

# REQUEST FOR PROPOSAL



**GOVERNMENT OF KARNATAKA  
INDIA**

**DEVELOPMENT OF  
“BENGALURU INTERNATIONAL CONVENTION CENTRE”  
WITHIN THE BENGALURU SIGNATURE BUSINESS PARK  
SITUATED ADJOINING THE KEMPEGOWDA  
INTERNATIONAL AIRPORT AT BENGALURU,  
KARNATAKA  
ON  
PUBLIC PRIVATE PARTNERSHIP BASIS**

**REQUEST FOR PROPOSAL  
(E-procurement mode only)**

**05 FEBRUARY, 2018**



**Karnataka State Industrial & Infrastructure  
Development Corporation Limited  
4th Floor, East Wing, “Khanija Bhavan”,  
#49, Race Course Road, Bengaluru 560 001  
[www.ksiidc.com](http://www.ksiidc.com)**

**LETTER OF INVITATION**

**05<sup>th</sup> February, 2018**

To,  
The Interested Applicants / Bidders,

**Sub: RFP for Development of Bengaluru International Convention Centre  
(defined herein below) on PPP Format**

The Government of Karnataka intends to develop the proposed “**Bengaluru International Convention Centre (“BICC”)**” on Public Private Partnership (“PPP”) basis.

In this regard, 35.0 (Thirty Five) Acres of strategically located land has been earmarked for the proposed Project, within the “**Bengaluru Signature Business Park (“BSBP”)**” being developed on about 407 Acres of land situated alongside the northern boundary of the Kempegowda International Airport (“**KIA**”) at Bengaluru.

Currently, the Government of Karnataka (“**GOK**”), through the Infrastructure Development Department (“**IDD**”) and its Nodal Agency, Karnataka State Industrial & Infrastructure Development Corporation (“**KSIIDC**”) is in the process of taking up the development of world class trunk infrastructure for the **BSBP** including a direct connectivity approach flyover from the National Highway. The bidding out of other individual land parcels within the **BSBP** is also expected to commence shortly.

The selection of the PPP partner for the **BICC** Project through this Request for Proposal (“**RFP**”) shall be carried out only through the e-Procurement module of the Government of Karnataka (<https://eproc.karnataka.gov.in/eportal/>), as per the process explained in this RFP.

Further, you shall be required to remit / submit the following while submitting your Bid:

- 1) A non-refundable e-procurement processing fee of INR 7,500/- (Indian Rupees Seven Thousand Five Hundred Only) as mentioned in the e-portal.
- 2) A non-refundable RFP processing fee of INR 1,12,000/- (Indian Rupees One Lakh Twelve Thousand only), inclusive of GST (in form of Demand Draft / Pay Order favouring “**Managing Director, KSIIDC**”).
- 3) An Interest Free Bid Security of INR 9,35,00,000/- (Indian Rupees Nine Crore Thirty Five Lakhs only), in any of the modes specified in this RFP.

Please note that the **KSIIDC** (the “**Authority**”) reserves the right to accept or reject all or any of the bids without assigning any reason whatsoever.

Thanking you,

Yours faithfully,

Sd/-  
**Managing Director**  
**KSIIDC**

## **GLOSSARY**

<b>Applicant(s) / Bidder</b>	As defined in Clause 1.2.1
<b>Bid</b>	As defined in the Disclaimer
<b>Bid Due Date</b>	As defined in Clauses 1.1.5, 1.2.3
<b>Associate</b>	As defined in Clause 2.2.1
<b>Authority</b>	As defined in Clause 1.1.1
<b>Financial Bid</b>	As defined in Clause 1.2.1
<b>Bid Security</b>	As defined in Clause 1.2.1
<b>Bidders</b>	As defined in Clause 1.1.1
<b>RFP</b>	As defined in Clause 1.2.2
<b>Bidding Process</b>	As defined in Clause 1.2.1
<b>Bid Stage</b>	As defined in Clause 1.2.1
<b>Concessionaire</b>	As defined in Clause 1.1.2
<b>Concession Agreement</b>	As defined in Clause 1.1.2
<b>Conflict of Interest</b>	As defined in Clause 2.2.1(c)
<b>Consortium</b>	As defined in Clause 2.2.1(a)
<b>DFBOT</b>	As defined in Clause 1.1.1
<b>Eligible Experience</b>	As defined in Clause 7.2.1
<b>Eligible Projects</b>	As defined in Clause 7.2.1
<b>Estimated Project Cost</b>	As defined in Clause 1.1.4
<b>Experience Score</b>	As defined in Clause 7.2.6
<b>Financial Capacity</b>	As defined in Clause 2.2.2 (B)
<b>Government</b>	Government of Karnataka
<b>Highest Bidder</b>	As defined in Clause 1.2.9
<b>Jt. Bidding Agreement</b>	As defined in Clause 2.2.6 (g)
<b>Lead Member</b>	As defined in Clause 2.2.6 (c)
<b>LOA</b>	Letter of Award
<b>Member</b>	Member of a Consortium
<b>Net Worth</b>	As defined in Clause 2.2.4 (ii)
<b>PPP</b>	Public Private Partnership
<b>Revenue Share</b>	As defined in Clause 1.2.9
<b>Project</b>	As defined in Clause 1.1.1
<b>Qualification</b>	As defined in Clause 1.2.1
<b>Qualification Stage</b>	As defined in Clause 1.2.1
<b>Re. or Rs. or INR</b>	Indian Rupee
<b>Request for Proposal (RFP)</b>	As defined in Clause 1.1.5
<b>RFP</b>	As defined in the Disclaimer
<b>SPV</b>	As defined in Clause 2.2.6
<b>Technical Capacity</b>	As defined in Clause 2.2.2 (A)
<b>Threshold Technical Capacity</b>	As defined in Clause 2.2.2 (A)

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

## **Table of Contents**

DISCLAIMER .....	i
PART – I.....	1
INTRODUCTION & GENERAL INSTRUCTIONS.....	1
1. INTRODUCTION .....	2
1.1 Background .....	2
1.2 Brief description of Bidding Process .....	4
1.3 Schedule of Bidding Process .....	10
2. INSTRUCTIONS TO APPLICANTS / BIDDERS .....	12
A. GENERAL.....	12
2.1 Scope of Bid.....	12
2.2 Eligibility of Applicants / Bidders .....	13
2.3 Change in composition of the Consortium .....	20
2.4 Number of Bids and costs thereof.....	20
2.5 Site visit and verification of information .....	20
2.6 Acknowledgement by Applicant / Bidder.....	21
2.7 Right to accept or reject any or all Bids.....	21
B. DOCUMENTS.....	22
2.8 Contents of the RFP.....	22
2.9 Clarifications .....	23
2.10 Amendment of RFP .....	24
C. PREPARATION AND SUBMISSION OF BID .....	24
2.11 Language.....	24
2.12 Format and signing of Bid .....	24
2.13 Sealing and Marking of Bids .....	25
2.14 Bid Due Date.....	27
2.15 Late Bids .....	27
2.16 Modifications/ substitution/ withdrawal of Bids.....	27
D. EVALUATION PROCESS .....	27
2.17 Opening and Evaluation of Bids .....	27
2.18 Confidentiality .....	28
E. BIDDING.....	29
2.22 Submission of Bids .....	29
2.23 Proprietary data .....	29
2.24 Correspondence with the Applicant / Bidder.....	29
F. BID SECURITY .....	29
2.25 Bid Security .....	29
G. OTHER INSTRUCTIONS .....	31
2.26 Instructions.....	31

2.27 Change in Ownership.....	32
3. FRAUD AND CORRUPT PRACTICES .....	34
4. PRE-BID CONFERENCE.....	36
5. MISCELLANEOUS .....	37
6 PROJECT TERMS AND ROLE OF SELECTED BIDDER .....	38
6.2.2 Submission of Bank Guarantees .....	41
6.2.3 Execution of Concession Agreement.....	41
6.2.4 Handing Over / Taking Over of Project Site.....	41
PART – II.....	42
QUALIFICATION PROPOSAL .....	42
7. QUALIFICATION CRITERIA .....	43
7.1 Evaluation parameters.....	43
7.2 Technical Capacity for purposes of evaluation.....	44
7.3 Details of Experience .....	46
7.4 Financial information for purposes of evaluation .....	46
7.5 Short-listing of Applicants / Bidders for opening of Technical Proposal.....	47
PART – III .....	48
TECHNICAL PROPOSAL .....	48
8. CRITERIA AND EVALUATION OF TECHNICAL PROPOSAL .....	49
A. CRITERIA .....	49
B. EVALUATION OF TECHNICAL PROPOSALS .....	50
PART IV .....	55
Financial Bid.....	55
9. EVALUATION OF FINANCIAL BID .....	56
A. General.....	56
B. EVALUATION OF FINANCIAL BIDS .....	56
PART V .....	59
DRAFT CONCESSION AGREEMENT.....	59
PART VI.....	60
PROJECT INFORMATION MEMORANDUM .....	60
PART VII.....	61
APPENDICES APPENDIX I .....	61
Letter Comprising the Bid .....	62
ANNEX-I.....	65
Details of Applicant / Bidder .....	65
ANNEX-II.....	67
Technical Capacity of the Applicant / Bidder @ .....	67
ANNEX-III .....	69
Financial Capacity of the Applicant / Bidder .....	69
Annex-IV .....	71

Details of Eligible Projects .....	71
ANNEX-V .....	76
Statement of Legal Capacity .....	76
Appendix II .....	77
Power of Attorney for signing of Bid .....	77
Appendix III.....	79
Power of Attorney for Lead Member of Consortium .....	79
APPENDIX IV.....	81
Joint Bidding Agreement .....	81
APPENDIX – V .....	86
Bank Guarantee for Bid Security .....	86
APPENDIX – VI.....	89
Letter comprising the Technical Proposal .....	89
APPENDIX – VII .....	91
Letter comprising the Financial Bid .....	91
APPENDIX VIII .....	94
Guidelines of the Department of Disinvestment.....	94

## **DISCLAIMER**

The information contained in this Request for Proposals document (the “**RFP**”) or subsequently provided to Applicant(s) / Bidder(s), whether verbally or in documentary or any other form, by or on behalf of the Authority or any of its employees or advisors, is provided to Applicant(s) / Bidder(s) on the terms and conditions set out in this document 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 Applicants / Bidders or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in the formulation of their technical / financial offers (“**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 Applicant / Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisors or consultants 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 document may not be complete, accurate, adequate or correct. Each Applicant / 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 Applicant(s) / Bidder(s) is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Authority accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

The Authority, its employees, advisors and consultants make no representation or warranty and shall have no liability to any person, including any Applicant 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 document or arising in any way in the Bidding Process.

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

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

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

The Applicant / Bidder shall bear all the costs associated with or relating to the preparation and submission of the Bid including but not limited to preparation, copying, postage, delivery fees, e-procurement registration process and 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 the Bid. All such costs and expenses will remain with the Applicant / 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 an Applicant / Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bidding Process.

The Applicant / Bidder is expected to know the relevant rules and regulations of the respective local authorities concerning the Project, the site, the construction works and the proposed development / facilities.

# **PART – I**

## **INTRODUCTION & GENERAL INSTRUCTIONS**

## 1. INTRODUCTION

### 1.1 Background

- 1.1.1 The **Government of Karnataka (GoK)** has initiated the development of a State-of-the-Art International Convention Centre along with other allied facilities including Hotel(s) in Bengaluru for which 35.0 (thirty five) acres of strategically located land has been earmarked within the “**Bengaluru Signature Business Park**” being developed on about 407 acres land with the GOK, situated alongside the northern boundary of the Kempegowda International Airport (KIA) at Bengaluru

The GOK has decided to develop the proposed Bengaluru International Convention Centre (“**BICC**”) on the following format:

- a. The GOK has selected the **Green House Concept under the Garden City Theme** prepared by its Consultant, for the design of the proposed BICC.
- b. The GOK intends to take up the development of the above International Convention Centre (ICC) comprising of a main Convention Hall (free of intermediate columns) of minimum 6000 seating capacity, exhibition hall of minimum 6500 Square meters, meeting halls and Food Court (based on the approved concept design and design brief thereof as in **Schedule-B** and **Schedule-C** of the draft Concession Agreement) along with other Project Components including Hotel(s) / service apartments, Retail etc. and related infrastructure in an integrated manner through the Public Private Partnership (**PPP**) mode.

**It is mandatory that the Selected Concessionaire implements the Project based upon the approved Theme / Concept / Design brief specified by the GOK** in Schedule-B and Schedule-C of the draft Concession Agreement and operates, markets, manages and maintains the Project during the Concession Period (as defined in the draft Concession Agreement). The Selected Concessionaire is however provided the liberty to improve upon the approved theme & concept / further detail the design.

KSIIDC (the “**Authority**”) has been mandated by the IDD, GOK to act as the Nodal Agency to undertake the development of the proposed Bengaluru International Convention Centre (BICC) Project (the “**Project**”) through Public Private Partnership (the “**PPP**”) on Design, Finance, Build, Operate and Transfer (the “**DFBOT**”) basis, and has, therefore, decided to carry out a transparent and competitive bidding process for selection of the Concessionaire as the bidder to whom the Project may be awarded.

Brief particulars of the Project are as follows:

Name of the Project	Project Site Area	Indicative Project Cost (INR. Cr.)
Development of the BICC comprising the International Convention Centre (ICC) with a main Convention Hall (free of intermediate columns) of minimum 6000 seating capacity, exhibition hall of minimum 6500 Square meters, meeting halls and Food Court (based on the approved Theme / Concept and design brief thereof) alongwith other Project Components including Hotel(s) / service apartments, Retail, etc and related infrastructure in an integrated manner through the Public Private Partnership (PPP) mode	<b>35.0 (Thirty Five) Acres earmarked within the Bengaluru Signature Business Park</b>	<b>INR 935,00,00,000</b>  (Indian Rupees Nine Hundred and Thirty Five Crore)

The Authority invites proposals from Applicants / Bidders (the “**Bidders**”) for the development of the Project on Public Private Partnership basis and intends to select a Bidder through a transparent and competitive Bid process, for awarding the Project in accordance with the procedure set out herein.

- 1.1.2 The selected Bidder, shall undertake to incorporate a Special Purpose Vehicle (“**SPV**”) under the Companies Act, 2013 as such prior to execution of the concession agreement (the “**Concessionaire**”) that shall be exclusively responsible for designing, engineering, financing, procurement, construction, marketing, operation, management and maintenance of the Project under and in accordance with the provisions of a concession agreement (the “**Concession Agreement**”), to be entered into between the Concessionaire and the Authority in the form provided by the Authority as part of the RFP pursuant hereto.
- 1.1.3 The scope of work will broadly include (i) design, finance, development, construction, implementation, commissioning, marketing, operation and maintenance of the Project (the scope of which will broadly include Development of the BICC comprising the International Convention Centre (ICC) with a main Convention Hall (free of intermediate columns) of minimum 6000 seating capacity, Exhibition hall of minimum 6500 Square meters, Meeting Halls and Food Court (as per the approved Theme / Concept and design brief thereof in **Schedule-B** and **Schedule-C**) of the draft Concession Agreement along with other Project Components including Hotel(s) / service apartments, Retail etc. and related infrastructure in an integrated manner at the Project Site, during the Term of the Agreement, (ii) design, finance, development, construction, implementation, commissioning, marketing, management, operation, maintenance and commercial use of the Project Assets, execution of the works and all

activities incidental thereto, such as engineering, testing, equipping, commissioning and insurance, etc. during the Concession Period; (iii) demanding, charging, collecting, retaining, appropriating and revision of tariff from time to time with respect to the Project by the Concessionaire at market driven rates, and (iv) the transfer of the Project by the Concessionaire to the Authority or its authorized representative upon the expiry of the term of the Concession Period as per terms and conditions of the draft Concession Agreement.

- 1.1.4 Indicative capital cost of the Project (the **“Estimated Project Cost”**) is as specified in clause 1.1.1. The assessment of actual costs, however, will have to be made by the Applicants / Bidders.
- 1.1.5 The Authority shall receive the Bids in accordance with the terms set forth in this **RFP** and other documents provided by the Authority (collectively the **"RFP "**), 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, on or before the date specified in Clause 1.3 for submission of Bids (the **“Bid Due Date”**).
- 1.1.6 The Concession Agreement sets forth the detailed terms and conditions for grant of the concession to the Concessionaire, including the scope of the Concessionaire and obligations (the **“Concession”**).
- 1.1.7 The statements and explanations contained in this RFP are intended to provide a better understanding to the Bidders about the subject matter of this RFP and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Concessionaire set forth in the Concession Agreement or the Authority’s rights to amend, alter, change, supplement or clarify the scope of work, the Concession to be awarded pursuant to this RFP or the terms thereof or herein contained. Consequently, any omissions, conflicts or contradictions in 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.

