



NEW MANGALORE PORT AUTHORITY (NMPA)

(Ministry of Ports, Shipping and Waterways, Government of India)

MEDICAL DEPARTMENT

**OPERATION AND MAINTENANCE OF EXISTING 32 BEDDED
HOSPITAL AND ESTABLISHMENT OF 150 BEDDED MULTI
SPECIALITY HOSPITAL ON PPP BASIS**

REQUEST FOR PROPOSAL (RFP)

Tender Notice No: 01/CMO/Hospital PPP/2023

BID DOCUMENT

VOLUME - I

INSTRUCTION TO BIDDER

JUNE 2023

Contact Details:

Chief Medical Officer

New Mangalore Port Authority,

Panambur, Mangalore-575010

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**NEW MANGALORE PORT AUTHORITY
MEDICAL DEPARTMENT**

No.: **Tender Notice No: 01/CMO/Hospital PPP/2023**

e-Tender Call Notice

E-Tender is invited in **percentage (%) (% of Gross Revenue Share with NMPA)** on behalf of the Board of New Mangalore Authority Port in Single Stage two steps System from the **eligible bidders meeting the pre-qualifying criteria** for the work mentioned below through online bidding on the website <https://eprocure.gov.in/eprocure/app> having Digital Signature Certificate (DSC) issued from any agency authorized by Controller of Certifying Authority (CCA), Govt. of India and which can be traced up to the chain of trust to the Root Certificate of CCA.

PROJECT: OPERATION AND MAINTENANCE OF EXISTING 32 BEDDED HOSPITAL AND ESTABLISHMENT OF 150 BEDDED MULTI SPECIALTY HOSPITAL ON PPP

Chief Medical Officer,
New Mangalore Port Authority,
Panambur, Mangalore-575010

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DISCLAIMER

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

This RFP is not an agreement and is neither an offer nor invitation by the Authority to the prospective Bidders or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in the formulation of their application for qualification and making their 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 Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in the Bidding Documents, especially the Feasibility Report, may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFP and obtain independent advice from appropriate sources.

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

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

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

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

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

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

GLOSSARY

Annual Fee	As defined in Clause 1.2.7 B
Associate	As defined in Clause 2.1.18
Authority	As defined in Clause 1.1.1
Bank Guarantee	As defined in Clause 2.19.1
Bid(s)	As defined in the Disclaimer
Bidder	As defined in Clause 1.2.1
Bidding Documents	As defined in Clause 1.1.7
Bid Due Date	As defined in Clause 1.1.7
Bidding Process	As defined in Clause 1.2.1
Bid Security	As defined in Clause 1.2.4
Concession	As defined in Clause 1.1.5
Concessionaire	As defined in Clause 1.1.3
Conflict of Interest	As defined in Clause 2.2.1 (c)
Consortium	As defined in Clause 2.2.1(a)
Damages	As defined in Clause 2.2.1 (c)
Document Fee	As defined in Clause 1.2.1.1
Concession Agreement	As defined in Clause 1.1.3
Enclosures to Bid	As defined in Clause 2.10.6
e-Procurement Portal	As defined in Clause 1.2.1
Estimated Project Cost	As defined in Clause 1.1.4
Existing Hospital	As defined in Clause 1.1.2
Financial Bid	As defined in Clause 1.2.1
Financial Capacity	As defined in Clause 2.2.2 (B)
First Round of Bidding	As defined in Clause 3.8.3
Government	Government of India
Gross Revenue	As defined in Clause 1.2.7 E
Gross Revenue Share	As defined in Clause 1.2.7 A
Highest Bidder	As defined in Clause 1.2.7 A
Joint Bidding Agreement	As defined in Clause 2.1.15 (g)
Lead Member	As defined in Clause 2.1.15 (c)
LOA	As defined in Clause 3.8.5
Net Worth	As defined in Clause 2.2.2 (B)
Project	As defined in Clause 1.1.1
PPP	As defined in Clause 1.1.1
Rs. or INR	Indian Rupee
RFP or Request for Proposal	As defined in the Disclaimer
Second Round of Bidding	As defined in Clause 3.8.3
Selected Bidder	As defined in Clause 3.8.1
Subject Person	As defined in Clause 2.2.1 (c) (i)
Technical Bid	As defined in Clause 1.2.1
Technical Capacity	As defined in Clause 2.2.2 (A)

Third Round of Bidding
Tie Bid

As defined in Clause 3.8.4
As defined in Clause 3.8.2

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.

SECTION 1
INTRODUCTION

1.1. Background

The Board of Major Port Authority of New Mangalore Port, Karnataka having office at Panambur, Mangalore-575010, invites Bids through the Chief Medical Officer, New Mangalore Port Authority (NMPA), Karnataka, for the purpose of this Project in accordance with the terms and conditions of this RFP.

- 1.1.1 The New Mangalore Port Authority (NMPA), Karnataka(the "**Authority**") is engaged in the development and operation of NMPA port and as part of this endeavour, the Authority has decided to undertake “the Operation and Maintenance of existing 32 bedded Hospital and establishment of 150-bedded Multi-Specialty Hospital at NMPA Premises” (the “**Hospital**”) through Public Private Partnership (the “**PPP**”)mode to develop, finance, equip, operate and manage the multi-specialty hospital (the “**Project**”) in a phased manner. Hence, NMPA has decided to carry out a single stage two steps, online Bidding Process for selection of the Bidder to whom the Project may be awarded.

Brief particulars of the Project are as follows:

Name of the Project	Scope of Project & Concession Period	Total area	Estimated Project Cost (INR Cr)
Operation and Maintenance of existing 32 bedded Hospital and establishment of 150-bedded Multi-Specialty Hospital	Operate and Maintain the existing 32 bedded Hospital and establish, develop, finance, equip, operate and manage the 150 bedded multi-specialty hospital Concession Period: 60 years,	3 acres of land	107.00

The Estimated Project Cost of Rs.107 Crores (Rupees One Hundred and Seven Crores only) has been estimated keeping in view the investment required to be made by the Concessionaire on:

- (i) Construction and development of 150 bedded multi-speciality hospital.

- (ii) Constructing and providing infrastructure, manpower, medical and other equipment for 150 bedded multi-speciality hospital.
- (iii) Equipment for operating Existing Hospital and 150-bedded hospital (in phased manner within the timeline specified in the Bidding Documents;

1.1.2 The Authority has an existing secondary care hospital (NMPA, Mangalore) developed in approximately 1.3 acres of land parcel (consisting of 32 beds) ("**Existing Hospital**"). The Existing Hospital is mainly providing health care services to the Authority's employees and their dependants; pensioners and their spouse, Central Industrial Security Force (CISF) employees deputed at NMPA and their dependants and other officials deputed for NMPA duty. The Authority has now decided to carry out the bidding process for selection of an eligible entity as the bidder to whom the Project may be awarded on the terms as specified in the Concession Agreement (as defined hereinafter) for the operation and maintenance of Existing Hospital and for construction, development, operation and maintenance of a 150-bedded multi-specialty hospital on 3 acres of land. The successful bidder shall be responsible for the Project, which shall include the multi-specialty healthcare facilities. The scope of work, development phases and timelines will broadly include the following:

Scope of Work, Development Phases and timelines for the Project:

Phases	Development	From Appointed Date
Mandatory Development*		
Phase 0	<ul style="list-style-type: none"> • Operate and Maintain the Existing Hospital (32 bedded) • Employing clinical and non-clinical staff for operating and maintaining the existing 32 bedded hospital. • It is clarified in this regard, that during the transition period i.e., for 6 months from the appointed date, the Concessionaire can take support from the port's existing permanent clinical employees. 	<ul style="list-style-type: none"> • 2 years

Phases	Development	From Appointed Date
Phase 1	<ul style="list-style-type: none"> • Construct and develop 150 bedded multi-specialty hospital • Operate and Maintain 150 bedded multi-specialty hospital • Constructing and providing infrastructure, manpower, medical and other equipment for 150 bedded multi-specialty hospital. • Employing clinical and non-clinical staff, medical and other equipment for operating 150-bedded hospital • Install requisite diagnostic facilities 	<ul style="list-style-type: none"> • 2 years

* With equipment as defined in the Schedule N of Volume-III of RFP and specialities as defined in Schedule L of Volume-III of RFP.

- 1.1.3 The Selected Bidder (defined hereinafter) undertakes to incorporate a special purpose vehicle (the “SPV”) company (the "**Concessionaire**") under the Companies Act 2013 (including all the rules and regulations made there under) prior to execution of the concession agreement, which shall be responsible for, development, design, augmentation, equip (medical, non-medical equipment and machinery), finance, operation, maintenance and management 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 Bidding Documents pursuant hereto. Further, in case the Selected Bidder is a Consortium, it shall also adhere to the shareholding requirements in respect of its Members as set out in this RFP.
- 1.1.4 The estimated cost of the Project (the "**Estimated Project Cost**") has been specified in Clause 1.1.1 above. The assessment of actual costs, however, will have to be made by the Bidders.
- 1.1.5 The 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 (the "**Concession**").

- 1.1.6 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 the Bidding Documents including this RFP are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims in this regard on any account shall be entertained by the Authority.
- 1.1.7 The Authority shall receive Bids pursuant to and in accordance with the terms set forth in this RFP, as modified, altered, amended and clarified from time to time by the Authority and other documents to be provided by the Authority pursuant to this RFP (collectively the "**Bidding Documents**") and all Bids shall be prepared and submitted in accordance with the terms of this RFP on or before the bid due date specified in Clause 1.3 for submission of Bids (the "**Bid Due Date**").

1.2. Brief description of Bidding Process

- 1.2.1 The Authority has adopted a single stage two steps system, online bidding process consisting of submission of a technical bid and a financial bid (both terms are defined hereafter) (the "**Bidding Process**") for selection of the Bidder for award of the Project. The Bidding Documents in its entirety will be available for download from the website <https://eprocure.gov.in/eprocure/app>, ("**e-Procurement Portal**") from the date mentioned in the Clause 1.3.

For purpose of tender submission, only Central Public Procurement portal to be accessed by tenderer at <https://eprocure.gov.in/eprocure/app>. Alternatively, the Bidding Documents can also be viewed from the website <https://www.newmangaloreport.gov.in>, for the sole purpose of viewing and it shall not be entertained as valid download of the Bidding Document. To participate in the Bidding Process, the Bidder should complete all stages of registration, download from the e-Procurement Portal and final bid submission through the e-Procurement Portal. Bids which are submitted on the e-Procurement Portal alone will be accepted by the Authority. The Bidders are advised to download the Bidding Documents at least one day prior to the Bid Due Date so as to safeguard their participation and avoid any delay. The Bidders are advised to upload the Bid sufficiently before the specified time on the Bid Due Date to avoid any technical issues or malfunction in the network caused by heavy internet traffic on the Bid Due Date. The Authority shall not be responsible for any failure, malfunction or breakdown of the e-Procurement Portal during the Bidding Process, or for any sort of delay or difficulties faced during submission of the Bid on the e-Procurement Portal. The Bidders are

required to register on e-Procurement Portal. Bidders are required to obtain digital signature to upload the Technical and Financial bid. Bidders are requested to visit e-Procurement Portal for the details related to online registration and submission of Bids.

- 1.2.1.1 The Bidder shall pay to the Authority a non-refundable sum of Rs.48,000/- (Rupees Forty Eight Thousand only) by way of RTGS/NEFT, as the cost of downloading the Bidding Documents (“**Document Fee**”). The payment shall be made in the following account:

A/C No:10205649448

In favour of: The FA&CAO, NMPA, Panambur, Mangalore

Bank Name: State Bank of India

Branch: Panambur, Mangalore - 575 010

IFSC:SBIN0002249

For the avoidance of doubt, no exemption from payment of Document Fee is permitted. Further, a scanned attested copy of the receipt of payment of the Document Fees shall be uploaded by the Bidder along with its Technical Bid on the e-Procurement Portal and the hard copy of such receipt shall also be submitted along with the physical submission of the Technical Bid.

- 1.1.2.2 Eligibility and qualification of the bidder (The “**Bidder**”, which expression shall, unless repugnant to the context, include the members of the Consortium) will be first examined based on the details submitted (“**Technical Bid**”) with respect to eligibility and qualifications criteria prescribed in this RFP. The financial bid submitted online (“**Financial Bid**”) of only those Bidders whose Technical Bids are substantially responsive to eligibility and qualifications requirements as per this RFP shall be opened. For avoidance of doubt, it is clarified that Financial Bid has to be submitted online only. No physical hard copy of Financial Bid is to be submitted by the Bidders. In case a bidder submits Financial Bid in hard, its bid shall be liable for rejection.

GOI has issued guidelines (see Annexure VI of Appendix-IA of RFP) for qualification of bidders seeking to acquire stakes in any public sector enterprise through the process of disinvestment. These guidelines shall apply *mutatis mutandis* to this Bidding Process. The Authority shall be entitled to disqualify any Bidder in accordance with the aforesaid guidelines at any stage of the Bidding Process.

Bidder must follow the server time that is being displayed on bidder’s dashboard at the top of the e-Procurement Portal, which shall be considered valid for all actions of requesting, bid submission and bid opening etc.

