



# DEVELOPMENT OF GREENFIELD AIRPORT AT SHIVAMOGGA

**REQUEST FOR PROPOSAL**

**May 2016**



Infrastructure Development Department  
Government of Karnataka

VOLUME I

**VOLUME ONE**  
**INSTRUCTION TO BIDDERS**



## GLOSSARY

<b>Authority</b>	As defined in Clause
<b>Associate or Group Business Entity</b>	As defined in Clause
<b>Bid(s)</b>	As defined in the Disclaimer
<b>Bidders</b>	As defined in Clause 1.2.2
<b>Bidding Documents</b>	As defined in Clause 1.1.7
<b>Bid Due Date</b>	As defined in Clause 1.2.2
<b>Bidding Process</b>	As defined in Clause 1.2.1
<b>Bid Security</b>	As defined in Clause 1.2.4
<b>Business Entity</b>	As defined in Clause
<b>Bid Validity Period</b>	As defined in Clause
<b>Consortium</b>	As defined in Clause
<b>Conflict of Interest</b>	As defined in Clause 2.1.14
<b>DBFOT</b>	As defined in Clause 1.1.1
<b>Estimated Project Cost</b>	As defined in Clause
<b>E-Procurement Website</b>	As defined in Clause
<b>Eligible Experience</b>	As defined in Clause
<b>Eligible Project</b>	As defined in Clause
<b>Experience Score</b>	As defined in Clause
<b>Government</b>	Government of Karnataka
<b>LOA</b>	As defined in Clause 3.3.9
<b>Land Premium</b>	As defined in Clause
<b>Member</b>	Member of a Consortium
<b>PPP</b>	Public Private Partnership
<b>Project</b>	As defined in Clause 1.1.1
<b>Project Information Memorandum</b>	As defined in Disclaimer
<b>Project Development Agreement</b>	As defined in Clause 1.1.2.3
<b>Re. or Rs. or INR</b>	Indian Rupee
<b>RFP or Request for Proposals</b>	As defined in the Disclaimer



<b>Rights</b>	As defined in Clause 1.1.5
<b>Selected Bidder</b>	As defined in Clause 1.1.2.3
<b>Successful Bidder</b>	As defined in Clause
<b>Technical Capacity</b>	As defined in Clause
<b>Threshold Technical Capacity</b>	As defined in Clause

The words and expressions beginning with capital letters and defined in this document shall, unless the context otherwise requires, have the meaning ascribed thereto herein shall, unless the context otherwise requires, have the meaning ascribed thereto therein.



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## DISCLAIMER

The information contained in this Request for Proposal document (the “RFP”) or subsequently provided to Bidder(s), whether verbally or in documentary or any other form by or on behalf of the Authority or any of their employees or advisors, is provided to 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 invitation by the Authority to the prospective Bidders or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in preparing 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, especially the Project Information Memorandum (“PIM”), 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 depends upon interpretation of law. The information given is not an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. 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 or 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 in this Bid Stage.

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, for the Project and the Authority reserves the right to reject all or any of the Bidders or Bids without assigning any reason 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.





## 1. INTRODUCTION

### 1.1. Background

1.1.1. Development of airports at strategic locations in the State is vital to bridge gap between the potential growth centers and urban centers and to boost the economy and overall development of the State. Keeping this in mind Government of Karnataka (GoK) in addition to development of international airport in Bangalore, has also enhanced capacities and infrastructure in airports at Mysore, Mangalore, Hubli etc. for the improvement of air-connectivity within the State and to give a fillip to the economic development. In order to promote regional development and to improve linkages within the State, GoK through Infrastructure Development Department, Government of Karnataka (hereinafter referred to as the “**Authority**”) has initiated development of airports at various districts within the State like Gulbarga, Bellary and Shimoga. However, since M/s Shimoga Airport Developers Private Limited, a developer of Shimoga airport failed to complete the project within the stipulated period, the Authority terminated agreement executed with them for development of Shimoga airport. Subsequent to this the Government through its G.O dated 13th August 2015 has given approval for development of Shimoga airport under Public Private Partnership Framework.

In the given background, the Authority has decided to undertake the development of Shimoga airport through private participation on Design, Build, Finance, Operate and Transfer (“**DBFOT**”) basis [hereinafter referred to as “**Project**”]. The Authority has decided to carry out the bidding process for selection of the Bidder(s) to whom the Project may be awarded. A brief description of the project may be seen in the Information Memorandum of the Project provided as Volume 3 part of this RFP Document.

### 1.1.2. Eligibility

#### 1.1.2.1. Terms of Eligibility

- a) The Bidders for pre-qualification may be a single Business Entity or a group of Business Entities (the “**Consortium**”), coming together to implement the Project. 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 Business Entity and a Consortium. For the purpose of this RFP, a “**Business Entity**” shall mean any of the following;
  - i. A company which is registered in India under the provisions of the Companies Act, 1956/2013 or under the equivalent law in case of a foreign Company. Copy of such Registration Certificate should be submitted along with the Bid.
  - ii. A body corporate formed by means of a specific government statute. A copy of such



statute should be submitted along with the Bid.

- iii. A Public Financial Institution<sup>1</sup>/ Bank<sup>2</sup>. A copy of the relevant notification/ licence should be submitted along with the Bid.
- b) A Bidder shall not have a conflict of interest (the “**Conflict of Interest**”) as set out in Clause 2.1.14.
- c) For the Bidder who applies as a Consortium, special conditions set out under Clause 1.1.2.2 provided below shall be applicable.
- 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 Bidders in any manner for matters related to or incidental to the Project.

#### **1.1.2.2. Special conditions of Consortium**

Where the Bidder is a Consortium, it should comply with the following additional requirements:

- a) Number of members in a consortium should be limited to 3 (three).
- b) Subject to the provisions of clause (a) above, the Bid should contain the information required for each member of the Consortium;
- c) Members of the Consortium shall nominate one member as the lead member (the “**Lead Member**”), who shall have an equity share as set out in Clause 2.2. The nomination(s) shall be supported by a Power of Attorney, as per the format at **Appendix-III**, signed by all the other members of the Consortium;
- d) The Bid should include a brief description of the roles and responsibilities of individual members, particularly with reference to financial, technical and O&M obligations;
- e) An individual Bidder cannot at the same time be member of Consortium bidding for the Project. Further, a member of a particular Bidders’ Consortium cannot be member of any other Bidders Consortium applying for bidding;
- f) If Project is awarded to the Consortium, the parties to such Consortium shall form an

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<sup>1</sup> A Public Financial Institution shall be specified under Section 4A of the Companies Act 1956 or under the equivalent law in the case of a foreign financial institution.

<sup>2</sup> Banks shall hold valid license from the Reserve Bank of India. In case of a foreign Bank, the Bank shall hold valid license from its country’s Central Bank.



appropriate Special Purpose Vehicle (the “SPV”), incorporated under the Indian Companies Act, 2013, to implement the Project in accordance with the Project Development Agreement; and

- g) Members of the Consortium shall enter into a Joint Bidding Agreement substantially in the format specified at Appendix VIII (the “**Joint Bidding Agreement**”) for the purpose of making and submitting Bid. The Joint Bidding Agreement shall, inter-alia:
- i. convey the intent to form an SPV with shareholding/ ownership equity commitment(s) in accordance with this RFP, which would enter into the Project Development Agreement and subsequently carry out all the responsibilities in terms of the Project Development Agreement in case the Right to undertake the Project is awarded to the Consortium;
  - ii. clearly outline the proposed roles and responsibilities, if any, of each member;
  - iii. commit the minimum equity stake to be held by each member in accordance with Clause 2.2.1; and
  - iv. Include a statement to the effect that all members of the Consortium shall, till such time they incorporate an SPV and provide the specified performance security or bond, be liable jointly and severally for execution of the Project in accordance with the terms of the Project Development Agreement.
- h) except as provided under this RFP and the Bidding Documents, there shall not be any amendment to the Joint Bidding Agreement without the prior written consent of the Authority.

(Note: A copy of the Joint Bidding Agreement should be submitted along with the Bid as per format provided in Appendix VIII. The Joint Bidding Agreement entered into between the members of the Consortium should be specific to Project and should fulfill the above requirements, failing which the Bid shall be considered non-responsive).

### **1.1.2.3. Party Entering into Project Development Agreement**

If the Successful Bidder is a single Business Entity, then it shall form an appropriate Special Purpose Vehicle (the “SPV”), incorporated under the Indian Companies Act, 2013 in accordance with the conditions set out in Clause 2.2.

If the Successful Bidder is a Consortium, the Consortium shall incorporate a SPV in accordance with the conditions set out under Clause 1.1.2.2 and Clause 2.2.



The Selected Bidder, which is a company incorporated prior to execution of the Project Development Agreement under Companies Act, 2013 (the “**Selected Bidder**”), shall be responsible for design, engineering, financing, procurement, construction, operation and maintenance of the Project under and in accordance with the provisions of the Project Development Agreement (the “**Project Development Agreement**”) to be entered into between the Selected Bidder and the Authority in the form provided by the Authority as part of the Bidding Documents pursuant hereto.