## **1.2 Brief description of Bidding Process**

1.2.1 The Authority has decided to :

- (i) adopt a **single-stage three part** bidding process (collectively referred to as the **"Bidding Process"**) for selection of the Bidder for award of the Project.
  - a) The first part (the **"Qualification Proposal"**) shall comprise of the qualification submissions (the **“Qualification”**) of interested parties/ consortia, who make a Bid in accordance with the provisions of this RFP (the **"Applicant / Bidder"**, which expression shall, unless repugnant to the context, include the Members of the Consortium).

In the Qualification Proposal, Applicants / Bidders would be required to furnish all the information specified in this RFP.

- b) At the end of the qualification proposal evaluation, the Authority expects to announce a short-list of qualified Applicants / Bidders who fulfil the minimum qualification criteria and shall be eligible for further parts of Bidding Process comprising of Technical Proposals (the “**Technical Proposals**”) and subsequently Financial Bids (the “**Financial Bids**”).

Technical Proposals of only those Applicants / Bidders that are qualified in the Qualification Proposal evaluation and short-listed by the Authority shall be opened for evaluation.

- c) The qualified Applicants / Bidders will be invited to be present during the opening of their Technical Proposals in accordance with the RFP and other documents provided by the Authority.

The Applicants / Bidders whose Technical Proposals have been opened and found to be responsive shall be called upon to make a presentation of their Technical Proposal before the Authority / Committee constituted by the Authority. The date, time and venue of the presentation shall be intimated only to the Applicants / Bidders short-listed by the Authority and may not be rescheduled. Applicants / Bidders failing to attend the same shall be considered “ABSENT” and will be awarded “NIL” points / marks for the presentation, in the overall evaluation.

At the end of the Technical Proposal stage, the Authority after evaluation of the Technical Proposals on the basis of the evaluation criteria as in Part III of this RFP, expects to announce the shortlist of Applicants/ Bidders who score equal to or more than the threshold of 70 marks.

- d) The Applicants / Bidders who have been short-listed on the basis of the evaluation of their Technical Proposals, will be invited to be present during the opening of the Financial Bids.

- (ii) follow the **E-Procurement System** for this Bidding Process (collectively referred to as the “**Bidding Process**”), as below:

- a) A **Single Stage three-part bidding process** is being followed comprising of the “**Qualification Proposal**”, “**Technical Proposal**” & “**Financial Bid**” which have to be uploaded as soft copy (“**E-Submission**”) as well as submitted as hard copy, except the Financial Bid (“**Hard Copy Submission**”). The hard copy submission is required to be made to the Authority only at the time of opening of respective parts of the Bid only.
- b) The interested Applicants/ Bidders may download the RFP from the “**Contractors**” web page of **E-procurement website of GoK** (<https://eproc.karnataka.gov.in>) through the link “**Development of Bengaluru International Convention Centre on PPP Basis**”
- c) The Bid submission shall only be electronically through the unified E-procurement platform of <https://www.eproc.karnataka.gov.in> (hereinafter referred to as online Bid) in accordance with the terms of this RFP. **The**

**Original documents (except Financial Bid which shall be submitted only online) shall be submitted in hard copy (comprising original documents and a copy) also to the Authority for verification purpose, but only at the time of opening of each part of Bid.** Bidders are required to note that non submission of online bid or hard copy submission (at the time of opening of each part of Bid) shall be considered as non-responsive Bids. **Further, only documents submitted online shall be considered for evaluation / verification and failure for online submission of any or all documents shall be considered as non-responsive Bids.**

- d) A one time registration in the E-Procurement website is a pre-requisite for submission of Bids. If an interested Applicant / Bidder is not already registered, it shall procure a digital signature certificate and get registered in the E-Procurement website. The Authority will not be held responsible for technical glitches in the computers and internet connection used by the Applicants / Bidders or in case of failure on part of any of the Applicants / Bidders to submit the Bid Security or any documents as required to be submitted online 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.
- e) For the purpose of E-Submission of the Bid, the Bidders are required to register themselves in the E-procurement website as per the registration procedure for Contactors explained in the website.
- f) Contact Information:  
For any clarifications on the E-Procurement website, Please call the Centralised E-Procurement Helpdesk on 080-23010900 / 080-23010901 / 080-38013000. (Timings 9:00 AM to 9:00 PM Monday to Saturday) or mail to Helpdesk: [hphelpdesk.blr@intarvo.com](mailto:hphelpdesk.blr@intarvo.com). For Supplier/ Contractor Registration, send an email to [registrar.eproc@karnataka.gov.in](mailto:registrar.eproc@karnataka.gov.in)
- g) The E-Submission of the Bid shall mean uploading & E-submission of documents for Qualification Proposal, Technical Proposal & Financial Bid by **uploading the scanned copies / PDF versions of original hard copy documents prepared by the Applicant / Bidder** as explained in this RFP and by filling the required fields at the E-procurement website and E-submission of the Bid as per the procedures explained in the RFP and the E-procurement website (<https://eproc.karnataka.gov.in>).
- h) For the purpose of verification, reference and clarifications, at the time and date specified for the opening of the respective Bid part (except the Financial Bid), the Bidder shall submit the **Hard Copy Submission (comprising original documents and a copy)** of the respective Bid part submitted as E-Submission **also to the Authority for verification / authentication purpose.**
- i) The Hard Copy Submission of the respective Bid parts shall comprise of the original documents **of only the submissions made as E-Submission** (including Bid Security & other Qualification Proposal & Technical Proposal

documents, but **excluding the Financial Bid**) along with the **Documentary Proof**, which shall be submitted (as per the procedure explained in this RFP) at the address given below:

The Managing Director,  
Karnataka State Industrial & Infrastructure Development Corporation Ltd,  
4<sup>th</sup> Floor, East Wing,  
Khanija Bhavan,  
#49, Race Course Road,  
Bengaluru 560 001

- j) The documentary proof, as mentioned above, shall comprise of the copies of audited financial statements, annual reports duly certified by the statutory auditors of the Company (in case of Company/ corporate entity)/ practicing Chartered Accountant (in case of non-corporate entity), copies of the completion certificate/ experience certificate of construction/ development provided by their clients duly certified by Bidder's statutory auditors (in case of Company/ corporate entity)/ practicing Chartered Accountant (in case of non-corporate entity) and copies of any other support documents duly certified by the statutory auditors of the company (in case of Company/ corporate entity)/ practicing Chartered Accountant (in case of non-corporate entity) which shall act as the proof for the Qualification Proposal submitted by the bidder as part of the Bid submission. The Documentary Proof shall be submitted as part of the Hard Copy Submission.
- k) For the purpose of verification, reference and clarification of the Technical Proposal of the Bid submitted as e-Submission, the Bidder shall submit the **Hard Copy Submission of the Technical Proposal** of the bid document at the Time & Date as specified during the Opening of the Technical Proposal.
- l) The Hard Copy Submission of the Technical Proposal of the Bid shall comprise of the original documents of the Technical Proposal submitted as e-Submission (**excluding the Financial Bid**), which shall be submitted (as per the procedure explained in the RFP) at the address given at i) above.
- m) The Bid shall be submitted in English and all entries must be typed and/ or written in Blue or Black ink. The Authorised Signatory of the Bidder shall sign/ initial all pages of the Bid and sign all erasures and alterations made in Blue or Black ink while filling the Bid. Over-writing of figures or words in the Financial Bid is not permitted (in the scanned Financial Bid uploaded online). Failure to comply with any of these conditions may render the Bid invalid. In case of discrepancy between a partial amount and the total amount, or between word and figures of the quoted price/ amount, the following shall be considered:
  - a) The quoted price/ amount shall be corrected for arithmetical errors;
  - b) Between price/ amount quoted in “words” and in “figures”, price/ amount quoted in “words” shall be considered.
- n) The Cost of this RFP is **INR 1,12,000/- (Indian Rupees One Lakh Twelve thousand only) inclusive of GST**, which shall be payable in the form of

demand draft / pay order in favour of “**Managing Director, KSIIDC**” payable at Bengaluru. The demand draft / pay order as mentioned above shall be enclosed as part of the Hard Copy Submission of the Qualification Proposal and a scanned copy of the same shall be uploaded as part of **e-Submission of Bid**. If the mentioned demand draft / pay order is not enclosed as part of the **Hard Copy Submission** or does not match with the copy of the demand draft / pay order uploaded as part of E-submission, then the bid shall stand disqualified.

- o) As part of the E-Submission the interested Bidder shall pay **INR 7,500/- (Indian Rupees Seven Thousand Five Hundred only)** as “**Tender Processing Fee**” through E-payment modes as explained in this RFP and as per the procedures explained at <https://eproc.karnataka.gov.in>.
- p) The Bid shall be accompanied by an Interest Free Bid Security of **INR 9,35,00,000/- (Indian Rupees Nine Crore and Thirty Five lakhs)** (hereinafter referred to as “**Bid Security**”). The Bid Security shall be furnished as per Clause 2.25 below.
- q) The Bidders shall make E-payment through any of the following 4 (four) e-payment modes:
  - 1.Credit Card
  - 2.Direct Debit
  - 3.National Electronic Funds Transfer (NEFT)
  - 4.Over the Counter (OTC)–designated Bank branches located across the country

The Bidders shall ensure the credit of E-payment of Tender Processing Fee & Bid Security (“**EMD**”) (part payment or full payment of EMD as specified in clause 2.25) in the respective E-Procurement account on or before the Due Date and Time of Bid Submission. With respect to payment through NEFT / RTGS and OTC mode of E-Payment, the Bidders shall ensure printing of challan from E-Procurement system prior to payment. It shall be the sole responsibility of the Bidder to ensure that the above payments have been successfully made and received in the respective E-Procurement account. (as a precautionary measure, Bidders are recommended to complete the payment process in adequate advance of the Bid Due Date, for avoiding any last minute issues).

- r) **In case of part payment of the Bid Security**, and the balance by Bank Guarantee / demand draft / pay order as mentioned above, a scanned copy of the same shall be uploaded as part of **E-Submission of Bid** and the Original shall be enclosed as part of the Hard Copy Submission of the Qualification Proposal. If the mentioned Bank Guarantee / demand draft / pay order is not enclosed as part of the **Hard Copy Submission**, then the bid shall stand disqualified.
- s) **The E-Submission as per procedure mentioned in this RFP document shall be made not later than 5.00 PM (1700 hours Indian Standard Time) on the Bid Due Date.**

- t) In case of any discrepancy on the documents submitted as E-Submission, the authenticity of the uploaded documents shall be verified by referring to the originals of the documents submitted as part of the Hard Copy Submission and through verification of originals of the Documentary Proof as part of Bid Evaluation. Upon verification, the information provided as part of the E-Submission process in the E-procurement portal shall prevail.

- 1.2.2 The Applicants / Bidders are being called upon to submit their Bids in accordance with the terms specified in this RFP.
- 1.2.3 The Bid shall be valid for a period of not less than 240 (two hundred and forty) days from the Bid Due Date as specified in Clause 1.3.
- 1.2.4 The RFP includes the draft Concession Agreement and Project Information Memorandum for the Project (“PIM”) prepared by the Authority/ Consultants of the Authority. Subject to the provisions of Clause 2.1.4, the aforesaid documents and any addenda issued subsequent to this RFP, but before the Bid Due Date, will be deemed to form part of this RFP.
- 1.2.5 The Bid shall be summarily rejected if it is not accompanied by the Bid Security. The mode of submission of the Bid Security has been explained in **Clause 2.25** of this RFP.
- 1.2.6 The Highest Bidder amongst those whose Financial Bid have been opened shall be the selected Bidder as per **Clause 9.6** of this RFP.
- 1.2.7 Applicants / 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 concession including implementation of the Project.
- 1.2.8 Government of India has issued guidelines (see Appendix-VIII) for qualification of Applicants / Bidders seeking to acquire stakes in any public sector enterprise through the process of disinvestment. These guidelines shall apply *mutatis mutandis* to this Bidding Process. The Authority shall be entitled to disqualify an Applicant / Bidder in accordance with the aforesaid guidelines at any stage of the Bidding Process. Applicants / Bidders must satisfy themselves that they are qualified to bid, and should give an undertaking to this effect in the form at **Appendix-I**.
- 1.2.9 Bids are invited for the Project in the form of **HIGHEST ONE TIME PREMIUM or LEAST GRANT SUPPORT FOR CONSTRUCTION OF THE CONVENTION CENTRE & EXHIBITION HALLS** (described as **Core Minimum Development Obligations** or “**CMDO**” herein below), (the “**PREMIUM / GRANT SUPPORT**”) to the Authority for award of the concession.

The Concession Period is pre-determined, and is indicated in the draft Concession Agreement forming part of the RFP. The **PREMIUM / GRANT** shall constitute the sole criteria for evaluation of Bids.

**The Project shall be awarded to the Applicant / Bidder quoting the Highest One Time Premium. In the event that none of the Financial Bids received and opened have quoted the Premium, then the Project shall be awarded to the Applicant / Bidder quoting the Least Grant Support being sought.**

In this document, the term “**Highest Bidder**” shall mean the Applicant / Bidder who is offering **the Highest One Time Premium. In the event that none of the Financial Bids received have quoted the Premium, then the Highest Bidder shall be the Applicant / Bidder quoting the Least Grant Support being sought.**

The Authority at its discretion, reserves the right to Accept / Reject any Bid / Financial Bid and the decision of the Authority in this behalf shall be final and conclusive, which shall be binding on the Applicants / Bidders.

- 1.2.10 The Concessionaire shall, in consideration of its investment and services to users, be entitled to levy and charge a user fee from users of the Project as per market driven competitive rates depending upon the services provided to the users.
- 1.2.11 Other details of the process being followed and the terms thereof are as spelt out in this RFP.
- 1.2.12 Any queries or request for additional information concerning this RFP shall be submitted in writing through the E-procurement portal / by electronic mail to the Authority’s address indicated in Clause 2.9.1 and below. The last date for receipt of such queries / request for additional information shall be as in clause 1.3.

The Authority reserves the right not to respond to any questions or provide any clarifications, in its sole discretion, and nothing in this Clause 1.2.12 shall be construed as obliging the Authority to respond to any question or to provide any clarification.

The envelopes / communications shall clearly bear the following identification/ title:

***“Queries/ Request for Additional Information: RFP for Development of Bengaluru International Convention Centre on Public Private Partnership Basis”.***

***In case of electronic mail, the queries shall be addressed to [ed@ksiidc.com](mailto:ed@ksiidc.com) with copy to [dgmipd3@ksiidc.com](mailto:dgmipd3@ksiidc.com)***

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

The Authority shall endeavour to adhere to the following schedule:

<b>Event Description</b>	<b>Date</b>
1. Availability of Bid Documents on e-procurement Portal	<b>From 5th February, 2018</b>
2. Last date for receiving queries	<b>2nd March, 2018</b>

- |   |                                      |
|---|--------------------------------------|
| 3. Pre-Bid Conference 1                       | <b>5th March, 2018, 1500 Hrs IST</b> |
| 4. Authority response to queries latest by    | <b>19th March, 2018</b>              |
| 5. Last date for receiving additional queries | <b>28th March, 2018</b>              |
| 6. Pre-Bid Conference 2                       | <b>2nd April, 2018, 1500 Hrs IST</b> |
| 7. Authority response to queries latest by    | <b>16th April, 2018</b>              |
| 8. Bid Due Date                               | <b>7th May, 2018</b>                 |

**Part- I : Qualification Proposal**

- |  |                                  |
|--|----------------------------------|
| 1. Opening of Part-I (Qualification Proposal)              | <b>10<sup>th</sup> May, 2018</b> |
| 2. Announcement of Qualified Bidders & shortlisted Bidders | Within 15 days of Bid Due Date   |

**Part - II : Technical Proposal**

**Estimated Date**

- |  |  |
|--|--|
| 1. Opening of Part-II (Technical Proposals of qualified bidders) | On a Date to be intimated                                  |
| 2. Presentation on Technical Proposals                           | On a Date to be intimated                                  |
| 3. Announcement of shortlist of Applicants                       | Within 15 days from date of Opening of Technical Proposals |

**Part – III: Financial Bid**

**Estimated Date**

- |   |   |
|---|---|
| 1. Opening of Part-III (Financial Bids of shortlisted Applicants / Bidders) | On a Date to be intimated               |
| 2. Letter of Award (LOA)  | Within 30 days of opening of Price Bids |
| 3. Validity of Bids   | 240 days from Bid Due Date              |
| 4. Signing of Concession Agreement  | Within 60 days of award of LOA          |

## **2. INSTRUCTIONS TO APPLICANTS / BIDDERS**

### **A. GENERAL**

#### **2.1 Scope of Bid**

- 2.1.1 The Authority wishes to receive Bids comprising of Qualification Proposals, Technical Proposals and Financial Bids for the Project. No Applicant / Bidder shall submit more than one Bid for the Project. An Applicant / 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 Qualified Applicants / Bidders will be invited to the opening of Technical Proposal. The shortlisted Applicants / Bidders on the basis of the evaluation of the Technical Proposals will be invited for opening of the Financial Bids for the Project. The Highest Applicant / Bidder whose financial bid has been opened would be awarded the Project.
- 2.1.3 Unless the context otherwise requires, the terms defined in this RFP shall have the meaning assigned thereto in the RFP.
- 2.1.4 The PIM is being provided only as a preliminary reference document by way of assistance to the Applicants / Bidders who are expected to carry out their own surveys, investigations and other detailed assessments, examination, estimates, projections, etc. before submitting their Bids. Nothing contained in the PIM shall be binding on the Authority nor confer any right on the Applicants / Bidders, and the Authority shall have no liability whatsoever in relation to or arising out of any or all contents of the PIM.
- 2.1.5 The draft Concession Agreement of this RFP sets forth the detailed terms and conditions for grant of the Concession to the Concessionaire. Notwithstanding anything to the contrary contained in this RFP, the detailed Terms specified in the draft Concession Agreement shall have overriding effect; provided, however, that any conditions or obligations imposed on the Applicant / Bidder hereunder shall continue to have effect in addition to its obligations under the Concession Agreement.
- 2.1.6 Any condition or qualification or any other stipulation contained in the Bid shall render the Bid liable to rejection as a non-responsive Bid.
- 2.1.7 This RFP and all attached documents are and shall remain the property of the Authority and are transmitted to the Applicants / Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Applicants / 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.
- 2.1.8 Any award of Concession pursuant to this RFP / Bid Document shall be subject to the terms of RFP.