- 1.2.2 Interested bidders are being called upon to submit their Bid in accordance with the terms specified in this Bidding Document. The Bid shall be valid for a period of 120 days from the Bid Due Date.
- 1.2.3 The complete Bidding Documents also include the draft Concession Agreement for the Project which is enclosed herewith in Volume II and Schedules for the Project which is enclosed herewith in Volume III. Any addenda issued subsequent to this RFP, will be deemed to form part of the Bidding Documents.
- 1.2.4 The Bidder is required to deposit, along with its Bid, a Bid Security of Rs. **2,52,52,000/- (Rupees Two Crores Fifty two lakhs fifty two thousand Only)** (the "**Bid Security**"), refundable not later than 180 (one hundred and eighty) days from the Bid Due Date, except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the Concession Agreement. The Bidders will have an option to provide Bid Security in the form of a Demand Draft or a Bank Guarantee at Mangalore, Karnataka as acceptable to the Authority in the format provided at Appendix-II of this RFP. In case a bank guarantee is provided, its validity period shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days and may be extended as may be mutually agreed between the Authority and the Bidder from time to time. Where a Demand Draft is provided, it shall (unless uncashed) prior to its expiry be renewed from time to time to keep it valid and enforceable for a period of 180 (one hundred and eighty) days from the Bid Due Date. The Bid shall be summarily rejected, if it is not accompanied by the Bid Security. It is hereby instructed that the Bidders are to submit a scanned copy of the Bid Security along with the soft copy submission of the Technical Bid on the e-Procurement Portal. The Bidder(s) shall also submit the original Bid Security (either in the form of Demand Draft or Bank Guarantee as per the format prescribed in this RFP) in hard copy before Bid Due Date.
- 1.2.5 The Bidders are advised 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 contract including implementation of the Project.
- 1.2.7 **Bid Parameter and Commercial Arrangements (Annual Fee)**
- A. Financial Bid shall be invited under this RFP on the basis of the highest percentage of gross revenue share of the Gross Revenue ("**Gross Revenue Share**") offered to be paid to the Authority by the Concessionaire during the Concession Period in the manner set out herein. The Gross Revenue Share shall be payable on a monthly basis during the Concession Period commencing from the appointed date of the Project, as defined in the draft Concession Agreement. The Concession Period is pre-determined, as indicated in the Concession

Agreement. The Gross Revenue Share shall constitute the sole criteria for short listing the qualified and responsive Bidder. Subject to Clause 2.15, the Project will be awarded to the Bidder quoting the highest Gross Revenue Share. The Gross Revenue Share for a month shall be paid by seventh day of immediately succeeding month, and shall be subject to verification and reconciliation on a quarterly, semi-annual or annual basis, as required by the Authority in its discretion. In this RFP, the term "**Highest Bidder**" shall mean the Bidder who is offering the highest Gross Revenue Share.

B. Lease Rent:

The Concessionaire shall pay to the Authority an annual lease rent (the "Lease Rent") of INR 1/- (Rupee One) per annum, for 3 acres of land, in consideration of the leasehold right being vested in accordance with the terms of Land Lease Agreement, commencing from the Appointed Date. In the event of earlier termination of this Agreement for any reason whatsoever, no amounts paid by way of Lease Rent shall be refundable to the Concessionaire.

The Lease Rent shall be payable at end of each year within 60 days of closing of preceding year till the expiry of Concession Period.

C. **License Fee:** The Concessionaire shall pay to the Authority an annual license fee (the "**License Fee**") equivalent to a sum of INR 1/- (Rupees One Only) for Existing Hospital to operate and maintain in accordance with the terms of Concession Agreement, commencing from the Appointed Date. The License Fee shall be payable at end of each year within 60 days of closing of preceding year till the 2nd anniversary of the Appointed Date.

D. For the purpose of this RFP:

"**Gross Revenue**" means all pre-tax gross revenues of the Concessionaire at any time from the Appointed date up to the Transfer Date of the Existing Hospital and the Hospital, computed on monthly basis, as defined in the Concession Agreement, and shall include monies received from the operation and maintenance of the Existing Hospital, the Hospital and any monies received from sub-licensees and other persons, by the Concessionaire as deposits (refundable or otherwise) but shall exclude the following:

- (a) any insurance proceeds received by the Concessionaire relating to (i) third party liability insurance paid or to be paid to the person whose claim(s) constitute(s) the risk or liability insured against; and (ii) any form of physical damage of assets, and the Concessionaire has incurred or will incur an expenditure greater than or equal to such proceeds received for repair,

reinstatement or otherwise replacement, promptly and diligently of such assets;

- (b) any monies received by the Concessionaire, for or on behalf of any Government Instrumentality, as an authorized agent of such Government Instrumentality; and
- (c) any deposit amounts refunded to the relevant sub-licensee or any other person authorized by the Authority in a particular Concession year provided these pertain to past deposits on which the Gross Revenue Share has been paid to the Authority.

It is expressly clarified that:

- (i) Insurance proceeds referred to in exclusion (a) above, shall not include any exclusion of insurance proceeds received for loss of revenues and/or business interruption;
- (ii) monies referred to in exclusion (b) above, shall be excluded only if the same has been credited or will be credited by the Concessionaire to the relevant Government Instrumentality promptly and diligently and any fine, penalty, damage, interest or other amounts of similar nature that may accrue as a result of non-payment or delayed payment of such monies under the Applicable Laws, will not be excluded;
- (iii) Gross Revenue share is quoted by selected bidder on an annual basis (to be paid on monthly basis) for an Accounting Year, in accordance with the Indian Generally Accepted Accounting Principles, as applicable, however the same shall be payable and reconciled subject to and in accordance with provisions of this agreement.

E. The Selected Bidder as Condition Precedent shall pay to Authority onetime amount equivalent to Rs. 26,97,175/- (Rupees Twenty-Six Lakh Ninety Seven Thousand One Hundred and Seventy-Five) against the utilisation of newly procured Equipment by the Authority i.e., handed over to the Selected Bidder in accordance with terms of the Concession Agreement.

1.2.8 The Concessionaire shall be entitled to levy and charge user fee/fee from the patients of the Project as below:

- A. The Authority shall reimburse the Concessionaire for treatment of the NMPA beneficiaries at Central Government Health Scheme ('CGHS') rates for Bengaluru as applicable from time to time in accordance with the provision of the Concession Agreement;

B. The Concessionaire shall be allowed to charge market rates from other patients, including market patients.

1.2.9 Generally, the Highest Bidder shall be the Selected Bidder. The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in Section 3 of this RFP, be invited to match the Bid submitted by the Highest Bidder in case such Highest Bidder withdraws or is not selected for any reason. In the event that none of the other Bidders match the Bid of the Highest Bidder, the Authority may, in its discretion, either invite fresh Bids from the all Bidders or annul the Bidding Process.

1.2.10 Other details of the process to be followed under this Bidding Process and the terms thereof are laid down in this RFP.

1.2.11 Any queries or request for additional information concerning this RFP shall be submitted through e-mail to the officer designated in Clause 2.11.5 below. The e-mail shall clearly bear the following subject:

"Queries/Request for Operation and Maintenance of Existing 32 bedded Hospital and Establishment of 150 Bedded Multi Specialty Hospital on PPP".

The pre-bid queries should be submitted in the format specified below to be considered for response and they should be submitted in MS-Excel format. Pre-bid queries not submitted in the prescribed format shall not be responded to:

S. No.	Page No.	Part of RFP	Clause No.	Text provided in RFP	Clarification sought with justification, if any

1.3. Schedule of e-Procurement Activities

The Authority shall endeavour to adhere to the following schedule. However, the Authority may, at its own discretion, revise or extend any of the timelines set out in this schedule.

SN	Event Description	Date
1	Period of Sale of Bidding Documents online at . -	10.06.2023 at 10:00 Hrs
2	Last date for receiving queries	19.06.2023 at 16:00 Hrs
3	Pre-Bid meeting [through Virtual Meeting (Microsoft Teams)]	23.06.2023 at 15:00 Hrs
4.	Last date for reply to the queries	26.06.2023 at 16:00 Hrs
5	Bid due Date	19.07.2023 at 16:00 Hrs

6	Hard Copy Submission: To: <i>Chief Medical Officer</i> <i>New Mangalore Port Authority,</i> <i>Panambur, Mangalore-575010</i>	19.07.2023 at 16:00 Hrs
7	Opening of Technical Bid	20.07.2023 at 16:00 Hrs
8	Opening of Financial Bid	Shall be communicated separately
9	Letter of Award (LOA)	Shall be intimated to short listed bidder
10	Validity of Bids	120 days from bid due date
11	Signing of Concession Agreement	30 days from the issuance of LOA

SECTION-2

INSTRUCTION TO BIDDERS

A. GENERAL

2.1 General terms of Bidding

- 2.1.1 No Bidder shall submit more than one Bid for the Project. A Bidder bidding individually or as a member of a Consortium shall not be entitled to submit another Bid either individually or as a member of any Consortium, as the case may be.
- 2.1.2 An international Bidder bidding individually or as a member of a Consortium shall ensure that power of attorney is legalised/ apostilled by appropriate authority, notarized in the jurisdiction where the power of attorney is being issued and requirements under the Indian Stamp Act, 1899 are duly fulfilled.
- 2.1.3 Unless the context otherwise requires, the terms not defined in this RFP, but defined in the Concession Agreement shall have meaning assigned thereto in the Concession Agreement.
- 2.1.4 Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the Draft Concession Agreement shall have an overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the Concession Agreement.
- 2.1.5 The Bid shall be furnished in the format prescribed in this RFP. The Technical Bid shall be as per Appendix IA and the Financial Bid shall (be filled and

uploaded in the BOQ on the e-Procurement Portal only along with Appendix IB).

- 2.1.6 The Bidder shall deposit a **Bid Security of INR 2,52,52,000/- (Rupees Two Crore Fifty two lakhs fifty two thousand Only)** for the Project, in accordance with the provisions of this RFP. The Bidder has to provide the Bid Security either in the form of a Demand Draft or Bank Guarantee, acceptable to the Authority, as per format at Appendix-II.
- 2.1.7 The validity period of the Bank Guarantee shall not be less than 180 (One Hundred Eighty) days from the Bid Due Date inclusive of a claim period of 60 (Sixty) days, and may be extended as may be mutually agreed between the Authority and the Bidder from time to time. Where a Demand Draft is provided, it shall (unless uncashed) prior to its expiry be renewed from time to time to keep it valid and enforceable for a period of 180 (one hundred and eighty) days from the Bid Due Date. The Bid shall be summarily rejected if it is not accompanied by the Bid Security. The Bid Security shall be refundable not later than 180 (one hundred and eighty) days from the Bid Due Date except in the case of the Selected Bidder, who's Bid Security shall be retained till the Selected Bidder has provided the Performance Security under the Concession Agreement.
- 2.1.8 The Bidder should submit a power of attorney as per the format as specified in Appendix-III, duly supported by a charter document or board resolution in favour of executant authorizing the signatory of the Bid to commit the Bidder.
- 2.1.9 In case the Bidder is a Consortium, the members thereof should furnish a power of attorney in favour of any member, which member shall thereafter be identified as the Lead Member, in the format as specified in Appendix – IV¹, duly supported by a charter document or board resolution in favour of executant. In case the Bidder is a Consortium, Joint Bidding Agreement in the format as specified in Appendix V shall be submitted by the Bidder.
- 2.1.10 Any condition or qualification or any other stipulation contained in the Bid shall render the Bid liable to rejection as a non-responsive Bid.
- 2.1.11 The Bid and all communications in relation to or concerning the Bidding Documents and the Bid shall be in English language.

¹*In case of a Consortium, the Members should submit a Power of Attorney in favour of the any Member as per the format as Appendix-IV. Such Member shall thereafter be identified as the Lead Member. The Lead Member should submit a power of Attorney as per the format in Appendix-III, authorising the signatory of the Application. Members of the Consortium of need not submit Power of Attorney as per the format at Appendix-III, authorising the signatory of the Application.*

2.1.12 The Bidding Documents including this RFP and all attached documents, provided by the Authority are and shall remain or become the property of the Authority and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The provisions of this Clause 2.1.12 shall also apply *mutatis mutandis* to Bids and all other documents submitted by the Bidders, and the Authority will not return to the Bidders any Bid, document or any information provided along therewith.

2.1.13 This RFP is not transferable.

2.1.14 Any award of Project pursuant to this RFP shall be subject to the terms of Bidding Documents.

2.1.15 A Bidder may either be a company incorporated under the Companies Act in force in India or the applicable laws of the jurisdiction of its origin, or be a society or a trust incorporated under applicable governing laws or partnership registered under the relevant laws of incorporation or any other entity or any combination of them, Whether the Bidder is a single entity or consortium of entities, it shall be required to form an appropriate Special Purpose Vehicle (SPV), prior to the execution of the Concession Agreement, under the Indian Companies Act 2013 (including all the rules and regulations made there under), to act as the Concessionaire and execute the Concession Agreement and implement the Project .In case the Selected Bidder is a Consortium, it shall, in addition to forming an SPV, comply with the following additional requirements:

- (a) number of members in a Consortium shall not exceed 3 (three). However, none of the members in a Consortium should be under any sort of ineligibility under the Bidding Documents;
- (b) subject to the provisions of clause (a) above, the Bid should contain the information required for each member of the Consortium;
- (c) members of the Consortium shall nominate one member as the lead member (the “**Lead Member**”), who shall have an equity share 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-IV, signed by all the other members of the Consortium;
- (d) the Bid should include a brief description of the roles and responsibilities of individual members, particularly with reference to financial, technical and O&M obligations;

- (e) an individual Bidder cannot at the same time be a member of any other Consortium applying for RFP. Further, a member of a particular Consortium cannot be a member of any other Consortium applying for RFP;
- (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-V (the “**Joint Bidding Agreement**”), for the purpose of submitting a Bid. The Joint Bidding Agreement, to be submitted along with the Bid, shall, inter alia:
 - (i) convey the intent to form an SPV, solely for the purpose of domiciling the Project and no other purpose, 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 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 date of commercial operation of Phase I of the Project, 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 specified in the Concession Agreement;
 - (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 commercial operation date of Phase I of the Project; 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.

(h) except as provided under this RFP and the Bidding Documents, there shall not be any amendment to the Joint Bidding Agreement without the prior written consent of the Authority.

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

2.1.17 A 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 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 by any public entity for breach by such Bidder, Consortium member or Associate.

Provided, however, that where a Bidder claims that its disqualification arising on account of any cause or event specified in this Clause 2.1.17 is such that it does not reflect (a) any malfeasance on its part in relation to such cause or event; (b) any wilful default or patent breach of the material terms of the relevant contract; (c) any fraud, deceit or misrepresentation in relation to such contract; or (d) any rescinding or abandoning of such contract, it may make a representation to this effect to the Authority for seeking a waiver from the disqualification hereunder and the Authority may, in its sole discretion and for reasons to be recorded in writing, grant such waiver if it is satisfied with the grounds of such representation and is further satisfied that such waiver is not in any manner likely to cause a material adverse impact on the Bidding Process or on the implementation of the Project.

2.1.18 In computing the Technical Capacity and Net Worth of the Bidder/ Consortium members under Clauses 2.2.2 (A) and 2.2.2 (B), the Technical Capacity and Net Worth of their respective Associates would also be eligible hereunder.

For purposes of this RFP, the term Associate and “Control” shall have the meaning given to it in the Explanation of Clause 2.2.1.

It is clarified that a certificate from a qualified external auditor who audits the book of accounts of the Bidder or the Consortium member shall be provided to

demonstrate that a person is an Associate of the Bidder or the Consortium as the case may be.

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

- (a) Bidders should attach clearly marked and referenced continuation sheets in the event that the space provided in the prescribed forms in the Annexures is insufficient. Alternatively, Bidders may format the prescribed forms making due provision for incorporation of the requested information;
- (b) information supplied by a Bidder (or other constituent member if the Bidder is a Consortium) must apply to the Bidder, member or Associate named in the Bid and not, unless specifically requested, to other associated companies or firms;
- (c) in responding to the RFP submissions, Bidders should demonstrate their capabilities in accordance with Section 3 below; and
- (d) in case the Bidder is a Consortium, each member should substantially satisfy the RFP requirements to the extent specified herein.

2.1.20 Without prejudice to the provisions of Clause 2.2.1A, the Bidders shall comply with the following provisions:

- (a) where, on the date of the Bid, not less than 25% (twenty five percent) of the aggregate issued, subscribed and paid up equity share capital in a Bidder or its member is held by persons resident outside India or where an 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 25% (twenty five percent) of the aggregate issued, subscribed and paid up equity share capital or control, by persons resident outside India, in or of the Bidder or its member; then the eligibility of such 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 Bidder.

The holding or acquisition of equity or control, as above, shall include direct or indirect holding/ acquisition, including by transfer, of the direct or indirect legal or beneficial ownership or control, by persons acting for themselves or in concert and in determining such holding or acquisition,

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

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

While evaluating applications, regard will be paid to national defence and security considerations.

Offer received from any Bidder may be summarily rejected on national security consideration without any intimation thereof to the bidder.

The Bidders will be obliged to protect the national interests like national security whenever necessary and required, and also honour priority orders of Central Government, in this regard. The Bidders will also abide by the various statutory requirements on the protection of the environment, anti-pollution measures, safety, conservancy etc., and also abide by the directives issued by the Government of India and New Mangalore Port Authority, Mangalore in this regard from time to time.

2.1.21 Notwithstanding anything to the contrary contained herein, in the event that the Bid Due Date falls within 3 (three) months of the closing of the latest financial year of a Bidder, it shall ignore such financial year for the purposes of its Bid and furnish all its information and certification with reference to the 5 (five) years preceding its latest financial year. For the avoidance of doubt, financial year shall, for the purposes of a Bid hereunder, mean the accounting year followed by the Bidder in the course of its normal business.

2.2 Eligibility and qualification requirements of Bidder

2.2.1 For determining the eligibility of Bidder the following shall apply:

- (a) The Bidder may be a single entity or a group of entities (the “**Consortium**”), coming together to implement the Project. However, no Bidder applying individually or as a member of a Consortium, as the case may be, can be member of another Bidder. The term Bidder used herein would apply to both a single entity and a Consortium.
- (b) Bidder may be a permitted entity or any combination of them with a formal intent to enter into a Joint Bidding 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 2.1.15.

- (c) A Bidder shall not have a conflict of interest (the “**Conflict of Interest**”) that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Authority shall be entitled to forfeit and appropriate 5% (five percent) of the value of the Bid Security or equivalent amount from the Performance Security, as the case may be, as mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Authority and not by way of penalty for, inter alia, the time, cost and effort of the Authority, including consideration of such Bidder’s proposal (the “**Damages**”), without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/or the Concession Agreement or otherwise. Without limiting the generality of the above, a Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:
- (i) The Bidder, its member or Associate (or any constituent thereof) and any other 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 shareholding of a Bidder, its member or an Associate thereof (or any shareholder thereof) having a shareholding of more than 25%(Twenty five percent) of the paid up and subscribed capital; of such Bidder, member or Associate, as the case may be) in the other Bidder, its member or Associate, is not more than 25% (Twenty five percent) of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in Section 2(72) of the Companies Act, 2013. For the purposes of this Clause 2.2.1(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% (Twenty six percent) of the subscribed and paid up equity shareholding of such intermediary; or

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

Explanation:

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

For purposes of this RFP, Associate means, in relation to the Bidder/Consortium member, a person who controls, is controlled by, or is under the common control with such 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 percent) 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.

- (d) A Bidder shall be liable for disqualification and forfeiture of Bid Security if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Bidder, its members or any Associate thereof, as the case may be, in any manner for matters related to or incidental to such Project during the Bidding Process or subsequent to the (i) issue of the LOA or (ii) execution of the Concession Agreement. In the event any such adviser is engaged by the Selected Bidder or Concessionaire, as the case may be, after issue of the LOA or execution of the Concession Agreement for matters related or incidental to the Project, then notwithstanding anything to the contrary contained herein or in the LOA or the Concession Agreement and without prejudice to any other right or remedy of the Authority, including the forfeiture and appropriation of the Bid Security or Performance Security, as the case may be, which the Authority may have there under or otherwise, the LOA or the Concession Agreement, as the case may be, shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Selected Bidder or Concessionaire for the same. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the 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 RFP for the Project. 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.

Provided that, in case the Authority seeks information / clarification from a Bidder related to occurrence / non-occurrence of Conflict of Interest and the Bidders fails to provide such information within a reasonable time, the Authority shall disqualify the Bidders and encash the Bid Security as per Clause 2.19.6 and further debar it from participation in any future procurement process for a minimum period of 1 (one) year.

2.2.1A While qualification is open to persons from any country, the following provisions shall apply:

Any Bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority as provided in the Order (Public Procurement No. 1) dated 23rd July 2020 issued by the Ministry of Finance, Department of Expenditure Public Procurement Division. Provided further that the Selected Bidder shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority as provided in the aforesaid Order.

"Competent Authority" for the purpose of this clause means the Authority defined in Annex 1 of the Order (Public Procurement No. 1) dated 23rd July 2020 issued by the Ministry of Finance, Department of Expenditure Public Procurement Division.

"Bidder from a country which shares a land border with India" for the purpose of this clause means: -

- a. An entity incorporated, established or registered in such a country; or
- b. A subsidiary of an entity incorporated, established or registered in such a country, or
- c. An entity substantially controlled through entities incorporated, established or registered in such a country; or
- d. An entity whose beneficial owner is situated in such a country; or
- e. An Indian (or other) agent of such an entity; “agent” for the purposes of this RFP shall mean a person employed to do any act for another, or to represent another in dealings with third person; or
- f. A natural person who is a citizen of such a country, or
- g. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above categories.

The “beneficial owner” for the purpose of (d) above will be as under:

1. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has a controlling ownership interest or who exercises control through other means.

Explanation –

- a. "Controlling ownership interest" means ownership of or entitlement to more than twenty-five per cent. of shares or capital or profits of the company,
- b. "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements,

- 2. In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;
- 3. In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals.
- 4. Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is the relevant natural person who holds the position of senior managing official.
- 5. In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership

2.2.2 To be eligible for this RFP a Bidder shall fulfil the following conditions of eligibility:

(A) **Technical Capacity:** For demonstrating technical capacity and experience, the Bidder shall, over the past 5 (five) financial years preceding the Bid Due Date, have either (the "**Technical Capacity**"):

- (i) Operating at least one (1) 120 bedded multi-specialty hospital; or
- (ii) Operating two (2) 75 bedded multi-specialty hospitals; or
- (iii) Operating three (3) 60 bedded multi-specialty hospitals.

Further, the Bidder, for at least one of the hospitals for which experience is being claimed, must have an experience of operating and maintaining a NABH or JCAHO or JCI accreditation.

For the purpose of this RFP as per “Clinical Establishment Act Standards for Hospital (Level 3)”, multi-specialty Hospital shall be Hospital Level 3 –

This level may include all the services provided at level 1 and 2 plus the following: Multi-specialty clinical care with distinct departments, General Dentistry (this could be optional in case of independent Dental Hospital), Intensive Care Unit. Tertiary healthcare services can be provided through specialists; it will have other support systems required for these services like pharmacy, Laboratory, and Imaging facility.

The Bidder shall provide documentary evidence by way of Statutory Auditor’ /Chartered Accountant’s certificate and/or client certificate and/or agreement copy and/or Letter of Award as the case may be in support of the Technical Capacity as specified in this Clause. Such documentary evidence shall be duly signed by the whole-time director of the single Bidder or a Member of the Consortium (whose Technical Capacity was taken into consideration for the purposes of technical qualification under and in accordance with the RFP), as the case may be.

(B) **Financial Capacity:**

The Bidder shall have:

- (i) Net Worth (*as defined hereinafter*) of Rs. 32,10,00,000/-(Rupees Thirty-Two Crores Ten Lakhs only) at the close of the preceding financial year; and
- (ii) Positive Net Cash Accruals for last three financial years preceding the Bid Due Date.

The financial capacity mentioned above shall be referred to as the “**Financial Capacity**”.

For the purposes of this RFP, net worth (the “**Net Worth**”) shall mean:

- a) In case of a company, it shall mean the aggregate value of the paid-up share capital and all reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write back of depreciation and amalgamation.
- b) In case of a trust or a society, it shall mean the sum of available corpus and reserves.
- c) in case the Bidder is any other entity - the aggregate value of the paid up capital and reserves of such entity, after deducting the aggregate value of the intangible assets.

For the purposes of this RFP, in case the Bidder is a company, **Net Cash Accruals** shall mean Profit after Tax + Depreciation, in case the Bidder is a Society or Trust, Net Cash Accruals shall mean Excess of income over Expenditure + Depreciation.

In case of a Consortium, the combined technical capacity 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 operation of Phase I of the Project, 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.

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

- (i) Certificate(s) from statutory auditors along with the certificate of incorporation or equivalent of the Bidder or its Associates or the concerned client(s) stating the technical experience of the Bidder, as the case may be, during the past 5 (five) years in respect of the Projects specified in paragraph 2.2.2 (A) above.; and
- (ii) Certificate(s) from statutory auditors of the Bidder or its Associates specifying the Net Worth and Net Cash Accruals of the Bidder, as mentioned in 2.2.2 (B) and also specifying that the methodology adopted for calculating such Net Worth conforms to the provisions of this Clause 2.2.3 (ii).
- (iii) In case the Bidder is in the nature of a public charitable trust (either as a single entity or as a part of a Consortium), and is required to submit a certificate as per

applicable laws, it shall mandatorily provide along with the submission of its Technical Bid a certificate from the Charity Commissioner/competent authority under applicable laws, approving and permitting such Selected Bidder to undertake the Project, fulfil its obligations under the Concession Agreement, invest and hold such portion of equity share capital in the SPV/Concessionaire as is required in accordance with terms of the RFP and the Bidding Documents.

For the avoidance of doubt, if the Bidder which is in the nature of a public charitable trust does not submit the certificate as mentioned above, the Technical Bid shall be treated as non-responsive.

2.3 Proprietary data

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

2.3(A) Change in Ownership

By submitting the Bid, the Bidder acknowledges that it will be qualified on the basis of Technical and Financial Capacity of those of its Consortium Members who shall until the expiry of the 2nd (second) anniversary of the complete commercial operations date of Phase I of the Project, 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 specified in the Concession Agreement. The Bidder further acknowledges and agrees that the aforesaid obligation shall be the minimum and shall be in addition to such other obligations as may be contained in the Concession Agreement, and a breach hereof shall, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach of the Concession Agreement and dealt with as such thereunder. For the avoidance of doubt, the provisions of this Clause 2.3(A) shall apply only when the Bidder is a Consortium.

By submitting the Bid, the Bidder shall also be deemed to have acknowledged and agreed that in the event of a change in the control of a Consortium Member whose Financial Capacity was taken into consideration for the purposes of qualification under and in accordance with this RFP, the Bidder shall be deemed to have the knowledge of the same, and shall inform the Authority forthwith along with all relevant particulars about the same and the Authority may, in its sole discretion, disqualify the Bidder or withdraw the LOA from the Selected Bidder, as the case may be. In the event such change in control occurs after signing of the Concession Agreement but prior to the appointed date under the Concession Agreement, it would, notwithstanding anything to the contrary contained in the

Concession Agreement, be deemed to be a breach of the Concession Agreement, and the same shall, at the discretion of the Authority, be liable to be terminated without the Authority being liable in any manner whatsoever to the Concessionaire. In such an event, notwithstanding anything to the contrary contained in the Concession Agreement, the Authority shall, at its sole discretion, be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or the Concession Agreement or otherwise.

2.4 Number of Bids and Cost of Bidding

2.4.1 No Bidder shall submit more than one Bid for the Project. A Bidder applying individually or as a member of a Consortium shall not be entitled to submit another Bid either individually or as a member of any Consortium, as the case may be.

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

2.5 Site visit and verification of information

2.5.1 Bidders are encouraged to submit their respective Bids after visiting the Project site and ascertaining for themselves the site conditions, location, surroundings, climate, availability of power, water & 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. Bidders are advised to visit the site and familiarise themselves with the Project within the stipulated time of submission of the Bid. No extension of time is likely to be considered for submission of Bids.

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

- (a) made a complete and careful examination of the Bidding Documents;
- (b) received all relevant information requested from the Authority;
- (c) accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Documents or furnished by or on behalf of the Authority relating to any of the matters referred to in Clause 2.5.1 above;
- (d) satisfied itself about all matters, things and information including matters referred to in Clause 2.5.1 hereinabove necessary and required for submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations there under;

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

2.5.3 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 RFP, including any error or mistake therein or in any information or data given by the Authority.

2.6 Verification and Disqualification

2.6.1 The Authority reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFP and the Bidder shall, when so required by the Authority, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification, by the Authority shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Authority there under.

2.6.2 The Authority reserves the right to reject any Bid and appropriate the Bid Security if:

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

Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium and each member of the Consortium may be disqualified/ rejected. If such disqualification/ rejection occurs after the Bids have been opened and the Highest Bidder gets disqualified/ rejected, then subject to Clause 3.8.3 and 3.8.4, the Authority reserves the right to annul the Bidding Process and invites fresh Bids.

2.6.3 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 eligibility and /or qualification requirements have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Concessionaire either by issue of the LOA or entering into of the Concession Agreement, and if the Selected Bidder has already been issued the LOA or the SPV 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 Selected Bidder or the Concessionaire, as the case may be, without the Authority being liable in any manner whatsoever to the Selected Bidder or the Concessionaire. In such an event, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under this RFP, the Bidding Documents, the Concession Agreement or otherwise.

B. DOCUMENTS

2.7 Contents of the RFP

- 2.7.1 This RFP comprises the Disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.9.

Invitation for BIDs

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

Appendices

- IA Letter comprising the Technical Bid including Annexures I to VI
- IB Letter comprising the Financial Bid
- II. Bank Guarantee for Bid Security
- III. Power of Attorney for signing of Bid
- IV. Power of Attorney for Lead Member of Consortium
- V. Joint Bidding Agreement for Consortium
- VI. Integrity Pact
- VII. Check List

2.7.2 The Concession Agreement provided by the Authority as part of the Bidding Documents shall be deemed to be part of this RFP.

2.8 Clarifications

2.8.1 Bidders requiring any clarification on the RFP may notify the Authority through e-mail in accordance with Clause 1.2.11. They should send in their queries before the date mentioned in the Schedule of e-Procurement Activities specified in Clause 1.3. The Authority shall endeavour to respond to the queries within the period specified therein, but no later than 10 (ten) days prior to the Bid Due Date. The Authority may forward all the queries and its responses thereto, to all Bidders without identifying the source of queries and shall also upload the responses on the e-Procurement Portal.

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

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

2.8.4 To facilitate evaluation of the Bids, the Authority may, at its sole discretion, seek clarifications from any Bidder regarding its Bid. Such clarification(s) may without prejudice include clarifications with respect to minor deviations found in the Bid and 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.

2.8.5 If a Bidder does not provide clarifications sought under Clause 2.8.4 above within the prescribed time, its Bid shall be liable to be rejected. In case the Bid is not rejected, the Authority may proceed to evaluate the Bid by construing the particulars requiring clarification to the best of its understanding, and the Bidder shall be barred from subsequently questioning such interpretation of the Authority.

2.9 Amendment of RFP

- 2.9.1 At any time prior to the Bid Due Date, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of Addenda.
- 2.9.2 Any Addendum issued hereunder will be in uploaded on the e-Procurement Portal
- 2.9.3 In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Authority may, at its own discretion, extend the Bid Due Date.
- 2.9.4 The Bidders who have downloaded the Bidding Documents are advised to regularly check for amendments/corrigendum/clarifications, if any issued by the Authority and which shall form part and parcel of the Bidding Documents. Such amendments /corrigendum/clarifications will be posted on the e-Procurement Portal and NMPA website [<https://eprocure.gov.in/eprocure/app> and <https://www.newmangaloreport.gov.in>]. Any ignorance on the part of the Bidder in not checking the e-Procurement Portal will not be an excuse and the Authority not be responsible if any Bidder omits to notice any amendments/corrigendum/ clarification.

C. PREPARATION AND SUBMISSION OF BIDS

2.10 Format and Signing of Bid

- 2.10.1 The Bidder shall provide all the information sought under this RFP and upload the same on the e-Procurement Portal as a part of its online submission of Bid as well as by way of physical submission of original copy of the Enclosures to Bid to the Authority. The Authority will evaluate only those Bids that are received in the required formats and complete in all respects and which are submitted on the e-procurement portal on or prior to the Bid Due Date. Incomplete and /or conditional Bids or not submitted online on e-procurement portal shall be rejected.
- 2.10.2 The Bidders shall submit both the Technical Bid as well as the Financial Bid, along with all the annexures thereto, on the e-Procurement Portal. The Bid shall bear the digital signature of the Bidder. The Bidders shall sign their Bids using Class III - Digital Certificates, issued from any agency authorized by Controller of Certifying Authority (CCA), Government. of India, upon uploading the soft copy of the Technical Bid to the e-Procurement Portal. In case of the Bidder being a Consortium, the Lead Member shall sign each page of the Bid using Class III DSC only.

Bidders shall note that the very act of using DSC for downloading the tender document and thereafter uploading their Bids shall be deemed to be a confirmation that they have read all sections and pages of the Bidding Documents without any exception and have understood the complete Bidding Documents and are clear about the requirements herein.

While submitting the Bids online, the Bidder shall read the terms & conditions of the e-Procurement Portal and accepts the same in order to proceed further to submit their Bid.

Bidders must get ready in advance the bid documents to be submitted as indicated in this RFP in PDF/xls/rar/zip/dwf formats.

- 2.10.3 After the bid submission, the Bidders shall take print out of system generated acknowledgement number and keep it as a record of evidence for online submission of Bid.
- 2.10.4 Bidder must follow the server time that is being displayed on Bidder's dashboard at the top of the e-Procurement Portal, which shall be considered valid for all actions of requesting, bid submission and bid opening etc., in the e-tender system.
- 2.10.5 All the documents being submitted by the Bidders would be encrypted to ensure the secrecy of the data. The data entered cannot be viewed by unauthorized persons until the time of bid opening.
- 2.10.6 The Bidders shall also be required to submit a hard copy of the following documents ("**Enclosures to Bid**"):
 - a. Proof/ Receipt of RTGS/ NEFT payment, as the case may be for Document Fee;
 - b. Power of Attorney for signing of Bid in the prescribed format (Appendix – III) supported with board resolution / charter document in favour of executant;
 - e. If applicable, the Power of Attorney for Lead Member of Consortium (Appendix – IV) supported with board resolution / charter document in favour of executant.
 - f. Bid Security in the form of a bank guarantee, as per format in Appendix- II;
 - g. Joint Bidding Agreement (in case of Consortium) (Appendix – V);

For the avoidance of doubt, the scanned copy of the abovementioned documents shall also be submitted with the Technical Bid on the e-Procurement Portal.

The hard copy of the Enclosures to Bids shall be typed and signed in indelible blue ink by the authorized signatory of the Bidder who shall initial every page. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialled by the person(s) signing the Bid. For avoidance of doubt, no hard copy of Financial Bid shall be submitted.

2.10.7 Financial Bid shall be submitted/uploaded online in the BOQ provided on the e-Procurement Portal along with letter comprising financial bid (Appendix-IB). Bidders shall download the Bill of Quantity (BOQ), in xls format and save it without changing the name of the file. Bidder shall quote their rates in figures only in the green background cells, thereafter save and upload the file along with the submission of the Financial Bid only. The Bidders are cautioned that while uploading of the Financial Bid, Macros in .xls must be enabled to see the word representation of figures.

2.11 Documents comprising Technical and Financial Bid

2.11.1 The Bidder shall submit the Technical Bid, both online as well as physical hard copy of Enclosures to Bid. **The Financial Bid shall be submitted online only.** There shall be no physical hard copy submission of the Financial Bid under any circumstance.

The Technical Bid shall comprise of the following documents along with supporting documents as appropriate:

Technical Bid

- (a) Appendix-IA (Letter comprising the Technical Bid) including Annexure I to V and supporting certificates / documents.
- (b) Power of Attorney for signing the Bid as per the format at Appendix-III;
- (c) if applicable, Power of Attorney for Lead Member of Consortium as per the format at Appendix-IV;
- (d) if applicable, Joint Bidding Agreement for Consortium as per the format at Appendix-V;
- (e) copy of the certificate of incorporation or equivalent.
- (f) copies of Bidder's duly audited balance sheet and profit and loss statement for preceding 3 years;
- (g) Bid Security of INR **2,52,52,000/- (Rupees Two Crore Fifty two lakhs fifty two thousand Only)** in the form of Bank Guarantee in the format at Appendix-II or Demand Draft;
- (h) Integrity Pact as per the Format at Appendix VI duly signed by the Authorized Signatory, which shall form part of Concession Agreement;
- (i) copy of the receipt towards payment of the Document Fee by way of NEFT/RTGS, in accordance with Clause 1.2.1; and

- (j) Copy of certificate received from Charity Commissioner (if applicable), please refer Clause 2.3.1 (iii)
- (j) Duly completed checklist as per the format provided in Appendix-VII.

For the avoidance of any doubt, scanned copies of the abovementioned documents shall be uploaded online on the e-Procurement Portal on or prior to the Bid Due Date.

Financial Bid

The Financial Bid, which shall be uploaded online (no hard copy submission), shall consist of the following particulars:

- (i) Appendix-IB (Letter comprising the Financial Bid)
- (ii) Bill of Quantities (BOQ) as provided in the e-Procurement Portal

2.11.2 The Technical Bid shall be submitted online and uploaded on the e-Procurement Portal. The Bidder shall also provide one physical hard copy of the Enclosures to Bid in accordance with the terms provided in this RFP. For the online submission, each page of the Technical Bid, including the annexures thereto, shall bear the digital signature of the Bidder. The Bidders are required to sign their Bids using Class III - Digital Certificates at the time of uploading the soft copy of the Technical Bid. In case of a Consortium, the digital signature of the Lead Member shall be affixed to every page of the Technical Bid and all annexures thereof. The scanned copy of documents, mentioned above in Clause 2.11.1, comprising of the Technical Bid shall be uploaded online in proper resolution.

2.11.3 The hard copy of the Enclosures to Bid consisting of the documents listed at Clause 2.11.1 shall be placed in an envelope bearing “**Technical Bid for Operation and Maintenance of Existing 32 bedded Hospital and Establishment of 150 Bedded Multi-Specialty Hospital on PPP**” and shall clearly indicate the name and address of the Bidder.

2.11.4 The Financial Bid shall be submitted online only on the e-Procurement Portal. The Financial Bid shall not be submitted physically in hard copy. Any submission of Financial Bid in hard copy shall lead to the Bid being rejected in its entirety and declared as non-responsive. The Financial Bid shall bear the digital signature of the Bidder. The Bidders are required to sign their Bids using Class III DSC only. In case of a Consortium, the digital signature of the Lead Member shall be affixed to the Financial Bid.

2.11.5 The original hard copy of the Enclosures to Bid shall be addressed and submitted on or before Bid Due Date at the following address:

DESIGNATION: **Chief Medical Officer**
ADDRESS: New Mangalore Port Authority,
Panambur, Mangalore-575010
TELEPHONE NO: 0824-2407948
E-MAIL ADDRESS: cmo@nmpt.gov.in

- 2.11.6 If the envelope containing the hard copy of the Enclosures to Bid is not sealed and marked as instructed above, the Authority assumes no responsibility for the misplacement or premature opening of the contents of the Technical Bid submitted and consequent losses, if any, suffered by the Bidder.
- 2.11.7 In the event of any discrepancy between the soft copy/scanned copy of the Enclosures to Bid uploaded to the e-Procurement Portal and the hard copy of the same, the soft copy/scanned copy will prevail provided, however, that regardless of anything to the contrary, in case of legal documents and financial instruments, the hard copy shall prevail over the soft copy.
- 2.11.8 Bids submitted by fax, telex, telegram or e-mail shall not be entertained and will be rejected.

2.12 Bid Due Date

Technical & Financial Bid comprising of the documents listed at Clause 2.11.1 of the RFP shall be submitted online on or before the Bid Due Date in the manner and form as detailed in this RFP.

2.13 Late Bids

Bids received by the Authority after the specified time on the Bid Due Date shall not be eligible for consideration and shall be summarily rejected.