- 1.1.3. The scope of work will broadly include development of the airport and city side infrastructure, operate and maintain the facilities of the airport under appropriate long term Public Private Partnership (PPP) framework.
- 1.1.4. The estimated cost of the Project (the “**Estimated Project Cost**”) is **Rs. 135 crores (Rupees One hundred and thirty five crores only)**. The assessment of actual costs, however, will have to be made by the Bidders.
- 1.1.5. The Project Development Agreement sets forth the detailed terms and conditions for the grant of rights for undertaking the Project including the scope of the Selected Bidder’s services and obligations (the “**Rights**”) is enclosed as Volume 2 of this document.
- 1.1.6. The statements and explanations contained in this RFP are intended to provide a proper 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 Selected Bidder set forth in the Project Development Agreement or the Authority’s rights to amend, alter, change, supplement or clarify the scope of work, the Rights 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.
- 1.1.7. 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 (collectively the “**Bidding Documents**”), as modified, altered, amended and clarified from time to time by the Authority, and all Bids shall be prepared and submitted in accordance with such terms.

## 1.2. Brief Description of Bidding Process

- 1.2.1. The Authority invites eligible Bidders to submit their Bids electronically through the unified E-procurement platform of <http://www.eproc.karnataka.gov.in> (hereinafter referred to as “**E-Procurement Website**”) in accordance with the terms of this RFP. The Authority has adopted a single stage process (referred to as the “**Bidding Process**”) for selection of the Bidder for award of the Project.



A one-time registration in the E-Procurement Website is a pre-requisite for submission of Bids. If an interested Bidder is not already registered, it shall procure a digital signature certificate and get registered in E-Procurement Website. The Authority will not be held responsible for technical glitches in the desktop and internet connectivity services used by Bidders or in case of failure on part of the Bidder to submit the Bid Security or any documents as required to be submitted through E-Procurement Website or for rejection of Bids by E-Procurement for whatsoever reasons. No correspondence shall be entertained by the Authority in this regard.

### **Contact information**

For further clarifications, Please call Centralized e-Procurement Helpdesk on  
080 – 25501216/25501227  
(Timings: 9:00 am to 9:00 pm from Monday to Saturday including government holidays) to take  
support on Kannada and English

Or

Mail to Helpdesk: hphelpdesk.blr@intarvo.com or hphelpdesk.blr@gmail.com

### **Training details**

<b>Training Date</b>	<b>Training Venue</b>	<b>Batches</b>	<b>Training duration</b>
On all Govt of Karnataka working Wednesday's & Saturday's	Training room no.1, Gate no.2, M S Building, Bangalore-01	1	10:30 am to 1:30 pm
		2	2:30 pm to 5:30 pm

Note: Enquiries regarding new payment options can be made on any working day at e-Procurement cell. (Room no. 141, Gate no.2, M S Building, Bangalore – 01).

- 1.2.2.** In this Stage, the Bidders, including their successors, (the "**Bidders**") are requested to submit their Bids in accordance with the Bidding documents. The Bid shall be valid for a period of not less than 180 (One Hundred and Eighty) days from the date specified in Clause 1.3 for submission of bids (the "**Bid Due Date**").
- 1.2.3.** The Bidding Documents include the draft Project Development Agreement and Project Information Memorandum prepared by the consultants of the Authority for the Project. Subject to the provisions of Clause 2.1.3, the aforesaid documents and any addenda issued subsequent to this RFP Document, will be deemed to form part of the Bidding Documents.

A Bidder is required to deposit, along with its Bid, a bid security of Rs. **1,35,00,000 ( One Crore thirty five lakhs)** (the "**Bid Security**") refundable not later than 60 (sixty) days from the date of selection of the Successful Bidder, except in the case of the Successful Bidder whose Bid Security shall be retained till it has provided a Performance Security under the Project



Development Agreement. The Bidder shall furnish the Bid Security through E-Procurement Website, through any one of the following e-Payment options only.

**Online payments:**

1. Credit Card
2. Direct Debit
3. Internet Banking

**Offline payments:**

4. Remittance at the Bank Counter using challan (ICICI Bank only)
5. NEFT/RTGS

The e-payment made under any of the above options shall remain valid for a period of 180 (One hundred and eighty) days from the Bid Due Date, or beyond any period of extension subsequently as determined by the Authority from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security.

Please note that payment submitted through cheque or demand draft shall not be accepted. For further details regarding e-payment, please refer to E-Procurement Website.

**Note:** The Authority shall not be held responsible in case of failure on part of the Bidder to furnish part of the Bid Security through E-Procurement Website or for rejection of Bids by E-Procurement for whatsoever reasons. No correspondence shall be entertained by the Authority in this regard.

**1.2.3.1.** Bidders would need to submit the following documents as part of their Bid submission:

- a. Documents mentioned in Clause 2.10.2 - “**Key Submissions and Qualification Submission**”.
- b. Financial Offer as mentioned in Clause 2.10.2 “**Financial Bid**”.

**1.2.3.2.** The evaluation of the Bid submissions would be carried out in three stages.

- a. The first stage would involve a test of responsiveness based on the Key Submissions. Those Bids found to be substantially responsive would be evaluated in the next stage i.e. the Qualification Stage.
- b. In the Qualification Stage, the information of the Bidders relating to their bidding capacity would be evaluated as per Clause 3.2 B of the RFP. Only the Qualified Bidders would be considered for the evaluation in the next stage.
- c. The Financial Bid of only Qualified Bidders would be opened to identify the Preferred Bidder. The Qualified Bidder offering highest Land Premium shall be declared as the Successful Bidder.



- 1.2.4.** Generally, the highest Bidder shall be the Successful Bidder. The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in the RFP, be invited to match the Bid submitted by the highest Bidder in case such highest Bidder withdraws or is not selected for any reason. In the event that none of the other Bidders match the Bid of the highest Bidder, the Authority may, in its discretion, invite fresh Bids from the remaining Bidders or annul the Bidding Process, as the case may be.
- 1.2.5.** The 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 of the Rights including implementation of the Project.
- 1.2.6.** Bids are invited for the Project on the basis of the land premium per acre per year offered by the Bidder with regard to the total extent of the land transferred for the Project (“**Land Premium**”). Subject to Clause 2.15, the Project will be awarded to the Bidder quoting the highest Land Premium.
- 1.2.7.** The Selected Bidder will be entitled to collect revenue from the non-aviation activities undertaken in accordance with the provisions of the Project Development Agreement.
- 1.2.8.** Any queries or request for additional information concerning this RFP shall be submitted in writing or by fax and e-mail to the address mentioned below. The envelopes/ communication shall clearly bear the following identification/ title:

**"Queries/Request for Additional Information: RFP for Development of Greenfield Airport at Shivamogga"**

**Chief Executive Officer**

**Infrastructure Development Corporation (Karnataka) Ltd.**

2nd Floor, KCN Bhavan,

9/7 Yamunabai Road,

Madhavnagar Extension, Off Race Course Road,

Bangalore- 560001

Phone: 08043448000

Fax: 08043448001

**1.3. Schedule of Bidding Process**

The Authority shall endeavor to adhere to the following schedule:

Last date for receiving queries	8th June, 2016
Pre-Proposal meeting date, time and venue	9th June, 2016 at 11:30 AM



	Infrastructure Development Corporation (Karnataka) Ltd. 2nd Floor, KCN Bhavan, 9/7 Yamunabai Road, Madhavnagar Extension, Off Race Course Road, Bangalore- 560001 Phone: 08043448000
The Authority response to queries by	21st June, 2016
Last date for submission of Bids (the “ <b>Bid Due Date</b> ”)	20th July, 2016 at 11.00 AM
Date, time and venue for opening of Key Submission on E-Procurement Website	22nd July, 2016 at 4.00 PM
Date and time of opening of Financial Bids on E-procurement Website	Will be intimated to the Qualified Bidders
Bid Validity Period	180 days from the Bid Due Date
Letter of Award (LOA)	Within 30 days from the date of declaration of the Successful Bidder
Signing of Agreement	Within 45 days from the date of acknowledgment of the LOA by the Successful Bidder





## 2. INSTRUCTION TO BIDDERS

### A. GENERAL

#### 2.1. General terms of Bidding

- 2.1.1.** A Bidder is eligible to submit only one Bid for the Project. A Bidder bidding 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.
- 2.1.2.** Unless the context otherwise requires, the terms not defined in this RFP, but defined in the Project Development Agreement for the Project shall have the meaning assigned thereto in the Project Development Agreement.
- 2.1.3.** The Project Information Memorandum for the Project is being provided only as a preliminary reference document by way of assistance to the Bidders who are expected to carry out their own surveys, investigations and other detailed examination before submitting their Bids. Nothing contained in the Project Information Memorandum shall be binding on the Authority nor confer any right on the Bidders, and the Authority shall have no liability whatsoever in relation to or arising out of any or all contents of the Project Information Memorandum.
- 2.1.4.** Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the draft Project Development 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 Project Development Agreement.
- 2.1.5.** The Financial Bid should be submitted electronically in the format specified at **Appendix VII**, clearly indicating the bid amount in both figures and words, in Indian Rupees, and signed by the Bidder's authorized signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.
- 2.1.6.** The Financial Bid shall consist of the Land Premium to be quoted by the Bidder. Land Premium shall be payable by the Bidder to the Authority as per the terms and conditions of this RFP and the provisions of the Project Development Agreement.
- 2.1.7.** The Bidder shall furnish a Bid Security of Rs. 1,35,00,000 ( One Crore thirty five lakhs) for the Project in accordance with the provisions of this RFP.
- 2.1.8.** 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.
- 2.1.9.** In case the Bidder is a Consortium, the Members thereof should furnish a Power of Attorney in favor of the Lead Member in the format at Appendix – III.