2.1.9 Conditions of this RFP shall be binding on the Applicants / Bidders.

## 2.2 Eligibility of Applicants / Bidders

2.2.1 For determining the eligibility of Applicants / Bidders for their qualification hereunder, the following shall apply:

- (a) The Applicant / Bidder may be a single entity or a group of entities (the “**Consortium**”), coming together to implement the Project. However, no applicant / Bidder applying individually or as a member of a Consortium (“**Member**”), as the case may be, can be member of another Applicant / Bidder. The term Applicant / Bidder used herein would apply to both a single entity and a Consortium.
- (b) An Applicant / Bidder may be a natural person, private entity or any combination of them with a formal intent to enter into an agreement or under an existing agreement to form a Consortium. A Consortium shall be eligible for consideration subject to the conditions set out in Clause 2.2.6 below.
- (c) An Applicant / Bidder shall not have a conflict of interest (the “**Conflict of Interest**”) that affects the Bidding Process. Any Applicant / Bidder found to have a Conflict of Interest shall be disqualified. An Applicant / Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:
  - (i) the Applicant / Bidder, its Member or Associate (defined herein below) (or any constituent thereof) and any other Applicant / Bidder, its Member or any Associate thereof (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of an Applicant / Bidder, its Member or an Associate thereof (or any shareholder thereof having a shareholding of more than 5 per cent of the paid up and subscribed share capital of such Applicant / Bidder, Member or Associate, as the case may be) in the other Applicant / Bidder, its Member or Associate is less than 5 per cent 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 4A of the Companies Act, 1956 / corresponding reference as in Companies Act, 2013. For the purposes of this Clause 2.2.1(c), 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 shareholding of such intermediary; or

- (ii) a constituent of such Applicant / Bidder is also a constituent of another Applicant / Bidder; or
  - (iii) such Applicant / Bidder, or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Applicant / Bidder, or any Associate thereof or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Applicant / Bidder, its Member or any Associate thereof; or
  - (iv) such Applicant / Bidder has the same legal representative for purposes of this Bid as any other Applicant / Bidder; or
  - (v) such Applicant / Bidder, or any Associate thereof has a relationship with another Applicant / 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 Applicant / 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.
- (d) An Applicant / 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 Applicant / Bidder, its Member or any Associate thereof, as the case may be, in any manner for matters related to or incidental to the Project. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Applicant / Bidder, its Member or Associate in the past but its assignment expired or was terminated 6 (six) months prior to the date of issue of this RFP. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of commercial operation of the Project.

In case an Applicant / Bidder is a Consortium, then the term Applicant / Bidder as used in this Clause 2.2.1, shall include each Member of such Consortium.

For purposes of this RFP, Associate means, in relation to the Applicant / Bidder/ Consortium Member, a person who controls, is controlled by, or is under the common control with such Applicant / Bidder/ Consortium Member (the “**Associate**”). As used in this definition, the expression “control” means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

For the purposes of clarity, merely having common Directors / majority of common Directors does not deem a company as an Associate for the purpose of this definition.

2.2.2 To be eligible for qualification, an Applicant / Bidder shall fulfil the following conditions of eligibility:

(A) **Technical Capacity:** For demonstrating technical capacity and experience (the “**Technical Capacity**”), the Applicant / 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 7.2.1;

such that the sum total of the above is more than **INR 1400 Crore (Indian Rupees One Thousand Four hundred Crore)** (the “**Threshold Technical Capacity**”).

(B) **Financial Capacity:** (the “**Financial Capacity**”):

The Applicant / Bidder shall satisfy the following criteria (i) and (ii) together:

- (i) A minimum **Net Worth** of **INR 235 Crore (Indian Rupees Two Hundred and Thirty Five Crore)** at the close of the preceding Financial Year; and

**And**

- (ii) An minimum **Annual Turnover** of **INR 280 Crore (Indian Rupees Two Hundred and Eighty Crore)** in each of the preceding 3 (three) Financial Years

In case of a Consortium, the combined Technical Capacity, Annual Turnover and Net Worth of those Members, who shall have an equity share of at least 26% (twenty six per cent) each in the SPV, should satisfy the above conditions of eligibility; provided that each such Member shall, for a period of 2 (two) years from the date of commercial operations of the Project (COD1 and COD2, whichever is later), hold equity share capital not less than: (i) 26% (twenty six per cent) of the subscribed and paid up equity of the SPV; and (ii) 5% (five per cent) of the Total Project Cost specified in the Concession Agreement.

Net Worth shall mean (Subscribed and Paid-up Equity + Reserves) less (Revaluation reserves + miscellaneous expenditure not written off + reserves not available for distribution to equity shareholders).

Further, the Applicant or each of the Consortium Members whose Financial Capacity is being considered, shall be required to have Positive Net Cash Accruals in each of the three (3) years, preceding the Bid Due Date. (Net Cash Accruals shall mean Profit After Tax + Depreciation).

- 2.2.3 **O&M Experience:** In the event that the Applicant does not have the requisite operations & maintenance / management (“O&M”) experience, it shall be required to enter into an agreement for a minimum period until the 5<sup>th</sup> (fifth) anniversary of the date of commercial operations (COD1 and/or COD2, whichever is later)<sup>1</sup> of the Project, with an entity having the experience of O&M of at least one 5 Star Hotel or equivalent for a minimum continuous period of 10 years, for discharging its O&M obligations in accordance with the provisions of the draft Concession Agreement, failing which the draft Concession Agreement shall be liable to termination. The submission of the O&M agreement shall be a condition precedent in the draft Concession Agreement.
- 2.2.4 The Applicants / Bidders shall enclose with its Bid, to be submitted as per the formats at **Appendix-I**, complete with its Annexes, the following:
- (i) Certificate(s) from its statutory auditors or the concerned client(s) 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 2.2.2 (A) above. In case a particular job/ contract has been jointly executed by the Applicant / 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 Applicant / Bidder, as at the close of the preceding financial year, and also specifying that the methodology adopted for calculating such net worth conforms to the provisions of this Clause 2.2.4 (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.
- (In case duly certified audited annual financial statements containing explicitly the requisite details are provided, a separate certification by statutory auditors would not be necessary in respect of Clause 2.2.4 (i). In jurisdictions that do not have statutory auditors, the firm of auditors which audits the annual accounts of the Applicant may provide the certificates required).
- 2.2.5 The Applicant / Bidder should submit a Power of Attorney as per the format at **Appendix-II**, authorising the signatory of the Bid to commit the Applicant / Bidder. In the case of a Consortium, the Members should submit a Power of Attorney in favour of the Lead Member (defined herein below) as per format at **Appendix-III**.
- 2.2.6 The Applicant / Bidder shall be required to incorporate an appropriate Special Purpose Vehicle, incorporated under the Indian Companies Act, 2013 (the “**SPV**”), to execute the Concession Agreement and implement the Project. In case the Applicant / Bidder is a Consortium, it shall, in addition to forming an SPV, comply with the following additional requirements:

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<sup>1</sup> COD1 and COD2 have been more fully described in the draft Concession Agreement

- (a) Number of Members in a consortium shall not exceed 6 (six);
- (b) subject to the provisions of sub-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 holding of at least 26% (twenty six per cent) of the paid up and subscribed equity of the SPV. 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 experience, roles and responsibilities of individual Members, particularly with reference to financial, technical and O&M obligations;
- (e) an individual Applicant / Bidder cannot at the same time be Member of a Consortium applying for pre-qualification. Further, a Member of a particular Applicant / Bidder Consortium cannot be Member of any other Applicant / Bidder Consortium applying for pre-qualification;
- (f) the Members of a Consortium shall form an appropriate SPV to execute the Project, if awarded to the Consortium;
- (g) Members of the Consortium shall enter into a binding Joint Bidding Agreement, in the form specified at Appendix-IV (the “**Jt. Bidding Agreement**”), for the purpose of making the Bid and submitting a Bid in the event of being short-listed. The Jt. Bidding Agreement, to be submitted along with the Bid, 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 Concession Agreement and subsequently perform all the obligations of the Concessionaire in terms of the draft Concession Agreement, in case the concession 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;
  - (iv) commit that each of the Members, whose experience will be evaluated for the purposes of this RFP, shall subscribe to 26% (twenty six per cent) or more of the paid up and subscribed equity of the SPV and shall further commit that each such Member shall, for a period of 2 (two) years from the COD 1 and COD 2 of the Project, whichever is later, hold equity share capital not less than: (i) 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPV; and (ii) 5% (five per cent) of the Total Project Cost;

- (v) members of the Consortium undertake that they shall collectively hold at least 51% (fifty one per cent) of the subscribed and paid up equity of the SPV at all times until the second anniversary of the COD1 and COD 2 of the Project, whichever is later; and
- (vi) include a statement to the effect that all Members of the Consortium shall be liable jointly and severally for all obligations of the Concessionaire in relation to the Project until the Financial Close of the Project is achieved in accordance with the Concession Agreement; and
- (h) except as provided under this RFP, there shall not be any amendment to the Jt. Bidding Agreement without the prior written consent of the Authority.

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

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

2.2.9 In computing the Technical Capacity, Net Worth and Annual Turnover of the Applicant / Bidder/ Consortium Members under Clauses 2.2.2, 2.2.4, 7.2 and 7.4, the Technical Capacity and Net Worth of their respective Associates would also be eligible hereunder.

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

- (a) Applicants / Bidders should attach clearly marked and referenced continuation sheets in the event that the space provided in the prescribed forms in the Annexes is insufficient. Alternatively, Applicants / Bidders may format the prescribed forms making due provision for incorporation of the requested information;
- (b) information supplied by an Applicant / Bidder (or other constituent Member if the Applicant / Bidder is a Consortium) must apply to the Applicant / Bidder, Member or Associate named in the Bid and not, unless specifically requested, to other associated companies or firms. Invitation to the Selected Applicant / Bidder to enter into the Concession Agreement will be issued only to Applicants / Bidders whose identity and/ or constitution is identical to that at qualification;

- (c) in responding to the qualification submissions, Applicants / Bidders should demonstrate their capabilities in accordance with Clause 7.1 below; and
- (d) in case the Applicant / Bidder is a Consortium, each Member should substantially satisfy the pre-qualification requirements to the extent specified herein.

2.2.11 While Qualification is open to persons from any country, the following provisions shall apply:

- (a) Where, on the date of the Bid, not less than 15% (fifteen per cent) of the aggregate issued, subscribed and paid up equity share capital in an Applicant / Bidder or its Member is held by persons resident outside India or where an Applicant / Bidder or its Member is controlled by persons resident outside India; or
- (b) if at any subsequent stage after the date of the Bid, there is an acquisition of not less than 15% (fifteen per cent) of the aggregate issued, subscribed and paid up equity share capital or control, by persons resident outside India, in or of the Applicant / Bidder or its Member;

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

The holding or acquisition of equity or control, as above, shall include direct or indirect holding/ acquisition, including by transfer, of the direct or indirect legal or beneficial ownership or control, by persons acting for themselves or in concert and in determining such holding or acquisition, the Authority shall be guided by the principles, precedents and definitions contained in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, or any substitute thereof, as in force on the date of such acquisition, as applicable.

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

2.2.12 Notwithstanding anything to the contrary contained herein, in the event that the Bid Due Date falls within three months of the closing of the latest Financial Year of an Applicant / Bidder, it shall ignore such Financial Year for the purposes of its Bid and furnish all its information and certification with reference to the 5 (five) years or 1 (one) year, as the case may be, preceding its latest Financial Year. For the avoidance of doubt, Financial Year shall, for the purposes of a Bid hereunder, mean the accounting year followed by the Applicant / Bidder in the course of its normal business.

**2.3 Change in composition of the Consortium**

- 2.3.1 Change in the composition of a Consortium will not be permitted by the Authority, until the expiry of the Lock-in period as defined in the draft Concession Agreement.

**2.4 Number of Bids and costs thereof**

- 2.4.1 No Applicant / Bidder shall submit more than one Bid for the Project. An Applicant / Bidder applying individually or as a Member of a Consortium shall not be entitled to submit another Bid either individually or as a Member of any Consortium, as the case may be.
- 2.4.2 The Applicants / Bidders shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Bid 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.

**2.5 Site visit and verification of information**

- 2.5.1 Applicants / 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.

For any assistance in respect to the site visit by the Bidders, Bidders can contact the following officer on the address given below:

Mr. Y. Sreenivasappa,  
Deputy General Manager (IPD)  
Karnataka State Industrial & Infrastructure Development Corporation Ltd.,  
Contact no: +91-80-22259371  
Email: [dgmipd3@ksiidc.com](mailto:dgmipd3@ksiidc.com)

- 2.5.2 It shall be deemed that by submitting a Bid, the Bidder has:

- (a) made a complete and careful examination of the RFP;
- (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 RFP or furnished by or on behalf of the Authority relating to any of the matters referred to in Clause 2.5.1 above;
- (d) satisfied itself about all matters, things and information including matters referred to in Clause 2.5.1 herein above necessary and required for submitting an informed Bid, execution of the Project in accordance with the RFP and performance of all of its obligations thereunder;

- (e) acknowledged and agreed that inadequacy, lack of completeness or Incorrectness of information provided in the RFP or ignorance of any of the matters referred to in Clause 2.5.1 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 Concession Agreement; and
- (f) acknowledged that it does not have a Conflict of Interest; and
- (g) agreed to be bound by the undertakings provided by it under and in terms hereof.

## **2.6 Acknowledgement by Applicant / Bidder**

2.6.1 It shall be deemed that by submitting the Bid, the Applicant / Bidder has:

- (a) made a complete and careful examination of the RFP;
- (b) received all relevant information requested from the Authority;
- (c) accepted the risk of inadequacy, error or mistake in the information provided in the RFP or furnished by or on behalf of the Authority relating to any of the matters referred to in Clause 2.5 above; and
- (d) agreed to be bound by the undertakings provided by it under and in terms hereof.

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

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

2.7.1 Notwithstanding anything contained in this RFP, the Authority reserves the right to accept or reject any Bid and to annul the Bidding Process and reject all Bids, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons therefor. In the event that the Authority rejects or annuls all the Bids, it may, in its discretion, invite all eligible Applicants / Bidders to submit fresh Bids hereunder.

2.7.2 The Authority reserves the right to reject any Bid if:

- (a) at any time, a material misrepresentation is made or uncovered, or
- (b) the Applicant / Bidder does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Bid.

If the Applicant / Bidder is a Consortium, then the entire Consortium may be disqualified/ rejected. If such disqualification/ rejection occurs after the Bids have been opened and the Highest Bidder gets disqualified/ rejected, then the Authority reserves the right to:

- (i) invite the remaining Applicants / Bidders to match the Highest Bidder/ submit their Bids in accordance with the RFP; or
- (ii) take any such measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Bidding Process.

2.7.3 In case it is found during the evaluation or at any time before signing of the Concession Agreement or after its execution and during the period of subsistence thereof, including the concession thereby granted by the Authority, that one or more of the pre-qualification conditions have not been met by the Applicant / Bidder, or the Applicant / Bidder has made material misrepresentation or has given any materially incorrect or false information, the Applicant / Bidder shall be disqualified forthwith if not yet appointed as the Concessionaire either by issue of the Letter of Award (“**LoA**”) or entering into of the Concession Agreement, and if the Applicant / Bidder/SPV has already been issued the LoA or has entered into the Concession Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority to the Applicant / Bidder , without the Authority being liable in any manner whatsoever to the Applicant / Bidder or Concessionaire, as the case may be. 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 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.

