



Infrastructure Corporation of Andhra Pradesh Limited (INCAP)

REQUEST FOR PROPOSAL (RFP) International Competitive Bidding

Volume I: Instructions to the Bidder

SELECTION OF THE DEVELOPER FOR AN INTERNATIONAL SCHOOL AT NELLORE IN ANDHRA PRADESH ON PPP BASIS

(December 2015)

(BID DUE DATE: 15-02-2016)

(This document is meant for exclusive purpose of submitting the Bids and shall not be transferred, reproduced or otherwise used for purposes other than that for which it is specifically issued)



Vice Chairman and Managing Director,
Infrastructure Corporation of Andhra Pradesh Limited (INCAP)
10-2-1, III Floor, FDC Complex, AC Guards,
Hyderabad – 500 028, India

REQUEST FOR PROPOSAL (RFP)

1	Name of the Project	Selection of the Developer for an International School at Nellore in Andhra Pradesh on PPP basis
2	Last date & time for submission of Bid (Bid Due Date)	15.00 Hours IST on 15-02-2016
3	Time and Place of Pre Bid Conference	15.00 Hours IST on 19-01-2016 Venue: in the Board Room of Infrastructure Corporation of Andhra Pradesh, #10-2-1, 3 rd FLOOR, FDC COMPLEX, AC GUARDS, HYDERABAD – 500028, India.
4	Date & time for opening of Technical Bids	16.00 Hours IST on 15-02-2016 Venue: in the Board Room of Infrastructure Corporation of Andhra Pradesh, #10-2-1, 3 rd FLOOR, FDC COMPLEX, AC GUARDS, HYDERABAD – 500028, India.
5	Date & time for opening of Financial Bids	To be announced later Venue: in the Board Room of Infrastructure Corporation of Andhra Pradesh, #10-2-1, 3 rd FLOOR, FDC COMPLEX, AC GUARDS, HYDERABAD – 500028, India.
6	RFP processing fee	Non-refundable ₹25,000/- (Rupees twenty five thousand only) In the form of demand draft issued by one of the Nationalized/Scheduled Banks in India in favour of the Vice Chairman and Managing Director, INCAP Limited., payable at Hyderabad. The Demand Draft shall remain valid for one month after the Bid Due Date.

Acknowledgement:

This document shall be returned duly signing each page by the authorized person accepting the terms and conditions.

It is expressly understood that the party has subscribed to this document with an express understanding that they will use this document only for the sole purpose of participating in the Selection process for the **Selection of the Developer for an International School at Nellore in Andhra Pradesh on PPP basis** and must not be used for any other purpose. This document must not be passed to a third party except professional advisers assisting with this Bid submission. The document may not be reproduced or communicated, in whole or in part, and its contents may not be distributed in written or oral form without written permission from the issuing Authority.

Signature of the issuing Authority

Vice Chairman & Managing Director

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Contents

REQUEST FOR PROPOSAL (RFP).....	1
Disclaimer.....	6
Glossary.....	8
1. INTRODUCTION.....	10
1.1 Background	10
1.2 School Concept & Structure	11
1.3 Due diligence by Bidders	12
1.4 Validity of the Bid	12
1.5 Brief Description of the Bidding Process	12
1.6 Schedule of Bidding Process	14
1.7 Pre-bid conference	15
2. INSTRUCTIONS TO BIDDERS.....	16
A. GENERAL.....	16
2.1 General terms of Bidding	16
2.2 Eligibility of Bidders	17
2.3 Change in composition of the Consortium	26
2.4 Change in Ownership	26
2.5 Cost of Bidding	26
2.6 Site visit and verification of information	27
2.7 Verification and Disqualification	27
B. DOCUMENTS.....	28
2.8 Contents of the RFP	28
2.9 Clarifications	29
2.10 Amendment of RFP	29
C. PREPARATION AND SUBMISSION OF BIDS.....	30
2.11 Format and Signing of Bid	30
2.12 Sealing and Marking of Bids	30
2.13 Bid Due Date	31
2.14 Late Bids	32
2.15 Contents of the Bid	32
2.16 Modifications/ Substitution/ Withdrawal of Bids	32
2.17 Rejection of Bids	32

2.18	Validity of Bids	32
2.19	Confidentiality	33
2.20	Correspondence with the Bidder	33
D.	BID SECURITY	33
2.21	Bid Security	33
3	EVALUATION OF BIDS	35
3.1	Opening and Evaluation of Bids	35
3.2	Tests of responsiveness	35
3.3	Evaluation of the Bids	36
3.4	Selection of Bidder	38
3.5	Contacts during Bid Evaluation	40
3.6	Bid Parameter	40
4	FRAUD AND CORRUPT PRACTICES	41
5	PRE-BID CONFERENCE	43
6	MISCELLANEOUS	44
	Appendices.....	45
	APPENDIX–I	46
	Letter comprising the Technical Bid.....	46
	ANNEX-I	51
	Particulars of the Bidder	51
	ANNEX-II	53
	Technical Capacity of the Bidder	53
	ANNEX-III	54
	Financial Capacity of the Bidder	54
	Annex-IV@	56
	Details of Schools/Institutions developed, operated, maintained by the bidder ^{&###}	56
	ANNEX-V	58
	Statement of Legal Capacity	58
	ANNEX-VI.....	59
	Technical Capacity of the entity	59
	Note:.....	59
	APPENDIX–II	60
	Bank Guarantee for Bid Security	60

Appendix–III.....	64
Power of Attorney for signing of Bid.....	64
APPENDIX–IV.....	66
Power of Attorney for Lead Member of Consortium.....	66
APPENDIX-V.....	69
Joint Bidding Agreement	69
APPENDIX–VI.....	75
Financial Bid.....	75

Disclaimer

The information contained in this Request for Proposals 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 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, 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 or Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way 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

Authority	As defined in Clause 1.1.3
Associate	As defined in Clause 2.1.12
Bank Guarantee	As defined in Clause 2.21.1
Bidders	As defined in Clause 1.5.3
Bidding Documents	As defined in Clause 1.5.4
Bid Due Date	As defined in Clause 1.6
Bidding Process	As defined in Clause 1.5
Bid Security	As defined in Clause 1.5.5
Concession Agreement	As defined in Clause 1.1.4
Concessionaire	As defined in Clause 1.1.6
Concessions Authority	As defined in Clause 1.1.4
Conflict of Interest	As defined in Clause 2.2.1
Damages	As defined in Clause 2.4.2
DBFOT	As defined in Clause 1.1.3
Demand Draft	As defined in Clause 2.21.2
Estimated Project Cost	As defined in Clause 1.1.5
Financial Bid	As defined in Clause 1.5.3
Financial Capacity	As defined in Clause 2.2.2 (b)
Government	Government of Andhra Pradesh
Highest Bidder	As defined in Clause 1.5.7 (b)
Jt. Bidding Agreement	As defined in Clause 2.2.5 (g)
Lead Member	As defined in Clause 2.2.5 (c)
LOA	As defined in Clause 2.1.12
Member	Member of a Consortium
Net Worth	As defined in Clause 2.2.3 (i)
O&M	Operations and Maintenance
PPP	Public Private Partnership
Revenue Share	As defined in Clause 1.5.7 (a)
Project	As defined in Clause 1.1.3
Re. or Rs. or INR	Indian Rupee
RFP or Request for Proposals	As defined in the Disclaimer

Selected Bidder	As defined in Clause 3.4.1
SPV or Special Purpose Vehicle	As defined in Clause 2.2.5
Technical Bid	As defined in Clause 1.5.3
Technical Capacity	As defined in Clause 2.2.2 (a)
Technical Score	As defined in Clause 3.3.2

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

Infrastructure Corporation of Andhra Pradesh

1. INTRODUCTION

1.1 Background

- 1.1.1 The Government of Andhra Pradesh’s vision is to be amongst the top 3 states in India by 2022, the top state in India by 2029, and be the most preferred global destination by 2050. The state is a progressive state and the government is taking steps to provide an environment conducive to economic and social growth. These include formulation of investment friendly policies; creating world-class infrastructure; improving good governance and taking necessary steps to attract investments into the state. Promotion of educational infrastructure is one amongst the many initiatives being taken up by the government on a priority basis.
- 1.1.2 International schools are being promoted to provide world-class education to the students and also as a tool to attract foreign investments to Andhra Pradesh. It is well known that availability of international schools is an important consideration for non-Indian staff of MNCs who come to India. Continuity of children education is an issue faced by them as they frequently move / transfer between different countries. Also, international schools help in contributing to better standards and quality of education in the region in addition to a multitude of benefits.
- 1.1.3 The Infrastructure Corporation of Andhra Pradesh (the “Authority” or “INCAP”) is a nodal agency of Infrastructure and Investment Department of Government of Andhra Pradesh engaged in facilitating the development of infrastructure projects in the State. In line with this, INCAP is engaged in facilitating and running the transaction advisory for the development of International Schools in the State and as part of this endeavour, the Authority has decided to undertake the “Development of International School in Nellore” (the “Project”) through Public Private Partnership (the “PPP”) on Design, Build, Finance, Operate and Transfer (the “DBFOT”) basis, and has, therefore, decided to carry out the bidding process for selection of the Bidder to whom the Project may be awarded. The land site of 14.9 acres is located at Bodduvaripalem village in Kodavalur Mandal, Nellore District, Andhra Pradesh.
- 1.1.4 The Project would be implemented in accordance with the terms and conditions stated in the concession agreement to be entered into between the E,I&I Department, GoAP which shall be the Concessing Authority (the “**Concessing Authority**”) and the Concessionaire (the “**Concession Agreement**”)