- 2.1.10.** Any condition or qualification or any other stipulation contained in the Financial Bid submission shall render the Bid submission liable to rejection as a non-responsive Bid submission.
- 2.1.11.** The Bid and all communications in relation to or concerning the Bidding Documents and the Bid submission shall be in English language.
- 2.1.12.** The Bidding Documents including this RFP and all attached documents shall remain 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 Authority will not return any Bid or any information provided along therewith.
- 2.1.13.** 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. In the event of disqualification, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Authority and not by way of penalty for, inter alia, the time, cost and effort of the Authority, including consideration of such Bidder’s proposal (the “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. Without limiting the generality of the above, a Bidder shall be deemed to have a Conflict of Interest that affects the Bidding Process, if:
- (i) the Bidder, its Member or Associate (or any constituent thereof) and any other Bidder, its Member or Associate (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 an Bidder, its Member or an Associate thereof (or any shareholder thereof having a shareholding of more than 25 (twenty five) percent of the paid up and subscribed share capital of such Bidder, Member or Associate, as the case may be) in the other Bidder, its Member or Associate is less than 25 (twenty five) percent of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by 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 2.1.14 indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) 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 (bb) subject always to sub-clause (aa) 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 (bb) if the



- shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity share holding on such intermediary; or
- (ii) a constituent of such Bidder is also a constituent of another Bidder; or
  - (iii) such Bidder receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, or any Associate thereof or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member or any Associate thereof; or
  - (iv) such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or
  - (v) such Bidder, or any Associate thereof has a relationship with another Bidder, or any Associate thereof, directly or through common third party/ parties, that puts either or both of them in a position to have access to each others' information about, or to influence the Bid of either or each other; or
  - (vi) such Bidder, or any Associate 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 2.1.13, shall include each Member of such Consortium.

**2.1.14.** A Bidder shall be liable for disqualification and forfeiture of Bid Security if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Bidder in any manner for matters related to or incidental to such Project during the Bidding Process or subsequent to the (i) issue of the LOA or (ii) execution of the Project Development Agreement. In the event any such adviser is engaged by the Successful Bidder or Selected Bidder, as the case may be, after issue of the LOA or execution of the Project Development Agreement, then notwithstanding anything to the contrary contained herein or in the LOA or the Project Development Agreement and without prejudice to any other right or remedy of the Authority, including the forfeiture and appropriation of the Bid Security or Performance Security, as the case may be, which the Authority may have there under or otherwise, the LOA or the Project Development Agreement, as the case may be, shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Selected Bidder for the same.

**2.1.15.** This RFP is not transferable.

**2.1.16.** Any grant of Rights pursuant to this RFP shall be subject to the terms of Bidding Documents.

**2.1.17.** Other Bid conditions shall include:



- a) The agreement period would initially be for a period of 30 years (“**Agreement Period**”). The Agreement may be extended by Selected Bidder for a period of another 30 years.
- b) The Selected Bidder would need to make its own arrangements for water supply during the construction and operations phase.
- c) The Government would provide power connection to the airport till the battery limits (Boundary). Usage charges and distribution arrangements, as well as back-up, to be made by the Selected Bidder.

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

## **2.2. Change in Ownership**

**2.2.1.** By submitting the Bid, the Bidder shall be deemed to have acknowledged that the Bidder has the Technical Capacity and Financial Capacity to undertake the Project.

The Bidder acknowledges and agrees that in case of the Consortium, the Consortium Members put together shall hold not less than 51% of the paid up equity capital in the SPV during the period commencing from the date of signing the Project Development Agreement till completion of three (3) years from the Airport Opening Date and not less than 26% thereafter until completion of 7 (seven) years from the Airport Opening Date. The Lead Member shall individually hold not less than 26% (twenty six percent) of the paid up capital during the period commencing from the date of signing the Project Development Agreement till completion of three (3) years from the Airport Opening Date and not less than 11% (eleven percent) thereafter until completion of 7 (seven) years from the Airport Opening Date. Other Member shall individually subscribe and hold at least 11% (eleven percent) of the paid up capital of the SPV during the period commencing from the date of signing the Project Development Agreement till completion of 3 (three) years from the Airport Opening Date.

The Bidder acknowledges and agrees that in case of single Business Entity it shall hold at least 51% of the paid up capital of the SPV during the period commencing from the date of signing the Project Development Agreement till completion of three (3) years from the Airport Opening Date and not less than 26% until completion of 7 (seven) years from the Airport Opening Date.

**2.2.2.** 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 Associate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of



qualification under and in accordance with the RFP, the Bidder shall 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 Successful Bidder, as the case may be. In the event such change in control occurs after signing of the Project Development Agreement but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Project Development Agreement, be deemed to be a breach thereof, and the Project Development Agreement shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Selected Bidder. In such an event, notwithstanding anything to the contrary contained in the Project Development Agreement, the Authority shall forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, inter alia, time, cost and effort of the Authority, without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise.

### **2.3. Cost of Bidding**

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.

### **2.4. Site visit and verification of information**

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

**2.4.2.** 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) Acknowledged and 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 2.4.1 above;
- (d) Satisfied itself about all matters, things and information including matters referred to in Clause 2.4.1 hereinabove necessary and required for submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations there under;



- (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 2.4.1 hereinabove 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 Project Development Agreement; and
- (f) Agreed to be bound by the undertakings provided by it under and in terms hereof.

**2.4.3.** The Authority shall not be liable for any omission, mistake or error on the part of the Bidder in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFP, the Bidding Documents or the Bidding Process, including any error or mistake therein or in any information or data given by the Authority.

**2.5. Right to accept and to reject any or all Bids**

**2.5.1.** 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 there for.

**2.5.2.** 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 shall be disqualified / rejected. If such disqualification / rejection occur after the Bids have been opened and the highest Bidder gets disqualified / rejected, then the Authority reserves the right to take any such measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Bidding Process.

**2.5.3.** In case it is found during the evaluation or at any time before signing of the Project Development Agreement or after its execution and during the period of subsistence thereof including the Rights thereby granted by the Authority, that one or more of the qualification conditions have not been met by the Bidder or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as



the Selected Bidder either by issue of the LOA or entering into of the Project Development Agreement, and if the Bidder has already been issued the LOA or has entered into the Project Development Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority to the Bidder, without the Authority being liable in any manner whatsoever to the Bidder or Selected Bidder, as the case may be. In such an event, without prejudice to any other right or remedy that may be available to the Authority including the right to blacklist or ban such Bidder, the Authority shall forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, interalia, time, cost and effort of the Authority.

- 2.5.4.** 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. Failure of the Authority to undertake such verification shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Authority there under.

## **B. DOCUMENTS**

### **2.6. Contents of the RFP**

- 2.6.1.** This RFP comprises the Disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.8.

#### **Invitation for Bids**

- Section 1. Introduction
- Section 2. Instructions to Bidders
- Section 3. Evaluation of Bids
- Section 4. Fraud and Corrupt Practices
- Section 5. Pre-Bid Conference
- Section 6. Miscellaneous

#### **Appendices**

##### **Key Submissions**

- Letter of Bid
- Power of Attorney for signing of Bid
- Power of Attorney for Lead Member of Consortium
- Technical Submissions
- Joint Bidding Agreement



**Qualification**

- Technical capacity
- Financial capacity

**Financial bid**

- Financial Bid

**2.6.2.** The draft Project Development Agreement (Volume 2) and Project Information Memorandum (Volume 3) to be provided by the Authority as part of the Bid Documents shall be deemed to be part of this RFP.

**2.7. Clarifications**

**2.7.1.** Bidders requiring any clarification on the RFP may notify the Authority in writing or by fax and e-mail in accordance with Clause 1.2.9. They should send in their queries before the date mentioned in the Schedule of Bidding Process specified in Clause 1.3. The Authority shall endeavor 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 published on E-Procurement Website as well as on IDD's Website [www.idd.karnataka.gov.in](http://www.idd.karnataka.gov.in) without identifying the source of queries.

**2.7.2.** The Authority shall endeavor 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 shall be taken or read as compelling or requiring the Authority to respond to any question or to provide any clarification.

**2.7.3.** The Authority may also on its own motion, if deemed necessary, issue interpretations and clarifications through E-Procurement Website and IDD's Website [www.idd.karnataka.gov.in](http://www.idd.karnataka.gov.in). All clarifications and interpretations issued by the Authority shall be deemed to be part of the Bidding Documents. Verbal clarifications and information given by the Authority or its employees or representatives shall not in any way or manner be binding on the Authority.

**2.8. Amendment of RFP**

**2.8.1.** At any time prior to the deadline for submission of Bids, 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 Addenda.

**2.8.2.** Any Addendum thus issued will be published in E-Procurement Website as well on the Authority's website viz. [www.idd.karnataka.gov.in](http://www.idd.karnataka.gov.in) without identifying the source of queries. The published details on the said sources will be binding on the participating Bidders.





- 2.8.3.** In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Authority may, at its own discretion, extend the Bid Due Date. Information about extension of the deadline will be published in E-Procurement Website as well on the website of the Authority [www.idd.karnataka.gov.in](http://www.idd.karnataka.gov.in).

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

### **2.9. Format and Signing of Bid**

- 2.9.1.** The Bidder shall provide all the information sought under this RFP in electronic mode. 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.
- 2.9.2.** All the documents of the Bid sought under this RFP shall be typed or written in indelible ink and signed by the authorised signatory of the Bidder who shall also initial each page in blue ink. 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 Bid shall be initialed by the person(s) signing the Bid. The Bid shall contain page numbers.
- 2.9.3.** All documents of the Bids submitted in electronic mode under this RFP shall be uploaded on E-Procurement Website: [www.eproc.karnataka.gov.in](http://www.eproc.karnataka.gov.in) using digital signature.

### **2.10. Submission of Bids**

- 2.10.1.** The Bidder shall submit the Bid in the manner specified in Clause 2.10.2.
- 2.10.2.** The Bidder shall submit the Bids comprising the following documents viz. “Key Submissions”, “Qualification Submissions” and “Financial Bid” as indicated below in the electronic mode using their digital signatures in the correct slots in the E-Procurement Website.

#### **“Key Submissions”**

- a) Scanned copy of Letter of Bid and Details of Bidder (Appendix I) along with Annexes and supporting documents.
- b) Scanned copy of the Power of Attorney for signing of Bid in the prescribed format (Appendix – II);
- c) If applicable, the scanned copy of the Power of Attorney for Lead Member of Consortium in the prescribed format (Appendix – III);
- d) Scanned copy of the Project Development Agreement with each page initialed by the



person signing the Bid in pursuance of the Power of Attorney referred to in Clause (c) hereinabove.

- e) Scanned copy of the Technical Submissions addressing the concept plan, scope, methodology of project implementation etc. as specified in Appendix VI of this RFP Document.
- f) Scanned copy of Joint Bidding Agreement, in case of a Consortium, substantially in the format at Appendix VIII.
- g) Scanned copy of Memorandum and Articles of Association, in case where the Bidder is a company.

**“Qualification Submission”**

- a) Scanned copy of Technical capacity as per the format given in Appendix – IV
- b) Scanned copy of Financial capacity as per the format given in Appendix – V

**“Financial Bid”**

Scanned copy of the Financial Bid, consisting of the Bidders financial offer for the project in prescribed format as per Appendix VII of this document. The Financial Bid is required to be submitted in the prescribed format on the letter head of the Bidder and signed by the authorised signatory.

**2.10.3.** Bids submitted by fax, telex, telegram or e-mail shall not be entertained and shall be rejected.

**2.11. Bid Due Date**

**2.11.1.** Bids should be submitted on or before the Bid Due Date as mentioned in the Schedule of Bidding Process in the manner and form as detailed in this RFP.

**2.11.2.** IDD may, in its sole discretion, extend the Bid Due Date by issuing an Addendum in accordance with Clause 2.8 uniformly for all Bidders.

**2.11.3.** IDD reserves the right to seek original documents for verification of any of the documents or any other additional documents upon opening of the Bids.

**2.12. Late Bids**

E-Procurement Website will not accept any Bids submitted after the Bid Due Date.

**2.13. Financial Bid**



**2.13.1.** The Financial Bid submission shall be made only electronically on the E-Procurement Website and furnished in the format at **Appendix – VII**.

**2.13.2.** The Project will be awarded to the Bidder quoting the highest Land Premium.

**2.13.3.** The opening of Bids and acceptance thereof shall be substantially in accordance with this RFP.

**2.13.4.** The draft Project Development Agreement shall be deemed to be part of the Bid.

**2.14. Modifications/ Substitution/ Withdrawal of Bids**

**2.14.1.** The Bidder may modify, substitute or withdraw its Bid electronically on E-Procurement platform prior to Bid Due Date.

**2.14.2.** Any alteration/ modification in the Bid or additional information supplied subsequent to the Bid Due Date, unless the same has been expressly sought for by the Authority, shall be disregarded.

**2.14.3.** No Bid may be withdrawn during the period after Bid Due Date and during Bid Validity Period. Withdrawal of a Bid during this period may result in the forfeiture of its Bid security, pursuant to Clause 2.19.6.

**2.15. Rejection of Bids**

**2.15.1.** The Authority reserves the right to accept or reject all or any of the Bids without assigning any reason whatsoever. It is not obligatory for the Authority to accept any Bid or to give any reasons for their decision.

**2.15.2.** 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.

**2.16. Validity of Bids**

The Bids shall remain valid for a period not less than 180 (One Hundred and Eighty) days from the Bid Due Date (the “**Bid Validity Period**”). The Authority reserves the right to reject any Bid, which does not meet this requirement. 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.

**2.18. Correspondence with the Bidder**

The Authority shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.

**D. BID SECURITY**

**2.19. Bid Security**

**2.19.1.** The Bidder shall furnish as part of its Bid, a Bid Security for an amount and in the manner provided in Clause 1.2.4.

**2.19.2.** The Authority shall not be liable to pay any interest on the Bid Security deposit so made and the same shall be interest free.

**2.19.3.** Any Bid not accompanied by the Bid Security shall be rejected by the Authority as non-responsive.

**2.19.4.** 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 Successful Bidder or when the Bidding process is cancelled by the Authority. For this purpose, the Bidders shall furnish the information regarding RTGS, Account number etc. as may be required by the Authority.

**2.19.5.** The Successful Bidder's Bid Security will be returned, without any interest, upon the Bidder signing the Project Development Agreement and furnishing the Performance Security in accordance with the provisions thereof.

**2.19.6.** The Authority shall be entitled to forfeit and appropriate the Bid Security as mutually agreed genuine pre-estimated compensation / damages to the Authority in any of the events specified in Clause 2.19.7 herein below. 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 and appropriated by the Authority as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, inter alia, time, cost and effort of the Authority without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise, under the following conditions:

- a) If a Bidder submits a non-responsive Bid;



- b) If a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Clause 4 of this RFP;
- c) If a Bidder withdraws its Bid during the period of Bid Validity Period as specified in this RFP and as extended by the Bidder from time to time;
- d) In the case of Successful Bidder, if it fails within the specified time limit -
  - i. sign and return the duplicate copy of LoA;
  - ii. To sign the Project Development Agreement and/or
  - iii. To furnish the Performance Security within the period prescribed there for in the Project Development Agreement;
- e) In case the Selected Bidder, having signed the Project Development Agreement, commits any breach thereof prior to furnishing the Performance Security.



### 3. EVALUATION OF BIDS

#### 3.1. Opening and Evaluation of Bids

- 3.1.1. The Authority shall open the Bids at the place specified in Clause 1.3 and in the presence of the Bidders who choose to attend.
- 3.1.2. The Authority will subsequently examine and evaluate the Bids in accordance with the provisions set out in this Section 3.
- 3.1.3. To facilitate evaluation of Bids, the Authority may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid.

#### 3.2. Tests of responsiveness & Evaluation of Qualification and Financial Bid

##### A Tests of responsiveness

- 3.2.1. 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 the format at Appendix – I;
  - (b) it is received by the Bid Due Date including any extension thereof pursuant to Clause 2.11.2;
  - (c) it is signed and submitted electronically on the E-Procurement Website in the manner stipulated in Clause 2.9 and Clause 2.10;
  - (d) it is accompanied by the Bid Security as specified in Clause 1.2.4;
  - (e) it is accompanied by the Power(s) of Attorney as specified in Clauses 2.1.9 and 2.1.10, as the case may be;
  - (f) it is accompanied by a copy of Joint Bidding Agreement as per format at Appendix VIII;
  - (g) it is accompanied by the Technical submission in the prescribed format providing all the details sought under the same and is found to be adequate;
  - (h) It contains all the information (complete in all respects) as requested in this RFP and/or Bidding Documents (in formats same as those specified);
  - (i) It does not contain any condition or qualification; and
  - (j) It is not non-responsive in terms hereof.

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.

Technical Submission made by the Bidder shall only be checked for its adequacy and does not



constitute criteria for evaluation. No weightage is thus given to the Technical Submissions in so far the selection of the Bidder is concerned. However, the Authority reserves the right to evaluate the same at its discretion at any point of time.

## **B Technical and Financial Capacity**

**3.2.2.** Only those Bidders who's Bids are responsive as specified in Clause 3.2.1 above shall be considered for technical and financial capacity evaluation.

For the purpose of ascertaining qualification, the Technical experience and financial capability of one Group Business Entity/ Associate can also be submitted. In case of a Consortium, the members of the Consortium can submit the experience and financial capability of any of their respective Group Business Entity/ Associate. **Group Business Entity/Associate** shall mean;

- i. A company in which the Bidder directly holds not less than 26% of the paid up equity of such companies.
- ii. A company which directly holds not less than 26% of the paid up equity of the Bidder.

**3.2.3.** The Bidders' competence is proposed to be established by the following parameters:

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

**3.2.4.** To be eligible for qualification, a Bidder shall fulfill the following conditions of eligibility:

- (a) Technical Capacity: For demonstrating technical capacity and experience (the "**Technical Capacity**"), the Bidder shall, over the past 5 (five) financial years preceding the Bid Due Date, have:
  - i. paid for, or received payments for, construction of Eligible Project(s); and/ or
  - ii. paid for development of Eligible Project(s) in Category 1 and/or Category 2 specified in Clause 3.2.6; and/ or
  - iii. collected and appropriated revenues from Eligible Project(s) in Category 1 and/or Category 2 specified in Clause 3.2.6, such that the sum total of the above is more than **Rs. 202 crores (Rs. Two hundred and two crores)** (the "**Threshold Technical Capability**").
- (b) Financial Capacity

For the purpose of Qualification, a Bidder would be required to demonstrate the Financial Capacity as set out below.



Sl. No	Financial Capacity Criteria
1	Net worth of at least Rs 34 crores (Rupees Thirty four crores) in the last completed financial year.

In Case of a consortium, the combined technical and financial capacity of all Members would be considered for evaluation.

**3.2.5.** The Bidders shall enclose with its Bid, to be submitted as per the format at Appendix IV and its Annex and Appendix V, complete with its Annexes, the following:

- (i) Certificate(s) from its statutory auditors or the client(s) concerned stating the payments made/ received or works commissioned, as the case may be, during the past 5 years in respect of the projects specified in paragraph 3.2.4 (a) above. In case 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 its statutory auditor or the client; and
- (ii) Certificate(s) from its statutory auditors 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 3.2.5 (2) (ii). For the purposes of this RFP, net worth (the "Net Worth") shall mean the sum of subscribed and paid up equity and reserves from which shall be deducted the sum of revaluation reserves, miscellaneous expenditure not written off and reserves not available for distribution to equity share holders.

**C. Technical Capacity for purpose of evaluation**

**3.2.6.** The following categories of experience would qualify as Technical Capacity and eligible experience (the "**Eligible Experience**") in relation to eligible projects as stipulated in Clauses 3.2.8 and 3.2.9 (the "**Eligible Projects**"):

- Category 1: Project experience on Eligible Projects in airport sector that qualify under Clause 3.2.8
- Category 2: Project experience on Eligible Projects in core sector that qualify under Clause 3.2.8
- Category 3: Construction experience on Eligible Projects in airport sector that qualify under Clause 3.2.9
- Category 4: Construction experience on Eligible Projects in core sector that qualify under





Clause 3.2.9

For the purpose of this RFP:

- (i) Eligible Project in airport sector would be deemed to include airports.
- (ii) Eligible Project in core sector would be deemed to include highways, roads, bridges, power, telecom, ports, railways, metro rail, industrial parks/estates, logistic parks, pipelines, irrigation, water supply, sewerage and real estate development<sup>3</sup>.

**3.2.7.** Eligible Experience in respect of each category shall be measured only for Eligible Projects.

**3.2.8.** For a project to qualify as an Eligible Project under Category 1 and Category 2:

- (a) It should have been undertaken as a PPP project on BOT, BOLT, BOO, BOOT, DBFOT or other similar basis for providing its output or services to a public sector entity or for providing non-discriminatory access to users in pursuance of its charter, concession or contract, as the case may be. For the avoidance of doubt, a project which constitutes a natural monopoly such as port should normally be included in this category even if it is not based on a long-term agreement with a public entity;
- (b) the entity claiming experience should have held, in the company owning the Eligible Project, a minimum of 26% equity during the period for which Eligible Experience is being claimed;
- (c) the capital cost of the project should be more than **Rs. 27 Crores (Rupees Twenty Seven Crores)**; and
- (d) the entity claiming experience shall, during the past 5 (five) financial years preceding the Bid Due Date, have (i) paid for development of the project (excluding the cost of land), and/ or (ii) collected and appropriated the revenues from users availing of non-discriminatory access to or use of fixed project assets, such as revenues from highways, airports, ports and railway infrastructure, but shall not include revenues from sale or provision of goods or services such as electricity, gas, petroleum products, telecommunications or fare/freight revenues and other incomes of the company owning the Project.

**3.2.9.** For a project to qualify as an Eligible Project under Categories 3 and 4, the Bidder should have paid for execution of its construction works or received payments from its client(s) for construction works executed, fully or partially, during the 5 (five) financial years immediately

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<sup>3</sup> Real estate development shall not include residential flats unless they form part of a real estate complex or township which has been built by the Bidder



preceding the Bid Due Date, and only the payments (gross) actually made or received, as the case may be, during such 5 (five) financial years shall qualify for purposes of computing the Experience Score. However, payments/receipts of less than Rs. 27 Crores (Rupees Twenty Seven Crores) shall not be reckoned as payments/receipts for Eligible Projects. For the avoidance of doubt, construction works shall not include supply of goods or equipment except when such goods or equipment form part of a turn-key construction contract/ EPC contract for the project. Further, the cost of land shall not be included hereunder.

- 3.2.10.** The Bidder shall quote experience in respect of a particular Eligible Project under any one category only, even though the Bidder (either individually or along with a member of the Consortium) may have played multiple roles in the cited project. Double counting for a particular Eligible Project shall not be permitted in any form.
- 3.2.11.** Subject to the provisions of Clause 3.2.12, A Bidder's experience shall be measured and stated in terms of a score (the "**Experience Score**"). The Experience Score for an Eligible Project in a given category would be the eligible payments and/or receipts specified in Clause 3.2.4 (a) divided by one crore and then multiplied by the applicable factor in Table A below. In case the Bidder has experience across different categories, the score for each category would be computed as above and then aggregated to arrive at his Experience Score.

**Table A: Factors for Experience across categories**

	Factor
Category 1	1.25
Category 2	1.00
Category 3	0.75
Category 4	0.50

- 3.2.12.** The Experience Score determined in accordance with Clause 3.2.11 in respect of an Eligible Project situated in a developed country which is a member of OECD shall be further multiplied by a factor of 0.5 (Zero point five) and the product thereof shall be the Experience Score for such Eligible Project.
- 3.2.13.** Experience for any activity relating to an Eligible Project shall not be claimed by 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.



**D Details of Experience**

- 3.2.14.** The Bidder should furnish the details of Eligible Experience for the last 5 (five) financial years immediately preceding the Bid Due date.
- 3.2.15.** The Bidders must provide the necessary information relating to Technical Capacity as per format at Appendix IV.
- 3.2.16.** The Bidder should furnish the required Project-specific information and evidence in support of its claim of Technical Capacity, as per format at Appendix IV.

**E Financial Information for purposes of evaluation**

- 3.2.17.** The Bidder shall submit Audited Annual Reports (of each Member in case of a Consortium) for the last 2 (two) financial years, preceding the Bid Due Date.
- 3.2.18.** In case the annual accounts for the latest financial year are not audited and therefore the Bidder could not make it available, the Bidder shall give an undertaking to this effect and the statutory auditor shall certify the same. In such a case, the Bidder shall provide the Audited Annual Reports for 2 (two) years preceding the year for which the Audited Annual Report is not being provided.
- 3.2.19.** The Bidder must establish a minimum Net Worth as specified in Clause 3.2.4 (b), and provide details as per format at Appendix V.

**F. Financial Bid Evaluation Process**

- 3.2.20.** The Land Premium amount shall be the bidding parameter for selection of the Bidder.
- 3.2.21.** 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.

**3.3. Selection of Bidder**

- 3.3.1.** The Bidder adjudged as responsive in terms of Clause 3.2.1 would be deemed as “Responsive Bidders”.
- 3.3.2.** The credentials of Responsive Bidders shall be measured in terms of their Experience Score. The sum total of the Experience Scores for all Eligible Projects shall be the ‘Aggregate Experience Score’ of a particular Bidder. In case of a Consortium, the Aggregate Experience Score of each of its Members shall be summed up for arriving at the combined Aggregate Experience Score of the Consortium.



- 3.3.3.** The Bidders shall then be ranked on the basis of their respective Aggregate Experience Scores. The Authority expects to short-list upto 6 (six) Bidders (“**Qualified Bidders**”) for evaluation in the next Stage. The Authority however, reserves the right to increase the number of short-listed “**Qualified Bidders**” by adding additional Bidders.
- 3.3.4.** The Financial Bids of only the Qualified Bidders would be evaluated for selecting the preferred bidder. Qualified Bidder quoting the highest Land Premium to the Authority shall be the successful bidder (the “**Successful Bidder**”).
- 3.3.5.** The Bids of the Bidders who do not qualify as per the provisions above shall be returned unopened.
- 3.3.6.** In the event that two or more Bidders quote the same amount of Land Premium (the “**Tie Bidders**”), the Authority shall identify the Successful Bidder by draw of lots, which shall be conducted, with prior notice, in the presence of the Tie Bidders who choose to attend.
- 3.3.7.** 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 Bidders to revalidate or extend their respective Bid Security, as necessary, and match the Bid of the aforesaid highest Bidder (the “**second round of bidding**”). If in the second round of bidding, only one Bidder matches the highest Bidder, it shall be the Successful Bidder. If two or more Bidders match the said highest Bidder in the second round of bidding, then the Bidder whose Bid was higher as compared to other Bidder(s) in the first round of bidding shall be the Successful Bidder. For example, if the third and fifth highest Bidders in the first round of bidding offer to match the said highest Bidder in the second round of bidding, the said third highest bidder shall be the Successful Bidder.
- 3.3.8.** In the event that no Bidder offers to match the highest Bidder in the second round of bidding as specified in Clause 3.3.7, the Authority may, in its discretion, invite fresh Bids (the “**third round of bidding**”) from all Bidders except highest Bidder of the first round of bidding, or annul the Bidding Process, as the case may be. In case the Bidders are invited in the third round of bidding to revalidate or extend their Bid Security, as necessary, and offer fresh Bids, they shall be eligible for submission of fresh Bids provided, however, that in such third round of bidding only such bids shall be eligible for consideration which are higher than the Bid of the second highest Bidder in the first round of bidding.
- 3.3.9.** After selection, a Letter of Award (the “**LOA**”) shall be issued, in duplicate, by the Authority to the Successful Bidder and the Successful 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 Successful 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 Bidder as mutually agreed genuine pre-estimated loss and damage suffered by the Authority on account of failure of the Successful Bidder to acknowledge the LOA, and the next eligible Bidder may be considered.

**3.3.10.** After acknowledgement of the LOA as aforesaid by the Successful Bidder, the Project Development Agreement shall be executed within the period prescribed in Clause 3.3.11. The Selected Bidder shall not be entitled to seek any deviation in the Project Development Agreement.

**3.3.11.** Letter of Acceptance and execution of Agreement

Within 4 (four) weeks of the receipt of LoA or within such further time as the Authority may agree to in its sole discretion, Successful Bidder shall form and incorporate Special Purpose Vehicle under the Companies Act, 2013 and the SPV so formed shall execute the Project Development Agreement for the Project.

#### **3.4. 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 Project Development Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Project Development Agreement, the Authority shall reject a Bid, withdraw the LOA, or terminate the Project Development Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or Selected Bidder, as the case may be, if it determines that the Bidder or Selected Bidder, 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 forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority towards, inter alia, time, cost and effort of the Authority, without prejudice to any other right or remedy that may be available to the Authority hereunder 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 LOA or the Project Development Agreement, if a Bidder or Selected Bidder, 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 Project Development Agreement, such Bidder or Selected Bidder 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 Selected Bidder, 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 Project Development Agreement or arising there from, before or after the execution thereof, at any time prior to the expiry of 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) engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the Project Development Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Project Development 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. Pre-Bid conferences of the Bidders shall be convened at the designated date, time and place.
- 5.2. During the course of Pre-Bid conferences, the Bidders will be free to seek clarifications, point out any errors or contradictions in the RFP document 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.





## 6. MISCELLANEOUS

- 6.1.** The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the Courts at Bengaluru 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) Retain any information and/ or evidence submitted to the Authority by, on behalf of, and/ or in relation to any Bidder; and/ or
  - (d) 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, pursuant hereto and/ or in connection herewith and waives any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or future.



**APPENDIX – I**

**Letter of Bid**

Dated:

The Additional Chief Secretary,  
Infrastructure Development Department,  
Government of Karnataka,  
Vikas Soudha,  
Bangalore - 560001

**Sub:** Bid for Development of Greenfield Airport at Shivamogga

Dear Sir,

With reference to your RFP document dated \_\_\_\_\_, I/we, having examined the Bidding Documents and understood their contents, hereby submit my/our Bid for the aforesaid Project. The Bid is unconditional and unqualified.

- 1 All information provided in the Bid and in the Appendices is true and correct.
- 2 This statement is made for the express purpose of qualifying as a Bidder for the development, construction, operation and maintenance 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 reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
- 5 We certify that in the last three years, we/ any of the Consortium Members have neither failed to perform on any contract, as evidenced by imposition of a penalty or a judicial pronouncement or arbitration award, nor been expelled from any project or contract nor have had any contract terminated 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 2.1.14 and 2.1.15 of



the RFP document;

- (c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, 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; and
- (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.
- 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 2.6 of the RFP document.
- 8 I/ We believe that we/ our Consortium/ proposed Consortium satisfy(ies) the Net Worth criteria and meet(s) the requirements as specified in the RFP document and are/ is qualified to submit a Bid in accordance with the RFP document
- 9 I/ We declare that we/ any Member of the Consortium are/ is not a Member of a/ 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 have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory the 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 have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our Associates.
- 12 I/We further certify that we/any Member of the Consortium are/is not barred or blacklisted by the State Government or Central Government or any entity controlled by it.
- 13 I/ We further certify that no investigation by a regulatory the Authority is pending either against us or against our Associates or against our CEO or any of our Directors/ Managers/ employees.
- 14 I/ We undertake that in case due to any change in facts 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 that our Company/Consortium/ proposed Consortium has disclosed all the required information and furnished details which is sufficient to demonstrate our capacity on the basis of Technical Capacity and Financial Capacity of those of its Members and the members of the Consortium put together shall hold not less than 51% of the paid up equity capital in the SPV during the period commencing from the date of signing the Project Development Agreement till completion of three (3) years from the Airport Opening Date and not less than 26% thereafter until completion of 7 (seven) years from the Airport Opening Date. The Lead Member shall individually hold not less than 26% (twenty six percent) of the paid up capital during the period commencing from the date of signing the Project Development Agreement till completion of three (3) years from the Airport Opening Date and not less than 11% (eleven percent) thereafter until completion of 7 (seven) years from the Airport Opening Date. Other Member shall individually subscribe and hold at least 11% (eleven percent) of the paid up capital of the SPV during the period commencing from the date of signing the Project Development Agreement till completion of 3 (three) years from the Airport Opening Date.

In case of Single Business Entity it shall hold at least 51% of the paid up capital of the SPV during the period commencing from the date of signing the Project Development Agreement till completion of three (3) years from the Airport Opening Date and not less than 26% until completion of 7 (seven) years from the Airport Opening Date.

- 16 I/We acknowledge and agree that in the event of a change in control of a Group Business Entity whose Technical experience and/ or Financial capability was taken into consideration for the purposes of qualification 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 Project Development Agreement but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Agreement, be deemed a breach thereof, and the Project Development Agreement shall be liable to be terminated without the Authority being liable to us in any manner whatsoever.
- 17 I/ We understand that the Successful Bidder shall incorporate a company under the companies Act 2013 for implementation of the Project who shall execute the Project Development Agreement with the Authority.
- 18 I/We hereby irrevocably waive any right 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.

- 19 In the event of my/ our being declared as the Successful Bidder, I/We agree to enter into a Project Development 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.
- 20 I/We have studied all the Bidding Documents carefully and also surveyed the project site. We understand that except to the extent as expressly set forth in the Project Development 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 concerning or relating to the Bidding Process including the award of Project.
- 21 The Land Premium has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP; draft Project Development Agreement, our own estimates of costs and revenues and after a careful assessment of the site and all the conditions that may affect the Bid.
- 22 I/We offer a Bid Security of Rs. 1,35,00,000 ( One Crore thirty five lakhs) to the Authority in accordance with the RFP Document.
- 23 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 is not awarded to me/us or our Bid is not opened.
- 24 I/We agree to keep this offer valid for 180 (One Hundred and Eighty) days from the Bid Due Date specified in the RFP.
- 25 I/We agree and undertake to abide by all the terms and conditions of the RFP document.

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

Yours faithfully,

Date: (Signature of the Authorized signatory)

Place: (Name and designation of the of the Authorized signatory)  
Name and seal of Bidder/Lead Firm



**APPENDIX – I          Annex 1**

**Details of 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 Company including details of its main lines of business and proposed role and responsibilities in [this/ these Project(s)]:
  
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 Authorized Signatory of the Bidder:
  - (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 of the Consortium.



- (b) A copy of the Jt. Bidding Agreement, as envisaged in Clause 1.1.2.2 (g) should be attached to the Bid.
- (c) Information regarding role of each Member should be provided as per table below:

S No.	Name of Member	Role*	Percentage of equity in the Consortium
1.			
2.			
3.			

\* The role of each Member, as may be determined by the Bidder, should be indicated in accordance with instruction 4 at Appendix IV Annex-I.

- (d) The following information shall also be provided for each Member of the Consortium:

**Name of Bidder/ member of Consortium:**

No.	Criteria	Yes	No
1.	Has the Bidder/ constituent of the Consortium been barred by the Central/ any State Government, or any entity controlled by them, 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/ constituent of the Consortium paid liquidated damages of more than 5% 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 three years?		

6. A statement by the Bidder and each of the Members of its Consortium (where applicable) or any of their Associates 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):



**APPENDIX I ANNEX-II**

**Statement of Legal Capacity**

(To be forwarded on the letterhead of the Bidder/ Lead Member of Consortium)

Ref. Date:

To,

-----  
-----  
-----

Dear Sir,

We hereby confirm that we/ our members in the Consortium (constitution of which has been described in the Bid) satisfy the terms and conditions laid out in the RFP document.

We have agreed that ..... (insert member's name) will act as the Lead Member of our consortium.\*

We have agreed that ..... (insert individual's name) will act as our representative/ will act as the representative of the consortium on its behalf and has been duly authorized to submit the RFP. Further, the authorised signatory is vested with requisite powers to furnish such letter and authenticate the same.

Thanking you,

Yours faithfully,

(Signature, name and designation of the authorised signatory)

\*Please strike out whichever is not applicable.





**APPENDIX – II**

**Power of Attorney for signing of Bid**

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 with us/ the Lead Member of our Consortium 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 the Development, Construction, Maintenance and Operation of Greenfield Airport in Shimoga being developed by the Infrastructure Development Department, Government of Karnataka (the “the Authority”) including but not limited to signing and submission of all Bids, bids and other documents and writings, participate in Bidders' and other conferences and providing information / responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts including the Project Development Agreement and 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 Project Development Agreement with the Authority.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things lawfully 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 \_\_\_\_\_, 2016.

For \_\_\_\_\_

(Signature)

(Name, Title and Address)

Witnesses:

- 1
- 2



Accepted

[Notarized]

(Signature)

(Name, Title and Address of the  
Attorney)

*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 executants and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a resolution/power of attorney in favor of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney is being issued.*



### APPENDIX – III

#### Power of Attorney for Lead Member of Consortium

Whereas the Infrastructure Development Department, Government of Karnataka (“the Authority”) has invited bids interested parties for the Development of Airport in Shimoga in Karnataka (“the Project”).

Whereas, \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ (collectively the “Consortium”) being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Proposal and other connected documents in respect of the Project, and

Whereas, it is necessary for the Members of the Consortium to designate one of them as the Lead Member with all necessary power and the Authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium’s bid for the Project and its execution.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We, \_\_\_\_\_ having our registered office at \_\_\_\_\_, M/s. \_\_\_\_\_, having our registered office at \_\_\_\_\_, and M/s. \_\_\_\_\_, having our registered office at \_\_\_\_\_, [the respective names and addresses of the registered office] (hereinafter collectively referred to as the “Principals”) do hereby irrevocably designate, nominate, constitute, appoint and authorize M/s \_\_\_\_\_, having its registered office at \_\_\_\_\_, being one of the Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the “Attorney”) and hereby irrevocably authorize the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the Contract, during the execution of the Project, and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the submission of its bid for the Project, including but not limited to signing and submission of all Bids, bids and other documents and writings, participate in Bidders’ and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the bid of the Consortium and generally to represent the Consortium in all its dealings with the Authority, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium’s bid for the Project and/ or upon award thereof till the Project Development Agreement is entered into with the Authority.

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things lawfully 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/



Consortium.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS  
POWER OF ATTORNEY ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2016.

For \_\_\_\_\_ (Name & Title)

For \_\_\_\_\_ (Name & Title)

For \_\_\_\_\_ (Name & Title)

Witnesses:

1

2

(Executants)

(To be executed by all the Members of the Consortium)

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 executants and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a resolution/ power of attorney in favor of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney is being issued.*



**Appendix IV**  
**Technical Capacity**

Bidder type #	Member Code*	Project Code**	Category\$	Experience¥ (Equivalent Rs. crore)\$			Experience Score£
				Payments made/ received for construction of Eligible Projects in Categories 3 and 4	Payments made for development of Eligible Projects in Categories 1 and 2	Revenues appropriated from Eligible Projects in Categories 1 and 2	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
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					
Aggregate Experience Score =							



## Instructions

@ Provide details of only those projects that have been undertaken by the Bidder under its own name and/ or by an Associate specified in Clause 3.2.2 and/ or by a project company eligible under Clause 3.2.8 (b). In case of Category 1 and Category 2, include only those projects which have an estimated capital cost exceeding the amount specified in Clause 3.2.8 (c) and for Categories 3 and 4, include only those projects where the payments made/received exceed the amount specified in Clause 3.2.9.

# 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 Associate, necessary evidence to establish the relationship of the Bidder with such Associate, in terms of Clause 3.2.2 shall be provided.

\* Member Code shall indicate NA for Not Applicable in case of a single entity Bidder. For other Members, the following abbreviations are suggested viz. LM means Lead Member, TM means Technical Member, FM means Financial Member, OMM means Operation & Maintenance Member, OM means Other Member.

\*\*Refer Annex-I of this Appendix. Add more rows if necessary.

\$ Refer Clause 3.2.6.

¥ In case of Eligible Projects in Categories 1 and 2, the figures in column 6 and 7 may be added for computing the experience score of the respective projects. In the case of Categories 3 and 4, construction shall not include supply of goods or equipment except when such goods or equipment form part of a turn-key construction contract/ EPC contract for the project. In no case shall the cost of land be included while computing the Experience Score of an Eligible Project.

\$\$ For conversion of US Dollars to Rupees, the rate of conversion shall be Rupees 50 (fifty) to a 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.

£ Divide the amount in the Experience column by one crore and then multiply the result thereof by the applicable factor set out in Table A to arrive at the Experience Score for each Eligible Project. In the case of an Eligible Project situated in an OECD country, the Experience Score so arrived at shall be further multiplied by 0.5, in accordance with the provisions of Clause 3.2.12, and the product thereof shall be the Experience Score for such Eligible Projects. [Above all, the sum total of columns 5, 6 and 7, as the case may be, in respect of each Eligible Project shall be restricted to a ceiling equivalent to twice the Estimated Project Cost, as specified in Clause 3.2.4]



**Appendix IV Annex-I**  
**Details of Eligible Projects**

Project Code:

Member Code:

Item (1)	Refer Instruction (2)	Particulars of the Project (3)
Title & nature of the project		
Category	5	
Year-wise (a) payments received/ made for construction, (b) payments made for development of PPP projects and/ or (c) revenues appropriated	6	
Entity for which the project was constructed/ developed	7	
Location		
Project cost	8	
Date of commencement of project/ contract		
Date of completion/ commissioning	9	
Equity shareholding (with period during which equity was held)	10	
Whether credit is being taken for the Eligible Experience of an Associate (Yes/No)	16	

Instructions:

- Bidders are expected to provide information in respect of Eligible Projects in this Annex. The projects cited must comply with the eligibility criteria specified in Clause 3.2.4 of the RFP. Information provided in this section is intended to serve as a back up for information provided in the Bid. Bidders should also refer to the Instructions below.



2. For a single entity Bidder, the Project Codes would be a, b, c, d etc. In case the Bidder 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. LM means Lead Member, TM means Technical Member, FM means Financial Member, OMM means Operation & Maintenance Member; and OM means Other Member. In case the Eligible Project relates to an Associate of the Bidder or its Member, write “Associate” along with Member Code.
5. Refer to Clause 3.2.4 of the RFP for category number.
6. The total payments received/ made and/or revenues appropriated for each Eligible Project are to be stated in Appendix-IV. The figures to be provided here should indicate the break-up for the past 5 (five) financial years. Year 1 refers to the financial year immediately preceding the Bid Due Date; Year 2 refers to the year before Year 1, Year 3 refers to the year before Year 2, and so on. For Categories 1 and 2, expenditure on development of the project and/or revenues appropriated, as the case may be, should be provided, but only in respect of projects having an estimated capital cost exceeding the amount specified in Clause 3.2.8 (c). In case of Categories 3 and 4, payments made/ received only in respect of construction should be provided, but only if the amount paid/received exceeds the minimum specified in Clause 3.2.9. Payment for construction works should only include capital expenditure, and should not include expenditure on repairs and maintenance.
7. In case of projects in Categories 1 and 2, particulars such as name, address and contact details of owner/ Authority/ Agency (i.e. concession grantor, counter party to PPA, etc.) may be provided. In case of projects in Categories 3 and 4, similar particulars of the client need to be provided.
8. Provide the estimated capital cost of Eligible Project. Refer to Clauses 3.2.8 and 3.2.9
9. For Categories 1 and 2, the date of commissioning of the project, upon completion, should be indicated. In case of Categories 3 and 4, date of completion of construction 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.
10. For Categories 1 and 2, the equity shareholding of the Bidder, in the company owning the Eligible Project, held continuously during the period for which Eligible Experience is claimed, needs to be given (Refer Clause 3.2.8).





11. Experience for any activity relating to an Eligible Project shall not be claimed by 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.
12. Certificate from the client or the Bidder's statutory auditor\$ must be furnished as per format below for each Eligible Project. In jurisdictions that do not have statutory auditors, the auditors who audit the annual accounts of the Bidders/Member/Associate may provide the requisite certification.
13. If the Bidder is claiming experience under Categories 1 & 2, it should provide a certificate from its statutory auditor in the format below:

**Certificate from the Statutory Auditor regarding PPP projects (Provide Certificate as per this certificate only)**

Based on its Book of Accounts and other published information authenticated by it,

This is to certify that ..... (name of the Bidder/Member/Associate)is/ was an equity shareholder in ..... (title of the project company) and holds/ held Rs. .... cr. (Rupees ..... crore) of equity (which constitutes .....% (Refer instruction no. 10 in this Annex I) of the total paid up and subscribed equity capital) of the project company from ..... (date) to ..... (date)<sup>4</sup>. The project was/is likely to be commissioned on ..... (date of commissioning of the project).

We further certify that the total estimated capital cost of the project is Rs. .... cr., of which Rs. .... cr. of capital expenditure was incurred during the past five financial years as per year-wise details noted below:

.....

.....

We also certify that the annual revenues collected and appropriated by the aforesaid project company in terms of Clauses 3.2.6 and 3.2.8 (d) of the RFP during the past five financial years were Rs. .... cr. as per year-wise details noted below:

Name of the audit firm:

Seal of the audit firm: (Signature, name and designation of the Authorised Signatory and date)

Date:

<sup>4</sup> In case the Project is owned by the Bidder's company this language may be suitably modified to read..."It is certified that, .....(Name of Bidder) constructed and/or owned the .....(Name of the Project) from .....(date) to .....(date).



14. If the Bidder is claiming experience under Category 3 & 4, it should provide a certificate from its statutory auditors or the client in the format given below:

**Certificate from the Statutory Auditor/ Client regarding construction works**

Based on its Book of Accounts and other published information authenticated by it,

{This is to certify that ..... (name of the Bidder/Member/Associate) was engaged by ..... (title of the project company) to execute ..... (name of project) for ..... (nature of project)}<sup>5</sup>. The construction of the project commenced on ..... (date) and the project was/ is likely to be commissioned on ..... (date, if any). It is certified that ..... (name of the Bidder/ Member/ Associate) received/paid Rs. .... cr. (Rupees ..... crore) by way of payment for the aforesaid construction works.

We further certify that the total estimated capital cost of the project is Rs. .... cr., of which the Bidder/Member/Associate received/paid Rs. .... cr. (Rupees ..... crore), in terms of Clauses 3.2.6 and 3.2.9 of the RFP, during the past five financial years as per year-wise details noted below:

.....

[It is further certified that the payments/ receipts indicated above are restricted to the share of the Bidder who undertook these works as a partner or a member of joint venture/ consortium.]<sup>6</sup>

Name of the audit firm:

Seal of the audit firm: (Signature, name and designation of the Authorised Signatory and date).

Date:

15. In the event that credit is being taken for the Eligible Experience of an Associate, as defined in clause 3.2.2, the Bidder should also provide a certificate in the format below:

<sup>5</sup> In case the Bidder owned the Eligible Project and engaged the contractor to undertake the construction work, this language may be suitably modified to read..."It is certified that, .....(Name of Bidder/member/Associate) held 26% or more of the paid up and subscribed share capital in the \_\_\_\_\_, name of the project company) When it undertook construction of the \_\_\_\_\_(Name of the project) through ) \_\_\_\_\_(name of the contractor)

<sup>6</sup> This certification should only be provided in case of jobs/contracts, which are executed as part of a partnership/ joint venture/ consortium. The payments indicated in the certificate should be restricted to the share of Bidder in such partnership/ joint venture/ consortium. In case where work is not executed by partnership/ joint venture/ consortium, this paragraph may be deleted.



**Certificate from Statutory Auditor/ Company Secretary regarding Associate<sup>7</sup>**

Based on the authenticated record of the Company, this is to certify that more than 50% (fifty per cent) of the subscribed and paid up voting equity of ..... (name of the Associate) is held, directly or indirectly<sup>8</sup>, by ..... (name of Bidder/ Consortium Member). By virtue of the aforesaid share-holding, the latter exercises control over the former, who is an Associate in terms of Clause 3.2.2 of the RFP.

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

{Describe the share-holding of the Bidder/ Consortium Member in the Associate}

Name of the audit firm:

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

16. 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 in computation of Experience Score.

<sup>7</sup> In the event that the Applicant/ Consortium Member exercises control over an Associate by operation of law, this certificate may be suitably modified and copies of the relevant law may be enclosed and referred to.

<sup>8</sup> In the case of indirect share-holding, the intervening companies in the chain of ownership should also be Associates i.e., the share-holding in each such company should be more than 50% in order to establish that the chain of "control: is not broken.



**Appendix V**  
**Financial Capacity of the Bidder**

(In Rs. crore\$\$)

Bidder type \$	Member Code£	Net Worth€
		Year 1
Single entity Bidder / Lead Member		
Consortium Member 1		
Consortium Member 2		
Consortium Member 3		
TOTAL		

**Name & address of Bidder’s Bankers:**

\$ 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.

£For Member Code, see instruction 4 at Annex-I of this Appendix-IV.

€The Bidder should provide details of its own Financial Capability or of an Associate specified in Clause 3.2.2

\$\$ For conversion of other currencies into rupees, see note below.

**Instructions:**



1. The Bidder/ its constituent Consortium Members shall attach copies of the balance sheets, financial statements and Annual Reports for 2 (two) years preceding the Bid Due Date. The financial statements shall:
  - (a) reflect the financial situation of the Bidder or Consortium Members and its/ their Associates where the Bidder is relying on its Associate's financials;
  - (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).
2. Net Worth shall mean (Subscribed and Paid-up Equity + Reserves) less (Revaluation reserves + miscellaneous expenditure not written off + accrued liabilities).
3. Year 1 will be the latest completed financial year, preceding the bidding.
4. In the case of a Consortium, a copy of the Jt. Bidding Agreement shall be submitted in accordance with this RFP document.
5. The Bidder shall also provide the name and address of the Bankers to the Bidder.
6. 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 3.2.5 of the RFP document.



## APPENDIX – VI

### Technical Submission

The Technical Submissions should address the following points:

S No	Contents
1	Approach and Methodology
2	Master Plan
3	Concept Designs for Commercial Facilities
4	Implementation Plan and Method Statement
5	Operation Tie-up with Airlines/ Airport Developer
6	Proposed Investment Plan

#### Contents of Technical Submissions

The Bidder shall submit the following as part of the Technical Submissions

1. Approach & Methodology: The Bidder shall submit its plan for development and the method statement for the same.
2. Master Development Plan of the airport: The Bidder shall provide a master plan, comprehensive in nature setting out location of various facilities envisaged, area statements, plans for parking, utilities and services, circulation, passenger and vehicular traffic management, security, emergency and disaster management plans, concepts for environment friendly designs.
3. Architecture Design of proposed commercial facilities: the Bidder shall submit conceptual architectural designs for the proposed commercial facilities and shall be in the form of plans, sectional views/ elevations, three dimensional views etc.
4. Implementation Plan and Method Statement: The Bidders should provide their plan for implementation of the Project and the method statement for the same.

The method statement should cover each of the following activities pertaining to the Project:

- i. Earthwork
- ii. Building Works
- iii. Operation and Maintenance
- iv. Traffic Safety and Traffic Management
- v. Environment Management



5. Proposed Investment Plan: shall include investment proposals for airport facilities as well as landside facilities.
6. The Bidder may also demonstrate operations tie-up with airlines or airport developers.



**APPENDIX - VII**

**Financial Bid**

(On the Letterhead of the Bidder<sup>9</sup>)

Date:

Additional Chief Secretary,  
Infrastructure Development Department,  
Government of Karnataka,  
Vikasa Soudha,  
Bangalore 560001

**Re: Bid for Development of Greenfield Airport at Shivamogga**

Sir,

Having gone through this RFP document and the Project Development Agreement and having fully understood the scope of work for the Project as set out in this RFP, we are pleased provide our Financial Bid as Follows;

We would offer the following Land Premium per acre per year for the Project

<b>Land Premium per acre per year offered<sup>10</sup></b>	
<b>In figures (Rs.)</b>	<b>In words (Rs.)</b>

We have reviewed all the terms and conditions of the RFP and undertake to abide by all the terms and conditions contained therein. We hereby declare that there are, and shall be no deviations from the stated terms in the RFP Document.

**Bidder to note:**

1. This Appendix shall be submitted only on the E-Procurement Website in the slot provided for Financial Bid.

<sup>9</sup> In case of a Consortium – On the letter head of the Lead member

<sup>10</sup> Details of the land is mentioned in Project Information Memorandum





2. Highest Land Premium per acre per year quoted by the Bidder shall be the sole criteria for award of the Project subject to Bidder / Consortium meeting the other bidding conditions for the purpose of bid evaluation.
3. The Land Premium quoted shall be in the form of a Land premium per acre per year. The total payment per year would be a product of area as mentioned in the Land Lease Agreement and Land Premium. The Land Premium would be increased by Ten percent (10%) every Three (3) years.
4. In case of any variance in Land Premium quoted between any value in numerals/figures and words, the highest amount shall prevail.

Yours faithfully,

For and on behalf of

.....

(Name of the Bidder<sup>11</sup>)

\_\_\_\_\_

(Signature of Authorized Signatory)

\_\_\_\_\_

(Name and designation of the Authorized Person)

<sup>11</sup> In case of Consortium, names of all members of Consortium



**APPENDIX VIII**

**Joint Bidding Agreement**

(To be executed on Stamp paper of appropriate value)

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

**AMONGST**

1. {..... Limited, a company incorporated under the Companies Act, 1956} 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. {..... Limited, a company incorporated under the Companies Act, 1956} 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. {..... Limited, a company incorporated under the Companies Act, 1956 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)}

The above mentioned parties of the FIRST, SECOND and, THIRD PART are collectively referred to as the “Parties” and each is individually referred to as a “Party”

**WHEREAS,**

- A. \_\_\_\_\_, established under the \_\_\_\_\_, represented by its \_\_\_\_\_ and having its principal offices at \_\_\_\_\_] (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 Proposal ..... dated .....(the “RFP”) for selection of bidders for \_\_\_\_\_ Project (the “Project”) through public private partnership.
- 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**

The Parties do hereby irrevocably constitute a consortium (the “Consortium”) for the purposes of jointly participating in the Bidding Process for the Project.

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 Associates.

**3. Covenants**

The Parties hereby undertake that in the event the Consortium is declared the Successful Bidder and awarded the Project, it shall incorporate a special purpose vehicle (the “SPV”) under the Indian Companies Act 2013 for entering into a Project Agreement with the Authority and for performing all its obligations as the Contractor in terms of the Project 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 First Part shall be the Lead member of the Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding Process and until the Appointed Date under the Project Agreement when all the obligations of the SPV shall become effective;
- b) {Party of the Second Part shall be {the Technical Member of the Consortium;}
- c) {Party of the Third Part shall be the Financial Member of the Consortium; and}



**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 Project Agreement, till such time as the Financial Close for the Project is achieved under and in accordance with the Project Agreement.

**6. Shareholding in the SPV**

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

First Party:

Second Party:

{Third Party:}

6.2 The Parties undertake that they shall collectively hold at least 51% (fifty one per cent) of the subscribed and paid up equity share capital of the SPV at all times till completion of three years from Airport Opening Date and not less than 26% thereafter till completion of 7 (seven) years from Airport Opening Date.

6.3 The Parties undertake that they shall comply with all equity lock-in requirements set forth in the RFP and Project Development 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 Consortium 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 the Financial Close of the Project is achieved under and in accordance with the Project Agreement, in case the Project is awarded to the Consortium. However, in case the Consortium is either not pre-qualified for the Project or does not get selected for award of the Project, the Agreement will stand terminated in case the Bidder is not pre-qualified or upon return of the Bid Security by the Authority to the Bidder, as the case may be.

## **9. Miscellaneous**



This Joint Bidding Agreement shall be governed by laws of {India}.

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

For and on behalf of

LEAD MEMBER by:

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of

SECOND PART

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of

THIRD PART

(Signature)

(Name)

(Designation)

(Address)

In the presence of:



1.

2.

Notes:

1. The mode of the execution of the Joint Bidding Agreement 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.
2. Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as 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 Consortium Member.
3. For a Joint Bidding Agreement executed and issued overseas, the document shall be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed.