

**SELECTION OF DEVELOPER
FOR
DEVELOPMENT OF WAYSIDE AMENITIES, TRIKUT, DEOGHAR UNDER
PPP FRAMEWORK ON RENOVATE, OPERATE, MAINTAIN AND
TRANSFER (ROMT) BASIS**

REQUEST FOR PROPOSAL

VOLUME I - INSTRUCTION TO BIDDERS

AUGUST, 2018



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DISCLAIMER

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

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

Information provided in this RFP to the Bidder(s) is on a wide range of matters, some of which depends upon interpretation of law. The information given is not an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Authority accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein. The Authority, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way in this Bidding Process. The Authority also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this RFP.

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

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

The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Proposal 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 Proposal. 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 Proposal, regardless of the conduct or outcome of the Bidding Process.

1. INTRODUCTION

1.1 Background

- 1.1.1 The Jharkhand Tourism Development Corporation Limited (the “**Authority**” or “**JTDC**”) is the nodal agency under the Department of Tourism, Government of Jharkhand with a mandate to develop tourism infrastructure in the state of Jharkhand. JTDC is operating various hotels and tourist complexes in the State of Jharkhand for providing accommodation to the tourists.

JTDC has developed Wayside Amenity at Trikut, near the Trikut Ropeway lower terminal (the “**Project Site**”). The Authority with a view to enhance the hospitality infrastructure, tourists’ experience and attract more footfalls into the region intends to entrust the management of the Project Site along with the property thereon to competent entity who would undertake the renovation, operation and maintenance of the property at the Project Site on Public Private Partnership (“**PPP**”) under Renovate, Operate, Maintain and Transfer (ROMT) basis for a period of 10 (ten) years (“**Project**”). A brief description of the property is specified in the Project Information Memorandum (PIM) provided as Volume III of this Bidding Document.

Note: Exact land area to be handed over to the Developer shall be finalised through a joint inspection by JTDC and Selected Bidder after issue of LOA.

- 1.1.2 The Authority intends to select a suitable entity through a competitive bidding process, who is required to incorporate a company under the Companies Act, 2013 [hereinafter referred to as “**Special Purpose Vehicle (SPV)** or “**Developer**”) to implement the Project prior to execution of the project development and management agreement (the “**Project Development and Management Agreement**” or “**PDMA**”) to be entered into between the Developer and the Authority in the format provided as Volume II of the Bidding Documents pursuant hereto.
- 1.1.3 The scope of work will include development, operation, maintenance of the Project and transfer the Project after the expiry of the Agreement Period. Developer has the right to demand, charge, collect and retain the user fee from users of the project facilities and transfer the project facilities to the Authority or its authorised representative upon expiry of the Agreement Period in accordance with the provisions of draft Project Development and Management Agreement.
- 1.1.4 The statements and explanations contained in this Request for Proposal are intended to provide a proper understanding to the Bidders about the subject matter of this RFP and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Developer set forth in the draft Project Development and Management Agreement or the Authority’s right to amend, alter, change, supplement or clarify the scope of work, the Project to be awarded pursuant to this RFP or the terms thereof or herein contained. Consequently, any omissions, conflicts or contradictions in the Bidding Documents including this Volume I - Instruction to Bidders are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by the Authority.
- 1.1.5 The Proposals would be evaluated on the basis of the evaluation criteria set out in this RFP document in order to identify the successful bidder for the Project (“**Successful Bidder**”).

1.1.6 The Bidder is required to pay a non-refundable amount of Rs. 5,600/- (Rupees Five Thousand and Six Hundred only) inclusive of GST¹ in the form of Demand Draft in favour of Jharkhand Tourism Development Corporation Limited, drawn on any Scheduled Bank in India, payable at Ranchi, Jharkhand towards the cost of the Bidding Document. The Bidder is required to submit the Demand Draft along with the Proposal in the manner set out in Clause 2.14.2 of this RFP document. The validity period of the demand draft shall not be less than 30 (thirty) days from the Proposal Due Date. The Proposal shall be summarily rejected if it is not accompanied by the cost of the Bidding Document.

1.2 Brief Description of Bidding Process

1.2.1 The Authority has adopted a single stage two envelop bidding process (the “**Bidding Process**”) for award of the Project in accordance with the terms of this RFP and invites proposals (Proposal) from eligible entities which expression shall, unless repugnant to the context include the members of the Consortium (“**Bidders**”), for the Project in accordance with the terms of this RFP.

1.2.2 The Bidders are requested to submit their Proposals in accordance with the RFP Document. The Proposal shall be valid for a period of not less than 180 (one hundred and eighty) days from the date specified in Clause 1.3 for submission of Proposals (the “**Proposal Due Date**”).

1.2.3 The Bidding Documents include the Request for Proposal comprising Instruction to Bidders (ITB), the draft Project Development and Management Agreement (PDMA) and the Project Information Memorandum (PIM) for the Project (collectively the “**Bidding Documents**”). The Bidding Documents and any addenda issued subsequent to this RFP, but before the Proposal Due Date, will be deemed to form part of the Bidding Documents.

1.2.4 The Bidders are required to deposit, along with its Proposal, a bid security of Rs. 1,00,000/- (Rupees One Lakhs only) (“**Bid Security**”) in the form of demand draft issued by a Scheduled Bank in India, drawn in favour of Jharkhand Tourism Development Corporation Limited, payable at Ranchi, Jharkhand. The validity period of the demand draft shall not be less than 30 (thirty) days from the Proposal Due Date. The Proposal shall be summarily rejected if it is not accompanied by the Bid Security.

1.2.5 Bidders are invited to examine the Project in detail, and to carry out, at their cost, such studies as may be required for submitting their Proposal for award of the Project. The Project Information Memorandum (PIM) comprising details of the project site and the existing facilities therein is provided as Volume III. PIM is being provided only as a preliminary reference document to the Bidders for information. Bidders are expected to carry out their own surveys, investigations and other detailed examination of the Project before submitting their Proposals. Nothing contained in the PIM shall be binding on the Authority nor confers

¹ The amount is inclusive of GST at the applicable rate, which is 12% at present. The amount will be revised if the GST rates are revised in the interim.

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.

- 1.2.6 Bidders would need to submit the following sets of documents as part of their Proposal:
- a. **Technical Proposal** (one original and two copies) comprising the documents specified in Clause 2.14.2; and
 - b. **Financial Proposal** in the format provided at **Appendix I**. The Financial Proposal shall clearly indicate the amount in both figures and words, in Indian Rupees.
- 1.2.7 Financial Proposal is invited for the Project on the basis of the annual fee ("**Annual Fee**") exclusive of GST to be offered by a Bidder for implementing the Project.

As part of the Financial Proposal, the Bidder is required to quote the Annual Fee offered by them to the Authority for the 1st anniversary of execution of the Project Development and Management Agreement ("**Annual Fee**") in the format provided at **Appendix I**. The Financial Proposal shall clearly indicate the amount in both figures and words, in Indian Rupees.

The Authority has fixed a minimum annual fee of Rs. 3,00,000/- (Rupees Three Lakhs only) to be quoted by the Bidder (the "**Minimum Annual Fee**") for the Project. The Bidder should quote the Annual Fee above the Minimum Annual Fee. Only the Financial Proposal(s) which are above the Minimum Annual Fee shall be considered for evaluation. The Authority shall reject all the Proposals being less than the Minimum Annual Fee.

The Annual Fee shall constitute the sole criteria for evaluation of Financial Proposals. Subject to the terms of this RFP, the Project will be awarded to the Bidder quoting the highest Annual Fee above the Minimum Annual Fee for undertaking the Project.

- i. The Annual Fee offered by the Successful Bidder shall be payable to the Authority from the 1st (first) anniversary of execution of the Project Development and Management Agreement i.e. for the 2nd year from the date of execution of Project Development and Management Agreement and shall be escalated by 5% (five percent) compounding annually throughout the Agreement Period as per the Project Development and Management Agreement.
- ii. The Developer should pay the Annual Fee to the Authority notwithstanding the fact that, the development of Project Facilities is not completed within the specified period or Developer does not start the commercial operation of the Project. In other words, the Developer shall not be entitled to seek any reduction of Annual Fee, claim, damages, compensation or any other consideration from the Authority on account of any reason.
- iii. The Annual Fee is exclusive of GST and GST shall be payable by the Developer at actual over and above the Annual Fee at the prevailing rates.
- iv. The Annual Fee shall be payable to the Authority, on or before 30 (thirty) days prior to the commencement of every year in advance in accordance with the terms of Project Development and Management Agreement. The first instalment of the Annual Fee shall be paid 30 (thirty) days prior to the commencement of the 2nd year from the date of execution of Project Development and Management Agreement.

In this RFP, the term “**Highest Bidder**” shall mean the Bidder who is offering the highest Annual Fee to the Authority above the Minimum Annual Fee.

- 1.2.8 Generally, the Highest Bidder shall be the Successful Bidder. The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in this RFP and as explained in Clause 3.4.4, be invited to match the Financial Proposal 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 Proposal of the highest Bidder, the Authority may, in its discretion, invite fresh Financial Proposals from all Bidders or annul the Bidding Process, as the case may be.
- 1.2.9 The details of the process to be followed in the Bidding Process and the terms thereof are spelt out in this RFP.

1.3 Schedule of Bidding Process

The Authority shall endeavour to adhere to the following schedule:

Particulars	Date
Pre-Proposal meeting	1530 hours on 10th August, 2018 JTDC, 5, Main Road, Ranchi - 834001
Last date for submission of Proposals (“ Proposal Due Date ”)	29th August, 2018 up to 1500 hours
Date and time of opening of Technical Proposal	On the Proposal Due Date at 1530 hours Venue: JTDC, 5, Main Road, Ranchi - 834001
Date and time of opening of Financial Proposals	Will be intimated to the Technically Qualified Bidders
Address for communication	The Managing Director Jharkhand Tourism Development Corporation Limited 5, Mahatma Gandhi Marg, Main Road, Ranchi - 834001 Phone No: +(91)-651- 2331828, 2331643, Email: jtdcltd@gmail.com
Validity of Proposals	180 days from the Proposal Due Date
Letter of Award (LOA)	Within 30 days from the date of declaration of the Successful Bidder
Signing of Agreement	Within 45 days from the date of award of LOA

2. INSTRUCTIONS TO BIDDERS

A. General

2.1 Eligible Bidders

2.1.1 For determining the eligibility of the Bidders, the following conditions are required to be satisfied (the “**Qualification Criteria**”):

- (a) The Bidder for participating in the Bidding Process may be a single business entity (the “**Single Business Entity**”) or a group of single business entities (the “**Consortium**”), coming together to implement the Project. The term Bidder used herein would apply to a single business entity or a Consortium.

For the purpose of this RFP document, Single Business Entities shall mean a company incorporated under the Companies Act, 1956/2013 or a partnership firm registered under the Indian Partnership Act, 1932 or a sole proprietorship firm registered under the Proprietorship Act, 1908 or any combination of the above 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 2.1.3.

Note:

If the Bidder is:

- i. A company, it should furnish copy of the certificate of incorporation and memorandum of association as a proof of identity.
- ii. A registered partnership firm, it should furnish a copy of the IT returns for the last three financial years preceding the Proposal Due Date, copy of the registration certificate under the registrar of firms and copy of the partnership deed executed between the partners as a proof of identity.
- iii. A sole proprietorship firm, it should furnish copy of either the Sales/GST or IT returns for the last three financial years preceding the Proposal Due Date as a proof of identity.

(b) The Bidder should demonstrate the following technical capacity (the “**Technical Capacity**”):

- i. The Bidder should be owning at least one hotel / resort of minimum 10 rooms for 3 years preceding the Proposal Due Date; or
- ii. The Bidder should be owning at least one restaurant / food court / banquet hall with minimum built-up area of 2500 sq. ft. for 3 years preceding the Proposal Due Date.

Note:

1. In case the Bidder is a Consortium, the Lead Member should meet the Technical Capacity criteria as specified above.
2. Technical Capacity of parent/subsidiary/associate company(ies) of the Bidder would not be considered for evaluation.

3. For the project submitted by the Bidder, the Bidder is required to submit the details as specified in Appendix C along with supporting documents as mentioned therein and Certificate from Statutory Auditor in the format provided at Appendix C1.
- (c) The Bidder should demonstrate the following financial capability (the “**Financial Capacity**”): The Bidder should have a minimum average annual turnover of Rs. 5,00,000/- (Rupees Five Lakh only) for the three financial years preceding the Proposal Due Date.

Note:

1. In case the Bidder is a Consortium, the Financial Capacity of the Lead Member as well as the Other Member shall be considered for the purpose of evaluation of Financial Capacity.
 2. The members of Consortium demonstrating the Financial Capacity shall subscribe to at least 26% (twenty-six percent) or more of the paid up and subscribed equity of the SPV.
 3. Financial Capacity of parent/subsidiary/associate company(ies) of the Bidder would not be considered for evaluation.
 4. For demonstrating the Financial Capacity, the Bidder is required to submit:
 - i. Audited annual financial statements of the Bidder for the three financial years immediately preceding the Proposal Due Date.

In case the annual accounts for the latest financial year are not audited and therefore the Bidder could not make it available, the Bidder shall give an undertaking to that effect and the statutory auditor shall certify the same. In such a case, the Bidder may provide the unaudited Annual Accounts (with Schedules) for the latest financial year. In this case, the Audited Annual Financial Statements for the three year preceding the latest financial year would have to be provided, failing which the Proposal will be rejected as non-responsive.
 - ii. Certificate from a Statutory Auditor in the format provided at Appendix D1.
- (d) The following category of entities will not be allowed to participate in the bidding process, either as a Single Business Entity or as part of a Consortium:
- i. Entities whose agreement has been terminated by Authority for Developer Event of Default for any other property / project in the last 5 (five) financial years preceding the Proposal Due Date;
 - ii. Entities who have any outstanding payment due to Authority with respect to any other property / project or agreement as on Proposal Due Date; and
 - iii. Entities who are in default with respect to any outstanding from any bank or financial institution and have received any notice from the bank for recovery of the same.

Proposal submitted by above entities would be rejected, and the Bid Security will be forfeited by the Authority. Entities submitting the Proposal would have to submit an undertaking regarding the above in the format provided in **Appendix K**, and Solvency Certificate in the format at **Appendix G**.

- (e) Entities who are currently operating and managing, or have been awarded a total of 4 (four) tourism properties belonging to Authority, either singly, or as part of a Consortium are not eligible to participate in this Bidding Process.

- 2.1.2 The Bidder should submit a Power of Attorney as per the format enclosed as **Appendix E**, authorising the signatory of the proposal to commit the Bidder. In case the Bidder is submitting its Proposal as a Consortium, the member thereof should submit the Power of Attorney in favour of the Lead Member as per the format enclosed as **Appendix F**. In case the sole proprietor / partner(s), as the case may be, is signing the Proposals, the Power of Attorney in the format at Appendix E is not required to be submitted. However, if the Proposals are signed by any other person other than the sole proprietor / partner(s), as the case may be, the Power of Attorney is required to be submitted in the format at **Appendix E**.
- 2.1.3 Proposals submitted by a Consortium should comply with the following additional requirements:
- (a) The Proposal should contain the information required from each of the consortium members;
 - (b) The Proposal should include a description of the roles and responsibilities each Consortium of the members;
 - (c) The number of members in a Consortium would be limited to 2 (two) members, one of whom shall be designated as a Lead Member (the “**Lead Member**”);
 - (d) A Bidder who has applied for a Project in its individual capacity or as part of a Consortium cannot participate as a member of any other Consortium applying for the Project;
 - (e) The members of the Consortium shall execute a Power of Attorney as per the format enclosed at **Appendix F**.
 - (f) The members of the Consortium shall enter into a Joint Bidding Agreement (“**Jt. Bidding Agreement**”) and submit the same with the Proposal. The Joint Bidding Agreement should, inter alia:
 - (i) Convey the intent to form an SPV with shareholding/ownership equity commitment(s) in accordance with this RFP which would enter into the Project Development and Management Agreement and subsequently carry out all the responsibilities in terms of the Project Development and Management Agreement.
 - (ii) Clearly outline the proposed roles and responsibilities of each member of the Consortium.
 - (iii) Commit the minimum equity stake to be held by each member as per the provisions of Clause 2.3 of the RFP document.
 - (iv) Include a statement to the effect that the members of the Consortium shall be jointly and severally liable for the implementation of the Project in accordance with the terms of the Agreement.
- Note: A copy of the Joint Bidding Agreement should be submitted along with the Proposal as per format provided in **Appendix H**. The Joint Bidding Agreement entered into between the members of the Consortium should be specific to Project and should fulfil the above requirements, failing which the Proposal shall be considered non-responsive.
- 2.1.4 A Bidder shall not have a conflict of interest (the “**Conflict of Interest**”) that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Authority shall forfeit and appropriate the Bid Security or Performance

Security, as the case may be, as mutually agreed genuine loss and damages likely to be suffered and incurred by the Authority and not by way of penalty for, inter alia, the time, cost and effort of the Authority, including consideration of such Bidder's Proposal submission, without prejudice to any other right or remedy that may be available to the Authority hereunder and/ Project Development and Management Agreement or otherwise. Without limiting the generality of the above, a Bidder shall be considered to have a Conflict of Interest that affects the Bidding Process, if:

- a. such Bidder, its Member (or any constituent thereof) and any other Bidder, its Member (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this qualification shall not apply in cases where the direct or indirect shareholding in a Bidder, its Members or a constituent thereof in the other Bidder(s) (or any of its constituents) is less than 26% of its paid up and subscribed capital; or
- b. a constituent of such Bidder is also a constituent of another Bidder; or
- c. such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or
- d. such Bidder has a relationship with another Bidder, directly or through common third parties, that puts them in a position to have access to each other's information about, or to influence the Bid of either or each of the other Bidder; or
- e. such Bidder has participated as a consultant to the Authority in the preparation of any documents, design or technical specifications of the Project.

2.1.5 Any entity, which has earlier been barred by the Authority or Government of Jharkhand from participating in its projects, would not be eligible to submit a Proposal, either individually or as member of a Consortium if such bar subsists as on the Proposal Due Date.

2.1.6 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 to Appendices 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 or Member named in the Bid and not, unless specifically requested, to other associated companies;
- c. Bidders should demonstrate their Qualification Criteria in accordance with Clause 2.1.1; and
- d. In case the Bidder is a Consortium, each Member should substantially satisfy the qualification requirements to the extent specified herein.

2.2 Change in Control

2.2.1 Change in the composition of a Consortium will not be permitted by the Authority.

2.2.2 By submitting the Proposal, the Bidder shall also be deemed to have acknowledged and agreed that in the event of a change in Control of a Consortium Member whose Technical Capacity and/or Financial Capacity was taken into consideration for the purposes of qualification under and in accordance with the RFP, the Bidder shall inform the Authority forthwith along with all

relevant particulars about the same and if such a change is in conflict with any provisions of this RFP, the Authority shall disqualify the Bidder or withdraw the LOA from the Successful Bidder, as the case may be. In the event such change in Control occurs after signing of the Project Development and Management Agreement, it would, notwithstanding anything to the contrary contained in the Project Development and Management Agreement, be deemed to be a breach thereof, and the Project Development and Management Agreement shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Developer. In such an event, notwithstanding anything to the contrary contained in the Project Development and Management Agreement, the Authority shall forfeit and appropriate the Bid Security or Performance Security as the case may be, as mutually agreed genuine compensation and damages payable to the Authority for, inter alia, time, cost and effort of the Authority, without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise.

For the purpose of this RFP, "Control" shall have the meaning ascribed to it under the Companies Act, 2013.

2.3 Formation of SPV and Shareholding Commitments

2.3.1 For implementation of the Project, the Successful Bidder shall be required to form a SPV under the Companies Act, 2013 in accordance with this Clause. The Authority will enter into the Project Development and Management Agreement with the SPV.

2.3.2 Shareholding Commitment

- (i) In case the Successful Bidder is a Consortium, the Lead Member shall subscribe to at least 51% (fifty-one per cent) of the paid up and subscribed equity of the SPV, the Other Members whose Financial Capacity is considered for the purpose of evaluation of the bid shall subscribe to at least 26% (twenty six per cent) of the paid up and subscribed equity of the SPV and members of the Consortium shall collectively hold 100% (one hundred per cent) of the subscribed and paid up equity of the SPV throughout the Agreement Period.
- (ii) In case the Successful Bidder is a Single Business Entity, it shall hold 100% (one hundred percent) of subscribed and paid up equity share capital of the SPV throughout the Agreement Period.

2.3.3 The aforesaid obligation shall be the minimum, and shall be in addition to such other obligations as may be contained in the Project Development and Management Agreement, and a breach hereof shall, notwithstanding anything to the contrary contained in the Project Development and Management Agreement, be deemed to be a breach of the Project Development and Management Agreement and dealt with as such thereunder.

2.4 Number of Proposals

Each Bidder shall submit only one (1) Proposal, in response to this RFP. Any Bidder, who submits more than one Proposal, will be disqualified and will also cause the disqualification of the Consortium of which it is a member.

2.5 Proposal Preparation Cost

The Bidder shall be responsible and shall pay for all of the costs associated with the preparation of its Proposal and its 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 Project Inspections and Visit to the Site

- 2.6.1 It is desirable that each Bidder submits its Proposal after visiting the site at their own cost and ascertaining for itself the location, surroundings, or any other matter considered relevant by it.
- 2.6.2 It would be deemed that by submitting the Proposal for RFP, the Bidder has:
- a. made a complete and careful examination of terms & conditions / requirements, and other information set forth in this RFP document;
 - b. received all such relevant information as it has requested from the Authority; and
 - c. made a complete and careful examination of the various aspects of the Project including but not limited to:
 - i. the site details (Project Site);
 - ii. the conditions of the access roads and utilities in the vicinity of the Project Site;
 - iii. conditions affecting transportation, access, disposal, handling and storage of materials;
 - iv. clearances obtained by the Authority for the Project;
 - v. business potential of proposed project;
 - vi. extent of land in actual possession of the Authority and deviations if any, irrespective of the extent of deviation, from the extent of land details mentioned in this RFP document; and
 - vii. All other matters that might affect the Bidder's performance under the terms of this RFP document.
- 2.6.3 The Authority shall not be liable for any mistake or error on the part of the Bidder in respect of the above.

2.7 Right to Accept or Reject any of the Proposals

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

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

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

2.7.3 In case it is found during the evaluation or at any time before signing of the Draft PDMA or after its execution and during the period of subsistence thereof, including the right thereby granted by the Authority, that one or more of the qualification conditions have not been met by the Bidder or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Successful Bidder either by issue of the LOA or execution of the PDMA, and if the Bidder has already been issued the LOA or has entered into the PDMA, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority to the Bidder, without the Authority being liable in any manner whatsoever to the Bidder or Successful Bidder, as the case may be. In such an event, the Authority shall forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine compensation and damages payable to the Authority for, inter alia, time, cost and effort of the Authority, without prejudice to any other right or remedy that may be available to the Authority.

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

2.8 Clarification and Amendment of RFP

2.8.1 Interested Bidder requiring any clarification on the RFP document may notify to the Authority to the address specified in Clause 1.3 before the last date of receiving queries mentioned in Clause 1.3, in writing or by e-mail to the address given in Clause 2.14.4. The envelopes / communication shall clearly bear the following identification / title:

Queries / Request for Additional Information: RFP for "Selection of Developer for Development of <Property Name> on Renovate, Operate, Maintain and Transfer (ROMT) Basis"

2.8.2 At any time prior to the Proposal 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 Document by the issuance of Addenda. Any Addendum or responses issued hereunder will be uploaded on the Authority website viz. www.jharkhandtourism.gov.in/tender.

2.8.3 In order to provide the Bidders a reasonable time to examine the Addendum, or for any other reason, the Authority may, at its own discretion, extend the Proposal Due Date. Information

about extension of the Proposal Due Date will be published on Authority website www.jharkhandtenders.gov.in/tender.

C. Preparation and Submission of Proposal

2.9 Language

2.9.1 The Proposal and all related correspondence and documents should be written in the English language. Supporting documents and printed literature furnished by Bidder with the Proposal may be in any other language provided that they are accompanied by appropriate translations in English language duly certified by a competent person (Statutory Auditor, Company Secretary, Director of the Company). Supporting materials, which are not translated into English, will not be considered. For the purpose of interpretation and evaluation of the Proposal, the English language translation shall prevail.

2.10 Bid Security

2.10.1 The Bidder should submit as part of its Proposal a Bid Security in the manner set out in Clause 1.2.4.

2.10.2 The Authority shall not be liable to pay any interest on the Bid Security and the same shall be interest free. The validity period of the Demand Draft shall not be less than 30 (thirty) days from the Proposal Due Date.

2.10.3 The Bid Security of the unsuccessful Bidder(s) shall be returned not later than 60 (sixty) days from the date of announcement of the Successful Bidder. The return of Bid Security shall be in the form of 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 Proposal.

2.10.4 The Bid Security shall be forfeited in the following cases:

- a. If the Bidder modifies or withdraws its Proposal except as provided in Clause 2.17.
- b. If the Bidder withdraws its Proposal during the interval between the Proposal Due Date and expiration of the Proposal Validity Period.
- c. If any information or document furnished by the Bidder turns out to be misleading or untrue in any material respect.
- d. If a Bidder engages in a corrupt or undesirable practices.
- e. If the Annual Fee quoted by Bidder is below the Minimum Annual Fee fixed by the Authority.
- f. In the case the Successful Bidder, fails within the specified time limit to:
 - i. sign and return the duplicate copy of LoA;
 - ii. sign the PDMA with the Authority; or
 - iii. furnish the Performance Security within the prescribed period.

2.11 Validity of Proposal

Proposal shall remain valid for a period not less than 180 (one hundred and eighty) days from the Proposal Due Date ("**Proposal Validity Period**"). The Authority reserves the right to reject any Proposal, which does not meet this requirement.

2.12 Extension of Validity of Proposal

2.12.1 In exceptional circumstances, prior to expiry of the original Proposal Validity Period, the Authority may request Bidders to extend the Proposal Validity Period for a specified additional period.

2.12.2 A Bidder may refuse the request without forfeiting its Bid Security. A Bidder agreeing to the request will not be allowed to modify its Proposal, except as provided under Clause 2.17 but would be required to extend the validity of its Bid Security for the period of extension.

2.12.3 The Successful Bidder shall, where required, extend the Proposal Validity Period till the date of execution of the PDMA.

2.13 Format and Signing of Proposal

2.13.1 Bidders should submit the Technical Proposal and the Financial Proposal in the manner set out in this Clause 2.13 and Clause 2.14. The Authority would evaluate only those Proposals that are received in the required format and complete in all respects. Incomplete and / or conditional Proposals shall be liable to rejection.