1.1.5 Brief particulars of the Project are as follows:

Name of the Project	Estimated Project Cost (In Rs. Cr.)
International School at Nellore, Andhra Pradesh	62 Crores

1.1.6 The Selected Bidder, who is either a company incorporated under the Companies Act, 1956/ 2013 or a Society registered under the Societies Registration Act, 1860 or a Trust registered under the Indian Trusts Act, 1882 or undertakes to incorporate such entity as such prior to execution of the Concession Agreement (the “**Concessionaire**”), shall be responsible for designing, engineering, financing, construction, operation, maintenance and transfer back at the end of the Concession Period, of the Project under and in accordance with the provisions of the Concession Agreement.

1.1.7 The estimated cost of the Project (the “**Estimated Project Cost**”) has been specified in Clause 1.1.5 above. The assessment of actual costs, however, will have to be made by the Bidders.

1.2 School Concept & Structure

1.2.1 The school design is envisaged to have a minimum capacity of 1000 students when it reaches peak capacity as defined further under the minimum development obligations of the draft Concession Agreement. The classes will include grades from nursery to 12th. The syllabi to be followed shall be either International Baccalaureate (IB) or International General Certificate Council for Secondary Education (IGCSE) along with the option of CBSE/ICBSE or ICSE/CISCE or any other international, national or AP state board certification.

1.2.2 Minimum development obligations shall be as per the provisions of the Concession Agreement

S.No.	Parameters	Requirement
1	IB/IGCSE Certification ¹	Mandatory
2	Grades Nursery through 12 th	Mandatory
3	Residential Facilities	Mandatory

¹ For the purposes of this document, the term Certification shall be used inter-changeably with ‘Authorization’ in case of IB, ‘Recognition’ in case of IGCSE, ‘Affiliation’ in case of CBSE, CICSE/ICSE or ‘Accreditations’ for State Boards

- 1.2.3 The land for school site has been identified by the Authority (“**Project Site**”) and the land would be provided by the Authority to the Concessionaire for development under a lease of 33 years. The asset would be transferred back to Concessioneing Authority at the end of 33 years and extension thereof as per the terms of the Concession Agreement.

1.3 Due diligence by Bidders

Bidders are expected to be fully conversant about the assignment and the local conditions before submitting the Bid by paying a visit to the Project Site, and sending written queries to the Authority. The document can be downloaded from the Official Website of the Authority.

1.4 Validity of the Bid²

The Bid shall be valid for a period of not less than 120 days from the Bid Due Date (the “BDD”).

1.5 Brief Description of the Bidding Process

- 1.5.1 The Authority has adopted a 2-cover, single stage bidding process (referred to as the “**Bidding Process**”) for selection of the Bidder for award of the Project.
- 1.5.2 The bid processing fee is Rs 25,000. Interested bidders can download the RFP and submit it along with Demand Draft of Rs. 25,000 issued by any of the Nationalised/ Scheduled Banks in India in favour of the Vice Chairman and Managing Director, INCAP Ltd., payable at Hyderabad
- 1.5.3 During this stage, the interested Bidders, (the “**Bidders**”, which expression shall, unless repugnant to the context, include the members of Consortium) are being called upon to submit their technical and financial capacity details (“Cover-1”, “**Technical Bid**”) and financial proposals (the “Cover-2”, “**Financial Bid**”) together referred to as the “Bid” in accordance with the terms specified in these Bidding Documents. The Bid shall be valid for a period of 120 (one hundred and twenty) days from the Bid Due Date.
- 1.5.4 The Bidding Documents (the “**Bidding Documents**”) include the RFP, the draft Concession Agreement for the Project and the Project Information Memorandum (PIM) prepared by the Authority (the “**Project Information Memorandum**”). Subject to the provisions of Clause 2.1.3, the aforesaid documents and any addenda issued

² For the purposes of this document, the word “**Proposal**” and “**Bid**” are inter-changeably used.

subsequent to this RFP Document, will be deemed to form part of the Bidding Documents.

- 1.5.5 The Bidder is required to deposit, along with its Bid, a bid security of Rs. 62 Lakhs (Rupees Sixty Two Lakhs) (the “**Bid Security**”), refundable not later than 60 (sixty) days from the Bid Due Date, except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the Concession Agreement. The Bidders will have an option to provide Bid Security in the form of a demand draft or a bank guarantee acceptable to the Authority. In case a bank guarantee is provided, it shall be in line with the format given in Annexure II and 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, its validity shall not be less than 80 (eighty) days from the Bid Due Date, for the purposes of encashment by the Authority. The Bid shall be summarily rejected if it is not accompanied by the Bid Security.
- 1.5.6 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 Concession including implementation of the Project.
- 1.5.7 (a) Bids are invited for implementing the project with a Revenue Share quoted by the Bidders as a % (percentage) of Gross Revenue^{3,4} (the “**Revenue Share**”) of the Concessionaire and the same shall be escalated every 10 years. The Revenue Share shall be indicated in % (percentage) terms and will be payable starting from SOD
- 1.5.8 ⁵. The escalation schedule will be as the table below:

Starting From	Lasting till	Revenue Share Applicable
SOD	Year 10 from SOD	% quoted by the Bidder
Year 11 from SOD	Year 20 from SOD	1.5 times the % quoted by the Bidder
Year 21 from SOD	End of Concession period	2.5 times the % quoted by the Bidder

³ For the definition of Gross Revenue, refer to the Concession Agreement

⁴ The % (percentage) of Gross Revenue mentioned shall be greater than 0 i.e. a positive share of Gross Revenue and shall be rounded off to two decimals

⁵ SOD means School Operations Date. For the definition of SOD, refer to the Draft Concession Agreement.

(b) In this RFP, the term “**Highest Bidder**” shall mean the Bidder who is offering the highest Revenue Share. The concession period and other terms are pre-determined, as indicated in the draft Concession Agreement, and the Revenue Share shall constitute the sole criterion for evaluation of Bids of qualified Bidders as per the provisions of Article 3. Subject to the provisions of Clause 2.17, the Project will be awarded to the Highest Bidder.

(c) In addition to the Revenue Share quoted above, the Concessionaire shall pay to the Concessioneing Authority, an Annual Lease Rental⁶ which shall be 10% of market value⁷ of the Site. The Annual Lease Rental shall be escalated at 10% every 6th year, starting on the Appointed Date⁸. The other terms of payment shall be as per the provisions of the Concession Agreement.

1.5.9 Generally, the Highest Bidder shall be the Selected Bidder (“**Selected Bidder**”). The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in Article 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, at its discretion, either invite fresh Bids or annul the Bidding Process.

1.5.10 Details of the process to be followed at the Bid Stage and the terms thereof are spelt out in this RFP.

1.5.11 Any queries or request for additional information concerning this RFP shall be submitted in writing by speed post/ courier/ special messenger and by e-mail so as to reach the officer designated in Clause 2.12.6 by the specified date. The envelopes/ communication shall clearly bear the following identification/ title:

“Queries/Request for Additional Information: RFP for Selection of the Developer for an International School at Nellore in Andhra Pradesh on PPP basis”.