2.7.4 The Authority reserves the right to verify all statements, information and documents submitted by the Applicant / Bidder in response to the RFP. Any such verification or lack of such verification by the Authority shall not relieve the Applicant / Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Authority thereunder.

## **B. DOCUMENTS**

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

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

#### **Part I: Introduction & General Instructions**

- Section 1: Introduction
- Section 2: Instructions to Applicants / Bidders
- Section 3: Fraud & Corrupt Practices
- Section 4: Pre Bid Conference
- Section 5: Miscellaneous

Section 6: Project Terms and Role of Selected Bidder

**Part II: Qualification Proposal**

Section 7: Qualification Criteria for Applicants / Bidders  
Criteria for evaluation of Qualification proposal

**Part III: Technical Proposal**

Section 8: Criteria and Evaluation of Technical Proposal

**Part IV: Financial Bid**

Section 9: Evaluation of Financial Bid

**Part V: Draft Concession Agreement**

**Part VI: Project Information Memorandum**

**Part VII: Appendices**

- I. Letter comprising the Bid
- II. Power of Attorney for signing of Bid
- III. Power of Attorney for Lead Member of Consortium
- IV. Joint Bidding Agreement for Consortium
- V. Bank Guarantee for Bid Security
- VI. Letter Comprising of Technical Proposal
- VII. Letter Comprising Bid
- VIII. Guidelines of the Department of Disinvestment

**2.9 Clarifications**

2.9.1 Applicants / Bidders requiring any clarification on the RFP may notify the Authority in writing through the E-procurement portal / by electronic mail to the Authority's address indicated at clause 2.13.3 below and in accordance with Clause 1.2.12.

They should send in their queries before the date specified in the schedule of Bidding Process contained in Clause 1.3. The Authority shall endeavour to respond to the queries / post the replies to the queries only on the E-procurement portal, within the period specified therein, but no later than 10 (ten) days prior to the Bid Due Date. The Authority will respond to the queries without identifying the source of queries.

2.9.2 The Authority shall endeavour to respond to the questions raised or clarifications sought by the Applicants / 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.

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

**2.10 Amendment of RFP**

- 2.10.1 At any time prior to the deadline for submission of Bid, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by an Applicant / Bidder, modify the RFP by the issuance of Addenda.
- 2.10.2 Any Addendum thus issued will be posted on the e-procurement portal only.
- 2.10.3 In order to afford the Applicants / Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Authority may, in its sole discretion, extend the Bid Due Date.

**C. PREPARATION AND SUBMISSION OF BID**

**2.11 Language**

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

**2.12 Format and signing of Bid**

- 2.12.1 The Applicant / Bidder shall provide all the information sought under this RFP. The Authority will evaluate only those Bids that are received in the required formats and complete in all respects on the E-procurement mode. Incomplete and /or conditional Bids shall be liable to rejection.
- 2.12.2 The Applicant / Bidder shall prepare 1 (one) original set of each part of the Bid (together with originals / copies of documents required to be submitted along therewith pursuant to this RFP) as submitted through the E-procurement portal, and clearly marked **“ORIGINAL DOCUMENTS”**. In addition, the Applicant / Bidder shall submit 1 (one) copy of each part of the Bid, along with documents required to be submitted along therewith pursuant to this RFP, marked **“COPY”**. **Such submissions shall only be made at the time of opening of each part of the Bid.** In case of any discrepancy on the documents submitted as e-Submission, the authenticity of the uploaded documents shall be verified by referring to the originals of the documents submitted as part of the Hard Copy Submission and through verification of originals of the Documentary Proof as part of Bid Evaluation. In the event of any discrepancy between the Original and the E-submission on the E-procurement portal, the e-submission on the E-procurement portal shall prevail.
- 2.12.3 The Bid and its Copy shall be typed or written in indelible Blue or Black ink and signed by the authorised signatory of the Applicant / Bidder who shall also initial

each page in Blue or Black ink. In case of printed and published documents, only the cover shall be initialled. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialled by the person(s) signing the Bid. The hard copies of each part of the Bid shall contain page numbers and shall be bound together.

**2.13 Sealing and Marking of Bids**

- 2.13.1 The Applicant / Bidder shall submit the Bid in the formats specified at Volume – VII Appendices, together with the documents specified in Clause 2.13.2.

The Hard copies being submitted at the time of opening of each part of the Bid, shall be submitted in a sealed envelope marked as **“Qualification Proposal / Technical Proposal for Development of Bengaluru International Convention Centre on Public Private Partnership Basis”**.

The Applicant / Bidder shall seal the original and the copy of each part of the Bid, together with their respective enclosures, in separate envelopes duly marking the envelopes as “ORIGINAL DOCUMENTS” and “COPY”. The envelopes shall then be sealed in an outer envelope which shall also be marked in accordance with Clauses 2.13.2 and 2.13.3 and **submitted the same at the time of opening of each part only**.

- 2.13.2 Each proposal / Bid (E-submission vide E-procurement portal and hard copy submission) shall comprise of the following:

**Part - I: Qualification Proposal**

- (i) Information in the prescribed format (Appendix-I) along with Annexes (I to V) and supporting documents;
  - (ii) Power of Attorney for signing the Bid as per the format at Appendix-II;
  - (iii) if applicable, the Power of Attorney for Lead Member of Consortium as per the format at Appendix-III;
  - (iv) copy of the Jt. Bidding Agreement, in case of a Consortium, substantially in the format at Appendix-IV;
  - (v) copy of Memorandum and Articles of Association, if the Applicant / Bidder is a body corporate, and if a partnership then a copy of its partnership deed;
  - (vi) copies of Applicant / Bidder’s duly audited balance sheet and profit and loss account for the preceding five years;
  - (vii) Bank Guarantee for Bid Security in the prescribed format (Appendix – V)
  - (viii) A copy of the Concession Agreement with each page initialled by the Bid signatory in pursuance of the Power of Attorney referred to in Clause 2.13.2
- (iii)

**Part - II: Technical Proposal**

- (i) Letter Comprising Technical Proposal in the prescribed format (Appendix-VI)
- (ii) Project Concept Note;
- (iii) Proposed Development Plan including Project Components and area statement;
- (iv) Preliminary Master Plan and building plans;
- (v) Conceptual perspective;
- (vi) Proposed phasing, if any proposed;
- (vii) Indicative Investment Plan;
- (viii) Indicative Revenue plan;
- (ix) Preliminary Business Plan alongwith Financial analysis including sensitivity analysis;
- (x) Working model in .xls file format for Preliminary Business Plan alongwith Financial analysis including sensitivity analysis;
- (xi) Minimum Development Obligations considered in the design;
- (xii) Adoption of Green Building concept.

**Part - III: Financial Bid**

- i) Price Bid in the prescribed format (Appendix VII)

**The E-submission of each of the above parts shall be specifically made only in the respective links provided in the E-procurement portal. Submission in the wrong links or interchanged links are liable for rejection.**

2.13.3 All the correspondences / submissions shall be addressed to:

ATTN. OF:

DESIGNATION: **Managing Director**

ADDRESS: Karnataka State Industrial & Infrastructure  
Development Corporation Limited  
4th Floor, East Wing,  
Khanija Bhavan,  
Race Course Road,  
Bengaluru, Karnataka  
India 560 001

2.13.4 If the envelopes of the Hard Copy submissions are not sealed and marked as instructed above, the Authority assumes no responsibility for the misplacement or premature opening of the contents of the Bid parts and consequent losses, if any, suffered by the Applicant / Bidder.

2.13.5 Bids submitted by fax or e-mail or only in hard copies shall not be entertained and shall be rejected.

**2.14 Bid Due Date**

2.14.1 Bids should be submitted only online through the E-procurement portal before 1700 hours IST on the Bid Due Date.

The Hard Copies as indicated above shall be submitted only at the time of opening of respective parts of the qualified Applicants / Bidders, at the address provided in Clause 2.13.3 in the manner and form as detailed in this RFP.

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

**2.15 Late Bids**

Bids not received online through the E-procurement portal / incomplete Bids received / received by the Authority only in Hard Copy shall not be eligible for consideration and shall be summarily rejected.

**2.16 Modifications/ substitution/ withdrawal of Bids**

2.16.1 The Applicant / Bidder may modify, substitute or withdraw its Bid after submission online, provided that written notice of the modification, substitution or withdrawal is received by the Authority prior to the Bid Due Date.

2.16.2 No Bid shall be modified, substituted or withdrawn by the Applicant / Bidder on or after the Bid Due Date. Withdrawal of the Bid on or after the Bid Due Date shall be liable for forfeiture of the Bid Security of the Applicant / Bidder.

2.16.3 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.

**D. EVALUATION PROCESS**

**2.17 Opening and Evaluation of Bids**

2.17.1 The Authority shall open the Bids (Part I – Qualification Proposal) at 1100 hours IST on the Stipulated Bid Opening Date, at the place specified in Clause 1.3 and in the presence of the Applicants / Bidders who choose to attend.

- 2.17.2 Bids for which a notice of withdrawal has been submitted in accordance with Clause 2.16 shall not be opened.
- 2.17.3 The Authority will subsequently examine and evaluate the E-submissions in Part-I in accordance with the provisions set out in Sections 7 and 8, after verification of the same with the Originals submitted by the Applicants / Bidders at the time of the opening.
- 2.17.4 Applicants / Bidders are advised that evaluation of qualification of Applicants / Bidders will be entirely at the discretion of the Authority. Applicants / Bidders will be deemed to have understood and agreed that no explanation or justification on any aspect of the Bidding Process or selection will be given.
- 2.17.5 Any information contained in the Bid shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Applicant / Bidder if the Project is subsequently awarded to it on the basis of such information.
- 2.17.6 The Authority reserves the right not to proceed with the Bidding Process / evaluation process at any time without notice or liability and to reject any or all Bid(s) without assigning any reasons.
- 2.17.7 If any information furnished by the Applicant / Bidder is found to be incomplete, or contained in formats other than those specified herein, the Authority may, in its sole discretion, exclude the relevant project from the evaluation of Eligible Projects of the Applicant / Bidder.
- 2.17.8 In the event that an Applicant / Bidder claims credit for an Eligible Project, and such claim is determined by the Authority as incorrect or erroneous, the Authority shall reject such claim and exclude the same from the evaluation. Where any information is found to be patently false or amounting to a material misrepresentation, the Authority reserves the right to reject the Bid and/ or Bid in accordance with the provisions of Clauses 2.7.2, 2.7.3 and 2.7.4.
- 2.18 **Confidentiality**
- Information relating to the examination, clarification, evaluation, and recommendation for the short-listed pre-qualified Applicants / 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.
- 2.19 The Authority will treat all information, submitted as part of Bid, in confidence and will require all those who have access to such material to treat the same in confidence.

- 2.20 The Authority may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the Authority or as may be required by law or in connection with any legal process.

**E. BIDDING**

- 2.21 The Bid process shall be strictly as per the e-procurement process. The Applicants / Bidders shall bear all costs pertaining to assessment of the Bid, preparation and submission of the Bid, including preparation of Technical Proposal and attending the Technical Proposal presentation.

2.22 **Submission of Bids**

The Applicants / Bidders are advised to visit the site and familiarise themselves with the Project by the time of submission of the Bid. No extension of time is likely to be considered for submission of Bids pursuant to this invitation issued by the Authority.

2.23 **Proprietary data**

All documents and other information supplied by the Authority or submitted by an Applicant / Bidder to the Authority shall remain or become the property of the Authority. Applicants / 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.

2.24 **Correspondence with the Applicant / Bidder**

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

**F. BID SECURITY**

2.25 **Bid Security**

- 2.25.1 The Applicant / Bidder shall furnish as part of its Bid, a Bid Security referred at Clause 1.2.1 (ii) p) above. The Bid Security shall be **Interest Free for an amount of INR 9,35,00,000/- (Indian Rupees Nine Crore and Thirty Five lakhs)** (hereinafter referred to as “**Bid Security**”).

- 2.25.2 The Bid Security shall be furnished as per the following:

- (i) Part payment of **INR 5,00,000/- (Indian Rupees Five Lakh)** of the Bid Security as e-payment as per the e-payment modes explained in this RFP.

(ii) The balance amount of **INR 9,30,00,000/- (Indian Rupees Nine Crore and Thirty lakhs)** in the form of:

a) An irrevocable & unconditional **Bank Guarantee (“BG”)** from a Scheduled Bank in India (having its operational branch at Bengaluru and having a net worth of at least INR 1000 Crore), in favour of the Authority as per the format at **Part VII Appendix–V** (the “**Bank Guarantee**”) and having a validity period of not less than 240 days from the Bid Due Date, as may be extended by the Applicant / Bidder from time to time [In case the Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any nationalised bank in India is required. For the avoidance of doubt, Scheduled Bank shall mean a bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934].

**OR**

b) A **Demand Draft / Pay Order** issued by a Scheduled Bank in India, drawn in favour of the Authority (“**Managing Director, KSIIDC**”) and payable at Bengaluru (the “**Demand Draft**” or “**DD**”)

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

- 2.25.3 Any Bid / document not accompanied by the Bid Security shall be rejected by the Authority as non-responsive.
- 2.25.4 The Bid Security of unsuccessful Applicants / Bidders will be returned by the Authority, without any interest, as promptly as possible on acceptance of the Bid of the Selected Applicant / Bidder or when the Bidding process is cancelled by the Authority. Where Bid Security has been paid by deposit, the refund thereof shall be in the form of an account payee demand draft in favour of the unsuccessful Applicant / Bidder(s). Applicants / Bidders / Lead Member of the Consortium may by specific instructions in writing to the Authority give the name and address of the person in whose favour the said demand draft shall be drawn by the Authority for refund or the detail for NEFT / RTGS transfer, failing which it shall be drawn in the name of the Applicant / Bidder / Lead Member of the Consortium and shall be mailed to the address given on the Bid.
- 2.25.5 The Selected Applicant / Bidder’s Bid Security will be returned, without any interest, upon the Applicant / Bidder furnishing the Performance Security in accordance with the provisions thereof. The Authority may, at the Selected Applicant / Bidder’s option, adjust the amount of Bid Security in the amount of Performance Security to be provided by him in accordance with the provisions of the Concession Agreement.
- 2.25.6 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 2.25.7 herein below. The Applicant / 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 Applicant / Bidder during the Bid validity period. No relaxation of any kind on Bid Security shall be given to any Applicant / Bidder.

- 2.25.7 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 an Applicant / Bidder submits a non-responsive Bid;
  - b) If an Applicant / Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Clause 3 of this RFP;
  - c) If an Applicant / Bidder withdraws its Bid during the period of Bid validity as specified in this RFP and as extended by the Applicant / Bidder from time to time;
  - d) In the case of Selected Applicant / Bidder, if it fails within the specified time limit
    - i) to sign the Concession Agreement and/or
    - ii) to furnish the Performance Security within a period of 30 (thirty) days from the date of LoA; or
  - e) In case the Selected Applicant / Bidder, commits any breach prior to furnishing the Performance Security;

## **G. OTHER INSTRUCTIONS**

### **2.26 Instructions**

- 2.26.1 The statements and explanations contained in this RFP are intended to provide a proper understanding to the Applicants / Bidders about the subject matter of this RFP and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Concessionaire set forth in the draft Concession Agreement or the Authority's rights to amend, alter, change, supplement or clarify the scope of work, the concession 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 Authority.
- 2.26.2 The draft Concession Agreement shall be deemed to be part of this RFP.
- 2.26.2 The draft Concession Agreement sets forth the detailed terms and conditions for grant of the concession to the Concessionaire, including the scope of the Concessionaire's services and obligations.

**2.27 Change in Ownership**

- 2.27.1 By submitting the Bid, the Applicant / Bidder acknowledges that if its Consortium is selected, the same is on the basis of Technical Capacity and Financial Capacity of those of its Consortium Members who shall until the 2<sup>nd</sup> (second) anniversary of the date of commercial operations (COD1 and COD2, whichever is later) of the Project and hold equity share capital representing not less than: (i) 26% (twenty six per cent) of the subscribed and paid-up equity of the Concessionaire; and (ii) 5% (five per cent) of the Total Project Cost as specified in the draft Concession Agreement. The Applicant / Bidder further acknowledges and agrees that the aforesaid obligation shall be the minimum, and shall be in addition to such other obligations as may be contained in the Concession Agreement, and a breach hereof shall, notwithstanding anything to the contrary contained in the draft Concession Agreement, be deemed to be a breach of the draft Concession Agreement and dealt with as such thereunder. For the avoidance of doubt, in case the Applicant / Bidder is a single entity, it shall undertake to hold at least 51% (fifty one per cent) of the subscribed and paid up share capital of the SPV at all times until the second anniversary of the COD1 and COD 2 of the Project, whichever is later.
- 2.27.2 By submitting the Bid, the Applicant / Bidder shall also be deemed to have acknowledged and agreed that in the event of a Change in Ownership 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 conditions, the Bidder shall be deemed to have knowledge of the same and shall be required to inform the Authority forthwith along with all relevant particulars about the same and the Authority may, in its sole discretion, disqualify the Bidder or withdraw the LOA from the Selected Bidder, as the case may be. In the event such Change in Ownership occurs after signing of the draft Concession Agreement but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the draft Concession Agreement, be deemed to be a breach of the Concession Agreement, and the same shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Concessionaire. In such an event, notwithstanding anything to the contrary contained in the draft Concession Agreement, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under this RFP and/ or the Concession Agreement or otherwise.