2.13.2 Bidders shall prepare one original set of the Technical Proposal (together with originals / copies of documents required to be submitted along therewith pursuant to this RFP) and clearly mark as "**TECHNICAL PROPOSAL - ORIGINAL**". In addition, the Bidder shall submit a copy of the Technical Proposal, along with Documents required to be submitted along therewith pursuant to this RFP, mark as "**TECHNICAL PROPOSAL - COPY**". In the event of any discrepancy between the original and the copy, the original shall prevail.

2.13.3 The Proposals shall be typed or written in indelible ink and signed by the Authorized Representative (the "**Authorized Representative**") of the Bidder who shall also initial each page, in blue ink. In case of printed and published Documents, only the cover shall be initialed. The person signing the Proposal shall initial all the alterations, omissions, additions, or any other amendments made to the Proposal. The Proposals must be properly signed by the Authorized Representative as detailed below:

- (a) by a duly authorized person holding the Power of Attorney, in case of a Company; or
- (b) by the partner or a duly authorized person holding the Power of Attorney, in case of a partnership firm.
- (c) by the proprietor or a duly authorized person holding the Power of Attorney, in case of a sole proprietary firm.

- 2.13.4 A Power of Attorney in the format specified in **Appendix E** should be included the Proposal. However, the Power of Attorney is not required to be submitted, if the Proposal is signed by a partner in case of a partnership firm, and the proprietor in case of a sole proprietorship firm.

2.14 Sealing and Marking of Proposals

- 2.14.1 The Bidder shall submit all the documents sought under the RFP, together with the documents mentioned in Clause 2.14.2 in the format provided under the RFP and in the manner specified in Clause 2.14.2.

- 2.14.2 The Bidder shall submit the Proposal in two separate envelopes comprising the following documents and marked as “**TECHNICAL PROPOSAL**” and “**FINANCIAL PROPOSAL**”

Envelope 1 - “TECHNICAL PROPOSAL” comprising the following documents (one original and one copy) as part of their Proposal

- a. Demand Draft towards the cost of the Bidding Document; and
- b. Bid Security in the form of demand draft issued by a Scheduled Bank in India, drawn in favour of Jharkhand Tourism Development Corporation Limited and payable at Ranchi, Jharkhand for an amount specified in Clause 1.2.4 of this RFP.
- c. Covering Letter-cum-Project Undertaking, clearly stating the validity of the Proposal as per format at **Appendix A**;
- d. Details of Bidder as per the format at **Appendix B** along with supporting documents as specified therein, in case of Consortium, Details of Bidder for both members of Consortium is to be provided;
- e. Technical Capacity of the Bidder / Lead Member as per the format at **Appendix C** and supporting documents as specified therein;
- f. Statutory Auditor certificate regarding Technical Capacity as per the format at **Appendix C1**;
- g. Financial Capability of the Bidder as per the format at **Appendix D** and supporting documents as specified therein;
- h. Statutory Auditor certificate regarding Financial Capacity as per the format at **Appendix D1**, in case of Consortium, Financial Capacity for both members of Consortium certified by their respective Statutory Auditor(s) is to be provided;
- i. Power of Attorney for signing of Proposal as per the format at **Appendix E**, in case of Consortium, Power of Attorney for both members of Consortium is to be provided;
- j. Affidavit in the format provided at **Appendix K**, in case of Consortium, Affidavit from both members of Consortium is to be provided;
- k. Solvency Certificate in the format provided at **Appendix G**, in case of Consortium, Solvency Certificate for both members of Consortium is to be provided;
- l. In case of a company, it should furnish copy of the certificate of incorporation and memorandum of association as a proof of identity.
- m. In case of a registered partnership firm, it should furnish a copy of the IT returns for the last three financial years preceding the Proposal Due Date copy of the registration certificate under the registrar of firms and a copy of the partnership deed executed between the partners as a proof of identity.

- n. In case of a sole proprietorship firm, it should furnish scanned copy of either the Sales/GST or IT returns for the last three financial years preceding the Proposal Due Date as a proof of identity.
- o. A copy of the entire bidding document (along with the addendum, if any) duly signed on each page by the authorised signatory of the Bidder. The Bidding Document shall also have Bidders stamp on each page along with signature of the authorised representative of the Bidder.
- p. Power of Attorney for Lead Member of Consortium, if required, as per the format at Appendix F;
- q. Jt. Bidding Agreement, in case of a Consortium, substantially in the format at **Appendix H;**

Envelope 2 - "FINANCIAL PROPOSAL"

The Financial Proposal consisting of the Bidder's financial offer above the Minimum Annual Fee fixed by the Authority for the Project shall be submitted in the prescribed format **Appendix I** on the letterhead of the Bidder and signed by the Authorised Representative.

- 2.14.3 The envelopes specified above shall be placed in an outer envelope, which shall be sealed and clearly bear the following identification:

"Proposal for Selection of Developer for <Property Name>"

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

- 2.14.4 The envelopes shall be addressed to:

ADDRESS: Jharkhand Tourism Development Corporation Limited
5, Mahatma Gandhi Marg, Main Road, Ranchi - 834001
Phone No: + (91)-651-2331828, 2331643,
Email: jtdcltd@gmail.com

- 2.14.5 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 Proposal submitted and consequent losses, if any, suffered by the Bidder.

- 2.14.6 Proposals submitted by fax, telex, telegram or e-mail shall not be entertained and shall be rejected.

2.15 Proposal Due Date

- 2.15.1 The Bidder should submit the Proposal before Proposal Due Date, at the address provided in Clause 2.14.4 in the manner and form as detailed in this RFP. Proposals submitted by either facsimile transmission or telex will not be acceptable.

- 2.15.2 The Authority may at its sole discretion, extend the Proposal Due Date by issuing an Addendum in accordance with Clause 2.8 uniformly for all Bidders.

2.16 Late Proposals

Any Proposal received by the Authority after Proposal Due Date shall not be eligible for consideration and shall be summarily rejected.

2.17 Modifications / Substitution / Withdrawal of Proposals

2.17.1 Bidder may modify, substitute or withdraw its Proposal prior to the Proposal Due Date by written notice of the modification, substitution or withdrawal to the Authority. No Proposal shall be modified, substituted or withdrawn by the Bidder after the Proposal Due Date.

2.17.2 The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.14, with the envelopes being additionally marked "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL", as appropriate.

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

2.18 Pre-Proposal Meeting

2.18.1 To clarify and discuss issues with respect to the Project and the RFP, the Authority may hold Pre-Proposal meeting(s).

2.18.2 Prior to the Pre-Proposal meeting(s), the Bidders may submit a list of queries, if any. The Authority may, in its sole discretion or based on inputs provided by Bidders that it considers acceptable, amend the RFP.

2.18.3 The Authority will endeavour to hold the Pre-Proposal meeting(s) as specified in Clause 1.3.

2.18.4 Attendance of the Bidders at the Pre-Proposal meeting is not mandatory. However, subsequent to the meeting(s), the Authority may not respond to queries from any Bidder.

2.18.5 All correspondence / enquiries should be submitted to the address provided in Clause 1.3, in writing by registered post / courier or email.

2.18.6 No interpretation, revision, or other communication from the Authority regarding this solicitation is valid unless it is in writing and is signed by the Authority. The Authority will upload its responses in www.jharkhandtourism.gov.in including a description of the enquiry without identifying its source

2.19 Confidentiality

Information relating to the examination, clarification, evaluation, and recommendation for the Bidders shall not be disclosed to any person not officially concerned with the process. The Authority will treat all information submitted as part of Proposal in confidence and would

require all those who have access to such material to treat the same in confidence. The Authority will not divulge any such information unless it is ordered to do so by any authority pursuant to applicable law or order of a competent court or tribunal, which requires its disclosure.

2.20 Clarifications

To assist in the process of evaluation of Proposals, the Authority may, at its sole discretion, ask any Bidder for clarification on its Proposal or substantiation of any of the submissions made by the Bidder. The request for such clarification or substantiation and the response shall be in writing or by facsimile. No material change in the substance of the Proposal would be permitted by way of such clarification / substantiation.

2.21 Consultant(s) or Advisor(s)

To assist the Authority to carry out the Bidding Process, the Authority may appoint a consultants or advisors to act as the project advisors to undertake the project development activities inter-alia including preparation of Bidding Documents and selection of the Successful Bidder in terms thereof.

3. EVALUATION PROCESS

3.1 Evaluation Process

Proposals submitted shall be evaluated in the following 3 (three) steps.

- a. **Step 1** - The first step would involve opening of Technical Proposal and a test of responsiveness would be carried out as set out in Clause 3.2.1 of the RFP. Those Proposals found to be substantially responsive would be considered for the next step of evaluation.
- b. **Step 2** - In the second step, evaluation of the Bidders experience comprising Technical Capacity and Financial Capacity ("**Qualification Criteria**") would be undertaken as per Clause 2.1.1 of the RFP document. Bidders who meet the qualification criteria would be considered as qualified bidders (the "**Qualified Bidders**") and shall be considered for the next step of evaluation.
- c. **Step 3** - In the third step, the Financial Proposals of all the Qualified Bidders would be considered for opening. Bidder quoting the Highest Annual Fee calculated in the manner set out in Clause 3.4 shall be declared as the Successful Bidder.

3.2 Tests of Responsiveness

- 3.2.1 Prior to evaluation of Proposals, the Authority will determine whether each Proposal is responsive to the requirements of the RFP. A Proposal shall be considered responsive if the Proposal:
 - a. is received before the Proposal Due Date including any extension thereof pursuant to Clause 2.15.2.
 - b. contains demand draft towards the cost of the Bidding Document.
 - c. contains the information, Bid Security and documents as requested in the RFP.
 - d. contains information in formats specified in the RFP.
 - e. mentions the validity period as set out in Clause 2.11.
 - f. it is accompanied by the Jt. Bidding Agreement (for Consortium), if required, specific to the Project, as stipulated in Clause 2.1.3 (f).
 - g. it provides the information in reasonable detail. ("**Reasonable Detail**" means that, but for minor deviations, the information can be reviewed and evaluated by the Authority without communication with the Bidder). The Authority reserves the right to determine whether the information has been provided in reasonable detail.
 - h. there are no inconsistencies between the Proposal and the supporting documents.
- 3.2.2 A Proposal that is substantially responsive is one that conforms to the preceding requirements without material deviation or reservation. A material deviation or reservation is one which,
 - a. affects in any substantial way, the scope, quality, or performance of the Project, or
 - b. limits in any substantial way, inconsistent with the RFP document, the Authority's rights or the Bidder's obligations under the PDMA, or
 - c. unfairly affects the competitive position of other Bidders presenting substantially responsive Proposals.
- 3.2.3 Bidders may note that the Authority will not entertain any deviations to the RFP at the time of submission of the Proposal or thereafter. The Proposal to be submitted by the Bidders would have to be unconditional and unqualified and the Bidders would be deemed to have

accepted the terms and conditions of the RFP with all its contents including the Draft PDMA. Any conditional Proposal shall be regarded as non-responsive and would be liable for rejection.

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

3.3 Evaluation of Qualification Criteria

- 3.3.1 The Proposals of the Bidders which are found to be responsive as above shall be evaluated to ensure that the Proposals meets the Qualification Criteria specified in Clause 2.1.1.
- 3.3.2 Bidders are advised that selection of Bidders will be entirely at the discretion of the Authority. Bidders will be deemed to have understood and agreed that no explanation or justification on any aspect of the Bidding Process or selection will be given.
- 3.3.3 Any information contained in the Proposal shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Bidder if the Project is subsequently awarded to it.
- 3.3.4 The Proposals of the Bidders which are found to be in conformance with the Qualification Criteria as specified at Clause 2.1.1 shall be declared as qualified bidders ("**Qualified Bidders**") and shall be considered for opening of the Financial Proposal. Proposals of single business entity or consortium who do not meet these criteria shall be rejected.
- 3.3.5 The Financial Proposals of only the Qualified Bidders shall be considered for further evaluation.

3.4 Evaluation of Financial Proposal

- 3.4.1 The Financial Proposals of only the Qualified Bidders would be opened in the presence of the Bidders(s) representatives who choose to attend on the date and time as may be intimated to the Qualified Bidders. The Financial Proposal shall consist of Annual Fee per annum for the first year payable by the Successful Bidder to the Authority for undertaking the Project.
- 3.4.2 The Authority will determine whether the Financial Proposals are complete, unqualified and unconditional. The Annual Fee shall be the sole parameter for selection of the Bidder for award of the Project. The Bidder quoting the highest Annual Fee above the Minimum Annual Fee would be declared as the Successful Bidder ("**Successful Bidder**").
- 3.4.3 In the event that two or more Bidders quote the same amount of Financial Proposal (the "**Tie Bidders**"), the Authority shall identify the Successful Bidder by draw of lots, which shall be conducted, with prior notice, in the presence of the Tie Bidders who choose to attend.
- 3.4.4 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 to match the Annual Fee of the aforesaid Highest Bidder (the “**second round of bidding**”). If in the second round of bidding, only one Bidder matches the Highest Bidder, it shall be the Successful Bidder. If two or more Bidders match the said Highest Bidder in the second round of bidding, then the Bidder whose quoted Annual Fee was higher as compared to other Bidder(s) in the first round of bidding shall be the Successful Bidder.

- 3.4.5 In the event that no Bidder offers to match the Highest Bidder in the second round of bidding, the Authority may, in its discretion, invite fresh Financial Proposals (the “**third round of bidding**”) from all Bidders except Highest Bidder of the first round of bidding, or annul the Bidding Process, as the case may be. In case the Bidders are invited in the third round of bidding to revalidate or extend their Bid Security, as necessary, and offer fresh Financial Proposals, they shall be eligible for submission of fresh Financial Proposals provided, however, that in such third round of bidding only such Financial Proposals shall be eligible for consideration which are higher than the Financial Proposal of the second Highest Bidder in the first round of bidding.

3.5 Letter of Acceptance (LOA) and Execution of PDMA

- 3.5.1 After selection, a Letter of Award (the “LOA”) shall be issued, in duplicate, by the Authority to the Successful Bidder and the Successful Bidder/Lead Member shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Successful Bidder is not received by the stipulated date, the Authority may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as mutually agreed genuine loss and damage suffered by the Authority on account of failure of the Successful Bidder to acknowledge the LOA.
- 3.5.2 After acknowledgement of the LOA as aforesaid by the Successful Bidder, the SPV constituted by the Successful Bidder, shall execute the PDMA within the period of 45 (forty-five) days from the issue of LOA. The Successful Bidder shall not be entitled to seek any deviation in the PDMA.

3.6 Performance Security

- 3.6.1 The Successful Bidder/Developer shall, within the date specified in the LoA, submit a demand draft from a scheduled bank of an amount equal to the Annual Fee payable for the 2nd Anniversary of the Agreement to the Authority towards performance security (the “**Performance Security**”) in favour of “Jharkhand Tourism Development Corporation Limited”, payable at Ranchi, Jharkhand. The Authority shall not be liable to pay any interest on the Performance Security and the same shall be interest free.
- 3.6.2 Failure of the Successful Bidder to furnish the Performance Security as specified in Clause 3.6.1 or enter into a PDMA with the Authority as specified in Clause 3.5.2 would constitute sufficient grounds for the annulment of LOA. In such event, the Authority reserves the right to:
- forfeit the Bid Security amount of the Successful Bidder, and
 - either invite the Bidder with the next best offer for negotiations, or

- c. take any such measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Bidding Process.
- 3.6.3 The Authority will promptly notify other Bidders that their Proposals have been unsuccessful and their Bid Security will be returned as promptly as possible as and in any case not later than 60 (sixty) days from the date of announcement of the Successful Bidder.

3.7 Success Fee

The Successful Bidder shall within the date specified in the LOA, pay an amount of Rs. 2,98,540 (Rupees Two Lakh Ninety-Eight Thousand Five Hundred and Forty only) inclusive of GST² to the Authority towards Success Fee in the form of a demand draft from a scheduled bank drawn in favour of “Jharkhand Tourism Development Corporation Limited”, payable at Ranchi, Jharkhand. The Success Fee submitted by the Successful Bidder shall be non-refundable in nature.

3.8 Project Development Expenses

The Successful Bidder shall, within the date specified in the LOA, pay an amount Rs. 2,98,540 (Rupees Two Lakh Ninety-Eight Thousand Five Hundred and Forty only)³ inclusive of GST⁴ to the Authority towards Project Development Expenses viz., professional fee paid to the consultant, advertisement cost, cost of conducting the pre-bid meeting, if any etc. in the form of a demand draft from a scheduled bank drawn in favour of “Jharkhand Tourism Development Corporation Limited”, payable at Ranchi, Jharkhand. The Project Development Expenses submitted by the Successful Bidder shall be non-refundable in nature.

3.9 Contacts during Proposal Evaluation

Proposals 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 Proposals are under consideration, Bidders and/or their representatives or other interested parties shall not make attempts to establish unsolicited and unauthorised contact by any means, the Authority and/or their employees/representatives on matters related to the Proposals under consideration after opening of the Proposals and prior to notification of the Award. Any attempt by the Bidder causing extraneous pressure on the Authority shall be sufficient reason to disqualify the Bidder.

² The amount is inclusive of GST at the applicable rate, which is 18% at present. The amount will be revised at the time of issuance of LoA if the GST rates are revised in the interim.

³ The amount specified here is indicative, and the actual amount will be specified in the LoA.

⁴ The amount is inclusive of GST at the applicable rate, which is 18% at present. The amount will be revised at the time of issuance of LoA if the GST rates are revised in the interim.

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. Notwithstanding anything to the contrary contained herein, the Authority may reject a Proposal without being liable in any manner whatsoever to the Bidder if it determines that the Bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process.
- 4.2. Without prejudice to the rights of the Authority under Clause 4.1, if a Bidder is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, such Bidder shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from the date such Bidder is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.
- 4.3. For the purposes of this Article 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 PDMA or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as permitted under Clause 2.1.4, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the PDMA, as the case may be, any person in respect of any matter relating to the Project or the LOA or the PDMA, 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. MISCELLANEOUS

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

APPENDICES

APPENDIX A: FORMAT FOR COVERING LETTER-CUM PROJECT UNDERTAKING

(To be submitted on the Letterhead of the Bidder / Lead Member)

To

Managing Director
Jharkhand Tourism Development Corporation Limited
5, Mahatma Gandhi Marg, Main Road, Ranchi - 834001

Dear Sir:

Sub: Selection of Developer for _____ <Property Name>

With reference to your RFP document dated _____ <NIT Publication Date>, I/We having examined the Bidding Documents and understood their contents, hereby submit my/our Proposal for the Project. The Proposal is unconditional and unqualified.

- 1 I acknowledge that the Authority will be relying on the information provided in the Proposal and the documents accompanying the Proposal for selection of the Developer 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 Proposal are true copies of their respective originals.
- 2 This statement is made for the express purpose of our selection as Developer for the renovation, operation, maintenance, management and transfer of the aforesaid Project.
- 3 I shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Proposal.
- 4 I acknowledge the right of the Authority to reject our Proposal without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
- 5 I certify that in the last three years, we/ any of the Consortium Members have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have any contract terminated by any public authority for breach on our part.
- 6 I declare that:
 - a. I have examined and have no reservations to the Bidding Documents, including any Addendum issued by the Authority;
 - b. I have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of the RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any government, Central or State;
 - c. I hereby certify that we have taken steps to ensure that in conformity with the provisions of Article 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
 - d. the undertakings given by us along with the Proposal in response to the RFP for the Project were true and correct as on the date of making the Proposal and are also true and correct as on the Proposal Due Date and I/we shall continue to abide by them.

- 7 I understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Proposal that you may receive nor to invite the Bidders to Proposal for the Project, without incurring any liability to the Bidders, in accordance with Clause 2.5 of the RFP.
- 8 I believe that we satisfy the Qualification Criteria (Technical Capacity and Financial Capacity) and meet(s) the requirements as specified in Clause 2.1.1 of the RFP.
- 9 I/ We declare that we/ any Member of the Consortium are not a Member of a/ any other Consortium submitting a Proposal for the Project.
- 10 I/ We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Consortium have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
- 11 I/ We further certify that in regard to matters relating to security and integrity of the country, we/ any Member of the Consortium have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
- 12 I/We further certify that no investigation by a regulatory authority is pending either against us or against our CEO or any of our directors/managers/ employees.
- 13 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.
- 14 In the event of us being declared as the Successful Bidder, I/We shall incorporate SPV and agree to enter into a Project Development and Management Agreement in accordance with the draft that has been provided to me/us prior to the Proposal Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same. We agree to comply with the shareholding obligations as specified in Clause 2.3 of the RFP document.
- 15 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 PDMA, 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 Right.
- 16 I/We offer a Bid Security in the form of a Demand Draft in accordance with the RFP.
- 17 The documents comprising the Proposal, as specified in Clause 2.14 of the RFP, have been submitted in the manner set out in the RFP.
- 18 I/We agree and understand that the Proposal is subject to the provisions of the Bidding Documents. In no case, I shall have any claim or right of whatsoever nature if the Project/Right is not awarded to me or our Proposal is not opened or rejected.
- 19 Financial Proposal is submitted by me after taking into consideration all the terms and conditions stated in the RFP; draft PDMA, our own estimates of costs and revenues and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the Project.
- 20 I/We agree and undertake to abide by all the terms and conditions of the RFP.
- 21 I/We shall keep this offer valid for 180 (one hundred and eighty) days from the Proposal Due Date specified in the RFP.
- 22 I/We agree to pay a non-refundable amount to the Authority towards Success Fee as specified in Clause 3.7 of the RFP Document if I/We are declared as Successful Bidder for the Project.

23 I/We agree to pay a non-refundable amount to the Authority towards the Project Development Expenses as specified in Clause 3.8 of the RFP Document if I/We are declared as Successful Bidder.

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

.....
Signature of the Authorised Person

.....
Name of the Authorised Person

Date

APPENDIX B: FORMAT FOR DETAILS OF BIDDER

(To be submitted on the Letterhead of the Bidder / Lead Member for all members of Consortium)

1. (a) Name of the Company or Firm
 (b) Address
 (c) Date of incorporation and/or commencement of business.

2. Brief description of the Bidder including details of its main lines of business and proposed role and responsibilities in this Project.

3. Name, Designation, Address and Phone Numbers of Authorised Signatory of the Bidder:
 - (a) Name :
 - (b) Designation :
 - (c) Company :
 - (d) Address :
 - (e) Mobile Number :
 - (f) E-Mail Address :

4. In case of a Consortium:

No	Role (Lead Member / Other Member)	Percentage of equity in the Consortium {Refer Clause 2.3}
1.		

5. A statement by the Applicant and each of the Members of its Consortium (where applicable) disclosing material non-performance or contractual non-compliance in past projects, contractual disputes and litigation/ arbitration in the recent past.

No.	Criteria	Yes	No
1.	Has the Applicant / 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 Application?		
3.	Has the Applicant / constituent of the Consortium paid liquidated damages of more than 5% (five per cent) 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?		

APPENDIX C: FORMAT FOR TECHNICAL CAPACITY OF THE BIDDER*(To be submitted on the Letterhead of the Bidder / Lead Member)**(Refer Clause 2.1.1 (b) of the RFP)***I. For claiming experience of owning a hotel / resort / restaurant / food court / banquet hall**

Item	Particulars
Type of the Property (Hotel / Resort / Restaurant / Food Court / Banquet Hall)	
Name of the Property	
Location of the Property	
Number of rooms in the Property	
Area of the Restaurant in the Property	
Period during which the Property is owned by the Bidder	

Instructions:

1. The Hotel / Resort / Restaurant / Food Court / Banquet Hall cited must comply with the eligibility criteria specified in Clause 2.1.1.
2. The Bidder should furnish following documents:
 - (i) A copy of trade license from concerned local body, Municipality, Corporation, etc.
 - (ii) Copy of PAN, GST Registration Certificate
 - (iii) Certificate from a Statutory Auditor in the format provided in Appendix C1.

Note:

- It may be noted that in the absence of any detail from the certificates, the information would be considered inadequate and could lead to exclusion of the relevant project in evaluation of experience criteria.

APPENDIX C1: FORMAT FOR CERTIFICATE FOR TECHNICAL CAPACITY

(To be submitted on the Letterhead of the Statutory Auditor)

(Refer Clause 2.1.1 (b) of the RFP)

TO WHOMSOEVER IT MAY CONCERN

We have verified the relevant statutory and other records of M/s _____ ***[Name of the Bidder]***, and certify that M/s _____ ***[Name of the Bidder]*** is the owner of the _____ [name of the Hotel / Resort / Restaurant / Food Court / Banquet Hall] located at _____ and is owned for a period commencing from _____ to _____ years.

We further certify that the _____ [name of the Hotel / Resort / Restaurant / Food Court / Banquet Hall] has _____ number of rooms and / or area of _____ sq. ft.

This certificate is being issued to be produced before "Jharkhand Tourism Development Corporation Limited".

Seal and Signature of the Statutory Auditor
(including Membership No.)

Date: _____

Place: _____

Note:

- It may be noted that in the absence of any detail from the certificates, the information would be considered inadequate and could lead to exclusion of the relevant project in evaluation of experience criteria. The statutory auditor should clearly indicate the membership number assigned by the Institute of Chartered Accountants of India or equivalent organisation abroad.

APPENDIX D: FORMAT FOR FINANCIAL CAPACITY OF THE BIDDER

(Refer to Clause 2.1.1 (c) of the RFP)

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

(In Rs Lakhs)

Bidder Name	Bidder Type (Company / Partnership Firm / Sole Proprietorship Firm)	Annual Turnover			
		2017-18	2016-17	2015-16	Average

Name & address of Bidder's Bankers:

Instructions:

1. Annual Turnover = Annual Income as indicated in the annual financial statement
2. Year 1 will be the latest completed financial year, preceding the Proposal Due Date. Year 2 shall be the year immediately preceding Year 1 and so on. In case the Proposal Due Date falls within three months of the close of the latest financial year / audited annual financial statements for the financial year immediately preceding the Proposal Due Date are not available, it shall ignore such financial year for the purposes of its Proposal and furnish all its information and certification with reference to the preceding three financial years.
3. In the case of a Consortium, Jt. Bidding Agreement shall be submitted in accordance with Clause 2.1.3 (f) of the RFP document.
4. Along with the above format and information, the Bidders for demonstrating the Financial Capacity should furnish the following:
 - i. The Bidder/ its constituent Consortium Members shall attach copies of the balance sheets, financial statements and Annual Reports for 3 (three) years preceding the Proposal Due Date. The financial statements shall:
 - a. reflect the financial situation of the Bidder;
 - 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).
 - ii. Statutory Auditor's certificate specifying the annual turnover of the Bidder / both members of Consortium for the 3 (three) financial years preceding the Proposal Due Date in the format provided in Appendix D1.

APPENDIX D1: FORMAT FOR CERTIFICATE FOR FINANCIAL CAPACITY*(To be submitted on the letterhead of the Statutory Auditor)*

(Refer to Clause 2.1.1 (c) of the RFP)

Format for Certificate from Statutory Auditor for Financial Capacity

We have verified the relevant statutory and other records of M/s _____
 [Name of the Applicant], and certify that the Annual Turnover for the last three completed financial years is as follows:

(in Rs Lakhs)

Bidder Name	Bidder Type (Company / Partnership Firm / Sole Proprietorship Firm)	Annual Turnover			
		2017-18	2016-17	2015-16	Average

This certificate is being issued to be produced before Jharkhand Tourism Development Corporation Limited.

Date & Signature and Seal of the Statutory Auditor
 (clearly indicating membership number)

Date: _____

Place: _____

Note: The certificate shall be provided by the respective Statutory Auditor of the Applicant, in case of Consortium.

APPENDIX E: FORMAT FOR POWER OF ATTORNEY FOR SIGNING OF PROPOSAL*(To be submitted on Stamp paper of appropriate value)***POWER OF ATTORNEY**

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 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 "Proposal for Selection of Developer for _____ <Property Name>", proposed by the Jharkhand Tourism Development Corporation Limited (the "**Authority**") including but not limited to signing and submission of all applications, Proposals and other documents and writings, participate in Bidders' and other conferences and providing information/responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts including the Project Development and Management Agreement and undertakings consequent to acceptance of our Proposal, and generally dealing with the Authority in all matters in connection with or relating to or arising out of our Proposal for the said Project and/or upon award thereof to us and/or till the execution of the Project Development and Management Agreement with the Authority.

AND

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

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

For _____

(Signature)

(Name, Title and Address)

Witnesses:

Accepted

[Notarised]

(Signature)

(Name, Title and Address of the Attorney)

Notes:

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

APPENDIX F: FORMAT FOR POWER OF ATTORNEY FOR LEAD MEMBER OF CONSORTIUM*(To be submitted on a Stamp Paper of appropriate value)***Power of Attorney**

Whereas the ***** (the “**Authority**”) has invited Proposals from pre-qualified Bidders 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 Proposal and other connected documents in respect of the Project, and

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

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS

We, having our registered office at, 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 authorize the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the Project, during the execution of the Project, and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the submission of its bid for the Project, including but not limited to signing and submission of all applications, proposals and other documents and writings, accept the Letter of Award, participate in bidders’ and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the bid of the Consortium and generally to represent the Consortium in all its dealings with the Authority, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium’s bid for the Project and/ or upon award thereof till the PDMA 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)

(Executants)

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

Note:

1. *To be executed only in case of a Consortium*
2. *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.*
3. *Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a resolution/power of attorney in favour of the Person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
4. *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 G: SOLVENCY CERTIFICATE*(To be provided by the Bidder / Members of Consortium)***Format for Solvency Certificate***(To be issued on the Bank's Letterhead)*

We the _____ [Bank Name] do hereby certify that M/s. _____
[Name of the Single Business Entity/Consortium Member] having its Registered office at
_____ [Registered Office Address] is solvent to the extent of _____.

This certificate is being issued to be produced before Jharkhand Tourism Development Corporation Limited.

Date & Signature and Seal of the Bank Manager

APPENDIX H: JOINT BIDDING AGREEMENT
(To be executed on Stamp paper of appropriate value)

THIS JOINT BIDDING AGREEMENT is entered into on this the day of20...

AMONGST

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

AND

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

The above mentioned parties of the First, and Second Part are collectively referred to as the “Parties” and each is individually referred to as a “Party”

WHEREAS,

- A. Jharkhand Tourism Development Corporation Limited (**JTDC**), (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 Proposals (the **Proposals**”) by its Request for Proposal dated (the “**RFP**”) for Selection of Developer for Development of Selection of Developer _____ <Property Name> on Renovate, Operate, Maintain and Transfer (ROMT) Basis (the “**Project**”).
- B. The Parties are interested in jointly bidding for the Project as members of a Consortium and in accordance with the terms and conditions of the RFP document and other bid documents in respect of the Project, and
- C. It is a necessary condition under the RFP document that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Proposal.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretations

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

2. Consortium

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

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

3. Covenants

The Parties hereby undertake that in the event the Consortium is declared the Successful Bidder and awarded the Project, it shall enter into a Project Development and Management Agreement with the Authority and for performing all its obligations in terms of the Project Development and Management 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 expiry of as per the Project Development and Management Agreement; and
- b) Party of the Second Part shall be the 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 Project Development and Management 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:

- 6.2 The Parties agree that the member of the Consortium, whose experience was evaluated, shall subscribe to at least 26% (twenty-six per cent) or more of the paid up and subscribed equity of the SPV throughout the Agreement Period. The Lead Member shall hold not less than 51% (fifty-one percent) of the subscribed and paid up equity of the SPV throughout the Agreement Period. The members of the Consortium shall collectively hold 100% (one hundred per cent) of the subscribed and paid up equity of the SPV throughout the Agreement Period.

- 6.3 The Parties agree that the aforesaid obligation shall be the minimum, and shall be in addition to such other obligations as may be contained in the Project Development and Management Agreement, and a breach hereof shall, notwithstanding anything to the contrary contained in the Project Development and Management Agreement, be deemed to be a breach of the Project Development and Management Agreement and dealt with as such thereunder.

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, right, grant, license or other governmental authorisation, approval, judgment, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
 - v. create or impose any liens, mortgages, pledges, claims, security interests, charges or Encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;
- c. this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and
- d. there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Group Business Entity 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 execution of the Project Development and Management Agreement, in case the Project is awarded to the Consortium. However, in case the Consortium is either not pre-qualified for the Project or does not get selected for award of the Project, the Agreement will stand terminated in case the Bidder is not pre-qualified or upon return of Bid Security by the Authority to the Bidder, as the case may be.

9. Miscellaneous

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

The Parties acknowledge and accept that this Agreement shall not be amended by the Parties

without the prior written consent of the Authority.

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

SIGNED, SEALED AND DELIVERED

For and on behalf of

LEAD MEMBER by:

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

APPENDIX I: FORMAT FOR FINANCIAL PROPOSAL*(To be submitted on the letterhead of the Bidder / Lead Member of Consortium)*

[Location, Date]

From,

To,

Managing Director
 Jharkhand Tourism Development Corporation Limited
 5, Mahatma Gandhi Marg, Ranchi - 834001

Dear Sir,

Subject: **Selection of Developer** _____ **<Property Name> - Financial Proposal**

We, the undersigned, offer to undertake the Project in accordance with your Request for Proposal dated *<Date of NIT Publication>*, and our Proposal (Technical Proposal and Financial Proposal).

1. I / we hereby offer and agree to pay the following amount as Annual Fee (exclusive of GST) for the first year to the Authority for the aforementioned Project in terms of the PDMA as provided below:

Annual Fee (in Rs)	In Words

2. In case of a discrepancy between the amount expressed in figures vis-à-vis the amount expressed in words, the higher of the two shall prevail.
3. The Annual Fee has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, draft PDMA, our own estimates of costs and after a careful assessment of the site and all the conditions that may affect the Proposal.
4. The Annual Fee has been quoted by me/us is above the Minimum Annual Fee specified in the Bidding Documents.
5. I / we understand that the Authority is not bound to accept any Proposal(s) received.
6. I/ we agree that my / our Financial Proposal shall remain valid for a period of 180 (One Hundred and Eighty) days from the Proposal Due Date prescribed for submission of Proposal.
7. I / we confirm that our Financial Proposal is unconditional and that we accept all terms and conditions specified in the Bidding Documents.

8. I / we agree to be bound by this offer if we are the Successful Bidder for the Project.

Thanking you,

Yours Faithfully,

Authorized Signature:

Name and Title of Signatory:

Name of the Bidder:

Note:

- i. The Annual Fee offered by the Successful Bidder shall be payable to the Authority from the 1st (first) anniversary of execution of the Project Development and Management Agreement and shall be escalated by 5% (five per cent) compounding annually throughout the Agreement Period as per the Project Development and Management Agreement.
- ii. The Annual Fee is exclusive of GST and GST shall be payable by the Developer at actual over and above the Annual Fee.
- iii. The Annual Fee shall be payable to the Authority, on or before 30 (thirty) days prior to the anniversary of execution of the Project Development and Management Agreement.

APPENDIX J: FORMAT FOR LETTER OF AWARD*(To be issued on Letterhead of Authority)*

No. _____

Date: _____

To,

_____**Sub: Letter of Award (LOA) - Development of Wayside Amenities, Trikut, Deoghar**

Dear Sir,

We refer to your Proposal in response to our Request for Proposal (RFP) **Ref. No: <_____>**, dated _____ for "Selection of Developer for Development of Wayside Amenities, Trikut, Deoghar in Jharkhand on DOMT basis" (the "**Project**"), wherein you have participated in aforesaid bid submitted on _____, accepting all the terms and conditions of the RFP with all the Corrigendum and Clarifications issued by the Jharkhand Tourism Development Corporation Limited ("**Authority**" or "**JTDC**") in this regard.

2. We are pleased to inform you that pursuant to the completion of the bid evaluation process, your financial proposal of Annual Fee of **Rs _____ /- (Rupees _____ only) exclusive of GST**, offered by you for the Project as per terms and conditions of the RFP document and the Draft Project Development and Management Agreement has been accepted, and **M/s _____ ("Successful Bidder")** has been declared as the Successful Bidder by JTDC for implementing the Project in accordance with the terms and conditions contained in the RFP.
3. Please note that our acceptance of your Proposal is subject to the following terms and conditions:
 - a) You are required to sign and return the duplicate copy of the LOA in acknowledgement thereof, within 7 (seven) days of the receipt of this Letter of Award (LOA).
 - b) You need to incorporate a company under the Companies Act, 2013 (the "**Special Purpose Vehicle**" or "**SPV**" or "**Developer**") to implement the Project. The said SPV is required to execute the Project Development and Management Agreement ("**PDMA**" or "**Agreement**") with JTDC within 45 (forty-five) days from the date of issue of LoA.
 - c) In terms of the RFP document and the PDMA, you are required to furnish the following payment/document to JTDC:
 - i. Furnish within 45 (forty-five) days of issue of LOA, an amount of **Rs _____ /- (Rupees _____ only) exclusive of GST** towards Performance Security as specified in Clause 3.6.1 of the RFP Document in the form of a Demand Draft from any scheduled bank in favor of "Jharkhand Tourism Development Corporation Limited", payable at Ranchi, Jharkhand.

- ii. Furnish within 45 (forty-five) days of issue of LOA, a non-refundable amount of **Rs _____/- (Rupees _____ only)** inclusive of GST towards Success Fee as specified in Clause 3.7 of the RFP Document in the form of a Demand Draft from any scheduled bank in favor of “Jharkhand Tourism Development Corporation Limited”, payable at Ranchi, Jharkhand.
 - iii. Furnish within 45 (forty-five) days of issue of LOA, a non-refundable amount of **Rs _____/- (Rupees _____ only)** inclusive of GST towards Project Development Expenses viz., professional fee paid to the consultant, advertisement cost, cost of conducting the pre-bid meeting, etc. as specified in Clause 3.8 of the RFP Document in the form of a Demand Draft from any scheduled bank in favor of “Jharkhand Tourism Development Corporation Limited”, payable at Ranchi, Jharkhand.
 - iv. Submit the details of registration of the SPV and the Authorized Signatory for the SPV viz., Certificate of Incorporation, Memorandum of Association, Articles of Association, Board Resolution, Power of Attorney.
 - v. The receipts of above payments by JTDC shall be pre-condition for execution of the Agreement. Agreement shall not be executed in absence of receipt of any or all of the above payments in full.
- d) You are required to comply with all the terms and conditions as set forth in the Bidding Documents and subsequent addendums, corrigendum or clarifications issued, if any. If any default is found, you shall be liable for action in accordance with the Bidding Documents.
- e) All disputes shall be subject to the jurisdiction of the Courts at Ranchi only.
4. Kindly note, that this communication by itself does not create any right or contractual relationship with JTDC. Any such right or relationship shall come into effect only on your fulfilling the above said conditions and execution of the Agreement for the Project with JTDC.

You are requested to furnish the documents as required in the Bidding Documents along with the SPV Documents for verification at least 10 days before execution of Project Development and Management Agreement. An indicative list of documents is provided as Annexure to this LOA.

As per the provisions of the RFP, please sign and return the duplicate copy of this Letter of Award within 07 days of the receipt to signify your acceptance.

Thanking You,

Managing Director

Encl: As above.

Annexure - List of Key Submissions

1. Acceptance of Letter of Award by the Selected Bidder
2. Authorization from Selected Bidder to invest in the Equity of the SPV, along with an undertaking to maintain equity participation in the SPV as per the provisions of the Agreement
3. Certificate of Incorporation of SPV
4. Memorandum of Association and Article of Association of SPV. Object of SPV should be to execute the Project as per Letter of Award and Bidding Documents.
5. Letter from the Authorized Signatory of the Selected Bidder, introducing SPV to execute the Agreement with JTDC in terms of LoA for and on behalf of the Selected Bidder.
6. Board Resolution by SPV:
 - i. Confirming that it has been constituted by the Selected Bidder for execution of Agreement with JTDC and undertaking the Project as per the Letter of Award and Bidding Documents
 - ii. Name, designation and details of the person duly authorized to execute the Agreement with JTDC on behalf of the SPV.
7. Willingness Letter from the Authorized Signatory of the SPV to execute the Agreement, stating that the SPV has been created by the Selected Bidder for carrying out the Project
8. Legal Opinion from the legal counsel of the SPV, supported by documentary proof, with respect to the authority of the SPV to execute the Agreement with JTDC and the enforceability of the provisions thereof
9. Shareholding pattern of the SPV along with Statutory Auditor / Chartered Accountant Certificate

APPENDIX K: FORMAT FOR AFFIDAVIT

*(On stamp paper of appropriate value)
(To be submitted by Bidder / Members of Consortium)*

I, hereby confirm that M/s _____ (insert bidder’s / member’s name) (“**Bidder**”) having its registered office at (insert address of the registered office):

- i. Bidder’s agreement has never been terminated by the Jharkhand Tourism Development Corporation Limited (the “**Authority**”) for Developer Event of Default for any other property/ project in the last 5 (five) years preceding the Proposal Due Date;
- ii. Bidder does not have any outstanding payment due to Authority with respect to any other property/ project or agreement as on Proposal Due Date; and
- iii. Bidder is not in default with respect to any outstanding from any bank or financial institution and have received any notice from the bank for recovery of the same.

I hereby certify that the information provided above is true with all respect and in case, if found incorrect, Authority shall reject the Bidder’s proposal and forfeit Bid Security.

.....
Signature of the Authorised Person

.....
Name of the Authorised Person

Date

Notarized:

Notary Seal & Signature (with Regn. No.)

APPENDIX L: CHECKLIST*(To be submitted on the letterhead of the Bidder / Lead Member)*

The Bidder may consult the checklist provided below to ensure that all the required documents are included as part of its proposal. The checklist is only being provided for reference, and it remains the responsibility of the Bidder to ensure that all the documents are being submitted in the required formats as specified in the Bidding Documents.

I. Envelop 1 - Technical Proposal (One Original + One Copy)

No	Particulars	Remarks	Yes / No
1.	Document fee inclusive of GST at prevailing rate (Rs. 5,600/-)	Demand Draft from Scheduled Bank in favour of Jharkhand Tourism Development Corporation Limited, payable at Ranchi	
2.	Bid security (Rs. 1,00,000/-)	Demand Draft from Scheduled Bank in favour of Jharkhand Tourism Development Corporation Limited, payable at Ranchi	
3.	Covering Letter as per format at Appendix A	Letterhead of Bidder / Lead Member (All the pages should be signed by Authorised Signatory)	
4.	Details of the Bidder as per format at Appendix B	Letterhead of Bidder / Lead Member (All the pages should be signed by Authorised Signatory) Details of Other Member to be provided on Lead Member letterhead	
5.	Bidder entity type	<ul style="list-style-type: none"> • Company incorporation documents • Partnership Deed / Partnership registration certificate under Indian Partnership Act 1932 • GST Registration / IT Return for Proprietorship 	
6.	Technical capacity details as per format at Appendix C	Bidder / Lead Member Letterhead	
7.	Proof(s) enclosed as mentioned in Appendix C	Copy of trade license/ PAN, GST registration	
8.	Certificate from Statutory Auditor as per format at Appendix C1	Statutory Auditor Letterhead with membership number	
9.	Financial capacity details as per format at Appendix D	Bidder / Lead Member Letterhead	
10.	Certificate from Statutory Auditor as per format at Appendix D1	Statutory Auditor Letterhead with membership number; to be certified by	

No	Particulars	Remarks	Yes / No
		respective statutory auditor(s) in case of Consortium	
11.	Power of Attorney as per format at Appendix E	Stamp Paper of appropriate value; to be provided for both Consortium members in case of Consortium	
12.	Affidavit as per format at Appendix F	Stamp Paper of appropriate value; to be provided for both Consortium members in case of Consortium	
13.	Solvency Certificate as per Appendix G	Bank Letterhead with Seal & Signature; to be provided for both Consortium members in case of Consortium	
14.	Audited Annual Report / Profit & Loss Statement / Balance Sheet / IT Returns for the three preceding financial years	In the relevant format	
15.	Power of Attorney for Lead Member of Consortium as per format at Appendix F	Stamp Paper of appropriate value; required only in case of Consortium	
16.	Joint Bidding Agreement as per format at Appendix H	Stamp Paper of appropriate value; required only in case of Consortium	

II. Envelop 2 - Financial Proposal (One Original)

No	Particulars	Remarks	Yes / No
1.	Financial Proposal as per format at Appendix I	Bidder / Lead Member Letterhead	

* Financial Proposal to be submitted in a separate sealed envelope. No copies of the Financial Proposal are to be submitted.

Authorized Signature:

Name and Title of Signatory:

Name of the Bidder: