



Dated: October 5, 2020

INVITATION FOR EXPRESSION OF INTEREST

FOR

ACQUISITION OF AVASH LOGISTIC PARK PRIVATE LIMITED, SEALAND PORTS PRIVATE LIMITED AND GUJARAT INTEGRATED MARITIME COMPLEX PRIVATE LIMITED

1 BACKGROUND

- 1.1 This refers to the advertisement issued by Infrastructure Leasing and Financial Services Limited (“**IL&FS**”) in *Business Standard* dated October 5, 2020 and *Divya Bhaskar* dated October 5, 2020, regarding the proposed sale of shares of Avash Logistic Park Private Limited (“**ALPPL**”), Sealand Ports Private Limited (“**SPPL**”) and Gujarat Integrated Maritime Complex Private Limited (“**GIMCO**”). Pursuant to the *Report on Progress and Way Forward* dated October 30, 2018, and subsequent reports thereto (collectively, the “**Reports**”) which were submitted to the Ministry of Corporate Affairs, Government of India (“**MCA**”) which in turn filed the Reports with the National Company Law Appellate Tribunal, New Delhi (“**NCLAT**”) / National Company Law Tribunal Mumbai (Special) Bench (“**NCLT**”), and with a view to make an informed decision about the sale of ALPPL, SPPL and GIMCOALPPL, SPPL and GIMCO (collectively, the “**Sale Companies**”), expression of interest (“**EOI**”) are hereby being invited from interested parties (“**Applicant**”) for the potential acquisition of the Sale Companies.
- 1.2 ALPPL, SPPL and GIMCO have purchased various land parcels in the State of Gujarat from various private land owners for bonafide industrial purpose of setting up a multi-product special economic zone and free trade warehousing zone. ALPPL and SPPL together hold ~2851 acres and GIMCO holds ~29.6 acres.
- 1.2.1 **Avash Logistic Park Private Limited:** Each of IL&FS Maritime Infrastructure Company Limited (“**IMICL**”) and India Tourist and Heritage Village Private Limited (“**ITHVPL**”) are the legal and beneficial owner of 50% (fifty percent) of the equity shares of ALPPL that collectively represent 100% (one hundred percent) of the issued, subscribed and paid-up equity share capital of ALPPL.
- 1.2.2 **Sealand Ports Private Limited:** Each of Infrastructure Leasing and Financial Services Limited (“**IL&FS**”) and ITHVPL are the legal and beneficial owner of 50% (fifty percent) of the equity shares of SPPL that collectively represent 100% (one hundred percent) of the issued, subscribed and paid-up equity share capital of SPPL.
- 1.2.3 **Gujarat Integrated Maritime Complex Private Limited:** IMICL is the legal and beneficial owner of 90% (ninety percent) of the issued, subscribed and paid-up equity share capital of GIMCO. The other equity shareholders of GIMCO are Mr. Vasudev Thacker, Mr. Nishant Thacker and Mr. Vasanji Dhanji Furia, collectively holding 10% (ten percent) of the issued, subscribed and paid-up equity share capital of GIMCO. Presently, Sealand Warehousing



Private Limited is the legal and beneficial owner of 100% (one hundred percent) of the issued, subscribed and paid-up preference share capital of GIMCO.

2 INVITATION FOR EXPRESSION OF INTEREST

2.1 In context of the same, through this Invitation for Expression of Interest for the Acquisition of Avash Logistic Park Private Limited, Sealand Ports Private Limited and Gujarat Integrated Maritime Complex Private Limited (“**Invitation for EOI**”, which expression shall be deemed to include any kind of supplementary document(s) or annexure(s) or information(s) issued in pursuance/furtherance of the Invitation for EOI), the Applicants are being offered the opportunity to evince interest in the acquisition of, *either*:

Option 1: (i) 100% (one hundred percent) of the issued, subscribed and paid-up equity share capital of Avash Logistic Park Private Limited; (ii) 100% (one hundred percent) of the issued, subscribed and paid-up equity share capital of Sealand Ports Private Limited; and (iii) 90% (ninety percent) of the issued, subscribed and paid-up equity share capital (*and along with 100% (one hundred percent) of the issued, subscribed and paid-up preference share capital*) of Gujarat Integrated Maritime Complex Private Limited;

OR

Option 2: (i) 100% (one hundred percent) of the issued, subscribed and paid-up equity share capital of Avash Logistic Park Private Limited; and (ii) 100% (one hundred percent) of the issued, subscribed and paid-up equity share capital of Sealand Ports Private Limited.

on an ‘*as is where is*’ basis and ‘*as is what is*’ basis (collectively, the “**Proposed Transaction**”).

2.2 The Proposed Transaction and the process thereof are an integral part of the steps outlined in the Reports, and are expected to assist the board of directors (“**Board**”) of Infrastructure Leasing and Financial Services Limited (“**IL&FS**”) appointed pursuant to the orders of the NCLT in October 2018, in part, in evolving the resolution plan(s) outlined in the Reports.

2.3 This Invitation for EOI is being made to allow IL&FS to shortlist potential Applicant(s), and thereafter, conduct the Proposed Transaction through a publicly solicited competitive price discovery process with the shortlisted Applicants as the bidders and on such terms and conditions as may be included in the request for proposal to be issued to the eligible Applicant(s).

2.4 The Invitation for EOI does not constitute a prospectus, or an offer document or a letter of offer in relation to the Sale Companies or an official confirmation of any transaction entered into by IL&FS. The Invitation for EOI is only an invitation for submitting expressions of interest purporting to ascertain interest of potential Applicants and does not create any kind of binding obligation on the part of IL&FS to effectuate the acquisition of the Sale Companies.

2.5 Consummation of any transaction pursuant to the process initiated by this Invitation for EOI will be undertaken under the overall supervision of Hon’ble Justice D.K. Jain (Retd.) and will

be subject to requisite approvals, including, the approval of the Board and requisite corporate approvals of the relevant IL&FS group companies, approvals required under applicable law or from statutory authorities, and approval of the NCLT.

3 ELIGIBILITY CRITERIA

In order to be eligible to participate in the process being undertaken with respect to the Proposed Transaction, the Applicant(s) must comply with the following criteria:

3.1 Financial Criteria:

3.1.1 *For Bodies Corporate:*

- (a) Minimum net worth of INR 140/- Crores (Indian Rupees *One Hundred Forty Crores* only) as of March 31, 2020.

3.1.2 *For Investment Funds, including Private Equity Funds:*

- (a) Minimum assets under management in India of INR 575/- Crores (Indian Rupees *Five Hundred Seventy Five Crores* only) as of March 31, 2020;

OR

- (b) Committed funds available for investment/ deployment in companies incorporated in India of at least INR INR 575/- Crores (Indian Rupees *Five Hundred Seventy Five Crores* only), as of March 31, 2020.

3.1.3 *Notes on Financial Criteria:*

- (a) Financial Criteria (“**FC**”) has to be computed as per the latest audited financial statements, which shall not be as of a date earlier than March 31, 2020 or the applicable end of the last financial year, as the case may be.
- (b) The abovementioned FC criteria is not an indication of reserve price for the Proposed Transaction;
- (c) Net worth (“**NW**”) shall be computed in the manner set out in Section 2(57) of the Companies Act, 2013, as amended or conventional accounting principles under applicable law of India. For non-Indian entities, NW shall be calculated in accordance with applicable law in the country of registration of the Applicant(s);
- (d) FC requirement can be met either by: (1) the Applicant; or (2) on account of the Affiliate/ Parent/ Ultimate Parent of the Applicant. It is hereby clarified that a certificate from a participating chartered accountant, who generally audit accounts of similar entities in India, or the chief financial officer of the Applicant, shall be required to demonstrate that a Person is the Affiliate/ Parent/ Ultimate Parent of the Applicant and to certify that its FC is computed in respect of conventional accounting principles;

- (e) For the purposes of this Invitation for EOI, the following terms shall have the meaning respectively assigned to it:

“**Affiliate**” shall mean **(a)** In case of a Person (other than an individual), any other Person which, directly or indirectly: (i) Controls such Person; or (ii) is Controlled by such Person; or (iii) is Controlled by the same Person who, directly or indirectly, Controls such Person; **b)** In case of an individual, (i) any member of the immediately family of such individual, including parents, grandparents, siblings, spouse, children and grandchildren (including those by adoption); and (ii) any Person (other than an individual) which, directly or indirectly, is Controlled by such individual.

“**Control**” shall have the meaning given in the Indian Companies Act, 2013 and terms “**Controlled**” or “**Controlling**” shall have the meaning accordingly.

“**Parent**” in relation to a Person shall mean a Person which has the highest ownership/ voting rights and has Control, either directly or indirectly, in such Person.

“**Person**” includes any individual, firm (registered or otherwise), company, corporation, body corporate, government, state or agency of a state or any association, trust, joint venture, consortium, partnership (including limited liability partnership) or other entity (whether or not having separate legal personality).

“**Ultimate Parent**” shall mean a Person that, directly or indirectly, Controls the Applicant or its Parent.

- (f) For calculation of NW, any compulsorily convertible instrument can also be included;
- (g) In case the Applicant is a consortium (acting through a consortium SPV or otherwise), then the NW requirement must be met based on a weighted average basis of the consortium members’ stake in the consortium. Any Person/ entity can participate in only 1 (One) consortium or can submit only 1 (One) EOI under the bid process;
- (h) In the case the Applicant is a newly incorporated special purpose vehicle, or individual(s), a chartered accountant’s certificate/ bank certified bank account statement to be submitted to IL&FS for confirming the availability of sufficient funds meeting the minimum net worth criteria and sources thereof;
- (i) If the Applicant is not domiciled in India and the financial statements are expressed in a currency other than the Indian Rupees, the Applicant should convert all monetary amounts into Indian Rupees at the foreign exchange rate stipulated by the Reserve Bank of India (as of June 30, 2020) or applicable international financial year end.

3.2 Exemption to Indian Public Sector Enterprises:

Nothing contained in Paragraph 3.1 (*Financial Criteria*) of this Section 3 (*Eligibility Criteria*) of this Invitation for EOI shall apply to an Applicant which is an Indian Public Sector Enterprise, provided that such Indian Public Sector Enterprise shall submit a letter of support from the Central Government or any State Government, as the case may be, at the time of submission of its binding bid, as will be prescribed in the request for proposal issued pursuant to this EOI. For the purpose of this Paragraph, “**Indian Public Sector Enterprise**” shall mean (i) any company incorporated under the Indian Companies Act and in which the Central Government or State Government owns more than 50% (Fifty Percent) of the issued share capital; or (ii) any undertaking / enterprise constituted or established under an Act of Parliament or any State Legislature; or (iii) any undertaking / enterprise established either as a separate full-fledged ministry or as a sub-division of a ministry (i.e., department) of the Central Government or State Government. .

3.3 Other Eligibility Criteria for All Applicants:

3.3.1 The Applicant must be eligible to acquire the Sale Companies under the laws of India (subject to such party obtaining all statutory/ regulatory approvals from the Government of India/ Reserve Bank of India etc., by itself);

3.3.2 The Applicant should not have been debarred or restrained by any regulatory authority from making investments in India and in its jurisdiction of incorporation and operations. If the Applicant is a consortium, none of the members of such consortium shall have been debarred or restrained by any regulatory authority from making investments;

3.3.3 The Applicant should not have been blacklisted by the Central or any State Government ministry/ agency for bidding in any Central or State Government projects/ contract in India and in its jurisdiction of incorporation and operations. If the Applicant is a consortium, none of the members of such consortium shall have been blacklisted by the Central or any State Government ministry/ agency for bidding in any Central or State Government projects/ contract in India and in its jurisdiction of incorporation and operations;

3.3.4 The Applicant nor its connected person should be ineligible under the provisions of Section 29A of the Insolvency & Bankruptcy Code, 2016 to participate in the Proposed Transaction. If the Applicant is a consortium, none of the members of such consortium shall be ineligible under the provisions of Section 29A of the Insolvency & Bankruptcy Code, 2016 to participate in the Proposed Transaction; and

3.3.5 The Applicant should provide all the information as set out in Section 4 (*Guidelines for submission of EOI*).

4 **GUIDELINES FOR THE SUBMISSION OF EOI**

4.1 Interested Applicant must submit:

4.1.1 duly executed EOI in the format set out in **Annexure A**;

- 4.1.2 a profile of the Applicant (as per the prescribed format attached herein as **Annexure B**), signed and sealed by the Applicant/ authorized representative of the Applicant;
- 4.1.3 latest audited financial information or chartered accountant's certificate/ bank certified bank account statement, as applicable;
- 4.1.4 computation of Financial Criteria;
- 4.1.5 an executed non-disclosure undertaking in the format set out in **Annexure C**, upon being informed by IL&FS of its qualification to participate in the process in relation to the Proposed Transaction;
- 4.1.6 in the event the Applicant is not an individual or is unable to participate in its own capacity, then a proof of authorization for the execution and submission of the EOI and participating in the Proposed Transaction (such as resolution of the board of directors or similar authorizing body or a power of attorney, as the case may be). The proof of authorization for execution and submission of the EOI shall be in the format set out in **Part I** (*Format of the Board Resolution*) or **Part II** (*Format of the Power of Attorney*), as the case may be, of **Annexure D** hereto;
- 4.1.7 In the case of a company/ partnership/ limited liability partnership/ trust/ unincorporated consortium/ consortium SPV, a copy of:
 - (a) certificate of incorporation issued by the Registrar of Companies or other appropriate authority, if the Applicant is a foreign entity;
 - (b) the memorandum and articles of association/ partnership deed/ limited liability partnership deed/ trust deed/ consortium agreement/ any other constitutional document as may be applicable. In the event the Applicant is an unincorporated consortium, then the constitutional documents of each member of the consortium will be required in addition to the consortium agreement;
 - (c) proof of registered office address/ address (such as electricity bill or telephone bill or certificate of incorporation or lease agreement); and
 - (d) Board Resolution authorizing participation in the Proposed Transaction as set out in **Annexure D**;
- 4.1.8 Copy of PAN Card;
- 4.1.9 Copy of Aadhaar Card (in case of an individual).
- 4.2 Such submission shall be made by e-mail to **properties@ilfsindia.com**.
- 4.3 Emails should clearly set out the subject as "***Expression of Interest for Acquisition of ALPPL, SPPL and GIMCO***" and should be submitted on or before **5 PM Indian Standard Time, October 26, 2020**.

4.4 Other Information:

- 4.4.1 Unless any changes or modifications to this invitation for EOI are uploaded on www.ilfsindia.com/ad/, the terms of this invitation for EOI shall be final and binding on all Applicants;
- 4.4.2 If, at any time during the process relating to the Proposed Transaction, IL&FS determines (at its sole discretion) that any Applicant does not fulfill any of the above conditions, then IL&FS shall have the right to immediately cease to engage with such Applicant without providing any reasons or incurring any liability whatsoever;
- 4.4.3 IL&FS reserves the right, at its sole discretion, to reject all or any of the EOIs, without providing any reasons or incurring any liability whatsoever;
- 4.4.4 IL&FS reserves the right to suspend, terminate or modify the process for the Proposed Transaction, without providing any reasons or incurring any liability whatsoever;
- 4.4.5 It is preferred that the Person submitting the EOI shall also submit the subsequent bid. However, the Applicant may submit the bid through its Affiliate / Parent / Ultimate Parent subject to submission of a certificate certifying that the final bidder is an Affiliate /Parent / Ultimate Parent of the Person submitting the EOI. Once the Person submitting the bid is selected as the successful bidder, such Person may be allowed to assign its rights and execute the definitive agreement(s) in the name of its Affiliate(s), Parent and/or Ultimate Parent, subject to such terms and conditions as will be prescribed in the request for proposal to be issued pursuant to this Invitation for EOI. Any terms and conditions, representation, warranty, undertaking and/or obligation applicable to, given or assumed by the Applicant shall be deemed to be applicable to, given or assumed by and shall apply *mutatis mutandis* to such Affiliate(s), Parent and/or Ultimate Parent.
- 4.4.6 The Applicant shall maintain confidentiality of the information received as part of the process relating to the Proposed Transaction and shall not use such information to cause any undue gain or undue loss to itself or any other person;
- 4.4.7 IL&FS reserves the right to request for additional information/ documents from the Applicant for the purpose of evaluation of the EOI;
- 4.4.8 Eligible Applicant shall be determined by IL&FS at its sole discretion and will be intimated in due course. Such eligible Applicant will be: **(a)** required to execute a non-disclosure undertaking/ agreement in a prescribed format; and **(b)** provided a request for proposal containing details of the opportunity, the Proposed Transaction structure and other information in relation to the Proposed Transaction in the virtual data room; and
- 4.4.9 This Invitation for EOI is governed by the laws of India and the courts at Mumbai shall have exclusive jurisdiction.



Annexure A

Format of Expression of Interest

[On the letter head of the Applicant]

Date: [●]

To
The Board of Directors,
Infrastructure Leasing and Financial Services Limited
9th Floor, The IL&FS Financial Centre,
Plot No C-22, G Block, Bandra-Kurla Complex,
Bandra (East), Mumbai – 400051

Subject: INVITATION FOR EXPRESSION OF INTEREST FOR ACQUISITION OF AVASH LOGISTIC PARK PRIVATE LIMITED, SEALAND PORTS PRIVATE LIMITED AND GUJARAT INTEGRATED MARITIME COMPLEX PRIVATE LIMITED

Respected Directors,

We refer to the Invitation for Expression of Interest dated [Insert date] available at www.ilfsindia.com/ad/, regarding the proposed acquisition of, either:

Option 1: (i) 100% (one hundred percent) of the issued, subscribed and paid-up equity share capital of Avash Logistic Park Private Limited; (ii) 100% (one hundred percent) of the issued, subscribed and paid-up equity share capital of Sealand Ports Private Limited; and (iii) 90% (ninety percent) of the issued, subscribed and paid-up equity share capital (*and along with 100% (one hundred percent) of the issued, subscribed and paid-up preference share capital*) of Gujarat Integrated Maritime Complex Private Limited;

OR

Option 2: (i) 100% (one hundred percent) of the issued, subscribed and paid-up equity share capital of Avash Logistic Park Private Limited; and (ii) 100% (one hundred percent) of the issued, subscribed and paid-up equity share capital of Sealand Ports Private Limited.

on an '*as is where is*' basis and '*as is what is*' basis (collectively, the "**Proposed Transaction**").

We hereby confirm that we are desirous of participating in the Proposed Transaction, and would like to submit this Expression of Interest ("**EOI**") under [Option 1 / Option 2].

We confirm that we have understood the terms and conditions applicable to the submission of EOI. We confirm and undertake that the information furnished by us in this EOI and supporting documents is true, correct, complete, and accurate.



We confirm that we fulfil each of the ‘eligibility criteria’ mentioned under Section 3 of the Invitation for EOI. Please find attached our profile along with the documents, as required under the invitation for EOI, in support of our submission.

[Our net worth as per the last audited balance sheet dated *[Insert date]* is [●].] **OR** [Our minimum assets under management in India as of [●] is [●]] **OR** [Our committed funds available for investment/ deployment in companies incorporated in India/ assets as of [●] is [●]].

We agree, acknowledge and declare that:

- (a) the person signing this EOI and other supporting documents is an authorized signatory who is supported by necessary board resolutions/ power of attorney of the Applicant (*as enclosed*);
- (b) we have not been sanctioned, disqualified, debarred, blacklisted or restrained by any regulatory authority from making investments in general and/ or for the Proposed Transaction, in specific;
- (c) we have not been blacklisted by the Central or any State Government ministry/ agency for bidding in any Central or State Government projects/ contracts;
- (d) we are not ineligible under the provisions of Section 29A of the Insolvency & Bankruptcy Code, 2016 to participate in the Proposed Transaction; and
- (e) we shall maintain confidentiality of the information received as part of the process relating to the Proposed Transaction (“**Process**”) and shall not use such information to cause any undue gain or undue loss to itself or any other person.

[We agree, acknowledge and declare that:

- (a) The person signing this EOI and other supporting documents is an authorized signatory who is supported by necessary board resolutions/ authorization letters of each of the members of the consortium (*as enclosed*);
- (b) The Applicant and none of members of the consortium has been debarred or restrained by any regulatory authority from making investments;
- (c) The Applicant and none of the members of the Applicant is ineligible under the provisions of Section 29A of the Insolvency & Bankruptcy Code, 2016 to participate in the process relating to the Proposed Transaction;
- (d) The Applicant and each of the members of the consortium shall maintain confidentiality of the information received as part of the process relating to the Proposed Transaction (“**Process**”) and shall not use such information to cause any undue gain or undue loss to itself or any other person.]¹

¹ Applicable for consortiums



With respect to the Proposed Transaction, we agree and confirm to IL&FS that:

- (a) we are aware that the consummation of any transaction pursuant to the Process initiated by this EOI will be undertaken under the overall supervision of Hon'ble Justice D.K. Jain (Retd.) and will be subject to requisite approvals, including, the approval of the Board of IL&FS, corporate approvals of other relevant group companies (as applicable), approvals required under applicable law or from statutory authorities, and approval of the National Company Law Tribunal ("NCLT") and other competent authorities nominated by the NCLT/ National Company Law Appellate Tribunal;
- (b) if we do not meet any of the eligibility criteria throughout the Process, then IL&FS shall have the right, exercisable at its sole discretion, to forthwith terminate our involvement in the Process and the Proposed Transaction. We will promptly intimate IL&FS of any material adverse change or any ineligibility in respect of the conditions set out in the Invitation for EOI issued by IL&FS, including any developments that impact our ability to complete the transaction envisaged in the Proposed Transaction, as envisaged pursuant to the Process;
- (c) IL&FS reserves the right to request for additional information or clarification(s) from us for the purposes of the EOI and we shall promptly comply with such requirements;
- (d) IL&FS reserves the right to determine at its sole discretion, whether or not we are eligible for the Proposed Transaction(s) and may reject the EOI submitted by us without assigning any reason or without incurring any liability whatsoever;
- (e) we have provided, and will provide, all information and data during the Process, in a manner that is true, correct, accurate and complete and no such information, data or statement provided by us is (nor, when provided, will it be) inaccurate or misleading in any manner; and
- (f) IL&FS reserves the right to suspend, terminate or modify the process under this EOI or subsequent steps at any time, without providing any reasons or incurring any liability whatsoever.

Yours sincerely,

On behalf of [*name of Applicant*]

Signature:

Name of Signatory: [*insert details*]

Designation: [*insert details*]

Contact No.: [*insert details*]

E-mail ID: [*insert details*]

Address: [*insert details*]



Enclosures:

1. Profile of the Applicant in the format set out in **Annexure B**;
2. Board Resolution in the format set out in **Part I of Annexure D, OR** Power of Attorney in the format set out in **Part II of Annexure D** (as the case may be);
3. Certificate from the chief financial officer of the Applicant or a practicing chartered accountant certifying compliance with the Financial Criteria set out in the EOI, as applicable;
4. Computation of Financial Criteria;
5. Articles of Association/ Memorandum of Association/ Partnership Deed/ other incorporation/ constitutional documents, as may be applicable;
6. Proof of registered office address/ address;
7. PAN Card;
8. Aadhaar Card (in case of an individual).



Annexure B

Profile of the Applicant

[ON THE LETTERHEAD OF THE APPLICANT]

Sl. No.	Applicant's Profile	Details
1.	Category	<i>Please tick below</i> Partnership Firm (_____) Corporate / Company (_____) Consortium (_____) Private Equity (_____) Individual (_____) Government Entity (_____) Trust (_____) Others: ____ (_____) [<i>Please specify</i>]
2.	Country/State of incorporation (if applicable).	
3.	Name of the Applicant	
4.	Details of authorized representative of the Applicant /individual(s) who will serve as the point of contact/communication on behalf of the Applicant: Designation Address Mobile Landline Email	
5.	PAN No.	

	<i>(Please enclose a photocopy of PAN Card of the Applicant)</i>	
6.	Aadhaar No., if applicable <i>(Please enclose a photocopy of Aadhar Card of the Applicant)</i>	
7.	Year of establishment (if applicable)	
8.	Registration (if applicable)	
9.	List of current directors/partners/members	
10.	Net worth of the Applicant	

NET WORTH CALCULATION (For Consortium)

Description	Lead Consortium Member	Consortium Member 1	Consortium Member 2	Total Net Worth
Paid up Capital				
Add: Free Reserves				
Less:				
Revaluation Reserves				
Intangible Assets				
Accumulated Assets				
Miscellaneous expenditure to the extent not written off				
Total Net worth (A)				
% Holding (B)				
Effective Net Worth (A x B)				
			TOTAL	



Annexure C

Non-Disclosure Undertaking

[ON THE LETTERHEAD OF THE APPLICANT]

[Insert date], 2020

To,

1. Infrastructure Leasing & Financial Services Limited (“**IL&FS**”)
The IL&FS Financial Centre,
Plot C-22, G Block,
Bandra Kurla Complex,
Bandra East,
Mumbai - 400051

Re: Expression of Interest to participate in the process being conducted (“**Process**”) for the acquisition of, *either*: (i) Avash Logistic Park Private Limited, Sealand Ports Private Limited and Gujarat Integrated Maritime Complex Private Limited; **OR** (ii) Avash Logistic Park Private Limited and Sealand Ports Private Limited (“**Proposed Transaction**”) submitted by [insert name of the Applicant] (“**Receiving Party**”)

Sub: Acknowledgements, Confidentiality and Non-Disclosure (“**Undertaking**”).

Dear Sir/ Madam,

1. This Undertaking is being furnished by us in consideration of the premise as set forth above. *Vide* this Undertaking, we, the Receiving Party, hereby agree, undertake, acknowledge and confirm that:
 - (a) The Receiving Party would be receiving Confidential Information (*as defined below*) in relation to: (i) Avash Logistic Park Private Limited (“**ALPPL**”), (ii) Sealand Ports Private Limited (“**SPPL**”), (iii) Gujarat Integrated Maritime Complex Private Limited (“**GIMCO**”, together with ALPPL and SPPL referred to as the “**Identified Assets**”) in connection with the proposed acquisition of shares of, *either*: (i) Avash Logistic Park Private Limited, Sealand Ports Private Limited and Gujarat Integrated Maritime Complex Private Limited; **OR** (ii) Avash Logistic Park Private Limited and Sealand Ports Private Limited (“**Proposed Transaction**”) subject to a public bid process (“**Process**”) from IL&FS, ALPPL, SPPL and GIMCO, their shareholders, affiliates, directors, officers, employees, agents or advisors (individually referred to as “**Disclosing Party**”, and collectively referred to as “**Disclosing Parties**”);
 - (b) “**Confidential Information**” includes: (i) all information, discussions, progress and status with respect to the Process and/ or the Proposed Transaction(s); (ii) all information, data, reports, analyses, advices, interpretations, studies, forecasts, records, documents and/ or materials, whether made available in writing or electronically to the Receiving Party by the Disclosing Parties in relation to the Identified Assets, or the Proposed Transaction(s) or the

intended parties to the Proposed Transaction(s) or becoming available to the Representatives (*as defined below*) of the Receiving Party; (iii) any financial, technical, business, operational, assets and liabilities related information, any analysis that integrally incorporates and/ or discloses any Confidential Information; and (iv) any information exchanged between parties to the Proposed Transaction(s), in respect of any Disclosing Party(ies), or documents reflecting or generated from such information, and any information or document that the Disclosing Party considers confidential, but excluding information that:

- (i) at the time of supply to the Receiving Party is in the public domain or otherwise lawfully known to the Receiving Party;
 - (ii) becomes lawfully available to the Receiving Party or its Representatives from a third party who to the best of the Receiving Party's knowledge does not owe any party an obligation of confidence in relation to such information;
 - (iii) is independently developed by the Receiving Party or its Representatives without any reference to the Confidential Information, and without violating any obligations hereunder; or
 - (iv) is approved for disclosure in writing by the Disclosing Parties or a Disclosing Party.
- (c) The Confidential Information shall be shared only with affiliates or partners who shall be potentially participating in equity or debt funding and the directors, partners, officers, agents, employees or advisors (such as financial advisors, attorneys, bankers, consultants and accountants) of the Receiving Party/ their affiliates/ partners who need to know such information for the purpose of evaluating the Proposed Transaction(s) (collectively referred to as the "**Representatives**"), on a strictly "need to know" basis; provided, such Representatives are also similarly restricted by the confidential obligations and the conditions set forth in this Undertaking. The Receiving Party agrees that the Receiving Party will be responsible for any breach of the confidentiality and other terms of this Undertaking by any of the Receiving Party's Representatives.
2. The Receiving Party agrees and undertakes that it shall, and it shall ensure that its Representatives shall:
- (a) keep confidential all Confidential Information provided to the Receiving Party, unless disclosure is required to satisfy the requirements of any law, legal process, court of competent jurisdiction or any governmental or regulatory agency having the authority to regulate any aspect of the Receiving Party's business. Provided that the Receiving Party may disclose only such Confidential Information that is strictly required to be disclosed to comply with a regulatory requirement, and to the extent legally permissible, the Receiving Party shall notify the Disclosing Parties of such requirements promptly, in advance of the disclosure, so that the Disclosing Parties may seek protective order(s) or other appropriate remedy to protect the secrecy of the Confidential Information;

- (b) use Confidential Information solely for the purpose of evaluating, negotiating or, if selected as the preferred applicant, carrying out the Proposed Transaction(s);
- (c) not use the Confidential Information to cause an undue gain or undue loss to itself or any other person and comply with the principles stipulated under section 29(2) of the Insolvency and Bankruptcy Code, 2016 (as amended from time to time);
- (d) not engage with or solicit or attempt to solicit, in any manner whatsoever, any client or customer of the Disclosing Party(ies);
- (e) not, directly or indirectly:
 - (i) induce for employment, employ or engage as a consultant or independent contractor any employee of the Disclosing Party(ies) to leave his or her employment and/ or terms of service with the applicable Disclosing Party, or in any way interfere with the relationship between the Disclosing Party and any such employee thereof;
 - (ii) induce or hire any person engaged by the Disclosing Party(ies), with whom the Receiving Party or any of its Representatives have been directly or indirectly introduced or otherwise had contact with in connection with the Proposed Transaction(s), so long as such persons are employed or engaged by the applicable Disclosing Party, or upon cessation of such employment or engagement with the applicable Disclosing Party, for a period of 6 (six) months after such cessation, unless otherwise agreed by the applicable Disclosing Party in writing,

Provided that the aforesaid conditions do not prevent the Receiving Party from offering employment: (A) pursuant to a general solicitation or advertisement not specifically directed towards employees of the Disclosing Party(ies), in the news media of general circulation; (B) through a recruitment agency or other similar entities who have not been specifically instructed by the Receiving Party to solicit such employees of the Disclosing Party(ies); or (C) to persons who approach the Receiving Party on their own volition, without any solicitation by the Receiving Party or its Representatives; and

3. Further, the Receiving Party acknowledges and agrees that:

- (a) the Confidential Information disclosed under this Undertaking is delivered “**as is**” and the Disclosing Parties do not make any representation or warranty as to the accuracy, timeliness or completeness of the Confidential Information or its suitability for any particular purpose. The Disclosing Party shall not have any liability to the Receiving Party or its Representatives relating to or resulting from the use of the Confidential Information or any omissions or errors therein;
- (b) the opportunity to participate in the Process or grant of access to the Confidential Information cannot be construed:

- (i) to grant any rights over the Identified Asset(s) and/ or the Confidential Information to the Receiving Party or any person; or
 - (ii) to be a commitment or agreement by the Disclosing Parties to undertake or consummate any or all the Proposed Transaction(s) with the Receiving Party or any other party; or
 - (iii) to refrain the Disclosing Party from consummating the Proposed Transaction(s) or any transaction pertaining thereto with any other party.
4. The Receiving Party acknowledges and confirms that:
- (a) the Confidential Information is the property of the relevant Disclosing Party;
 - (b) in case of any actual or suspected loss, theft, unauthorized disclosure, use or access of Confidential Information in breach hereof or other non-compliance with this Undertaking, to notify the Disclosing Party in writing (including electronically) (along with relevant details), and shall provide all reasonable assistance to the Disclosing Party in connection with any proceedings which the Disclosing Party may institute to protect such Confidential Information;
 - (c) in the event the Disclosing Parties decide not to proceed with the Proposed Transaction(s) either with the Receiving Party or at all, the Receiving Party shall promptly return (if requested by the Disclosing Party) or destroy (if no such request is made) all physical copies of Confidential Information (and promptly and immediately delete, destroy or make inaccessible all electronic copies thereof and provide a written confirmation in relation to the same to the Disclosing Party within a reasonable time). Provided, that the Receiving Party may retain Confidential Information that is required to be retained by: (i) law, regulation, legal or judicial process or any governmental or regulatory authority or document retention policy; and /or (ii) tax, audit or compliance purposes with a prior intimation to the Disclosing Party.
5. The Receiving Party understands and agrees that monetary damages would not be sufficient or adequate remedy for any actual or threatened breach of this Undertaking by the Receiving Party or any of its Representatives and that, in addition to all other remedies available at law and/or in equity, the Disclosing Parties shall be entitled to seek equitable relief, including both preliminary and permanent injunctions and specific performance, as a remedy for any such actual or threatened breach of this Undertaking by the Receiving Party or any of its Representatives.
6. This Undertaking is governed by, and construed in accordance with, the laws of India and shall be subject to the exclusive jurisdiction of the courts of Mumbai, India.
7. This Undertaking comes into effect upon execution and the obligations set forth herein shall remain irrevocable and binding upon the Receiving Party until superseded in the definitive agreement(s), if any, executed in respect of the Proposed Transaction(s). Provided, the obligations of the Receiving Party or its Representatives in terms of this Undertaking shall be valid and remain in force for a period of 36 (thirty six) months from the date of execution of this Undertaking in case the definitive agreement(s), if any, are not executed.



For *[Insert name of Applicant]*

Signature

Name of Signatory: *[Insert details]*

Designation: *[Insert details]*

Contact No.: *[Insert details]*

E-mail ID: *[Insert details]*

Address: *[Insert details]*



Annexure D

Part I | Format of the Board Resolution

[*Note: The Applicant may not submit a Board Resolution if a power of attorney is submitted in the format prescribed in **Part II** of Annexure D*]

The Board, after discussion, at the duly convened Meeting on [Insert date], with the consent of all Directors present and in compliance with the provisions of the Companies Act, 2013, passed the following Resolution:

“RESOLVED THAT pursuant to the provisions of the Companies Act, the rules and regulations thereunder and compliance thereof and as permitted under the memorandum and articles of association of the Company, approval of the Board be and is hereby granted to the Company to submit the expression of interest and participate in the process for acquisition of shares of, either: (i) Avash Logistic Park Private Limited, Sealand Ports Private Limited and Gujarat Integrated Maritime Complex Private Limited; OR (ii) Avash Logistic Park Private Limited and Sealand Ports Private Limited (**“Proposed Transaction”**) pursuant to the Invitation for Expression of Interest dated [Insert date] available at www.ilfsindia.com/ad/.

RESOLVED FURTHER THAT Mr./ Ms. [Insert name and designation] and Mr./ Ms. [Insert name and designation], be and are hereby jointly and/or severally authorized to act as our representatives for the purpose of the Proposed Transaction and to take all the steps required to be taken by the Company in relation to the Proposed Transaction including but not limited to: (i) submitting the EOI; (ii) providing clarifications in relation to the EOI as may be required by Infrastructure Leasing and Financial Services Limited (**“IL&FS”**); (iii) participating in the process related to the Proposed Transaction; (iv) negotiating and executing, if selected as an eligible Applicant, any documents, declarations, letters, undertakings and agreements as may be required by IL&FS for the Proposed Transaction; (v) undertaking due diligence in relation to the Proposed Transaction, including legal, technical and financial, and for that purpose to appoint suitable consultants; (vi) undertaking any other actions incidental to the submission of the EOI and participation in the process relating to the Proposed Transaction; and (vii) complying with all terms and conditions during and after the process for the Proposed Transaction.

RESOLVED FURTHER THAT Mr./ Ms. [Insert name and designation], be and is hereby authorized to take all steps required for giving effect to the aforementioned resolution.

RESOLVED FURTHER THAT the common seal of the company be affixed on all the deeds or instruments in respect of the Proposed Transaction to which the seal of the company is required to be affixed in accordance with its memorandum and articles of association, in the presence of [**insert name**], [**insert designation**] and [**insert name**], [**insert designation**], of the company, who shall also sign the same.”

Certified True Copy

On behalf of [Insert name of Applicant]

Signature of Company Secretary/ Director of the Applicant and rubber stamp of the Applicant

Notes:

1. The certified true copy should be submitted on the letterhead of the Company, signed by the Company Secretary/ Director.
2. The contents of the format may be suitably re-worded indicating the identity of the entity passing the resolution.
3. In case the board resolution is being provided by a company incorporated in India, the board resolution needs to be notarized by a notified notary. If the board resolution is from a company incorporated outside India, the same needs to be apostilled or legalized and consularized (wherever required) in its jurisdiction.
4. The format may be modified only to the limited extent required to comply with local regulations and laws applicable to a foreign entity submitting the resolution. For e.g., reference to the Companies Act, 2013 may be suitably modified to refer to the law applicable to the entity submitting the resolution.



Annexure D

Part II | Format of the Power of Attorney

*[Note: To be submitted on a non-judicial stamp paper of INR 500/- by all the Applicant (including those incorporated outside India). Foreign Applicant is required to follow the applicable law in their country and ensure that the documents submitted are appropriately apostilled where required. Further, the Applicant need not submit the power of attorney if it has submitted a Board Resolution in the format prescribed in **Part I of Annexure D.**]*

POWER OF ATTORNEY

Know all men by these presents, I/ we [*Insert name and address of the Applicant*] do hereby constitute, appoint and authorize Mr./ Ms. [*Insert name, residential address and designation, if applicable*] as my/ our true and lawful attorney, to do in my/ our name and on our behalf, all such acts, deeds and things necessary and in connection with or incidental to the acquisition of shares of, either: (i) *Avash Logistic Park Private Limited, Sealand Ports Private Limited and Gujarat Integrated Maritime Complex Private Limited*; OR (ii) *Avash Logistic Park Private Limited and Sealand Ports Private Limited*] (“**Proposed Transaction**”) pursuant to the Invitation for Expression of Interest dated [*Insert date*] available at www.ilfsindia.com/ad/., including but not limited to: (i) submitting the EOI; (ii) providing clarifications in relation to the EOI as may be required by IL&FS; (iii) participating in the process related to the Proposed Transaction; (iv) negotiating and executing, if selected as an eligible Applicant, any documents, declarations, letters, undertakings and agreements as may be required by IL&FS for the Proposed Transaction; (v) undertaking due diligence in relation to the Proposed Transaction, including legal, technical and financial, and for that purpose to appoint suitable consultants; (vi) undertaking any other actions incidental to the submission of the EOI and participation in the process relating to the Proposed Transaction; and (vii) complying with all terms and conditions during and after the process for the Proposed Transaction.

I/ we declare that any and all acts, deeds, matters and things which may be done, executed and/or performed by my/ our attorney pursuant to this Power of Attorney shall be good, valid and effectual as if the same has been done, executed and/or performed and shall be binding on me/ us.

I/ we do hereby ratify and confirm all acts, deeds and things done by my/ our attorney pursuant to this Power of Attorney.

Signed by the within named

Name:

Address:

Date:

Accepted by:

Name of Attorney:
Address:
Designation (if applicable):

Attested:

Signature and stamp of Notary of the place of execution.

Witness

1. _____
Name:
Address:

2. _____
Name:
Address:

Notes:

1. The mode of execution of the power of attorney should be in accordance with the procedure, if any, laid down by the applicable law. If the Applicant is not an individual, then the Power of Attorney should be in compliance with the charter documents of the Applicant and should be under the common seal, if any, of the Applicant, affixed in accordance with the applicable procedures. Further, if the Applicant is not an individual, then the person whose signatures are to be provided on the power of attorney shall be duly authorized by the executant(s) in this regard.
2. In case the Applicant is a foreign company, the power of attorney should be apostilled or legalized and consularized in accordance with the requirements of the law applicable to the Applicant.
3. Additionally, where required, the Applicant (if not an individual) should submit for verification extracts of charter documents and documents in favour of the person executing the power of attorney.