2.14 Procedure for tendering

2.14.1 Submission of Bids:

- 2.14.1.1 The Bidder shall submit the Technical Bid online on the e-Procurement Portal on or prior to the Bid Due Date. The Bidder shall also submit a hard copy of the Enclosures to Bid in the manner specified in this Bid Document in Clause 2.10.6, a receipt thereof should be obtained from the person specified at Clause 2.11.5.
- 2.14.1.2 The Bidder shall upload the Financial Bid only on the e-Procurement Portal on or prior to the Bid Due Date. The Authority shall not entertain any physical submission of the Financial Bid. Any physical submission of the Financial Bid shall lead to the rejection of the Bid as being non-responsive.

2.14.1.3 The Bidder will receive a system generated acknowledgement of its Bid submission on the e-Procurement Portal to confirm successful uploading of its Bid.

2.14.2 Substitution and Withdrawal of Bids

2.14.2.1 The Bidder may substitute or withdraw its Bid after submission at any time prior to the specified time on the Bid Due Date on the e-Procurement Portal. No Bid will be substituted or withdrawn by the Bidder on or after the specified time on the Bid Due Date.

2.14.2.2 If the Bidder substitutes or withdraws its Bid after submission at any time prior to the specified time on the Bid Due Date on the e-Procurement Portal, then the hard copy of the original Enclosures to Bid will be returned unopened.

2.15 Rejection of Bids

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

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

2.16 Validity of Bids

The Bids shall be valid for a period of not less than 120 (One hundred and Twenty) days from the Bid Due Date. The validity of Bids may be extended by mutual consent of the respective Bidders and the Authority.

2.17 Confidentiality

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

or privilege of the statutory entity and/ or the Authority or as may be required by law or in connection with any legal process.

2.18 Correspondence with the Bidder

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

D. Bid Security

2.19 Bid Security

2.19.1 The Bidder shall furnish as part of its Bid, a Bid Security referred to in Clauses 2.1.6 and 2.1.7 in the form of a Bank Guarantee issued by a nationalized bank, or a Scheduled Bank in India having a net worth of at least Rs. 1,000 Crore (Rupees One Thousand Crore Only), in favor of the Authority in the format at Appendix-II ("**Bank Guarantee**") and having a validity period of not less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of the claim period of 60 (sixty) days and may be extended as may be mutually agreed between the Authority and the Bidder from time to time. In case the Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any nationalized bank in India is required. For the avoidance of doubt, Scheduled Bank shall mean a bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934 and "**National Bank**" shall mean a bank as defined under Section 2(ccc) of the Reserve Bank of India Act, 1934. The Bank Guarantee must be enforceable in Mangalore

Bid Security can also be in the form of a Demand Draft issued by a Scheduled Bank in India, drawn in favor of "FA&CAO, New Mangalore Port Authority" and payable at Mangalore ("**Demand Draft**"). The Demand Draft provided, it shall (unless uncashed) prior to its expiry be renewed from time to time to keep it valid and enforceable for a period of 180 (one hundred and eighty) days from the Bid Due Date.

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

2.19.2 Any Bid not accompanied by the Bid Security shall be summarily rejected by the Authority as non-responsive. As part of the Bidding Process and for the avoidance of any confusion, the Bidder shall submit a scanned copy of the Bid Security along with online submission of the Technical Bid.

2.19.3 Save and except as provided in Clause 1.2.4 above, the Bid Security of unsuccessful Bidders will be returned by the Authority, without any interest, as promptly as possible on acceptance of the Bid of the Selected Bidder or when the Bidding process is cancelled by the Authority, and in any case within 180 (one hundred and eighty) days from the Bid Due Date.

- 2.19.4 The Selected Bidder's Bid Security will be returned, without any interest, upon the Concessionaire signing the Concession Agreement and furnishing the Performance Security in accordance with the provisions thereof. The Authority may, at the Selected Bidder's option, adjust the amount of Bid Security in the amount of Performance Security to be provided by him in accordance with the provisions of the Concession Agreement.
- 2.19.5 The Authority shall be entitled to forfeit and appropriate the Bid Security as Damages inter alia in any of the events specified in Clause 2.19.6 herein below. The Bidder, by submitting its Bid pursuant to this RFP, shall be deemed to have acknowledged and confirmed that the Authority will suffer loss and damage on account of withdrawal of its Bid or for any other default by the Bidder during the period of Bid validity as specified in this RFP. No relaxation of any kind on Bid Security shall be given to any Bidder.
- 2.19.6 The entire Bid Security shall be forfeited and appropriated by the Authority as Damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or the Concession Agreement, or otherwise under the following conditions:
- a) If a Bidder submits a non-responsive Bid;
Subject however that in the event of encashment of Bid Security occurring due to operation of para 2.19.6 (a), the Damage so claimed by the Authority shall be restricted to 5% (five percent) of the value of the Bid Security.
 - b) If a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Section 4 of this RFP;
 - c) If a Bidder withdraws its Bid during the period of Bid validity as specified in this RFP and as extended by mutual consent of the respective Bidder(s) and the Authority;
 - d) In the case of Selected Bidder, if it fails within the specified time limit–
 - i) to sign and return the duplicate copy of LOA;
 - ii) to sign the Concession Agreement; or
 - iii) to furnish the Performance Security within the period prescribed therefore in the Concession Agreement;
 - e) In case the Selected Bidder, having signed the Concession Agreement, commits any breach thereof prior to furnishing the Performance Security.

SECTION-3

EVALUATION OF TECHNICAL BIDS AND OPENING & EVALUATION OF FINANCIAL BIDS

3.1 Opening and Evaluation of Technical Bids

- 3.1.1 The Authority shall open the soft copy of the Technical Bids online on the e-Procurement Portal at a time specified by the Authority on the date specified in Clause 1.3 and at the place specified in Clause 2.11.5 and in the presence of the Bidders and their authorized representatives who choose to attend.
- 3.1.2 The Authority will subsequently examine and evaluate the Bids in accordance with the provisions set out in this Section 3.
- 3.1.3 To facilitate evaluation of Bids, the Authority may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid.

3.2 Tests of responsiveness

- 3.2.1 As a first step towards evaluation of Technical Bids, the Authority shall determine whether each Technical Bid is substantially responsive to the requirements of this RFP. A Technical Bid shall be considered substantially responsive only if it conforms to all the below-mentioned requirements without any material deviation or reservation:
 - (a) Technical Bid is received as per the format at Appendix-IA including Annexure I to V;
 - (b) Technical Bid is received on or before the Bid Due Date
 - (c) Technical Bid is accompanied by the Bid Security as specified in Clause 2.1.6 and 2.1.7;
 - (d) Technical Bid is accompanied by the Power of Attorney as specified in Clauses 2.1.8;
 - (e) Technical Bid is accompanied by Power of Attorney for Lead Member of Consortium and the Joint Bidding Agreement as specified in Clause 2.1.9, if so required;
 - (f) Technical Bid is accompanied by Integrity Pact as per the Format at Appendix VI duly signed by the Authorized Signatory, which shall form part of the Concession Agreement;
 - (g) Technical Bid contain all the information (complete in all respects) required in this RFP and/or Bidding Documents (in formats same as those specified);
 - (h) Technical Bid does not contain any condition or qualification;

- (i) Technical Bid contains certificates from its statutory auditors in the formats specified at Annexure IV of Appendix-IA of the RFP for each eligible project²;
- (j) Technical Bid contains an attested copy of the receipt towards the payment of Document Fee by NEFT/RTGS, as specified in Clause 1.2.1;
- (k) Technical Bid is not non-responsive in terms hereof; and
- (l) the hard copy of the Enclosures to the Bid is signed, sealed, bound together in hard cover and marked as stipulated in Clauses 2.10 and 2.11.
- (m) [Technical Bid contains the certificate and approval from the Charity Commissioner/competent authority as prescribed under Clause 1.1.3.]³

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

3.3 Evaluation parameters

3.3.1 Only those Bidders who meet the eligibility criteria (Technical Capacity and Financial Capacity) specified in Clause 2.2.2 above shall qualify for evaluation under this Section 3. Bids of firms/ consortia who do not meet these criteria shall be rejected.

3.3.2 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.

3.4 Technical capacity for purpose of evaluation

Subject to the provisions of Clause 2.2, the Bidder's experience shall be measured and stated in terms of its Technical Capacity.

3.5 Details of Experience

The Bidder should furnish the details of Eligible Experience for the last 5 (five) financial years immediately preceding the Bid Due Date. The Bidders must provide the necessary information relating to Technical Capacity as per format at Annexure-II of Appendix-IA.

²In case duly certified audited annual financial statements containing the requisite details are provided, a separate certification by statutory auditors would not be necessary in respect of Clause 3.2.1(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 under this RFP.

³Applicable if the Bidder is in the nature of public charitable trust and is required to submit such a certificate of approval under Applicable Laws (both in case of single entity or as a part of a Consortium).

Further, the Bidder should furnish the required project-specific information and evidence in support of its claim of Technical Capacity, as per format at Annexure-IV of Appendix-IA.

3.6 Financial information for purposes of evaluation

- 3.6.1 The Bids must be accompanied by the audited Annual Reports of the Bidder (of each member in case of a Consortium) for the last 3 (three) financial years, preceding the year in which the Bid is made.
- 3.6.2 In case the annual accounts for the latest financial year are not audited and therefore the Bidder cannot make the same available, the Bidder shall give an undertaking to this effect and the statutory auditor shall certify the same. In such a case, the Bidder shall provide the Audited Annual Reports for 3 (three) years preceding the year for which the Audited Annual Report is not being provided.
- 3.6.3 The Bidder must establish the minimum Net Worth specified in Clause 2.2.2 (B), and provide details as per format at Annexure-III of Appendix-IA.
- 3.6.4 In case of foreign companies, a certificate from a qualified external auditor who audits the book of accounts of the Bidder or the Consortium member in the formats provided in the country where the project has been executed shall be accepted, provided it contains all the information as required in the prescribed format of the RFP.

3.7 Opening and Evaluation of Financial Bids

The Financial Bids shall be opened online on the e-Procurement Portal. The Authority shall open the Financial Bids on date and time mentioned in Clause 1.3 in the presence of the authorized representatives of the Bidders who may choose to attend. The Authority shall publically announce the Financial Bid for each of the technically responsive Bidders.

3.8 Selection of Bidder

- 3.8.1 Subject to the provisions of Clause 2.15.1, the Bidder whose Bid is adjudged as responsive in terms of Clause 3.2 and who quotes the highest percentage of gross revenue share of the Gross Revenue of the SPV shall be declared as the selected Bidder (the "**Selected Bidder**"). In the event that the Authority rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.
- 3.8.2 In the event that, the assessed Financial Bid of two or more Bidders is the same (the "**Tie Bid**"), the Authority shall identify the Selected Bidder by draw of lots,

which shall be conducted, with prior notice, in the presence of the Tie Bidders who choose to attend.

- 3.8.3 In the event that the Highest Bidder withdraws or is not selected for any reason in the first instance (the “**First Round of Bidding**”), the Authority may invite all the remaining qualified Bidders to revalidate or extend their respective Bid Security, as necessary, and shall invite all the remaining bidders to match the bid of the aforesaid Highest Bidder (the ‘**Second Round of Bidding**’). If in the Second Round of Bidding, only one Bidder matches the aforesaid Highest Bidder, it shall be the Selected Bidder. If two or more Bidders match the said Highest Bidder in the Second Round of Bidding, then the Bidder whose Bid was ranked higher as compared to other Bidder(s) in the first round of bidding shall be the Selected Bidder. For example, if the third and fifth ranked Bidders in the first round of bidding offer to match the said first ranked Bidder in the second round of bidding, the said third rank Bidder shall be the Selected Bidder. In the event that no Bidder offers to match the Highest Bidder in the Second Round of Bidding as specified in this Clause 3.8.3 above, the Authority may, in its discretion annul the Bidding Process.
- 3.8.4 In the event that no Bidder offers to match the Highest Bidder in the Second Round of Bidding as specified in Clause 3.8.3, the Authority may, in its discretion, invite fresh Bids (the “**Third Round of Bidding**”) from all Bidders except the Highest Bidder of the First Round of Bidding, or annul the Bidding Process, as the case may be. In case the Bidders are invited in the Third Round of Bidding to revalidate or extend their Bid Security, as necessary, and offer fresh Bids, they shall be eligible for submission of fresh Bids provided, however, that in such Third Round of Bidding only such Bids shall be eligible for consideration which are higher than the Bid of the second highest Bidder in the First Round of bidding.
- 3.8.5 After selection, a Letter of Award (the “**LOA**”) shall be issued, in duplicate, by the Authority to the Selected Bidder and the Selected Bidder shall, within 7(seven)days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Bidder is not received by the stipulated date, the Authority may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as Damages on account of failure of the Selected Bidder to acknowledge the LOA and next eligible bidder may be considered.
- 3.8.6 After acknowledgement of the LOA as aforesaid by the Selected Bidder, it shall cause the Concessionaire to execute the Concession Agreement within the period prescribed in Clause 1.3. The Selected Bidder shall not be entitled to seek any deviation, modification or amendment in the Concession Agreement.

3.9 Contact during Bid Evaluation

Bids shall be deemed to be under consideration immediately after they are opened and until such time the Authority makes official intimation of award/rejection to the Bidders. While the Bids are under consideration, Bidders and/or their representatives or other interested parties are advised to refrain, save and except as required under the Bidding Documents, from contacting by any means with the Authority and/ or their employees/ representatives on matters related to the Bids under consideration.

3.10 Correspondence with Bidder

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

3.11 Any information contained in the Bid shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Bidder if the Project is subsequently awarded to it on the basis of such information.

3.12 The Authority reserves the right not to proceed with the Bidding Process at any time without notice or liability and to reject any or all Bid(s) without assigning any reasons.

SECTION-4

4. FRAUD AND CORRUPT PRACTICES

- 4.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the LOA and during the subsistence of the Concession Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Concession Agreement, the Authority may reject a Bid, withdraw the LOA, or terminate the Concession Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or the Concessionaire, as the case may be, if it determines that the Bidder Concessionaire, as the case may be, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an event, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or the Concession Agreement, or otherwise.
- 4.2 Without prejudice to the rights of the Authority under Clause 4.1 hereinabove and the rights and remedies which the Authority may have under the LOA or the Concession Agreement, or otherwise if a Bidder or the Concessionaire, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, or after the issue of the LOA or the execution of the Concession Agreement, such Bidder or the Concessionaire, as the case may be, at the sole and absolute discretion of the Authority, shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from the date such Bidder, or Contractor, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.
- 4.3 For the purposes of this Section 4, the following terms shall have the meaning hereinafter respectively assigned to them:
- (a) “**corrupt practice**” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official

of the Authority who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the LOA or has dealt with matters concerning the Concession Agreement or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as permitted under the Clause 2.2.1(d) of this RFP, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the Concession Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Concession Agreement, who at any time has been or is a legal, financial or technical adviser of the Authority in relation to any matter concerning the Project;

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

SECTION-5

5. PRE-BID CONFERENCE

- 5.1 Pre-Bid conference of the Bidders shall be convened at the designated date as mentioned in Clause 1.3 of this RFP through Virtual Meeting (Microsoft Teams) mode by the Authority. Bidders may confirm their participation in the Pre-Bid conference to the following NMPA official through email on or before 23.06.2023.

Chief Medical Officer,
New Mangalore Port Authority Hospital,
Panambur, Mangalore – 575 010
Phone: 0824 2407948 / 0824 2407413
Email: cmo@nmpt.gov.in

The link for the Virtual Meeting (Microsoft Teams) will be shared only to those Bidders who have confirmed their participation and furnished valid email ID's for communication before the due date i.e., 20.06.2023.

- 5.2 During the course of Pre-Bid conference(s), the Bidders will be free to seek clarifications and make suggestions for consideration of the Authority. The Authority shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.

SECTION-6

6. MISCELLANEOUS

- 6.1 The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the Courts at Mangalore, Karnataka shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process including any terms and conditions specified in this RFP.
- 6.2 The Authority, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;
- (a) suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
 - (b) consult with any Bidder in order to receive clarification or further information;
 - (c) retain any information and/ or evidence submitted to the Authority by, on behalf of, and/ or in relation to any Bidder; and/ or
 - (d) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.
- 6.3 It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Authority, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection with the Bidding Process and waives, to the fullest extent permitted by applicable laws, any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.
- 6.4 The Concession Agreement and RFP are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this RFP, in the event of any conflict between them the priority shall be in the following order:
- (a) Concession Agreement;
 - (b) the RFP.
- i.e., the Concession Agreement at (a) above shall prevail over the RFP at (b) above.

[On the letter head of the Bidder/ Lead Bidder]

APPENDIX IA

LETTER COMPRISING THE TECHNICAL BID

(Refer Clause 2.1.5, 2.11 and 3.2)

To,
Chief Medical Officer
New Mangalore Port Authority
Panambur, Mangalore-575010
Tele:0824 240948/0824 2407413
E-mail: cmo@nmpt.gov.in

Sub: Technical Bid for Operation and Maintenance of Existing 32 bedded Hospital and Establishment of 150 Bedded Multi-Specialty Hospital on PPP

Dear Sir,

1. With reference to your RFP document dated⁴, I/we, having examined the RFP document 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 for selection of the Concessionaire for the aforesaid Project, and we certify that all information provided in the Bid and in Annexures I to V 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 our selection as a Concessionaire for the design, construct, equip, operate, maintain, manage and transfer 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 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.

⁴ All blank spaces shall be suitably filled up by the Bidder to reflect the particulars relating to such Bidder.

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:
 - (a) I/ We have examined and have no reservations to the RFP document, 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 document;
 - (c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of the RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any government, Central or State; and
 - (d) I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of the RFP document, 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 Bidders to Bid for the Project, without incurring any liability to the Bidders, in accordance with Clause 2.16.2 of the RFP document.
9. I/ We believe that we/ our Consortium/ proposed Consortium satisfy(ies) the Net Worth criteria and meet(s) all the requirements as specified in the RFP document.
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 a Bid for this 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 we/ any Member of the Consortium or any of our/ their Associates are not barred by the Central Government/ State Government or any entity controlled by it, from participating in any project (PPP or otherwise), and no bar subsists as on the date of Bid.
14. 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.⁵
15. I/ We further certify that we are qualified to submit a Bid in accordance with the guidelines for qualification of 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 the RFP at Annexure VI of Appendix-IA thereof.
16. 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.
17. The Statement of Legal Capacity as per format provided at Annex-V in Appendix-IA of the RFP document, and duly signed, is enclosed. The Power Of Attorney for Signing of Bid and [the Power of Attorney for Lead Member of Consortium]⁶, as per format provided at Appendix III and IV respectively of the RFP, are also enclosed.

⁵In case the Applicant is unable to provide the certification specified in paragraph 13, it may precede the paragraph by the words viz. " Except as specified in Schedule.....hereto". The exceptions to the certification or any disclosures relating thereto may be clearly stated in a Schedule to be attached to the Application. The Authority will consider the contents of such Schedule and determine whether or not the exceptions/disclosures are material to the suitability of the Applicant for pre-qualification hereunder.

⁶To be retained only in case Bidder is a Consortium

18. [I/We acknowledge and undertake that our Consortium is qualified on the basis of Technical Capacity and Financial Capacity of those of its Members, who shall have an equity share of at least 26% (twenty six per cent) each in the SPV, provided that each such Member shall, for a period of 2 (two) years from the date of commercial operation of Phase I of the Project, 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. 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
19. I/We acknowledge and agree that in the event of a change in control of an Associate whose Technical Capacity and/ or Financial Capacity shall be taken into consideration for the purposes of selection as Concessionaire under and in accordance with the RFP, I/We shall inform the Authority forthwith along with all relevant particulars and the Authority may, in its sole discretion, disqualify our Consortium or withdraw the Letter of Award, as the case may be. I/We further acknowledge and agree that in the event such change in control occurs after signing of the Concession Agreement but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed a breach thereof, and the Concession Agreement shall be liable to be terminated without the Authority being liable to us in any manner whatsoever.
20. I/ We understand that the Selected Bidder shall either be an existing company incorporated under the Companies Act in force in India or the applicable laws of the jurisdiction of its origin, or be a society or a trust incorporated under applicable governing laws or partnership registered under the relevant laws of incorporation.
21. I/We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the abovementioned Project and the terms and implementation thereof.
22. In the event of my/ our being declared as the Selected 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.

⁷To be retained only if the Bidder is a Consortium.

23. I/We have studied all the Bidding Documents carefully. 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 relating to the Bidding Process including the award of Concession.
24. I/We offer a Bid Security of **INR 2,52,52,000/- (Rupees Two Crore Fifty two lakhs fifty two thousand Only)** to the Authority in accordance with the RFP Document, enclosed in the format as provided in Appendix- II of the RFP or Demand Draft.
25. We shall pay to the Authority an Lease Rent of **INR 1/- (Rupees One Only)** for 3 acres of land and License Fee of **INR 1/- (Rupees One Only)** for Existing Hospital land every year from the first anniversary of the Appointed Date as per the provision of RFP documents, in accordance with provisions of Clause no. 1.2.7A
26. The documents accompanying the Technical Bid, as specified in Clause 2.11.1 of the RFP, have been submitted.
27. I/We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, I/We shall have any claim or right of whatsoever nature if the Project / Concession is not awarded to me/us or our Bid is not opened or rejected.
28. The Financial Bid has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, the Concession Agreement, our own estimates of costs and after a careful assessment of the site and all the conditions that may affect the Estimated Project Cost and implementation of the Project.
29. I/ We agree and undertake to abide by all the terms and conditions of the RFP document.
30. [We, the Consortium Members 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.]⁸
31. I/We shall keep this offer valid for 120 (one hundred and twenty) days from the Bid Due Date specified in the RFP.

⁸To be retained in case of consortium, only.

32. I/We have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India and on sub-contracting to contractors from such countries under the proviso to Clause 2.2.1A of the RFP; I/We certify that this bidder is not from such a country or, if from such a country, has been registered with the Competent Authority as provided in Order (Public Procurement No. 1) dated 23rd July 2020 issued by the Ministry of Finance, Department of Expenditure Public Procurement Division and will not sub-contract any work to a contractor from such countries unless such contractor is registered with such Competent Authority. I/We hereby certify that I/We fulfil all requirements in this regard and are eligible to be considered.
33. 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.
34. I/ We hereby submit our Bid as indicated in Financial Bid for undertaking the aforesaid Project in accordance with the Bidding Documents and the Concession Agreement and shall share a percentage share of Gross Revenue in accordance with the Concession Agreement.

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

Yours faithfully,

Date:

(Signature, Name and designation of the Authorised signatory)

Place:

(Name and seal of Bidder/Lead Member)

Appendix IA
Annexure-1
Details of Bidder

1. (a) Name:
- (b) Country of incorporation:
- (c) Address of the corporate headquarters and its branch office(s), if any, in India:
- (d) Date of incorporation and/ or commencement of business:

2. Brief description of the company/trust/society/partnership etc. 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:

4. Particulars of the Authorised Signatory of the Bidder:
 - (a) Name:
 - (b) Designation:
 - (c) Address:
 - (d) Phone 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 Joint Bidding Agreement, as envisaged in Clause 2.1.15 (g) and provided in Appendix V, should be attached to the Bid.
 - (c) Information regarding the role of each member should be provided as per table below:

Appendix IA

Annex-1

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

* The role of each Member, as may be determined by the Bidder, should be indicated such that LM means Lead Member and OM means Other Member. In case the eligible project relates to an Associate of the Bidder or its Member, write “Associate” along with Member Code.

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

Name of Bidder/ member of Consortium:

No.	Criteria	Yes	No
1.	Has the Bidder/ constituent of the Consortium been barred by the Central/ State Government, or any entity controlled by it, from participating in any project?		
2.	If the answer to 1 is yes, does the bar subsist as on the date of Bid?		
3.	Has the Bidder/ constituent of the Consortium paid liquidated damages of more than 5% (five percent) of the contract value in a contract due to delay or has been penalised due to any other reason in relation to execution of a contract, in the last three years?		

6. In case of an individual Bidder:

- (a) Name:
- (b) S/o:
- (c) Designation
- (d) Permanent Address:
- (e) Phone Number

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

Appendix IA

Annexure-2

Technical Capacity of the Bidder

(Refer to Clauses 2.2.2(A) and 3.5 of the RFP)

S.N.	Name of hospital & Location	Number of operational Bed and on	Accreditation#	Legal Entity Claiming Experience	Associate Relationship of the Legal Entity who is claiming relationship with Bidder / Consortium Member	Category Type and details	Specialty(ies)	Years since start of operations	Remarks
1									
2									
3									
4									

NABH / JCAHO / JCI /NMC/Not Available

Note: Accreditation Certificate should be submitted in support of this.

- A. *Provide details of only those projects that have been undertaken by the Bidder under its own name and/ or by an Associate specified in Clause 2.1.18 and eligible under Clause 3.2.*
- B. *In case the Bid Due Date falls within 3 (three) months of the close of the latest financial year, refer to Clause 2.1.21.*
- C. *Member Code shall indicate NA for Not Applicable in case of a single entity Applicant. 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.*

- D. Refer Annex-IV of this Appendix-IA. Add more rows if necessary.*
- E. For conversion of US Dollars to Rupees, the rate of conversion shall Rupees [60 (sixty)] 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.*

Appendix IA
[Certificate from statutory auditor/ CA]
Annexure-3
Financial Capacity of the Bidder
(Refer to Clauses 2.2.2(B), 2.2.3 (ii) and 3.6 of the RFP)
(In INR. Crore)
(In Rs. Crore\$)

Applicant	Net Cash Accruals			Net Worth (Close of the preceding financial year)
	31st March 2023	31st March 2022	31st March 2021	31st March 2023
Single entity Applicant				
Consortium Member 1				
Consortium Member 2				
Consortium Member 3				
TOTAL				

Name & address of Applicant's
Bankers:

§For conversion of other currencies into rupees, see notes below Annexure-II of Appendix-IA.

§§An Applicant consisting of a single entity should fill in details as per the row titled Single entity Applicant and ignore the rows titled Consortium Members. In case of a Consortium, row titled Single entity Applicant may be ignored.

£For Member Code, see instruction 4 at Annexure-IV of this Appendix-IA.

££The Applicant should provide details of its own Financial Capacity or of an Associate specified in Clause 2.1.18.

Instructions:

1. The Bidder/ its constituent Consortium Members shall attach copies of the balance sheets and financial statements for the 3 (three) years preceding the Bid Due Date. The financial statements shall:
 - (a) reflect the financial situation of the Bidder or Consortium Members and its/ their Associates where the Bidder is relying on its Associate's financials;
 - (b) be audited by a statutory auditor;
 - (c) be complete, including all notes to the financial statements; and
 - (d) correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).
2. In case the Bid Due Date falls within 3 (three) months of the close of the latest financial year, refer to Clause 2.1.21.
3. In the case of a Consortium, a copy of the Joint Bidding Agreement shall be submitted in accordance with Clause 2.1.15(g) of the RFP document.
4. The Bidder shall provide an Auditor's Certificate specifying the Net Worth of the Bidder and also specifying the methodology adopted for calculating such Net Worth in accordance with Clause 2.2.3 (ii) of the RFP document.

Appendix IA

Annexure 4 Details of Eligible Projects

[Refer to Clause 3.5 of the RFP]

Item (1)	Particulars of the Project (2)
Title & nature of the project	
Category (Hospital)	
Accreditation	
Total Number of Years since Operational	
Number of Beds/seats	
Location	
Specialty in the Hospital	
Number of Doctors / Nurses and Clinical Staff	
Date of commencement of Hospital	
Equity shareholding (with period during which equity was held)	
Whether credit is being taken for the Eligible Experience of an Associate(Yes/No)	

Project Code:

Member Code:

Instructions:

1. Bidders are expected to provide information in respect of each Eligible Project in this Annexure IV. The projects cited must comply with the eligibility criteria specified in 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. Bidders should also refer to the Instructions below.

2. For a single entity Bidder, the Project Codes would be a, b, c, d etc. In case the Bidder is a Consortium then for Member1, the Project Codes would be 1a, 1b, 1c, 1d etc., for Member 2 the Project Codes shall be 2a, 2b, 2c, 2d etc., and so on.
3. A separate sheet should be filled for each Eligible Project.
4. Member Code shall indicate NA for Not Applicable in case of a single entity Bidder. For other Members, the following abbreviations are suggested viz. LM means Lead Member, OM means Other Member. In case the Eligible Project relates to an Associate of the Bidder or its Member, write "Associate" along with Member Code.
5. Documentary proof / an undertaking by the Authorized Signatory is to be provided
6. 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 experiences shall be permitted in any manner whatsoever.

**Certificate from the Statutory Auditor/ Company Secretary regarding
(if applicable) Associate^S**

Based on the authenticated record of the Company, this is to certify that more than 50%(fifty percent)of the subscribed and paid up voting equity of
(*name of the Bidder/Consortium Member/Associate*)is held, directly or indirectly[£],
by.....(*name of Associate/Bidder/Consortium Member*). By virtue of
the aforesaid share-holding, the latter exercises control over the former, who is an
Associate in accordance with the terms of this RFP.

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

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

Name of the audit
firm:

Seal of the audit firm:

Date:

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

§In the event that the 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 closed and referred to.

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

Appendix IA
Annexure-5
Statement of Legal Capacity

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

Ref. Date:

To,
[.....]
Dear Sir,

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

We have agreed that (insert member's name) will act as the Lead Member of our Consortium.⁹

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.....

⁹ Please strike out sentence if this is not applicable

APPENDIX-IA

Annexure 6

Guidelines of the Department of Disinvestment¹⁰

(Refer Clause 1.2.1)

No. 6/4/2001-DD-II

Government of India

Department of Disinvestment

Block 14, CGO Complex

New Delhi.

Dated 13th July, 2001.

OFFICE MEMORANDUM

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

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

- (a) In regard to matters other than the security and integrity of the country, any conviction by a Court of Law or indictment/ adverse order by a regulatory 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

¹⁰These guide lines may be modified or substituted by the Government from time to time.

facts and after examining whether the two concerns are substantially controlled by the same person/ persons.

- (c) In both (a) and (b), disqualification shall continue for a period that Government deems appropriate.
- (d) Any entity, which is disqualified from participating in the disinvestment process, would not be allowed to remain associated with it or get associated merely because it has preferred an appeal against the order based on which it has been disqualified.
The mere pendency of appeal will have no effect on the disqualification.
- (e) The disqualification criteria would come into effect immediately and would apply to all bidders for various disinvestment transactions, which have not been completed as yet.
- (f) Before disqualifying a concern, a Show Cause Notice why it should not be disqualified would be issued to it and it would be given an opportunity to explain its position.
- (g) Henceforth, these criteria will be prescribed in the advertisements seeking Expression of Interest (EOI) from the interested parties. The interested parties would be required to provide the information on the above criteria, along with their Expressions of Interest (EOI). The bidders shall be required to provide with their EOI an undertaking to the effect that no investigation by a regulatory authority is pending against them. In case any investigation is pending against the concern or its sister concern or against its CEO or any of its Directors, 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

**[On the letter head of the Bidder/ Lead Bidder]
APPENDIX - IB**

Letter comprising the Financial Bid
(Refer Clauses 2.1.5, 2.11.1 and 3.2)

**(NOT TO BE SUBMITTED IN THE TECHNICAL BID, THIS LETTER MUST
BE UPLOADED ALONG WITH BOQ ON THE E-PROCUREMENT PORTAL
ONLY)**

To,

Dated:

Chief Medical Officer

New Mangalore Port Authority
Tele:0824 2407948/ 0824 2407413
E-mail: cmo@nmpt.gov.in

SUB: Financial Bid for Operation and Maintenance of existing 32 bedded Hospital, Mangalore and Establishment of a 150 bedded multispecialty hospital on PPP basis

Dear Sir,

1. With reference to your RFP document dated, I/we, having examined the Bidding Documents and understood their contents, hereby submit my/our Bid for the aforesaid Project. The Bid is unconditional and unqualified.
2. I/ We acknowledge that the Authority will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Concessionaire for the aforesaid Project, and we certify that all information provided in the Bid are true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the Bid are true copies of their respective originals.
3. The Bid has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, Concession Agreement and its Schedules, our own estimates of costs and after a careful assessment of the site and all own the conditions that may affect the Estimated Project Cost and implementation of the Project.
4. 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.
5. In the event of my/ our being declared as the Selected 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.

6. I/ We shall keep this offer valid for 120 (one hundred and twenty) days from the Bid Due Date specified in the RFP.
7. I/We hereby submit our Bid and hereby offer to pay % (in words) as gross revenue share out of the Gross Revenue Share payable from the appointed date of the Project, every year during the Concession Period of the Project to the Authority for undertaking the aforesaid Project in accordance with the Bidding Documents and the Concession Agreement:-
 - a) The % of gross revenue share has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, the Concession Agreement, our own estimates of cost and patient footfall and after a careful assessment of the site and all the conditions that may affect the Estimated Project Cost and implementation of the Project.
 - b) I/We hereby confirm , we shall pay the % of gross revenue share, Lease Rent of INR 1/- (Rupees One Only) and License Fee of INR 1/- (Rupees One Only) for Existing Hospital land as Annual Fee every year commencing from the first anniversary of the Appointed Date, in accordance with provisions of Clause no. 1.2.7A.
9. I/We hereby confirm to confirm one designated official of the Authority, as nominated by the Authority, to be a Director in the Board of the SPV.
10. In addition the Bidder shall also submit a fully completed Bill of Quantities (BOQ) as provided in the e-Procurement Portal. In the e-Procurement Portal, an intelligent Bill of Quantity in Microsoft Excel format shall be made available to the Bidder. The Bidder shall fill in the percent rate in figures and must not leave any cell blank. He has to only write (type) his offer in figures, the words will be self generated (Enabling macros).

Yours faithfully,

Date:

Place:

**(Signature, Name and designation of the Authorised signatory)
(Name and seal of Bidder/Lead Member)**

APPENDIX – II

Bank Guarantee for Bid Security

(Refer Clauses 2.1.6 and 2.19.1)

B.G. No. Dated:

1. In consideration of you,—New Mangalore Port Authority, having its office at Panambur, Mangalore-575 010 (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 Companies Act, 1956/2013 or a society registered under Societies Registration Act, 1860 or a registered trust under Indian Trusts Act, 1882) or any other Indian law for registration of public trust or partnership registered under the relevant laws of incorporation or any other entity or any combination of them and having its registered office at (and acting on behalf of its Consortium) (hereinafter referred to as the “Bidder” which expression shall unless it be repugnant to the subject or context thereof include its/their executors administrators, successors and assigns), for the Operation and Maintenance of Existing 32 bedded Hospital, Mangalore and Establishment of a 150-bedded multi-specialty hospital on PPP basis (hereinafter referred to as “**the Project**”) pursuant to the RFP Document dated [.....] issued in respect of the Project and other related documents including without limitation the Concession Agreement (hereinafter collectively referred to as “Bidding Documents”), we (Name of the Bank) having our registered office at and one of its branches at {Bangalore.....} (hereinafter referred to as the “Bank”), at the request of the Bidder, do hereby in terms of Clause 2.1.6 read with Clause 2.1.7 of the RFP Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment and compliance of the terms and conditions of the Bidding Documents (including the RFP Document) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the Authority an amount of **2,52,52,000/- (Rupees Two Crore Fifty two lakhs fifty two thousand Only)** (hereinafter referred to as the “**Guarantee**”) as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to 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 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 Bidder or any other person and irrespective of whether the claim of the Authority is disputed by the Bidder or not, merely on the first demand from the Authority stating that the amount claimed is due to the Authority by reason of failure of the Bidder to fulfil and comply with the terms and conditions contained in the Bidding Documents including failure of the said Bidder to keep its Bid open during the Bid validity period as set forth in the said Bidding Documents for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to INR **2,52,52,000/- (Rupees Two Crore Fifty two lakhs fifty two thousand Only)**

4. This Guarantee shall be irrevocable and remain in full force for a period of 180 (one hundred and eighty) days from the Bid Due Date inclusive of a claim period of 60 (sixty) days or for such extended period as may be mutually agreed between the Authority and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.
5. We, the Bank, further agree that the Authority shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents including, inter alia, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding Documents, and the decision of the Authority that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Authority and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other Authority.
6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.
7. In order to give full effect to this Guarantee, the Authority shall be entitled to treat the Bank as the principal debtor. The Authority shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfilment and compliance with all or any of the terms and conditions contained in the said Bidding Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Documents or the securities available to the Authority, and the Bank shall not be released from its liability under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of

time being given to the said Bidder or any other forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Bidder or by any change in the constitution of the Authority or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.

8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.
9. We undertake to make the payment on receipt of your notice of claim on us addressed to name of Bank along with branch address and delivered at our above branch 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 Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which the Authority may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealised.
11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Authority in writing.
12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.
13. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to of INR **2,52,52,000/- (Rupees Two Crore Fifty two lakhs fifty two thousand Only)**. The Bank shall be liable to pay the said amount or any part thereof only if the Authority serves a written claim on the Bank in accordance with paragraph 9 hereof, on or before (indicate date falling 180 days after the Bid Due Date).

Signed and Delivered by
Bank

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

(Signature of the Authorised Signatory)
(Official Seal)

APPENDIX-III

Format for Power of Attorney for signing of Bid¹¹

(Refer Clause 2.1.8)

(To be executed on Stamp paper of appropriate value)

Know all men by these presents, We, (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorize Mr. / Ms (Name), son/daughter/wife of..... and presently residing at, who is presently employed with us/ the Lead Member of our Consortium and holding the position of, as our true and lawful attorney (hereinafter referred to as the “**Attorney**”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our bid for the Operation and Maintenance of Existing 32 bedded Hospital, Mangalore and Establishment of a 150-bedded multi-specialty hospital on PPP basis, proposed or being developed by the New Mangalore Port Authority, Mangalore (the “**Authority**”) including but not limited to signing and submission of all applications, 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 done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

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

For

(Signature, name, designation and address
of person authorized by Board Resolution
in case of Firms/Company)/Partner in case of
Partnership Firms

¹¹To be submitted in original

Witnesses:

1.

2.

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

Accepted

(Signature, name, designation and address of the Attorney)

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executants (s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders resolution/power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*

For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders 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 issued by the designated competent authority and has been notarized by the public notary.

APPENDIX-IV

Format for Power of Attorney for Lead Member of Consortium¹²

(Refer Clause 2.1.9)

(To be executed on Stamp paper of appropriate value)

Whereas the New Mangalore Port Authority, Mangalore (“the Authority”) has invited bids from interested parties for the Operation and Maintenance of Existing 32 bedded Hospital, Mangalore and Establishment of a 150-bedded multi-specialty hospital on PPP basis (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, (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 submission of its bid for the Project, including but not limited to signing and submission of all applications, bids and other documents and writings, accept the Letter of Award, 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.

¹²To be submitted in original

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

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

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 executants (s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*

- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders 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 issued by the designated competent authority and has been notarized by the public notary. Apostille certificate.*

APPENDIX V

Format for Joint Bidding Agreement for Consortium

(Refer Clause 2.1.9& 2.1.15(g))

(To be executed on Stamp paper of appropriate value)

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

AMONGST

1. {..... Limited, a company/society/trust/sole-proprietorship/partnership¹³ incorporated/registered under the 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/society/trust/sole-proprietorship/partnership¹⁴ incorporated/registered under the having its registered office at..... }and (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/society/trust/sole-proprietorship/partnership¹⁵ incorporated/registered under the and having its registered office at} (hereinafter referred to as the “**Third Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

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

WHEREAS,

- (A) The New Mangalore Port Authority, Mangalore having its principal office at Panambur, Mangalore-575 010 (hereinafter referred to as the “**Authority**” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited bids (the “**Bids**”) by its Request for Proposal No.dated(the “**RFP**”) for award of contract for Operation and Maintenance of Existing 32 bedded

¹³Specify nature of entity

¹⁴Specify nature of entity

¹⁵Specify nature of entity

Hospital, Mangalore and Establishment of a 150-bedded multi-specialty hospital on PPP basis(the “**Project**”).

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

NOW IT IS HEREBY AGREED as follows

1. Definitions and Interpretations

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

2. Consortium

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

2.2 The Parties hereby undertake to participate in the Bidding Process only through this Consortium and not individually and/ or through any other consortium constituted for this Project, either directly or indirectly or through any of their Associates.