1.6 Schedule of Bidding Process

The Authority shall endeavour to adhere to the following schedule:

Event Description	Date
1. Last date for receiving queries	19 th January 2016

⁶ Please refer to the Draft Concession Agreement for the definition

⁷ Market value as determined by the District Administration concerned

⁸ Please refer to the Draft Concession Agreement for the definition

2. Pre-Bid Conference	19 th January 2016
3. Bid Due Date	1500 hrs on 15 th February 2016
4. Opening of Technical Bids	1600 hrs on 15 th February 2016
5. Validity of Bids	120 days of Bid Due Date
6. Signing of Concession Agreement	Within 30 days of award of LOA

1.7 Pre-bid conference

The date, time and venue of the Pre-Bid Conference shall be:

Date: 19/01/2016

Time: 1500 hrs

Venue:

Board Room, III Floor, Infrastructure Corporation of Andhra Pradesh,
#10-2-1, FDC Complex, A.C. Guards, Hyderabad – 500028, India

All communications shall be addressed to

Vice Chairman & Managing Director,

Infrastructure Corporation of Andhra Pradesh

#10-2-1, 3rd Floor, FDC Complex, A.C. Guards, Hyderabad – 500028, India

2. INSTRUCTIONS 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 Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the draft Concession Agreement shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the Concession Agreement.
- 2.1.3 The Project Information Memorandum (PIM) of the Project is being provided only as a preliminary reference document by way of assistance to the Bidders who are expected to carry out their own surveys, investigations and other detailed examination of the Project before submitting their Bids. Nothing contained in the PIM shall be binding on the Authority nor confer any right on the Bidders, and the Authority shall have no liability whatsoever in relation to or arising out of any or all contents of the PIM.
- 2.1.4 The Technical Bid including the Technical capacity and Financial capacity of the Bidder should be furnished in the format at Appendix – I. Only the Bidders who fulfil Minimum Technical Capacity shall be considered for scoring and further stages for evaluation.
- 2.1.5 The Financial Bid should be furnished in the format at Appendix–VI and shall consist of Revenue Share to be quoted by the Bidder. In the event of any difference between figures and words, the higher of the two shall be taken into account. The Revenue Share shall be payable by the Concessionaire to the Concessions Authority as per the terms and conditions of this RFP and the provisions of the Concession Agreement.
- 2.1.6 The Bidder shall deposit a Bid Security as indicated in Clause 2.21.1.
- 2.1.7 The Bidder should submit a Power of Attorney as per the format at Appendix–III, authorising the signatory of the Bidder to commit the Bid.
- 2.1.8 In case the Bidder is a Consortium, the Members thereof should furnish a Power of Attorney in favour of the Lead Member in the format at Appendix–IV.
- 2.1.9 Any condition or qualification or any other stipulation contained in the Bid shall render the Bid liable to rejection as a non-responsive Bid.
- 2.1.10 The Bid and all communications in relation to or concerning the Bidding Documents and the Bid shall be in English language.
- 2.1.11 The documents including this RFP and all attached documents, provided by the Authority are and shall remain or become the property of the Authority and are

transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The provisions of this Clause 2.1.11 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.

- 2.1.12 The 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 (the “**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 thereunder 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 prior to the Bid Due Date. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of SOD of the Project.
- 2.1.13 This RFP is not transferable.
- 2.1.14 Any award of Concession pursuant to this RFP shall be subject to the terms of Bidding Documents.
- 2.1.15 **O&M Experience:** In the event that the Bidder does not have the requisite O&M experience, the Bidder shall enter into an agreement, which shall be applicable from SOD, with an entity having the experience mentioned in Clause 2.2.2 relating to the performance of O&M obligations with the provisions of the Concession Agreement, failing which the Concession Agreement shall be liable to termination.

2.2 Eligibility of Bidders

- 2.2.1 For determining the Eligibility of the bidders to participate in this RFP, 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) A Bidder may be a natural person, legal person, or any combination of them with a formal intent to enter into an agreement or under an existing agreement to form a Consortium. A Consortium shall be eligible for consideration subject to the conditions set out in Clause 2.2.5 below.

(c) A Bidder shall not have a conflict of interest (the “**Conflict of Interest**”) that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified[§]. A Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:

- (i) the Bidder, 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 direct or indirect shareholding of A Bidder, its Member or an Associate thereof (or any shareholder thereof having a shareholding of more than 5 per cent of the paid up and subscribed share capital of such Bidder, Member or Associate, as the case may be) in the other Bidder, its Member or Associate is less than 5 per cent of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in sub-section (72) of section 2 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

[§] The provisions of sub-clauses (i), (iii) and (v) shall not apply to government companies.

intermediary is less than 26% 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, or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, or any Associate thereof or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member or any Associate thereof; or
- (iv) such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or
- (v) such Bidder, or any Associate thereof has a relationship with another Bidder, or any Associate thereof, directly or through common third party/ parties, that puts either or both of them in a position to have access to each 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.

(d) A Bidder shall be liable for disqualification if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Bidder, its Member or any Associate thereof, as the case may be, in any manner for matters related to or incidental to the Project. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, its Member or Associate in the past but its assignment expired or was terminated prior to the Bid Due Date. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the school operation date 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.

2.2.2 To be eligible for evaluation of the Bid as per Clause 3., a Bidder shall fulfil the following threshold conditions of eligibility:

- (A) **Technical Capacity:** For demonstrating technical capacity and experience (the “**Minimum Technical Capacity**”), the Bidder shall have satisfied the following:

- (i) Developed (or) Operated & Maintained an International School with International Baccalaureate (IB) or International General Certificate of Secondary Education (IGCSE) or EDEXEL certification or any other equivalent international educational certification. The International School shall have an enrollment of at least 200 students in the academic year immediately preceding as on August 1, 2015.

OR

Developed (or) Operated & Maintained a school with Central Board of Secondary Education (CBSE) certification or Council for the Indian School Certificate Examination (CISCE/ICSE) certification or with an English medium State Secondary Board certification or any Government recognized institution of higher education (such as junior colleges, degree colleges, PG colleges) offering courses in English Medium for at-least 5 (five) continuous academic years as on August 1, 2015. The School / Institution shall have an enrollment of at least 500 students in the academic year immediately preceding as on August 1, 2015.

Note: The bidder shall submit the necessary proof of certification of the school / educational institution from the respective certifying authority at the time of bid.

- (ii) **International School operational experience:** In case, the applicant does not have the requisite International School operational experience⁹,
- a) The applicant shall, as part of the bid submission, submit a Memorandum of Understanding (MoU) between the bidder and an entity which has International School operational experience, duly stating that they shall enter into a binding agreement at a later stage subject to the award.
- The MoU should contain the minimum obligations that the entity will comply, including but not limited to:
- Providing academic services such as curriculum / faculty development services etc. to meet the certification (IB / IGCSE) requirement

⁹ International School operational experience means developed (or) operated & maintained an International School with International Baccalaureate (IB) or International General Certificate of Secondary Education (IGCSE) or EDEXEL certification or any other equivalent international educational certification with an enrollment of at least 200 students in the academic year immediately preceding as on August 1, 2015

- Rendering other necessary services and support for the proposed school, to obtain and maintain necessary certification (IB / IGCSE) from the competent authority concerned.
- The MoU shall be executed and duly notarized on a stamp paper of appropriate value, signed by both the bidder and entity bringing such experience, along with two witnesses
- b) The entity signing the MoU with the applicant, shall submit the documents as per format in Annex VI and appropriate proofs supporting the experience claimed

Note:

For the purpose of technical evaluation (clause 3.3.2) and the financial capacity evaluation, only the bidders' (applicant) experience / credentials will be considered and the entity's (which has international school experience and signing the MoU) experience will not be considered.

- (B) **Financial Capacity:** The Bidder shall have a minimum Net Worth (the “**Minimum Financial Capacity**”) of Rs. 15 crore (Rs. fifteen crore) at the close of the preceding financial year ending Mar 31, 2015.

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 consortium, should satisfy the above conditions of eligibility; provided that each such Member shall, from the date of SOD of the Project, hold equity share capital for a period of 5 (five) years not less than: (i) 26% (twenty six per cent) of the subscribed and paid up equity of the consortium; and (ii) 5% (five per cent) of the Total Project Cost specified in the Concession Agreement.

- 2.2.3 The Bidder shall enclose with its Bid, to be submitted as per the format at Appendix-I, complete with its Annexes, the following[§]:

[§] In 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 2.2.3. In jurisdictions that do not have statutory auditors, the firm of auditors which audits the annual accounts of the Bidder or its Associate may provide the certificates required under this RFP.

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- (i) certificate(s) from statutory auditors of the Bidder or its Associates specifying the Net Worth of the Bidder, as at the close of the preceding financial year, and also specifying that the methodology adopted for calculating such Net Worth conforms to the provisions of this Clause 2.2.3 (i). In case statutory audit is not completed for any reason, then the Bidder should submit the balance sheet attested by any auditor. For the purposes of this RFP, net worth (the “**Net Worth**”) shall mean the sum of subscribed and paid up equity and reserves from which shall be deducted the sum of revaluation reserves, miscellaneous expenditure not written off and reserves not available for distribution to equity share holders.

2.2.4 The Bidder should submit a Power of Attorney as per the format at Appendix-III, authorising the signatory of the Bid to commit the Bidder. In the case of a Consortium, the Members should submit a Power of Attorney in favour of the Lead Member as per format at Appendix-IV.

2.2.5 Where the Bidder is a single entity, it may be required to form an appropriate Special Purpose Vehicle, incorporated under the Indian Companies Act, 1956/ 2013 or Societies Registration Act, 1860 or Indian Trusts Act, 1882 (the “**SPV**”), to execute the Concession Agreement and implement the Project. In case the 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 6 (six), but information sought in the Bid may be restricted to 4 (four) members in the order of their equity contribution;
- (b) subject to the provisions of sub-clause (a) above, the Bid should contain the information required for each member of the Consortium;
- (c) members of the Consortium shall nominate one member as the lead member (the “**Lead Member**”), who shall have an equity share holding of at least 26% (twenty six per cent) of the paid up and subscribed equity of the SPV. The nomination(s) shall be supported by a Power of Attorney, as per the format at Appendix-III, signed by all the other members of the Consortium;
- (d) the Bid should include a brief description of the roles and responsibilities of individual members, particularly with reference to financial, technical and O&M obligations;
- (e) an individual Bidder cannot at the same time be member of a Consortium applying for the bid. Further, a member of a particular Bidder Consortium cannot be member of any other Bidder Consortium applying for the Bid;

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- (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 Joint Bidding Agreement, substantially in the form specified at Appendix-V (the “Jt. Bidding Agreement”), for the purpose of making the Bid and submitting the Bid in the event of being short-listed. The Jt. Bidding Agreement, to be submitted along with the Bid, shall, inter alia:
 - a) convey the intent to form an SPV with shareholding/ ownership equity commitment(s) in accordance with this RFP, which would enter into the Concession Agreement and subsequently perform all the obligations of the Concessionaire in terms of the Concession Agreement, in case the concession to undertake the Project is awarded to the Consortium;
 - b) clearly outline the proposed roles and responsibilities, if any, of each member;
 - c) commit the minimum equity stake to be held by each member;
 - d) 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 5 (five) years from the date of SOD 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 Estimated Project Cost specified in the Concession Agreement;
 - e) 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 fifth anniversary of the SOD of the Project; and
 - f) include a statement to the effect that all members of the Consortium shall be liable jointly and severally for all obligations of the Concessionaire in relation to the Project until the Financial Close of the Project is achieved in accordance with the Concession Agreement; and
 - g) except as provided under this RFP, there shall not be any amendment to the Jt. Bidding Agreement without the prior written consent of the Authority.

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

2.2.8 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 and such decision attained finality, 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 2.2.7 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.

- 2.2.9 In computing the Technical Capacity and Financial Capacity of the Bidder/ Consortium Members under Clause 2.2.2, the Technical Capacity and Financial Capacity of their respective Associates would also be eligible hereunder.

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 per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

- 2.2.10 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 Annexes 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 case the Bidder is a Consortium, each Member should substantially satisfy the eligibility requirements to the extent specified herein.

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

- (a) Where, on the date of the Bid, 25% (twenty five per cent) or more of the aggregate issued, subscribed and paid up equity share capital in A Bidder or its Member is held by persons resident outside India or where A Bidder or its Member is controlled by persons resident outside India; or
- (b) if at any subsequent stage after the date of the Bid, there is an acquisition of 25% (twenty five per cent) or more 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 or in the event described in sub clause (b) above, the continued eligibility of the Bidder shall be subject to approval of the Authority from national security and public interest perspective. The decision of the Authority in this 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.

2.2.12 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 or 1 (one) year, as the case may be, preceding its latest financial year. For the avoidance of doubt, financial year shall, for the purposes of the Bid hereunder, mean the accounting year followed by the Bidder in the course of its normal business.

2.3 Change in composition of the Consortium

- 2.3.1 Any changes in the composition of the Consortium will be subject to the provisions of Clause 2.16

2.4 Change in Ownership

- 2.4.1 By submitting the Bid, the Bidder acknowledges that it was eligible on the basis of Technical Capacity and Financial Capacity of those of its Consortium Members who shall, until the 5th (fifth) anniversary of the date of operation 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 2.4.1 shall apply only when the Bidder is a Consortium.
- 2.4.2 By submitting the Bid, the Bidder shall also be deemed to have acknowledged and agreed that in the event of a change in control of a Consortium Member or an Associate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of selection under and in accordance with the RFP, the Bidder shall be deemed to have knowledge of the same and shall be required to inform the Authority forthwith along with all relevant particulars about the same and the Authority may, in its sole discretion, disqualify the Bidder or withdraw the LOA from the Selected Bidder, as the case may be. In the event such change in control occurs after signing of the Concession Agreement but prior to Financial Closure of the Project, it would, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach of the Concession Agreement, and the same shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Concessionaire. In such an event, notwithstanding anything to the contrary contained in the Concession Agreement, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or the Concession Agreement or otherwise.

2.5 Cost of Bidding

The Bidders shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Bidding Process. The Authority will not be responsible

or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

2.6 Site visit and verification of information

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

2.6.2 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 2.6.1 above;
- (d) satisfied itself about all matters, things and information including matters referred to in Clause 2.6.1 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 thereunder;
- (e) acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in Clause 2.6.1 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.

2.6.3 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, the Bidding Documents or the Bidding Process, including any error or mistake therein or in any information or data given by the Authority.

2.7 Verification and Disqualification

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

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

- (i) invite the remaining Bidders to submit their Bids in accordance with Clauses 3.4.3 and 3.4.4; or
- (ii) take any such measure as may be deemed fit in the sole discretion of the Authority, including annulment or modification of the Bidding Process.

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

B. DOCUMENTS

2.8 Contents of the RFP

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

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

- I. Letter comprising the Technical 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
- VI. Financial Bid

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

2.9 Clarifications

2.9.1 Bidders requiring any clarification on the RFP may notify the Authority in writing by speed post/ courier/ special messenger and by e-mail in accordance with Clause 1.5.10. They should send in their queries on or before the date mentioned in the Schedule of Bidding Process specified in Clause 1.6. The Authority shall endeavour to respond to the queries within the period specified therein, but no later than 15 (fifteen) days prior to the Bid Due Date. The responses will be sent by e-mail and uploaded on the website of the Authority. The Authority will forward all the queries and its responses thereto, to all Bidders without identifying the source of queries.

2.9.2 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.

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

2.10 Amendment of RFP

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

2.10.2 Any Addendum issued hereunder will be in writing and shall be uploaded on the Authority's website.

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

C. PREPARATION AND SUBMISSION OF BIDS

2.11 Format and Signing of Bid

- 2.11.1 The Bidder shall provide all the information sought under this RFP. The Authority will evaluate those Bids that are received in the required formats and complete in all respects.
- 2.11.2 The Bid and its copy shall be typed or written in indelible ink and signed by the authorised signatory of the Bidder who shall also initial each page, in blue ink. In case of printed and published documents, only the cover shall be initialled. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialled by the person(s) signing the Bid.

2.12 Sealing and Marking of Bids

- 2.12.1 The Bidder shall submit the Technical and Financial capacity in the format specified at Appendix-I and its Annexures, and seal it in an envelope and mark the envelope as **“Technical Bid for Selection of Developer of International School at Nellore, Andhra Pradesh on PPP basis”**. The Bidder shall seal the original and the copy of the Bid, together with their respective enclosures, in separate envelopes duly marking the envelopes as **“ORIGINAL”** and **“COPY”**. The envelopes shall then be sealed in an outer envelope which shall also be marked in accordance with Clauses 2.12.5.
- 2.12.2 The documents accompanying the Technical bid shall include:
- A Copy of Bid Security in the format at Appendix–II;
 - Power of Attorney for signing of Bid in the format at Appendix–III;
 - If applicable, the Power of Attorney for Lead Member of Consortium in the format at Appendix–IV;
 - If applicable, a Memorandum of Understanding (MoU) between the bidder and entity with International School operational experience as per clause 2.2.2. (A) (ii)
 - If applicable, the experience of the entity (with International School operational experience) signing the MoU with the applicant, shall be submitted as per format in Annex VI
 - A copy of the Concession Agreement with each page initialled by the person signing the Bid in pursuance of the Power of Attorney referred to in Clause (b) hereinabove;
 - The Joint Bidding Agreement in the format at Appendix-V and
 - A Copy of Bid Process Fee: A Demand Draft of Rs. 25,000 issued by any of the Nationalised/ Scheduled Banks in India in favour of the Vice Chairman and Managing Director, INCAP Ltd., payable at Hyderabad.

Note: To avoid confusion, it may be noted that the Original DD towards Bid Processing Fees and the Original Bank Guarantee for Bid Security may be placed in a separate envelope

- 2.12.3 As specified in Clause 2.12.2 above, the bids shall be bound together in hard cover and the pages shall be numbered serially. Each page thereof shall be initialled in blue ink by the authorised signatory of the Bidder.
- 2.12.4 The Bidder shall submit the Financial Bid (“**Financial Bid**”) in the format specified at Appendix – VI, seal it in a separate envelope and mark the envelope as “**Financial Bid for Selection of Developer of International School at Nellore, Andhra Pradesh on PPP basis**” along with
- 2.12.5 The envelopes specified in Clauses 2.12.1, Clause 2.12.2, Clause 2.12.3 and Clause 2.12.4 shall be placed in an outer envelope, which shall be sealed. The outer envelope shall clearly bear the following identification:

“Bid for Selection of Developer of an International School at Nellore in Andhra Pradesh on PPP basis”

and shall clearly indicate the name and address of the Bidder. In addition, the Bid Due Date should be indicated on the right hand top corner of each of the envelopes.

- 2.12.6 Each of the envelopes shall be addressed to:

DESIGNATION	Vice Chairman and Managing Director
ADDRESS:	Infrastructure Corporation of Andhra Pradesh, #10-2-1, III Floor, FDC Complex, AC Guards, Hyderabad – 500 028, India. Tel: +91-40-2332 1771/2; Fax: +91-40-2332 1773
E-MAIL ADDRESS	incap@incap.co.in

- 2.12.7 If the envelopes are not sealed and marked as instructed above, the Authority assumes no responsibility for the misplacement or premature opening of the contents of the Bid submitted and consequent losses, if any, suffered by the Bidder.
- 2.12.8 Bids submitted by fax, telex, telegram or e-mail shall not be entertained and shall be rejected.

2.13 Bid Due Date

- 2.13.1 Bids should be submitted before 1500 hours IST on the Bid Due Date at the address provided in Clause 2.12.6 in the manner and form as detailed in this RFP. A receipt thereof should be obtained from the person specified at Clause 2.12.6.
- 2.13.2 The Authority may, in its sole discretion, extend the Bid Due Date by issuing an Addendum in accordance with Clause 2.9 uniformly for all Bidders.

2.14 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.

2.15 Contents of the Bid

2.15.1 The Technical Bid shall be furnished in the format at Appendix–I and the Financial Bid be furnished in the format at Appendix – VI and shall consist of a Revenue Share to be quoted by the Bidder.

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

2.16 Modifications/ Substitution/ Withdrawal of Bids

2.16.1 The Bidder may modify, substitute or withdraw its Bid after submission, provided that written notice of the modification, substitution or withdrawal is received by the Authority no later than 15 (fifteen) days prior to the Bid Due Date. No Bid shall be modified, substituted or withdrawn by the Bidder on or after the Bid Due Date.

2.16.2 The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.11, with the envelopes being additionally marked “MODIFICATION”, “SUBSTITUTION” or “WITHDRAWAL”, as appropriate.

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

2.17 Rejection of Bids

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

2.17.2 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.

2.18 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.

2.19 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.

2.20 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

2.21 Bid Security

- 2.21.1 The Bidder shall furnish as part of its Bid, a Bid Security referred to in Clauses 1.5.5 hereinabove in the form of a bank guarantee issued by a nationalised bank, or a Scheduled Bank in India having a net worth of at least Rs. 1,000 crore (Rs. one thousand crore), in favour of the Authority in the format at Appendix-II (the “**Bank Guarantee**”) and having a validity period of not less than 180 (one hundred eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Authority and the Bidder from time to time. In case the Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any nationalised bank in India is required. For the avoidance of doubt, Scheduled Bank shall mean a bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934.
- 2.21.2 Bid Security can also be in the form of a demand draft issued by a Scheduled Bank in India, drawn in favour of the Authority and payable at Hyderabad (the “**Demand Draft**”). The Authority shall not be liable to pay any interest on the Bid Security deposit so made and the same shall be interest free.
- 2.21.3 Any Bid not accompanied by the Bid Security shall be summarily rejected by the Authority as non-responsive.
- 2.21.4 Save and except as provided in Clauses 1.5.5 and 1.5.6 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 60 (sixty) days from the Bid Due Date.

Where Bid Security has been paid by demand draft, the refund thereof shall be in the form of an account payee demand draft in favour of the unsuccessful Bidder(s). Bidders may by specific instructions in writing to the Authority give the name and address of the person in whose favour the said demand draft shall be drawn by the Authority for refund, failing which it shall be drawn in the name of the Bidder and shall be mailed to the address given on the Bid.

- 2.21.5 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.
- 2.21.6 The Authority shall be entitled to forfeit and appropriate the Bid Security as Damages *inter alia* in any of the events specified in Clause 2.21.7 herein below. The Bidder, by submitting its Bid pursuant to this RFP, shall be deemed to have acknowledged and confirmed that the Authority will suffer loss and damage on account of withdrawal of its Bid or for any other default by the Bidder during the period of Bid validity as specified in this RFP. No relaxation of any kind on Bid Security shall be given to any Bidder.
- 2.21.7 The Bid Security shall be forfeited as Damages without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or under the Concession Agreement, or under the applicable laws, if
- (a) a Bidder submits a non-responsive Bid;
 - (b) a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Clause 4 of this RFP;
 - (c) 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) the Selected Bidder fails within the specified time limit -
 - (i) to sign and return the duplicate copy of LOA; or
 - (ii) to sign the Concession Agreement; or
 - (iii) to furnish the Performance Security within the period prescribed therefor in the Concession Agreement.
 - (e) the Selected Bidder, having signed the Concession Agreement, commits any breach thereof prior to furnishing the Performance Security

3 EVALUATION OF BIDS

3.1 Opening and Evaluation of Bids

- 3.1.1. The Authority shall open the Bids at 1600 hours on the Bid Due Date, at the place specified in Clause 1.7 and in the presence of the Bidders who choose to attend.
- 3.1.2. The Authority will subsequently examine and evaluate the Bids. in accordance with the provisions set out in this Section 3.
- 3.1.3. To facilitate evaluation of Bids, the Authority may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid.

3.2 Tests of responsiveness

- 3.2.1 Prior to evaluation of Bids, the Authority shall determine whether each Bid is responsive to the requirements of this RFP. A Bid shall be considered responsive if:
 - (a) it is received as per the format at Appendix-I;
 - (b) it is received by the Bid Due Date including any extension thereof pursuant to Clause 2.13.2;
 - (c) it is signed, sealed, bound together in hard cover and marked as stipulated in Clauses 2.11 and 2.12;
 - (d) it is accompanied by the Bid Security as specified in Clause 2.1.6;
 - (e) it is accompanied by the Memorandum of Understanding (MoU) as specified in clause 2.2.2. (A). (ii), (if applicable)
 - (f) it is accompanied by the Power(s) of Attorney and the Joint Bidding Agreement as specified in Clauses 2.1.7 and 2.1.8, as the case may be;
 - (g) it contains all the information (complete in all respects) as requested in this RFP and/or Bidding Documents (in formats same as those specified);
 - (h) it contains the Bid process fee;

- (i) it does not contain any condition or qualification; and
- (j) it is not in violation of terms hereof.

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

3.3 Evaluation of the Bids

3.3.1 Only those Bids who meet the Minimum Technical Capacity and Minimum Financial Capacity specified in Clause 2.2.2 shall be considered qualified for further evaluation under this Section 3.3. Bids of firms/ consortia who do not meet these minimum criteria shall be rejected.

3.3.2 **Technical Evaluation:** The Bidders' technical experience shall be measured as per the parameters mentioned in the table below in Clause 3.3.3 and a score (the "Technical Score") shall be calculated as follows:

Summation of scores of all parameters (No. 1 to No. 7) in the Technical Parameters Table in Clause 3.3.3 shall give the Technical Score of the Bidder.

3.3.3 Technical Parameters Table:

No.	Technical Parameters*	Max Marks 100
1	Operational experience[#]	Max 25
1A (or)	Operating at least one School with IB/ IGCSE or equivalent / relevant foreign curricula with a strength of at least 200 students in the academic year immediately preceding as on 1 st August 2015: (a) For 3 or more academic years (b) For less than 3 academic years	For (a) 25 (b) 20
1B	Operating at least one CBSE/ ICSE/ State board school or any higher educational institution with a strength of at least 500 students in the academic year immediately preceding as on 1 st August 2015: (a) For 7 or more academic years (b) For 5 to 6 academic years	For (a) 20 (b) 15

	<i>Note: If the Bidder is eligible under both 1A and 1B, the maximum score under either 1A or 1B shall be considered</i>	
2	Operational school / institution student strength	Max 10
2A (or)	Total strength under same management is 2000 or more	10
2B (or)	Total strength under same management is between 1000 and 1999	7
2C	Total strength under same management is less than 1000	5
3	Number of operational schools / institutions at different cities / towns: Number of accredited schools / institutions under the same brand at different cities / towns (training institutes, coaching institutes will not be considered; any number of schools / institutions in one city / town will be considered as one)	Max 10
3A (or)	more than 5	10
3B (or)	3 to 5	7
3C	less than 3	5
4	Quality and diversity of faculty of the existing operational schools / institutions	Max 20
4A	% of expat Teaching staff (either aggregate of all schools /institutions or specific schools /institution considered under Parameter 1 above): Prorated score with highest score of '10' for 10% or more of the staff	10
4B	% of Teaching staff with Master's degree or any international accreditation of repute in pedagogy (either aggregate of all schools /institutions or specific schools /institution considered under Parameter 1 above): Prorated score with highest score of '5' for 50% or more of the staff	5
4C	Faculty Student Ratio pedagogy (either aggregate of all school / institutions or specific school/institution considered under Parameter 1 above): Higher than 1:16	5
	Note: For the purposes of evaluation of Parameter 4, only full-time faculty shall be considered	
5	Alliances or tie-ups of the Schools / Institutions	Max 5

5A	Number of alliances or tie-ups with reputed and relevant international educational bodies / institutions / universities etc.: (a) 3 or more alliances. (b) 1 or 2 alliances	For (a) 5 (b) 3
6	Infrastructure in existing schools / institutions	Max 10
6A	One point each for the following infrastructure: (a) Library, (b) Sports facilities and equipment (must have facilities like cricket/hockey/football ground or tennis/badminton courts) (c) Swimming pool, (d) Infirmary (medical) facilities, and (e) Classrooms for fine arts and science laboratories	5
6B	Residential facilities: Prorated Score. Maximum score for residential facilities for at least 250 students	5
7	Concept presentation to the Authority on the development & operational plan, financial projections of the International School	Max 20

* Bidders are required to submit all the relevant proofs under each of the above parameters to claim any score (as per Annexure – IV of Appendix-I). Bidders should also note that, if need be, the Authority may call for additional information/details at any stage during the bidding process.

The School / Institution should have obtained **final Certification from the respective certifying authority** at the time of submission of the bid. No provisional / temporary certifications or candidate status certifications shall be considered.

3.3.4 The Bidders shall be ranked in the descending order of their Technical Score. Only the Bids which have a technical score in the top 6 of such descending order shall qualify for evaluation of their Financial Bids.

3.3.5 Only those Financial Bids submitted by Bidders who are considered qualified as per the provision specified in Clause 3.3.4 will be opened and will be considered for the purposes of selection of the bidder.

3.4 Selection of Bidder

3.4.1 Subject to the provisions of Clause 2.17.1, the Bidder who is shortlisted as per Clause 3.3.4 and who quotes the highest Revenue Share offered to the Authority,

- shall ordinarily be declared as the Selected Bidder. In the event that the Authority rejects or annuls all the Bids, it may, in its discretion, invite fresh Bids.
- 3.4.2 In the event that two or more Bidders quote the same amount of Revenue Share (the “**Tie Bidders**”), 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.
- 3.4.3 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 Bidders to revalidate or extend their respective Bid Security, as necessary, and match the Bid of the aforesaid Highest Bidder (the “**second round of bidding**”). If in the second round of bidding, only one Bidder matches the Highest Bidder, it shall be the Selected Bidder. If two or more Bidders match the said Highest Bidder in the second round of bidding, then the Bidder whose Bid was higher as compared to other Bidder(s) in the first round of bidding shall be the Selected Bidder. For example, if the third and fifth highest Bidders in the first round of bidding offer to match the said Highest Bidder in the second round of bidding, the said third highest Bidder shall be the Selected Bidder.
- 3.4.4 In the event that no Bidder offers to match the Highest Bidder in the second round of bidding as specified in Clause 3.3.3, 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.
- 3.4.5 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 the next eligible Bidder may be considered.

- 3.4.6 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 1.2.3. The Selected Bidder shall not be entitled to seek any deviation, modification or amendment in the Concession Agreement.

3.5 Contacts during Bid Evaluation

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

3.6 Bid Parameter

- 3.6.1 The Bid shall comprise a Revenue Share to be quoted by the Bidder in accordance with the provisions of the Concession Agreement. The Bidder who offers the highest Revenue Share shall ordinarily be the Selected Bidder. The Revenue Share comprising the Bid shall be offered in accordance with the provisions of Clause 1.5.7.

4 FRAUD AND CORRUPT PRACTICES

- 4.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the LOA and during the subsistence of the Concession Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Concession Agreement, the Authority may reject a Bid, withdraw the LOA, or terminate the Concession Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or Concessionaire, as the case may be, if it determines that the Bidder or Concessionaire, as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an event, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or the Concession Agreement, or otherwise.
- 4.2 Without prejudice to the rights of the Authority under Clause 4.1 hereinabove and the rights and remedies which the Authority may have under the LOA or the Concession Agreement, or otherwise if a Bidder or Concessionaire, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, or after the issue of the LOA or the execution of the Concession Agreement, such Bidder or Concessionaire shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from the date such Bidder or Concessionaire, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.
- 4.3 For the purposes of this Clause 4, the following terms shall have the meaning hereinafter respectively assigned to them:
- (a) “corrupt practice” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the LOA or has dealt with matters concerning the Concession Agreement or arising therefrom, before or after the execution thereof, at any time prior to the expiry of 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 2.1.11 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.

5 PRE-BID CONFERENCE

- 5.1 Pre-Bid Conference(s) of the Bidders shall be convened at the designated date, time and place. Only those persons who have purchased the RFP document shall be allowed to participate in the Pre-Bid Conference(s). A maximum of three representatives of each Bidder shall be allowed to participate on production of authority letter from the Bidder.
- 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.

6 MISCELLANEOUS

- 6.1 The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the Courts in the State in which the Authority has its headquarters shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.
- 6.2 The Authority, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;
- (a) suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
 - (b) consult with any Bidder in order to receive clarification or further information;
 - (c) retain any information and/ or evidence submitted to the Authority by, on behalf of, and/ or in relation to any Bidder; and/ or
 - (d) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.
- 6.3 It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Authority, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection 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 Bidding Documents are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this RFP

Appendices

APPENDIX-I
Letter comprising the Technical Bid
(Refer Clauses 2.1.4 and 2.15)

Dated: __/__/2015

To,

The Vice Chairman & Managing Director,
Infrastructure Corporation of Andhra Pradesh,
#10-2-1, III Floor, FDC Complex, AC Guards,
Hyderabad – 500 028, India.

Tel: +91-40-2332 1771/2; Fax: +91-40-2332 1773

Email: incap@incap.co.in; Website: www.incap.co.in

Sub: Bid for Selection of the Developer for an International School at Nellore in
Andhra Pradesh on PPP basis

Dear Sir,

1. With reference to your RFP document dated __/__/2015, 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 therein is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the Bid are true copies of their respective originals.
3. This statement is made for the express purpose of our selection as Concessionaire for the development, construction, operation, and maintenance of the aforesaid Project.
4. I/ We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Bid.
5. I/ We acknowledge the right of the Authority to reject our Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.

6. I/ We certify that in the last three years, we/ any of the Consortium Members or our/ their Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.
7. I/ We declare that:
 - (a) I/ We have examined and have no reservations to the Bidding Documents, including any Addendum issued by the Authority; and
 - (b) I/ We do not have any conflict of interest in accordance with Clause 2.2.1 of the RFP document; and
 - (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 Bids 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, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice; and
 - (e) the undertakings given by us along with the Bid in response to the RFP for the Project were true and correct as on the date of making the Bid and are also true and correct as on the Bid Due Date and I/we shall continue to abide by them.
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 of the RFP document.
9. I/ We believe that we/ our Consortium satisfy(s) the Net Worth criteria and meet(s) 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 the Project.
11. I/ We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates

- have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
12. I/ We further certify that in regard to matters relating to security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
 13. I/ We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our CEO or any of our directors/ managers/ employees.[‡]
 14. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the guidelines referred to above, we shall intimate the Authority of the same immediately.
 15. I/ We acknowledge and undertake that our Consortium was eligible on the basis of Technical Capacity and Financial Capacity of those of its Members who shall, for a period of 5 (five) years from the date of SOD 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 Concessionaire; 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.
 16. I/We acknowledge and agree that in the event of a change in control of an Associate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of selection under and in accordance with the RFP and 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 Agreement, be deemed a breach thereof, and the Concession Agreement shall be liable to be terminated without the Authority being liable to us in any manner whatsoever.
 17. I/ We understand that the Selected Bidder shall either be an existing Company incorporated under the Indian Companies Act, 1956/ 2013, or a Society registered under the Societies Registration Act, 1860, or a Trust under the

[‡] In case the Bidder is unable to provide certification regarding any pending investigation as 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 Bid. The Authority will consider the contents of such Schedule and determine whether or not the exceptions/disclosures are material to the suitability of the Bidder for award hereunder.

- Indian Trusts Act, 1882, or shall incorporate as such prior to execution of the Concession Agreement.
18. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.
 19. 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.
 20. I/ We have studied all the Bidding Documents and 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.
 21. I/ We offer a Bid Security of Rs 62 Lakhs (Rupees Sixty Two Lakh only) to the Authority in accordance with the RFP Document.
 22. The Bid Security in the form of a Demand Draft / Bank Guarantee is attached (strike out whichever not applicable).
 23. The documents accompanying the Bid, as specified in Clause 2.11.2 of the RFP, have been submitted in a separate envelope and marked as “Enclosures of the Bid”.
 24. 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.
 25. The Revenue Share has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, draft Concession Agreement, our own estimates of costs and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the Project.
 26. I/ We agree and undertake to abide by all the terms and conditions of the RFP document.
 27. 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.

28. I/ We shall keep this offer valid for 120 (One Hundred and Twenty) days from the Bid Due Date specified in the RFP.
29. I/ We hereby submit the following Bid for undertaking the aforesaid Project in accordance with the Bidding Documents and the Concession Agreement:

I/We offer Revenue Share as mentioned in our financial Bid (Annexure VI) attached in a separate envelope

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

Yours faithfully,

Date:
Authorised signatory)

(Signature, name and designation of the

Place:
Member

Name and seal of Bidder/Lead

ANNEX-I

Particulars of the Bidder

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

2. Brief description of the Agency/Company including details of its schools and proposed role and responsibilities in this Project:

3. Particulars of individual(s) who will serve as the point of contact/ communication for the Bidder:
 - (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 (1-3) should be provided for all the Members of the Consortium.
 - (b) A copy of the Jt. Bidding Agreement, as envisaged in Clause 2.2.5(g) should be attached to the Bid.

- (c) Information regarding the role of each Member should be provided as per table below:

Sl. No.	Name of Member	Role ^{\$}	Percentage of equity in the Consortium ^{\$\$}
1.			
2.			
3.			
4.			

^{\$} The role of each Member, as may be determined by the Bidder, should be indicated in accordance with Clause 2.2.5 (d) and instruction 4 at Annex-IV.

^{\$\$}The percentage of equity should be in accordance with Clause 2.2.5 (a), (c) and (g).

6. The following information shall also be provided for the Bidder, including 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 (BOT or otherwise)?		
2.	If the answer to 1 is yes, does the bar subsist as on the date of Bid?		
3.	Has the Bidder/ constituent of the Consortium paid liquidated damages of more than 5% of the contract value in a contract due to delay or has been penalised due to any other reason in relation to execution of a contract, in the last three years?		

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):

ANNEX-II**Technical Capacity of the Bidder****Abstract of Experience in Education sector by the Bidder***

S.No	Name of School / Institution	Year of Establishment of the School/Institution	Number of Students	Affiliation/Certification	Year of obtaining Certification
(1)	(2)	(3)	(4)	(5)	(6)
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

* Details to be self-attested and duly notarized.

ANNEX-III
Financial Capacity of the Bidder
(Refer to Clauses 2.2.2(B) of the RFP)

(In Rs. crore[§])

Bidder type ^{§§}	Net Worth ^{££}				
	Year 1 (3)	Year 2 (4)	Year 3 (5)	Year 4 (6)	Year 5 (7)
Single entity Bidder					
Consortium Member 1					
Consortium Member 2					
Consortium Member 3					
Consortium Member 4					
TOTAL					

Name & address of Bidder's Bankers:

[§]For conversion of other currencies into rupees, see notes below Annex-II of Appendix-I.

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

^{££}The Bidder should provide details of its own Financial Capacity or of an Associate specified in Clause 2.2.8.

Instructions:

1. The Bidder/ its constituent Consortium Members shall attach copies of the balance sheets, financial statements and Annual Reports for 5 (five) years preceding the Bid Due Date. The financial statements shall:
 - (a) reflect the financial situation of the Bidder or Consortium Members and its/ their Associates where the Bidder is relying on its Associate's financials;
 - (b) be audited by a statutory auditor;
 - (c) be complete, including all notes to the financial statements; and
 - (d) correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).
2. Net Worth shall mean (Subscribed and Paid-up Equity + Reserves) less (Revaluation reserves + miscellaneous expenditure not written off + reserves not available for distribution to equity shareholders).
3. Year 1 will be the latest completed financial year, preceding the bidding. Year 2 shall be the year immediately preceding Year 1 and so on. In case the Bid Due Date falls within 3 (three) months of the close of the latest financial year, refer to Clause 2.2.11.
4. In the case of a Consortium, a copy of the Jt. Bidding Agreement shall be submitted in accordance with Clause 2.2.5 (g) of the RFP document.
5. 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 (i) of the RFP document.

Annex-IV[@]**Details of Schools/Institutions developed, operated, maintained by the bidder^{&##}
For each School/Institution indicated in Annex II**

Item	Particulars
(1)	(2)
Name of the school/college	
Role of the bidder (developed/operated/maintained etc.)	
Location	
Year established	
Affiliations / Certifications like IB/ IGCSE/ CBSE etc. of the School & the year of obtaining them (in brackets)	
Area of the premises	
Built up area	
Number of students	
Number of residential students and capacity intake of residential facilities present	
Number of full time teachers/faculty	
Details of Faculty: 1) Number of full time faculty with a Master's Degree 2) Number of full time faculty with any international accreditation of repute in pedagogy 3) Number of full time expat faculty	

Please Note: Attested copies of certificates as proofs for all the above to be duly attached	
Classes Taught	
Area of the Library and number of books in the library	
Details of tie-ups or alliances with any international educational bodies / institutions / universities	
Details of infrastructure such as Infirmary (medial) facilities, classrooms for fine arts, and science laboratories	
Detailed list of all the outdoor and indoor sports facilities and equipment like swimming pool, badminton / hockey courts, football / cricket grounds etc.	
Entity being run (Sec 8 company, trust, Society, Private Limited)	
Construction cost	
Revenues of the last 3 Financial years	

@ Attach duly attested copies of the U-DISE (Unified – District Information System for Education) reports of the last three years i.e. 2014-15, 2013-14, 2012-13. In case of higher educational institutions, attach duly attested copies of documents approved by relevant statutory authorities such as UGC, AICTE, etc

& Separate Sheets to be provided for each School/Institution and duly attested

The above details to be self-certified and duly notarized

ANNEX-V

Statement of Legal Capacity

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

Ref. Date:

To,

.....
.....
.....

Dear Sir,

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

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

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

Thanking you,

Yours faithfully,

(Signature, name and designation of the authorised signatory)

For and on behalf of.....

_____ [§] Please strike out whichever is not applicable.

ANNEX-VI

(if applicable, as per clause 2.2.2. (A) (ii))

Technical Capacity of the entity**Abstract of Experience in Education sector by the entity**

S.No	Name of School / Institution	Year of Establishment of the School/Institution	Number of Students	Affiliation/ Certification	Year of obtaining Certification
(1)	(2)	(3)	(4)	(5)	(6)
1					
2					
3					
4					
5					

Note:

- Certification from relevant competent authority on the school certification / affiliation to be submitted
- The above details to be self-attested and duly notarized

APPENDIX-II
Bank Guarantee for Bid Security
(Refer Clauses 2.1.7 and 2.20.1)

(To be executed on Stamp paper of appropriate value)

B.G. No. Dated:

1. In consideration of you,, having its office at, (hereinafter referred to as the “Authority”, which expression shall unless it be repugnant to the subject or context thereof include its successors and assigns) having agreed to receive the Bid of (a company registered under the Companies Act, 1956/ 2013 or a Society registered under the Societies Registration Act, 1860 or a Trust under the Indian Trusts Act, 1882) 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 Project on DBFOT 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 draft concession agreement (hereinafter collectively referred to as “Bidding Documents”), we (Name of the Bank) having our registered office at and one of its branches at (hereinafter referred to as the “Bank”), at the request of the Bidder, do hereby in terms of Clause 2.1.7 read with Clause 2.1.8 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 Rs. (Rupees 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 an amount not exceeding Rs. (Rupees 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 which shall be deemed to have been duly authorized 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 unrealized.
11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Authority in writing.
12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.
13. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to Rs. crore (Rupees crore 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
Power of Attorney for signing of Bid[§]
(Refer Clause 2.1.7)

(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 authorise Mr. / Ms (Name), son/daughter/wife of and presently residing at, who is presently employed with us/ the Lead Member of our Consortium and holding the position of, as our true and lawful attorney (hereinafter referred to as the “Attorney”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our bid for the Project proposed or being developed by the (the “Authority”) including but not limited to signing and submission of all bids, bids and other documents and writings, participate in bidders' and other conferences and providing information / responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts including the 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)

[§] To be submitted in original.

Witnesses:

- 1.
- 2.

Accepted

Notarised

(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 executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Wherever required, the Bidder 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.*

APPENDIX–IV[§]
Power of Attorney for Lead Member of Consortium
(Refer Clause 2.1.8)

(To be executed on Stamp paper of appropriate value)

Whereas the (the “Authority”) has invited bids from interested parties for the Project (the “Project”).

Whereas,, and (collectively the “Consortium”) being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Proposals 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 bids, 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

[§] To be submitted in original.

connection with or relating to or arising out of the Consortium’s bid for the Project and/ or upon award thereof till the Concession Agreement is entered into with the Authority.

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

(Executants)

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

Witnesses:

- 1.
- 2.

Notes:

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

APPENDIX-V
Joint Bidding Agreement
(Refer Clause 2.2.5 (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 incorporated under the Companies Act, 1956/2013 or a Society registered under the Societies Registration Act, 1860 or a Trust registered under the Indian Trusts Act, 1882 and having its registered office at (hereinafter referred to as the “First Part” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

2. Limited, a company incorporated under the Companies Act, 1956/2013 or a Society registered under the Societies Registration Act, 1860 or a Trust registered under the Indian Trusts Act, 1882 and having its registered office at (hereinafter referred to as the “Second Part” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

3. {..... Limited, a company incorporated under the Companies Act, 1956/2013 or a Society registered under the Societies Registration Act, 1860 or a Trust registered under the Indian Trusts Act, 1882 and having its registered office at (hereinafter referred to as the “Third Part” which expression shall, unless repugnant to the context include its successors and permitted assigns)}

AND

4. {..... Limited, a company incorporated under the Companies Act, 1956/2013 or a Society registered under the Societies Registration Act, 1860 or a Trust registered under the Indian Trusts Act, 1882 and having its registered office at (hereinafter referred to as the “Fourth Part” which expression shall, unless repugnant to the context include its successors and permitted assigns)}\$

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

WHEREAS,

(A) Infrastructure Corporation of Andhra Pradesh (INCAP), acting through the Vice Chairman and Managing Director, INCAP (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 selection of bidders for development, operation, maintenance and transfer back of the Project (the “Project”) through public private partnership.

(B) The Parties are interested in jointly bidding for the Project as members of a Consortium and in accordance with the terms and conditions of the RFP document and other bid documents in respect of the Project, and

(C) It is a necessary condition under the RFP document that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Application.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretations

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

2. Consortium

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

2.2 The Parties hereby undertake to participate in the Bidding Process only through this Consortium and not individually and/ or through any other consortium constituted for this Project, either directly or indirectly or through any of their 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 or a Society registered under the Societies Registration Act, 1860 or a Trust registered under the Indian Trusts Act, 1882 for entering into a Concession Agreement with the Authority and for performing all its obligations as the Concessionaire in terms of the Concession Agreement for the Project.

4. Role of the Parties

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

(a) Party of the First Part shall be the Lead member of the Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding

Process and until the Appointed Date under the Concession Agreement when all the obligations of the SPV shall become effective;

(b) Party of the Second Part shall be {the Technical Member of the Consortium;}

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

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

5. Joint and Several Liability

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

6. Shareholding in the SPV

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

First Party:

Second Party:

{Third Party:}

{Fourth Party:}

6.2 The Parties undertake that a minimum of 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPV shall, at all times till the fifth anniversary of the date of SOD of the Project, be held by the Parties of the First, {Second and Third} Part whose experience and Net Worth have been reckoned for the purposes of qualification and short-listing of Bidders for the Project in terms of the RFP.

6.3 The Parties undertake that each of the Parties specified in Clause 6.2 above shall, at all times between the SOD of the Project and the fifth anniversary thereof, hold subscribed and paid up equity share capital of SPV equivalent to at least 5% (five per cent) of the Total Project Cost.

6.4 The Parties undertake that they shall collectively hold at least 51% (fifty one per cent) of the subscribed and paid up equity share capital of the SPV at all times until the fifth anniversary of the SOD of the Project.

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

7. Representation of the Parties

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

(a) Such Party is duly organised, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;

(b) The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member is annexed to this Agreement, and will not, to the best of its knowledge:

(i) require any consent or approval not already obtained;

(ii) violate any Applicable Law presently in effect and having applicability to it;

(iii) violate the memorandum and articles of association, by-laws or other applicable organisational documents thereof;

(iv) violate any clearance, permit, concession, grant, license or other governmental authorisation, approval, judgement, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or

(v) create or impose any liens, mortgages, pledges, claims, security interests, charges or encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;

(c) this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and

(d) there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Associates 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 Applicant is not pre-qualified 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

LEAD MEMBER by: SECOND PART

(Signature) (Signature)

(Name) (Name)

(Designation) (Designation)

(Address) (Address)

SIGNED, SEALED AND DELIVERED SIGNED, SEALED AND DELIVERED

For and on behalf of For and on behalf of

THIRD PART FOURTH PART

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

In the presence of:

1. 2.

Notes:

1. The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
2. Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution / power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member.
3. For a Joint Bidding Agreement executed and issued overseas, the document shall be legalised by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed.

APPENDIX–VI
Financial Bid

(On Bidder's letter head)

(Date and Reference)

To,
The Vice chairman & managing director,
Infrastructure Corporation of Andhra Pradesh Ltd. (INCAP),
10-2-1, III Floor, FDC Complex,
AC Guards, Hyderabad – 500 028. A.P. INDIA
Telephone: +91-40-2332 1771/1772
Facsimile: +91-40-2332 1773
Email: incap@incap.co.in

Subject:

Financial Bid for the Selection of Developer for an International School at Nellore in Andhra Pradesh 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 therein is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the Bid are true copies of their respective originals.
3. This statement is made for the express purpose of our selection as Concessionaire for the development, construction, operation and maintenance of the aforesaid Project.
4. I/ We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Bid.
5. I/ We acknowledge the right of the Authority to reject our Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.

6. I/ We certify that in the last three years, we/ any of the Consortium Members or our/ their Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.
7. I/ We declare that:
 - (a) I/ We have examined and have no reservations to the Bidding Documents, including any Addendum issued by the Authority; and
 - (b) I/ We do not have any conflict of interest in accordance with Clauses 2.1.14 and 2.1.15 of the RFP document; and
 - (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 proposals 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, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice; and
 - (e) the undertakings given by us along with the Application in response to the RFQ for the Project were true and correct as on the date of making the Application and are also true and correct as on the Bid Due Date and I/we shall continue to abide by them
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 of the RFP document.
9. I/ We believe that we/ our Consortium satisfy(s) the Net Worth criteria and meet(s) the requirements as specified in the RFQ 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 the Project.

11. I/ We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
12. I/ We further certify that in regard to matters relating to security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
13. I/ We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our CEO or any of our directors/ managers/ employees.
14. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the guidelines referred to above, we shall intimate the Authority of the same immediately.
15. I/ We acknowledge and undertake that our Consortium was pre-qualified and short-listed on the basis of Technical Capacity and Financial Capacity of those of its Members who shall, for a period of 5 (five) years from the date of commercial operation 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 Concessionaire; 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.
16. I/ We acknowledge and agree that in the event of a change in control of an Associate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of short-listing and pre-qualification under and in accordance with the RFQ, 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 Agreement, be deemed a breach thereof, and the Concession Agreement shall be liable to be terminated without the Authority being liable to us in any manner whatsoever.

17. I/ We understand that the Selected Bidder shall either be an existing Company incorporated under the Indian Companies Act, 1956/ 2013, or shall incorporate as such prior to execution of the Concession Agreement.
18. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.
19. 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.
20. I/ We have studied all the Bidding Documents carefully and also surveyed the Project Site. We understand that except to the extent as expressly set forth in the 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.
21. I/ We offer a Bid Security of Rs..... (Rupees only) to the Authority in accordance with the RFP Document
22. The Bid Security in the form of a Demand Draft/ Bank Guarantee (strike out whichever is not applicable) is attached.
23. The documents accompanying the Bid, as specified in Clause 2.11.2 of the RFP, have been submitted in a separate envelope and marked as “Enclosures of the Bid”.
24. 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
25. The Revenue Share has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, draft Concession Agreement, our own estimates of costs and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the Project.
26. I/ We agree and undertake to abide by all the terms and conditions of the RFP document.

27. 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.
28. I/ We agree to pay the Annual Lease Rentals and Advance Lease Rentals as per the provisions of the Concession Agreement.
29. I/ We shall keep this offer valid for 120 (one hundred and twenty) days from the Bid Due Date specified in the RFP.
30. I/ We hereby submit the following Bid for undertaking the aforesaid Project in accordance with the Bidding Documents and the Concession Agreement:

I/We offer Revenue Share of% (..... percent) of Gross Revenue. The escalation of the same shall be as per the provisions of Clause 1.5.7 (a) i.e.

The Revenue Share shall be indicated in % (percentage) terms and shall be payable starting from SOD. The escalation schedule shall be as the table below:

Starting From	Lasting till	Revenue Share Applicable
SOD	Year 10 from SOD	% quoted by the Bidder
Year 11 from SOD	Year 20 from SOD	1.5 times the % quoted by the Bidder
Year 21 from SOD	End of Concession period	2.5 times the % quoted by the Bidder

Please Note:

1. For the definition of Gross Revenue, refer to the Draft Concession Agreement
2. The % (percentage) of Gross Revenue mentioned shall be greater than 0 i.e. a positive share of Gross Revenue and shall be rounded off to two decimals
3. SOD means School Operations Date. For the definition of SOD, refer to the Draft 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