private sector is the real doers of trade and the Government role is to regulate and facilitate trade and expand trade in international markets by effective bilateral and multilateral trade negotiations. It also has to support the private sector in enhancing their trading capacity by providing assistance to increase their productivity, efficiency and competitiveness.

In this regard, Nepal has put all efforts to open up and to liberalize the economy and make it private sector friendly. It has amended the existing or introduced new laws and regulations as required in a timely manner. Similarly, it has promulgated new economic policies including trade and industrial policies, considering the changed context of globalization and liberalization. It has tried to promote private sector investors; both domestic and joint venture, by providing them various incentives through mainly newly proclaimed Industrial Policy 2010, Board of Investment Act 2011, and from other concerned investment related policies and agreements like the Bilateral Investment Promotion and protection Agreement (BIPPA) to invest in Nepal.

5.3.1.2 Foreign Trade Situation

The total foreign trade commodity traffic has been divided into four categories as follows:

- i) Third country imports
- ii) Third country exports
- iii) Bilateral imports from India
- iv) Bilateral exports to India

By all account, Birgunj has remained a major border crossing in international trade of Nepal as the **two customs (Birgunj customs and Birgunj ICD) occupies more than 43 percent** of value of trade and also contributes the highest percentage **of the annual customs revenue** of the Government of

Nepal. The following table depicts the volume of trade through Birgunj border crossing in relation to total international trade of Nepal.

Trade through Birgunj-Raxaul Border Crossing during the Last five Years

(Value in million NRs)

Year	2014		2015		2016		2017		2018	
	Total	Via Birgunj	Total	Via Birgunj	Total	Via Birgunj	Total	Via Birgunj	Total	Via Birgunj
Export	90,392	23,989	75,523	16,662	74,593	18,179	77,114	18,690	85,248	19,917
Import	772,212	398,392	678,470	288,715	956,499	398,273	1,049,043	472,956	1,407,225	627,243
Total	862,604	422,381	753,994	305,377	1,031,093	416,452	1,126,157	491,646	1,492,473	647,160
Total in Percentage		48.96		40.50		40.38		43.65		43.36

Source: Trade and Export Promotion Centre, Nepal

India and Tibet Autonomous Region (TAR) of the People's Republic of China, are the traditional trading partners of Nepal from time immemorial. However, the trade with India was very much dominant due to comparatively easy access and similar socio-economic conditions. The share of India in the international trade of Nepal between 1950 and 1970 was around 95 percent which showed a gradual decline in favour of third countries till the trend was reversed during the latter half of 90s. India occupied 20 percent share of Nepalese export and the third country export were 80 percent of the total during 1994-95. The scenario was changed due to the revision in the bilateral treaty of trade in 1996 that allowed the duty free access to all Nepalese products except the three items of Tobacco, Alcohol and Perfumes. The decision on Nepalese origin of the export products were to be decided by the Nepalese authorities since the treaty did not specify any specific rules of origin criteria. As a result of the enforcement of this agreement, the Nepalese export to India grew eight fold during the period of 1996-2002, until the provisions of the treaty were revised during the renewal of the trade treaty in 2002.

There was a brake in the acceleration of Nepalese export to India after 2002 that has exhibited only the simple increment in export but a significant import from India. Similarly, some of the major export commodities to the third countries like readymade garments, woollen carpets, and Pashmina has shown substantial decrease in export due to eroding competitiveness of Nepalese products. The inflow of remittances up to 25 percent of GDP during the past decade has fuelled the import of consumable goods while the export performances has remained poor due to outflow of a large number of productive human resources outside the country. This has resulted in unsustainable growth of trade deficit that demands for affirmative and appropriate trade policy interventions from the government.

The following table shows the direction of Nepalese trade during the last 5 years

NRS in thousands

Direction	F.Y 2014/15	% in	F.Y 2015/16	% in	F.Y 2016/17	% in	F.Y 2017/18	% in	F.Y 2018/19	% in
		Total		Total		Total		Total		Total
Exports										
India	55,859,253	64.5	39,695,134	55.8	41,500,844	56.8	46,661,564	57.4	62,731,665	64.6
# China P.R.	2,592,914	3.0	2,502,839	3.5	2,037,229	2.8	2,765,562	3.4	2,575,846	2.7
Others	28,188,295	32.5	28,939,690	40.7	29,587,278	40.5	31,898,252	39.2	31,801,302	32.7
Total	86,640,462	100.0	71,137,663	100.0	73,125,351	100.0	81,325,378	100.0	97,108,813	100.0

Imports										
India	500,044,484	63.7	487,597,307	62.4	646,019,017	65.5	812,551,461	65.3	917,947,260	64.7
# China P.R.	101,101,113	12.9	118,258,182	15.1	133,188,119	13.5	164,324,870	13.2	214,797,841	15.1
Others	183,435,610	23.4	175,289,756	22.5	206,744,161	21.0	268,313,917	21.5	285,814,330	20.1
Total	784,581,255	100.0	781,145,961	100.0	985,951,326	100.0	1,245,190,247	100.0	1,418,559,431	100.0
Trade Deficit										
India	444,185,231		447,902,173		604,518,173		765,889,897		855,215,595	
# China P.R.	98,508,199		115,755,343		131,150,890		161,559,307		212,221,995	
Others	155,247,315		146,350,066		177,156,883		236,415,665		254,013,028	
Total	697,940,745		710,007,582		912,825,946		1,163,864,869		1,321,450,618	

Includes trade with Hongkong SAR of China, Taiwan China and Macau SAR of China

Source:- Trade & Export Promotion Centre, Nepal

In view of improving the trade performances of the country, Government of Nepal has bought out a number of policy and strategic measures during the last decade. These among others, include the membership to the multilateral trading systems and the two regional trade agreements namely, SAFTA and BIMSTEC, improvement of the transit services and border infrastructures, development of Special Economic Zones in some strategic locations, enhancement of market access with the conclusion of the bilateral trade treaties. Besides, the Government of Nepal has bought out the new Trade Policy-2009 and the Nepal Trade Integration Strategy-2010 that largely aims at enhancing the supply side capacity of Nepalese trade. The three year plan (2013-16) of the government has also accorded trade as the priority sector for advancing the economic growth and equity. All these efforts is supposed to correct the recurring wider trade deficit over the past several years.

5.3.1.3 Trade Relationship with India

The Trade relationship between India and Nepal has gone through substantive changes during the past two decades. The bilateral trade treaty signed in 1991 replaced by a new treaty in 2009 has focused on addressing the non-tariff barriers and enhancing the measures in facilitating Nepal's international trade as well as bilateral trade with India.

The agricultural and primary products receives the duty free market access on a reciprocal basis. However, Nepal enjoy preferential market access for the manufactured articles without giving in the similar preferences to the Indian goods. Still, the arrangement on preferential market access to India need a review in view of the erosion of preferences of the Nepalese goods in recent years as other LDCs are also entitled to receive duty free quota free market access in India.

B. Transit

Nepal is currently enjoying the port facilities at Kolkata, Haldia and Vishakapatnam port. India has been providing 15 transit routes to Nepal that connects various parts of the country with the gateway port of Kolkata, Haldia and Vishakapatnam. However, approx 90 percent of all Nepalese trade is carried through five transit points along the Indo-Nepal border namely, Kakarbhitta, Biratnagar, Birgunj, Bhairahawa and Nepalgunj.

There is direct and round the year movement of broad-gauge train and truck including containerized service between Kolkata and ICD Birgunj. The understanding reached between the GoN and GOI (Government of India), in 1996, to introduce Shipping Lines Lock system to Nepalese containerized traffic in transit to and from Nepal has further simplified the transit procedure through the Indian-Territory.

Some important initiatives are being taken up in improving the transit services through India. Government of Nepal and Government of India has agreed in principle to open up the new rail corridor connecting the seaport of Visakhapatnam and landport of Singhabad. The automation of customs transit declaration (CTD) is a step forward being taken by the two governments collectively. Further simplifications of the export-import procedures for movement of containerized traffic in railway is under active consideration in the bilateral discussions. The rail services agreement signed in 2004 for operationalization of Birgunj ICD is being reviewed to make it more comprehensive and further facilitating the trade by reducing the cost of transaction.

5.3.2. Information related to Development of Dry ports in Nepal and operational arrangements

The concept of Inland Clearance Depot was mooted in Nepal during late eighties as the means of handling containerized traffic in an effective and efficient way that was necessitated in the wake of growing containerization of Nepalese trade. This was also an attempt of the Government of Nepal to enhance trade efficiency by reducing the cost of transaction in international trade by creating border infrastructures for facilitating the flow of trade. Initially, three ICDs at Birgunj, Biratnagar and Bhairahawa were initially developed with the World Bank assistance during late Nineties while the ICD at Kakarbhitta was constructed and completed in 2010 with the financial assistance of the Asian Development Bank. The fifth ICD constructed with the assistance of Government of P.R. China at Tatopani border is also now in operation and the sixth ICD is now under construction with the assistance of Government of P.R. China at Timure border, Rasuwa that is supposed to bring substantial changes in the bilateral trade with the Tibet Autonomous Region of the People's Republic of China. Kathmandu ICD at Chobhar, Kirtipur is also under construction with the financial assistance of the World Bank.

Government of Nepal (GON) resolved to encourage greater participation of the private sector in the development of an open and dynamic economy in Nepal. This was to be achieved by privatization of public enterprises, enlarging the role of private sector in the economy and encouraging private sector investment. In accordance with this policy, ICDs located at Bhairahawa, Biratnagar, and Sirsiya (Birgunj) were leased out by the GoN and the operation is going well. whereas ICD at Kakarbhitta(Mechi) is operated by NITDB as an interim arrangement, which also is in the process of leasing out to the private sector.

With the development of three ICDs at Birgunj, Biratnagar and Bhairahawa, Nepal Intermodal Transport Development Board (NITDB) was formed under the GoN and empowered with the authorities to develop and manage the ICD operations.

5.3.2.1 NITDB

Under the Development Board Act 2013 B.S., Government of Nepal has created Nepal Intermodal Transport Development Board (NITDB) in 2054 B.S. with the Secretary of Commerce & Supplies as its Chairman. The seven-member Board has representation from Ministry of Physical Infrastructure and Transport, Department of Customs, Federation of Nepalese Chamber of Commerce and Industry, Nepal Chamber of Commerce and Freight Forwarders Association of Nepal.

Functions, Duties and Powers of the Board

1. The functions, duties and powers of the Board shall be as follows:

- (a) To develop the Terminals by operating services in connection to import and export of commercial goods to be imported in or to be exported from Nepal by making necessary arrangements simple, easy and in competitive manner.

- (b) To enter into agreement with the company selected on the basis of financial and technical proposals received in response to the global bidding in order to operate the Terminal(s) by providing services in a simple, easy, economic and reliable manner.
 - (c) To evaluate and monitor whether or not the management and operation of terminal(s) has taken place as per the agreement concluded with the company(ies) pursuant to section (b) and thereby make it effective
 - (d) To prescribe the criteria in determining charges by the Company(ies) in course of services made available to clients for import and export of goods by importers and exporters.
 - (e) To conclude necessary agreement with Indian Railway service with prior approval of GoN for the purpose of making available the Railway services for the transportation of goods to be imported and exported from Nepal.
 - (f) To coordinate between the company(ies) for management and open management and operation of terminals)
 - (g) To approve annual program and budget of the Board
 - (h) To carry out other functions related to development management and operation of terminal(s)
2. In the agreement, to be concluded under section (b) of Sub Clause (1), such matters shall be clarified in addition to others, as business plan for management and operation of terminals(s), duration of operations, operational procedures, particulars of the services to be provided to the users, the maximum range of tariff to be charged from the uses and the amount to be provided to the users, the maximum range of tariff to be charged from the uses and the amount to be paid by the company periodically to the Board.
3. While prescribing criteria under section (d), of Sub clause (1), in addition to others, business plan of terminal management and operation, its maintenance and other necessary expenses shall also be taken into account.

The formation order of NITDB is annexed as Annexure -5A to this Section 5.

5.3.3. Information on Birgunj Dryport:

5.3.3.1. Development and Operational History

The construction of Birgunj Inland Clearance Depot (ICD) was undertaken in 1998 with the World Bank/IDA credit with the objective of bringing efficiency in the conduct of international trade of Nepal by reducing the cost of transaction through improved physical facilities and the implementation of trade facilitation measures. The construction of ICD took less than three years time, which was completed and handed over to Nepal Inter-modal Transport Development Board in March 2001.

Government of India provided the grant assistance (around equivalent NPR 200.0 million) for developing rail link to ICD. The construction of rail link project was also completed in April 2001. Thus, the ICD was waiting for operation since early 2001 with all its physical infrastructures in place. However, the operation was stalled for quite a long time (till July 2004), until Government of Nepal and Government of India could reach to an agreement on operation of railway to/from Birgunj ICD, which was signed in May 2004.

With the conclusion of Rail services Agreement between the two governments, Nepal Intermodal Transport Development board initiated the international competitive bidding process following the

provisions of Rail Services Agreement (RSA) and Himalayan Terminals Pvt. Ltd, (HTPL), a joint venture company formed by Container Corporation of India Ltd. (CONCOR) with two Nepalese partners namely, Nepal Transit and Warehouse Co. Ltd. and Interstate Multimodal Transport Company Pvt. Ltd. has been selected and awarded lease contract with the provision of paying fixed lease rent to NITDB. The contract agreement took place on 6 July 2004 for ten years period and HTPL provided services in the ICD/Dry Port charging the service charges (User's Fee) approved by NITDB.

Again through the LICB open bidding process, HTPL was selected for the period of five years for the operation and management of Birgunj ICD from 7 January 2015. HTPL has been successfully operating the Birgunj ICD again from 7 January 2015.

C. Infrastructural and other facilities

5.3.4 Design and Capacity of the ICD

The ICD at Sirsiya, Birgunj is a rail-connected facility that focuses on intermodal transfer of goods between rail and road transport. The facility includes several categories of civil works, including heavy-duty pavement, two warehouses (including one goods shed and one container freight station), administrative office building, electrical system, fire- fighting, and water supply system. The 38-hectare area is designed to receive and originate container trains, general merchandise and bulk commodity trains to and from gateway ports and cities in India.

The facility is also designed for expeditious Customs inspection through computerization. The link with Customs will be made through the electronic transfer of cargo information, which is expected to operate between Kolkata Port and Birgunj ICD. The Terminal Management Company (TMC) is required to operate the ancillary facilities for streamlining the electronic messaging and processing of the data of transit traffic.

The railway siding extended from Raxaul to Birgunj ICD will bring the containerized and non-containerized traffic from the gateway ports and cities in India to the ICD and vice versa. The termination and origin of cargo to/from the ICD entails various activities like container lift off/lift on, cargo consolidation stuffing and de-stuffing of vehicles, value added services in the form of packaging of goods, container cleaning and repair and so on.

5.3.5 List of the Property Belonging to the ICD at Birgunj

5.3.5.1 Immovable Property I.E. Land and Building

1.1 Land: 380,000 Sq. M

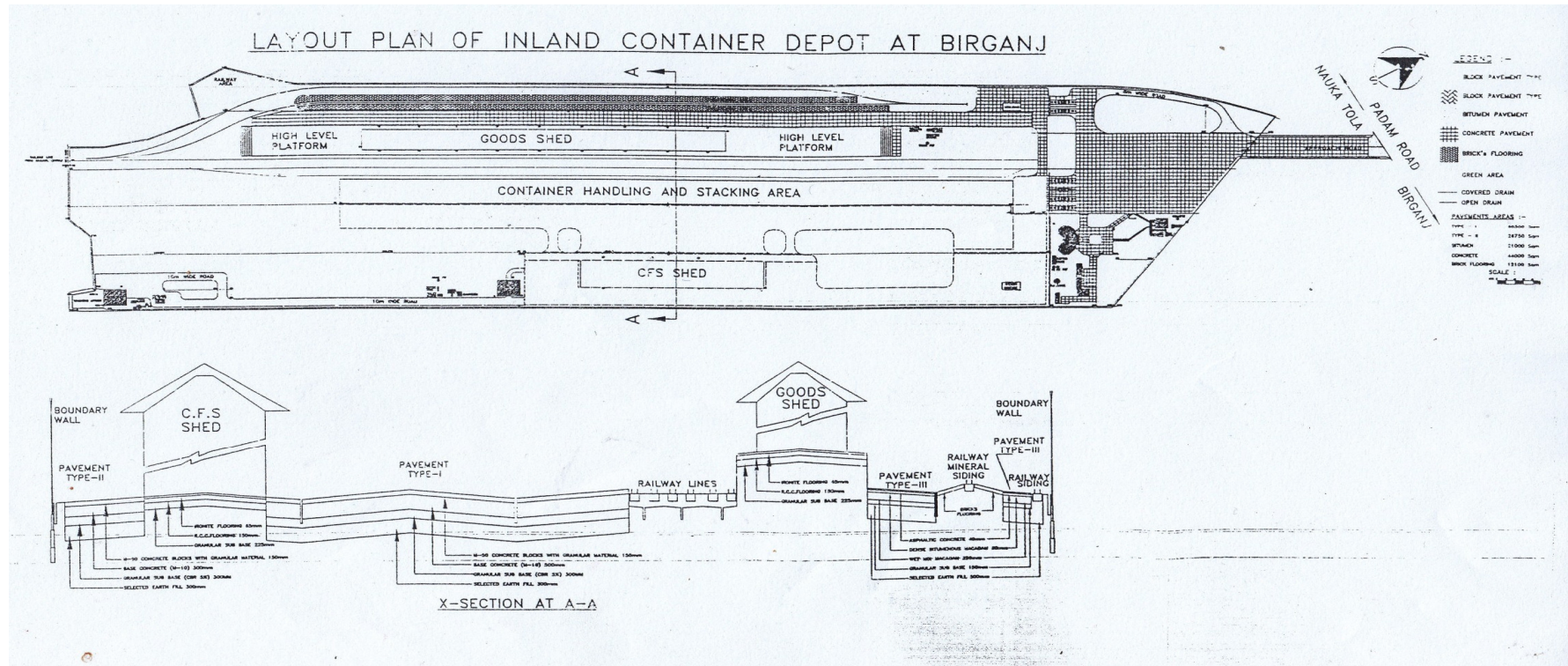
- A Railway yard comprising 6 full-length lines that includes one short dead end siding for detaching sick wagons and one mineral siding.
- Two stored Administration block with 640 sq. m. plinth area and 1130 sq. m. floor area to house Freight Forwarding Agents, Shipping Lines Office, Computerized Facilities, Bank, Post Office, Insurance etc.
- A container yard measuring 656 ground slots in the first phase, capable of holding up to 1568 TUE at a time.
- A covered container freight station steel trussed shed, measuring 203 m. X 35 m. with 160 ground slots for inspecting goods equivalent to **160 TUE at a time.**
- A covered goods shed on a 1.2 m. high platform measuring 405 X 26.5 m. with 231 ground slots in the first phase, for warehousing break bulk goods. Extended covered goods shed (without walls) measuring 166 x 26.5 and 115 x 26.5

- Ancillary facilities including, a gate complex, a truck park, a small warehouse for Customs disputed goods, a workshop, an electric sub-station, a fuelling point, tube well, underground and overhead water tank, canteen etc.

5.3.5.2 Movable Property:

Heavy lift equipment in the form of three 45 ton and one 7.5 ton capacity Reach Stackers.

5.3.6 Layout Plan



Salient feature of Birgunj ICD are:

- Rail based ICD;
- Broad Gauge Railway yard with 6 full length lines;
- Boundary Wall of 3.15 Km. long & 3.6m. high;
- Administrative block of 1130 Sq.m. floor area;
- Container stacking yard of 685x 64m with 656 grounds slots capable of holding 1586 TEUs;
- Covered Container Freight Station of 203x 35m with 231 ground slots;
- High-Level goods platform of 38.5x 700m with full rail rake length;
- Covered Goods Shed on 1.2m high platform of 405x 26.5m with 160 ground slots; Extended covered goods shed (without walls) measuring 166 x 26.5 and 115 x 26.5
- Covered Customs litigation shed of 25x21m;
- High mast lighting with boundary lights;
- Electric substation of 630 KVA, 11/0.4 KVA with one 380 KVA D. G. SET;
- Fire detection and alarm system;
- Cement concrete paved area for parking of 250 freight vehicles and 30 big size trailers.

D. Traffic Movement

As has been mentioned earlier, Birgunj remained major border crossing for bilateral as well as third country trade of Nepal. This border crossing with the railway as well as the road transportation receives and dispatches all kind of traffic to and from Nepal. With the development of the ICD facilities and its operation in 2004, there is substantial shift of the road traffic and containers from the road to rail mode of transportation. The number of containers handled at Birgunj ICD during the last years are as given below.

The following table provide the total container handled in Birgunj ICD within the Nepalese fiscal calendar (July 16 to July 15)

Year in B.S.	Import TEUS	Export TEUS	Total
2070/71	18538	658	19196
2071/72	22538	940	23478
2072/73	29180	1494	30674
2073/74	33196	1254	34450
2074/75	41661	1620	43281
2075/76	47846	1372	49218

The above table above shows the increasing trend of container handling at Birgunj ICD.

The following table provide the total break bulk, bulk, loose cargo (BRN, BCN) handled in Birgunj ICD within the Nepalese fiscal calendar (July 16 to July 15)

Bulk (A) BRN			BCN (B)		Commercial Total weight (A +B)
Months	No of Train	Commercial Weight (MT)	No of Train	Commercial Weight (MT)	
2070-2071	137	348403.120	119	292624.940	641028.060
2071-2072	163	412417.000	124	325555.000	737972.000
2072-2073	189	472520.000	191	477500.000	950020.000
2073-2074	245	612500.000	200	500000.000	1112500.000
2074-2075	225	581000.000	222	555000.000	1136000.000
2075-2076	208	520000.000	199	497500.000	1017500.000
Total	1167	2946840.120	1055	2648179.940	5595020.060

Major commodities exported from Birgunj ICD:

1. ready-made garments
2. carpets
3. hand-made woolen products
4. tea
5. cereal grains
6. polyester yarn
7. toiletries
8. noodles (Like Wai Wai, etc)
9. soap
10. corrugated sheets
11. wheat
12. lintel
13. leather
14. fruits and vegetables

Major commodities imported from Birgunj ICD:

1. consumer goods
2. petroleum products
3. raw wool
4. chemicals and pharmaceuticals
5. machinery
6. iron-ignite, cement, moter battery , Fabrics and Glass

5.3.7 Types of Revenues

The revenue that is likely to be generated from the operations of the ICD may be classified into three broad categories, i.e. revenues from core gateway services, payments from sub leases and income generated from supplementary services. The basic gateway services that are utilized by all importers and exporters alike can be categorized as core services, and the rates applicable to these services will be governed by the tariff ceilings approved by NITDB.

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

The Lessee is entitled to charge rent or levy fees on the usage of a variety of services provided by it within the ICD. An indicative list is provided in Section 5.3.5.1 of this bidding document.

5.3.8 Summary of Lease Rent serviced by HTPL to NITDB during FY 5 Years

The actual leasehold fees paid and payable for the five year starting from January 07, 2015.

Payment Schedule of Leasehold Fee for Blrgunj ICD (NRs. in thousands)

Year	1	2	3	4	5
Minimum Lease Rent	144,000	150,000	163,000	166,000	176,500
Additional amount through Revenue Sharing Mechanism	9,846	74,786	69,845	108,674	Running

5.4. Information related to Policy and Regulatory requirements for leasing out, operation and management of ICD

This section deals with some of the pertinent policy and regulatory issues in which a prospective investor may be interested. The information provided hereunder is in no way a substitute for the due diligence required on the part of the prospective TMC, and NITDB makes no representation or warranties as to the accuracy or completeness of this information. Bidders and the operator/TMC are required to fulfil all legal obligation/compliances of the country. Below provided are just the information for their knowledge.

5.4.1 Nepal Intermodal Transport Development Board Formation Order, 2054 (1998)

The establishment of an independent public body called Nepal Intermodal Transportation Board (NITDB) was made possible with the issuance of this Formation Order in 2054 (1998) under section 3 of the Development Board Act 2013. The most important functions of the NITDB include the calling for tender for the management and operation of ICDs, entering into agreement for leasing out of the ICDs operation, monitor the functions of TMCs, prescribe criteria for determining charges and fees to be levied by TMCs and enter into agreement with related parties for operationalizing the multimodal terminals. It is also responsible for and development of multimodal transport infrastructure in the country.

5.4.2 Nepal India Rail Services Agreement, 2004

Government of Nepal and Government of India entered into an agreement for the railway movement to and from Kolkata port in India to Birgunj Inland Clearance Depot (ICD) in Nepal via Raxaul, India initially for 10 years on 21 May 2004 and renewed till 2024 AD. The main objective of the agreement is to enhance and reduce the transit time and cost to international trade of Nepal. The agreement has also prescribed import and export procedure for containerized and non- containerized cargo.

5.4.3 Terminal Leasing Out Regulation, 2070

As there were no any rules and regulations to deal with leasing of ICDs to the private company through competitive bidding. NITDB has been successful through GoN decision to bring out the "Terminal Leasing out Regulation, 2070" on 2070-08-13 BS.

5.4.4 Industrial Enterprise Act 1992 of Nepal

The Industrial Enterprise Act of 1992 of Nepal aims at facilitating the process of industrialization in the country attracting investment in the industrial sector through simplified procedures (one-window system) and by creating a promotional and competitive environment.

The Act classifies industries into different categories, namely, manufacturing, energy-based, agro and forest based, mineral, tourism, service, and construction. On the basis of fixed asset investments, these industries are further classified as cottage, small (fixed assets investment of less than Rs. 30 million), medium (fixed assets investment between Rs. 30 million and Rs. 100 million) and large (in excess of Rs. 100 million).

Industries, other than those related to security and public health, does not require any governmental permission for their establishment, extension and diversification. However, they have to be duly registered with the government.

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

5.4.5 Foreign Investment and Technology Transfer Act 1992

In order to promote foreign investment and transfer of technology into the country, Foreign Investment and Technology Transfer Act 1992 was enacted. The Act ensures unrestricted repatriation of investment, dividends on such investments, and loan repayment and interest as per the Act. Approvals for bringing foreign investment are required under this Act. .

5.4.6 Labour Act

The Labour Act has been enacted to ensure the welfare and safety of labourers & workers in different establishments and organizations. There are a number of new features in the Act. The Act includes provisions for minimum wage based on skill as well as basic job security to employees. It provides for maximum allowable working hours. The Act also sets out the minimum employable age and minimum standards of health and safety at the working place. The principal of collective bargaining is also embodied in the Act. At least ten workers are required to form any union within the workplace a minimum membership of 25% of the total work force. The concerned Labour Department field office will first settle any labour dispute, and a labour court will handle unresolved disputes.

5.4.7 Taxes and Duty Regime

Although tax and duty regime vary, there are said to be four main types of taxes/duties levied within the country. These are customs duties, excise duties, value-added tax and income tax.

The Customs duties are currently going through a process of rationalization and harmonization with international standards and codes. Trade barriers have been lowered in recent years in a number of products ranging from daily necessities to luxury and comforts.

Excise duties are now applicable to a very limited number of items. The value added tax is applicable in the country. The VAT applies to most items except for food supplies.

5.4.8 Contract Act and Others.

5.5. Information related to Lesser Requirement

5.5.1 Sub-leasing

The Inland Clearance Depot at Birgunj will include the facilities as mentioned in this section 5 above. Under the terms of its agreement with the NITDB, the terminal management company or lessor may sub-lease the operation of the CFS facilities to other freight operators or service providers. The lessee will have to ensure, and substantiate to NITDB, if asked for, that the sub-lessee is capable and has the necessary equipment to provide the sub-leased services.

5.5.2 Provision of Rail Services Agreement

As a condition for bid qualification, TMC applicants must comply the provision of **Clause 4** of the Nepal India Rail Services Agreement and subsequent prevailing laws of Nepal.

5.5.3 Supplementary Services which may be offered

While transiting the goods through the ICD facilities, all the users and importers/exporters will utilize the core gateway services. These common user services include (a) the systematic entry and exit of containers, container trucks, open trucks and other commercial vehicles, (b) basic cargo handling as required by Customs or any other governmental or authorized agencies, and (c) basic warehousing, for goods impounded or detained by Customs or any other governmental or authorized agencies. The Terminal Management Company will set the prices for these services within the published tariff ceilings set by NITDB.

Supplementary services include services offered to some sub-set of terminal users with special logistics needs. These services are typically subject to competition from other service providers on

either side of the Nepal border. Hence, the prices for such services are determined largely by the existing market forces. However, a ceiling of charges on supplementary services also has been prescribed in **Clause 5.2** of bidding document Services under this category include, but not limited to:

- use of the bonded warehouse, other go-downs, container freight stations
- use of material handling equipment
- loading and unloading of vehicles
- vehicle parking
- Stripping and stuffing of customs inspected cargoes
- stuffing and de-stuffing of containers
- mounting and demounting of containers on/off chassis
- lift on and lift off of empty containers
- storage of empty containers
- consolidation of freight into ISO containers for outbound movement
- cleaning and repair of ISO containers, and
- ground storage and handling of bulk and neo-bulk commodities

Other examples of these supplemental services that may have value to freight forwarders or ocean shipping lines include:

- ISO container inspections
- inter change of equipment
- warehousing or ground storage of bulk and neo-bulk commodities for which customs payments are not due on cargo arrival but postponed until smaller lot sized are consolidated into full container loads, and
- delivery from the ICD warehouse/ground storage site in a just-in-time mode for local use and consumption

The entrepreneurial imagination of the ICD terminal operator and his understanding of the distribution arrangements and logistics characteristics of the underlying freight markets are the best guide to define the marketable value added menu under this supplemental services category.

It should be clearly noted that supplemental services are absolutely necessary to enhance the profitability of the ICDs, and NITDB expects such services to be provided by the ICD operators.

5.5.4. Statutory function of the ICD:

It is envisaged that the organization of the Birgunj ICD will be in line with the technical proposal made to and accepted by NITDB. Based on the agreed business plan and technical proposal, TMC, duly appointed by NITDB on a contractual basis, will be directly under and responsible to NITDB for the management and operation of the common ICD activities. These include management of the land facilities and the container yard, the operation & control of the gate complex and the operation & control of all internal transfer movements. Other ancillary activities such as development of container repair facilities and diversification into other areas concerned with container handling, transfer and storage would also be under the domain of the TMC.

The TMC will be responsible for all the statutory functions of the ICD under the supervision of NITDB. Additionally, the TMC may facilitate in providing services related to banking, post-office and communications and avail space to the extent of space availability to accommodate freight forwarders, shipping line agents, transporters, etc. for which provision has been made in the administration building (ICD Terminal Building) within the depot.

While the TMC will perform all the managerial functions for the running of the facility and exercise control and coordination, it may enter into additional sub-lease contracts with other freight operating companies. These sub-lease agreements will be subject to the main lease contract

between the TMC and NITDB. The TMC, however, cannot outsource its managerial functions for running the facility and in exercising facility control and coordination.

Anticipated Staffing

The following is an indicative basic manpower requirement for the TMC at Birgunj. The TMC is free to purpose required manpower and will be responsible for recruiting, training and employing qualified staff in sufficient numbers to man the ICD facilities during working hours.

Proposed Staffing Schedule for TMC

SN	Designation	No. of Post
1	General Manager	1
2	Assistant Managers	2
3	Officers	4
4	Engineer	1
5	Foreman	2
6	Gate Assistants	3
7	Godown keeper and appraisal shed assistant	8
8	Office Helpers	4
9	Security Guard	32
10	Cleaner	10
	Total	

5.5.5. Use of Office Space

NITDB intends to conduct tender process to assign the lease of ICD at Birgunj to a potential Terminal Management Company (TMC). The TMC will provide same office space to customs and to NITDB as TMC has been providing till now. The customs and the NITDB will not pay a sublease to the TMC.

ICD complex at Birgunj includes Freight Forwarder & Custom Clearing Agent office, canteen, banking, insurance office PCO/ stationary/ Communication centre etc. TMC will sublease office space to the Banks, Customs Agents and Brokers or as stated above.

5.5.6 Equipment

In order to ensure that each operator has adequate financial stake in the Birgunj ICD, NITDB expects that adequate handling equipment like reach stackers for the use of stacking and shifting ISO/DSO containers, cranes,, Loader, forklifts, tractor-trailers and wheelbarrows, scales, computer equipment presently available in the ICD will be replaced/ procured/rented/leased and maintained adequately by the TMC based upon requirement after assessment of feasibility until the end of the lease. The operator shall procure /replace and install at least three new reach stacker(s) for the stacking and shifting of containers within one year of awarding of the contract with the prior consent of the employer. The life of the reach stacker(s) will be assumed as ten years and will be depreciated at 10% per annum on straight line basis. If the contract for the operation of the ICD gets terminated before 10 years, the employer will compensate the terminal operator with the book value of the reach stacker(s) so arrived at. However, to be eligible for compensation, the TMC should get prior approval of the employer before purchase and maintain the equipment in running condition at all times.

In addition, four Reach Stackers owned by the NITDB which have executed 18 years of its economic life, but in working condition will form part of the assets leased to the TMC. To bring about efficiency in cargo handling and reduce dwell time TMC should maintain NITDB's Reach Stackers and add two more Reach Stackers for facilitating the trade.

The TMC will also need to harmonize its work processes, timing and procedures with Indian Railways for streamlining the movements of cargo to and from ICD. The leasehold arrangement also includes the efficient operation and maintenance of the ICD. Moreover, the TMC is expected to develop and upgrade the facility to cater to the need of trade through a modern and well-managed multimodal terminal.

5.5.7 Selection and Functions of TMC

- 5.5.7.1 The Terminal Management Company (TMC), or the Terminal Operator for short, is envisaged to be a private agency responsible for the complete management of the terminal(s) leased to its and ensuring smooth operation of all services at the terminal(s).
- 5.5.7.2 The TMC can be a proprietary firm or a Joint Venture Company but shall need to register itself as a business under the appropriate Laws of Nepal.
- 5.5.7.3 The selection and appointment of the TMC shall be carried out through a fair and transparent process of open tendering in the following way, viz.
- i. Suitable firms with the experience of operation and management of freight terminals are eligible to bid for the Terminal Management Contract
 - ii. Selection of suitable firm (s) on the basis of specified selection criteria, and
 - iii. Execution of a Contract between NITDB and TMC laying down specific terms and conditions and mutual obligations on the part of the two parties.
- 5.5.7.4 The principal criteria for the selection of the TMC shall be that it should:
- i. Be financially sound and enjoy good standing in the market
 - ii. Have specialized skills and past experience in the management and operation of similar container, rail linked facilities and freight terminals
 - iii. Have proven expertise in dealing with shipping lines, shipping line agents, clearing and freight forwarding agents and sound knowledge of port and railway operations
 - iv. Be able to effectively market the facilities/services
- 5.5.7.5 The main functions of the TMC shall comprise the following:
- i. Overall management of all functions/services at the terminal (s) operation and maintenance of container handling equipment leased to it along with the terminal infrastructure;
 - ii. Proper implementation of the terminal concept by combining all the activities at the Container Freight Station (CFS), goods warehouse and at the Goods shed, and as the case may be;
 - iii. Provision of high quality and comprehensive range of services to the shippers and receivers including introduction of new service packages and value added services;
 - iv. Introduction of advanced and cost effective management information system for a proper monitoring of terminal operations;
 - v. Interacting with the NITDB in respect of periodical review of terminal performance and fixing of rates for the various value added terminal services;
 - vi. Interaction with Nepalese Customs, Indian Customs, Port authorities and all other agencies related with the multimodal transport chain.
 - vii. Submission of statistics related to traffic movement on monthly basis and audited financial reports annually;
 - viii. Introduction of Information and Communication Technology (ICT) for effective terminal operation.

- i) **Financial Projection:** Finally, the business plan should include a financial projection including an income statement, balance sheet and sources and uses of cash statement for multiple years.

5.6. Other information related to ICD Operation

5.6.1 Goals and Objectives underlying ICD Operation

The primary objective of the ICD operation is to facilitate bilateral and international trade by optimizing transport cost, reducing processing time for custom clearance and minimizing damage & pilferage of cargo, offering modernized customs process resulting in better services with reduced cost. The objective can only be achieved by a balanced terminal user charges with high quality terminal services. The engagement of the terminal management company in running the terminal is supposed to bring effectiveness and efficiency in operation through a flexible, accommodative market based approach.

The Inland Clearance Depot at **Birgunj** provides opportunities for bringing all ocean going containers of Nepalese exports and imports by utilizing the ICD infrastructures optimally. In view of the ongoing efforts to improve transit operation, the terminal is poised to divert more traffic from the road to rail transportation thereby increasing the cargo turnover at the ICD.

5.6.2 Future Market and Business Expansion

ICD at Sirsiya, Birgunj has rail linked and all the activities is governed by Nepal India Rail Services Agreement (RSA). The current provision of RSA restricts the movement of all rolling stocks in this route but the two governments reached to a principle understanding to open additional rolling stocks, The principle understanding still in the process of formalization.

5.6.3 Risk

5.6.3.1 Economic

The economic and financial projections for the multimodal terminals have been based heavily on the economic forecast for Nepal, particularly in respect to the anticipated growth in the Gross Domestic Product. Even though a pessimistic approach has been adopted for the purpose of data analysis and project viability an unexpected major downturn in the economy may result in a variance of the profitability of the ICD.

5.6.3.2 Political

The political risk is not significant and needs no further consideration here.

5.6.3.3 Environmental

The ICD at Birgunj is planned in a way to greatly reduce the traffic congestion. The greenery maintained in the ICD has also been supporting to keep the area less-polluted. ICD terminal, in effect, lowers the risk associated with the environment.

5.6.3.4. Gateway Competition among ICDs

In course of improving the border infrastructures, ICDs have come into operation in Birgunj, Biratnagar, Bhairahawa and Kakarbhitta. These facilities developed during the past decades are supposed to facilitate import and exports transaction.

The Road based Inland Clearance Depot (ICD) at Biratnagar, Kakarbhitta and Bhairahawa are currently in operation. Of these, Biratnagar and Bhairawa are the competing terminals with the newly built Birgunj ICP while the rail terminal at Birgunj does not face any competition with ICDs at present, however the recently built road based Birgunj ICP which is in operation from last year might be considered.

While the Birgunj terminal, has a broad gauge railway link to the Indian Railway System, so that cargoes from Kolkata arrive directly to Birgunj ICD, such is not the case either for the ICD at Biratnagar, Bhairahawa and Kakarbhitta. The ICD at Biratnagar and Kakarbhitta are geared to

serving only road carriers including containerized trucks whereas the ICD at Bhairahawa is predominantly handling bilateral truck cargoes (trade with India) and also acting as a clearance point. However, with the development of Integrated Customs Check Post (ICPs) at Birgunj, Bhairahawa and Biratnagar, and the proposed arrangement for movement of Bulk Train to and from Jogbani is likely to increase the competition among ICDs in future.

5.6.4 Nature of the Leased Property Access and Right of Use by the Customs

The Terminal Management Company(s) as a lessee and operator will have full authority with respect to a) using the land at the ICD area, b) the use of equipment for operation of ICD and c) the use of building godown and utilities within the premises. However, the Customs office operated within the premises will have authority to exercise the activities mentioned under this clause.

The Terminal Management Company(s) will have authority to charge rent for other users in the premises such as Banking office, Insurance, Freight forwarders & Clearing agents, Customs Agent, Post Office etc. In addition, they are entitled to get free access to the premises of other facility users. TMC may charge rent for bonded warehouse, container freight stations, goods warehouse, vehicle parking, loading and unloading of vehicles, use of material handling equipment for stuffing and destuffing, use good shed etc.

The Terminal Management Company as a lessee will have full authority with respect to the use of the land, building, go-downs, utilities and handling equipment at the ICD at Birgunj. However, the Customs Office operated within the premises of the ICD will have the authority to exercise the following rights and to carry the following activities:

- i) Free use of allotted office space within the administrative building and the gate complex in order to carry out daily functions of customs;
- ii) Provide unrestricted access to Container Freight Stations, Godowns and other area for regular or occasional inspection of the condition of goods being exported or imported;
- iii) Provide access for checking of goods during stuffing and de-stuffing of goods in containers
- v) Issuance of entrance permits to the customs clients and concerned persons within the bonded area of Customs; and
- vi) Any other activities authorized by **Customs Act -2064**

5.6.5 Relationship between Lessee and Nepal Customs Service

It is expected that there will be a harmonious working arrangement between the Customs Office and the Terminal Management Company. Any problem that cannot be solved amicably will be referred to NITDB who will then coordinate with the concerned Ministry or agency.

Annexure 5A**Nepal Intermodal Transport Development Board (Formation) Order, 2054**

The order has been issued by the government through a notice published in Nepali language on 6 Magh 2054 (19 January 1998)] in the Nepal Gazette and its first amendment on 2019 AD. A copy of the originally published document is available at the Employer's office **or it can be downloaded from the website www.nitdb.gov.np.**

Section 6 – Sample Forms of Letter of Contract Confirmation and Acceptance, Letter of Acknowledgement, Confidentiality Agreement, Lease Agreement (Draft), Agreement between Customs Office and TMC (Draft), Security Forms, Format of Financial Proposal

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LETTER OF CONTRACT CONFIRMATION AND ACCEPTANCE

Executive Director,
Nepal Intermodal Transport Development Board (NITDB)
Ministry of Industry, Commerce and Supplies,
Kupondole, Lalitpur, Nepal

Regarding Contract Confirmation

Dear Sir,

- This letter of confirmation is submitted pursuant to the invitation by Nepal Intermodal Transport Development Board (NITDB) for the final bidding process in respect of leasing of the Sirsiya ICD, Birgunj for its operation and management in accordance with the provisions of the Bid Document dated

Through this letter we confirm that we accept terms and conditions of draft agreement for leasing the assets of ICD and transferring operational and management rights of the ICD. However, we submit the following alternative suggestions for consideration:

Provision of Proposed Draft	Suggested alternative language	Justification for amendment

Date:/...../.....

Signed by Or
On behalf of Bidder:
Name and position held

Letter of Acknowledgement

To:

Executive Director,
Nepal Intermodal Transport Development Board (NITDB)
Ministry of Industry, Commerce and Supplies,
Kupondole, Lalitpur, Nepal

1. This letter of acknowledgement is submitted pursuant to the invitation by Nepal Intermodal Transport Development Board (NITDB) for the final bidding process in respect of leasing of the ICD in accordance with the provisions of the Bid Document dated,
2. The Bidder acknowledges:
 - (a) that neither GoN nor NITDB will have any obligation to the Bidder not will the Bidder have any obligation to GoN or NITDB except for the provision and deposit of a earnest payment to confirm the intent of bidders to proceed through the entire awards process to final agreement, until GoN, NITDB and the Bidder have signed a final, written agreement of lease in respect of the ICD (s); and
 - (b) acknowledges that is bound by the provisions of the Document in relation the final bidding process, confidentiality and disclaimer of responsibility.

Date:/...../.....

Signed by Or
On behalf of Bidder:
Name and position held

CONFIDENTIALITY AGREEMENT

Private and confidential

To: Nepal Intermodal Transport Development Board
Kupondole, Lalitpur, Nepal

In consideration of your agreement to provide us with the Bid Document dated relating to the lease of ICD for operation and management, we hereby agree to as follows:

1. We have read and acknowledged the disclaimer forming part of the Introduction Section of the Document
2. We will hold and keep strictly confidential all information, statements, opinions, projections, forecasts and other matters of whatsoever nature contained in the Document or otherwise provided to us in respect of the proposals, except insofar as the same may be or become information in the public domain, and we will only use the contents and other information as necessary to consider the Proposal.
3. If it is necessary to make any such disclosure to any employee or third party, we will, prior to making such disclosure, procure that such employee or third party unconditionally agrees to be bound by the terms of this letter. We agree that we are and will be responsible for all the acts and omissions of such persons insofar as they relate to or affect any matter with which this letter or the Document is concerned, or may do so.
4. We will do and take all lawful things and actions as you may request to procure that the undertakings set out in this letter are fully and properly complied with and performed at all times.
5. We agree that the undertakings set out above will continue in full force and effect notwithstanding any omission, event and/or matter, except with respect to any interest or matter relating to our proposal
6. Neither NITDB nor its, officials or advisers accept responsibility for, nor make or will make, any representation (express or implied) with respect to the accuracy or completeness of the document.
7. We will be responsible for making our own decision regarding the confidential information and understand that we will be required in the execution of any contract for the lease and transfer of operation of ICD and acknowledge that we have not relied on any representation or warranty whether of fact, opinion or otherwise except where expressly set out in such contract.
8. Damages would not normally be an adequate remedy for a breach of this undertaking and as a result we hereby unconditionally agree to waive any rights we may have to oppose the granting of equitable or injunctive relief sought by NITDB in relating to any breach or suspected breach of the agreements and undertakings contained in this Agreement.
9. No failure or delay by NITDB in exercising any of powers, rights or remedies under this letter shall operate as a waiver of those powers, rights or remedies, nor shall any single or partial exercise of any such powers, rights or remedies preclude any other or further exercise of them.
10. This letter shall be construed to take effect in all respects in accordance with the laws of Nepal.

- 11. As s separate and independent undertaking we will indemnify, NITDB and their respective officers, employees, advisors and agents any loss, cost, claim, damage, expense, liability, proceeding or demand which they or their respective officer, employees or agents may incur or suffer in consequence of any breach on our part, or on the part of any persons for whom we are responsible, of the undertakings herein contained, and that we unconditionally consent to submit to the non-exclusive jurisdiction of the courts of Nepal.

Yours faithfully,

Name : _____
Company : _____
Position : _____
Date : _____

Contract Agreement (Draft)

AGREEMENT TO LEASE THE ASSETS FOR OPERATION AND MANAGEMENT OF INLAND CLEARANCE DEPOT AT BIRGUNJ

This agreement of lease of assets for operational and management of ICD is made on day of (month) between Nepal Intermodal Transport Development Board, an independent public body with functions, duties and powers to establish, regulate, supervise and monitor the business of Inland clearance depot (ICD) in Nepal including Birgunj (hereafter called the "NITDB" or "Lessor"), andLimited, a company duly registered under the Law of Nepal having registered address in.....Nepal. (Hereinafter called the "TMC" or "Operator" or "Lessee") in respect of **leasing** "Inland Clearance Depot situated in Birgunj (hereinafter called the "ICD") for operational and management of ICD on the terms and conditions herein set below:

1 DEFINITION AND INTERPRETAION

I. In this agreement, unless the context otherwise requires:

"Agreement" means this Contract Agreement.

"Assets" means the assets and premises belonging to the ICD at Birgunj and includes any replacement, substitute, improvements or additional equipment, plant, buildings and property installed or provided in accordance with this lease or otherwise by the Lesser. This may also referred as "ICD Assets"

"Agreement date" means the date this agreement is executed.

"Business and Operation Plan" means a business development plan, an operation plan, management plan, operational procedures & performance standard submitted by the Lessee as an integral part of his bid in respect to the operation and management of the ICD and accepted by the NITDB.

"Contract Agreement" means this agreement and shall include the following documents which shall be deemed to form and read and contained as a part of this Agreement : . (i) Contract Agreement (ii) Letter of Acceptance (iii) Letter of Acknowledgement to Letter of Acceptance (iv) Bid Proposals submitted by the Lessee (v) Payment schedule of Leasehold Fee (vi) Other documents listed and annexed in this Agreement

"Contractor" means lessee or the operator appointed in accordance to this agreement signed between NITDB and TMC for operation of ICD Birgunj .

"Core Gate-way Services" means services which are only available within the ICD and which involve cross border movement from India to Nepal or vice-versa, de vaning of trucks, containers and other carrying vehicles for customs inspection and /or storage of customs impounded goods in a bounded warehouse.

GoN means government of Nepal

"Lease" means lease under this Contract

"Management" means managing the business of the ICD including but not limited to commercial, human resource and financial management.

NITDB Formation Order means Nepal Intermodal Transport Development Board (Formation) Order 2054 published through gazetted notification issued on 2054 Magh 06,

"Operation" means day to day running of the business of the ICD by using the Assets and other facilities located in Birgunj ICD.

"Parties" means the NITDB and the Lessee who signed this Lease agreement.

"Rent" means the fixed minimum leasehold fee plus the revenue income shared thereafter, and other charges including penal interest, liquidated damages payable to NITDB by the lessee in respect of the lease of the Assets and Business of the ICD at Birgunj.

"Revenue-Sharing" means sharing of revenues earned after payment of fixed minimum leasehold fee out of leasing of assets and operation and management of ICD Birgunj, between the Lessor and Lessee.

"Revenue-Sharing" means the sharing of collected fee/charges between parties from weightment of traffics plus sharing of revenues earned after payment of fixed minimum lease hold fee out of leasing of assets and operation and management of Sirsiya ICD, Birgunj.

"Supplementary Services" means services, which are competitively available in locations other than ICD. These services may include sorting, storage, benefaction, packaging, re-packaging and Trans-shipment weighing. They may also include container and chassis storage, mounting, cleaning and repair. The array and diversity of supplementary services will depend on entrepreneurship of the operator.

"User" refers to any person, company, parastatal or any other person intending to use the assets, facility of the ICD or the service offered by the ICD.

II. In this agreement, unless the context otherwise requires

- a) words importing one gender include the other gender.
- b) the singular includes the plural and vice-versa
- c) references to a month or a year are references to a calendar month or year, as the case may be.

III. In this agreement

- (a) A reference to the NITDB/the Lessor, Government of Nepal (GoN) is also a reference to their respective advisors, executors, administrators, successors or agents.
- (b) A reference to a "person" includes an individual, firm, company, corporation or un-incorporated body of persons, or any state or government or any agency thereof (in each case, whether or not having separate legal personality) and a reference to a "company" includes a person.
- (c) Headings are for convenience only and shall not affect interpretation of contents.
- (d) References to sections, clauses and schedules are references to sections, clauses and schedules of this agreement unless specifically stated otherwise.

2 LEASE

2.1 Transfer of Possessor Rights

GoN, the legitimate titleholder of all immovable property belonging to ICD at Birgunj has transferred its sole Possessor rights over such property to NITDB as per decision made by The Cabinet of the GoN, Thus NITDB, to achieve objectives of NITDB Formation Order, is fully authorized to possess, maintain, develop, lease and/or rent such transferred property to any other party.

2.2 Property Lease

Subject to the terms and conditions specified in this agreement the NITDB leases the assets located at the ICD in Birgunj, Nepal, to the Lessee and agrees to take on lease the ICD assets.

2.3 Management and Operation

As specified and prescribed in the NITDB Formation Order and the Terminal Leasing Out Regulation 2070, the Lessor, through this agreement, subject to the terms and conditions specified in this agreement, delegates full authority to the "lessee" or its authorized agent subject to approval of Lessor, to operate and manage the business and assets of the ICD situated in Birgunj and the lessee, under the terms and conditions of this agreement agrees to operate and manage the ICD

businesses in accordance with the applicable laws of Nepal. The lessee shall be responsible to recruit necessary manpower and procure equipment necessary for the operation and management of the ICD according to their business plan and perspective submitted with the "Technical and Financial Proposal".

3 TERM

- 3.1 The lease shall be valid for a period of 5 (five) years from the agreement date continuing until midnight on or until otherwise terminated or extended in accordance with the provisions of this lease agreement.
- 3.2 The NITDB delegates to the Lessee the right of operation and management of the ICD situated at Birgunj for a period of 5 (five) years continuing until midnight on, or until otherwise terminated in accordance with the provisions of this agreement.
- 3.3 If the Lessee observes the terms of this lease and notifies the NITDB in writing at least Six months prior to the date of termination of this agreement of its desire to renew the lease, this agreement may be renewed for a further term of 5 (five) years with mutually agreed terms and conditions.
- 3.4 This agreement as it relates to the lease of the properties and the delegation of and operational and management rights by the NITDB, the ICD operation and management rights will be cancelled in the event of termination of this agreement
- 3.5 The lessee is obligated to provide the services of the ICDs to the users based on the principle of "common user facility" in a non-discriminatory manner. This condition implies that the lessee cannot refuse to provide the services of the ICD to anyone accepting and willing to pay the requisite "User fee".
- 3.6 User fee chargeable to the users of the core services offered by the ICD shall be based on agreed rates of the agreement approved by NITDB on the basis of criteria determined and prescribed by NITDB as per the NITDB (Formation) Order 2054, and any other by-laws framed under such (Formation) Order. The user charge will have an increment of 10% every **two** years. The lessee shall publicize the user fees on a transparent basis periodically.
- 3.7 Any sub-lease or sub-contract shall be permissible subject to approval of the lessor however, such sub-lease or sub-contract shall not alter Lessor's obligation
- 3.8 As regards to the operation and management of the ICD including the range of services to be provided and tariffs to be levied, the Lessee shall follow the business and management plan, the operational procedures and the tariff under the terms and condition of "Business and Operation Plan" including Operating Performance Standards.

4. RENT, SHARING IN REVENUE AND OTHER CHARGES:

4.1 Minimum Lease Rent (MLR)

- 4.1.1 The Lessee shall pay a fixed amount of minimum lease rent and the revenue share in accordance with clause 4.2 below to NITDB for the use and operation of assets and the business of the Birgunj ICD. Accordingly the total minimum leasehold fee for the consecutive five years is NRs (in Nepalese Rupees) payable in monthly installments. This MLR to be paid by Lessee to NITDB for five years shall be as per the annex I (Table I of Financial Proposal of Section 6)

4.2 Revenue Sharing and Fixation of Basic Volume of Traffic for Revenue Sharing:

- 4.2.1 In addition to MLR, revenue generated from the business of ICD Birgunj from over and above the base volume will be shared between NITDB and the Lessee as per clause 4.3 below.

4.2.2 Base Volume of Traffic determined for payment of Minimum Lease Rent and accounting for Revenue Sharing:

- (a) The base volume of standard container traffic containing goods exported and imported for five years running 2020/21, 2021/22, 2022/23, 2023/24 and 2024/25 shall be as 50300, 55100, 60300, 66000 and 72300 TEUs respectively.
- (b) The base volume of bulk or break bulk traffic of goods exported or imported for five years running 2020/21, 2021/22, 2022/23, 2023/24 and 2024/25 shall be as 1129000, 1196000, 1267000, 1342000 and 1422000 MT respectively.

4.3 Revenue Sharing on incremental traffic over base volume:

- (a) Lessee Shall pay to NITDB revenue share on incremental traffic over base volume of standard container traffic at the rate of NRs. 4900/- per loaded TEU and NRs. 92/- per MT of bulk or break bulk for the first two years, at the rate of NRs. 5390/- per loaded TEU and NRs. 101/- per MT of bulk or break bulk for the third and fourth years and at the rate of NRs. 5930/- per loaded TEU and NRs. 111/- per MT of bulk or break bulk for the fifth year.
- 4.4 Share of revenue, payable to NITDB, due to exceeding base case traffic volume shall be paid to NITDB on annual basis within one month of completion of each fiscal year. The first fiscal year shall be a period of months starting from the date of operation of ICD by the TMC.
- 4.5 All amounts payable as lease rent and share of revenue shall be deposited at the account of NITDB, Nepal Rastra Bank AC No. or any other account as notified by NITDB from time to time.
- 4.6 The lease rent shall be applicable from the date of operation of ICD by the lessee or thirty days after the date of signing the agreement, whichever is earlier.
- 4.7 The Lessee agreed that if, for any cause whatsoever, any portion of the lease rent and NITDB Portion of Shared Revenue is not paid on the due date, the Lessee shall make payment of compensation for such default payment. The amount of such default compensation for the outstanding dues shall be calculated by applying the rate of interest payable for the Bond....., Year issued by the Nepal Rastra Bank (**.....% per annum**) plus 2 percent additional per annum. However, if there is any delay in the payment of outstanding dues for more than six months, the additional payment rate applicable for calculating the default compensation shall be 15 percent per annum on such dues.
- 4.8 Lessee shall provide to the NITDB an irrevocable and unconditional performance guarantee covering at-least 24 months Rent amount/ proposed Rent (fixed portion) amount to be paid to the NITDB in a format acceptable to the NITDB . The guarantee shall be provided before the start of each year of the lease agreement and shall be valid for fifteen subsequent months. The guarantee so provided for a year will be released only after production of new guarantee of required amount of the immediately following year. However, the guarantee provided before the start of fifth year of the lease agreement shall be not less than double the amount of fifth year's lease rent and valid for twenty one subsequent months.

5 OWNERSHIP OF THE ASSETS

- 5.1 The Assets at all times shall remain the property of the NITDB and the Lessee shall have no other interest and rights on the assets except as specifically provided for in this agreement. Any betterment, improvement all such requested interests for the benefit of the Lessee with any structural modification and expansion of the assets require the consent of NITDB.
- 5.2 Subject to the provision of clause 5.3, the Lessee shall not sell or attempt to sell, pledge, mortgage, charge or otherwise transfer any of the Assets, nor part with possession or custody of any of the Assets or use the Assets for purposes other than the operation and management of the ICD.
- 5.3 The Lessee may sub-contract some of the functions associated with the operation of the ICD such as Container Freight Service (CFS) or Operation of Goods Shed or Financial Institutions to one or more professional operators/service provider, under the terms and conditions pre-approved by NITDB. However, the Lessee shall not enter into such sub-contracts without obtaining the written consent of the NITDB, which the NITDB shall not unreasonably withhold, to a suitable sub-contractor. The sub-contractor shall not further sub-lease such Agreements.

6 REPAIRS AND MAINTENANCE

- 6.1 The Lessee shall use the Assets for the purposes and in the manner specified in this agreement and shall comply with all schedules and directions (enclosed in **Section – 5 : Clause no. 5.1**) of the NITDB regarding the care, maintenance and operation of the Assets, including painting of buildings at reasonable intervals. The assets shall not be used in unlawful and improper manner.

- 6.2 The Lessee shall be responsible to carry out all maintenance, servicing and repair of the Assets at its own cost. The lessee shall also be responsible for the repairs, maintenance and proper keeping and safeguarding including drainage and sanitation of the portion of the premises sub-let to the Nepal Customs.
- 6.3 The lessee shall at all times maintain & manage the assets and premises of the ICDs including for the part sub-let to other specialized operators.
- 6.4 The Lessee shall allow the NITDB at all reasonable notice and at all times to inspect the condition of the assets and so satisfy itself that the assets are properly being maintained, serviced and repaired in accordance with the maintenance schedule as per **Clause no. 5.1 of Section – 5**.
- 6.5 The Lessee is obligated and shall promptly notify the NITDB in writing of any loss, or damage to the assets.
- 6.6 It is the obligation of the Lessee to repair in accordance with the provisions of operating performance standard stipulated in the document for the Assets after receiving a written notice from the NITDB. If the Lessee fails to initiate any such repairs to the assets as instructed by the Lessor, within 24 hours (Twenty Four Hours) in case of repair of civil structures and the repair works is not carried out and completed within two weeks after the notice given by NITDB, Lessee shall pay to the NITDB NRs. 5,000 (Nepalese Rupees five thousand only) per day subsequent to completion of two weeks period as liquidate damages for every such failure. Such liquidated damages and other charges against the default of the lessee shall be paid together with the lease rent for the subsequent month by the lessee.
- 6.7 If the Assets or any part thereof is destroyed or damaged by any cause whatsoever then all moneys received under any insurance policy of the Assets shall first be applied towards repair, replacement of the Assets damaged or destroyed belonging to the lesser.

7 INVESTMENT

- 7.1 The Lessee shall also invest in procuring Assets and for the development of the system required for the operation of the ICD as per business and operation plan. The Lessee is obligated to procure additionally those Assets required to operate and manage the ICD. The NITDB may takeover such assets procured by the Lessee by paying the residual value of the Assets, deducting depreciation, at the end of the Lease period. In such case the depreciation will be calculated on the basis of principle accepted by the, GoN, Department of Inland Revenue under the provision of Income Tax Act.
- 7.2 The Lessee is obligated to finance the amount required for the operation and management of the ICD from its own resources. The lessee shall pay all costs related with the operation and management of the ICD including expenses or charges due in respect of water, electricity, telephone, insurance and/or other charges due.

8 LESSEE'S OBLIGATION

- 8.1 The Lessee shall:
- (a) operate the ICD and provide supplementary services according to the "Management Information System (MIS), Business and Employment Plan, Manning and Organization Structure, Operational and Maintenance Plan, Safety and Security Measures, Traffic Management and Parking Plan, Environmental Management Plan, Supplementary Services to the Basic ICD Facility and Additional Facilities."
 - (b) operate the ICD within the limitation of design of its design construction, operate ICD in accordance with agreed operation and maintenance standard and in compliance with complementary plans
 - (c) not provide any data and information relating to export, import, movement of vehicles and customs revenues to the third party without the prior approval of NITDB.
 - (d) timely pay all sums of money due under this lease agreement
 - (e) pay to the NITDB interest on overdue amounts as specified in clause 4.8 check and liquidated damage mentioned in clause 6.6 check of this agreement
 - (f) keep the Assets insured in the name of the NITDB against any loss or damage by all reasonable causes, including fire and earthquake and consequences thereto, to the full replacement or reconstruction value and also provide third party insurance against theft of goods or bodily injury or death to the employees or any other person or damage to their equipment/vehicles admitted in the

terminal in connection to the business of the Lessee. The insurance policy/renewed policy shall be provided to the NITDB on an annual basis in the amounts and deductibles as follow:

The minimum insurance amounts and deductibles shall be:

- (a) for loss or damage by all reasonable causes, including fire and earthquake and consequences thereto: **100% of the valuation.**
- (b) for third party insurance against theft of goods or bodily injury or death: **NRs. 1,000,000 (maximum 10 person)**

No separate payment will be made by NITDB to the Lessee for the Insurance (premium), as the cost of which is deemed to be included in quoted cost.

- (g) comply with all the requirements of any applicable law relating to the use and operation of the Assets
- (h) pay all taxes, duties or fees payable in respect of the use and operation of property of ICD in accordance to the application law of Nepal
- (i) use the leased Assets only for the operation and management of the ICD and related business and not for any other purpose
- (j) manage and operate the ICD in accordance with the provisions of Nepal Intermodal Transport Development Board (Formation) order 2054 BS and any other by-laws notified by the GoN under such order; and
- (k) indemnify GoN and the NITDB against all cost, claims, expenses, demands or any liability to any third party in respect of the lease, operation and management of the Assets and the ICD.
- (l) mobilize necessary resources and make the ICD fully operational within 30 days of signing the agreement. The Leasehold Rent shall be applicable from the date of operation of the ICD by the lessee or thirty days after the date of signing the Agreement, whichever is earlier
- (m) comply with all Nepalese laws especially environmental laws, Labour laws with regard to maintaining the environmental standard, in and around the ICD.
- (n)
- (o) be jointly and severally liable for the execution of this agreement in accordance with the agreement terms and conditions,...
- (p) coordinate with Birgung Custom Office as custom office is within ICD premises .
- (q) provide adequate office space to NITDB at the main ICD Building at their request free of all costs.
- (r) provide traffic details within subsequent month and financial details within six month of completion of fiscal year.

9 LESSOR'S OBLIGATION

9.1 The NITDB shall

- (a) during the term of the Lease, comply with all obligations to any third parties in so far as such obligation may have any effect on the possession or management of Assets of the ICD.
- (b) ensure that the Lessee by paying the rent and performing and carrying out its obligations under this Lease shall be entitled to the continuous and uninterrupted possession, use and enjoyment of the assets and operation of services.

10 RIGHTS AND DUTIES

- 10.1 It is the right of the Lessee to survey and inspect the assets located in the ICD before taking the possession of the assets and be satisfied as to the condition of such assets. It is the duty of the NITDB to allow reasonable time and let the Lessee inspect the assets and the condition of the assets before taking possession by them under this agreement.

- 10.2 It is the duty of the Lessee not to discriminate and/or otherwise deny the use of the Assets or the facility to any person whatsoever willing to use and enjoy the benefits of such Assets and the facility in the ICD unless and otherwise such person
- (a) refuses to pay the designated fee for the use of the Assets or the facility or for availing services offered by the ICD and the Lessee to the agent of the Lessee; and
 - (b) refuses to comply with the rule and regulations associated with the use of the Assets and/or the facility
- 10.3 It is the duty of the Lessee to take adequate measures for the safety and security in the ICD and keep the facility clean and hygienically safe in accordance with the agreed Business Plan, Operation and Maintenance Standard, Security, Traffic Management and Environment Management Plan.
- 10.4 It is the duty and responsibility of the Lessee to take appropriate environmental measures to protect the Assets, facility and the surrounding environment. The lessee shall take all appropriate environmental safety measures including the proper disposal of any chemical, petroleum or any other such harmful waste accumulated in the premises. It will be Lessee's responsibility to properly dispose refuses and garbage produced in the ICD. The prohibition of disposal of garbage, refuse, spillage in any for within the ICD premises shall have to be strictly followed.
- 10.5 NITDB will have a right to inspect the leased property periodically and issue instruction(s) for the betterment.

11 GUARANTIES AND UNDERTAKINGS

- 11.1 The NITDB also guarantees that the lessee will be provided continuous and uninterrupted possession and use of the assets in accordance with the provision of this agreement.
- 11.2 The NITDB also warrants that in accordance with the NITDB Formation Order it is empowered to enter into a agreement with the lessee to manage and operate the ICDs.
- 11.3 The Lessee acknowledges that it is entering into this lease agreement solely in reliance on its own judgement and not in reliance on any information provided and statements made to the Lessee or any other person by the NITDB

12 AMENDMENT AND VARIATIONS

- 12.1 The Parties agree that if necessary the terms and conditions of this agreement may be varied or amended by any subsequent agreement as mutually agreed between the parties.
- 12.2 The Parties acknowledge that they each will use their best endeavours and act in good faith and trust with the other party to resolve differences of any kind arising out of any terms or conditions of this lease (including but not limited to amending the terms and conditions of this lease) which directly impairs the ability of either party to operate as a successful and profitable business.

13 TERMINATION AND REMEDIES

13.1 Normal Ceassation of the Agreement

This agreement will cease at the end of the Lease period as specified in this Agreement subject to the fulfilment of the following obligation by the Lessee and the NITDB.

- (a) Four weeks prior to the expiration of the Lease Agreement NITDB shall give notice to the Lessee of any defects in the Assets, which needs to be remedied by the Lessee. Such defects should be remedied by the Lessee within the time specified in the NITDB's notice, which shall normally not exceed one month (4 weeks) from the date of expiry of the Agreement.
- (b) The Lessee should handover the Assets to NITDB with all the defects remedied and in operating condition at the end of the Agreement. If the Lessee does not correct the defects within the time specified in the NITDB's notice, the NITDB will assess the cost of correcting the defects and the Lessee will pay such amount.
- (c) The NITDB shall supply the Lessee with a detailed account of the total amount due payable under the Agreement within six weeks after the date of expiration of the Agreement. The Lessee shall pay the due amount within two weeks of receipt of detail account from the NITDB. If the Lessee fails to

pay the amount to the NITDB within the due date, such amount shall be recovered from his performance security and its assets in accordance with the prevailing laws of Nepal.

- (d) At the payment of all the dues and fulfilment of all the obligation by the Lessee, the performance security shall be released by the NITDB.

13.2 Premature Termination Without prejudice to any other rights available to the NITDB, after giving 35 days notice to the Lessee, may terminate this agreement only in case of following conditions:

(a) if the Lessee or any sub-contractor of the lessee defaults in the performance of any of their obligations under this agreement. However prior written notice shall be given to the Lessee for rectification of the default within a reasonable time (such time to be determined on case to case basis) specified by NITDB failure of which may result in the termination of the agreement.

(b) in the event the Lessee is liquidated, dissolved or otherwise would up by any court order or any other enactment

13.3 Upon termination of the agreement as per clause 13.2 due to above causes the NITDB will

(a) confiscate all moneys paid by way of advance, deposit or rent

(b) take action appropriate forfeiture of performance bank guarantee

(c) take possession of the Assets without being liable to Lessee or its sub-contractor in any way and may enter into a new (Lease) agreement) with another person either by public tender or direct negotiation

(d) take appropriate legal actions to recover the loss of rent for the remaining period of the lease or until such time when loss of rent to the NITDB continues to occur on such account

(e) take appropriate legal actions to recover the loss of revenue for the period until which revenue losses continue to occur and other incurable costs against the default of the lessee for other contractual obligations on account of cessation of the operation of ICD because of such termination, and

(f) take appropriate legal actions to recover all incidental costs for procuring and/or negotiating new lease agreement because of the termination of the existing lease.

13.4 If the NITDB defaults in the performance of any of its duties and obligations under this agreement, without prejudice to any other rights available to it the Lessee may, after giving 35 days notice to the Lesser,

(a) terminate this agreement, or

(b) seek damage or specific performance from the lesser

(c) upon termination or until such period when the damage or specific performance is sought, the lessee may

(i) stop payment of the rent for the lease as well as for the management and operation of the ICD business as far as such breach causes the cessation of the businesses of the ICD

(ii) rescind the agreement and hand-over the Assets to the NITDB without being liable to the NITDB in any way, and

(d) take appropriate legal actions to recover the loss of revenue.

14 CONFIDENTIALITY

14.1 Except as may be required by law the Lessee shall keep the subject matters of this agreement confidential until the NITDB publicly announces the signing of this agreement.

15 NOTICES

- 15.1 All notices or other communications required to be served in connection with this agreement shall be given in writing and the notice shall be sufficiently served if addressed to that party and delivered by courier, mail or facsimile to the address of that party as stated below:

The Lesser M/S _____
 Attn: _____
 Address _____

The Lessee M/S _____
 Attn: _____
 Address _____

16 MISCELLANEOUS

- 16.1 **Assignment:** Except for purposes and/or under circumstances stated in this agreement neither party may assign or otherwise transfer its interest in this to any other person without the prior written consent of the other party
- 16.2 **Amendment and Waiver:** No amendment or waiver to any term of this lease agreement will be effective unless it is in writing and signed by both parties. A failure to exercise or delay in exercising any right under this lease agreement will not operate as a waiver of that right and will not affect the right of each Party thereafter to enforce each and every provision of this agreement.
- 16.3 **Specific Performance:** If either Party fails to or refuses to comply with any of its obligations under this agreement the other party shall have right to seek specific performance of such obligations and/or sue for any damages or liability arising out of such failure or refusal or have the right to demand an early termination of this agreement without prejudice to any other rights available to the Parties under any other clause of this agreement.
- 16.4 **Cumulative Remedies:** The Parties shall seek cumulative remedies in the event of non-performance or failure or refusal of any obligations, duties or any other clauses specified under this agreement.
- 16.5 **Lessee's Indemnities:** The Lessee shall indemnify and hold harmless the NITDB at all times on a full indemnity basis from and against all liabilities, claims, proceedings, judgements, damages, obligations, costs and expenses of any nature whatsoever or howsoever arising which at any time may be incurred or be imposed on the NITDB arising from or being due to a breach by the Lessee of the obligations of this Lease. This indemnity shall continue in full force and effect notwithstanding any termination of this lease agreement.
- 16.6 **NITDB's Indemnities:** The NITDB shall indemnify and hold harmless the Lessee at all times on a full indemnity basis from and against all liabilities, claims, proceedings, judgements, damages, obligations, costs and expenses of any nature whatsoever or howsoever arising which at any time may be incurred or be imposed on the Lessee arising from or being due to a breach by the NITDB of the obligations of this Lease. This indemnity shall continue in full force and effect notwithstanding any termination of this lease agreement.

17 FORCE MAJEURE

- 17.1 "Force Majeure shall mean any event beyond the reasonable control of the Lessor or of the Lessee, as the case may be, and which is unavoidable notwithstanding the reasonable care of the party affected, and shall include, without limitation, the following:
- (a) war, hostilities or warlike operations (whether a state of war be declared or not), invasion, act of foreign enemy and civil war
 - (b) rebellion, revolution, insurrection, of civil or military government, , riot, civil commotion and terrorists acts

- (c) earthquake, landslide, volcanic activity, fire, flood or inundation, tidal wave, typhoon or cyclone, hurricane, storm, lightning, nuclear and pressure waves or other natural or physical disaster
- 17.2 In case of occurrence of any of the events mentioned in Clause 17.1 above, the party suffering from such event shall notify the other party within seven days of such occurrence. Similarly notification shall be made within seven days after ending of such event.
- 17.3 In the event of any loss of revenue to the Lessee from any risk defined in sub clause 17.1 the Lessee shall notify the Lessor in writing along with documenting evidences establishing the occurrence of such events and the circumstances there of as well as the extent of revenue loss, within 14 days (fourteen) of happening of such events. The Lessor shall examine the notification to establish the occurrence of such event/s, and will consider compensating refund of proportionate lease rent payable by the operator for the force majeure period.
- 17.4 Force majeure under clause 17 shall be attracted only if the operation and management of the ICD is hampered continuously for a period of more than 3 (three) days at a time.
- 17.5 In case of natural disasters, mentioned in sub clause 17.1 (e) above, in the vicinity which does not directly effect the ICD however it hampers the overall business in the region, NITDB after proper evaluation may consider compensating refund of proportionate lease rent during the period of such event. All claims under this sub clause shall also be made as per procedure laid out in sub clause 17.2 mentioned above.

18 APPLICABLE LAW

- 18.1 This agreement shall be governed by and construed in accordance with the Nepal Intermodal Transport Development Board (Formation) Order 2054 and other applicable laws of Nepal.

19 RESOLUTION OF DISPUTE

- 19.1 The Parties shall employ their best efforts and act in good faith in attempting to resolve any dispute or differences arising between them in respect of, or in connection with, this Agreement.
- 19.2 In the event that the Parties are unable to resolve their disputes or differences mutual conversation, such dispute shall be settled by arbitration. Party wishing to initiate arbitration shall give notice to other party of its intention of settling the dispute by arbitration. In such case each party shall appoint one arbitrator and such arbitrators shall appoint third arbitrator. All arbitration proceedings will be carried out in accordance with UNCITRAL arbitration rules . All arbitration proceedings shall take place in Nepal.

20 EXECUTION BY THE PARTIES

Signed for and on behalf of the NITDB	_____
Witness	_____
Signed for and on behalf of the LESSEE	_____
Witness	_____

AGREEMENT MADE BETWEEN THE CUSTOMS OFFICE, BIRGUNJ AND TMC (Draft)

This agreement of cooperation is made on day of (month) between GoN Customs Office at Birgunj (hereinafter called the "Customs"), and operator of ICD (hereinafter called the "operator") and responsibilities of either of the parties. Definition of words used in this agreement shall have same meaning as it is ascribed in the agreement between operator and the NITDB to lease the assets for operation and management of ICD at Birgunj

1 OBJECTIVE OF THE AGREEMENT

Objective of this agreement is to develop mutual co-operation and assistance among the parties of this agreement for carrying smooth operation to provide efficient service of the ICD at Birgunj. This agreement expressly does not in any case limit any legally prescribed rights, duties, authority and responsibilities of either of the parties.

2 SECURITY OF THE PREMISES

- 2.1 Operator will be responsible for safety and security of ICD and consignment deposited therein. It will also be responsibility of the operator to make necessary arrangement for proper inspection of such incoming or out going consignment, by appropriate personnel of the "Customs".
- 2.2 "Customs" can advise the "Operator" in matters related to safety and security of ICD.
- 2.3 If condition requires "Customs" can deploy police, border security guard, army or employ of any similar government forces for providing security within and outside the ICD. It will be the duty of the operator's and it's staff to co-operate and assist such guards.

3 NOTIFICATION OF CHANGE

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

4 IDENTITY OF THE PERSONNEL

Both of the parties must provide their staff with an identify card containing name, designation and photo of such employee, which he/she should wear all the time of performing his/her duty. Identity card issued to the staff of the operator must be co-signed by any officer designated by the customs.

5 NOTIFICATION OF ILLEGAL ACTIVITIES

Whenever, the operator or it's employee suspect, perceive or come to know any incident of any illegal activity or likelihood of such activity within the ICD, regarding it's business or "custom's", operator must notify it to the concerned officials of the "Customs" as earliest as possible.

6 CUSTOM'S RIGHTS TO INSPECT

Whenever, the "customs" finds appropriate, it could inspect any of the sheds being used by the "Operator" check any of the consignment therein.

7 CUSTOMS'S RESPONSIBILITY

The "Customs" shall try to facilitate and expedite its process to assist the operator to improve its' quality of services. While the "operator" operates ICD, without violating any law, and complying with the terms and conditions of this agreement with "NITDB", "Customs" and any other agency of GoN regarding operation of the ICD, the "Customs" shall not obstruct, hinder or delay the operation of ICD.

8 OPERATOR'S LIABILITY

Any rights, duties or liability given to or placed upon the operator under this agreement will be applicable to other sub-lessee, agent or co-investor of the operator functioning within the premises of the ICD. It will be responsibility of the operator to notify such party about provisions of this agreement before subletting or assigning any function to them.

9 DISPUTE SETTLEMENT

If any dispute arises out of terms and conditions of this agreement or operation of ICD between the "Operator" and the "Customs" that could not be settled mutually by the parties of this agreement, shall be referred to NITDB and settled mutually in presence of NITDB. If the dispute is not settled with the help of NITDB, it shall be settled as per clause 19 of the agreement between operator and the NITDB to lease the assets for operation and management of ICD at Birgung

We both of the parties mutually agree upon above-mentioned terms and conditions and express out willingness to adhere these on good faith.

10 EXECUTION BY THE PARTIES

Signed on behalf of Customs

Signed on behalf of

and as authorized by...

Witness

Witness

Bid Security Form

Date: _____

IFP No.: _____

To:

WHEREAS [name of Bidder] (hereinafter called "Bidder") has submitted its Bid dated [*dated of bid*] for the performance of the term and condition written in the bidding documents (hereinafter called "the Bid") submitted by WHEREAS Bidder is required to submit the irrevocable bid bond as specific in bidding documents, KNOW ALL PERSONS by these present that we the bank.....are bounded to Nepal Intermodal Transport Development Board (hereinafter called "the NITDB") for the payment of sum of : [*amount*], on demand of NITDB for which payment well and truly to be made to the said NITDB, the Bank binds itself, its successors and assigns by these presents.

THE CONDITIONS of withdrawal by NITDB shall be following

1. If the Bidder withdraws its Bid during the period of validity specified by the Bidder in the Bid Form, or
2. If the Bidder, having been notified of the acceptance of its Bid by the NITDB during the period of Bid Validity
 - a. fails or refuses to sign the Lease Agreement when required or
 - b. fails or reuses to issue the performance security in accordance with the bidding documents,

WE undertake to pay to the NITDB up to the above amount upon receipt of its first written demand, without the NITDB having to substantiate its demand, provided that in the demand the NITDB will note that the amount claimed by it is due to it, owing to the occurrence of one or both of the two above-named CONDITIONS, and specifying the occurred condition or conditions.

This guarantee will remain in full force up to and including [*date 30 days after the period of bid validity*], and any demand in respect thereof must reach the Bank not later than the above date.

For and on behalf of the Bank

[Signature]

in the capacity of

Common Seal of the Bank

Performance Security Forms

Bank Guarantee _____ Unconditional

Date: _____

No: _____

Operation and Management of Asset and ICD at Birgunj

To:

Nepal Intermodal Transport Development Board,
write preset address Dear Ladies and /or Gentlemen,

We refer to the Lease Agreement ("the Agreement") signed will this happen need clarity on [date] between you and [name of Lessor] ("the Contractor") concerning Operation and Management of ICD Facilities in Birgunj.

By this letter, we the undersigned, [name of Bank], a Bank (or company) organized under the laws of [country of Bank] and having its registered/principal office at [address of Bank], do hereby jointly and severally with the Lessee irrevocably guarantee payment owed to you by the Lessee, pursuant to the Agreement, up to the sum of [amount] not less than 115% of the annual Rent of the year.

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

Our liability under this Letter of Guarantee shall be to pay to you whichever is lesser of the sum so requested or the amount then guaranteed hereunder in respect of any demand duly made hereunder prior to expiry of this Letter of Guarantee, without being entitled to inquire whether or not this payment is lawfully demanded.

This Letter of Guarantee shall be valid from the date of issue until the earlier of fifteen (15) months after the date of Operational Acceptance of ICD.

Except for the documents herein specified, no other action shall be required, notwithstanding any applicable law or regulation.

If the Defect Liability Period is extended with respect to any part or the Asset in accordance with the Agreement, you shall notify us, and the validity of this Letter of Guarantee shall be extended with respect to the percentage of the Rent stipulated in the notification until expiry of such extended Defect Liability Period.

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

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

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

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

Yours truly,

Name of the Bank

Authorized Signature

FINANCIAL PROPOSAL FORMAT

In submitting their financial proposals, bidders should consider the following points and should offer to pay leasehold Rent to NITDB, which shall be payable in both fixed and variable component, based on the charges proposed as per clause no. 5.2 of Section – 5 of Part – I of Bidding Documents on the format given below:

1. **Any annual leasehold fee proposed by the bidder should not be less than minimum** Rs. 2,004,000,000.00 (Rupees Two Billion Four Millions only) in aggregate for the five year period. The leasehold fee offered to NITDB shall be minimum Rs. 300,000,000.00 (Rupees Three Hundred Millions Only) for first year, Rs. 336,000,000.00 (Rupees Three Hundred Thirty Six Millions Only) for second year, Rs. 396,000,000.00 (Rupees Three Hundred Ninety Six Millions Only) for the third year, Rs. 456,000,000.00 (Rupees Four Hundred Fifty Six Millions only) for fourth year and Rs.516,000,000 (Rupees Five Hundred Sixteen Million Only) for fifth year. (Refer Table I below). The annual leasehold fee shall be payable in equal monthly installments.

2. If the actual number of traffic in any of the year exceeds the base case given below, the TMC shall share to NITDB a fixed amount for each unit of additional traffic volume as given below:
 - The TMC shall pay to employer the revenue share on incremental traffic over base volume of standard container traffic at the rate of Rs. 4,900 (Rupees Four Thousand Nine Hundred Only) per loaded TEU for the first and second year, Rs. 5,390 (Rupees five Thousand three Hundred Ninety only) for third and fourth year and Rs. 5,930 (Rupees five Thousand nine Hundred thirty only) for fifth year.
 - The TMC shall pay to employer the revenue share on incremental traffic over base volume of standard bulk and break bulk cargo at the rate of Rs. 92 (Rupees Ninety Two only) per Metric Ton of Bulk and Break Bulk Cargo for the first and second year, Rs. 101 (Rupees One Hundred One Only) for third and fourth year and Rs. 111 (Rupees One Hundred Eleven Only) for fifth year.

4. Increment in User Fee will be @ 10 percent in every two years.

Table I – Minimum Annual Leasehold Fee

Amount in Million Rupees

Year/Month	2020/21	2021/22	2022/23	2023/24	2024/25
1St Month					
2nd Month					
3rd Month					
4th Month					
5th Month					
6th Month					
7th Month					
8th Month					
9th Month					
10th Month					
11th Month					
12th Month					

Table II - Maximum base case number of traffic above which revenue sharing would be applicable for calculation of variable component of the fees

S. No.	Year	Number of containers (TEUs)	Bulk & Break Bulk (Metric Tonnes)
1	2020/21	50,300	1,129,000
2	2021/22	55,100	1,196,000
3	2022/23	60,300	1,267,000
4	2023/24	66,000	1,342,000
5	2024/25	72,300	1,422,000

We hereby confirm to offer the total leasehold fee for the period of five (5) years on the basis of charges proposed within the prescribed limit as per Annex NRs. _____

(In words.....)

Date:.....

.....

.....

Sign by on behalf of company/firm

Name and Position