3. Covenants

The Parties hereby undertake that in the event the Consortium is declared the selected Bidder and awarded the Project, it shall incorporate a special purpose vehicle (the “**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 Consortium¹⁶};

{(c) Party of the Third Part shall be {the Financial Member of the Consortium¹⁷; and}

5. Joint and Several Liability

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the RFP and the 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

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

Name of Party	Role*	% of Shareholding
First Party		
Second Party		
Third Party		

*Clinical/Financial/Technical specialization

6.2 The Parties undertake that each member of the Consortium, whose experience and Net Worth have been reckoned for the purposes of qualification and short-listing of Bidders for the Project, shall hold 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 commercial operation date of Phase I of the Project

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 Phase I 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, as defined in the Concession Agreement.

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 Phase I of the Project.

¹⁶ Please fill appropriately.

¹⁷ Please fill appropriately.

- 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 fulfilment 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 Bidder is not qualified/selected or upon return of the Bid Security by the Authority to the 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 SIGNED, SEALED AND DELIVERED
For and on behalf of SECOND PART
LEAD MEMBER by:

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

SIGNED, SEALED AND DELIVERED
For and on behalf of
THIRD PART

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

In the presence of:

- 1.
- 2.

Notes:

1. The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executants (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.
4. However, in the countries, which are member of Hague convention, the document has to be notarized by the public notary and apostille by the designated component authority of the issuing country.

APPENDIX - VI

Integrity Pact
NEW MANGALORE PORT AUTHORITY, MANGALORE (NMPA)
hereinafter referred to as "The Principal"

AND

(Name of The bidders and consortium members)
..... hereinafter referred to as "The Bidder/Contractor"

Preamble: The Principal intends to award, under laid down organizational procedures, contract/concession for Tender No. E..... The Principal values full compliance with all relevant laws and regulations, and the principles of economic use of resources, and of fairness and transparency in its relations with its Bidders. The Central Vigilance Commission (CVC) has been promoting Integrity, transparency, equity and competitiveness in Government / PSU transactions and as a part of Vigilance administration and superintendence, CVC has, recommended adoption of Integrity Pact and provided basic guidelines for its implementation in respect of major procurements in the Government Organizations in pursuance of the same, the Principal agrees to appoint an external independent Monitor who will monitor the execution of the contract for compliance with the principles mentioned above.

Section 1 - Commitments of the Principal

(1)The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles: -

- (a) No employee of the Principal, personally or through family members, will in connection with the execution of a contract, demand, take a promise for or accept, for him/herself or third person, any material or immaterial benefit which he/she is not legally entitled to.
- (b) The Principal will, during the pre-contract stage, treat all BIDDERS alike, and will provide to all BIDDERS the same information and will not provide any such information to any particular BIDDER which could afford an advantage to that particular BIDDER in comparison to other BIDDERS.
- (c) The Principal will exclude from the process all known prejudicial persons.

(2)If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the relevant Anti-Corruption Laws of India, or if there

be a substantive suspicion in this regard, the Principal will inform its Vigilance Office and in addition can initiate disciplinary actions. In such a case, while an enquiry is being conducted by the Principal, the proceedings under the contract would not be stalled.

Section 2 - Commitments of the Bidder / Contractor

(1)The Bidder/Contractor commits themselves to take all measures necessary to prevent corrupt practices, unfair means and illegal activities, during pre-contract as well as post- contract stages. He commits himself to observe the following principles during the contract execution.

a. The Bidder/Contractor will not, directly or through any other person or firm, offer, promise or give to any of the Principal's employees involved in the execution of the contract or to any third person any material or immaterial benefit, which he/she is not legally entitled to, in order to obtain in exchange of advantage of any kind, whatsoever during the execution of the contract.

b. The Bidder/Contractor will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids, or any other actions to restrict competitiveness, or to introduce cartelization in the bidding process.

c. The Bidder/Contractor will not commit any offence, under the relevant Anticorruption Laws of India; further the Bidder/Contractor will not use improperly, for purposes of competition, or personal gain, or pass on to others, any information or document provided by the Principal, as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.

d. The Bidder will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract.

e. The Bidder/Contractor will, when presenting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries, in connection with the award of the contract.

f. The Bidder commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts.

g. The Bidder shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of the Principal.

(2)The Bidder/Contractor will not instigate third persons to commit offences outlined above or be an accessory to such offences.

Section-3 Disqualification from or exclusion from future contracts

If the Bidder, before award of contract, has committed a transgression, through a violation of Section-2 or in any other form, such as to put his reliability as Bidder, into question, the principal is entitled to disqualify the Bidder, from the tender process, or to terminate the contract, if already signed, for such reason.

1. If the Bidder/Contractor has committed a transgression, through a violation of Section-2, such as to put his reliability, or credibility into question, the Principal is entitled to disqualify the Bidder/Contractor from the tender process, terminate the contract if already awarded and also, to exclude the Bidder/Contractor from future contract award processes. The imposition and duration of the exclusion, will be determined by the severity of the transgression. The severity will be determined, by the circumstances of the case, in particular the number of transgressions, the position of the transgressions, within the company hierarchy of the Bidder and the amount of the damage. The execution will be imposed for a minimum of 6 months and maximum of 3 years.

Note: A transgression is considered to have occurred, if in the light of available evidence, no reasonable doubt is possible.

2. The Bidder accepts and undertakes to respect and uphold, the principal's Absolute right to resort to and impose such exclusion and further accepts and undertakes, not to challenge or question such exclusion, on any ground, including the lack of any hearing before the decision, to resort to such exclusion is taken. This undertaking is given freely and after obtaining independent legal advice.

3. If the Bidder/Contractor can prove that, he has restored/recouped the Damage caused by him and has installed a suitable corruption prevention system, the Principal may revoke the exclusion prematurely.

Section-4 Compensation for damages

1. If the Principal has disqualified the Bidder, from the tender process prior to the award, according to Section-3, the Principal is entitled to demand and recover the damages equivalent to Earnest Money Deposit/Bid Security.

2. If the Principal has terminated the contract according to Section-3, or if the Principal is entitled to terminate the contract according to Section3, the Principal shall be entitled to demand and recover from the Contractor, liquidated damages equivalent to 5% of the contract value, or the amount equivalent to Security Deposit/Performance Bank Guarantee, whichever is higher.

3. The Bidder agrees and undertakes to pay the said amounts, without protest or demur, subject only to condition that, if the Bidder/Contractor can prove and establish that the termination of the contract, after the contract award has caused no damage or less damage than the amount of the liquidated damages, the Bidder/Contractor shall compensate the principal, only to the extent of the damage in the amount proved.

Section-5 Previous transgression

1. The Bidder declares that, no previous transgression has occurred in the last 3 years, with any other company, in any country, or with any other Public Sector Enterprises in India, that could justify his exclusion from the award of the contract.

2. If the Bidder makes incorrect statement on this subject, it can be declared disqualified for the purpose of the contract and the same can be terminated for such reason.

Section-6 Equal treatment of all Bidders/Contractors/ Subcontractors

1. The Bidder/Contractor undertakes to demand from all subcontractors, a commitment in conformity with this Integrity Pact, and to submit it to the Principal before contract signing.

2. The Principal will enter into agreements with identical conditions as this one which all Bidders, Contractors and Subcontractors.

3. The Principal will disqualify from the tender process all Bidders, who do not sign this part or violates its provisions.

Section-7. Criminal charges against violating Bidders/ Contractors/ Sub-contractors

If the principal obtains knowledge of conduct of a Bidder/Contractor or Subcontractor, or of an employee, or a representative, or an associate of a Bidder/Contractor, or Subcontractor, which constitutes corruption, or if the Principal has substantive suspicion, in this regard, the Principal will inform the Vigilance office.

Section-8. External Independent Monitor

1. Pursuant to the need to implement and operate this Integrity Pact the Principal has appointed the following Independent Monitor:
 - A. Shri Prem Chand Pankaj, Ex-CMD, NEEPCO,
M 402, Pioneer Park,
Sector-61, Golf Course, Extn Road, Gurgaon.
Mobile No. -9717433886
Email: prempankaj@gmail.com
The task of the Monitors, is to review independently and objectively, whether and to what extent, the parties comply with the obligations under this agreement.
2. The Monitors are not subject to instructions, by the representative of the parties to the Chairperson of the Board of the Principal.
3. The Bidder/Contractor accepts that, the monitors have the right to access, without restriction to all Project documentation of the Principal, including that provided by the Contractor. The Bidder/Contractor will also grant the Monitors, upon his request and demonstration of a valid interest, unrestricted and unconditional access, to the project documentation. The same is applicable to Subcontractors. The monitors are under contractual obligation, to treat the information and documents of the Bidder/Contractor/Subcontractor with confidentiality.
4. The Principal will provide to the Monitors, sufficient information about all meetings, among the parties related to the Project, provided such meetings could have an impact, on the contractual relations between the Principal and the Bidder/Contractor. The parties offer to the Monitors the option to participate in such meetings.
5. As soon as the Monitors notice a violation of this agreement, he/they will so inform the Management of the Principal and request the management to discontinue, or heal the violation. Or to take other relevant action. The Monitors can in this regard submit non- binding recommendations. Beyond this, the Monitors have no right to demand from the parties, that they act in a specific manner, refrain from action or tolerate action.
6. The Monitors will submit a written report, to the Chairperson of the Board of the Principal, within 8 to 10 weeks, from the date of reference of intimation to him by the 'Principal' and, should the occasion arise, submit proposals for correcting problematic situations.
7. If the Monitors have reported to the Chairperson of the Board, a substantiate suspension of an offence, under relevant Anti-Corruption Laws of India, and the Chairperson has not, within reasonable time, taken visible action to proceed against such offence, or reported it to the Vigilance Office, the Monitors may

also transmit this information directly to the Central Vigilance Commissioner, Government of India.

Section-9 Pact Duration

This Pact begins when both parties have signed it. It expires 12 months after the last payment under the contract Agreement is made.

If any claim is made/lodged during this time, the same shall be binding and continue be valid, despite the lapse of this Pact, as specified above, unless it is discharged/determined Chairperson of the Principal.

The Pact duration in respect of unsuccessful Bidders shall expire after 3 months of the award of the contract.

Section-10: Other Provisions

1. This agreement is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of the Principal, i.e. Mangalore, Karnataka.
2. Changes and supplements as well as termination notices, need to be made in writing, before they become effective and binding on the both parties.
3. If the Bidder / Contractor is a partnership or a consortium, this agreement must be, signed by all partners or consortium members.
4. Should one or several provisions of this agreement, turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement, to their original intentions.

For the Principal

For the Lead Member / Bidder

Place:

Witness-1 :

Witness-2 :

Date : /_ /____

APPENDIX - VII

CHECK LIST

(Mandatory Documents to be uploaded in the Technical bid.)

TECHNICAL BID DOCUMENTS.		
1	Appendix-IA (Letter comprising the Technical Bid) including Annexure I to V and supporting certificates / documents	Yes / No
2	Power of Attorney for signing the Bid as per the format at Appendix-III;	Yes / No
3	if applicable, Power of Attorney for Lead Member of Consortium as per the format at Appendix-IV;	Yes / No
4	if applicable, Joint Bidding Agreement for Consortium as per the format at Appendix-V;	Yes / No
5	copy of the certificate of incorporation or equivalent.	Yes / No
6	copies of Bidder's duly audited balance sheet and profit and loss statement for preceding 3 years;	Yes / No
7	Bid Security in the form of Bank Guarantee in the format at Appendix-II from a Nationalized Bank;	Yes / No
8	Integrity Pact as per the Format at Appendix VI duly signed by the Authorized Signatory, which shall form part of Concession Agreement;	Yes / No
9	copy of the receipt towards payment of the Document Fee by way of NEFT/RTGS, in accordance with Clause 1.2.1.	Yes / No
10	Copy of Check List as per Appendix VII	Yes / No
11	Any other Documents as per the requirement of RFP	Yes / No
12	[Certificate and approval from the Charity Commissioner/competent authority as prescribed under Clause 1.1.3] ¹⁸	Yes/ No

For the avoidance of any confusion, scanned copies of the abovementioned documents shall be uploaded online on the e-Procurement Portal on or prior to the Bid Due Date.

¹⁸To be retained if the Bidder is in the nature of public charitable trust and is required to submit such a certificate of approval under Applicable Laws (both in case of single entity or as a part of a Consortium).

APPENDIX – VIII

BOQ – Indicative Format for Financial Bid (to be filled/uploaded online on the e-Procurement Portal ONLY)

(Refer – Appendix 1B, Clauses 2.1.5, 2.11.1 and 3.2)

[This format is for reference only, the financial bid will be submitted online in the Excel uploaded along with RFP & DCA]

Tender Inviting Authority: Chief Medical Officer, New Mangalore port Authority, Mangalore			
Name of Work : Operation and Maintenance of Existing 32 bedded Hospital and Establishment of 150 Bedded Multi Specialty Hospital on PPP			
e-Tender No- 01/CMO/Hospital PPP/2023		Date: 10.06.2023	
Bidder Name :			
<u>PRICE SCHEDULE</u>			
(This BOQ template must not be modified/replaced by the bidder and the same should be uploaded after filling the relevant columns, else the bidder is liable to be rejected for this tender. Bidders are allowed to enter the Bidder Name and Values only)			
Total figure entered by bidder will be treated as percentage.			
NUMBER #	TEXT #	TEXT #	NUMBER #
Sl. No.	Item description	Units	% gross revenue share (in figures)
1	2	3	4
1.00	% of Gross Revenue to be shared every year with the Authority from Appointed Date in accordance with the terms of the Concession Agreement	Percentage	