**2.28 Change in the composition of Consortium after 2 (two) years from the date of commercial operation of COD1 or COD2, whichever is later:**

By submitting the Bid, the Applicant / Bidder shall also be deemed to have acknowledged and agreed that in the event of a change in composition of Consortium or Change in Ownership of a Consortium Member or an Associate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of qualification, the selected Bidder shall inform the Authority forthwith along with all

relevant particulars about the same and the Authority may, in its sole discretion consider the same, if:

- (a) the substitute is at least equal, in terms of Financial and Technical Capacity, to the Consortium Member who is sought to be substituted and the modified Consortium shall continue to meet the qualification and short-listing criteria for the bidding process; and
- (b) the new Member(s) expressly adopt(s) the Bid already made on behalf of the Consortium as if it were a party to it originally.

The Applicant / Consortium shall in all cases seek the prior written approval of the Authority, which shall otherwise not be denied by the Authority, subject to the fulfilment of the above.

### **3. FRAUD AND CORRUPT PRACTICES**

- 3.1 The Applicants / Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process. Notwithstanding anything to the contrary contained herein, the Authority may reject a Bid without being liable in any manner whatsoever to the Applicant / Bidder if it determines that the Applicant / Bidder 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.
- 3.2 Without prejudice to the rights of the Authority under Clause 3.1 hereinabove, if an Applicant / Bidder 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, such Applicant / 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 Applicant / Bidder 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, as the case may be. Further, 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.
- 3.3 For the purposes of this Clause 3, 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 draft Concession Agreement or arising therefrom, 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) save and except as permitted under sub clause (d) of Clause 2.2.1, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the draft Concession Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the draft Concession Agreement, who at any time has been or is a legal, financial or technical adviser of the Authority in relation to any matter concerning the Project;
  - (b) **“fraudulent practice”** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;

- (c) **“coercive practice”** means impairing or harming or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bidding Process;
- (d) **“undesirable practice”** means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and
- (e) **“restrictive practice”** means forming a cartel or arriving at any understanding or arrangement among Applicants / Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

#### **4. PRE-BID CONFERENCE**

- 4.1 A Pre-Bid conferences of the interested parties shall be convened at the designated dates and time as in clause 1.3, at the following venue:

**Venue:** Karnataka State Industrial & Infrastructure Development Corporation Ltd.  
4th Floor, East Wing,  
Khanija Bhavan,  
Race Course Road,  
Bengaluru, Karnataka  
India 560 001

Representatives of each interested Applicant / Bidder would be eligible to participate in the meetings on intimation in writing at least 3 (three) days prior to the dates of the Pre-Bid Meetings.

Information regarding any change in dates and/or time and/or the venue of the Pre-Bid meeting will be posted on the e-procurement portal only.

- 4.2 Applicants / Bidders would be required to send their pre-bid queries / request for clarifications, if any, in writing either through the e-procurement portal or by email to the details specified at clause 1.2.12. The Authority shall endeavour to provide its response to the queries / clarifications requested in writing and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.

## **5. MISCELLANEOUS**

- 5.1 The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the Courts at Bengaluru, Karnataka shall have sole and exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.
- 5.2 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 Applicant / Bidder in order to receive clarification or further information;
  - (c) qualify or not to qualify any Applicant / Bidder and/ or to consult with any Applicant / Bidder in order to receive clarification or further information;
  - (d) retain any information and/ or evidence submitted to the Authority by, on behalf of, and/ or in relation to any Applicant / Bidder; and/ or
  - (e) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Applicant / Bidder.
- 5.3 It shall be deemed that by submitting the Bid, the Applicant / 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 in this RFP, pursuant hereto, and/ or in connection with the Bidding Process, to the fullest extent permitted by applicable law, and waives any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.
- 5.4 The Applicant / Bidder shall indemnify the Authority and its employees, directors, consultants and agents and hold such persons harmless from and against any and all actions, causes of action, claims, suits, damages, counterclaims, penalties, losses, expenses (including reasonable attorney's fees and court costs) and liabilities of any kind which the Authority or its employees, directors, consultants and agents may suffer howsoever arising as a direct or indirect result of any act or omission of the Applicant / Bidder and/or its employees, agents, officers and/or directors, undertaken pursuant to this RFP.

## **6 PROJECT TERMS AND ROLE OF SELECTED BIDDER**

### **6.1 Role of the Selected Bidder**

The Role of the selected Bidder would be:

- 6.1.1 To design, finance, build, market, operate, maintain & manage the Project during the Concession Period which shall initially be 30 (thirty) years plus the Construction Period of CMDO / OMDO (subject to maximum period of 48 months) commencing from the Appointed Date<sup>2</sup>, with a provision for an automatic renewal for another period of 30 (thirty) years, upon successful completion of the first term of 30 (thirty) years and subject to the fulfillment of the terms and conditions more fully described in Part V of this RFP, i.e. as described in the draft Concession Agreement. At the end of the Concession Period, the Project would vest to the Authority in appropriate working condition, free of cost.
- 6.1.2 The selected Bidder shall follow the following implementation structure
- A Special Purpose Vehicle (SPV) shall be incorporated under the Companies Act, 2013 by the Selected Bidder for the purpose of implementing, operating and maintaining the Project on a DFBOT basis.
  - This SPV shall be the Concessionaire in the Concession Agreement and the selected Bidder shall be the Confirming Party therein.
  - Vide the Concession Agreement, the rights pertaining to developing, operating and maintaining the Project on the Project Site shall be assigned to the Concessionaire
- 6.1.3 To obtain all the applicable Project approvals as required from time to time for implementation and operations of the Project
- 6.1.4 To fulfill :
- i. the Core Minimum Development Obligation (“**CMDO**”) of construction of the following at the Project Site and commencement of operations of the same **within 24 (twenty four) months from the date of signing the Concession Agreement**:
    - a. Main Convention/Plenary Hall of minimum 6000 seater capacity and associated facilities;
    - b. Exhibition Hall of minimum 6500 Sq. m. and associated facilities; and
    - c. Supporting Meeting Rooms with associated facilities
    - d. Food Court.
  - ii. The Other Minimum Development Obligation (“**OMDO**”) of construction of the following at the Project Site and commencement of operations of the same **within 48 (forty eight) months from the Appointed Date specified in the Concession Agreement**:
    - a. 5 Star Category Hotel of minimum 250 rooms.

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<sup>2</sup> Appointed Date has been defined in the Draft Concession Agreement

- iii. The other Permissible Developments within the Project Site shall be limited to that permissible and prescribed in the draft Concession Agreement only.

6.1.5 The selected Bidder shall pay the Annual Concession Fee of INR 1000/- (Indian Rupees One Thousand Only) plus applicable GST to the Authority annually during the Concession Period.

6.1.6 The selected Bidder shall, on achieving COD1 and/or COD2 as per the timelines specified in the Concession Agreement and during the Concession Period share the revenues from the Project at a % (percentage) of the gross revenue receipts of the project (Project Revenues), more fully described in the Concession Agreement. The percentage of Revenue Share during the Concession Period shall be as below:

**i. Upon achieving COD1:**

- (a) From date of COD1 to date of COD2 - 2.5% of Gross Revenues for each Accounting Year.

**ii. Upon achieving COD2:**

- (a) From date of COD2 to 5 Years from Operation – 2.5% of Gross Revenues for each Accounting Year;
- (b) 5 Years to 10 years – 5% of Gross Revenues for each Accounting Year;
- (c) 10 years to 15 years – 7.5% of Gross Revenues for each Accounting Year;
- (d) 15 years to 20 years – 10.0% of Gross Revenues for each Accounting Year;
- (e) 20 years to 25 years – 12.50% of Gross Revenues for each Accounting Year;
- (f) 25 years to 30 years – 15.00% of Gross Revenues for each Accounting Year.

**iii. Upon automatic renewal of Concession Period for 2<sup>nd</sup> term of 30 years:**

- (a) 15% of Gross Revenues for each Accounting Year.

For the purpose of clarity:

- a) the Revenue Share shall, commence from the day of COD1 / COD2 (and for any such period prior to the COD1 / COD2 when the commercial operations / transactions of any Project component, has commenced ,whichever is earlier).
- b) The Revenue Share shall apply to all Project components developed / operated on the Project Site.
- c) The definition of Accounting Year is as specified in the Concession Agreement.

6.1.7 Project Revenue shall refer to and include any & all revenues from all sources or amounts of money and the total receipts of business of the Concessionaire for any period, that arise, accrue to and/or are received (or which would have been received) from the operation of Project, CMDO, OMDO, Other Developments (including Retail / Commercial Development and 3 Star Hotel), Project

Facilities, including without limitation the monies charged, collected demanded, levied, received by the Concessionaire pursuant or incidental to – (i) the sub-lease/license/sub-license of built up space on the Project Site; (ii) exploitation in any manner whatsoever of the Project Facilities by any Person, including but not limited to capital receipts, upfront sub-lease payments, non-refundable deposits, advances, registration payments, installments received from sub-lessees, sub-lease charges, fees, tariff, parking charges, profits on maintenance charges, profits on service charges, etc; (iii) revenues from guests, visitors, persons utilizing the facilities, interest earned on refundable deposits, etc.

- 6.1.8 The Selected Bidder will be required to furnish a Construction Period Performance Security, equivalent to **INR 46,75,00,000 (Indian Rupees Forty Six Crores Seventy Five Lakhs only)** that shall be required to be kept valid until the COD1 and COD2 of the Project, respectively. The Construction Period Performance Security will be returned after COD1 and COD2 in proportion to the Construction Cost, respectively, and upon furnishing the Operations Performance Security by the Concessionaire.
- 6.1.9 The Selected Bidder will be required to furnish an Operations Security, equivalent to **INR 5,00,00,000/- (Indian Rupees five crore) at least 30 (thirty) days prior to COD1**, to ensure due and proper observance of the provisions of this Agreement during the Concession Period and furnish from time to time during the Operations Period, the rolling bank guarantee(s) towards the Operations Security

## **6.2 Sequence of events on selection of Bidder**

### **6.2.1 Issue of LoA by the Authority after evaluation of the Bids**

Upon completion of the Bid evaluation process, and acceptance of the Bid submitted by the Selected Bidder, the Authority shall convey the intention to award the Project to the Selected Bidder, who satisfies all other compliance requirements through a LoA. Such LoA shall be issued, in duplicate, by the Authority to the Selected Bidder and the Selected Bidder shall, within 7 (seven) days of the receipt of the LoA, sign and return the duplicate copy of the LoA in unconditional acknowledgement thereof. In the event the duplicate copy of the LoA duly signed by the Selected Bidder is not received by the stipulated date, the Authority may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as genuine pre-estimated compensation and damages payable to the Authority towards, inter alia, time, cost and effort of the Authority, on account of failure of the Selected Bidder to acknowledge the LoA, and the next eligible Bidder may be considered. The Authority shall reserve its right in its sole discretion, to extend the timelines specified in the LoA, based on any genuine request received from the Selected Bidder.

### **6.2.2 Submission of Bank Guarantees**

Towards the Performance Security, the Selected Bidder shall be required to make the following payments / submissions to the Authority within 30 (thirty) days from the date of the LoA by the Authority:

- (i) the first installment of the 'Premium' (if quoted) to the Authority in the form of a Demand Draft payable at Bengaluru / NEFT / RTGS;
- (ii) submission of Bank Guarantee towards the balance Premium;
- (iii) submission of Bank Guarantee towards the Performance Security.

In the event the Selected Bidder fails to pay the first instalment of 'Premium' (if applicable) amount / and / or submit the Bank Guarantee for the balance Premium and Performance Security within the stipulated period as per the terms of the draft Concession Agreement, the Authority would have the right:

- (i) To forfeit the Bid Security of the Selected Bidder; and
- (ii) To award the Project to the next highest Bidder ("H2") subject to fulfillment of the terms and conditions of the RFP by such Bidder.

### **6.2.3 Execution of Concession Agreement**

Selected Bidder shall incorporate a SPV under the Companies Act, 2013 to implement the Project within 60 (sixty) days from the date of issue of LoA.

The SPV (as Concessionaire) and the Selected Bidder (as Confirming Party to the Agreement) shall sign the Concession Agreement with the Authority within 60 (sixty) days from the date of issue of LoA or as per the extension granted by KSIIDC in terms of clause 6.2.1, whichever is later. Compliance to clauses 6.2.1, 6.2.2 and 6.2.3 shall be conditions precedent for the execution of the Concession Agreement.

### **6.2.4 Handing Over / Taking Over of Project Site**

Within 90 (ninety) days of signing of the draft Concession Agreement, the Concessionaire and the Authority shall mutually decide on a date for taking over / handing over of the Project Site.

The Authority shall reserve its right to decide on such date of handing over / taking over of the Project Site and shall in the event of not receiving such request from the Concessionaire, reserve the right to fix a date and intimate to the Concessionaire to take over the Project Site.

## **PART – II**

### **QUALIFICATION PROPOSAL**

## **7. QUALIFICATION CRITERIA**

### **7.1 Evaluation parameters**

#### **7.1.1 Tests of responsiveness**

Prior to evaluation of submissions in Part-I (Qualification Proposal) of the Bid, the Authority shall determine whether each submissions in Part-I are responsive to the requirements of the RFP and shall be considered responsive only if:

- (a) it is received as per format at Appendix-I.
- (b) it is received vide e-submission on the e-procurement portal by the Bid Due Date & Time including any extension thereof pursuant to Clause 2.14.2;
- (c) it is signed as stipulated in Clauses 2.12 and 2.13;
- (d) it is accompanied by the Power of Attorney as specified in Clause 2.2.5, and in the case of a Consortium, the Power of Attorney as specified in Clause 2.2.6 (c);
- (e) it contains all the information and documents (complete in all respects) as requested in this document;
- (f) it contains information in formats same as those specified in this document;
- (g) it contains certificates from its statutory auditors in the formats specified at Appendix-I of the document for each Eligible Project;
- (h) it is accompanied by the Jt. Bidding Agreement (for Consortium), specific to the Project, as stipulated in Clause 2.2.6(g);
- (i) it does not contain any condition or qualification; and
- (j) it is not non-responsive in terms hereof.
- (k) it is accompanied by the Bid Security for an amount of INR 9,35,00,000/- (Indian Rupees Nine Crore Thirty Five Lakhs)

7.1.2 The Authority reserves the right to reject any Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such Bid.

### **7.1.3 Clarifications**

To facilitate evaluation of e-submissions in Part-I, the Authority may, at its sole discretion, seek clarifications from any Applicant / Bidder regarding its E-submissions or Hard Copy submissions in Part-I i.e. Qualification Proposal. Such clarification(s) shall be provided within the time specified by the Authority for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.

If an Applicant / Bidder does not provide clarifications sought under this Clause within the prescribed time, its Bid shall be liable to be rejected. In case the Bid is not rejected, the Authority may proceed to evaluate the e-submissions in Part-I by construing the particulars requiring clarification to the best of its understanding, and the Applicant / Bidder shall be barred from subsequently questioning such interpretation of the Authority.

Only those Applicants / Bidders who meet the eligibility / Qualification criteria specified in Clause 2.2.2 above shall qualify for evaluation under this Section 7.1.3. Bids of Applicants / Bidders who do not meet these criteria shall be rejected.

7.1.4 The Applicant / Bidder's competence and capability is proposed to be established by the following parameters from the Qualification Proposal:

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

## **7.2 Technical Capacity for purposes of evaluation**

7.2.1 Subject to the provisions of Clause 2.2, 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 7.2.3 and 7.2.4 (the "**Eligible Projects**"):

Category 1: Project experience as a **Developer** (i.e. having developed on its own or paid for the development) on Eligible Projects including Convention Centers, Exhibition Centers and 3 Star / 4 Star / 5 Star / 5 Star Deluxe or equivalent Hotels<sup>3</sup> that qualify under Clause 7.2.3

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<sup>3</sup> Only operational Hotels with minimum 100 room keys would be considered as Eligible Projects. Further, in case of Hotels in India, the Hotel with a valid Certification / having applied for new / renewal of Certification, from the Hotel & Restaurant Approval & Classification Committee (HRACC) of the Ministry of Tourism, Government of India shall be considered. In case of Hotels being outside India, the classification / certification from the corresponding classifying / rating Authority / Body shall be considered.

- Category 2: Project experience as a **Developer** (i.e. having developed on its own or paid for the development) in Core Sector Projects that qualify under Clause 7.2.3
- Category 3: Construction experience on Eligible Projects in Convention Centers / Exhibition Centers or 4 Star / 5 Star / 5 Star Deluxe or equivalent Hotels that qualify under Clause 7.2.4
- Category 4: Construction experience on Eligible Projects in Core Sector Projects that qualify under Clause 7.2.4

For the purpose of this RFP:

- (i) (a) Convention Centers mean centrally air conditioned convention centers of seating capacity more than 1500 seats and having hosted atleast 3 Conventions of minimum 1000 delegates within the last 3 years;
- (b) Exhibition Centers mean an Exhibition Centre with minimum one permanent indoor exhibition hall of minimum 2500 Sq. Mts. area and having a valid membership of either of the following: (i) International Association of Exhibitions and Events (ii) Global Association of Exhibition Industry (iii) Asian Federation of Exhibition & Convention Associations (iv) Venue Owners membership of Indian Exhibition Industry Association
- (ii) Core Sector would be deemed to include highways, expressways, bridges, tunnels and airfields, power, telecom, ports, airports, Hospitals, Universities, Colleges, railways, metro rail, industrial parks/ estates, logistic parks, Roads and Real Estate development including commercial complexes, etc and excluding plotted development<sup>4</sup>.

7.2.2. Eligible Experience in respect of each category shall be evaluated only for Eligible Projects.

7.2.3 For a project to qualify as an Eligible Project under Categories 1 and 2:

- (a) It should have been undertaken either as (i) a PPP project on BOT, BOLT, BOO, BOOT 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 an airport or port should normally be included in this category even if it is not based on a long-term agreement with a public entity; or as (ii) a Private Sector Development / Joint Development Project (which are not classified as PPP Projects);

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<sup>4</sup> Real Estate development shall not include residential flats unless they form part of a real estate gated complex or township which has been built by the Applicant.

- (b) the entity claiming experience should have held, in the company owning the Eligible Project, a minimum of 26% (twenty six per cent) equity during the entire period and years for which Eligible Experience is being claimed;
- (c) the capital cost of the project should be more than **INR 187 Crore (Indian Rupees One Hundred Eighty Seven Crore only)**; and
- (d) the entity claiming experience shall, during the last 5 (five) financial years preceding the Bid Due Date, have paid for development of the project (excluding the cost of land).

7.2.4 For a project to qualify as an Eligible Project under Categories 3 and 4, the Applicant / Bidder should have received payments from its client(s) for construction works executed, fully or partially, during the 5 (five) financial years immediately 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 **INR 187 Crore (Indian Rupees One Hundred Eighty Seven Crore only)** 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 turnkey construction contract/ EPC contract for the project. Further, the cost of land shall not be included hereunder.

### **7.3 Details of Experience**

- 7.3.1 The Applicant / Bidder should furnish the details of Eligible Experience for the last 5 (five) financial years immediately preceding the Bid Due Date.
- 7.3.2. The Applicants / Bidders must provide the necessary information relating to Technical Capacity as per format at Annex-II of Appendix-I.
- 7.3.3. The Applicant / Bidder should furnish the required Project-specific information and evidence in support of its claim of Technical Capacity, as per format at Annex-IV of Appendix-I.

### **7.4 Financial information for purposes of evaluation**

- 7.4.1 The submissions in Part-I (Qualification Proposal) must be accompanied by the Audited Annual Reports of the Applicant / Bidder (of each Member in case of a Consortium) for the last 5 (five) financial years, preceding the year in which the Bid is made.
- 7.4.2 In case the annual accounts for the latest financial year are not audited and therefore the Applicant / Bidder cannot make it available, the Applicant / Bidder shall give an undertaking to this effect and the statutory auditor shall certify the same. In such a case, the Applicant / Bidder shall provide the

Audited Annual Reports for 5 (five) years preceding the year for which the Audited Annual Report is not being provided.

- 7.4.3 The Applicant / Bidder must establish the minimum Net Worth specified in Clause 2.2.2 (B), and provide details as per format at Annex-III of Appendix-I.

**7.5 Short-listing of Applicants / Bidders for opening of Technical Proposal**

- 7.5.1 The credentials of eligible Applicants / Bidders shall be measured in terms of their Experience submitted in the Qualification Proposal.
- 7.5.2 The Authority shall shortlist all Applicants / Bidders who meet the requirements prescribed for the Qualification Proposal for participation in the Technical Proposal / Financial Proposal stage.
- 7.5.3 The Authority would notify the other Applicants / Bidders that they have not been qualified. The Authority will not entertain any query or clarification from Applicants / Bidders who fail to qualify.
- 7.5.4 The Bid Security of the Applicants / Bidders who have not been qualified shall be returned within 30 days of completion of the Tender Process.

## **PART – III**

# **TECHNICAL PROPOSAL**

## **8. CRITERIA AND EVALUATION OF TECHNICAL PROPOSAL**

### **A. CRITERIA**

- 8.1 The PIM for the Project provides only a preliminary reference by way of assistance to the Applicants / Bidders who are expected to carry out their own surveys, investigations and other detailed examination before submitting their Bids. Nothing contained in the PIM shall be binding on the Authority nor confer any right on the Applicants / Bidders, and the Authority shall have no liability whatsoever in relation to or arising out of any or all contents of the PIM.
- 8.2 Notwithstanding anything to the contrary contained in this RFP, the detailed Terms specified in the draft Concession Agreement shall have overriding effect; provided, however, that any conditions or obligations imposed on the Applicant / Bidder hereunder shall continue to have effect in addition to its obligations under the Concession Agreement.
- 8.3 Site visit and verification of information
- 8.3.1 Applicants / 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.

## **B. EVALUATION OF TECHNICAL PROPOSALS**

### **8.4 Opening and Evaluation of Technical Proposals**

- 8.4.1 The Authority shall intimate the Date & Time of the opening of the Technical Proposals to the qualified Bidders and the same shall be opened in the presence of the Applicant / Bidders who choose to attend.
- 8.4.2 The Authority will subsequently examine and evaluate the Technical Proposals in accordance with the provisions set out in this Section 8.
- 8.4.3 To facilitate evaluation of Bids, the Authority may, at its sole discretion, seek clarifications in writing from any Applicant / Bidder regarding its Bid.

### **8.5 Tests of responsiveness**

- 8.5.1 Prior to evaluation of Technical proposals, the Authority shall determine whether each Technical Proposal is responsive to the requirements of the RFP.

A Technical Proposal shall be considered responsive only if the following are submitted:

- (i) Project Concept Note;
- (ii) Proposed Development Plan including Project Components and area statement;
- (iii) Preliminary Master Plan and building plans;
- (iv) Conceptual perspective;
- (v) Proposed phasing, if any proposed;
- (vi) Indicative Investment Plan;
- (vii) Indicative Revenue plan;
- (viii) Preliminary Business Plan along with Financial analysis & working model including sensitivity analysis;
- (ix) Minimum Development Obligations considered in the design; and
- (x) Adoption of Green Building concept.

Further, a Technical Proposal shall be considered responsive only if it adheres to the Project Theme / Concept stipulated in this RFP / draft Concession Agreement.

### **8.6 Proprietary Data**

All documents and other information supplied by the Authority or submitted by an Applicant/Bidder to the Authority shall remain or become the property of the Authority. Applicants/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.

## 8.7 Detailed Evaluation of the Technical Proposals

- 8.7.1 For the Purpose of evaluation of the Technical Proposals, the Authority shall constitute a Committee. The Committee shall evaluate all the Technical Proposals determined to be qualified and responsive.

The qualified Applicants / Bidders will be invited to be present during the opening of their Technical Proposals in accordance with the RFP and other documents provided by the Authority.

The Applicants / Bidders whose Technical Proposals have been opened and responsive shall be called upon to make a presentation of their Technical Proposal before the Authority / Committee constituted by the Authority. The date, time and venue of the presentation shall be intimated only to the Applicants / Bidders short-listed by the Authority and may not be rescheduled. Applicants / Bidders failing to attend the same shall considered “ABSENT” and will be awarded “NIL” points / marks for the presentation, in the overall evaluation.

The final marks of each of the Technical Proposals shall be the average of the marks given by each member of the Technical Proposal Evaluation Committee. The Marking of the Committee / Authority shall be final.

- 8.7.2 The Technical Proposal of an Applicant / Bidder adjudged as responsive in terms of Clause 8.5, will be taken up for detailed evaluation as per the detailed evaluation criteria. Only, Applicant / Bidders whose Technical Proposals score equal to or more than the threshold limit of 70 marks in the detailed technical evaluation will be considered for opening of Financial Bid.
- 8.7.3 The detailed evaluation of the Technical Proposals will be carried out on the basis of the evaluation criteria mentioned below:

Sr. No.	Criteria	Max. Marks	Max. Marks	Max. Marks
<b>I.</b>	<b>Project Concept</b>			<b>150</b>
1.	Description of the Project in Concept Note			
a.	Understanding of the Project Concept <b>Evaluation Parameters:</b>		<b>50</b>	
	i. Detailed submission (Good+)	<b>50</b>		
	ii. Satisfactory submission (Fair)	<b>30</b>		
	iii. Submitted	<b>10</b>		
b.	Does the Concept meet the Design Brief <b>Evaluation Parameters:</b>			
	i. Meets the Design Brief specified		<b>50</b>	
	ii. Further improvised, after		<b>50</b>	

	meeting the Design Brief			
<b>II.</b>	<b>Preliminary Master Plan / Building Plans</b>			<b>300</b>
a.	Compliance of Master plan to Conceptual Master plan specified as minimum requirement	<b>75</b>	<b>75</b>	
b.	Further improvisation in Master plan on the Conceptual Master plan specified as minimum requirement	<b>75</b>	<b>75</b>	
c.	Design Concept of CMDO (After being in compliance to the specified as minimum requirement)		<b>75</b>	
i.	Detailed submission (Good+)	<b>75</b>		
ii.	Satisfactory submission (Fair)	<b>45</b>		
iii.	Submitted	<b>15</b>		
d.	Design Concept of OMDO (After being in compliance to the specified as minimum requirement)		<b>75</b>	
i.	Detailed submission (Good+)	<b>75</b>		
ii.	Satisfactory submission (Fair)	<b>45</b>		
iii.	Submitted	<b>15</b>		
<b>III.</b>	<b>Conceptual / Schematic Perspectives</b>			<b>300</b>
a.	Perspective demonstrating to be in compliance to the specified as minimum requirement	<b>100</b>	<b>100</b>	
b.	Able to draw any unique characteristics to Building Designs (After being in compliance to the specified as minimum requirement)	<b>100</b>	<b>100</b>	
c.	Convention Centre & Exhibition Halls / CMDO Building Design – innovativeness	<b>50</b>	<b>50</b>	
d.	OMDO Building Design – innovativeness	<b>50</b>	<b>50</b>	
<b>IV.</b>	<b>LEED / GHRIHA Certification committed</b>			<b>250</b>
a.	LEED / GRIHA Certification		<b>200</b>	

	i. Platinum	<b>200</b>		
	ii. Gold	<b>150</b>		
	iii. Silver	<b>100</b>		
	iv. Certified	<b>50</b>		
	b. Use of SMART Technologies	<b>50</b>	<b>50</b>	
<b>V.</b>	<b>Project Operations &amp; Management Strategy</b>			<b>50</b>
	a. Project O&M Strategy / Partner		<b>50</b>	
	i. O&M Partner is also Consortium Partner with an International Chain with more than 25 Hotels	<b>50</b>		
	ii. O&M tie-up with an International Chain with more than 25 Hotels	<b>30</b>		
	iii. O&M Partner shall be identified after signing of Concession Agreement	<b>10</b>		
<b>VI.</b>	<b>Project Positioning &amp; Marketing Plan</b>			<b>250</b>
	1. Marketing Plan		<b>100</b>	
	i. Detailed submission (Good+)	<b>100</b>		
	ii. Detailed submission (Fair)	<b>50</b>		
	iii. Submitted	<b>20</b>		
	2. Tie-ups, accreditations, association memberships proposed (Yes (International Level) – 100, (National Level) – 50 Marks, No – Nil Marks)		<b>100</b>	
	3. Additional Marketing / Positioning Strategies		<b>50</b>	
<b>VII.</b>	<b>Presentation</b>			<b>200</b>
	1. <b>Evaluation Parameters:</b>			
	a. <b>Company Representation (30 Marks)</b>		<b>25</b>	
	i. Senior Management (MD, CEO, COO)	<b>25</b>		
	ii. Other Authorised Representatives (VP, GM, etc)	<b>15</b>		
	b. <b>Contents (170 Marks)</b>		<b>175</b>	
	i. Able to demonstrate uniqueness to Project Concept Design	<b>50</b>		
	ii. Project activities for attracting footfalls (other than Convention Centre)	<b>50</b>		

	iii. Project Positioning & Marketing (ICC and Exhibition Hall)	<b>50</b>		
	iv. Critical Parameters (Project & Infrastructure – Identified & addressed) (5 marks per parameter, subject to max of 25 marks)	<b>25</b>		
	<b>Grand Total</b>			<b>1500</b>

**Notes:**

1. Total Marks received shall be divided by 150 for arriving at the final marking results.
2. Decimals shall be rounded off as : < 0.50 – to 0 and > 0.50– to 1.
3. In case of Tie, the marks in decimals shall be considered.

8.7.4 The Authority reserves the right to reject any Technical Proposal which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such Bid.

## **PART IV**

### **Financial Bid**

## **9. EVALUATION OF FINANCIAL BID**

### **A. General**

9.1 The Financial Bid should be furnished in the format at Appendix – VII and **submitted through the e-procurement portal only**, clearly indicating the Bid amount / figures in both figures and words and in Indian Rupees wherever applicable, and signed by the Applicant / Bidder's authorised signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.

9.2 The Financial Bid shall consist of the **ONE TIME PREMIUM or GRANT SUPPORT FOR CONSTRUCTION OF THE CONVENTION CENTRE & EXHIBITION HALLS (described as CMDO)**, (the "PREMIUM / GRANT SUPPORT") to be quoted by the Applicant / Bidder. The Premium / Grant shall be payable as per the terms and conditions of this RFP and the provisions of the draft Concession Agreement.

### **9.3 Contents of the Financial Bid**

9.3.1 The Bid shall be furnished in the format at Appendix – VII and shall consist of the **ONE TIME PREMIUM / GRANT SUPPORT** to be quoted by the Applicant / Bidder. The Applicant / Bidder shall specify the same only in Indian Rupees.

9.3.2 The Project shall be awarded to the Applicant / Bidder quoting the Highest One Time Premium to the Authority. In the event that none of the Bids received have quoted the Premium, then the Project shall be awarded to the Applicant / Bidder quoting the Least Grant Support to be paid by the Authority/ GOK.

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

9.3.4 The draft Concession Agreement shall be deemed to be part of the Bid.

### **B. EVALUATION OF FINANCIAL BIDS**

#### **9.4 Opening and Evaluation of Financial Bids**

9.4.1 The Authority shall intimate the Date & Time of the opening of the Financial Bids to the Applicants / Bidders shortlisted after evaluation of Technical Proposals and the same shall be opened in the presence of the Applicants / Bidders who choose to attend.

9.4.2 The Authority will subsequently examine and evaluate the Bids in accordance with the provisions set out in this Section 9.

9.4.3 To facilitate evaluation of Bids, the Authority may, at its sole discretion, seek clarifications in writing from any Applicant / Bidder regarding its Bid.

## **9.5 Tests of responsiveness**

- 9.5.1 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 – VII;
  - (b) it is signed as stipulated in Clauses 2.12 and 2.13;
  - (c) it does not contain any condition or qualification; and
  - (d) it is not non-responsive in terms hereof.
- 9.5.2 The Authority reserves the right to reject any Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such Bid.

## **9.6 Selection of Bidder**

- 9.6.1 The Applicant / Bidder adjudged as responsive in terms of Clause 9.5.1 and quoting the Highest One Time Premium to the Authority shall be declared as the selected Bidder (the “**Selected Bidder**”). In the event that none of the Bids received have quoted the Premium, then the Applicant / Bidder quoting the Least Grant Support to be paid by the Authority/ GOK shall be declared as the selected Bidder (the “**Selected Bidder**”).

The **PREMIUM / GRANT** shall constitute the sole criteria for evaluation of Bids.

**The Project shall be awarded to the Applicant / Bidder quoting the Highest One Time Premium. In the event that none of the Bids received have quoted the Premium, then the Project shall be awarded to the Applicant / Bidder quoting the Least Grant Support being sought.**

In this document, the term “**Highest Bidder**” shall mean the Applicant / Bidder who is offering **the Highest One Time Premium. In the event that none of the Bids received have quoted the Premium, then the Highest Bidder shall be the Applicant / Bidder quoting the Least Grant Support being sought.**

The Authority at its discretion, reserves the right to Accept / reject any Financial Bid and the decision of the Authority in this behalf shall be final and conclusive, which shall be binding on the Applicants / Bidders.

- 9.6.2 In the event that two or more Applicants / Bidders quote the same amount of Highest One Time Premium or the Least Grant Support (the “**Tie Bidders**”), the Authority shall identify the Selected Applicant / Bidder based on the highest Technical Score of the Technical Proposals.

- 9.6.3 In the event that the Highest Bidder withdraws or is not selected for any reason in the first instance (the “**First Round**”), the Authority may invite all the remaining Applicants / Bidders to revalidate or extend their respective Bid Security, as necessary, and match the Bid of the aforesaid highest Bidder (the “**Second Round**”). If in the Second Round, only one Applicant / Bidder matches the highest Bidder, it shall be the Selected Applicant / Bidder. If two or more Applicants / Bidders match the said highest Bidder in the Second Round, then the Applicant / Bidder whose Bid was higher as compared to other Applicant / Bidder(s) in the first round of bidding shall be the Selected Applicant / Bidder. For example, if the third and fifth highest Bidders in the First Round offer to match the said highest Bidder in the Second Round, the said third highest bidder shall be the Selected Applicant / Bidder.
- 9.6.4 In the event that no Applicant / Bidder offers to match the highest Bidder in the Second Round as specified in Clause 9.6.3, the Authority may, in its discretion, invite fresh Bids (the “**Third Round**”) from all Applicants / Bidders except highest Bidder of the First Round, or annul the Bidding Process, as the case may be. In case the Applicants / Bidders are invited in the Third Round 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 only such Bids shall be eligible for consideration which are higher than the Bid of the second highest Bidder in the First Round.
- 9.6.5 After selection of the Bidder, a LoA shall be issued, in duplicate, by the Authority to the Selected Applicant / Bidder and the Selected Applicant / Bidder shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LoA in acknowledgement thereof. In the event the duplicate copy of the LoA duly signed by the Selected Applicant / 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 Applicant / Bidder as mutually agreed genuine pre-estimated loss and damage suffered by the Bidding. The Bidding parameter should normally be specified in a manner that requires the Applicants / Bidders to quote a single number in paragraph 25 of Appendix-VII.
- Authority on account of failure of the Selected Applicant / Bidder to acknowledge the LoA, and the next eligible Applicant / Bidder may be considered.
- 9.6.6 After acknowledgement of the LoA as aforesaid by the Selected Applicant / Bidder, it shall execute the draft Concession Agreement within the period prescribed in Clause 1.3. The Selected Applicant / Bidder shall not be entitled to seek any deviation in the draft Concession Agreement.

## **PART V**

### **DRAFT CONCESSION AGREEMENT**

**(Enclosed Separately)**

## **PART VI**

### **PROJECT INFORMATION MEMORANDUM**

**(Enclosed Separately)**

## **PART VII**

## **APPENDICES**

**APPENDIX I**  
**Letter Comprising the Bid**  
(Refer Clause 2.13.2)

Dated:

To,  
The Managing Director,  
Karnataka State Industrial and Infrastructure Development Corporation Ltd,  
4th Floor, East Wing,  
Khanija Bhavan,  
# 49, Race Course Road,  
Bengaluru 560 001  
Karnataka - India

**Sub: Proposal for Development of Bengaluru International Convention Centre on Public Private Partnership Basis”.**

Dear Sir,

With reference to your RFP dated .....\$, I/we, having examined the RFP and understood its contents, hereby submit my/our Bid for the aforesaid project. The Bid is unconditional and unqualified.

2. I/ We acknowledge that the Authority will be relying on the information provided in the Bid and the documents accompanying such Bid of the Applicants / Bidders for the aforesaid project, and we certify that all information provided in the Bid and in Annexes I to IV is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such Bid are true copies of their respective originals.

3. This statement is made for the express purpose of qualifying as an Applicant / Bidder for the development, construction, operation and maintenance of the aforesaid Project.

4. I/ We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the statements in the Bid.

5. I/ We acknowledge the right of the Authority to reject our Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.

6. I/ We certify that in the last three years, we/ any of the Consortium Members or our/ their Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.

7. I/ We declare that:

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

- (a) I/ We have examined and have no reservations to the RFP, including any Addendum issued by the Authority;
  - (b) I/ We do not have any conflict of interest in accordance with Clauses 2.2.1(c) and 2.2.1(d) of the RFP;
  - (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, 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 Section 3 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.
8. 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 Applicants / Bidders to Bid for the Project, without incurring any liability to the Applicants / Bidders, in accordance with Clause 2.17.6 of the RFP.
9. I/ We believe that we/ our Consortium/ proposed Consortium satisfy(s) the Net Worth criteria and meet(s) all the requirements as specified in the RFP and are/ is qualified to submit a Bid.
10. I/ We declare that we/ any Member of the Consortium, or our/ its Associates are not a Member of a/ any other Consortium submitting their Bid for the Project.
11. I/ We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
12. I/ We further certify that in regard to matters relating to security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
13. I/ We further certify that no investigation by a regulatory authority is pending either against us/ any Member of the Consortium or against our/ their Associates or against our CEO or any of our directors/ managers/ employees.
14. [I/ We further certify that we are qualified to submit a Bid in accordance with the guidelines for qualification of Applicants / Bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment issued by the GOI vide Department of Disinvestment OM No. 6/4/2001-DD-II dated 13th July, 2001 which guidelines apply *mutatis mutandis* to the Bidding Process. A copy of the aforesaid guidelines form part of this RFP at Appendix-VI thereof.]

15. 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 provisions of this RFP, we shall intimate the Authority of the same immediately.

16. The Statement of Legal Capacity as per format provided at Annex-V in Appendix-I of this RFP, and duly signed, is enclosed. The power of attorney for signing of Bid and the power of attorney for Lead Member of consortium, as per format provided at Appendix II and III respectively of the RFP, are also enclosed.

17. I/ We understand that the selected Applicant / Bidder shall incorporate a Company under the Indian Companies Act, 2013 prior to execution of the Concession Agreement.

18. I/ We hereby confirm that we [are in compliance of/ shall comply with] the O&M requirements specified in Clause 2.2.3.

19. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the selection of Applicants / Bidders, selection of the Applicant / Bidder, or in connection with the selection/ Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.

20. I/ We agree and undertake to abide by all the terms and conditions of this RFP.

21. I/ We certify that in terms of the document, my/our Networth is Rs. .... (Rs. in words) and the Aggregate Experience Score is ..... (number in words).

22. I/We confirm that the Premium/ Grant has been quoted by me/us after taking into consideration all the terms and conditions stated in this RFP, draft Concession Agreement, our own estimate of costs and prospective income and after careful assessment of the Project and all the conditions that may affect the Bid.

23. I/We offer a Bid Security of Rs. .... (Rupees ..... only) to the Authority in accordance with this RFP.

{24. We agree and undertake to be jointly and severally liable for all the obligations of the Concessionaire under the Concession Agreement till occurrence of Financial Close in accordance with the Concession Agreement.} <sup>\$</sup>

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

Yours faithfully,

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

Place: Name and seal of the Applicant / Bidder/ Lead Member  
Note: Paragraphs in square parenthesis may be omitted, if not applicable, or modified as necessary.

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<sup>\$</sup> Omit if the Applicant is not a Consortium.

**ANNEX-I**  
**Details of Applicant / 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 Project:
3. Details of individual(s) who will serve as the point of contact/ communication for the Authority:
  - (a) Name:
  - (b) Designation:
  - (c) Company:
  - (d) Address:
  - (e) Telephone Number:
  - (f) E-Mail Address:
  - (g) Fax Number:
4. Particulars of the Authorised Signatory of the Applicant / Bidder:
  - (a) Name:
  - (b) Designation:
  - (c) Address:
  - (d) Telephone Number:
  - (e) E-Mail Address:
  - (f) 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 2.2.6(g) should be attached to the Bid.
  - (c) Information regarding the role of each Member should be provided as per table below:

Sl. No.	Name of Member	Role* {Refer Clause 2.2.6(d)} <sup>\$</sup>	Percentage of equity in the Consortium {Refer Clauses 2.2.6(a), (c) & (g)}
1.			
2.			
3.			
4.			

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

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

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

No.	Criteria	Yes	No
1.	Has the Applicant / Bidder/ constituent of the Consortium been barred by the [Central/ State] Government, or any entity controlled by it, 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 Applicant / 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 Applicant / 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):

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

**ANNEX-II**  
**Technical Capacity of the Applicant / Bidder <sup>@</sup>**

(Refer to Clauses 2.2.2(A), 7.2 and 7.3 of the RFP)

Applicant / Bidder type <sup>#</sup>	Member Code*	Project Code**	Category <sup>\$</sup>	Experience <sup>¥</sup> (Equivalent Rs. crore) <sup>\$\$</sup>	
				Payments made/ received for construction of Eligible Projects in Categories 3 and 4 (5)	Payments made for development of Eligible Projects in Categories 1 and 2 (6)
(1) Single entity Applicant / Bidder	(2)	a	(4)		
		b			
		c			
		d			
Consortium Member 1		1a			
		1b			
		1c			
		1d			
Consortium Member 2		2a			
		2b			
		2c			
		2d			
Consortium Member 3		3a			
		3b			
		3c			
		3d			
Consortium Member 4		4a			
		4b			
		4c			
		4d			

<sup>@</sup> Provide details of only those projects that have been undertaken by the Applicant / Bidder under its own name and/ or by an Associate specified in Clause 2.2.9 and/ or by a project company eligible under Clause 7.2.3(b). In case of Categories 1 and 2, include only those projects which have an estimated capital cost exceeding the amount specified in Clause 7.2.3(b) and for Categories 3 and 4, include only those projects where the payments made/received

*exceed the amount specified in Clause 7.2.4. In case the Bid Due Date falls within 3 (three) months of the close of the latest financial year, refer to Clause 2.2.12.*

*# An Applicant / Bidder consisting of a single entity should fill in details as per the row titled Single entity Applicant / Bidder and ignore the rows titled Consortium Member. In case of a Consortium, the row titled Single entity Applicant / Bidder may be ignored. In case credit is claimed for an Associate, necessary evidence to establish the relationship of the Applicant / Bidder with such Associate, in terms of Clause 2.2.9, shall be provided.*

*\* Member Code shall indicate NA for Not Applicable in case of a single entity Applicant / 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-IV of this Appendix-I. Add more rows if necessary.*

*\$ Refer Clause 7.2.1.*

*¥ In the case of Eligible Projects in Categories 1 and 2, the figures in columns 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.*

**ANNEX-III**  
**Financial Capacity of the Applicant / Bidder**  
*(Refer to Clauses 2.2.2(B), 2.2.4 (ii) and 7.4 of the RFP)*

(In Rs. crore<sup>\$\$</sup>)

Applicant / Bidder type <sup>\$</sup>	Member Code <sup>£</sup>	Net Worth <sup>€</sup>
		<b>Year</b>
(1)	(2)	<b>1</b> (8)
Single entity Applicant / Bidder		
Consortium Member 1		
Consortium Member 2		
Consortium Member 3		
Consortium Member 4		
TOTAL		

**Name & address of Applicant / Bidder's Bankers:**

<sup>\$</sup> An Applicant / Bidder consisting of a single entity should fill in details as per the row titled Single entity Applicant / Bidder and ignore the rows titled Consortium Members. In case of a Consortium, row titled Single entity Applicant / Bidder may be ignored.

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

<sup>€</sup>The Applicant / Bidder should provide details of its own Financial Capacity or of an Associate specified in Clause 2.2.9.

<sup>\$\$</sup> For conversion of other currencies into rupees, see note below Annex-II of Appendix-I.

**Instructions:**

1. The Applicant / Bidder/ its constituent Consortium Members shall attach copies of the balance sheets, financial statements and Annual Reports for 5 (five) years preceding the Bid Due Date. The financial statements shall:

- (a) reflect the financial situation of the Applicant / Bidder or Consortium Members and its/ their Associates where the Applicant / 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 Cash Accruals shall mean Profit After Tax + Depreciation.
  - 3. Net Worth shall mean (Subscribed and Paid-up Equity + Reserves) less (Revaluation reserves + miscellaneous expenditure not written off + reserves not available for distribution to equity shareholders).
  - 4. Year 1 will be the latest completed financial year, preceding the bidding. Year 2 shall be the year immediately preceding Year 1 and so on. In case the Bid Due Date falls within 3 (three) months of the close of the latest financial year, refer to Clause 2.2.12.
  - 5. In the case of a Consortium, a copy of the Jt. Bidding Agreement shall be submitted in accordance with Clause 2.2.6 (g) of the RFP.
  - 6. The Applicant / Bidder shall also provide the name and address of the Bankers to the Applicant / Bidder.
  - 7. The Applicant / Bidder shall provide an Auditor's Certificate specifying the net worth of the Applicant / Bidder and also specifying the methodology adopted for calculating such net worth in accordance with Clause 2.2.4 (ii) of the RFP.

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

(Refer to Clauses 2.2.2(A), 8.2 and 8.3 of the RFP)

**Project Code:**

**Member Code:**

<b>Item</b>  (1)	<b>Refer Instruction</b>  (2)	<b>Particulars of the Project</b>  (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)	15	

**Instructions:**

1. Applicants / Bidders are expected to provide information in respect of each Eligible Projects in this Annex. The projects cited must comply with the eligibility criteria specified in Clause 7.2.3 and 7.2.4 of the RFP, as the case may be. Information provided in this section is intended to serve as a backup for information provided in the Bid. Applicants / Bidders should also refer to the Instructions below.

2. For a single entity Applicant / Bidder, the Project Codes would be a, b, c, d etc. In case the Applicant / 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 Applicant / 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 Applicant / Bidder or its Member, write “Associate” along with Member Code.
5. Refer to Clause 7.2.1 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 Annex-II of this Appendix-I. 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 (Refer Clause 2.2.12). 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 7.2.3(b). 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 7.2.4. 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 7.2.3 and 7.2.4
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 Applicant / 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 7.2.3).
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 Applicant / Bidder’s statutory auditor<sup>\$</sup> or its respective clients must be furnished as per formats below for each Eligible Project. In jurisdictions that do not have statutory auditors, the auditors who audit the annual accounts of the Applicant / Bidder/ Member/Associate may provide the requisite certification.

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

13. If the Applicant / Bidder is claiming experience under Categories 1 & 2<sup>£</sup>, it should provide a certificate from its statutory auditor in the format below:

**Certificate from the Statutory Auditor regarding PPP projects<sup>Φ</sup>**

Based on its books of accounts and other published information authenticated by it, this is to certify that ..... (*name of the Applicant / 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 .....%<sup>€</sup> of the total paid up and subscribed equity capital) of the project company from ..... (*date*) to ..... (*date*)<sup>¥</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. (Rupees .....crore), of which Rs. .... cr. (Rupees ..... crore) of capital expenditure was incurred during the past five financial years as per year-wise details noted below:

.....  
.....

We also certify that the eligible annual revenues collected and appropriated by the aforesaid project company in terms of Clauses 7.2.1 and 7.2.3 (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

Date: ..... of the authorised signatory)

14. If the Applicant / Bidder is claiming experience under Category 3 & 4<sup>\*</sup>, it should provide a certificate from its statutory auditors or the client in the format below:

**Certificate from the Statutory Auditor/ Client regarding construction works<sup>Φ</sup>**

Based on its books of accounts and other published information authenticated by it, {this is to certify that ..... (*name of the Applicant / Bidder/Member/Associate*) was

<sup>£</sup> Refer Clause 6.2.1 of the RFP.

<sup>Φ</sup> Provide Certificate as per this format only. Attach Explanatory Notes to the Certificate, if necessary. Statutory auditor means the entity that audits and certifies the annual accounts of the company.

<sup>€</sup> Refer instruction no. 10 in this Annex-IV.

<sup>¥</sup> In case the project is owned by the Applicant company, this language may be suitably modified to read: “It is certified that ..... (name of Applicant) constructed and/ or owned the ..... (name of project) from ..... (date) to ..... (date).”

<sup>\*</sup> Refer Clauses 6.2.1 and 6.2.4 of the RFP.

<sup>Φ</sup> Provide Certificate as per this format only. Attach Explanatory Notes to the Certificate, if necessary. Statutory auditor means the entity that audits and certifies the annual accounts of the company.

engaged by ..... (title of the project company) to execute ..... (name of project) for ..... (nature of project)}<sup>ψ</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 Applicant / 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. (Rupees .....crore), of which the Applicant / Bidder/Member/Associate received/paid Rs. .... cr. (Rupees ..... crore), in terms of Clauses 7.2.1 and 7.2.4 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 Applicant / Bidder who undertook these works as a partner or a member of joint venture/ consortium.}*<sup>▲</sup>

Name of the audit firm:

Seal of the audit firm: (Signature, name and designation of the

Date: ..... authorised signatory).

15. In the event that credit is being taken for the Eligible Experience of an Associate, as defined in Clause 2.2.9, the Applicant / Bidder should also provide a certificate in the format below:

---

<sup>ψ</sup> In case the Applicant owned the Eligible Project and engaged a contractor for undertaking the construction works, this language may be modified to read: “ this is to certify that ..... (name of Applicant/ Member/ Associate) held 26% or more of the paid up and subscribed share capital in the..... (name of Project company) when it undertook construction of the ..... (name of Project) through ..... (name of the contractor).

<sup>▲</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 Applicant in such partnership/ joint venture/ consortium. This portion may be omitted if the contract did not involve a 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>\$</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 Applicant/ Consortium Member/ Associate*) is held, directly or indirectly<sup>£</sup>, by ..... (*name of Associate/ Applicant/ Consortium Member*). By virtue of the aforesaid share-holding, the latter exercises control over the former, who is an Associate in terms of Clause 2.2.9 of the RFP.

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

*{Describe the share-holding of the Applicant/ Consortium Member and the Associate. In the event the Associate is under common control with the Applicant/ Consortium Member, the relationship may be suitably described and similarly certified herein }*

Name of the audit firm:

Seal of the audit firm:

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

<sup>\$</sup> In the event that the Applicant / Bidder/ 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>£</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.

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.

**ANNEX-V**  
**Statement of Legal Capacity**

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

Ref. Date:

To,  
The Managing Director,  
Karnataka State Industrial and Infrastructure Development Corporation Ltd,  
4th Floor, East Wing,  
Khanija Bhavan,  
# 49, Race Course Road,  
Bengaluru 560 001  
Karnataka - India

**Sub: Proposal for “Development of Bengaluru International Convention Centre on Public Private Partnership Basis”.**

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.

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)

For and on behalf of.....

*\*Please strike out whichever is not applicable.*

**Appendix II**  
**Power of Attorney for signing of Bid**

*(Refer Clause 2.2.5)*

Know all men by these presents, We, \_\_\_\_\_ (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr. / Ms (Name), son/daughter/wife of \_\_\_\_\_ and presently residing at \_\_\_\_\_, who is [presently employed with 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 of proposed Bengaluru International Convention Centre on Public Private Partnership Basis Project proposed or being developed by KSIIDC (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 Concession 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 Concession 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 \_\_\_\_\_, 2018.

For \_\_\_\_\_

(Signature)

(Name, Title and Address)

Witnesses:

- 1.
- 2.

**Accepted**

[Notarised]

.....

(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 executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Wherever required, the Applicant / Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Applicant / Bidder.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Applicant / Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.*

**Appendix III**  
**Power of Attorney for Lead Member of Consortium**

(Refer Clause 2.2.5)

Whereas the Karnataka State Industrial and Infrastructure Development Corporation Limited (KSIIDC) (“the Authority”) has invited bids from for the development of the proposed Bengaluru International Convention Centre on Public Private Partnership Basis Project (“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 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 authorise 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 authorise 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 Concession/ 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 pre-qualification of the Consortium and submission of its bid for the Project, including but not limited to signing and submission of all 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 Concession 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 \_\_\_\_\_ 2018.

For .....  
(Signature)

.....  
(Name & Title)

For .....  
(Signature)

.....  
(Name & Title)

For .....  
(Signature)

.....  
(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 executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Also, wherever required, the Applicant / Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Applicant / Bidder.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Applicant / Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Apostille certificate.*

**APPENDIX IV**  
**Joint Bidding Agreement**  
(Refer Clause 2.2.6 (g))

(To be executed on Stamp paper of appropriate value)

THIS JOINT BIDDING AGREEMENT is entered into on this the ..... day of ..... 2018

**AMONGST**

1. {..... Limited, a company incorporated under the Companies Act, 1956/2013} 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, 1956/2013} 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, 1956/2013 and having its registered office at ..... (hereinafter referred to as the “**Third Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)}

**AND**

4. {..... Limited, a company incorporated under the Companies Act, 1956/2013 and having its registered office at ..... (hereinafter referred to as the “**Fourth Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)}<sup>\$</sup>

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

**WHEREAS,**

- (A) Karnataka State Industrial and Infrastructure Development Corporation Limited (“KSIIDC”), established under the Companies Act, 1956, represented by its Managing Director having its Office at 4<sup>th</sup> Floor, East Wing, Khanija Bhavan, #49, Race Course Road, Bengaluru -560 001 Karnataka (hereinafter referred to as the “**Authority**” which expression

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

shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited Bids (the “**Bids**”) by its Request for Qualification No. .... dated ..... (the “**RFP**”) for selection of bidders for development of proposed Bengaluru International Convention Centre on Public Private Partnership Basis 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 and other bid documents in respect of the Project, and
- (C) It is a necessary condition under the RFP that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Bid.

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

**1. Definitions and Interpretations**

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

**2. Consortium**

- 2.1 The Parties do hereby irrevocably constitute a consortium (the “**Consortium**”) for the purposes of jointly participating in the Bidding Process for the Project.
- 2.2 The Parties hereby undertake to further 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 selected Applicant / Bidder and awarded the Project, it shall incorporate a special purpose vehicle (the “**SPV**”) under the Indian Companies Act, 2013 for entering into a Concession Agreement with the Authority and for performing all its obligations as the Concessionaire in terms of the Concession Agreement for the Project.

**4. Role of the Parties**

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

- (a) Party of the 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 Concession 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}

- {(d) Party of the Fourth Part shall be the Operation and Maintenance Member/ Other Member of the Consortium.}

## **5. Joint and Several Liability**

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the RFP and the Concession Agreement, till such time as the Financial Close for the Project is achieved under and in accordance with the Concession 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:}

{Fourth Party:}

- 6.2 The Parties whose Technical and Financial credentials have been submitted for fulfilling the minimum eligibility criteria, shall undertake that a minimum of 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPV shall, at all times till the second anniversary of the date of COD1 and/or COD2 of the Project, in terms of the RFP. The Shareholding of the other Parties shall be \_\_\_\_% and \_\_\_\_% respectively.
- 6.3 The Parties undertake that each of the Parties specified in Clause 6.2 above shall, at all times between the commercial operation date of the Project and the second anniversary thereof, hold subscribed and paid up equity share capital of SPV equivalent to at least 5% (five per cent) of the Total Project Cost.
- 6.4 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 until the second anniversary of the commercial operation date of the Project.
- 6.5 The Parties undertake that they shall comply with all equity lock-in requirements set forth in the Concession Agreement.

## **7. Representation of the Parties**

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

- (a) Such Party is duly organised, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;
- (b) The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of

attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the 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, judgement, 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 Concession 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 Applicant / Bidder is not pre-qualified or upon return of the Bid Security by the Authority to the Applicant / Bidder, as the case may be.

## **9. Miscellaneous**

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

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

SIGNED, SEALED AND DELIVERED

For and on behalf of

LEAD MEMBER by:

SIGNED, SEALED AND DELIVERED

SECOND PART

(Signature)

(Name)

(Designation)

(Address)

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of

THIRD PART

SIGNED, SEALED AND DELIVERED

For and on behalf of

FOURTH PART

(Signature)

(Name)

(Designation)

(Address)

(Signature)

(Name)

(Designation)

(Address)

***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 legalised by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed.

**APPENDIX – V**  
**Bank Guarantee for Bid Security**

*(Refer Clauses 1.2.5 and 2.25.1)*

B.G..No.

Dated:

1. In consideration of you, \*\*\*\*\*, having its office at \*\*\*\*\*, (hereinafter referred to as the “Authority”, which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the Bid of \_\_\_\_\_ [a Company registered under provision of the Companies Act, 1956/2013] and having its registered office at \_\_\_\_\_ [and acting on behalf of its Consortium] (hereinafter referred to as the “Applicant / Bidder” which expression shall unless it be repugnant to the subject or context thereof include its/their executors administrators, successors and assigns), for the \*\*\*\*\* Project on PPP basis (hereinafter referred to as “the Project”) pursuant to the RFP dated \*\*\*\*\* issued in respect of the Project and other related documents (hereinafter collectively referred to as “Bidding Documents”), we [Name of the Bank] having our registered office at \_\_\_\_\_ and one of its branches at \_\_\_\_\_ (hereinafter referred to as the “Bank”), at the request of the Applicant / Bidder, do hereby in terms of Clause 1.2.5 read with Clause 2.13.2 of the RFP, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment and compliance of the terms and conditions of the RFP by the said Applicant / Bidder and unconditionally and irrevocably undertake to pay forthwith to the Authority an amount of Rs. \*\*\*\*\* (Rupees \*\*\*\*\* only) as bid security (hereinafter referred to as the “Bid Security”) as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Applicant / Bidder if the Applicant / Bidder shall fail to fulfil or comply with all or any of the terms and conditions contained in the said Bidding Documents.
2. Any such written demand made by the Authority stating that the Applicant / Bidder is in default of the due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents shall be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Applicant / Bidder or any other person and irrespective of whether the claim of the Authority is disputed by the Applicant / Bidder or not merely on the first demand from the Authority stating that the amount claimed is due to the Authority by reason of failure of the Applicant / Bidder to fulfil and comply with the terms and conditions contained in the Bidding Documents including failure of the said Applicant / Bidder to keep its Bid open during the Bid validity period as set forth in the said Bidding Documents for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. \*\*\*\*\* (Rupees \*\*\*\*\* only).
4. This Guarantee shall be irrevocable and remain in full force for a period of 240 (two hundred and forty) days from the Bid Due Date inclusive of a claim period of 60 (sixty) days or for such extended period as may be mutually agreed between the Authority and

the Applicant / Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.

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

11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Authority in writing.
12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.

Signed and Delivered by \_\_\_\_\_ Bank

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

(Signature of the Authorised Signatory)

(Official Seal)

## **APPENDIX – VI**

### **Letter comprising the Technical Proposal**

To,  
The Managing Director,  
Karnataka State Industrial and Infrastructure Development Corporation Ltd,  
4th Floor, East Wing,  
Khanija Bhavan,  
# 49, Race Course Road,  
Bengaluru 560 001  
Karnataka - India

**Sub: Proposal for Development of Bengaluru International Convention Centre on Public Private Partnership Basis” – Technical Proposal**

Dear Sir,

With reference to your RFP dated .....<sup>§</sup>, I/we, having examined the RFP and understood its contents, hereby submit my/our Technical Proposal for the aforesaid project.

2. I/ We acknowledge that the Authority will be relying on the information provided in the Technical Proposal and the documents accompanying such Bid of the Applicants / Bidders for the aforesaid project, and we certify that all information provided in the Technical Proposal is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such Bid are true copies of their respective originals.

3. This statement is made for the express purpose of qualifying as an Applicant / Bidder for the development, construction, operation and maintenance of the aforesaid Project.

4. I/ We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the statements in the Technical Proposal.

5. I/ We acknowledge the right of the Authority to reject our Technical Proposal without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.

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

7. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the selection of Applicants / Bidders, or in connection with the selection/ Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.

8. In witness thereof, I/ we submit this Technical Proposal under and in accordance with the terms of the RFP.

Yours faithfully,

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

Place: Name and seal of the Applicant / Bidder/  
Lead Member

## **APPENDIX – VII**

### **Letter comprising the Financial Bid**

Dated:

To,  
The Managing Director,  
Karnataka State Industrial and Infrastructure Development Corporation Ltd,  
4th Floor, East Wing,  
Khanija Bhavan,  
# 49, Race Course Road,  
Bengaluru 560 001  
Karnataka - India

#### **Sub: Proposal for Development of Bengaluru International Convention Centre on Public Private Partnership Basis” – Financial Bid**

Dear Sir,

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

1. All information provided in the Financial Bid and in the Appendices is true and correct.
2. I/ We shall make available to the Authority any additional information if may find necessary or require to supplement or authenticate the Bid.
3. 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.
4. 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 Applicants / Bidders to Bid for the Project, without incurring any liability to the Applicants / Bidders, in accordance with Clause 2.7 of the RFP.
5. 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.
6. [We acknowledge that our Consortium/ proposed Consortium was qualified and short-listed on the basis of Technical Capacity and Financial Capacity of those of its Members who will own at least 26% of the equity of the Concessionaire and undertake that each of such Consortium Members shall continue to hold at least 26%

of the equity of the Concessionaire until the second anniversary of COD`1 and/or COD2 of the Project is achieved under and in accordance with the provisions of the Concession Agreement. We further agree and acknowledge that the aforesaid obligation shall be in addition to the obligations contained in the Concession Agreement in respect of Change in Ownership.]

7. [I/We acknowledge and agree that in the event of a Change in Ownership of an Associate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of short-listing and 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 Ownership occurs after signing of the Concession 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 Concession Agreement shall be liable to be terminated without the Authority being liable to us in any manner whatsoever.]

8. I/ We understand that the Selected Applicant / Bidder shall incorporate a Special Purpose Company for implementation of the Project, under the Indian Companies Act, 2013, prior to execution of the Concession Agreement.

9. 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 Applicant / Bidder, or in connection with the Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.

10. In the event of my/ our being declared as the Selected Applicant / Bidder, I/We agree to enter into a Concession Agreement in accordance with the draft that has been provided to me/us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.

11. I/We have studied the RFP carefully and also studied the Project details. We understand that except to the extent as expressly set forth in the Concession Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the Authority or in respect of any matter arising out of or concerning or relating to the Bidding Process including the award of Concession.

12. The PREMIUM / GRANT has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, draft Concession Agreement, our own estimates of costs, revenues, market & business risks and after a careful assessment of the site and all the conditions that may affect the Bid.

13. I/We agree and understand that the Bid is subject to the provisions of the RFP. In no case, I/We shall have any claim or right of whatsoever nature if the Project / Concession is not awarded to me/us or our Bid is not opened.

14. I/We hereby submit our Bid and offer a Premium / request a Grant of INR \_\_\_\_\_ (.....in words) for undertaking the aforesaid Project in accordance

with the RFP and the Concession Agreement.

15. I/We agree to keep this offer valid for 180 (one hundred and eighty) days from the Bid Due Date specified in the RFP.

16. I/We agree and undertake to abide by all the terms and conditions of the RFP. In witness thereof, I/we submit this Bid under and in accordance with the terms of the RFP.

Yours faithfully,

Date:

(Signature of the Authorised signatory)

Place:

(Name and designation of the of the Authorised signatory)  
Name and seal of Applicant / Bidder/Lead Firm

**APPENDIX VIII**  
**Guidelines of the Department of Disinvestment**

*(Refer Clause 1.2.1)*

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

Block 14, CGO Complex  
New Delhi.  
Dated 13<sup>th</sup> July, 2001.

**OFFICE MEMORANDUM**

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

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

- (a) In regard to matters other than the security and integrity of the country, any conviction by a Court of Law or indictment/ adverse order by a regulatory authority that casts a doubt on the ability of the bidder to manage the public sector unit when it is disinvested, or which relates to a grave offence would constitute disqualification. Grave offence is defined to be of such a nature that it outrages the moral sense of the community. The decision in regard to the nature of the offence would be taken on case to case basis after considering the facts of the case and relevant legal principles, by the Government of India.
- (b) In regard to matters relating to the security and integrity of the country, any charge-sheet by an agency of the Government/ conviction by a Court of Law for an offence committed by the bidding party or by any sister concern of the bidding party would result in disqualification. The decision in regard to the relationship between the sister concerns would be taken, based on the relevant facts and after examining whether the two concerns are substantially controlled by the same person/ persons.
- (c) In both (a) and (b), disqualification shall continue for a period that Government deems appropriate.

- (d) Any entity, which is disqualified from participating in the disinvestment process, would not be allowed to remain associated with it or get associated merely because it has preferred an appeal against the order based on which it has been disqualified. The mere pendency of appeal will have no effect on the disqualification.
- (e) The disqualification criteria would come into effect immediately and would apply to all Applicants / Bidders for various disinvestment transactions, which have not been completed as yet.
- (f) Before disqualifying a concern, a Show Cause Notice why it should not be disqualified would be issued to it and it would be given an opportunity to explain its position.
- (g) Henceforth, these criteria will be prescribed in the advertisements seeking Expression of Interest (EOI) from the interested parties. The interested parties would be required to provide the information on the above criteria, along with their Expressions of Interest (EOI). The Applicants / Bidders shall be required to provide with their EOI an undertaking to the effect that no investigation by a regulatory authority is pending against them. In case any investigation is pending against the concern or its sister concern or against its CEO or any of its Directors/ Managers/ employees, full details of such investigation including the name of the investigating agency, the charge/ offence for which the investigation has been launched, name and designation of persons against whom the investigation has been launched and other relevant information should be disclosed, to the satisfaction of the Government. For other criteria also, a similar undertaking shall be obtained along with EOI.

sd/-

(A.K. Tewari)

Under Secretary to the Government of India