



**AIRPORTS AUTHORITY OF INDIA (AAI)**

**REQUEST FOR PROPOSALS**

Notice No. 2018\_AAI\_19459\_1

**Concession for operations, management and development of Mangaluru International Airport**

14/12/2018

**RFP No. 2018\_AAI\_19459\_1**

The Airports Authority of India invites bids from eligible bidders for the operations, management and development of Mangaluru International Airport.

The last date for submission of bids is 14/02/2019 before 1500 hours IST. Opening of the technical bids is scheduled for 1530 hours IST on 16/02/2019 at the office of the Airports Authority of India.

All other details including any date extensions, clarifications, amendments, corrigenda, etc., will be uploaded only on the website of the Central Public Procurement Portal, <https://etenders.gov.in/e procure/app>, and will not be published in newspapers. Hence, bidders are advised to regularly visit the website of the Central Public Procurement Portal to keep themselves updated.

Bids shall be submitted online only on the Central Public Procurement Portal. Bids submitted in physical form shall be rejected.

Bidders are advised to follow the instructions provided in the 'Instructions to the Contractors/ Tenderers' for the submission of bids online through the Central Public Procurement Portal.

Documents which are required to be submitted along with the bid may be scanned with 100 dpi with black and white option. The same would help in reducing the size of the scanned files.

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For and on behalf of the Chairman, AAI,  
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For any technical queries in connection with the access to/ usage of the Central Public Procurement Portal please contact:

E-mail: [support-eproc@nic.in](mailto:support-eproc@nic.in)

Helpdesk: +91 0120-4001 062, +91 0120-4001 002, +91- 0120-4001 005, +91 0120-6277 787

**Acknowledgement:**

This document has been purchased on the express understanding that it will be used only for the sole purpose of participating in the Bidding Process for the operations, management and development of Mangaluru International Airport, and must not be used for any other purpose. This document must not be passed to a third party except professional advisers assisting with the submission of bids. The document shall not be reproduced or communicated, in whole or in part, and its contents shall not be distributed in written or oral form without written permission from the issuing authority.

## **DISCLAIMER**

The information contained in this Request for Proposals document (the “**RFP**”) or subsequently provided to the Bidder(s), whether verbally or in documentary or any other form, by or on behalf of the Authority or any of its employees or advisors, is provided to the Bidder(s) on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

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

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

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

The Authority also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this RFP.

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

The issue of this RFP does not imply that the Authority is bound to select a Bidder or to appoint the Selected Bidder or Concessionaire, as the case may be, for the Project, and the Authority reserves the right to reject all or any of the Bids without assigning any reasons whatsoever.

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

## TABLE OF CONTENTS

GLOSSARY .....	7
AIRPORTS AUTHORITY OF INDIA .....	10
1. INTRODUCTION.....	10
1.1 <i>Background</i> .....	10
1.2 <i>Registration and Sale of Bidding Documents</i> .....	11
1.3 <i>Schedule of Bidding Process</i> .....	13
1.4 <i>Pre-Bid Conference</i> .....	13
2. INSTRUCTIONS TO BIDDERS .....	14
A. GENERAL.....	14
2.1 <i>General Terms of Bidding</i> .....	14
2.2 <i>Eligibility of Bidders</i> .....	15
2.3 <i>Change in composition of the Consortium</i> .....	21
2.4 <i>Change in Ownership</i> .....	21
2.5 <i>Number of Bids and costs thereof</i> .....	21
2.6 <i>Site visit and verification of information</i> .....	21
2.7 <i>Right to accept or reject any or all Bids</i> .....	23
B. DOCUMENTS .....	24
2.8 <i>Contents of the RFP</i> .....	24
2.9 <i>Clarifications</i> .....	24
2.10 <i>Amendment of RFP</i> .....	25
C. PREPARATION AND SUBMISSION OF BID .....	25
2.11 <i>Language</i> .....	25
2.12 <i>Format and signing of Bid</i> .....	25
2.13 <i>Submission of Bids</i> .....	25
2.14 <i>Bid Due Date</i> .....	27
2.15 <i>Re-submission/ withdrawal of Bids</i> .....	27
2.16 <i>Validity of Bids</i> .....	27
2.17 <i>Confidentiality</i> .....	27
2.18 <i>Correspondence with the Bidder</i> .....	28
2.19 <i>Bid Security</i> .....	28
D. EVALUATION PROCESS .....	29
2.20 <i>Opening and Evaluation of Bids</i> .....	29
2.21 <i>Tests of responsiveness</i> .....	29
2.22 <i>Clarifications from Bidders</i> .....	30
E. QUALIFICATION AND BIDDING .....	30
2.23 <i>Shortlisting and notification</i> .....	30
2.24 <i>Proprietary data</i> .....	31
2.25 <i>Correspondence with the Bidder</i> .....	31
3. CRITERIA FOR EVALUATION.....	32
3.1 <i>Evaluation parameters</i> .....	32
3.2 <i>Eligible Projects</i> .....	32
3.3 <i>Details of Experience &amp; Credentials of Affiliates</i> .....	32
3.4 <i>Financial Information for purposes of evaluation</i> .....	32
3.5 <i>Evaluation of Qualification Documents</i> .....	33
3.6 <i>Short-listing of Bidders</i> .....	33
3.7 <i>Opening of Financial Bids</i> .....	33
3.8 <i>Selection of Bidder</i> .....	33
3.9 <i>Contacts during Bid Evaluation</i> .....	34
4. FRAUD AND CORRUPT PRACTICES .....	36
5. PRE-BID CONFERENCE .....	38
6. MISCELLANEOUS .....	39
APPENDIX-I LETTER COMPRISING THE TECHNICAL BID .....	40
ANNEXURE-I PARTICULARS OF THE BIDDER .....	44
ANNEXURE-II TECHNICAL CAPACITY OF THE BIDDER .....	46

ANNEXURE-III FINANCIAL CAPACITY OF THE BIDDER .....	48
ANNEXURE-IV DETAILS OF ELIGIBLE PROJECT .....	49
APPENDIX-II POWER OF ATTORNEY FOR SIGNING OF BID .....	52
APPENDIX-III JOINT BIDDING AGREEMENT FOR CONSORTIUM .....	54
APPENDIX-IV BANK GUARANTEE FOR BID SECURITY .....	58
APPENDIX-V CERTIFICATE FROM STATUTORY AUDITOR .....	61
APPENDIX-VI INTEGRITY PACT .....	62
APPENDIX-VII NON-DISCLOSURE UNDERTAKING .....	69
ANNEXURE A FORMAT OF POWER OF ATTORNEY FOR SIGNING THE NON-DISCLOSURE UNDERTAKING .....	73
APPENDIX-VIII GUIDELINES OF THE DEPARTMENT OF DISINVESTMENT .....	75
APPENDIX-IX FORMAT OF LETTER OF AUTHORITY FOR VISITING THE AIRPORT AND ACCESSING DATA ROOM .....	77
APPENDIX-X FORMAT OF LETTER OF AUTHORITY FOR PARTICIPATING IN PRE-BID CONFERENCE .....	78
APPENDIX-XI GUIDELINES FOR VISITING THE AIRPORT AND/OR ACCESSING THE DATA ROOM .....	79
APPENDIX-XII INSTRUCTIONS FOR REGISTRATION ON CPPP AND ONLINE SUBMISSION OF BID .....	81

## **GLOSSARY**

“**ACI**” shall have the meaning ascribed to it in Clause 2.2.3(b);

“**AIF**” means an alternative investment fund as defined in Regulation 2(1)(b) of Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, as may be amended from time to time;

“**Affiliate**” shall have the meaning ascribed to it in Clause 2.2.8;

“**Airport(s)**” shall have the meaning ascribed to it in Clause 1.1.1;

“**Authorised Signatory**” shall have the meaning ascribed to it in Clause 2.1.7;

“**Authority**” shall have the meaning ascribed to it in Clause 1.1.1;

“**Bid Due Date**” shall have the meaning ascribed to it in Clause 1.1.9;

“**Bid Security**” shall have the meaning ascribed to it in Clause 1.2.5;

“**Bid**” shall have the meaning ascribed to it in Clause 1.2.3;

“**Bidder**” shall have the meaning ascribed to it in Clause 2.2.1;

“**Bidding Documents**” shall have the meaning ascribed to it in Clause 1.1.9;

“**Bidding Process**” shall have the meaning ascribed to it in Clause 1.1.9;

“**Coercive practice**” shall have the meaning ascribed to it in Clause 4.3(c);

“**Concession Agreement**” shall have the meaning ascribed to it in Clause 1.1.2;

“**Concessionaire**” shall have the meaning ascribed to it in Clause 1.1.2;

“**Conference Representative**” shall have the meaning ascribed to it in Clause 5.1;

“**Conflict of Interest**” shall have the meaning ascribed to it in Clause 2.2.1(c);

“**Consortium**” shall have the meaning ascribed to it in Clause 2.2.1(b);

“**Corrupt practice**” shall have the meaning ascribed to it in Clause 4.3(a);

“**CPPP**” shall have the meaning ascribed to it in Clause 1.2.3;

“**Data Room**” shall have the meaning ascribed to it in Clause 2.6.2;

“**Eligible Projects**” shall have the meaning ascribed to it in Clause 3.2.1;

“**Financial Bid**” shall have the meaning ascribed to it in Clause 1.2.3;

“**Financial Capacity**” shall have the meaning ascribed to it in Clause 2.2.2(b);

“**First round of bidding**” shall have the meaning ascribed to it in Clause 3.8.3;

“**Foreign Investment Fund**” means any appropriately regulated investment fund which is set up in any country outside India, but excludes entities that fall within the Negative List. In this context, the expression “appropriately regulated” means regulation or supervision by the securities market regulator or the banking regulator or other relevant statutory authority of the concerned foreign jurisdiction;

“**Fraudulent practice**” shall have the meaning ascribed to it in Clause 4.3(b);

“**Highest Bidder**” shall have the meaning ascribed to it in Clause 3.8.1(b);

“**Joint Bidding Agreement**” shall have the meaning ascribed to it in Clause 2.2.5;

“**LOA**” shall have the meaning ascribed to it in Clause 3.8.5;

“**Member**” shall have the meaning ascribed to it in Clause 2.1.1;

“**NDU**” shall have the meaning ascribed to it in Clause 1.2.1(a);

“**Net Worth**” shall have the meaning ascribed to it in Clause 2.2.3(b);

“**Nominated Entity(ies)**” shall have the meaning ascribed to it in Clause 1.2.1(a)(i);

“**Nominated Personnel**” shall have the meaning ascribed to it in Clause 2.6.3;

“**Per-Passenger Fee**” shall have the meaning ascribed to it in Clause 1.1.5;

“**Project**” shall have the meaning ascribed to it in Clause 1.1.1;

“**Qualified Bidders**” shall have the meaning ascribed to it in Clause 1.1.2;

“**Restrictive practice**” shall have the meaning ascribed to it in Clause 4.3(e);

“**RFP**” shall have the meaning ascribed to it in the Disclaimer;

“**Second round of bidding**” shall have the meaning ascribed to it in Clause 3.8.3;

“**Selected Bidder**” shall have the meaning ascribed to it in Clause 1.1.2;

“**Subject Person**” shall have the meaning ascribed to it in Clause 2.2.1(c)

“**Technical Bid**” shall have the meaning ascribed to it in Clause 1.2.3;

“**Technical Capacity**” shall have the meaning ascribed to it in Clause 2.2.2(a);

“**Third round of bidding**” shall have the meaning ascribed to it in Clause 3.8.4;

“**Tie Bidders**” shall have the meaning ascribed to it in Clause 3.8.2;

“**Undesirable practice**” shall have the meaning ascribed to it in Clause 4.3(d);

The words and expressions beginning with capital letters and defined in this document shall, unless repugnant to the context, have the meaning ascribed thereto herein above.

The words and expressions beginning with capital letters and not defined herein, but defined in the Concession Agreement, shall, unless repugnant to the context, have the meaning ascribed thereto therein.



In this RFP, unless the context otherwise requires, the words importing singular shall include plural and *vice versa*.

## **AIRPORTS AUTHORITY OF INDIA**

### **1. INTRODUCTION<sup>3</sup>**

#### **1.1 Background**

1.1.1 Airports Authority of India (“**Authority**”), established under Airports Authority of India Act, 1994, is a Category-I Mini-Ratna Public Sector Enterprise. The Authority is mandated under the Airports Authority of India Act, 1994 to, *inter alia*, manage the airports, civil enclaves and the aeronautical communication stations efficiently (other than airports and airfields belonging to, or subject to the control of, any Armed Force of the Union). The Authority, in its persistent efforts to provide world-class infrastructure and services to stakeholders, has been endeavoring to excel amongst its global peers by undertaking various initiatives.

As one of the initiatives, the Authority has decided to undertake an open international competitive bidding process in accordance with the procedure set out herein for the purpose of selecting an entity or entities who will be responsible for undertaking, *inter alia*, the operations, management and development (the “**Project**”) of Mangaluru International Airport (the “**Airport**”) in accordance with this RFP and the Concession Agreement (as defined below).

1.1.2 The Authority intends to qualify and short-list eligible Bidders who have the Technical Capacity and Financial Capacity as specified in Clause 2.2.2 read with Clause 3.2 (the “**Qualified Bidders**”). The Financial Bids of only the Qualified Bidders will be evaluated in accordance with this RFP. The Bidder to whom the Project is awarded (“**Selected Bidder**”) shall incorporate a special purpose company under the (Indian) Companies Act, 2013 (the “**Concessionaire**”). The Concessionaire shall be responsible for implementing the Project in accordance with an operations, management and development agreement (the “**Concession Agreement**”) to be entered into between the Concessionaire and Authority in the form provided as part of the Bidding Documents pursuant hereto.

- (a) The term of the Concession Agreement shall be for a period of 50 (fifty) years from the COD (as defined in the Concession Agreement); and
- (b) The Concession Agreement sets forth the detailed terms and conditions for implementation of the Project, including the scope of the Concessionaire’s obligations, and clearly defines the rights and obligations of the Authority and the Concessionaire in respect of the Project.

1.1.3 The Concessionaire shall broadly be responsible for operations and management of the existing airport assets as well as for designing, engineering, financing, construction and development of the further/ additional air-side, terminal, city-side and land-side infrastructure for the Airport and the operation and management thereof in accordance with the Concession Agreement and applicable laws.

1.1.4 The Authority shall be responsible for such of the responsibilities as set forth in the Concession Agreement.

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<sup>3</sup> Instructions for Bidders

Note 1: The provisions in curly brackets shall be suitably modified by the Bidders after the RFP is issued.

Note 2: Blank spaces contain formats that are to be used by the Bidders after the RFP is issued.

Note 3: Footnotes marked “\$” in the relevant Clauses of the RFP are for guidance of the Bidders. In case of Appendices, the footnotes marked “\$” or in other non-numerical characters shall be omitted by the Bidders while submitting their respective Bids.

- 1.1.5 The Concessionaire shall pay to the Authority, on a monthly-basis, a fee (the “**Per-Passenger Fee**”) in respect of each passenger (both domestic and international) handled at the Airport in accordance with the Concession Agreement.
- 1.1.6 It is clarified that the Concessionaire shall be entitled to collect charges from users of the Airport in accordance with the Concession Agreement.
- 1.1.7 The Bidding Documents include the draft Concession Agreement. Further, any addenda/ corrigenda issued subsequent to this RFP will be deemed to form part of the Bidding Documents.
- 1.1.8 The statements and explanations contained in this RFP are intended to provide a better understanding to the Bidders about the subject matter of this RFP and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Concessionaire set forth in the draft Concession Agreement or the Authority’s rights to amend, alter, change, supplement or clarify the scope of the Project to be awarded pursuant to this RFP or the terms thereof or herein contained. Consequently, any omissions, conflicts or contradictions in the Bidding Documents including this RFP are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by the Authority.
- 1.1.9 The Authority has adopted a single-stage electronic bidding process (the “**Bidding Process**”) for selection of the Bidder for award of the Project. The Authority shall receive Bids pursuant to this RFP in accordance with the terms set forth in this RFP and other documents to be provided by the Authority pursuant to this RFP, as modified, altered, amended and clarified from time to time by the Authority (collectively the “**Bidding Documents**”), and all Bids shall be prepared and submitted in accordance with such terms on or before the date specified in Clause 1.3 for submission of Bids (the “**Bid Due Date**”).

## **1.2 Registration and Sale of Bidding Documents**

- 1.2.1 Eligibility to access/ purchase the Bidding Documents, visit the Airport, access the Data Room and attend the pre-bid conference are subject to the following:
  - (a) Submission to the Authority of a non-disclosure undertaking in the format specified in Appendix-VII (“**NDU**”).
    - (i) At the time of registration, up to a maximum of 10 (ten) persons may be nominated for the purpose of visiting the Airport, accessing the Data Room, and/ or participating in the pre-Bid conference (“**Nominated Entity(ies)**”).

For the avoidance of any doubt, Nominated Entities shall not include a Bidder’s directors, employees, retainers, officers or partners.
    - (ii) Each Nominated Entity shall also separately submit an NDU in order to be eligible to visit the Airport, access the Data Room and/ or participate in the pre-Bid conference.
- (b) payment of a non-refundable Bid processing fee inclusive of GST of Rs. 7,55,200/- (Rupees

Seven Lakh Fifty Five Thousand Two Hundred only), if the Bidder is an Indian entity, or USD 10,502 (Ten Thousand Five Hundred Two US Dollars), if the Bidder is a foreign entity, by way of online transfer through real time gross settlement or national electronic funds transfer to the account set out below. The Bidders shall ensure that the net credit in the Authority's account shall be for an amount equal to the Bid processing fee. Any applicable bank charges shall be borne by the Bidder. For the avoidance of any doubt, a Nominated Entity shall not be required to separately pay the non-refundable Bid processing fee.

	For online payments in Indian National Rupees	For online payments in US Dollars
Bid processing fee	INR 7,55,200	USD 10,502
Name of beneficiary	Airports Authority of India	
Name of the Bank	HDFC Bank	
Bank branch address	Surya Kiran Building, Kasturba Gandhi Marg, New Delhi, 110001	
Account Number	00030350001791	00038580000059
IFSC Code	HDFC0000003	HDFCINBBDEL

The Bidders shall upload to the CPPP executed copies of the NDU and power of attorney to be submitted under Clause 1.2.1(a), and payment receipt generated (with SWIFT code, if applicable) under Clause 1.2.1(b). It is clarified that Bidders shall be granted access under this Clause 1.2.1 only after the Authority confirms it has received payment for the Bid processing fee. The Authority shall not be responsible or liable for any delay in the credit of such payment made by the Bidder.

- 1.2.2 The Bidding Documents can be obtained between 1100 hours and 1600 hours on all working days from the office of the Executive Director (Key Infrastructure Development), Airports Authority of India, C-Block, Rajiv Gandhi Bhawan, New Delhi, 110003, subject to proof of compliance with the requirements specified under Clause 1.2.1.
- 1.2.3 Bidders are called upon to submit details of their Technical Capacity and Financial Capacity in Cover-1 ("**Technical Bid**") and financial proposals in the format specified on the CPPP ("**Financial Bid**") (the Technical Bid and Financial Bid shall collectively referred as "**Bid**") in accordance with the terms specified in these Bidding Documents. The Bid shall be valid till July **31/07/2019**.

The Bidders shall submit their respective Bids online only at the Central Public Procurement Portal at <https://etenders.gov.in/eprocure/app> ("**CPPP**"). Any Bid submitted in physical form shall be rejected by the Authority. For the purpose of submission of the Bid online, a Bidder shall first register itself on the CPPP in accordance with the details set out in Appendix-XII.

- 1.2.4 In the Bid, Bidders would be required to furnish all the information specified in this RFP. The Bidders shall be evaluated and Qualified Bidders shall be shortlisted, and thereafter the Selected Bidder shall be chosen based on the evaluation of Financial Bids of such Qualified Bidders. The Bidders are advised to visit the site and familiarize themselves with the Project.
- 1.2.5 A Bidder is required to deposit, along with its Bid, a bid security of Rs 16,00,00,000 (Rupees Sixteen Crore) (the "**Bid Security**"), refundable no later than 60 (sixty) days from the Bid Due Date, except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the Concession Agreement. The Bidders will have to provide the Bid Security in the form of a demand draft, or a bank guarantee acceptable to the Authority in the format specified in Appendix-IV. The validity period of bank guarantee shall not be less than 180 (one hundred eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Authority and the Bidder from time to time. The Bid shall be summarily rejected if it is not

accompanied by the Bid Security.

- 1.2.6 During the Bidding Process, Bidders are invited to examine the Project in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for award or implementation of the Project.
- 1.2.7 Further details of the Bidding Process and the terms thereof are spelt out in the Bidding Documents.
- 1.2.8 The Bidders shall submit any queries or request for additional information concerning this RFP only at the CPPP by the specified date. Any queries submitted in physical form, through emails or through any other means shall not be responded to by the Authority.

### **1.3 Schedule of Bidding Process**

The Authority shall endeavour to adhere to the following schedule:

<b>Event Description</b>	<b>Date</b>
Publication of RFP	14/12/2018
Access to Data Room	21/12/2018
Last date for receiving queries	10/01/2019
Pre-Bid Conference	17/01/2019
Authority response to queries latest by	22/01/2019
Final Date of Availability for Bidding Documents <sup>4</sup>	31/01/2019
Bid submission end date/ Bid Due Date	14/02/2019
Technical Bid opening date	16/02/2019
Financial Bid opening date	25/02/2019
Letter of Award (LOA)	28/02/2019
Validity of Bids	31/07/2019

### **1.4 Pre-Bid Conference**

The pre-bid conference shall be held at the Board Room, 3<sup>rd</sup> Floor 'C'-Block, Airports Authority of India, Rajiv Gandhi Bhawan on 17/01/2019 at 18:00 IST.

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<sup>4</sup> In the CPPP, the final date of availability for Bidding Documents is referred to as the Pre-Qualification Approval Date. It is clarified that such date refers to the final date on which Bidders shall be able to access the Bidding Documents including but not limited to the Concession Agreement and Data Room.

## **2. INSTRUCTIONS TO BIDDERS**

### **A. GENERAL**

#### **2.1 General Terms of Bidding**

- 2.1.1 No Bidder shall submit more than 1 (one) Bid for a Project. A Bidder bidding individually or as a member of a Consortium (“**Member**”) shall not be entitled to submit another Bid either individually or as a Member of any Consortium, as the case may be.
- 2.1.2 Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the draft Concession Agreement shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the Concession Agreement.
- 2.1.3 The Technical Bid, including materials evidencing the Technical Capacity and Financial Capacity, should be furnished online in the formats prescribed at Annexure-II and Annexure-III of Appendix-I. Only the Qualified Bidders shall be considered for shortlisting and for further stages for evaluation.
- 2.1.4 The Financial Bid shall be furnished online in the format specified by CPPP, clearly indicating the Per-Passenger Fee for domestic passengers in INR (Indian Rupees), in whole number figures. In the event the Financial Bid or any information regarding the same is submitted as part of the Technical Bid or through any other means of communication not permitted under this Clause 2.1.4, the Authority reserves the right to reject such Bid.
- 2.1.5 The Bidder shall submit the Bid Security in accordance with the provisions of this RFP in the form of a demand draft, or a bank guarantee acceptable to the Authority as per format at Appendix-IV and as per Clause 2.19.
- 2.1.6 The validity period of the Bid Security shall not be less than 180 (one hundred eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as mutually agreed between the Authority and the Bidder from time to time. Where a demand draft is provided, its validity shall not be less than 80 (eighty) days from the Bid Due Date, for the purposes of encashment by the Authority. The Bid shall be summarily rejected if it is not accompanied by the Bid Security. The Bid Security shall be refundable no later than 60 (sixty) days from the Bid Due Date, except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the Concession Agreement.
- 2.1.7 The Bidder should submit a power of attorney as per the format at Appendix-II, authorizing the signatory of the Bid to commit the Bidder (the “**Authorised Signatory**”).
- In case the Bidder is a Consortium, each Member of the Consortium should submit a power of attorney as per the format at Appendix-II authorizing the signatory of the Bid to commit the Consortium.
- 2.1.8 Any condition or qualification or any other stipulation contained in the Bid shall render the Bid liable to rejection as a non-responsive Bid.
- 2.1.9 The Bid and all communications in relation to or concerning the Bidding Documents and the Bid shall be in English language.
- 2.1.10 The documents including this RFP and all attached documents, provided by the Authority are and shall remain or become the property of the Authority and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith.

Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The provisions of this Clause 2.1.10 shall also apply *mutatis mutandis* to Bids and all other documents submitted by the Bidders, and the Authority will not return to the Bidders any Bid, document or any information provided along therewith.

2.1.11 This RFP is not transferable.

2.1.13 Any award of concession pursuant to this RFP shall be subject to the terms of Bidding Documents.

2.1.14 The Authority reserves the right not to proceed with the Bidding Process at any time, without notice or liability, and to reject any Bid without assigning any reasons.

## **2.2 Eligibility of Bidders**

2.2.1 For determining the eligibility of bidders (“**Bidders**”) for submission of Bids hereunder, the following shall apply:

- (a) the Bidder shall have complied with the requirements of Clause 1.2.1;
- (b) the Bidder may be a single entity (which may be a natural person, private entity, AIF, Foreign Investment Fund, government-owned entity, etc.) or a group or combination of such entities coming together to implement the Project with a formal intent to enter into an agreement or under an existing agreement to form a consortium (“**Consortium**”).

However, no Bidder applying individually or as a Member of a Consortium, as the case may be, can be Member of another Bidder. The term Bidder used herein would apply to both a single entity and a Consortium. A Consortium shall be eligible for consideration subject to the conditions set out in Clause 2.2.5 below;

- (c) a Bidder shall not have a conflict of interest (the “**Conflict of Interest**”) that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. A Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:
  - (i) the Bidder, or its Affiliate (or any constituent thereof) and any other Bidder or any Affiliate thereof (or any constituent thereof) have common controlling shareholders or other ownership interest:

Provided that this disqualification shall not apply in cases where the direct or indirect shareholding of a Bidder, its Member or an Affiliate thereof (or any shareholder thereof having a shareholding of more than 20% (twenty percent) of the aggregate issued, subscribed and paid up share capital of such Bidder, Member or Affiliate, (as the case may be) in the other Bidder, its Member or an Affiliate is less than 20% (twenty percent) of the aggregate issued, subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by the Authority, a bank, insurance company, pension fund or a public financial institution referred to in Section 2(72) of the Companies Act, 2013;

For the purposes of this Clause 2.2.1, indirect shareholding held through 1 (one) or more intermediate persons shall be computed as follows: (A) where any intermediary is controlled by a person through management control or

otherwise, the entire shareholding held by such controlled intermediary in any other person (the “**Subject Person**”) shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (B) subject always to sub-clause (A) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause if the shareholding of such person in the intermediary is less than 26% (twenty six percent) of the aggregate issued, subscribed and paid up equity shareholding of such intermediary; or

- (ii) a Bidder/ Nominated Entity has nominated the same Nominated Entity or Nominated Personnel as another Bidder; or
- (iii) a constituent of such Bidder is also a constituent of another Bidder; or
- (iv) such Bidder or any Affiliate thereof receives, has received, or has entered into an agreement to receive, any direct or indirect subsidy, grant, concessional loan, or subordinated debt from any other Bidder, or any Affiliate thereof or has provided or has entered into an agreement to provide any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member or any Affiliate thereof; or
- (v) such Bidder has the same legal representative for purposes of a Bid as any other Bidder; or
- (vi) such Bidder or any Affiliate thereof, has a relationship with another Bidder or any Affiliate thereof, directly or indirectly or through a common third party/ parties, that puts either or both of them in a position to have access to each other's information, or to influence the Bid of either or each other; or
- (vii) such Bidder or any Affiliate thereof, has participated as a consultant to the Authority in the preparation of any documents, design or technical specifications of the Project.

*Explanation:*

In case a Bidder is a Consortium, then the term Bidder as used in this Clause 2.2.1 shall include each Member of such Consortium and the term Affiliate with respect to a Bidder shall include an Affiliate of each Member of that Consortium.

- (d) a Bidder shall be liable for disqualification if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Bidder, its Member or any Affiliate thereof, as the case may be: (i) in any manner for matters related to or incidental to preparation or submission of Bids for the Project; and/or (ii) representation or advice in connection with any dispute or legal proceedings relating to the Project against the Authority. For the avoidance of doubt, this disqualification shall not apply where such adviser is engaged after a period of 6 (six) months from the commercial operations of the Project.
- (e) a Bidder shall not be eligible to submit a Bid under the Bidding Documents and may be disqualified if:
  - (i) it or its Affiliate, its directors or key personnel has been barred or blacklisted



by any government agency or authority in India, the government of the jurisdiction of the Bidder or Members where they are incorporated or the jurisdiction of their principal place of business, any international financial institution such as the World Bank Group, Asian Development Bank, African Development Bank, Inter-American Development Bank, Asian Infrastructure Investment Bank, etc., or the United Nations or any of its agencies; or

- (ii) it or its directors have been convicted of any offence in India or abroad.

2.2.2 To be eligible for shortlisting as a Qualified Bidder, a Bidder shall fulfill the following conditions:

**(a) Technical Capacity**

For demonstrating technical capacity and experience (“**Technical Capacity**”), the Bidder shall over the past 7 (seven) financial years preceding the Bid Due Date have:

- (i) paid for, or received payments for, construction of Eligible Projects; and/or
- (ii) paid for development of Eligible Project(s); and/or
- (iii) collected and appropriated revenues from Eligible Project(s),

such that the above amount is equal to or more than:

- (i) 100% (one hundred percent) of Rs. 3500,00,00,000 (Rupees Three Thousand Five Hundred Crore) in case of 1 (one) Eligible Project; or
- (ii) 50% (fifty percent) of Rs. 3500,00,00,000 (Rupees Three Thousand Five Hundred Crore) in case of 2 (two) Eligible Projects; or
- (iii) 40% (forty percent) of Rs. 3500,00,00,000 (Rupees Three Thousand Five Hundred Crore) in case of 3 (three) Eligible Projects.

**(b) Financial Capacity**

The Bidder shall have a minimum Net Worth (“**Financial Capacity**”) of Rs. 1000,00,00,000 (Rupees One Thousand Crore).

In case the Bidder is an AIF or Foreign Investment Fund, it should have a minimum ACI at the close of the preceding financial year of Rs. 1000,00,00,000 (Rupees One Thousand Crore).<sup>5</sup>

**(c) Qualified Key Personnel**

The Bidder shall engage or have engaged experienced and qualified personnel for discharging its obligations in accordance with the provisions of the Concession Agreement.

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<sup>5</sup> In case a Bidder has issued any fresh equity capital during the current financial year, the same shall be permitted to be added to the Bidder’s Net Worth subject to the statutory auditor of the Bidder certifying to this effect. In case a Bidder has received any fresh capital commitment available for the immediate deployment during the current financial year, the same shall be permitted to be added to the Bidder’s ACI subject to the statutory auditor of the Bidder certifying to this effect.

Notwithstanding anything to the contrary contained herein, in the event that the Bid Due Date falls within 4 (four) months of the closing of the latest financial year of a Bidder, it shall ignore such financial year for the purposes of its Bid and furnish all its information and certification with reference to the 7 (seven) years preceding its latest financial year. For the avoidance of doubt, financial year shall, for the purposes of a Bid hereunder, mean the accounting year followed by the Bidder in the course of its normal business.

2.2.3 The Bidders shall enclose with its Technical Bid, to be submitted as per the format at Appendix-I, complete with its Annexes, the following:

- (a) *Technical Capacity*: Certificate(s) from statutory auditors of the Bidder or its Affiliates or the concerned client(s) stating the payments paid for construction/ received for construction/ paid for development/ revenues collected and appropriated during the past 7 (seven) financial years preceding the Bid Due Date in respect of the Eligible Projects. In the event a particular job/ contract has been jointly executed by the Bidder (as part of a Consortium), it should further support its claim for the share in work done for that particular job/ contract by producing a certificate from the statutory auditor or the client; and
- (b) *Financial Capacity*: Certificate(s) from statutory auditors of the Bidder or its Affiliates specifying the Net Worth of the Bidder, as at the close of the preceding financial year, and also specifying that the methodology adopted for calculating such Net Worth conforms to the provisions of this Clause 2.2.3(b).

For the purposes of this RFP, net worth (“**Net Worth**”) shall mean the aggregate value of the paid up share capital and all reserves created out of the profits and securities premium account, after deducting expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write back of depreciation and amalgamation.

In addition to Net Worth as set out under this Clause 2.2.3(b), an AIF or Foreign Investment Fund may also qualify on the basis of minimum investible funds (i.e. immediately available funds for investment and callable capital) subject to the limits of investment in a single investee entity (in the relevant jurisdiction for a Foreign Investment Fund, or the maximum permissible investment limit for an AIF) (as per the Securities and Exchange Board of India (Alternative Investment Funds) Regulations, 2012, as may be amended from time to time), as applicable (“**ACI**”).

In case of an AIF or Foreign Investment Fund using ACI, ACI would be considered as per the certificate issued by statutory auditor (or such other certificate as filed with the regulator in the relevant jurisdiction) not older than 3 (three) months prior to the application deadline.

- (c) *Qualified Key Personnel*: The Bidder shall furnish copies of the CVs/ resumes of the personnel referred to in Clause 2.2.2(c).

2.2.4 The Government of India has issued guidelines (see Appendix-VIII) for qualification of bidders seeking to acquire stakes in any public sector enterprise through the process of disinvestment. These guidelines shall apply *mutatis mutandis* to this Bidding Process. The Authority shall be entitled to disqualify a Bidder in accordance with the aforesaid guidelines at any stage of the Bidding Process. Bidders must satisfy themselves that they are qualified to bid, and should give an undertaking to this effect in the form at Appendix-I.

2.2.5 If the Bidder is a Consortium, it shall additionally comply with the following requirements while submitting its Bid:

- (a) number of Members in a Consortium shall not exceed 6 (six);
- (b) the Technical Bid should contain the information required for each Member;
- (c) the Technical Bid should include a brief description of the roles and responsibilities of individual Member, particularly with reference to the financial, technical and operation and management obligations;
- (d) an individual Bidder cannot at the same time be Member of a Consortium submitting a Bid. Further, a Member of any one Consortium cannot be Member of any other Consortium submitting a Bid;
- (e) the Members of a Consortium shall, if such Bidder is declared the Selected Bidder, incorporate the Concessionaire under the (Indian) Companies Act, 2013;
- (f) Members of the Consortium shall enter into a binding Joint Bidding Agreement, substantially in the form specified at Appendix-III (the “**Joint Bidding Agreement**”), for the purpose of making the Bid and if successful, for executing the Project through the Concessionaire. The Joint Bidding Agreement, to be submitted along with the Bid, shall, *inter alia*:
  - (i) convey the intent to form a special purpose vehicle in accordance with this RFP, which would enter into the Concession Agreement and subsequently perform all the obligations of the Concessionaire in terms of the draft Concession Agreement, in case the Project is awarded to the Consortium;
  - (ii) clearly outline the proposed roles and responsibilities, if any, of each Member;
  - (iii) commit to the minimum equity stake to be held by each Member, as well as commit to be in compliance with the shareholding requirements set forth in Clause 2.4;
  - (iv) include a statement to the effect that all Members of the Consortium shall be liable jointly and severally for all obligations of the Concessionaire in relation to the Project until all the obligations of the Concessionaire become effective under and in accordance with the Concession Agreement; and
  - (v) except as provided under this RFP and the Bidding Documents, not be amended without the prior written consent of the Authority.

2.2.6 Any entity which has been barred by the Central/ State Government, or any entity controlled by it, from participating in any project (BOT or otherwise), and the bar subsists as on the date of Bid, would not be eligible to submit a Bid, either individually or as Member of a Consortium.

2.2.7 A Bidder including any Member should, in the last 3 (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Bidder or Member, as the case may be, nor has been expelled from any project or contract by any public entity for breach of contract by such Bidder or Member nor have had any contract terminated by any public entity for breach by such Bidder or Member:

Provided, however, that where a Bidder claims that its disqualification arising on account of any cause or event specified in this Clause 2.2.7 is such that it does not reflect (a) any malfeasance on its part in relation to such cause or event; (b) any willful default or patent breach

of the material terms of the relevant contract; (c) any fraud, deceit or misrepresentation in relation to such contract; or (d) any rescinding or abandoning of such contract, it may make a representation to this effect to the Authority for seeking a waiver from the disqualification hereunder and the Authority may, in its sole discretion and for reasons to be recorded in writing, grant such waiver if it is satisfied with the grounds of such representation and is further satisfied that such waiver is not in any manner likely to cause a material adverse impact on the Bidding Process or on the implementation of the Project.

- 2.2.8 In computing the Technical Capacity and Financial Capacity of a Bidder under Clauses 2.2.2 and 3.2, the Technical Capacity and Financial Capacity of their respective Affiliates would also be eligible hereunder.

For purposes of this RFP, the term “**Affiliate**” means, in relation to any Bidder or Member, a person who controls, is controlled by, or is under the common control with such Bidder or Member. As used in this definition, the expression “control” means: (a) with respect to a company, corporation or limited liability partnership the ownership, directly or indirectly, of more than 50% (fifty percent) of the economic or voting rights of such person, or (b) with respect to a person which is not a company, corporation or limited liability partnership, the power to direct the management and policies of such Person.

- 2.2.9 The following conditions shall be adhered to while submitting a Bid:

- (a) Bidders should attach clearly marked and referenced continuation sheets in the event that the space provided in the prescribed forms in the Appendices/ Annexures is insufficient. Alternatively, Bidders may format the prescribed forms making due provision for incorporation of the requested information;
- (b) information supplied by a Bidder (or other constituent Member if the Bidder is a Consortium) must apply to the Bidder, Member or Affiliate named in the Bid and not, unless specifically requested, to other Affiliated companies or firms;
- (c) in responding to the Bid submissions, Bidders should demonstrate their capabilities in accordance with Clause 3.1 below; and
- (d) in case the Bidder is a Consortium, each Member should substantially satisfy the Bid requirements to the extent specified herein.

- 2.2.10 While qualification is open to persons from any country, the following provisions shall apply:

- (a) where, on the date of the Bid, more than 25% (twenty five percent) of the aggregate issued, subscribed and paid up equity share capital in a Bidder or its Member is held by persons resident outside India or where a Bidder or its Member is controlled by persons resident outside India; or
- (b) if at any subsequent stage after the date of the Bid, there is an acquisition of more than 25% (twenty five percent) of the aggregate issued, subscribed and paid up equity share capital or control, by persons resident outside India, in or of the Bidder or its Member;

then the qualification of such Bidder or in the event described in sub clause (b) above, the continued qualification of the Bidder shall be subject to approval of the Authority from national security and public interest perspective. The decision of the Authority in this regard shall be final and conclusive and binding on the Bidder.

The holding or acquisition of equity or control, as above, shall include direct or indirect holding/ acquisition, including by transfer, of the direct or indirect legal or beneficial ownership or

control, by persons acting for themselves or in concert and in determining such holding or acquisition, the Authority shall be guided by the principles, precedents and definitions contained in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, or any substitute thereof, as in force on the date of such acquisition.

The Bidder shall promptly inform the Authority of any change in the shareholding, as above, and failure to do so shall render the Bidder liable for disqualification from the Bidding Process.

### **2.3 Change in composition of the Consortium**

No change in the Consortium Members is allowed once the Bids have been submitted.

### **2.4 Change in Ownership**

2.4.1 The Selected Bidder shall conform to the requirements regarding Change in Ownership in terms of the Concession Agreement. The Bidder further acknowledges and agrees that the aforesaid obligation shall be the minimum, and shall be in addition to such other obligations as may be contained in the Concession Agreement, and a breach hereof shall, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach of the Concession Agreement and dealt with as such thereunder.

2.4.2 By submitting the Bid, the Bidder shall also be deemed to have acknowledged and agreed that in the event of a change in control of a Consortium Member or an Affiliate whose Technical Capacity and/or Financial Capacity was taken into consideration for the purposes of short-listing under and in accordance with the RFP, the Bidder shall be deemed to have knowledge of the same and shall be required to inform the Authority forthwith along with all relevant particulars about the same and the Authority may, in its sole discretion, disqualify the Bidder or withdraw the LOA from the Selected Bidder, as the case may be. In the event such change in control occurs after signing of the Concession Agreement but prior to the COD (as defined in the Concession Agreement), it would, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach of the Concession Agreement, and the same shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Concessionaire. In such an event, notwithstanding anything to the contrary contained in the Concession Agreement, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/or the Concession Agreement or otherwise.

### **2.5 Number of Bids and costs thereof**

2.5.1 No Bidder shall submit more than 1 (one) Bid. A Bidder applying individually or as a Member of a Consortium shall not be entitled to submit another Bid either individually or as a Member of any Consortium, as the case may be.

2.5.2 The Bidders shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Bidding Process. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

### **2.6 Site visit and verification of information**

2.6.1 Bidders are encouraged to submit their respective Bids after visiting the Airport and ascertaining for themselves the site conditions, traffic, location, surroundings, climate, availability of power, water and other utilities for access to site, handling and storage of materials, weather data, applicable laws and regulations, and any other matter considered

relevant by them.

- 2.6.2 The Authority shall set up a data room for the Bidders for providing any information or data, which in the Authority's view, would be relevant for the Bidders to undertake a due-diligence in connection with submission of their Bids ("**Data Room**"). The Authority will separately notify the details of the Data Room on the CPPP.
- 2.6.3 For the purposes of undertaking a visit to the Airport and getting access to the Data Room pursuant to Clause 2.6.1 above, each Bidder and its Nominated Entities, if any, shall be permitted to nominate a maximum of 5 (five) employees/ retainers/ consultants/ agents/ representatives respectively ("**Nominated Personnel**"). The Nominated Personnel shall be permitted to visit the Airport and the Data Room for and on behalf of the Bidder and their respective Nominated Entities on submission of a letter of authority in the format specified under Appendix-IX from the Bidder or the respective Nominated Entities, as the case may be, authorizing such Nominated Personnel in this regard. No Nominated Personnel of a Bidder or its Nominated Entity shall be permitted to access the Airport and/ or the Data Room without proof of compliance of the conditions set out in Clause 1.2.1.
- 2.6.4 A Bidder shall make a formal request in writing to the Authority in accordance with the requirements set out in Appendix-XI, seeking permission for visiting the Airport and/ or accessing the Data Room, at least 5 (five) days prior to the day on which the Bidder intends to undertake such visit. Upon receipt of a Bidder's aforesaid request, the Authority may, in its sole discretion, allot a specific date and time-slot to the Bidder in this regard, which shall not be any time prior to the 5<sup>th</sup> (fifth) day from the date of receiving such request. The Nominated Personnel of the Bidder and its Nominated Entities shall be allowed to visit the Airport and/ or access the Data Room only in accordance with the aforesaid date and time-slot allotted by the Authority to the Bidder. Further, the Nominated Personnel of the Bidder and its Nominated Entities shall at all times during their visit to the Airport and/ or the Data Room be required to comply with the conditions set out in Appendix-XI.
- 2.6.5 It shall be deemed that by submitting a Bid, the Bidder has:
- (a) made a complete and careful examination of the Bidding Documents;
  - (b) received all relevant information requested from the Authority;
  - (c) accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Documents or furnished by or on behalf of the Authority relating to any of the matters referred to in Clause 2.6.1;
  - (d) satisfied itself about all matters, things and information including matters referred to in Clause 2.6.1 required for submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations thereunder;
  - (e) acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in Clause 2.6.1 shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits, etc., from the Authority, or a ground for termination of the Concession Agreement by the Concessionaire;
  - (f) acknowledged that it does not have a Conflict of Interest; and
  - (g) agreed to be bound by the undertakings provided by it under and in terms hereof.

- 2.6.6 The Authority shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the RFP, the Bidding Documents or the Bidding Process, including any error or mistake therein or in any information or data given by the Authority.
- 2.6.7 Notwithstanding any information given in the RFP, the Bidding Documents and any additional communication from the Authority, including any supplemental notices, it is the sole responsibility of a Bidder to familiarize itself with the Constitution of India, all existing laws, decrees, acts, rules, and ordinances, whether national or local, of India which may affect the Project.

## **2.7 Right to accept or reject any or all Bids**

- 2.7.1 Notwithstanding anything contained in this RFP, the Authority reserves the right to accept or reject any Bid and to annul the Bidding Process and reject all Bids, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof. In the event that the Authority rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.
- 2.7.2 The Authority reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFP or the Bidding Documents and the Bidder shall, when so required by the Authority, make available all such information, evidence and documents as may be necessary for such verification. Any such verification, or lack of such verification, by the Authority shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Authority thereunder.
- 2.7.3 The Authority reserves the right to reject any Bid and appropriate the Bid Security if:
- (a) at any time, a material misrepresentation is made or uncovered; or
  - (b) the Bidder does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Bid.

Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium and each Member may be disqualified/ rejected. If such disqualification/ rejection occurs after the Bids have been opened and the Highest Bidder gets disqualified/ rejected, then the Authority reserves the right to:

- (a) invite the remaining Qualified Bidders to submit their Bids in accordance with Clauses 3.8.3 and 3.8.4; or
  - (b) take any such measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Bidding Process.
- 2.7.4 In case it is found during the evaluation or at any time before signing of the Concession Agreement or after its execution and during the period of subsistence thereof, that 1 (one) or more of the shortlisting conditions have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Selected Bidder/ Concessionaire either by issue of the LOA or entering into of the Concession Agreement, and if the Bidder/ Concessionaire has already been issued the LOA or has entered into the Concession Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in the Bidding Documents, be liable to be terminated, by a communication in writing by the Authority to the Bidder, without the Authority being liable in any manner whatsoever to the

Bidder and without prejudice to any other right or remedy which the Authority may have under this RFP, the Bidding Documents, the Concession Agreement or under applicable law.

## **B. DOCUMENTS**

### **2.8 Contents of the RFP**

2.8.1 This RFP comprises the disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.10.

Clause 1.	Introduction
Clause 2.	Instructions to Bidders
Clause 3.	Criteria for Evaluation
Clause 4.	Fraud & Corrupt Practices
Clause 5.	Pre Bid Conference
Clause 6.	Miscellaneous

### **Appendices**

- I. Letter comprising the Technical Bid
- II. Power of Attorney for signing of Bid
- III. Joint Bidding Agreement for Consortium
- IV. Bank Guarantee for Bid Security
- V. Certificate from Statutory Auditor
- VI. Integrity pact
- VII. Non-Disclosure Undertaking
- VIII. Guidelines of the Department of Disinvestment
- XI. Format of Letter of Authority for visiting the Airport and accessing Data Room
- XII. Format of Letter of Authority for Participating in pre-Bid conference
- XIII. Guidelines for visiting the Airport and/or accessing the Data Room
- XIV. Guidance for registration on CPPP and online submission of Bid

### **2.9 Clarifications**

2.9.1. Bidders requiring any clarification on the RFP may notify the Authority in writing in accordance with Clause 1.2.8.

2.9.2 Such Bidders should send in their queries before the date specified in the schedule of Bidding Process contained in Clause 1.3. The Authority shall endeavour to respond to the queries within the period specified therein, but no later than 15 (fifteen) days prior to the Bid Due Date.

The responses will be uploaded on the CPPP. The Authority will mention all the queries and its responses thereto without identifying the source of queries. Any clarification thus issued will be posted on the CPPP.

The Authority shall endeavour to respond to the questions raised or clarifications sought by the Bidders. However, the Authority reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause 2.9.2 shall be taken or read as compelling or requiring the Authority to respond to any question or to provide any clarification.

2.9.3 The Authority may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by the Authority shall be deemed to be part of the Bidding Documents. Verbal clarifications and information given by Authority or its employees or representatives shall not in any way or manner be binding on the Authority.



2.9.4 The Authority has appointed 2 (two) independent external monitors for the purpose of monitoring the Bidding Process and execution of the Concession Agreement for compliance with the principles specified in the integrity pact. The co-ordinates of the independent external monitors are as under:

- (a) Mr. M.P Juneja  
(Retd. Addl, Member of Railways Board)  
Email: mp.juneja@yahoo.com  
Mob.: +91-9811733362
- (b) Dr. Anup K. Pujari  
IAS (Retd.)  
Email: anup@nic.in  
Mob.: +91-9899210944

## **2.10 Amendment of RFP**

2.10.1 At any time prior to the Bid Due Date, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of corrigenda and/or addenda.

2.10.2 Any corrigendum/ addendum thus issued will be uploaded on the CPPP.

2.10.2 In order to afford the Bidders a reasonable time for taking any corrigendum/ addendum into account, or for any other reason, the Authority may, in its sole discretion, extend the Bid Due Date.

## **C. PREPARATION AND SUBMISSION OF BID**

### **2.11 Language**

The Bid and all related correspondence and documents in relation to the Bidding Process shall be in English language. Supporting documents and printed literature furnished by the Bidder with the Bid may be in any other language provided that they are accompanied by translations of all the pertinent passages in the English language, duly authenticated and certified by the Bidder. Supporting materials, which are not translated into English, may not be considered. For the purpose of interpretation and evaluation of the Bid, the English language translation shall prevail.

### **2.12 Format and signing of Bid**

2.12.1 The Bidder shall provide all the information sought under this RFP. The Authority will evaluate only those Bids that are received in the required formats and complete in all respects. Incomplete and/ or conditional Bids shall be liable to rejection.

2.12.2 The documents comprising the Technical Bid shall be typed and signed by the Authorised Signatory who shall also initial each page of such documents (including each Appendix and Annexure). In case of printed and published documents, only the cover shall be initialed. All the alterations, omissions, additions or any other amendments made to the documents comprising the Technical Bid shall be initialed by the Authorised Signatory. The documents comprising the Technical Bid shall be serially page numbered.

### **2.13 Submission of Bids**

2.13.1 The Bidder shall submit the Technical Bid comprising the following documents by uploading the complete and legible scanned copies of the same in pdf format in “**Cover-1 (Technical Bid)**” at the CPPP:

- (a) Letter in the format prescribed in Appendix-I along with Annexures and supporting documents;
- (b) Power of attorney for signing the Bid as per the format at Appendix-II. If the Bidder is a Consortium, each Member of the Consortium shall submit a power of attorney in the format provided at Appendix-II;
- (c) Joint Bidding Agreement, in case of a Consortium, substantially in the format at Appendix-III;
- (d) Demand draft or banker’s cheque referred to under Clause 1.2.1, or an online statement evidencing payment to the bank account set out in Clause 1.2.1 towards the non-refundable Bid processing fee;
- (e) Duly audited financial statement of the Bidder or, each Member of the Consortium for the preceding 3 (three) financial years prior to the Bid Due Date;
- (f) Bid Security in the format at Appendix-IV;
- (g) Certificate from statutory auditor in the format at Appendix-V;
- (h) Draft Concession Agreement with each page initialed by the Authorised Signatory; and
- (i) Integrity pact in the format at Appendix-VI (on a stamp paper of adequate value).

2.13.2 The Bidder shall submit a separate Financial Bid in the format specified on the CPPP.

2.13.3 The following documents shall be separately submitted in original to the person specified in Clause 2.13.4 in a sealed envelope on or before the Bid Due Date, failing which the Bid shall be rejected:

- (a) Power of attorney as required under Clause 2.13.1(b);
- (b) Bid Security in the format at Appendix-IV;
- (c) Integrity pact in the format at Appendix-VI (on a stamp paper of adequate value); and
- (d) The demand draft/ banker’s cheque referred to under Clause 1.2.1 or an online statement evidencing payment to the bank account set out in Clause 1.2.1, as the case may be;

The aforesaid envelope shall clearly bear the following identification – “**POA, Bid Security, Integrity Pact and RFP Processing Fee for the Bid for operations, management and development of “Mangaluru International Airport”**”– and shall clearly indicate the name and address of the Bidder. In addition, the Bid Due Date should be indicated on the right hand top corner of the envelope.

2.13.4 In case of any discrepancy in the original documents submitted under Clause 2.13.3 and the complete and legible scanned documents submitted under Clauses 1.2.1 and 2.13.1, the original documents shall prevail over such scanned copies. The envelope shall be addressed to:

ATTN. OF : Mr. R. Madhavan  
DESIGNATION : Executive Director  
(Key Infrastructure Development)  
ADDRESS : Airports Authority of India  
C – Block, Second Floor  
Rajiv Gandhi Bhawan  
Safdarjung Airport  
New Delhi, 110003.

2.13.5 If the envelope is not sealed and marked as instructed above, the Authority assumes no responsibility for the misplacement or premature opening of the documents therein and consequent losses, if any, suffered by the Bidder.

2.13.6 Bids submitted in physical form or by fax, telex, telegram or e-mail shall not be entertained and shall be rejected.

#### **2.14 Bid Due Date**

2.14.1 Bids should be submitted before 1500 hours IST on the Bid Due Date in the manner and form as detailed in this RFP.

2.14.2 The Authority may, in its sole discretion, extend the Bid Due Date by issuing an Addendum in accordance with Clause 2.10 uniformly for all Bidders.

2.14.3 Bids received by the Authority after the specified time on the Bid Due Date shall not be eligible for consideration and shall be summarily rejected. The Authority will not be responsible for any delay in receipt of Bids.

#### **2.15 Re-submission/ withdrawal of Bids**

2.15.1 The Bidder may modify its Bid or withdraw its Bid after submission. No Bid shall be modified or withdrawn by the Bidder after the Bid Due Date.

2.15.2 For modification of the Bid, the Bidder shall be required to resubmit the Bid on CPPP on or before the Bid Due Date.

#### **2.16 Validity of Bids**

The Bids shall be valid till 31/07/2019. The validity of Bids may be extended by mutual consent of the respective Bidders and the Authority.

#### **2.17 Confidentiality**

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

## **2.18 Correspondence with the Bidder**

Save and except as provided in this RFP, the Authority shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.

## **2.19 Bid Security**

- 2.19.1 The Bidder shall furnish as part of its Bid, a Bid Security referred to in Clause 1.2.5 hereinabove in the form of a bank guarantee issued by a nationalized bank, or a scheduled bank in India having a net worth of at least INR 1,000,00,00,000/- (Rupees One Thousand Crore only), in favour of the Authority in the format at Appendix-IV and having a validity period of not less than 180 (one hundred eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Authority and the Bidder from time to time. In case the Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any nationalized bank in India is required. For the avoidance of doubt, scheduled bank shall mean a bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934.
- 2.19.2 Bid Security can also be in the form of a Demand Draft issued by a scheduled bank in India, drawn in favour of the Authority and payable at Delhi. The Authority shall not be liable to pay any interest on the Bid Security deposit so made and the same shall be interest free. Where a demand draft is provided, its validity shall not be less than 80 (eighty) days from the Bid Due Date, for the purposes of encashment by the Authority.
- 2.19.3 Any Bid not accompanied by the Bid Security shall be rejected by the Authority as non-responsive.
- 2.19.4 Save and except as provided in Clauses 2.19.5 and 2.19.7, the Bid Security of unsuccessful Bidders will be returned by the Authority, without any interest, as promptly as possible on acceptance of the Bid of the Selected Bidder or when the Bidding Process is cancelled by the Authority. Where Bid Security has been paid by demand draft, the refund thereof shall be in the form of an account payee demand draft in favour of the unsuccessful Bidder(s). Bidders may by specific instructions in writing to the Authority give the name and address of the person in whose favour the said demand draft shall be drawn by the Authority for refund, failing which it shall be drawn in the name of the Bidder and shall be mailed to the address given on the Bid.
- 2.19.5 The Selected Bidder's Bid Security will be returned, without any interest, upon the Bidder signing the Concession Agreement and furnishing the Performance Security in accordance with the provisions of the Bidding Documents. The Authority may, at the Selected Bidder's option, adjust the amount of Bid Security in the amount of Performance Security to be provided by him in accordance with the provisions of the Concession Agreement.
- 2.19.6 The Authority shall be entitled to forfeit and appropriate the Bid Security as damages, *inter alia*, in any of the events specified in Clause 2.19.8. The Bidder, by submitting its Bid pursuant to this RFP, shall be deemed to have acknowledged and confirmed that the Authority will suffer loss and damage on account of withdrawal of its Bid or for any other default by the Bidder during the Bid validity period. No relaxation of any kind on Bid Security shall be given to any Bidder.
- 2.19.7 The Bid Security shall be forfeited towards damages without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or under the Concession Agreement, or otherwise, if:
- (a) a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Clause 4 of this RFP;

- (b) a Bidder withdraws its Bid during the period of Bid validity as specified in this RFP and as extended mutually by the Bidder and the Authority from time to time;
- (c) in the case of Selected Bidder, if it fails within the specified time limit:
  - (i) to sign and return the duplicate copy of LOA; or
  - (ii) to sign the Concession Agreement; and/or
  - (iii) to furnish the Performance Security within the period prescribed in the Concession Agreement;
- (d) the Concessionaire, having signed the Concession Agreement, commits any breach thereof prior to furnishing the performance security.

## **D. EVALUATION PROCESS**

### **2.20 Opening and Evaluation of Bids**

- 2.20.1 The Authority shall open the Bids at 1530 IST on the Bid Due Date, at the place specified in Clause 2.13.4 and in the presence of the Bidders who choose to attend.
- 2.20.2 The Authority will subsequently examine and evaluate Bids in accordance with the provisions set out in Clause 3.
- 2.20.3 Bidders are advised that selection of Bidders will be entirely at the discretion of the Authority. Bidders will be deemed to have understood and agreed that no explanation or justification on any aspect of the Bidding Process or selection will be given.
- 2.20.4 Any information contained in the Bid shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Bidder if the Project is subsequently awarded to it on the basis of such information.
- 2.20.5 The Authority reserves the right not to proceed with the Bidding Process at any time without notice or liability and to reject any or all Bid(s) without assigning any reasons.
- 2.20.6 If any information furnished by the Bidder is found to be incomplete, or contained in formats other than those specified herein, the Authority may, in its sole discretion, exclude the relevant project from evaluation of the Technical Capacity or the Financial Capacity of the Bidder, as the case maybe.
- 2.20.7 In the event that a Bidder claims credit for a relevant project, and such claim is determined by the Authority as incorrect or erroneous, the Authority shall reject such claim and exclude the same for evaluation of the Technical Capacity or the Financial Capacity, as the case may be. Where any information is found to be patently false or amounting to a material misrepresentation, the Authority reserves the right to reject the Bid in accordance with the provisions of Clause 2.7.3.

### **2.21 Tests of responsiveness**

- 2.21.1 Prior to evaluation of Bids, the Authority shall determine whether each Bid is responsive to the requirements of the RFP. A Bid shall be considered responsive only if:
  - (a) it is received as per formats specified;

- (b) it is received by the Bid Due Date including any extension thereof pursuant to Clause 2.14.2;
- (c) it is signed in accordance with Clause 2.12 and submitted in accordance with the provisions of Clause 2.13;
- (d) it is accompanied by the Bid Security as specified in Clause 2.19;
- (e) it is accompanied by the power of attorney as specified in Clause 2.1.7;
- (f) it contains all the information (complete in all respects) as requested in this RFP and/or Bidding Documents (in formats same as those specified);
- (g) it contains certificates from its statutory auditors substantially in the formats specified at Appendix-I of the RFP for each Eligible Project;
- (h) the Bidder has paid to the Authority, the non-refundable Bid processing fee as required under Clause 1.2.1;
- (i) it is accompanied by the Joint Bidding Agreement (for Consortium) as stipulated in Clause 2.2.5(f);
- (j) it does not contain any condition or qualification;
- (k) it is accompanied with the integrity pact as provided at Appendix-VI;
- (l) the original documents as stipulated under Clause 2.13.3 have been submitted by the Bidder; and/ or
- (m) it is not non-responsive in terms hereof.

2.21.2 The Authority reserves the right to reject any Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such Bid. Provided, however, that the Authority may, in its discretion, allow the Bidder to rectify any infirmities or omissions if the same do not constitute a material modification of the Bid.

## **2.22 Clarifications from Bidders**

2.22.1 To facilitate evaluation of Bids, the Authority may, at its sole discretion, seek clarifications from any Bidder regarding its Bid. Such clarification(s) shall be provided within the time specified by the Authority for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing via e-mail.

2.22.2 If a Bidder does not provide clarifications sought under Clause 2.22.1 above within the prescribed time, its Bid shall be liable to be rejected. In case the Bid is not rejected, the Authority may proceed to evaluate the Bid by construing the particulars requiring clarification to the best of its understanding, and the Bidder shall be barred from subsequently questioning such interpretation of the Authority.

## **E. QUALIFICATION AND BIDDING**

### **2.23 Shortlisting and notification**

After the evaluation of Technical Bids, the Authority will shortlist and notify the Qualified Bidders. All communications shall be uploaded on the CPPP. The Authority will not entertain any query or clarification from Bidders who fail to qualify.

**2.24 Proprietary data**

All documents and other information supplied by the Authority or submitted by a Bidder to the Authority shall remain or become the property of the Authority. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The Authority will not return any Bid or any information provided along therewith.

**2.25 Correspondence with the Bidder**

Save and except as provided in this RFP, the Authority shall not entertain any correspondence with any Bidder in relation to the acceptance or rejection of any Bid.

### **3. CRITERIA FOR EVALUATION**

#### **3.1 Evaluation parameters**

The Bidder's competence and capability for shortlisting as a Qualified Bidder is proposed to be established by the following parameters:

- (a) Technical Capacity; and
- (b) Financial Capacity.

#### **3.2 Eligible Projects**

3.2.1 Subject to the provisions of Clause 2.2 and Clause 3.2.2, projects undertaken in the infrastructure sub-sectors set forth in the Harmonized Master List of Infrastructure Sub-sectors issued by the Department of Economic Affairs, Ministry of Finance, Government of India, and as may be revised and updated from time to time, would qualify as eligible projects (“**Eligible Projects**”).

3.2.2 In the event that the a project was not undertaken directly by the Bidder/ Member/ Affiliate, in order for such project to qualify as an Eligible Project, the entity claiming experience should have held, either directly or indirectly, a minimum of 26% (twenty six percent) of the issued, subscribed and paid up share capital of the company which, as the case may be:

- (a) paid for, or received payments for, construction of such project; and/ or
- (b) paid for development of such project; and/ or
- (c) collected and appropriated revenues from such project.

3.2.3 Experience for any activity relating to an Eligible Project shall not be claimed by 2 (two) or more Members of the Consortium. In other words, no double counting by a Consortium in respect of the same experience shall be permitted in any manner whatsoever.

#### **3.3 Details of Experience & Credentials of Affiliates**

3.3.1 The Bidders must provide the necessary information relating to Technical Capacity as per format at Annex-II of Appendix-I.

3.3.2 The Bidder should furnish the required project-specific information and evidence in support of its claim of Technical Capacity, as per format at Annex-IV of Appendix-I.

3.3.3 The Bidder should furnish the details of Eligible Projects for the last 7 (seven) financial years immediately preceding the Bid Due Date.

3.3.4 A Bidder or a Member of a Bidder may use the experience of its Affiliate for demonstrating its Technical Capacity and Financial Capacity. A certificate from the statutory auditor of the Bidder or the Member shall be provided to demonstrate that a Person is an Affiliate of the Bidder or the Member, as the case may be, substantially in the format provided in Appendix-V.

#### **3.4 Financial Information for purposes of evaluation**

3.4.1 The Bid must be accompanied by the audited financial statement of the Bidder (and each Member in case of a Consortium) for the last 3 (three) financial years immediately preceding



the Bid Due Date. The financial statements shall:

- (a) Reflect the financial situation of the Bidder or Consortium Members and its/ their Affiliates, as the case may be;
- (b) Be audited by a statutory auditor;
- (c) Be complete, including all notes to the financial statements; and
- (d) Correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).

3.4.2 In case the audited financial statement for the latest financial year is not available, the Bidder shall provide, for such person, the audited financial statement for the last 3 (three) financial years, immediately preceding the latest financial year and the unaudited financial statement for the latest financial year. The Bidder shall also give an undertaking to this effect and the statutory auditor shall certify the same stating the unavailability of the current audited financial statements.

3.4.3 In case of foreign Bidders/ Members, a certificate from a qualified external auditor who usually audits the books of account of the Bidder or the Member shall be accepted, provided it contains all the information as required in the prescribed format of the RFP.

### **3.5 Evaluation of Qualification Documents**

3.5.1 The detailed evaluation of the compliance by the Bidder with the qualification requirements for the Project shall be based solely upon the qualification documents submitted by the Bidder pursuant to this RfP.

3.5.2 The Authority reserves the right to seek clarifications from the Bidders on the form and contents of their qualification documents. The Bidders must respond to the Authority within the time period stipulated in the Authority's request for clarification. The Authority also reserves the right to make inquiries with any person, government authority, client organization, member, officer, director, employee or other agent of any Bidder or Member for the purpose of clarifying any matter included in its qualification documents.

### **3.6 Short-listing of Bidders**

The Qualified Bidders will be invited for the opening of their respective Financial Bids.

### **3.7 Opening of Financial Bids**

3.7.1 The Authority shall open the Financial Bids at 1100 hours on the date intimated separately via e-mail to all the Qualified Bidders and shall also be updated on the CPPP, at the place specified in Clause 2.13.4 and in the presence of the Qualified Bidders who choose to attend.

3.7.2 The Authority will subsequently examine and evaluate the Financial Bids in accordance with the provisions set out in this Clause 3.

### **3.8 Selection of Bidder**

3.8.1 (a) Bids are invited for the Project on the basis of the Per-Passenger Fee for domestic passengers. The Per-Passenger Fee for domestic passengers shall constitute the sole criteria for appointment of the Selected Bidder.

- (b) In this RFP, the term “**Highest Bidder**” shall mean the Qualified Bidder who is quoting the highest Per-Passenger Fee for domestic passengers.
  - (c) Subject to the provisions of Clause 2.14.1, generally the Qualified Bidder whose Bid is adjudged as responsive in terms of Clause 2.21.1 and is also the Highest Bidder shall be declared as the Selected Bidder. In the event that the Authority rejects or annuls all the Bids, it may, in its discretion, invite the other Qualified Bidders to submit fresh Bids hereunder.
- 3.8.2 In the event that 2 (two) or more Qualified Bidders quote the same Per Passenger Fee for domestic passengers and such Qualified Bidders are the Highest Bidders (the “**Tie Bidders**”), the Authority shall identify the Selected Bidder amongst the Tie Bidders by draw of lots, which shall be conducted, with prior notice, in the presence of the Tie Bidders who choose to attend.
- 3.8.3 In the event that the Highest Bidder withdraws or is not selected for any reason in the first instance (the “**first round of bidding**”), the Authority may invite all the remaining Qualified Bidders to revalidate or extend their respective Bid Security, as necessary, and match the Financial Bid of the aforesaid Highest Bidder (the “**second round of bidding**”). If in the second round of bidding, only 1 (one) Qualified Bidder matches the Highest Bidder, it shall be the Selected Bidder. If 2 (two) or more Qualified Bidders match the said Highest Bidder in the second round of bidding, then the Bidder whose Financial Bid was higher as compared to other Qualified Bidder(s) in the first round of bidding shall be the Selected Bidder. For example, if the third and fifth highest Qualified Bidders in the first round of bidding offer to match the said Highest Bidder in the second round of bidding, the said third highest Qualified Bidder shall be the Selected Bidder.
- 3.8.4 In the event that no Qualified Bidder offers to match the Highest Bidder in the second round of bidding as specified in Clause 3.8.3, the Authority may, in its discretion, invite fresh Financial Bids (the “**third round of bidding**”) from all Qualified Bidders except the Highest Bidder of the first round of bidding, or annul the Bidding Process, as the case may be. In case the Qualified Bidders are invited in the third round of bidding to revalidate or extend their Bid Security, as necessary, and offer fresh Financial Bids, they shall be eligible for submission of fresh Financial Bids provided, however, that in such third round of bidding only such Financial Bids shall be eligible for consideration which are higher than the Bid of the second highest Qualified Bidder in the first round of bidding.
- 3.8.5 After selection, a letter of award (the “**LOA**”) shall be issued, in duplicate, by the Authority to the Selected Bidder and the Selected Bidder shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Bidder is not received by the stipulated date, the Authority may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Selected Bidder as damages on account of failure of the Selected Bidder to acknowledge the LOA, and the next eligible Qualified Bidder may be considered.
- 3.8.6 After acknowledgement of the LOA as aforesaid by the Selected Bidder, it shall cause the Concessionaire to execute the Concession Agreement within the period prescribed in Clause 1.3. The Selected Bidder/ Concessionaire shall not be entitled to seek any deviation, modification or amendment in the Concession Agreement.

### **3.9 Contacts during Bid Evaluation**

Bids shall be deemed to be under consideration immediately after they are opened and until such time the Authority makes official intimation of award/rejection to the Bidders. While the Bids are under consideration, Bidders and/or their representatives or other interested parties are

advised to refrain from contacting by any means, the Authority and/ or their employees/ representatives on matters related to the Bids under consideration.

#### **4. FRAUD AND CORRUPT PRACTICES**

- 4.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the LOA and during the subsistence of the Concession Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Concession Agreement, the Authority may reject a Bid, withdraw the LOA, or terminate the Concession Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or Concessionaire, as the case may be, if it determines that the Bidder or Concessionaire, as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an event, the Authority shall be entitled to forfeit and appropriate the Bid Security or performance security, as the case may be, as damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/or the Concession Agreement, or otherwise.
- 4.2 Without prejudice to the rights of the Authority under Clause 4.1 hereinabove and the rights and remedies which the Authority may have under the Bidding Documents, LOA or the Concession Agreement, or otherwise if a Bidder or Concessionaire, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, or after the issue of the LOA or the execution of the Concession Agreement, such Bidder or Concessionaire shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from the date such Bidder or Concessionaire, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.
- 4.3 For the purposes of this Clause 4, the following terms shall have the meaning hereinafter respectively assigned to them:
- (a) **“Corrupt Practice”** means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to, or employing, or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the LOA or has dealt with matters concerning the Concession Agreement or arising therefrom, before or after the execution thereof, at any time prior to the expiry of 1 (one) year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as permitted under sub-clause (d) of Clause 2.2.1, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the Concession Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Concession Agreement, who at any time has been or is a legal, financial or technical adviser of the Authority in relation to any matter concerning the Project;
  - (b) **“Fraudulent Practice”** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;
  - (c) **“Coercive Practice”** means impairing or harming or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bidding Process;

- (d) **“Undesirable Practice”** means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and
- (e) **“Restrictive Practice”** means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

## **5. PRE-BID CONFERENCE**

- 5.1 A pre-Bid conference of the Bidders shall be convened at the designated date, time and place. In case the pre-Bid conference is an unscheduled holiday, the same will be held in the next working day at the same time and place. A maximum of 2 (two) representatives cumulatively for each Bidder, shall be allowed to participate in the pre-Bid conference on production of an authority letter from the Bidder in the format specified in Appendix-X (“**Conference Representatives**”). The pre-Bid conference shall be restricted to such persons who attend the same in person. The Conference Representatives shall only be allowed to participate in the pre-Bid conference if the Bidder has complied with the requirements under Clause 1.2.1, and in case any Conference Representative is an employee/ retainer/ consultant/ agent/ representative of a Nominated Entity, only if such Nominated Entity has complied with the requirements under Clause 1.2.1(a). No Conference Representatives of a Bidder shall be permitted to participate in the pre-Bid conference without proof of compliance of the conditions set out in Clause 1.2.1.
- 5.2 During the course of pre-Bid conference, the Bidders will be free to seek clarifications and make suggestions for consideration of the Authority. The Authority shall endeavor to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.
- 5.3 The Bidder is advised to study the Bidding Documents completely, undertake site visits and submit the queries in accordance with Clause 1.2.8. The queries should be sent to the Authority at least 2 (two) working days before the scheduled pre-Bid conference.

## **6. MISCELLANEOUS**

- 6.1 The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the courts in Delhi shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Bidding Process.
- 6.2 The Authority, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to:
- (a) suspend and/ or cancel the Bidding Process and/or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
  - (b) consult with any Bidder in order to receive clarification or further information;
  - (c) qualify or not to qualify any Bidder and/or to consult with any Bidder in order to receive clarification or further information;
  - (d) retain any information and/ or evidence submitted to the Authority by, on behalf of, and/ or in relation to any Bidder; and/ or
  - (e) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/or evidence submitted by or on behalf of any Bidder.
- 6.3 It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Authority, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/or performance of any obligations hereunder and the Bidding Documents, pursuant hereto, and/ or in connection with the Bidding Process, to the fullest extent permitted by applicable law, and waives any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.

**APPENDICES**  
**APPENDIX-I**

**LETTER COMPRISING THE TECHNICAL BID**  
*(Refer Clause 2.13)*

Dated:

To,  
The Chairman,  
Airports Authority of India  
Rajiv Gandhi Bhawan,  
Safdarjung Airport, New Delhi-110003

**Sub:-** Request for Proposals No. .... dated ..... for operations, management and development of Mangaluru International Airport

Dear Sir,

With reference to your RFP document dated \*\*\*\*\*<sup>§</sup>. I/ we, having examined the Bidding Documents and understood their contents, hereby submit my/ our Bid for the Project.

The Bid is unconditional and unqualified.

1. I/ We acknowledge that the Authority will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Concessionaire for the aforesaid Project, and we certify that all information provided therein is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the Bid are true copies of their respective originals.
2. This statement is made for the express purpose of our selection as Concessionaire for the operations, management and development of the aforesaid Project.
3. I/ We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Bid.
4. I/ We acknowledge the right of the Authority to reject our Bid without assigning any reasons or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
5. I/ We certify that in the last 3 (three) years, we/ any of the Consortium Members<sup>£</sup> have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project of contract by any public authority nor have had any contract terminated by any public authority for breach on our part.
6. I/ We declare that:
  - (a) I/ We have examined and have no reservations to the Bidding Documents, including any Addendum issued by the Authority;
  - (b) I/ We do not have any conflict of interest in accordance with Clauses 2.2.1(c) of the

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<sup>§</sup> All blank spaces shall be suitably filled up by the Bidder to reflect the particulars relating to such Bidder.

<sup>£</sup> If the Bidder is not a Consortium, the provisions applicable to Consortium may be omitted.



RFP document;

- (c) I/ We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of the RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any government, Central or State;
  - (d) I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of Clause 4 of the RFP, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice; and
  - (e) the undertaking given by us along with the Bid in response to the RFP for the Project were true and correct as on the date of making the Bid and are also true and correct as on the Bid Due Date and I/ We shall continue to abide by them.
7. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Project, without incurring any liability to the Bidders, in accordance with Clause 2.7 of the RFP document.
  8. I/ We believe that we/ our Consortium satisfy(s) the Technical Capacity and Financial Capacity criteria and meet(s) the requirements as specified in the RFP document.
  9. I/ We declare that we/any Member of the Consortium, or out/its Affiliates are not a Member of any other Consortium submitting a Bid for the Project.
  10. I/ We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Consortium or any of our/their Affiliates have not been convicted by a court of law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
  11. I/ We further certify that in regard to matters relating to security and integrity of the country, we/any Member of the Consortium or any of our/their Affiliate have not been charge-sheeted by any agency of the Government or convicted by a court of law.
  12. I/ We further certify that no investigation by a regulatory authority is pending either against us or against our Affiliates or against our CEO or any of our directors/managers/employees.
  13. I/ We further certify that we are not disqualified in terms of the additional criteria specified by the Department or Disinvestment in their OM No. 6/42001-DD-II dated July 13, 2001, a copy of which forms part of the RFP at Appendix-VIII thereof.
  14. I/ We undertake that in case due to any change in the fact or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the guidelines referred to above, we shall intimate the Authority of the same immediately.
  15. I/ We acknowledge and undertake that we/ any Members of our Consortium will be short-listed on the basis of our/ our Members/ Affiliates Technical Capacity and Financial Capacity, and we/ our Members of the Consortium shall hold share capital in the Concessionaire in accordance with Clause 2.4.1 of the RFP. We further agree and acknowledge that the aforesaid obligation shall be in addition to the obligations contained in the draft Concession Agreement in respect of Change in Ownership.

16. I/ We acknowledge and agree that in the event of a change in control of an Affiliates whose Technical Capacity was taken into consideration for the purposes of short-listing under and in accordance with the RFP, I/ We shall inform the Authority forthwith along with all relevant particulars and the Authority may, in its sole discretion, disqualify our Consortium or withdraw the Letter of Award, as the case may be. I/ We further acknowledge and agree that in the event such change in control occurs after signing of the Concession Agreement, it would, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed a breach thereof and the Concession Agreement shall be liable to be terminated without the Authority being liable to us in any manner whatsoever.
17. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above-mentioned Project and the terms and implementation thereof.
18. In the event of my/ our being declared as the Selected Bidder, I/ we agree to enter into an Concession Agreement in accordance with the draft that has been provided to me/ us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
19. I/ We have studied all the Bidding Documents carefully and also surveyed the Project. We understand that except to the extent as expressly set forth in the draft Concession Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the Authority or in respect of any matter arising out of or relating to the Bidding Process including the award of Concession.
20. I/ We offer a Bid Security of Rs. [*Insert amount*] in accordance with the RFP Document. The Bid Security in the form of a [bank guarantee/ demand draft] is attached.
21. The documents accompanying the Bid, as specified in Clause 2.13.1 of the RFP, have been submitted by uploading the scanned copies on CPPP.
22. I/ We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, I/ We shall have any claim or right of whatsoever nature if the Project/ Concession is not awarded to me/ us our Bid is not opened or rejected.
23. The Bid has been quoted by me/ us after taking into consideration all the terms and conditions stated in the RFP, the draft Concession Agreement, our own estimates of cost and traffic and after a careful assessment of the site and all the conditions that may affect the implementation of the Project.
24. I/ We agree and undertake to abide by all the terms and conditions of the RFP document.
25. {We, the Consortium Members agree and undertake to be jointly and severally liable for all the obligations of the Concessionaire under the Concession Agreement until the COD (as defined in the Concession Agreement).}
26. I/ We shall keep this offer valid till 31/07/2019.

In witness thereof, I/ We submit this Bid under and in accordance with the terms of the RFP document.

Yours faithfully

Date: (Signature, name and designation of the Authority Signatory)

Place: Name and seal of Bidder

Note: Paragraphs in curly parenthesis may be omitted by the Bidder, if not applicable to it, or modified as necessary to reflect Bidders-specific particulars.

**ANNEXURE-I**

**PARTICULARS OF THE BIDDER**

1. (a) Name:  
(b) Country of incorporation:  
(c) Address of the corporate headquarters and its branch office(s), if any, in India:  
(d) Date of incorporation and/ or commencement of business:
2. Brief description of the Bidder including details of its main lines of business and proposed role and responsibilities in this Project:
3. Details of individual(s) who will serve as the point of contact/ communication for the Authority:
  - (a) Name:
  - (b) Designation:
  - (c) Company:
  - (d) Address:
  - (e) Telephone Number:
  - (f) E-Mail Address:
  - (g) Fax Number:
4. Particulars of the Authorised Signatory:
  - (a) Name:
  - (b) Designation:
  - (c) Address:
  - (d) Phone Number:
  - (e) Fax Number:
5. {In case of a Consortium:
  - (a) The information above (1-4) should be provided for all the Members.
  - (b) Information regarding the role of each Member should be provided as per table below:

Sl. No.	Name of Member	Role* (Refer Clause 2.2.5 (c))	Percentage of equity in the Concessionaire (Refer Clause 2.2.5 (f)) <sup>s</sup>
1.			
2.			
3.			
4.			
5.			
6.			

6. The following information shall also be provided for the Bidder/ each Member:

**Name of Bidder/ Member:**

No.	Criteria	Yes	No
1.	Has the Bidder/ Member been barred or blacklisted by		

<sup>s</sup> All provisions contained in curly parenthesis shall be suitably modified by the Bidder to reflect the particulars relating to such Bidder.

No.	Criteria	Yes	No
	any government agency or authority in India, the government of the jurisdiction of the Bidder or Members where they are incorporated or the jurisdiction of their principal place of business, any international financial institution such as the World Bank Group, Asian Development Bank, African Development Bank, Inter-American Development Bank, Asian Infrastructure Investment Bank, etc., or the United Nations or any of its agencies, from participating in any project (BOT or otherwise)?		
2.	If the answer to 1 is yes, does the bar subsist as on the date of Bid?		
3.	Has the Bidder/ Member paid liquidated damages of more than 5% (five percent) of the contract value in a contract due to delay or has been penalised due to any other reason in relation to execution of a contract, in the last 3 (three) years?		

7. A statement by the Bidder and each of the Members (where applicable) disclosing material non-performance or contractual non-compliance in past projects, contractual disputes and litigation/ arbitration in the recent past is given below (Attach extra sheets, if necessary).

**ANNEXURE-II**

**TECHNICAL CAPACITY OF THE BIDDER**

*(Refer to Clauses 2.2.2 and 3.2 of the RfP)*

Bidder type <sup>1</sup>	Member Code <sup>2</sup>	Project Code <sup>3</sup>	Experience <sup>4</sup> (Equivalent INR) <sup>5</sup>		
			Payments made/ received for construction	Payments made for development	Revenues collected and appropriated
Single entity Bidder		a			
		b			
		c			
		d			
Consortium Member 1		1a			
		1b			
		1c			
		1d			
Consortium Member 2		2a			
		2b			
		2c			
		2d			
Consortium Member 3		3a			
		3b			
		3c			
		3d			
Consortium Member 4		4a			
		4b			
		4c			
		4d			
Consortium Member 5		5a			
		5b			
		5c			
		5d			
Consortium Member 6		6a			

		6b			
		6c			
		6d			
<b>Total Payments/ Revenues</b>					

1. A Bidder consisting of a single entity should fill in details as per the row titled single entity Bidder and ignore the rows titled Consortium Member. In case of a Consortium, the row titled single entity Bidder may be ignored. In case credit is claimed for an Affiliate, necessary evidence to establish the relationship of the Bidder with such Affiliate, in terms of Clause 2.2.8, shall be provided.
2. Member Code shall indicate NA for Not Applicable in case of a single entity Bidder. For other Members, the following abbreviations are suggested viz. 'TM' means Technical Member, 'FM' means Financial Member, and 'OM' means Other Member. Bidders shall clearly indicate the Member Code.
3. Refer Annex-IV of this Appendix-I. Add more rows if necessary.
4. Provide details of only those projects that have been undertaken by the Bidder under its own name and/ or by an Affiliate specified in Clause 2.2.8 and/ or by a project company eligible under Clause 3.2.2. In no case shall the cost of land be included.
5. For conversion of US Dollars to Rupees, the rate of conversion shall be Rs. 70 (Rupees Seventy) to 1 (one) US Dollar. In case of any other currency, the same shall first be converted to US Dollars as on the date 60 (sixty) days prior to the Bid Due Date, and the amount so derived in US Dollars shall be converted into Rupees at the aforesaid rate. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date.

**ANNEXURE-III**

**FINANCIAL CAPACITY OF THE BIDDER**

*(Refer to Clauses 2.2.2 and 3.4 of the RfP)*

**(In INR Crore<sup>4</sup>)**

<b>Bidder type<sup>5</sup></b>	<b>Member Code<sup>6</sup></b>	<b>Proposed Equity Shareholding in Consortium (%)</b>	<b>Net Worth</b>
(1)	(2)	(3)	(4)
Single entity Bidder			
Consortium Member 1			
Consortium Member 2			
Consortium Member 3			
Consortium Member 4			
Consortium Member 5			
Consortium Member 6			
<b>TOTAL</b>			

**Instructions:**

1. The Bidder shall provide an auditor's certificate specifying the Net Worth of the Bidder and also specifying the methodology adopted for calculating such net worth in accordance with Clause 2.2.3 (b).
2. In case of ACI, the Bidder shall provide certificate (specifying methodology adopted) issued by statutory auditor (or such other certificate as filed with the regulator in the relevant jurisdiction) not older than 3 (three) months prior to the Bid Due Date.
3. The Bidder shall also provide the name and address of its bankers.
4. For conversion of other currencies into rupees, see note below Annexure-II of Appendix-I.
5. A Bidder consisting of a single entity should fill in details as per the row titled single entity Bidder and ignore the rows titled Consortium Members. In case of a Consortium, row titled single entity Bidder may be ignored.
6. For Member Code, see note below Annexure-II of this Appendix-I.
7. In case credit is claimed for an Affiliate, necessary evidence to establish the relationship of the Bidder with such Affiliate, in terms of Clause 2.2.8, shall be provided.



**ANNEXURE-IV**

**DETAILS OF ELIGIBLE PROJECT**

*(Refer to Clauses 2.2.2 and 3.2 of the RfP)*

**Project Code:**

**Member Code:**

<b>Item</b>	<b>Refer Instructions</b>	<b>Particulars of the Project</b>
Name and nature		
Sector	5	
Year-wise (a) amount paid for or payments received for construction (b) payments made for development and/ or (c) revenues collected and appropriated.	6	
Entity for which the project was undertaken		
Location (City, Country)		
Date of commencement of project/ contract		
Date of completion/ commissioning, as applicable	7	
Equity shareholding (with period during which equity was held)	8	
Whether credit is being taken for the Eligible Project of an Affiliate (Yes/ No) If, yes provide details of the same.	11	

**Instructions:**

1. Bidders are expected to provide information in respect of each Eligible Project in this Annexure. The projects cited must comply with the eligibility criteria specified in Clauses 2.2.2, 3.2.2 and 3.2.3 of the RFP. Bidders should also refer to the instructions below.
2. For a single entity Applicant, the Project Codes would be a, b, c, d etc. In case the Applicant is a Consortium, then for Member 1, the Project Codes would be 1a, 1b, 1c, 1d etc., for Member 2 the Project Codes shall be 2a, 2b, 2c, 2d, etc., and so on.
3. A separate sheet should be filled for each Eligible Project.
4. Member code shall indicate NA (for Not Applicable) in case of a single entity Bidder. For other Members, the following abbreviations are suggested, viz. 'TM' means Technical Member, 'FM' means Financial Member, and 'OM' means Other Member. In case the Eligible Project relates to an Affiliate of the Bidder or its Member, write 'Affiliate' along with member code.
5. Mention the infrastructure sub-sector to which the Eligible Project belongs.
6. The total payments received/ made and/ or revenues collected/ appropriated for each Eligible Project are to be stated in Annexure-II of this Appendix-I. The figures to be provided here should indicate the break-up for the past 7 (seven) financial years. Refer to Clause 2.2.2 in this regard. In no case shall the cost of land and expenditure on repairs and maintenance be included.
7. The date of commissioning of the project, upon completion, or date of completion of construction, as applicable, should be indicated. In the case of projects under construction, the likely date of completion or commissioning, as the case may be, shall be indicated.
8. The equity shareholding of the Bidder, in the company owning the project needs to be given (Refer Clause 3.2.3).

9. Experience for any activity relating to an Eligible Project shall not be claimed by 2 (two) or more Members of the Consortium. In other words, no double counting by a consortium in respect of the same experience shall be permitted in any manner whatsoever.
10. Certificate from the Bidder's statutory auditor<sup>6</sup> or its respective clients must be furnished, substantially as per format in Schedule 1 for each Eligible Project. In jurisdictions that do not have statutory auditors, the auditors who audit the annual accounts of the Bidder / Member/ Affiliate may provide the requisite certification.
11. In the event that credit is being taken for the Eligible Project of an Affiliate, as defined in Clause 2.2.8, the Bidder should also provide a certificate from statutory auditor substantially as per the format in Appendix-V.
12. It may be noted that in the absence of any detail in the above certificates, the information would be considered inadequate and could lead to exclusion of the relevant project.

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<sup>6</sup> In case duly certified audited annual financial statements containing the requisite details are provided, a separate certification by statutory auditors would not be necessary

**Schedule 1: Certificate from the Statutory Auditor regarding Eligible Project<sup>7</sup>**

Based on its books of accounts and other published information authenticated by it, this is to certify that ..... (name of the Bidder/ Member/ Affiliate) holds/ held .....% (..... percent) of the total paid up and subscribed equity capital) of the project company.

We further certify that (name of the project) was undertaken in ..... (name of infrastructure sub-sector).

We further certify that Rs. .... (Rupees .....) was [paid for construction/ received for construction/ paid for development/ revenues collected and appropriated] during the last 7 (seven) years preceding the Bid Due Date, as mentioned below:

.....

Name of the audit firm:  
Seal of the audit firm:

(Signature, name and designation of the authorised signatory).

Date:

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<sup>7</sup> Provide certificate substantially in this this format. Attach explanatory notes to the certificate, if necessary. In jurisdictions that do not have statutory auditors, the firm of auditors which audits the annual accounts of the Bidder or its Affiliate may provide the certificates required under this RfP. Statutory auditor means the entity that audits and certifies the annual accounts of the entity.

**APPENDIX-II**

**POWER OF ATTORNEY FOR SIGNING OF BID**

*(Refer Clause 2.1.7)*

Know all men by these presents, We..... (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr./Ms. (name), ..... son/ daughter/ wife of ..... and presently residing at ....., who is presently employed with ..... and holding the position of ....., as our true and lawful attorney (hereinafter referred to as the “**Attorney**”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Bid for shortlisting and submission of our bid for the operations, management and development of Mangaluru International Airport of the Airports Authority of India (the “**Authority**”) including but not limited to signing and submission of all bids and other documents and writings, and providing information/responses to the Authority, representing us in all matters before the Authority, signing and execution of all undertakings consequent to acceptance of our bid, and generally dealing with the Authority in all matters in connection with or relating to or arising out of our bid for the said Project and/ or upon award thereof to us and/ or till the entering into of the Concession Agreement with the Authority.

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

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

For .....  
(Signature, name, designation and address)

Witnesses:

- 1.
- 2.

Accepted

.....

(Signature)

(Name, Title and Address of the Attorney)

(Notarised)

Person identified by me/ personally appeared before me/ signed before me/ Attested/ Authenticated\*

(\*Notary to specify as applicable)

(Signature, Name and Address of the Notary)

Seal of the Notary

Registration Number of the Notary

Date: \_\_\_\_\_

**Notes:**

- The mode of execution of the Power of Attorney should be in accordance with the procedure,

if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.

- Wherever required, the Bidder/ Member should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder/ Member.
- For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders/ Members from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Apostille certificate.

**APPENDIX-III**

**JOINT BIDDING AGREEMENT FOR CONSORTIUM**

*(Refer Clause 2.2.5(f))*

*(To be executed on Stamp paper of appropriate value)*

THIS JOINT BIDDING AGREEMENT is entered into on this ..... day of ..... 20...

**AMONGST**

1. {....., a ..... [incorporated/ registered] under .....} and having its registered office at ..... (hereinafter referred to as the “**First Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

**AND**

2. {....., a ..... [incorporated/ registered] under .....} and having its registered office at ..... (hereinafter referred to as the “**Second Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

**AND**

3. {....., a ..... [incorporated/ registered] under .....} and having its registered office at ..... (hereinafter referred to as the “**Third Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

**AND**

4. {....., a ..... [incorporated/ registered] under .....} and having its registered office at ..... (hereinafter referred to as the “**Fourth Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)}<sup>§</sup>

**AND**

5. {....., a ..... [incorporated/ registered] under .....} and having its registered office at ..... (hereinafter referred to as the “**Fifth Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

**AND**

6. {....., a ..... [incorporated/ registered] under .....} and having its registered office at ..... (hereinafter referred to as the “**Sixth Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)}<sup>§</sup>

The above mentioned parties of the FIRST, SECOND, {THIRD, FOURTH, FIFTH AND SIXTH} PART are collectively referred to as the “**Parties**” and each is individually referred to as a “**Party**”.

**WHEREAS,**

- (A) THE AIRPORTS AUTHORITY OF INDIA, established by an Act of Parliament on 1<sup>st</sup> April 1995 by merging the erstwhile National Airports Authority and International Airports

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<sup>§</sup> The number of Parties will be shown here, as applicable, subject however to a maximum of 6 (six).

<sup>§</sup> The number of Parties will be shown here, as applicable, subject however to a maximum of 6 (six).

Authority of India represented by its Chairman and having its principal offices at Rajiv Gandhi Bhawan, Safdarjung Airport, New Delhi-110003 (hereinafter referred to as the “**Authority**” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited bids (the “**Bids**”) by its Request for Proposals No. .... dated ..... (the “**RFP**”) for selection of a successful bidder for operations, management and development of Mangaluru International Airport (the “**Project**”);

- (B) The Parties are interested in jointly bidding for the Project as Members of a Consortium and in accordance with the terms and conditions of the RFP document and other bid documents in respect of the Project; and
- (C) It is a necessary condition under the RFP document that the Members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Bid.

**NOW IT IS HEREBY AGREED as follows:**

**1. Definitions and Interpretations**

In this Agreement, the capitalised terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFP.

**2. Consortium**

- 2.1 The Parties do hereby irrevocably constitute a consortium (the “**Consortium**”) for the purposes of jointly participating in the Bidding Process for the Project.
- 2.2 The Parties hereby undertake to participate in the Bidding Process only through this Consortium and not individually and/ or through any other Consortium constituted for this Project, either directly or indirectly or through any of their Affiliate.

**3. Covenants**

The Parties hereby undertake that in the event the Consortium is declared the selected Bidder and awarded the Project, it shall incorporate a special purpose vehicle (the “**Concessionaire**”) under the Companies Act, 2013 for entering into an Concession Agreement with the Authority and for performing all its obligations as the Concessionaire in terms of the Concession Agreement for the Project.

**4. Role of the Parties**

The Parties hereby undertake to perform the roles and responsibilities as described below:

- (a) Party of the {\_\_\_\_\_}<sup>8</sup> Part shall conduct all business for and on behalf of the Consortium during the Bidding Process and until all the obligations of the Concessionaire shall become effective under the Concession Agreement;
- (b) Party of the Second Part shall be {the entity bringing in Technical Capacity in the Consortium;}
- (c) Party of the Third Part shall be {the entity bringing in Financial Capacity in the Consortium; and}

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<sup>8</sup> Fill in as applicable.

- (d) Party/ies of the [Fourth/ Fifth/ Sixth] Part shall be any other Member of the Consortium.}

**5. Joint and Several Liability**

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the RFP and the draft Concession Agreement, till such time all the obligations of the Concession Agreement become effective under and in accordance with the Concession Agreement.

**6. Shareholding in the Concessionaire**

- 6.1 The Parties agree that the proportion of shareholding among the Parties in the Concessionaire shall be as follows:

First Party:  
Second Party:  
Third Party:  
Fourth Party:  
Fifth Party:  
Sixth Party:

- 6.2 The Parties undertake that they shall comply with all equity lock-in requirements set forth in the RFP and the Concession Agreement.

**7. Representation of the Parties**

Each Party represents to the other Parties as of the date of this Agreement that:

- (a) such Party is duly organised, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;
- (b) the execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Member is annexed to this Agreement, and will not, to the best of its knowledge:
  - (i) require any consent or approval not already obtained;
  - (ii) violate any Applicable Law presently in effect and having applicability to it;
  - (iii) violate the memorandum and articles of association, by-laws or other applicable organisational documents thereof;
  - (iv) violate any clearance, permit, concession, grant, license or other governmental authorisation, approval, judgment, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
  - (v) create or impose any liens, mortgages, pledges, claims, security interests, charges or Encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party,



except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;

- (c) this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and
- (d) there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Affiliates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfillment of its obligations under this Agreement.

**8. Termination**

This Agreement shall be effective from the date hereof and shall continue in full force and effect until all the obligations of the Concessionaire become effective under and in accordance with the Concession Agreement, in case the Project is awarded to the Consortium. However, in case the Consortium for the Project does not get selected for award of the Project, the Agreement will stand terminated.

**9. Miscellaneous**

- 9.1 This Joint Bidding Agreement shall be governed by laws of {India}.
- 9.2 The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the Authority.

IN WITNESS WHEREOF THE PARTIES ABOVE NAMED HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED

SIGNED, SEALED AND DELIVERED

For and on behalf of  
FIRST PART by:

For and on behalf of  
SECOND PART by:

(Signature)  
(Name)  
(Designation)  
(Address)

(Signature)  
(Name)  
(Designation)  
(Address)

SIGNED, SEALED AND DELIVERED

SIGNED, SEALED AND DELIVERED

For and on behalf of  
THIRD PART by:

For and on behalf of  
FOURTH PART by:

(Signature)  
(Name)  
(Designation)  
(Address)

(Signature)  
(Name)  
(Designation)  
(Address)

SIGNED, SEALED AND DELIVERED

SIGNED, SEALED AND DELIVERED

For and on behalf of  
FIFTH PART by:

For and on behalf of  
SIXTH PART by:

(Signature)  
(Name)  
(Designation)  
(Address)

(Signature)  
(Name)  
(Designation)  
(Address)

In the presence of:

1.

2.

**APPENDIX-IV**

**BANK GUARANTEE FOR BID SECURITY**

B.G. No. Dated:

1. In consideration of you, Airports Authority of India, having its office at C- Block, Rajiv Gandhi Bhavan, Safdarjung Airport, New Delhi - 110003 (hereinafter referred to as the “**Authority**”, which expression shall unless it be repugnant to the subject or context thereof include its successors and assigns) having agreed to receive the Bid of ....., having its registered office at ..... (and acting on behalf of its Consortium) (hereinafter referred to as the “**Bidder**” which expression shall unless it be repugnant to the subject or context thereof include its/their executors, administrators, successors and assigns), for operations, management and development of Mangaluru International Airport (hereinafter referred to as “**the Project**”) pursuant to the RFP Document dated ..... issued in respect of the Project and other related documents including without limitation the Concession Agreement (hereinafter collectively referred to as “**Bidding Documents**”), we (name of the bank) having our registered office at ..... and one of its branches at ..... (hereinafter referred to as the “**Bank**”), at the request of the Bidder, do hereby in terms of Clause 1.2.5 read with Clause 2.19 of the RFP Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfillment and compliance of the terms and conditions of the Bidding Documents (including the RFP Document) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the Authority an amount of Rs. [*insert amount*] (hereinafter referred to as the “**Guarantee**”) as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfill or comply with all or any of the terms and conditions contained in the said Bidding Documents.
2. Any such written demand made by the Authority stating that the Bidder is in default of the due and faithful fulfillment and compliance with the terms and conditions contained in the Bidding Documents shall be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of the Authority is disputed by the Bidder or not, merely on the first demand from the Authority stating that the amount claimed is due to the Authority by reason of failure of the Bidder to fulfill and comply with the terms and conditions contained in the Bidding Documents including failure of the said Bidder to keep its Bid open during the Bid validity period as set forth in the said Bidding Documents for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. [*insert amount*].
4. This Guarantee shall be irrevocable and remain in full force for a period of 180 (one hundred eighty) days from the Bid Due Date inclusive of a claim period of 60 (sixty) days or for such

extended period as may be mutually agreed between the Authority and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.

5. We, the Bank, further agree that the Authority shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfillment and compliance with the terms and conditions contained in the Bidding Documents including, *inter alia*, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding Documents, and the decision of the Authority that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Authority and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other Authority.
6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.
7. In order to give full effect to this Guarantee, the Authority shall be entitled to treat the Bank as the principal debtor. The Authority shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfillment and compliance with all or any of the terms and conditions contained in the said Bidding Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Documents or the securities available to the Authority, and the Bank shall not be released from its liability under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Bidder or by any change in the constitution of the Authority or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.
8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.
9. We undertake to make the payment on receipt of your notice of claim on us addressed to name of Bank along with branch address and delivered at our above branch which shall be deemed to have been duly authorised to receive the said notice of claim.
10. It shall not be necessary for the Authority to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which the Authority may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealised.
11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Authority in writing.
12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.

13. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to Rs. [insert amount]. The Bank shall be liable to pay the said amount or any part thereof only if the Authority serves a written claim on the Bank in accordance with paragraph 9 hereof, on or before \*\*\* (indicate date falling 180 days after the Bid Due Date).

Signed and Delivered by ..... Bank

By the hand of Mr./Ms. ...., its ..... and authorised official.

(Signature of the Authorised Signatory) (Official Seal)

**APPENDIX-V**

**CERTIFICATE FROM STATUTORY AUDITOR**  
*(Refer Clause 3.3)*

**STATUTORY AUDITOR'S CERTIFICATE**

*[On the letterhead of the statutory auditor of each entity through whom Technical Capacity/ Financial Capacity is being claimed]*

**Certificate from Statutory Auditor/ Company Secretary regarding Affiliate<sup>§</sup>**

Based on the authenticated record of the Company, this is to certify that more than 50% (fifty percent) of the aggregate issued, subscribed and paid up voting equity of ..... *(name of the Affiliate)* is held, directly or indirectly<sup>£</sup>, by ..... *(name of Bidder/Member)*. By virtue of the aforesaid share-holding, the latter exercises control over the former, who is an Affiliate in terms of Clause 3.3 of the RFP.

A brief description of the said equity held, directly or indirectly, is given below:

*{Describe the share-holding of the Bidder/Member in the Affiliate. In the event the Affiliate is under common control with the Bidder/Member, the relationship maybe suitably described and certified herein }*

<sup>§</sup> In the event the Bidder/Member is claiming to be an Affiliate based on the powers of to direct the management and policies of a Person, which is not a company, corporation or LLP, this certificate maybe suitably modified and copies of relevant documents maybe referred to.

<sup>£</sup> In the case of indirect shareholding, the intervening companies in the chain of ownership should also be Affiliates, i.e., the shareholding in each such company should be more than 50% (fifty percent) in order to establish that the chain of control is not broken.

Name of the audit firm:

Seal of the audit firm: (Signature, name and designation of the authorised signatory).

Date:

## **APPENDIX-VI**

### **INTEGRITY PACT**

This Integrity Pact (the “**Pact**”) made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ between the Airports Authority of India, a body corporate constituted by the Central Government under the Airports Authority of India Act, 1994 and having its Corporate Office at Rajiv Gandhi Bhawan, New Delhi, India, (hereinafter called the “**Authority**”) (which term shall unless excluded by or is repugnant to the context, be deemed to include its Chairman, or Members, Executive Directors, Airport Directors, officers or any of them specified by the Chairman in this behalf, and shall also include its successors and permitted assigns) of the one part;

AND

\_\_\_\_\_, of the other part, hereinafter called the (“**Bidder**”) which term shall unless excluded by or is repugnant to the context be deemed to include its heirs, representatives, successors and permitted assigns of the Bidder.

WHEREAS the Authority intends to award, under laid down organizational procedures, tenders/ contracts for the Authority, while discharging its functions on business principles, values proper compliance with all relevant laws and regulations, and the principles of natural justice, ethics, equity, fairness and transparency in its relations with the Bidders.

WHEREAS the Authority is desirous to make its business mechanism more transparent, thus to ensure strict adherence of the aforesaid objectives/goals, the Authority hereby adopts the instrument developed by the renowned international non-governmental organization “Transparency International” headquartered in Berlin (Germany). The Authority will appoint an Independent External Monitor (“IEM”), as detailed in the RFP, who will monitor the Bidding Process and the execution of the agreement for compliance with the principles mentioned above.

AND WHEREAS the Bidder is submitting a Bid to the Authority for and in response to the RFP for the operations, management and development of Mangaluru International Airport dated [\_\_\_\_\_].

NOW, therefore,

To avoid all forms of corruption by following a system that is fair, transparent and free from any influence/prejudiced dealings prior to, during and subsequent to the currency of the Concession Agreement to be entered into with a view to enabling the Authority to obtain the desired execution of works at a competitive price in conformity with the defined specifications by avoiding the high cost and the distortionary impact of corruption on the Bidding Process, and

Enabling the Authority to abstain from bribing or indulging in any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also abstain from bribing and other corrupt practices and the Authority will commit to prevent corruption, in any form, by its officials by following transparent procedures.

The parties hereto hereby agree to enter into this Integrity Pact and agree as follows:

#### **1. Commitments of the Authority**

1.1 The Authority undertakes that no official of the Authority, connected directly or indirectly with the contract, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Bidder, either for themselves or for any person, organization or third party related to the contract in exchange for an advantage in the Bidding Process, bid evaluation,

contracting or implementation process related to the Concession Agreement.

- 1.2 The Authority will, during the pre-contact stage, treat all Bidders alike, and will provide to all Bidders the same information and will not provide any such information to any particular Bidder which could afford an advantage to that particular Bidder in comparison to other Bidders.
- 1.3 All the officials of the Authority will report to the appropriate authority office any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.
2. In case any such preceding misconduct on the part of such official(s) is reported by the Bidder to the Authority with full and verifiable facts and the same is prima facie found to be correct by the Authority, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by the Authority and such a person shall be debarred from further dealings related to the Bidding Process. In such a case while an enquiry is being conducted by the Authority the proceedings under the Bidding Process would not be stalled.

### **3. Commitments of Bidders.**

The Bidder commits itself to take all measures necessary to prevent corrupt practice, unfair means and illegal activities during any stage of its Bid or during any pre-contract or post-contract stage in order to secure the contract or in furtherance to secure it and in particular commit itself to the following:

- 3.1 The Bidder will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Authority, connected directly or indirectly with the Bidding Process, or to any person, organization or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.
  - (i) The Bidder further undertakes that it has not given, offered or promised to give, directly or indirectly any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of the Authority or otherwise in procuring the Concession Agreement or forbearing to do or having done any act in relation to the obtaining or execution of the Concession Agreement or any other contract with the Authority for showing or forbearing to show favour or disfavour to any person in relation to the Concession Agreement or any other contract with the Authority.
  - (ii) The Bidder has not entered and will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specification, certifications, subsidiary contracts, submission or non-submission of Bids or any actions to restrict competitiveness or to introduce cartelization in the Bidding Process.
- 3.2 The Bidder shall, when presenting his Bid, disclose the name and address of agents and representatives and Indian Bidders shall disclose their foreign principals or associates.
- 3.3 The Bidder shall when presenting his Bid disclose any and all the payments he has made or, is committed to or intends to make to agents/ brokers or any other intermediary, in connection with this Bid.

- 3.4 The Bidder, either while presenting the Bid or during pre-contract negotiations or before signing the Concession Agreement, shall disclose any payments he has made, is committed to or intends to make to officials of the Authority or their family members, agents, brokers or any other intermediaries in connection with the contract and the details of services agreed upon for such payments.
- 3.5 The Bidder will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the Bidding Process, Bid evaluation, contracting and implementation of the Concession Agreement.
- 3.6 The Bidder will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.
- 3.7 The Bidder shall not use improperly, for purposes of competition or personal gain, or pass on to others, any information provided by the Authority as part of the business relationship, regarding plans, technical proposals and business details, including information contained in any electronic data carrier. The Bidder also undertake to exercise due and adequate care lest any such information is divulged.
- 3.8 The Bidder will inform the Independent External Monitor:
- (i) if he receives demand for an illegal/undue payment/benefit;
  - (ii) if he comes to know of any unethical or illegal payment/benefit; and/or
  - (iii) if he makes any payment to any Authority's associate(s).
- 3.9 The Bidder commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts.
- 3.10 The Bidder shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.
- 3.11 If the Bidder or any employee of the Bidder or any person acting on behalf of the Bidder, either directly or indirectly, is a relative of any of the officers of the Authority, or alternatively, if any relative of an officer of the Authority has financial interest/stake in the Bidder's firm, the same shall be disclosed by the Bidder at the time filing of the Bid.
- The term 'relative' for this purpose would be as defined in Section 2(77) of the Companies Act, 2013.
- 3.12 The Bidder shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of the Authority.
- 3.13 That if the Bidder, during the Bidding Process or before the award of the Concession Agreement or during execution of the contract/work has committed a transgression in violation of Section 2 or in any other form such as to put his reliability or credibility as Bidder into question, the Authority is entitled to disqualify him from the Bidding Processor to terminate the contract for such reason and to debar the Bidder from participating in future bidding processes.

#### **4. Previous Transgression**

- 4.1 The Bidder declares that no previous transgression occurred in the last 3 (three) years immediately before signing of this Integrity Pact, with any other company in any country in



respect of any corrupt practices envisaged hereunder or with any Public Sector Enterprise in India or any Government Department in India that could justify Bidders' exclusion from the Bidding Process.

- 4.2 The Bidder agrees that if it makes an incorrect statement on this subject, he can be disqualified from the Bidding Processor the Concession Agreement, if already awarded, can be terminated for such reason and he may be considered for debarment for future tender/contract processes.
- 4.3 That sub-contractor(s)/sub-concessionaire(s) engaged by the selected Bidder, after signing of the Concession Agreement, and whose value of the work contribution exceeds Rs 50,00,000/- (Rupees Fifty Lakh only) will be required to sign this Pact, and the same will be submitted to the Authority before doing/performing any act/function by such sub-contractor(s)/ sub-concessionaire(s) in relation to the contract/work.
- 4.4 That the Authority will disqualify from the Bidding Process all Bidder(s) who do not sign this Pact or violate its provisions.
- 4.5 That if the selected Bidder fails to get this pact signed in terms of Section 4.3, the Authority will terminate the Concession Agreement and initiate appropriate action against such selected Bidder.
5. **Earnest Money, Security Deposit, Bank guarantee, Draft, Pay order or any other mode and its validity I/C Warranty Period, Performance guarantee/Bond.**

While submitting the Bid, the Bidder shall deposit an EMD/SD/BG/DRAFT/PAY ORDER ETC I/C WARRANTY PERIOD, PG/BOND, VALIDITY ETC, which is as per terms and conditions and details given in RFP/bidding documents sold to the Bidders.

6. **Sanctions for Violations/Disqualification from Bidding Process and exclusion from future Contacts.**
- 6.1 Any breach of the aforesaid provisions by the Bidder or any one employed by it or acting on its behalf (whether with or without the knowledge of the Bidder) shall entitle the Authority to take all or any one of the following actions, wherever required:
  - (i) to immediately call off the pre contract negotiations without assigning any reason or giving any compensation to the Bidder. However, the proceedings with the other Bidder(s) would continue;
  - (ii) to immediately cancel the Concession Agreement, if already signed, without giving any compensation to the Bidder;
  - (iii) if the Authority has disqualified/debarred the Bidder from the Bidding Process prior to the award under Sections 2 or 3 or 4, the Authority is entitled to forfeit the earnest money deposited/Bid Security;
  - (iv) to recover all sums already paid by the Authority, and in case of an Indian Bidder with interest thereon at 2% (two percent) higher than the prevailing Prime Lending Rate of State Bank of India, while in case of a Bidder from a country other than India with interest thereon at 2% (two percent) higher than the LIBOR. If any outstanding payment is due to the Bidder from the Authority in connection with any other contract or any other stores, such outstanding payment could also be utilized to recover the aforesaid sum and interest;
  - (v) to encash the Bid Security and Performance Guarantee, if furnished by the Bidder, in

order to recover the payments, already made by the Bidder, along with interest;

- (vi) to cancel all or any other contracts with the Bidder. The Bidder shall be liable to pay compensation for any loss or damage to the Authority resulting from such cancellation/rescission and the Authority shall be entitled to deduct the amount so payable from the money(s) due to the Bidder;
  - (vii) to debar the Bidder from participating in future bidding processes for a minimum period of 3 (three) years, which may be further extended at the discretion of the Authority;
  - (viii) to recover all sums paid in violation of this Pact by Bidder(s) to any middleman or agent or broker with a view to securing the Concession Agreement;
  - (ix) in case where irrevocable Letters of Credit have been received in respect of any contract signed by the Authority with the Bidder, the same shall not be opened;
  - (x) forfeiture of Performance Guarantee in case of a decision by the Bidder to forfeit the same without assigning any reason for imposing sanction for violation of this Pact;
  - (xi) that if the Authority has terminated the Concession Agreement under Section 2 or 3 or 4 or if the Authority is entitled to terminate the Concession Agreement under Section 2 or 3 or 4, the Authority shall be entitled to demand and recover from the Bidder damages equivalent to 5% (five percent) of the contract value or the amount equivalent to Bid Security or performance bank guarantee, whichever is higher; and
  - (xii) that the Bidder agrees and undertakes to pay the said amount without protest or demur subject only to condition that if the Bidder can prove and establish to the satisfaction of the Authority that the disqualification/ debarment of the Bidder from the Bid Processor the termination of the Concession Agreement after award of the Concession Agreement has caused no damage to the Authority.
- 6.2 The Authority will be entitled to take all or any of the actions mentioned at para 6.1(i) to (xii) of this Pact also on the commission by the Bidder or any one employed by it or acting on its behalf (whether with or without the knowledge of the Bidder), of an offence as defined in Chapter IX of the Indian Penal code, 1860 or Prevention of Corruption Act, 1988 or any other statute enacted for prevention of corruption.
- 6.3 That if the Bidder applies to the Authority for premature revocation of the debarment and proves to the satisfaction of the Authority that he has installed a suitable and effective corruption prevention system and also restored/recouped the damage, if any, caused by him, the Authority may, if thinks fit, revoke the debarment prematurely considering the facts and circumstances of the case, and the documents/ evidence adduced by the Bidder for first time default.
- 6.4 That a transgression is considered to have occurred if the Authority is fully satisfied with the available documents and evidence submitted along with Independent External Monitor's recommendations/suggestions that no reasonable doubt is possible in the matter.
- 6.5 The decision of the Authority to the effect that a breach of the provisions of this Pact has been committed by the Bidder shall be final and conclusive on the Bidder. However, the Bidder can approach the Independent External Monitor(s) appointed for the purpose of this Pact.
- 7. Allegations against Bidders/Contractors/Sub-Contractors/Affiliates:**

That if the Authority receives any information of conduct of a Bidder or sub-contractor or of an employee or a representative or an Affiliate of a Bidder, or sub-contractor which constitute

corruption, or if the Authority has substantive suspicion in this regard, the Authority will inform the Vigilance Department for appropriate action.

**8. Independent External Monitor(s)**

8.1 That the Authority has appointed competent and credible Independent External Monitor(s) for this Pact, and shall, from time to time, appoint replacement(s) for such Independent External Monitor(s).

8.2 The task of the Monitor is to review independently and objectively, whether and to what extent the parties comply with the obligations under this Pact. He will also enquire into any complaint alleging transgression of any provision of this Pact made by the Bidder or Authority.

8.3 That the Monitor is not subject to any instructions by the representatives of the parties and would perform his functions neutrally and independently. He will report to the Chairperson of the Board of the Authority.

8.4 That the Bidder accepts that the Monitor has the right to access without restriction to all project documentation of the Authority including that provided by the Bidder. The Bidder will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation including minutes of meeting. The same is applicable to sub -contractors and Affiliates. The Monitor is under obligation to treat the information and documents of the Authority and Bidder /sub- contractors/Affiliates with confidentiality.

8.5 That as soon as the Monitor notices, or believes to notice, a violation of this Pact, he will so inform the management of the Authority and request the management to discontinue or heal the violation, or to take other relevant action. The Monitor can in this regard submit his recommendations/suggestions. Beyond this, the Monitor has no right to demand from the parties that they act in a specific manner, refrain from action or tolerate action.

8.6 That the Authority will provide to the Monitor sufficient information about all meetings among the parties related to the project provided such meetings could have an impact on the contractual relations between the Authority and the Bidder. The parties offer to the Monitor the option to participate in such meetings.

8.7 That the Monitor will submit a written report to the Chairperson of the Board of the Authority within 2 (two) weeks from the date of reference or intimation to him by the Authority and, should the occasion arise, submit proposals for correcting problematic situations.

8.8 That if the Monitor has reported to the Chairperson of the Board a substantiated suspicion of an offence under relevant Anti-Corruption Laws of India and the Chairperson has not, within reasonable time, taken visible action to proceed against such offence or reported it to the Vigilance Department, the Monitor may also transmit this information directly to the Central Vigilance Commissioner, Government of India.

8.9 The word 'Monitor' would include singular and plural.

**9. Facilitation of Investigation.**

In case of any allegation of violation of any provisions of this Pact or payment of commission, the Authority or its agencies shall entitled to examine all the documents including the Books of Accounts of the Bidder and the Bidder shall provide necessary information and documents in English and shall extend all possible help for the purpose of such Examination.

**10. Law and Place of Jurisdiction.**

That this Pact is subject to the laws of India. The place of performance and jurisdiction is the Corporate Headquarter/the Regional Headquarter/office of the Authority, as applicable.

**11. Other Legal Actions**

- 11.1 That the changes and supplements as well as termination notices need to be made in writing.
- 11.2 That if the Bidder is a partnership or a consortium, this Pact must be signed by all the partners and Members or their authorized representatives.

**12. Pact duration (Validity)**

- 12.1 That this Pact comes into force when both the parties have signed it. It expires for the Bidder 12 (twelve) months after the final payment under the respective contract, and for all other Bidders 3 (three) months after the Concession Agreement is awarded.
- 12.2 That if any claim is made/lodged during this period, the same shall be binding and continue to be valid despite the lapse of this Pact as specified herein before, unless it is discharged/determined by Chairman of the Authority.
- 12.3 That should one or several provisions of this Pact turn out to be invalid; the remainder of this Pact shall remain valid. In this case, the parties will strive to come to an agreement to their original intentions.

**13. Company Code of Conduct**

Bidders are also advised to have a company code of conduct (clearly rejecting the use of bribes and other unethical behavior) and a compliance program for the implementation of the code of conduct throughout the company.

- 14. This Integrity Pact is being submitted by the Bidders as a part of the documents comprising the Bid. The Authority reserves the right to execute this Pact at any time after the submission of the Bid, and this Pact shall be deemed to have been validly executed by the Parties. The Bidders shall continue to be bound by the provisions of this Pact during the Bidding Process.

**15. The parties hereby sign this Integrity Pact at \_\_\_\_\_ on \_\_\_\_\_**

BIDDER  _____ Name Designation	Authority  _____ Name Designation
--	---

Witness 1:  
Witness 2:

**APPENDIX-VII**

**NON-DISCLOSURE UNDERTAKING**

*(Refer Clause 1.2.1(a))*

*[On the Letterhead of the Bidder/Nominated Entity]*

*[Date]*

To,  
The Chairman,  
Airports Authority of India  
Rajiv Gandhi Bhawan,  
Safdarjung Airport,  
New Delhi-110003

**Subject: Non-Disclosure Undertaking (“NDU”)**

Sir,

We, *[insert the name of the Bidder/ Nominated Entity]* having our registered office at *[\_\_\_\_\_]* (hereinafter referred to as the “**Receiving Party**”, which shall be deemed to mean and include our successors and permitted assigns), irrevocably and unconditionally undertake the following:

- A. The Receiving Party has received, and may further receive, Confidential Information (*as defined hereinafter*) from the Airports Authority of India (“**Disclosing Party**”) either directly or through any other person acting on behalf of the Disclosing Party, in connection with the bidding process being conducted by the Disclosing Party pursuant to its RFP No. *[\_\_\_\_\_]* for selection of an entity for operations, management and development of the Mangaluru International Airport (“**Project**”).
- B. The Receiving Party and its Representatives (*as defined hereinafter*) shall maintain the Confidential Information on a strictly confidential basis for the purpose of evaluation of a bid for the Project (“**Purpose**”) on the terms and conditions set out below:

**1. CONFIDENTIAL INFORMATION**

- 1.1 For the purpose of this NDU, “**Confidential Information**” shall mean any and all information and other materials disclosed, furnished, communicated or supplied by the Disclosing Party and its legal, technical and other advisers and their directors, partners, officers, employees, retainers or consultants in oral, written or electronic form, to the Receiving Party or the Receiving Party’s directors/partners, officers, employees or retainers or its expressly authorized representatives or agents (collectively referred to as “**Representatives**”) on or after the date of this NDU including without limitation, any commercial and financial information, information concerning any legal proceedings, improvement, know how, intellectual property, discoveries, ideas, concepts, papers, techniques, models, data, documentation, manuals, policies, flow charts, research, process, procedures, functions and any other information in connection with the Project.
- 1.2 Notwithstanding any other provision of this NDU, Confidential Information shall not include any information that:
  - (a) is already publicly known;

- (b) becomes subsequently publicly known or available without breach of this NDU;
  - (c) prior to its disclosure to the Receiving Party in connection with the Project was already in the possession of the Receiving Party or thereafter becomes known to the Receiving Party on a non-confidential basis from a source other than the Disclosing Party. However the Disclosing Party shall not be responsible or liable for the authenticity or accuracy of such information;
  - (d) is required to be disclosed by law, rule, regulation (including the regulations of any relevant securities exchange), court order or any order from a regulatory, statutory or governmental authority of any jurisdiction or other legal or judicial process of any jurisdiction; and
  - (e) is approved for release by written authorization of the Disclosing Party.
- 1.3 Confidential Information also includes the substance of any negotiations or communications relating to the Project, the existence or status of such negotiations or communications or other facts pertaining to the Purpose, and the existence of this NDU. Confidential Information may also include information disclosed by the Disclosing Party through expressly authorized third parties.
- 1.4 Confidential Information that is required by law to be disclosed by the Receiving Party may be disclosed only to the extent required, provided that the Receiving Party, if permissible and practicable, gives the Disclosing Party written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the Confidential Information from public disclosure.

## **2. OBLIGATION OF CONFIDENTIALITY**

- 2.1 In consideration of the disclosure and release of the Confidential Information by or on behalf of the Disclosing Party to the Receiving Party, the Receiving Party hereby agrees to use and to procure that it or its Representatives, use such measures and/ or procedures as it uses in relation to its own most highly confidential information to hold and keep in confidence any and all such Confidential Information and comply with the terms of this NDU.
- 2.2 The Receiving Party undertakes that it and its Representatives shall make use of the Confidential Information solely for the Purpose or such other purposes from time to time agreed or consented to by the Disclosing Party as evidenced in writing. Save as expressly provided by the Disclosing Party in writing, nothing shall be construed, implicitly or otherwise, as being the granting of a license to use the Confidential Information disclosed by the Disclosing Party. All Confidential Information disclosed, furnished, communicated or supplied by the Disclosing Party to the Receiving Party, including its Representatives are strictly confidential and, other than as specifically permitted for by the Disclosing Party in writing, shall not be divulged by Receiving Party to any third party without prior written consent from the Disclosing Party.
- 2.3 The Receiving Party shall take all reasonable steps and measures to minimize the risk of disclosure of the Confidential Information by ensuring that only such Representatives who are expressly authorized by it to and whose duties require them to possess the Confidential Information shall have access to the Confidential Information on a need-to-know basis.
- 2.4 The Receiving Party shall ensure that the Confidential Information will not be copied or reengineered or reproduced or transmitted by any means and in any form whatsoever (including in an externally accessible computer or electronic information retrieval system) by the Receiving Party or its Representatives except:

- (a) sharing of Confidential Information as required in relation to the Purpose; and
- (b) any action required in relation to any statutory, regulatory, internal or corporate governance compliance, filings and reporting to be made by Receiving Party or its Representatives in the ordinary course of its business, including any filings, compliances, or representations pursuant to any enquiries, investigations, directions of a Competent Authority.

The Receiving Party or its Representatives' obligations as stated in this clause shall not apply to the extent as mentioned in Clause 1.2 (d) above.

2.5 Upon the written request of the Disclosing Party, the Receiving Party shall return to the Disclosing Party all Confidential Information received from the Disclosing Party in tangible form, including copies, or reproductions or other media containing such Confidential Information – save for copies of electronically exchanged Confidential Information made as a matter of routine information technology backup – within 20 (twenty) days of such written request. The foregoing shall not apply to that portion of the Confidential Information which consists of analyses, compilations, forecasts, studies or other documents prepared by Receiving Party or its Representatives subject to confidential obligations under this NDU. Any documents or other media developed by the Receiving Party containing Confidential Information shall be destroyed by Receiving Party except as mentioned above or required under applicable legal or regulatory requirements. On a written request from the Disclosing Party, the Receiving Party shall certify in writing that subject to the exceptions mentioned in this Clause, all Confidential Information received by it has been returned or destroyed or deleted.

2.6 All Confidential Information disclosed pursuant to this NDU shall be and remain the property of the Disclosing Party. Nothing in this NDU shall be construed as granting or conferring any rights whatsoever (including without limitation any intellectual property rights), whether expressly, impliedly or otherwise, in respect of the Confidential Information to the Receiving Party, and the Confidential Information will be used only for the Purpose.

### **3. DISCLOSURES**

3.1 Nothing in this NDU shall be construed as requiring the Disclosing Party to disclose any Confidential Information to the Receiving Party or its Representatives. It is within the absolute discretion of the Disclosing Party to determine (in its sole opinion) whether Confidential Information is suitable or necessary to be so disclosed.

3.2 The Receiving Party shall immediately inform the Disclosing Party of any unauthorized use or disclosure, misappropriation or misuse by any person of any Confidential Information, upon the Receiving Party having notice or knowledge of the same.

### **4. NO REPRESENTATION, WARRANTY OR GUARANTEE**

No Confidential Information received by the Receiving Party from the Disclosing Party shall constitute representations, warranties or guarantees upon which the Receiving Party may rely and the Disclosing Party shall assume no responsibility, obligation nor liability in this regard to the Receiving Party relating to or resulting from the use of the Confidential Information or any errors therein or omissions therefrom.

### **5. ASSIGNMENT**

The Disclosing Party shall not assign this NDU (or any part hereof) without the prior written consent of the Disclosing Party. Any assignment without such consent shall be void and is a material breach of this NDU. Subject to the foregoing, this NDU shall be binding upon the

Disclosing Party and its respective successors and assigns.

**6. NOTICES**

Any communication in connection with this NDU by the Receiving Party to the Disclosing Party must be in writing and be delivered personally, or by registered mail to the address set out below:

<b>Attn</b>	Mr. R. Madhavan, Executive Director (Key Infrastructure Development)
<b>Address</b>	Airports Authority of India C – Block, Third Floor Rajiv Gandhi Bhawan Safdarjung Airport New Delhi – 110003

**7. SEVERABILITY**

If any provision (or part thereof) of this NDU is held to be violation of any applicable law, the same shall be deemed to be deleted from this NDU. The remainder of this NDU shall remain in full force and effect as if such provision (or part thereof) had not originally been contained in this NDU.

**8. MISCELLANEOUS**

8.1 This NDU shall be governed by Indian Laws. The Courts of Delhi shall have exclusive jurisdiction to resolve any disputes with respect to this NDU or the Confidential Information with the Receiving Party irrevocably consenting to the jurisdiction thereof for any actions, suits or proceedings arising out of or relating to this NDU or the Confidential Information. Nothing in this NDU shall prevent the Disclosing Party from seeking injunctive relief (or any other provisional remedy or equitable relief) from any court having jurisdiction over the parties and the subject matter of the dispute to protect any and all of its rights.

8.2 The authorized signatory of the Receiving Party signing this NDU, for and on behalf of the Receiving Party, has been duly authorized by the Receiving Party in this regard through a valid Power of Attorney, issued by the Receiving Party in favour of such authorized signatory.

For and on behalf of *[insert the name of the Receiving Party]*

\_\_\_\_\_  
Authorized Signatory  
Name:  
Designation:



**ANNEXURE A**

**FORMAT OF POWER OF ATTORNEY FOR SIGNING THE NON-DISCLOSURE  
UNDERTAKING**  
*(Refer Clause 1.2.1(a))*

Know all men by these presents, we..... (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorize Mr./Ms. (name), ..... son/daughter/wife of ..... and presently residing at ....., who is presently employed/retained with ..... and holding the position of ....., as our true and lawful attorney (hereinafter referred to as the “**Attorney**”) to sign in our name and on our behalf, the Non-Disclosure Undertaking (“**NDU**”) for receiving confidential information with respect to the bidding process for the operations, management and development of Mangaluru International Airport at Mangaluru, Karnataka of the Airports Authority of India.

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

IN WITNESS WHEREOF WE,....., THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS ..... DAY OF ..... 2.....

For .....  
(Signature, name, designation and address)

Witnesses:

- 1.
- 2.

Accepted

.....  
(Signature)  
(Name, Title and Address of the Attorney)

(Notarised)  
Person identified by me/personally appeared before me/ signed before me/ attested/ Authenticated\*  
(\*Notary to specify as applicable)  
(Signature, Name and Address of the Notary)  
Seal of the Notary  
Registration Number of the Notary  
Date:\_\_\_\_\_

**Notes:**

- The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.

- Wherever required, the executant should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the executant.
- For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by executants from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Apostille certificate.

**APPENDIX-VIII**

**GUIDELINES OF THE DEPARTMENT OF DISINVESTMENT**

*(Refer Clause 2.2.4)*

No. 6/4/2001-DD-II  
Government of India  
Department of Disinvestment

Block 14, CGO Complex  
New Delhi.  
Dated 13th July, 2001.

**OFFICE MEMORANDUM**

**Sub: Guidelines for qualification of Bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment**

Government has examined the issue of framing comprehensive and transparent guidelines defining the criteria for bidders interested in PSE-disinvestment so that the parties selected through competitive bidding could inspire public confidence. Earlier, criteria like net worth, experience etc. used to be prescribed. Based on experience and in consultation with concerned departments, Government has decided to prescribe the following additional criteria for the qualification/ disqualification of the parties seeking to acquire stakes in public sector enterprises through disinvestment:

- (a) In regard to matters other than the security and integrity of the country, any conviction by a Court of Law or indictment/ adverse order by a regulatory Transaction Authority that casts a doubt on the ability of the bidder to manage the public sector unit when it is disinvested, or which relates to a grave offence would constitute disqualification. Grave offence is defined to be of such a nature that it outrages the moral sense of the community. The decision in regard to the nature of the offence would be taken on case to case basis after considering the facts of the case and relevant legal principles, by the Government of India.
- (b) In regard to matters relating to the security and integrity of the country, any charge- sheet by an agency of the Government/ conviction by a Court of Law for an offence committed by the bidding party or by any sister concern of the bidding party would result in disqualification. The decision in regard to the relationship between the sister concerns would be taken, based on the relevant facts and after examining whether the two concerns are substantially controlled by the same person/ persons.
- (c) In both (a) and (b), disqualification shall continue for a period that Government deems appropriate.
- (d) Any entity, which is disqualified from participating in the disinvestment process, would not be allowed to remain associated with it or get associated merely because it has preferred an appeal against the order based on which it has been disqualified. The mere pendency of appeal will have no effect on the disqualification.
- (e) The disqualification criteria would come into effect immediately and would apply to all bidders for various disinvestment transactions, which have not been completed as yet.
- (f) Before disqualifying a concern, a Show Cause Notice why it should not be disqualified would be issued to it and it would be given an opportunity to explain its position.
- (g) Henceforth, these criteria will be prescribed in the advertisements seeking Expression of

Interest (EOI) from the interested parties. The interested parties would be required to provide the information on the above criteria, along with their Expressions of Interest (EOI). The bidders shall be required to provide with their EOI an undertaking to the effect that no investigation by a regulatory Authority is pending against them. In case any investigation is pending against the concern or its sister concern or against its CEO or any of its Directors/Managers/ employees, full details of such investigation including the name of the investigating agency, the charge/ offence for which the investigation has been launched, name and designation of persons against whom the investigation has been launched and other relevant information should be disclosed, to the satisfaction of the Government. For other criteria also, a similar undertaking shall be obtained along with EOI.

sd/-  
(A.K. Tewari)  
Under Secretary to the Government of India

**APPENDIX-IX**

**FORMAT OF LETTER OF AUTHORITY FOR VISITING THE AIRPORT AND  
ACCESSING DATA ROOM**

*(Refer Clause 2.6.3)*

*[On the Letterhead of the Bidder/ Nominated Entity]*

*[Date]*

To,  
The Chairman,  
Airports Authority of India,  
Rajiv Gandhi Bhawan,  
Safdarjung Airport,  
New Delhi-110003

**Subject: Authorization for Site Visit and Access to Data Room**

Sir,

We, *[insert the name of the Bidder/ Nominated Entity]*, hereby authorize the persons set out below to undertake a visit to the Airport and access the data room set up by the Airports Authority of India (“**Authority**”), for and on our behalf, pursuant to the Authority’s Request for Proposals No. [\_\_\_\_\_], for operations, management and development of Mangaluru International Airport (“**RFP**”):

<b>S No.</b>	<b>Name</b>	<b>Designation</b>
<b>1.</b>		
<b>2.</b>		
<b>3.</b>		
<b>4.</b>		
<b>5.</b>		

We confirm that all the requirements under Clause 1.2.1 of the RFP have been satisfied.

For and on behalf of *[insert the name of the Bidder/ Nominated Entity]*

\_\_\_\_\_  
Authorized Signatory

Name:

Designation:

**APPENDIX-X**

**FORMAT OF LETTER OF AUTHORITY FOR PARTICIPATING IN PRE-BID  
CONFERENCE**

*(Refer Clause 5.1)*

*[On the Letterhead of the Bidder]*

*[Date]*

To,  
The Chairman,  
3<sup>rd</sup> Floor, C-Block  
Airports Authority of India  
Rajiv Gandhi Bhawan,  
Safdarjung Airport,  
New Delhi-110003

**Subject: Authorization for Attending the Pre-Bid Conference**

Sir,

We, *[insert the name of the Bidder]*, hereby authorize the persons set out below to participate in the pre-bid conference, for and on our behalf, pursuant to the Airports Authority of India' Request for Proposals No. [\_\_\_\_\_], for operations, management and development of Mangaluru International Airport (“RFP”):

<b>S No.</b>	<b>Name</b>	<b>Designation</b>	<b>Entity</b>
<b>1.</b>			
<b>2.</b>			
<b>3.</b>			

We confirm that all the requirements under Clause 1.2.1 of the RFP have been satisfied.

For and on behalf of *[insert the name of the Bidder]*

\_\_\_\_\_  
**Authorized Signatory**

**Name:**

**Designation:**

**APPENDIX-XI**

**GUIDELINES FOR VISITING THE AIRPORT AND/OR ACCESSING THE DATA ROOM**  
*(Refer Clause 2.6.4)*

**1. Bidder's request to the Authority in connection with visit to the Airport and/or accessing the Data Room**

- (a) The formal written request shall:
- (i) be sent to the Authority through email addressed to the following:

<b>Executive Director (Key Infrastructure Development)</b>	
Attention:	Mr. R. Madhavan
E-mail:	edkid@aai.aero
Phone:	011-24631362

- (ii) specify the date and time requested for visiting the Airport and/or accessing the Data Room (noting the time restrictions set out in this Appendix-XI);
- (iii) specify whether the Bidder/ Nominated Entity intends to visit the Airport and/or the Data Room; and
- (iv) specify the names of the Nominated Personnel of the Bidder/ Nominated Entities in accordance with Clause 2.6.2 of the RFP.
- (b) Only formal written requests in accordance with the provisions of Clause 2.6.4 of the RFP and this Appendix-XI, duly received by the Authority shall be considered for its approval; and
- (c) Visit to the Airport and/ or the Data Room shall only be allowed on all working days of the Authority between 1100 hours to 1700 hours in accordance with the timelines specified in Clause 1.3 of the RFP.

**2. Conditions for visiting the Airport and/or accessing the Data Room**

- (a) Only the Bidders/ Nominated Entities authorized by ED(KID), Airports Authority of India, shall be allowed to visit the Airport and/ or the Data Room;
- (b) The Bidder/ Nominated Entity shall ensure that the Nominated Personnel of such Bidder/ Nominated Entities do not interfere with the operations of the Airport. The Nominated Personnel shall be required to follow any directions that may be imposed by the Authority during such visit;
- (c) The Nominated Personnel shall undertake the visit subject to compliance of any applicable laws and the relevant restrictions, rules, regulations of the Authority;
- (d) The Nominated Personnel shall observe the safety regulations of the Authority at all times during the visit to the Airport and/ or the Data Room;
- (e) The Nominated Personnel shall be accompanied by the officials of the Authority for facilitating the visit to the Airport and/ or the Data Room;
- (f) The Authority does not warrant the accuracy and correctness of any statements made

by any official(s) of the Authority during the visit to the Airport and/ or the Data Room;

- (g) Should the Bidder have any query of reasonable relevance arising out of the visit to the Airport and/or accessing the Data Room, the Bidder may send such query to the Authority in accordance with Clause 1.2.8 of the RFP, within the timelines specified in Clause 1.3 of the RFP;
- (h) The Nominated Personnel may take photographs during the visit to the Airport, only with the prior permission of the Authority's representative(s). Nevertheless, Authority reserves the right to refuse such activities at its sole discretion. Further, recording of any videos is strictly prohibited;
- (i) Smoking is not allowed at the Airport and/ or the Data Room, except at designated smoking areas;
- (j) The Bidder shall take full responsibility of the Nominated Personnel of such Bidder and its Nominated Entities. The aforesaid Nominated Personnel shall be subject to such security measures as the Authority deems fit. If any of the aforesaid Nominated Personnel displays any untoward behavior or refuses to follow the directions of the Authority's official(s), the Authority reserves the right to cause the removal of such Nominated Personnel from the premises; and
- (k) In the event that the Nominated Personnel do not comply with the conditions set forth in this Appendix-XI, the Authority may, in its absolute discretion, revoke its permission to the Bidder for undertaking the visit to the Airport and/ or accessing the Data Room with immediate effect and request all the aforesaid Nominated Personnel to vacate the Airport and/ or the Data Room.



## **APPENDIX-XII**

### **INSTRUCTIONS FOR REGISTRATION ON CPPP AND ONLINE SUBMISSION OF BID** *(Refer Clause 1.2.3)*

Bidders are required to submit soft copies of their Bids electronically on the CPPP, using valid digital signature certificates. The instructions given below are meant to assist the Bidders in registering on the CPPP, prepare their Bids in accordance with the requirements and submitting their Bids online on the CPPP.

More information useful for submitting Bids on the CPPP may be obtained at <https://etenders.gov.in/eprocure/app>.

#### **1. REGISTRATION**

- (a) Bidders are required to enroll on the e-Procurement module of the CPPP by clicking on the link “**Online Bidder Enrollment**” on the CPPP which is free of charge.
- (b) As part of the enrolment process, the Bidders will be required to choose a unique username and assign a password for their accounts.
- (c) Bidders are advised to register their valid email address and mobile numbers as part of the registration process. These would be used for any communication from the CPPP.
- (d) Upon enrolment, the Bidders will be required to register their valid digital signature certificate (Class II or Class III Certificates with signing key usage) (“**DSC**”) issued by any Certifying Authority recognized by CCA India (e.g. Sify / nCode / eMudhra, etc.), with their profile.
- (e) Only 1 (one) valid DSC should be registered by a Bidder. Please note that the Bidders are responsible to ensure that they do not lend their DSCs to others which may lead to misuse.
- (f) Bidders can log in to the site through the secured log-in by entering their user ID/ password and the password of the DSC.

#### **2. SEARCHING FOR TENDER DOCUMENTS**

- (a) There are various search options built in the CPPP, to facilitate Bidders to search active tenders by several parameters. These parameters could include tender ID, organization name, location, date, value, etc. There is also an option of advanced search for tenders, wherein the Bidders may combine a number of search parameters such as organization name, form of contract, location, date, other keywords etc. to search for a tender published on the CPPP.
- (b) Once the Bidders have selected the tenders they are interested in, they may download the required documents/ tender schedules. These tenders can be moved to the respective ‘My Tenders’ folder. This would enable the CPPP to intimate the Bidders through SMS/ e-mail in case there is any addendum/corrigendum issued to the tender document.
- (c) The Bidder should make a note of the unique Tender ID assigned to each tender, in case they want to obtain any technical clarification/ help from the helpdesk of the CPPP in connection with access to/usage of the CPPP.

#### **3. PREPARATION OF BIDS**

- (a) Bidder should take into account any addendum/ corrigendum published on the tender document before submitting their bids.
- (b) Please go through the tender advertisement and the tender document carefully to understand the documents required to be submitted as part of the bid. Please note the number of covers in which the bid documents have to be submitted, the number of documents – including the names and content of each of the document that need to be submitted. Any deviations from these may lead to rejection of the Bid.
- (c) Bidder, in advance, should get ready the bid documents to be submitted as indicated in the tender document/ schedule and generally, they should be in PDF format. Bid documents may be scanned with 100 dpi with black and white option which helps in reducing size of the scanned document.
- (d) To avoid the time and effort required in uploading the same set of standard documents which are required to be submitted as a part of every bid, a provision of uploading such standard documents (e.g. PAN card copy, annual reports, auditor certificates etc.) has been provided to the bidders. Bidders can use “My Space” or “Other Important Documents” area available to them to upload such documents. These documents may be directly submitted from the “My Space” area while submitting a bid, and need not be uploaded again and again. This will lead to a reduction in the time required for bid submission process.

#### **4. SUBMISSION OF BIDS**

- (a) Bidder should log into the site well in advance for bid submission so that they can upload the bid in time, i.e., on or before the bid submission time. Bidders will be responsible for any delay due to other issues.
- (b) The Bidder has to digitally sign and upload the required bid documents one by one as indicated in the tender document.
- (c) Bidders are requested to note that they should necessarily submit their Financial Bids in the format provided and no other format is acceptable. If the Financial Bid has been given as a standard BoQ format with the tender document, then the same is to be downloaded and to be filled by all the bidders. Bidders are required to download the BoQ file, open it and complete the white coloured (unprotected) cells with their respective financial quotes and other details (such as name of the Bidder). No other cells should be changed. Once the details have been completed, the Bidder should save it and submit it online, without changing the filename. If the BoQ file is found to be modified by the Bidder, the bid will be rejected.
- (d) The server time (which is displayed on the Bidders’ dashboard) will be considered as the standard time for referencing the deadlines for submission of the Bids by the Bidders, opening of bids etc. The Bidders should follow this time during Bid submission.
- (e) All the documents being submitted by the Bidders would be encrypted using PKI encryption techniques to ensure the secrecy of the data. The data entered cannot be viewed by unauthorized persons until the time of bid opening. The confidentiality of the bids is maintained using the secured Socket Layer 128 bit encryption technology. Data storage encryption of sensitive fields is done. Any bid document that is uploaded to the server is subjected to symmetric encryption using a system generated symmetric key. Further this key is subjected to asymmetric encryption using buyers/bid openers

public keys. Overall, the uploaded tender documents become readable only after the tender opening by the authorized bid openers.

- (f) The uploaded tender documents become readable only after the tender opening by the authorized bid openers.
- (g) Upon the successful and timely submission of bids (i.e. after Clicking “Freeze Bid Submission” in the portal), the portal will give a successful bid submission message, and a bid summary will be displayed with the bid no. and the date and time of submission of the Bid with all other relevant details.
- (h) The bid summary has to be printed and kept as an acknowledgement of the submission of the bid. This acknowledgement may be used as an entry pass for any bid opening meetings.

**5. ASSISTANCE TO BIDDERS**

- (a) Any queries relating to the tender document and the terms and conditions contained therein should be addressed to the Authority.
- (b) Any queries relating to the process of online bid submission or queries relating to CPPP in general may be directed to the 24x7 CPPP helpdesk.